

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

INTERLOCUTORY APPLICATION NO.537/2023

FILED BY

BLK (NORTH) GK-I RWA THROUGH PRESIDENT

IN

ORIGINAL APPLICATION NO. 06/2012

IN THE MATTER OF:

NIZAMUDDIN WEST ASSOCIATION

...Applicant

Versus

- 1. UNION OF INDIA**
Through its Secretary
Ministry of Environment and Forest,
Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi- 110003
- 2. NATIONAL CAPITAL TERRITORY OF DELHI**
Through its Chief Secretary
Delhi Secretariat, I.P. Estate,
New Delhi-110002
- 3. DELHI DEVELOPMENT AUTHORITY**
Through its Vice Chairman
Union Ministry of Urban Development
Vikas Sada, New Delhi-110023
- 4. DELHI POLLUTION CONTROL COMMITTEE**
Through its Member Secretary
4th Floor, ISBT Building,
Kashmere Gate,
New Delhi-110006

5. YAMUNA RIVER DEVELOPMENT AUTHORITY

Through its Chairman
Lt. Governor of Delhi,
Raj Niwas, GNCT,
New Delhi-110054

6. IRRIGATION DEPARTMENT OF UTTAR PRADESH

Through its Principal Secretary
Lucknow, Uttar Pradesh

7. STATE OF UTTAR PRADESH

Through its Chief Secretary
Lucknow, Uttar Pradesh-226001

8. MCD (EAST ZONE)

Through its Deputy Commissioner
Shahdara, Delhi-110032

9. STATE OF HARYANA

Through Chief Secretary,
Government of Haryana, 4th Floor,
Haryana Civil Secretariat,
Sector-1, Chandigarh

10. DELHI METRO RAIL CORPORATION

Through its Chairman cum Managing Director
At Metro Bhawan,
Barakhamba Road,
Delhi-110001

...Respondent(s)

COUNSELS FOR APPLICANT(S):

Ms. Akansha Singh, Advocate for Applicant in I.A. No. 537/2023

COUNSELS FOR RESPONDENT(S):

Mr. Narender Pal Singh and Mr. Virendra Singh, Advocates for MCD with
Mr. S.K. Meena, EE

Ms. Richa Kapoor and Ms. Kriti Gera, Advocates for DJB

Mr. Narender Pal Singh and Ms. Anjali, Advocates for DPCC

Mr. Raj Kumar, Advocate for CPCB (Through VC)

CORAM:

HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: APRIL 16, 2024
PRONOUNCED ON: NOVEMBER 21, 2024

SYNOPSIS

Documents	Para No.	Page No.
Preface relating to IA 537/2023	1-10	4-8
OA 6/2012 (A Brief Retrospect)	11-55	8-43
Judgment dated 13.01.2015 passed in OA 6/2012	35-55	17-43
Tribunal's Orders dated 02.03.2015, 27.03.2015, 08.05.2015, 06.06.2016, 26.07.2016, 12.04.2017, 05.12.2017, 06.12.2017, 25.07.2018, 26.07.2018, 29.01.2019, 23.08.2019/11.09.2019, 22.01.2020, 05.03.2020, 06.07.2020, 27.01.2021	56-81	43-84
Miscellaneous Application No. 56/2020 filed by Delhi Police Force	80	81
M.A. 75/2020, M.A. 76/2020, M.A. 09/2021, M.A. 25/2021, M.A. 26/2021, M.A. 32/2021 and I.A. 555/2023	82	84-86
Order dated 21.10.2022 passed in Civil Appeal No. 3465/2022, Nizamuddin West Association vs. Union of India & Others	83	86-87
Change of Cause title	84	87-88
I.A. No. 537/2023	85-89	88-91
Tribunal's Order dated 19.05.2023	90	91-92
Status Report dated 25.09.2023 filed by DJB	91	92-94
Tribunal's Order dated 03.11.2023	92	94
Objections dated 21.10.2023 filed by applicant	93-94	94-96
Status Report dated 17.11.2023 filed by MCD Delhi	95	96-97
Affidavit dated 21.11.2023 filed by DJB	96-97	97-102
Tribunal's Order dated 22.11.2023	98-99	102-103
Status Report dated 21.12.2023 filed by DJB	100	103
Action Taken Report dated 21.12.2023 filed by MCD	101-102	103-104
Tribunal's Order dated 22.12.2023	103-104	104-105
Action Taken Report dated 05.01.2024 filed by MC	105-107	105-106
Affidavit dated 06.01.2024 filed by Chief Executive Officer, DJB	108-109	106-110

Tribunal's Order dated 09.01.2024	110-113	110-111
Joint Report dated 19.02.2024 filed by MCD and DJB	114-116	111-112
Objections dated 22.02.2024 filed by applicant	117-118	112-113
Tribunal's Order dated 01.04.2024	119	113
Status Report dated 12.04.2024 filed by MCD	120	113-114
Status Report dated 15.04.2024 filed by DJB	121-123	115-123
Arguments	124-126	123-124
ISSUES	127-128	124-125
ISSUES I AND II	129-173	125-141
ISSUE III	174-211	141-154
Methodology for Computation of Environmental Compensation	177-204	142-152
ISSUES IV and V	212-222	154-157
Operative part	223-228	157-160

