

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.339/2023

Deepti Gupta

Applicant

Versus

Ministry of Environment Forest and Climate Change

Respondent

Date of hearing: 01.08.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): Mr. Vaibhav Grover, Advocate

Respondent(s): Mr. Sapan K Mishra, Advocate for Respondent No. 1
Ms. Atika Singh Proxy Counsel for Ms. Richa Kapoor
Advocate for Respondent 5 with Mr. Prashant Kumar AE
(Civil), DJB
Mr. Kush Sharma, Ms. Nishchaya Nigam and Ms. Vagmi
Singh, Advocates (through VC) for Respondent 6 with Mr.
Satender Kumar, SEE, DPCC
Ms. Puja Kalra and Mr. Virendra Singh, Advocates for
Respondent No. 7
Ms. Kritika Gupta and Ms. Latika Malhotra, Advocates for
Respondent No. 8 (through VC)
Mr. Naveen Kumar Raheja & Mr. Vimal Dubey,
Advocate for Respondent No. 10(through VC)
Mr. Rahul Khurana, Advocate for Respondents No. 11 to 13
with Mr. Sandeep Taneja, Chief Engineer, Mr. Rajesh SDO,
Mr. Tarun Agarwal, Superintending Engineer and Mr.
Manjeet Hooda, Executive Engineer, Irrigation Department
and Mr. Pawan Malik, Range Forest Officer, Sonipat
Ms. Jyoti Mendiratta and Ms. Ananya Basudha,
Advocates for Respondents No. 14 to 16

ORDER

1. Ms. Deepti Gupta, applicant filed this Original Application (hereinafter referred to as '**OA**') under Sections 14, 15 read with 18 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') stating that Shalimar Garden situated in North-West part of Delhi

has historic value. However, jhuggi/slum dwellers have encroached upon land and discharge sewage which is lying in an open area adjacent to Block-CA, Shalimar Bagh, Delhi as well as in abandoned water canal coming from Hyderpur Plant, Rohini. Inaction and negligence in performance of statutory duties by respondent authorities for the last several years has resulted in converting a sewage pond in place of open green area of Shalimar Garden whereas sewage coming out of Jhuggi clusters is being dumped. Land belongs to State of Haryana which is adjacent to fresh water canal, and now abandoned, and dumping part of sewage of Jhuggi clusters due to creation of sewage pond in the green zone of Shalimar Garden and dumping of Municipal Waste and sewage in abandoned fresh water canal, the flora and fauna of area is highly affected and damaging environment.

2. Tribunal took cognizance of the matter on 19.07.2023 and issued notices to respondents. It also constituted a Joint Committee comprising

- i. Representative from Delhi Pollution Control Committee (DPCC) not below the rank of Senior Environmental Engineer;
- ii. Representative from Municipal Corporation of Delhi (MCD);
- iii. Representative from Delhi Jal Board (DJB);
- iv. Representative from Delhi Urban Shelter Improvement Board;

and required said Committee to submit a Factual Report.

3. Pursuant to order dated 19.07.2023, Senior Environmental Engineer, Delhi Pollution Control Committee (hereinafter referred to as '**DPCC**') submitted status report dated 13.09.2023 on behalf of Joint Committee stating that site was inspected on 18.08.2023. Observations made during inspection are noted in para 3 of report, as under:

a. "The Jhuggi clusters are established on the land belonging to department of Irrigation and Department of Forests, Govt. of

Haryana, on the bank of western Yamuna Canal. The distance between boundary wall of the society and the site in question is approximately 60 feet from the DDA flats and this is divided by road & boundary wall.

b. The said jhuggi cluster has been notified by DUSIB vide cluster code 325 having 347 Nos. household & area about 586 Sqm. The photographs of the site where domestic waste water found being discharged, is attached herewith.

c. A part of domestic wastewater generated from this jhuggi clusters are being discharged and out of which some waste water accumulating in question area. The remaining waste water found being discharged in the nearby drain adjacent to the CA Block, Shalimar Bagh.

