

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

EA No.22/2023

In

Original Application No. 622/2019

Jagdev

Applicant

Versus

Lieutenant Governor of Delhi & Ors.

Respondent(s)

Date of hearing: 15.10.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. B. Devasekhar, Adv. for Applicant in E.A 22/2023

Respondent: Ms. Garima Prasad, Senior Advocate with Ms. Kritika Gupta & Ms. Latika Malhotra, Advs. with Mr. Bijendra Kumar, DD, & Mr. Sunil, AD, Horticulture, DDA
Ms. Meenakshi, Adv. for R - 2 (DUSIB) (Through VC)
Mr. Balendu Shekhar & Ms. Tanisha Samanta, Advs. for DPCC (Through VC)

ORDER

1. In this execution application, applicant is seeking compliance of the order dated 17.10.2019 passed in OA No.622/2019 where in Tribunal had directed as under:-

“3. Grant of Visa for permitting the Hindu migrants from Pakistan to stay in India is not the subject matter of consideration before this Tribunal. Only question is encroachment of Flood Plain of River Yamuna and protection of forests, trees and rest of the environment as alleged. Flood plains of river cannot be allowed to be occupied as such occupation may damage the ecology of the River. Vide order dated 11.09.2019 in O.A No. 06/2012, Manoj Mishra v. Union of India & Ors, this Tribunal directed the DDA to ensure that flood plains are freed of encroachments. Thus without prejudice to whatever assistance the Government may or may not provide, the flood plains of the River Yamuna must be kept free and forests, trees and environment be protected by preventing discharge of sewage and dumping of garbage unscientifically.

4. Let the DDA, DPCC and the Forest Department take further action in accordance with law.

5. A copy of this order be sent to the DDA, PCCF, Delhi and the DPCC by email for compliance. A copy of this order be also sent to River Yamuna Monitoring Committee by email for necessary action.”

2. Though, original application was filed for removal of encroachment from Gurudwara Majnu Ka Tila on Yamuna river bed in Delhi but observations of the Tribunal were general in nature in respect of the flood plain of river Yamuna.

3. Learned Counsel appearing for DDA has referred to annexure R-1 filed along with the report dated 13.07.2024 and has submitted that in the flood plain of stretch of 22 kms of river Yamuna, flowing through Delhi, encroachment of 4439 jhuggies, 25 religious structures, 6 dairies and 3 cricket grounds has been removed. She has submitted that so far as encroachment by refugees from Pakistan on Majnu Ka Tila is concerned they are protected by an interim order passed in WP (C) No.3656/2024 by the Single Bench of Delhi High Court. She has also submitted that interim order has been continued by Single Bench and on 09.10.2024 following order has been passed:

“4. *Having heard the learned counsels for the parties, it appears that the matter of the relocation of the said refugees is getting shuttled between the Ministry of Home Affairs and the Ministry of Housing and Urban Affairs. It is brought out that despite several opportunities, no substantive and/or workable decision has been taken by the respondent No.2/UOI so as to relocate the Pakistani refugees.*

5. *It is borne out from the record that the NGT is seized of the present matter and there are directions from the Supreme Court to the effect that the Yamuna flood plains be cleared of all encroachments so as to enable the concerned agencies to complete the process of rejuvenation and restoration of the Yamuna flood plains and river bed.*

6. *In the aforesaid circumstances, an explanation from the*

Ministry of Housing and Urban Affairs is called for. Ministry of Housing and Urban Affairs is called for.

7. *Accordingly, notice be issued to the Secretary of the Ministry of Housing and Urban Affairs(MHUA), with the direction to ensure that an officer not below the rank of Joint Secretary or a Director appears before this Court on the next date of hearing, alongwith the relevant record, and explain as to the reasons for the delay in making a policy decision for the allocation of an appropriate site/place for the relocation of the refugees as also for providing other rehabilitation measures.*
8. *Notice be issued to learned ASG as well with a request to use his good offices and ensure that appropriate directions are elicited from the Ministry of Housing and Urban Affairs as also the concerned quarters in the Ministry of Home Affairs by the next date of hearing.*
9. *Re-notify on 25.10.2024 in the Supplementary List.”*

4. Compilation of judgements/orders filed by DDA reveals that Division Bench of High Court of Delhi in WP (C) No. 7594/2018 & CM Application No. 30022/2018 in the matter of Court on its Own Motion v. Union of India & Ors. dated 08.04.2024 has directed as under:

“20. DDA in coordination with all concerned agencies is hereby directed to ensure removal of encroachments from Yamuna River Flood Plains. Delhi Police shall provide necessary force to the DDA as and when requested, to maintain law and order during such encroachment removal drives to remove encroachment from Yamuna Flood Plains.

XXX.....XXX.....XXX.....

26. DDA, being the designated owner of the Yamuna Flood plains, is also hereby directed to ensure removal of construction waste/debris from the Yamuna river accumulated during constructions of bridges, rail lines, metro lines, regional rail network, etc. and for this purpose the DDA may call upon the concerned agencies like DMRC, PWD, NCRTC, MCD, etc. to remove such debris by 30th June, 2024 failing which DDA shall take up works for cleaning of such construction waste / debris at the cost of defaulters.”

5. Division Bench of Delhi High Court in another matter WP(C) No. 8035/2024 & CM Application No. 33044/2024 in the matter of Shabnam Burney v. Union of India & Ors. has issued following interim directions on 08.04.2024 for removal of encroachment and illegal construction from Yamuna river bed.

“6. Keeping in view the aforesaid, this Court directs the Vice Chairman, DDA, to remove all encroachments and illegal construction on the Yamuna river bank, river bed and drains flowing into river Yamuna. He is also appointed as the Nodal Officer and shall coordinate with officials of MCD, Delhi Police, DMRC, Irrigation and Flood Control Department, PWD, Delhi Pollution Control Board and Forest Department. The Vice Chairman, DDA shall convene a meeting of all the concerned”

6. The aforesaid order of Division Bench of the High Court and also earlier order of NGT are required to be duly complied with by DDA.

7. Hon'ble Supreme Court also in Civil Appeal Dy. No. 44256 of 2023 dated 02.01.2024: *Commissioner of Police, Delhi v. Union of India & Ors.* arising out of impugned final judgment and order dated 28.09.2020 in MA No. 56/2020 in OA No. 06/2012 of the National Green Tribunal has held as under:-

“We concur with the view taken by the National Green we Tribunal (NGT). We also agree with the concern expressed by the NGT about maintaining the flood plains of river Yamuna in the larger interests of not only members of the public but also in the larger interests of the environment. Afterall, it is the obligation of everyone to protect and preserve our rivers.”

8. Hence, we direct DDA to place on record the details including the number of encroachments that have been identified in the flood plain of river Yamuna covering 22 km stretch of Delhi and also the number of encroachments existing in Majnu Ka Tila excluding encroachments by refugees from Pakistan. DDA is also directed to disclose the number of refugee families which have taken shelter in Majnu Ka Tila.

9. List on 05.02.2025.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

October 15, 2024
EA No.22/2023
In Original Application No. 622/2019
JG..