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. BLK (North) GK-I RWA (hereinafter referred to as '**IA applicant**') has instituted IA No. 537/2023 in OA 06/2012 and 352/2023 vide letter dated 16.05.2023, filed in Tribunal on 17.05.2023. Application on behalf of Resident's Welfare has been signed by Shri B.B. Patel, President; Dr. Sanjay Sachdeva, Sr. Vice President; and Dalip Jolly, Vice President. It is complained that residents of above society are suffering for the last 25 years i.e., 1990 due to illegal/unauthorized discharge of untreated sewage in rainwater/storm water drain (**Kushak Drain**) wherein concerned authorities have not provided a cover/lid on the drain touching houses from B-159 to B-187 while rest of the drain (14209.776 m²) has been covered. The uncovered portion acts as a chimney like outlet wherefrom extremely obnoxious and poisonous gases are emitted/released. Poisonous and obnoxious gases enter straight into the house's kitchens/bedrooms of the residents making the life a living hell, 24 hours

a day, throughout 365 days of the year. The residents approached various authorities like Delhi Jal Board (hereinafter referred to as '**DJB**') to stop unauthorized discharge of untreated sewage in storm water drain; Municipal Corporation of Delhi (hereinafter referred to as '**MCD**') to provide lid/cover on the uncovered portion of the drain but nothing has helped them.

2. They also filed writ petitions in Delhi High Court in 2004, 2006, 2008 and 2010. Contempt and Perjury proceedings were also initiated in Delhi High Court.

3. It is pointed out that the entire storm water drain was earlier uncovered wherein DJB was allowing discharge of untreated sewage from sewerage drains. With regard to emission of obnoxious and poisonous gases, MCD decided to cover storm water drain and 14209.776 m² was covered. Some non-government organizations raised objections regarding covering of storm water drain by instituting proceedings before Tribunal whereafter further covering of storm water drain was stopped by Tribunal, as a result whereof, 1466.11 m² of the area of storm water drain left uncovered and is now acting as a chimney like outlet, by releasing poisonous gases, which are generated in the covered part of the drain.

4. For Redressal of their grievance, IA applicants approached Delhi High Court by filing **Writ Petition (Civil) No. 4246/2019, B B Patel and Others vs. Govt. NCT of Delhi and Others** which was disposed of vide order dated 24.04.2019, directing the Committee constituted by this Tribunal to look into the grievance of petitioner and pass appropriate order within two months. High Court further observed that in case petitioner

still have any grievance against the order passed by the Committee, they may approach Tribunal.

5. IA applicants approached Yamuna Pollution Monitoring Committee where several meetings took place from time to time and the site was also visited but nothing concrete could be done. Later, said Committee was wound up without taking any final decision in the matter.

6. In the circumstances, IA applicants had approached this Tribunal by filing above IA with the request that MCD be directed to provide lid/cover on the remaining portion of storm water drain and also to direct DJB to ensure that no sewage and sludge is discharged in storm water drain.

7. In view of the directions given by Delhi High Court in *Writ Petition (Civil) No. 4246/2019* vide its order dated 24.04.2019, the above IA was filed vide e-mail dated 17.05.2023 and registered as IA 537/2023.

8. The above IA 537/2023 came up before the Bench initially on 26.09.2023 when this Tribunal noticed the grievance of IA applicants and directed to list IA for consideration on 03.11.2023.

9. On 03.11.2023 when the above IA was taken up, Tribunal noticed that in pursuance to Delhi High Court's order dated 24.04.2019 in ***Writ Petition (Civil) No. 4246/2019, CM No. 18982/2019, B. B. Patel and Others vs. Govt. NCT of Delhi and Others*** directing the Committee constituted by this Tribunal to look into the representation of the petitioners/IA applicants and pass appropriate orders within a time bound period, IA applicants appeared before the Committee and participated in

the meeting dated 25.09.2019. The Committee, after visiting site, made following field observations:

“Field Visit Observations:

The following situations which were observed at site were glaring:

1. *At Greater Kailash, Andrews Ganj and Nizamuddin portion of the drain the **fumes were intolerable.***
2. *The **amount of debris and solid waste/garbage which had accumulated in the concrete boxes** which had been constructed to channelize the flow was, if anything, **worst before and the drain had become uncontrollably filthy.** The YMC went to the site the JCB machines had been deployed because of the visit and **it was shocking to find underground situation of the drains in the heart of some of the most organized col of Delhi.***

*The YMC felt that various **short term measures like erecting screens, providing CCTV cameras, and desilting would only serve a limited purpose and as long as there was a constant flow of grey and black water the garbage thrown by the people would have every opportunity to accumulate and stagnate.***

DJB has been giving assurances over the last few months about trapping and diverting the sewage/ sullage but the ground situation had not improved. Before the meeting YMC had conducted an internal review and asked for proper mapping of the drain, its tributaries and the sewer lines to be done showing the points where the DJB proposed to trap the sewage/sullage which was being discharged both from the unauthorized colonies as well as the sewered areas in which the sewerage/conveyance systems were not functioning.”

10. Tribunal noticed seriousness of the problem/grievance raised by IA applicants and also failure on the part of DJB in taking appropriate action within timeline in respect of trapping and diverting the sewage sludge. It was also noted that the drain in question is admittedly a storm water drain but sewage/sludge was allowed to enter the said drain from different locations and this was obviously on account of fault/inaction/negligence on the part of DJB and concerned local body i.e., MCD. Tribunal accordingly directed DJB to submit a time bound schedule for remedial

action and to resolve the problem of IA applicants. MCD was directed to take prompt and effective steps for diverting sewage, sludge cleaning and de-silting of the drain in question and submit action taken Report.

11. **OA Nos. 06/2012 and 352/2023:** Since IA 537/2023 has been filed in **OA 06/2012** and **OA 352/2023**, we find it appropriate to have a bird eye view of various proceedings of the above two OAs.