d. To facilitate JIC dwellers one Jan Suvidha Complex (JSC) already exists and one more Jan Suvidha Complex (JSC) found under construction by DUSIB with the proper collection and disposal of sewerage.

e. DUSIB official informed that proposal is being submitted for proper disposal of domestic waste water being generated from this jhuggi clusters by reconstruction of existing drain or by laying of new sewer line which will require a minimum 6 months duration to complete this work subjected to the approval of competent authority, land owning agency i.e. Govt. of Haryana and RWA CA Block, Shalimar Bagh.

f. Municipal Corporation of Delhi assured that the municipal solid waste found dumped on the said site/drain, shall be removed by Municipal Corporation of Delhi and shall take proper care in future.

g. Haryana Government may be asked to resettlement of JJ Cluster as the JJC established on the bank of Western Yamuna Canal to save the canal.”

4. By order dated 02.11.2022, Tribunal impleaded State of Haryana through Chief Secretary, Govt. of Haryana; Principal Secretary, Environment and Forest, Govt. of NCT of Delhi; and Special/Principal Secretary, Urban Development, Govt. of NCT of Delhi as respondents 11, 12 and 13. Notices were issued to them also giving time to file their response.

5. DPCC pursuant to order dated 02.11.2023 submitted response stating that Delhi Urban Shelter Improvement Board (hereinafter referred to as '**DUSIB**'), takes care of Jhuggi/slum dwellers and vide letter dated 15.09.2023 it informed as under:

i) "The estimate has been prepared for the work of to stop the discharge of domestic waste water of JJ Basti from site in question and divert to nearby Nalla/ Drain adjacent to the CA block, Shalimar Bagh. This proposed work will be taken up within 6 months

ii) One JSC is existing & functional in this JJ Basti

iii) The work of another new JSC is in progress in this JJ Basti."

6. Report was filed on the instruction of DUSIB.

7. A separate reply has been filed vide email dated 20.12.2023 by DUSIB (respondent-10) denying all the allegations made against it including failure to provide proper sewage and water discharge for Jhuggi Jhopdi clusters on the land in question.

8. On behalf of State of Haryana also reply has been filed vide email dated 21.12.2023 stating that Jhuggi cluster is an encroachment falling on left bank of Delhi Sub Branch Canal from RD-59000 to 59300; efforts were made by Irrigation & Water Resources Department, Haryana in 2009 for removal of encroachment but residents filed a court case in Rohini Civil Court, i.e. suit no.1038/2009, which was dismissed vide order dated 10.09.2015. Thereafter, Irrigation Department, State of Haryana, has taken up the matter with Delhi Govt. for appointment of Duty Magistrate for getting the land vacated but no effective steps could be taken due to lack of support from Delhi Govt.

9. Respondent 5, Delhi Jab Board Authority (hereinafter referred to as '**DJB**') has filed its status report dated 18.07.2024, stating that to stop

entry of sewage water inside the green area, respondent 5 has closed entry points of boundary wall and portion of park has been restored. Plantation would also be done in that portion of park as required in upcoming monsoon season.

10. North Delhi Municipal Corporation (hereinafter referred to as **NDMC**) has filed a short affidavit dated 12.07.2024 and in respect of dumping of solid waste in the area in question, it is said that it has deployed a waste collection vehicle on daily basis which is collecting waste which is composted and processed in plant on daily basis. Waste is sent to composted pits and dry waste is sent to processing unit at Bawana plant where it is processed at waste to energy plant. Further, Municipal Corporation has also installed a garbage bin on the other side of cluster to facilitate collection of garbage and prevent littering. Dumps of garbage around the dustbins are regularly cleared by Corporation. Reply given by Municipal Corporation in para 4-7 of its short affidavit dated 12.07.2024 reads as under:

i. That the deponent is working as Assistant Commissioner, Keshav Puram Zone, MCD, Delhi and well conversant with the facts of the case and as such competent to swear the present affidavit, on behalf of the Municipal Corporation of Delhi.

