

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

(Through Physical Hearing with Hybrid V.C. Option)

Original Application No.339/2023

Deepti Gupta

Applicant

Versus

Ministry of Environment and Forest &
Climate Change & Ors.

Respondent(s)

Date of hearing: 14.02.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Vaibhav Grover, Advocate for the applicant.

Respondents: Mr. Kush Sharma Advocate for respondent no. 6-DPCC
(through VC).
Mr. Virender Singh Proxy Counsel for Ms. Puja Kalra
Advocate for Respondent No. 7-MCD.
Mr. Anant Vijay Singh Proxy Counsel for Mr. Vimal
Dubey Advocate for respondent no. 10-DUSIB.
Mr. Rahul Khurana Advocate for Respondent No. 11 to
13.
Mr. Manjeet Singh, Executive Engineer, Mr. Rajesh
Kumar, SDO, Haryana Irrigation Department.
None for respondents no. 1 to 5, 8 and 9.

**Application under Section 18(1) read with Sections 14 and 15 of the
National Green Tribunal Act, 2010.**

ORDER

1. The grievance in the application is regarding discharge of sewage coming out of the jhuggi clusters, open defecation, into the open green area adjacent to Block CA, Shalimar Bagh, Delhi which have become sewage pond.

2. Vide order dated 19.07.2023 this Tribunal ordered issuance of notices to the respondents and constituted a Joint Committee comprising

of representative of DPCC, MCD, Delhi Jal Board and Delhi Urban Shelter Improvement Board.

3. Report of the Joint Committee was submitted vide email dated 13.09.2023. The relevant part of the report of the Joint Committee reads as under:-

“STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE WITH RESPECT TO ORDER DATED 19.07.2023.

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|---|----------|----------|----------|
| <i>X</i> | <i>X</i> | <i>X</i> | <i>X</i> |
| <i>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.</i> | | | |
| <i>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.</i> | | | |
| <i>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.</i> | | | |
| <i>d. To facilitate JJC dwellers one Jan Suvidha Complex (JSC) is already existing and one more Jan Suvidha Complex (JSC) found under construction by DUSIB with the proper collection and disposal of sewerage.</i> | | | |
| <i>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.</i> | | | |
| <i>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.</i> | | | |
| <i>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. Copy of the joint inspection report dated 18.08.2023 alongwith photographs are enclosed herewith as ANNEXURE-1(Colly).”</i> | | | |

4. In view of the averments made in the application and observations made in the report of the Joint Committee State of Haryana, Secretary,

Irrigation and Water Resource Department, Government of Haryana and Member Secretary, HSPCB were impleaded as respondents no. 11 to 13.

5. Responses have been filed by DPCC, Delhi Urban Shelter Improvement Board, Irrigation and Water Resource Department, Government of Haryana, DDA and MCD and rejoinders have been filed by the applicant.

6. The Lt. Governor and the Chief Minister, Government of NCT of Delhi and the Member of Legislative Assembly of Delhi from Shalimar Bagh Constituency have been impleaded as respondents no. 2, 3 and 4. We consider their impleadment in the present case to be improper. On the other hand Chief Secretary, Government of NCT of Delhi, Principal Secretary, Environment & Forest, Government of NCT of Delhi and Special Secretary, Department of Urban Development, Government of NCT of Delhi ought to have been impleaded in the case. Accordingly, the Lt. Governor and the Chief Minister, Government of NCT of Delhi and the Member of Legislative Assembly of Delhi from Shalimar Bagh Constituency are ordered to be deleted from the array of respondents and Chief Secretary, Government of NCT of Delhi, Principal Secretary, Environment, Government of NCT of Delhi and Principal Secretary, Urban Development, Government of NCT of Delhi are ordered to be impleaded as respondents no. 14, 15 and 16.

7. The Registry is directed to amend the memo of parties and issue notices to the respondents no. 14, 15 and 16 requiring them to file their reply/response within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

8. In the present case respondent no. 1-MoEF & CC and respondent no. 5-DJB have not appeared despite due notice and notices be issued

again to them requiring them to file their reply/response within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

9. The case involves serious questions relating to environment arising out of implementation of the enactments specified in schedule I of the National Green Tribunal Act, 2010. The factual matrix of the case also discloses an example of recurrence of the frequent incidents of encroachments on public land by poverty stricken marginalized section of the society with the consequence of degradation of/damage to environment with improper utilization of material resources and inaction/negligence/connivance on the part of concerned governmental agencies without any effort to prevent/remove encroachments and protect and improve the environment and indulging in shifting the responsibility/accountability and also to blame to other agency without any proper application of mind to deliberate upon and take appropriate remedial measures to resolve the issues.

10. In the facts and circumstances of the case, we consider it appropriate to constitute a Joint Committee comprising of duly authorized and empowered representatives of (i) Chief Secretary, Government of NCT of Delhi, (ii) Chief Secretary, Government of Haryana, (iii) Vice Chairman, DDA and the following officers themselves-Engineer in Chief, Irrigation and Water Resource Department, Government of Haryana, Commissioner, Municipal Corporation of Delhi, Chief Executive Officer, Delhi Jal Board, Chief Executive Officer, Delhi Urban Shelter Improvement Board and Member Secretary, DPCC to look into the grievances made in the application, observations made in the report of the Joint Committee and to take appropriate remedial action. The Joint Committee may coopt any expert or other officer concerned and may also

appoint a sub-committee of officers. The requisite remedial measures be taken by taking into consideration all relevant aspects including the aspects as to whether the land in question which has been encroached upon under JJ Cluster has been notified as forest area by Government of Haryana, as to whether the encroachers are liable to be removed without any rehabilitation/resettlement at some other place or whether they are entitled to the benefit of rehabilitation policy of Government of Haryana and Government of NCT of Delhi and the remedial measures required to protect the canal and to ensure compliance with the Solid Waste Management Rules, 2016 and the Water (Prevention and Control of Pollution) Act, 1974.

11. Action taken report of the Joint Committee and responses by respondents no. 1, 5 to 16 be filed within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

12. In case of failure to do so exemplary costs may be imposed on the Joint Committee and the concerned respondents and penal action for non-compliance with the order of this Tribunal may also be initiated against the concerned officers.

13. List for further consideration on 22.04.2024.

14. In the facts and circumstances of this case, presence of the Officers duly authorised by the Chief Secretary, Government of NCT of Delhi, the Chief Secretary, Government of Haryana, the Vice Chairman, DDA, the Engineer in Chief, Irrigation and Water Resource Department, Government of Haryana, the Commissioner, Municipal Corporation of Delhi, the Chief Executive Officer, Delhi Jal Board, the Chief Executive Officer, Delhi Urban Shelter Improvement Board and the Member Secretary, DPCC before this Tribunal on the date of hearing fixed is also

considered to be essential for producing relevant documents and assisting this Tribunal in effective and proper adjudication of questions relating to environment arising in this case and such officers shall remain present before this Tribunal on the date of hearing fixed.

15. A copy of this order be forwarded to the Chief Secretary, Government of NCT of Delhi, the Chief Secretary, Government of Haryana, the Vice Chairman, DDA, the Engineer in Chief, Irrigation and Water Resource Department, Government of Haryana, the Commissioner, Municipal Corporation of Delhi, the Chief Executive Officer, Delhi Jal Board, the Chief Executive Officer, Delhi Urban Shelter Improvement Board and the Member Secretary, DPCC by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 14th, 2024
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