12. **OA 06/2012 (supra):** This OA was filed by Manoj Misra impleading following as respondents:

- (i) Union of India, through Secretary, Ministry of Environment, Forest and Climate Change (hereinafter referred to as **‘MoEF&CC’**);
- (ii) National Capital Territory of Delhi (hereinafter referred to as **‘NCT of Delhi’**) through its Chief Secretary;
- (iii) Delhi Development Authority (hereinafter referred to as **‘DDA’**) through its Vice Chairman;
- (iv) Delhi Pollution Control Committee (hereinafter referred to as **‘DPCC’**) through its Member Secretary;
- (v) Yamuna River Development Authority (hereinafter referred to as **‘YRDA’**) through its Chairman;
- (vi) Irrigation Department of Uttar Pradesh through its Principal Secretary;

13. Applicant Manoj Misra filed **OA 6/2012 (supra)** on 03.03.2012 under Sections 14 and 15 read with Section 18(1) of National Green Tribunal Act, 2010 (hereinafter referred to as **‘NGT Act 2010’**) stating that River Yamuna is not only a sacred river of India but an aquatic life line of millions of people and others, who are dependent on it for sustenance.

The river is now critically threatened by unrelenting encroachments of its flood plains, increased pollution load emanating from domestic refuse, agricultural and industrial effluent and increased pressure of alternative land use for various purposes at the cost of river's integrity as an eco-system.

14. The applicant Manoj Misra, a retired officer from Indian Forest Service was convenor of 'Yamuna Jiye Abhiyan' which was launched to strive for actions to protect Yamuna River. There was a water body situated in river bed of Yamuna located across the road from the colonies of East Delhi i.e., Krishna Kunj Colony and Vishvakarma Park. During the site visit on 11.11.2011, applicant Manoj Misra found that river bed and downstream of water body was covered with solid waste (construction debris, household waste etc.). The said dumping converted long standing natural water body into a dumping zone. Applicant Manoj Misra submitted a detailed representation to YRDA informing about illegal action on the part of concerned department, more particularly, the Department of Agriculture, Food Control and MCD. However, no effective step was taken by concerned authorities for restoration of river bed and removal of waste and debris. Again, the site was visited on 05.12.2011 when applicant found that a huge lot of fresh debris was dumped at the site and encroachment and dumping into natural water body has increased multifold. He also found a few small jhuggies (hutments) coming up at the site in the last some time. Again, concerned authorities were complained but in vain.

15. MoEF in exercise of powers under Section 3, 6 and 25 of Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act**

1986’) had promulgated Municipal Solid Waste (Management and Handling) Rules, 2000 (hereinafter referred to as **‘MSW Rules 2000’**) which provided entire mechanism for management of solid waste and placed responsibility upon local bodies, State Government and DPCC to manage and regulate municipal solid waste but the concerned authorities failed to follow their statutory duties under the said Rules.

16. Applicant Manoj Misra for protection of his Fundamental Right of healthy environment filed the above **OA 6/2012 (supra)** seeking following reliefs:

- “a) Direct the removal within a fixed time frame of all the debris and other solid waste dumped in the river bed and to restore the natural water body to its former self;*
- b) Direct both the respondents Nos. 3 and 6 (DDA and the Irrigation department of UP) to suitably and conspicuously place warnings against dumping in the river bed;*
- c) Direct both the respondents Nos. 3 and 6 (DDA and the Irrigation department of UP) to monitor the Yamuna river bed so that no further dumping of solid waste/encroachment takes place.”*

17. OA came up before Tribunal initially on 12.03.2012 and being satisfied that substantial question of law with regard to environment has been raised and needs adjudication, Tribunal issued notices to all the respondents. A direction to take steps to stop further encroachment and dumping of solid waste and debris in the river bed was also issued.

18. Subsequently, vide order dated 23.05.2012, following two respondents were added as respondents 7 and 8:

- (i) State of Uttar Pradesh through its Chief Secretary; and
- (ii) MCD (East Zone) through its Deputy Commissioner.

19. Initially, Tribunal proceeded to confine its order with regard to stoppage of dumping of debris and removal of already dumped debris on the river bank of Yamuna and vide order dated 19.12.2012, direction was issued to take steps for removal of debris from the river bank of River Yamuna in the area concerned. The above direction was issued to State of UP which challenged the same before Supreme Court by filing Civil Appeal but it was dismissed in *limine* vide order dated 18.01.2013.

20. In the order dated 31.01.2013, Tribunal noticed that debris is being continuously thrown on river bed posing a serious threat to the change of course as well as river pollution of Yamuna. Further, even municipal solid waste was being thrown on the river bank of Yamuna and its water course. Tribunal, accordingly, issued following directions as an immediate preventive and precautionary measures:

- “1. *The State of Uttar Pradesh, DDA, Government of NCT Delhi and East Delhi Municipal Corporation **shall forthwith start removing debris from the river bank of Yamuna and the water body mentioned in the Petition.***
2. *It is stated that the above Corporation has already issued a notification (at page 19 of the Reply filed by the Respondent Nos. 2 and 5) where various dumping sites have been identified. One such site is stated to be at Gazipur which is exclusively meant for dumping of municipal solid wastes. Thus, **for the present these authority shall ensure that municipal solid wastes are removed from the river bank and said water bodies and dumped at the above site.***
3. *The **construction and other materials shall be removed** to other identified sites.*
4. *In the event no sites have been identified by any authority we hereby direct all the Corporations and the DDA, State of Uttar Pradesh and the NCT of Delhi to notify within two weeks from today the sites for dumping of debris.*
5. *In the event of no site being available, as temporary measure **all***

the above public Authorities/ Corporations and State of Uttar Pradesh shall start removing debris and bring them to the end of 'highest flood level' of river Yamuna. The stored debris shall be converted into a wall at that end point. In our considered opinion it would prevent unauthorized entry, flood and prevent pollution of river Yamuna.