ii. That this short affidavit is being filed in compliance of the directions given by this Hon'ble Tribunal vide orders dated 21.12.2023 wherein it was directed that action taken report is to be filed with regard to appropriate remedial measures regarding site in question.

iii. That the slum cluster/canal is situated on the land of irrigation and Water Resources Department, Govt. of Haryana adjacent to the Western Yamuna Canal. In regard to park in question, it is submitted that it belongs to Delhi Development Authority.

iv. That the Municipal Corporation of Delhi (MCD) has made provisions to collect MSW from the residents of the cluster by deploying a waste collection vehicle (tipper) on a daily basis. It is further submitted that around half metric ton of solid waste is collected, then composted and processed in the Plant on daily basis. The wet waste is sent to composted pits

and dry waste is sent to processing unit -at Bawana Plant where the waste is processed at Waste to Energy Plant.

v. Further, the MCD has also installed a garbage bin on the other side of the cluster to facilitate collection of garbage and to prevent littering.

vi. Furthermore dumps of garbage around the dustbin are regularly cleared by the Corporation.

vii. Awareness activities have been carried out in the cluster to discourage residents from throwing garbage in the Canal or in the surrounding area.”

11. Learned Counsel for applicant stated that situation has not improved and solid waste is still laying scattered here and there but with regard to specific stand taken by Municipal Corporation in its short affidavit dated 12.07.2024 no rejoinder or objection has been filed and the said statement remained uncontroverted.

12. Learned Counsel appearing for applicant drew our attention to certain photographs attended to report of DJB to shows some littering of solid waste.

13. In the reply given by DJB submitted by email dated 11.07.2024, in the chart form, it has submitted its response on various aspects as under:

<i>“Sr. No.</i>	<i>Directions given by the Hon’ble Tribunal</i>	<i>Action Taken</i>
<i>1.</i>	<i>Restoration of the park</i>	<i>The statutory responsibility to restore the community parks does not pertain to DJB.</i>
<i>2.</i>	<i>Proper disposal of sewage</i>	<i>The remedial measures taken by DJB are as under: i. For proper disposal of sewage from existing DUSIB toilet, DUSIB sewer line is already connected with DJB network. The drains of jhuggi cluster are also connected with sewer lines network of DJB through MCD drain. ii. That one drain at the end of the Jhuggi Jhopdi Cluster (JJC)</i>

		is still discharging the drain water in the open land as it is not connected to existing MCD drain, which is at a distance of approximate 25 meters. That DJB has also issued a letter dated 11.06.2024 (Annexure-A) to Delhi Urban Shelter Improvement Board (DUSIB) for connecting this un-trapped drain to the already existing MCD drain (connected to DJB Sewer) along the boundary wall of CA Block DDA flats. Shalimar Bagh to prevent accumulation of drain water in the open land and park. iii. In addition, to ensure proper sewage discharge from DUSIB toilet block, which is under construction, it will also be connected to DJB sewer network before being put for public utility.
3.	Management and disposal of solid waste lying in the land in question	The statutory responsibility to manage and dispose of solid waste lying on the land does not pertain to DJB.
4.	Cleaning of waste thrown in the canal	The statutory responsibility for cleaning of waste thrown in the canal does not pertain to DJB
5.	Preventing discharge sewage in the canal.	It is pertinent to state that no sewage is being discharged into the Western Yamuna Canal by DJB and the same has been already observed by DUSIB during joint inspection held on 01.04.2024 (ANNEXURE-B) in presence of officer of DPCCB, MCD, DUSIB and DJB”.

14. Above facts show that substantial work for removal of solid waste and stoppage of sewage in the area in question has already been undertaken by authorities concerned.

15. We direct that steps taken for remedial measures shall continue on regular basis and it shall be ensured that no dumping is caused or sewage flow inside the area in question allowed and an

appropriate remedial action shall continue to be taken by concerned authorities including monitoring and regulation of site.

16. With the above observations/directions, this Original Application is disposed.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 01, 2024
Original Application No.339/2023
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