6. ***The lifting of debris shall start forthwith and all these authorities shall cooperate and work in tandem with each other to achieve the above object and ensure compliance of these directions.***
7. We hereby direct the Vice Chairman of DDA to hold a meeting within one week from today inviting the Commissioner of the Corporation, Secretary of Department of Environment, NCT Delhi, Secretary of Department of Irrigation, State of Uttar Pradesh and Chief Engineer, Mr. Gupta and ensure the complete implementation of the above directions. ***This Committee shall frame one-time guidelines for ensuring the implementation of the above order.***
8. Since it is an admitted position that even private parties are throwing debris on the river bank, on the basis of the principle of 'Polluter Pays' it would be in the interest of justice that these ***authorities are directed to recover amounts spent for removal of debris which are thrown by the private persons, from them.*** "Persons" will include a company, partnership, sole proprietorship and individuals. All these authorities should exercise their statutory powers and not only preventing all persons throwing debris on the river bank but even require them to pay for the purposes of removal of debris which are thrown by them. This shall be in the discretion of the authorities and would be implemented upon compliance with the principle of natural justice.
9. The petitioner have also pointed out that the debris can safely be removed and taken to reprocessing of construction material and manufacturing of tiles which have been established by the DDA at Bawana. Let the debris be also transported and removed to such factory at Bawana and utilized for a better purpose rather than polluting river Yamuna.
10. ***Further we hereby issue an injunction restraining anybody, any person, authority from throwing any debris of any kind including solid wastes on the river bank of Yamuna or the water body near river Yamuna.***

11. *This order shall be duly communicated by all the Authorities present before us to all persons primarily the builders who are involved in huge construction in and around NCT of Delhi, if the parties so choose they can even give a public Notice.*
12. *We make it clear that the above order and directions issued by the Tribunal should be carried out by all concerned in its true spirit and substance. Any disobedience of these directions shall be viewed seriously by the Tribunal. The person disobeying these directions shall be liable to be proceeded against in terms of Section 19 (4) read with Section 26 of the National Green Tribunal Act, 2010 read with Section 151 of Code of Civil Procedure.”*

21. A High-Powered Committee was also constituted to ensure compliance of the above directions.

22. The said Committee reported that order of Tribunal is not being complied with and continuously debris including construction material is being dumped on the river bed of Yamuna. Vide order dated 28.02.2013, Tribunal issued following directions for preventing dumping of debris on the river banks:

- “1. The High Power Committee appointed by the Tribunal shall positively hold its meeting in the first week of March as planned and put up complete comprehensive report before the Tribunal on the next date of hearing.*
- 2. Notice shall issue to the Managing Director of DMRC, Director General of CPWD and Director of Horticulture Department, New Delhi. The notice shall issue, without process fee, requiring these authorities to show cause, as to why are they throwing debris on the river bank of Yamuna?*
- 3. The Commissioner of Police New Delhi and Director General of Police, UP are hereby directed to ensure deployment of proper police force on various places including the wall between the roads and river bank to remove the materials dumped and even from other entry points for vehicular traffic. **No vehicle, particularly heavy vehicle, carrying any kind of debris are permitted to enter the river bank of Yamuna.** In this way no vehicle shall carry construction or any other debris to be thrown to the river bank of Yamuna. The Police authorities shall not only*

stop such vehicles but seize such vehicles in accordance with law. However, only the vehicles carrying the debris from river bank to outside sites would be permitted by the police authorities. We see no reason why Delhi Police have not permitted the trucks bearing Haryana and UP registration number to carry the debris to different sites which may be located in the NCT of Delhi or even outside.

4. *In the meanwhile, **all public authorities are finally directed to ensure removal of debris and maintain proper log/records for carrying on such activities on regular basis.** All the Municipal Corporations, DDA, DMRC, CPWD and all the other authorities shall duly act upon this order.*
5. *The learned Court Commissioners who were gracious enough to work without fee would continue to pay visits to different sites without notice to any person. They are further requested to make note of the vehicles which are carrying on debris or any person carrying debris, if debris are thrown in the river bed in their presence. The Commissioners can go to the site at any time subject to their convenience.*
6. ***All the authorities shall ensure that no debris of any kind including construction debris are thrown on the site of any part of river bank of Yamuna.”***

23. During the proceedings on 23.05.2013, it was brought to the notice of Tribunal that MoEF has proposed to consider the question of development and beautification of river bank of entire Yamuna from one end to another in NCT of Delhi. Tribunal was informed that out of total 9700 hectares area for River Front Development, only 1452 hectares was presently available with DDA for development and balance area was with agriculture and other leases, encroachments etc. by different persons. Tribunal, therefore, directed Vice Chairman, DDA and all other authorities including NCT of Delhi to prepare and submit a complete plan for removal of unauthorized occupants; and restoration of entire land to Government of NCT of Delhi and other respective bodies.

24. In the subsequent proceedings, Tribunal found that dumping on the river bed has continued in some other areas also hence directions were issued to remove such debris from the entire river bank of River Yamuna.

25. Subsequently, State of Haryana was also impleaded as respondent 9 pursuant to Tribunal's order dated 17.02.2014.

26. Later, **OA 6/2012 (supra)** got connected with **OA 300/2023, Manoj Kumar Misra & Another vs. Union of India & Others** and **OA 344/2013, Ashok Mittal vs. NCT of Delhi & Others**, wherein issue of pollution of River Yamuna due to discharge of sewage through drains was also raised.

27. All the above three matters were taken on 30.05.2014 and Tribunal divided environmental issues involving therein into three facets:

- "1. The first issue is related to the drains (natural or artificial) coverage thereof and the pollution resulting there from.**
- 2. Steps that are required to be taken for ensuring and rendering Yamuna River free from pollution.**
- 3. Restoration and beautification of the banks of river Yamuna."**

28. Tribunal constituted a Joint Committee and directed it to make inspection and submit Report on the following:

- "i. There are how many natural and or artificial drains in Delhi.**
- ii. Drains which are joining the main Drains of Delhi directly or indirectly joining the river Yamuna.**
- iii. How many of storm water drains are there and how many carry sewage jointly or separately.**

- iv. *How many STPs have been established in Delhi for treating the otherwise. The sewage/ effluents/waste/sewage thrown/dumped in these drains. What is the present status of all the STPs? Are they functional and are working to their optimum capacity and their performance? At how many points, new STPS needs to be established? Whether it is possible to restore the existing STPs and make them functional to their optimum capacity suggestion in that regard?"*

29. Tribunal further directed that River Yamuna will be left lie abandon area and it shall be ensured that no debris, construction debris or any other material including municipal solid waste is thrown on river banks or even all along the drains of Delhi and the same will not be used for human evacuation.

30. Expert Committees submitted two Reports, one relating to restoration and beautification of the banks of River Yamuna falling in NCT Delhi and second with regard to prevention and control of pollution of River Yamuna with the object of resorting to its original position.

31. These Reports in the above mentioned three OAs i.e., **OA 6/2012 (supra)**, **OA 300/2013 (supra)** and **OA 344/2013 (supra)** were considered on 27.11.2014. Tribunal also required the Committee to make a frame work for execution of the proposed plan and for the purpose, directed that it shall consider 45 drains reflecting in 1976 Drainage Map.

32. **OA 344/2013 (supra)** was finally disposed of vide order dated 01.12.2014 recording statement of the counsels of respondents that the concerned departments would take steps for deconcretization as well as to ensure that storm water drains are cleaned.

33. We may notice at this stage that **OA 344/2013 (supra)** was instituted by six applicants namely, Ashok Mittal, resident of Yojana Vihar,

Brig. Dr. Mulk Raj, resident of Vivek Vihar, Vinod Kumar Singh, residents of Vigyan Vihar, Amit Khanna, resident of Krishna Nagar, Vishal Kaushik, resident of East Arjun Nagar and Dr. Sajili Mittal, resident of Yojana Vihar. They raised the issue of felling of old standing trees and concretization around the stem and roots of standing trees and also construction of new storm water drains along the internal roads of their colonies without any impact assessment; the storm water drains do not have any connectivity to the main storm water drain for carrying rain water out of colonies, being constructed without adhering to engineering principles of slope and taking into account the gradient of the road as well as various blockages and bottlenecks resulting in unsuccessful carrying out storm water by the said drains.

34. Later, hearing was concluded in **OA 6/2012 (*supra*)** and **OA 300/2013 (*supra*)** and judgment was pronounced on 13.01.2015.

35. The crux of the dispute was referred in para 9 of the judgment and Tribunal observed that the case of the applicants is that River Yamuna cuts across the Eastern part of NCT of Delhi and is bound by hard rocky area of the of the ridge and closed basin of Chhattarpur. A physiographic layout of NCT of Delhi shows that the natural drainage of city is river bound. The city of Delhi, on account of its undulating terrain, has a number of natural and manmade storm water drains to ensure that the city does not get flooded during rains and water reaches with ease to River Yamuna. Quite contrary to this, the urban flooding in Delhi in monsoon is common. The main reason for this frequent flooding is that, over a period of time, many of the storm water drains, which also at one time acted as natural tributaries of River Yamuna, have been first turned into storm-

cum-waste water drains and later many of them were covered and taken away from public view and obstructed from playing their natural role as storm water drains as well as verdant greenways within the city.

36. According to the applicants, such ill-advised conversion of drains has reduced easy and efficient drainage in the city as well as compromised biodiversity present in and along these drains and their ability to recharge the ground water. The conversion has played havoc with the environment and the ecology associated with these drains, including their ability to carry clean water and to keep the ambient air quality. Further, as a result of pollution resulting from traffic coming to a standstill, there is manifold increase in air pollution and people have to face unimaginable hardship. There is also the risk of fatal diseases like dengue etc. from the standing water. Some newspaper cuttings were annexed to substantiate this plea.

37. **Kushak drainage system** in South Delhi forms a major tributary of the **Barapula drainage basin** and is situated in the west bank of the River. Originating from southern ridge beyond Mehrauli Badarpur Road, it drains out wastes from areas in Saket, Pushp Vihar, Khidki Village onto Sheikh Sarai, Chirag Delhi and then enters Panchsheel Enclave after crossing the outer Ring Road. Skirting along the Siri Fort area, it flows further into G.K.-I, Andrews Ganj, Defence Colony along the Jawahar Lal Nehru Stadium and Jangpura before meeting Barapula Drain opposite Nizamuddin area. It covers a distance of about 11 kms and drains out sewage and other wastes from most key localities of South Delhi area.

38. **Shahdara Basin** covering about 30,000 acres of land in the Union Territory of Delhi, is situated on the eastern bank of River Yamuna. The basin is bound by River on the west, river Hindon on the east and Uttar

Pradesh on the north and south. G.T. road passes through the centre of this basin from west to east. Shahdara drain is managed by the Department of Irrigation and Flood Control of Government of Delhi.

39. According to applicants, the whole of Shahdara basin in Delhi is below the High Flood Level of River Yamuna and has tendency of getting flooded, quite often. This drain is helpful in carrying runoff during the rains and helps in preventing flooding of the area during excessive rains. This drain acts as a lifeline for many aquatic and riparian species of flora and fauna, which thrive and survive on the existence of this drain. The Shahdara drain in east Delhi is around 5 kms long, beginning from Northern Railways main line in Shakarpur area, till it meets the main Shahdara drain close to the Chilla Regulator.

40. The applicants had stated that these, amongst other drains, are essential features of city to keep environment and ecology, balanced.

41. Applicants attempted to show significance of storm water drains and why is it essential that they must be kept obstruction and pollution free. It was also the averment of these applicants that the drains ought not to be covered, as covering of such drains would add to natural calamity, increase in pollution and diseases. They have specifically referred to the advantages of open drain system in the application. The relevant part thereof reads as under:

*“...well protected and conserved drainage architecture (natural as well as manmade) in any city is an essential part of its efficient environmental and social planning and management. **Open to sky storm water drains that ensure easy collection and draining away of rainfall water serves a number of purpose, in addition to ensuring that the potential flooding of areas in a city is prevented.** These include:*

- a) *Serve as ground water recharge channels;*
- b) *Serve as greenways, when these are properly managed;*
- c) *Provide much needed open stretches in cities which are otherwise turning into concrete jungles and heat sinks;*
- d) *Ensure that the water that flows in these drains is well oxygenated and hence wholesome before it finally drains into a river, sea or a lake;*
- e) *Help clean naturally the waste water if any that flows in these drains;*
- f) *Maintain biodiversity and habitat conditions for a variety of plants and animals including small mammals, reptiles, birds, butterflies, etc.*
- g) *Act as NMT (non motorized transport) channels;*
- h) *Help maintain/increase value of property lying close to these channels in cities where widespread concretization has turned an urban area/city into a heat sink and where open spaces are available only at a premium.”*

42. Various studies were referred to by the applicants which showed that **covering of drains is injurious to environment, ecology and human health and should not be resorted to.**

43. In para 15 of the judgment, Tribunal observed that South Delhi Municipal Corporation (hereinafter referred to as ‘**SDMC**’) however is implementing the project under Jawaharlal Nehru National Urban Renewal Mission for conversion of Kushak Nallah/drain for providing parking/road-cum-parking under its jurisdiction; planning to construct ‘Delhi Haat’ in East Delhi, by covering Shahdara Link Drain along NOIDA Link Road at Mayur Vihar, Phase-I and had issued public notice on 05.07.2013 **for changing use of 27,000 m² area of Shahdara Link Drain from ‘utility’ to ‘commercial’.**

44. Referring to the pleadings, Tribunal observed in para 23 that no one is questioning the seriousness of environment and ecology issues arising from pollution of River Yamuna, throwing of construction debris and other municipal solid waste in the river, its flood plain as well as storm water

drains, whether natural or artificial, which have been converted into dirty drains carrying sewage or municipal waste. These pollutants and unchecked developments are violative of principle of sustainable development and causing havoc in the city of Delhi. On the aspect of e-flow of River Yamuna, Tribunal in para 33 and 34 observed as under:

*“33. The River Yamuna is one of the sacred Himalayan Rivers originating from Yamunotri Glacier (near Saptarishi Kund at Bandar Poonch Glacier Peak at an elevation of 6387 m in Mussoorie range of lower Himalaya. The river travels over a distance of 1370 km across Uttarakhand, Himachal Pradesh, Haryana, Delhi, Rajasthan and Uttar Pradesh and finally joins Ganga at Allahabad (Prayag); its basin spreads over an area of 66,220 sq.km which constitutes 42.5% of the total Ganga River basin and has four major tributaries – Tons, Giri and Bata, which join it from its right side and Asan, which join it from its left side, all of which constitute basin (Head water) of the river in Himalayan states. **Tons constitute 60% of the flow of the river.** In plains its tributaries are Hindon, Chambal, Sindh, Betwa and Ken. The upper Yamuna basin upto Okhla in Delhi represents less than 20% of its total basin (Martin et al, 2007; Agarwal & Krause, 2013). According to Agarwal & Krause (2013), 17 hydroelectric projects were completed, one hydroelectric project is under construction and about 20 are proposed within Yamuna river basin. It enters into plains of north India after the river forms an interstate border for about 50 km between Uttarakhand and Himachal Pradesh. In the plains, it forms an interstate border between Haryana and Uttar Pradesh for about 200 km distance and then it enters into Delhi. After traversing 45 km, it forms an interstate border between Delhi and UP and then forms interstate border between Haryana and UP and finally enters into UP and runs parallel to Ganga before joining it at Allahabad. **A total of 6 barrages were constructed across the river.** In the hills one barrage on Yamuna at **Dakpathar** and another one on its major tributary Asan were constructed in Uttarakhand; in the upstream of Delhi, **Hathnikund (Tajewala)** barrage was constructed in Haryana and the water was diverted to Western Yamuna Canal (WYC) and Eastern Yamuna Canal (EYC). The tail end of WYC joins the River Yamuna near Palla and EYC also joins at **Wazirabad reservoir**. Further, the abstraction of water at Tajewala barrage, which is about 2 km distance downstream from Hathnikund, takes place. Within NCT of Delhi, three barrages were constructed across the river—the **Wazirabad, the ITO and the Okhla barrages**. In UP, **Gokul barrage** was constructed to provide drinking water to Mathura and Agra. The river enters into NCT of Delhi at Palla in the north and exits at Jaitpur in the south. The river Yamuna within NCT of Delhi and the*

*corresponding portion of UP traverses over a distance of 54 km. The stretch of 26 km in the upstream of Wazirabad reservoir receives water from a branch of Western Yamuna canal which joins the river at Palla and the Eastern Yamuna canal joins it at Wazirabad barrage; both the canals originate from Hathnikund barrage, the downstream of which there is no flow from barrage, during lean period and whatever the flow is from the canals. **Consequently, there is practically no flow after Hathnikund barrage into river Yamuna during dry season.***

*34. However, it needs to be noticed that during monsoon season, because of higher floods (7 lakh cusecs of water passed over Tajewala weir in 1978; Report of the High Powered Committee, 2010), Haryana, Uttar Pradesh and Delhi planned and constructed extensive drainage and river control works including embankments. The mean availability of water in the river at Tajewala during monsoon (July-October) is 19705 cusecs for distribution among basin States. The discharges higher than 19705 cusecs are received at Tajewala for an average of 28 days during 4 months of monsoon. The Delhi Development Authority had intended to channelize the river in the city portion (from downstream of Wazirabad to Okhla during MPD 1981-2001) to restrict the flow area in the river and utilize the remaining land for other development purposes. **The concept of channelization was however not found technically feasible, as there are: (i) no flood moderating structures in the upstream and (ii) adverse impacts of higher flow levels in the canalized river section on the entire drainage system.***

45. Thus, in nutshell, River Yamuna, a major tributary of River Ganga, originates from Yamunotri Glacier near Saptarishi Kund at Bandar Poonch Peaks in Mussoorie range at an elevation of 6320 meters above Mean Sea Level in Uttarkashi district of State of Uttarakhand. Catchment area of River Yamuna covers parts of Himachal Pradesh, Uttarakhand, Uttar Pradesh, Haryana, Rajasthan, Madhya Pradesh and entire territory of Delhi. River Yamuna within National Capital Region is classified into five district segments due to its characteristics, hydrological and ecological conditions. All these five segments have different sources of water and waste water. **In Delhi segment of Wazirabad Village at Okhla, nearly a segment of 22 kilometers, it only gets domestic and industrial waste water of Delhi and thus, is the most polluted segment.** State wise

contribution of waste water generation in the cities located on the banks of Yamuna placed on record by CPCB shows that **in Delhi, length of the River is 48 kms, forming merely 3% of the total length of the river, before it joins River Ganga. However, sewage generation is 3800 MLD, forming 76% of the pollutants put into River Yamuna.** Situation becomes more serious when we find that during dry months between October and May, river water recedes drastically. Expert Committee appointed by Tribunal opined that 32 STPs need be installed at minor and major drains of Delhi in addition to the existing STPs. Tribunal considered the report and accepted the same with certain modifications. Tribunal was compelled to observe in para 50 of the judgment that **present status of Yamuna is only of a sewer due to lack of fresh water flow, discharge of untreated or partly treated domestic and industrial waste and due to dumping of debris on its banks and in it.** Its flood plains are highly truncated and degraded, resulting in depletion in most of its natural biodiversity.

46. Question of concretization of drains and its covering was referred to in paras 60 and 61 which read as under:

***“60. Some of the Municipal Corporations on their own have taken steps to concretize the drains as well as to cover them. In some parts of Delhi, particularly, in relation to the drain in Defence Colony and other parts of South Delhi, drains have been covered to some extent. In other places, the work has just started while in other places, a very meagre part of the work has been executed. According to the report of the Expert Committee, covering of drains in Delhi would have very serious adverse impacts upon the environment and ecology of Delhi. This would result in more flooding, explosion of diseases and clogging of drains.*”**

The Expert Committee noticed that the storm water drain system is designed to carry the rain water only and also to allow recharge in the ground water through its drainage system, as well as through other bodies. It stated that the storm

water drain system has been designed based on the good engineering practices and taking average intensity of rainfall as 1 cusecs per acre. **The storm water drain system should carry rain water and nothing else to maintain the ecology and environment. Ideally, the storm water should flow through its designed natural drainage system and sewage through sewerage network and finally treated at STPs before it is finally disposable into the river.** They proceeded to notice with approval the policy decision taken by a Committee chaired by the Chief Secretary, Delhi in respect of the various drains as circulated by Circular dated 25th February, 2014 which inter alia provided as under: -

“1. Natural drains: Natural drains are those drains which are naturally occurring, formed by the watershed of the area draining into it and have been existing naturally with a fully unlined base originally. **Although many modifications have been made to the natural drains over the years through lining, covering etc. these drains would still continue to be considered as natural drains.** The policy in r/o natural drains shall be as under:

- a. **The natural drains shall neither be lined (concretising the surface) nor shall they be allowed to be covered in any case.**
- b. The number of the natural drains will be confined to the list of such drains contained in the MPD 2021.
- c. **Construction of elevated road along these drains without affecting the aesthetics, flow of drain and without hampering cleaning of the drain may be allowed.** Similarly, service road and NMV track along the drain may also be allowed provided it does not in any manner affect the flow, cleaning of the drain and aesthetics of the area.”

The said policy has also found favour with the High Court in W.P.(C) No. 2385/2011.

The Committee, thus, has recommended that there should not be any concretization or covering of drains particularly natural drains in Delhi. According to the Committee such course is not technically feasible and is not in the interest of ecology and environment.

61. Upon its examination, the view expressed by the Expert Committee is not only acceptable, but is in consonance with the

settled principles of ecology. The **natural drains cannot be permitted to be concretised or covered, as it would not only destroy the flora and fauna but would even destroy the ecology of the entire area. We are in the agreement with the reasons given by the Expert Committee that it is neither appropriate nor in the public interest to permit Corporations to concretise and cover all the natural drains of Delhi.** In order to prevent wastage of public funds which have been spent recklessly, even though without proper application of mind and after consideration of requisite data, **we would permit the Corporations to keep intact the construction done so far on the drains, particularly, where the work has fully been completed in all respects and they have already been covered. However, where work has just commenced or just a partition wall has been erected, in our considered view all this work should be dismantled, especially, where only saria (iron rods) have only been fixed. Iron removed from these places can safely be used in construction of other projects by the Corporations, including construction and setting up of STP's and allied infrastructure.** Thus, it would cause minimum, albeit unavoidable waste of some public money..."

47. For keeping the natural man-made drains cleaned, Tribunal in paras 62 and 63 observed as under:

"62. Another facet which calls for attention of the Tribunal is that **all the natural and manmade drains in Delhi should be kept clean, free of obstruction and dumping of any material or municipal waste, in or around them should be strictly prohibited.** It has been submitted before us that **besides the existing 157 natural drains which have been identified by the Expert Committee with reference to the 1976 Drainage Map of Delhi, around 44 drains are not traceable.** It is important that the said untraceable 44 drains should be traced and a definite report is submitted to the Tribunal, for two reasons. Firstly, if these drains are traced, then they could be kept clean and obstruction free and if any additional STP or ETP is required to be provided on any of them, timely steps in that regard could be taken. **Secondly, if these drains are existing and are covered, while being connected to such colonies which do not have STP and are discharging their sewage into such drains, then it is bound to affect the success of the project adversely. Therefore, the Principal Committee should trace and/or cause to be traced, these 44 drains and submit a status report in that regard to the Tribunal. After submission of such report, if any further directions are necessitated, the Tribunal would pass such directions.**

63. To keep the matters beyond ambiguity and with reference to the report filed on behalf of the South Delhi Municipal Corporation and the photographs annexed thereto, **we direct that no further construction work would be carried on in the G.K-I drain and all the iron rods, especially in the middle section of the drain, shall be entirely removed. The part of the drain which has been covered would be permitted to remain, while it will be ensured that the same is neither occupied by unauthorised occupants nor is used as a platform for dumping,** as is even evident from the photographs submitted by the Corporation. **No further construction work would be carried out in the Andrews Ganj drain and the entire middle section where iron bars are visible shall be removed.** On the **Chirag Delhi drain**, no work appears to have been done as shown in photographs and only iron bars have been fixed on one side of the drain. **The entire iron bars shall be removed and no construction shall be carried out on the drain.** In Pushp Vihar, the drain which is already covered need not be demolished, but the iron bars which have been fixed in the portion ahead of the covered area, would be removed and the drain would be made obstruction free and not divided. The iron so removed, shall be used for other construction works by the Corporations/authorities concerned. The wall on one side of the drain that has been constructed would not be demolished. However, it should also be ensured that the covered part of the drain, even at Pushp Vihar, is not used as a platform for unauthorised occupation or dumping of waste.”

48. Identification of sources of pollution of river Yamuna and for effective steps, Tribunal in paras 72 to 75 said as under:

“72. The entire issue could be identified into two segments, which are the primary sources of pollution of River Yamuna. **The first, pollution resulting from discharge of industrial and trade effluents; and the second, sewage and domestic discharge and untreated waste entering the River Yamuna through different drains.** The installation and operationalization of CETPs for all industrial pockets of Delhi, would take care of treating the trade and industrial effluents before it is permitted to join any drain. As of date, in some industrial clusters CETPs are in existence, but are not working to their optimum capacity and effectively. Thus, it is required that all the industrial clusters in Delhi should have a CETP which has to be established and made effectively operational by the concerned authorities, particularly the DJB and other Corporations and authorities in-charge of industrial clusters under the guidance of the Principal Committee. Wherever they are in existence, it should be ensured that they should work to their optimum capacity and effectively, to prevent and control the pollution resulting from

discharge of industrial/trade effluent of that industrial cluster. The new CETPs that are to be installed must be established keeping in view the manufacturing and production activities of the industries within that industrial cluster. **It should be ensured that the treated effluent is strictly in consonance with the prescribed parameters and does not carry any hazardous ingredients, particularly, heavy metals.** We also direct that the authorities concerned would require each industry to contribute for the establishment, maintenance and operationalization of such CETPs. The criteria has to be the quantum of production/manufacture, nature of process and consumption of water and electricity by such industrial units. Such industrial units within a particular industrial cluster have to pay these amounts on the 'Polluter Pays' Principle, for the pollution already caused by them and even which they are causing presently, as well as to prevent pollution in future on the Precautionary Principle. Major part of such costs, obviously have to be borne by the authorities concerned, let us say 2/3rd, while 1/3rd of the total costs should be borne by the industries.

73. **Once all the new 32 STPs are established and made effectively operational and all the existing STPs (21) are set in order and they operate to their optimum capacity, then the entire sewage and domestic discharge from all the colonies of Delhi, through nearly more than 157 drains, would stand treated.** This treated discharge then has to be re-used, recycled for supplying water for industrial and agricultural purposes. In other words, the treated sewage and domestic discharge would have only remnant water, which is not to have pollutant elements and even odour for that matter. Keeping in view the demand of water by industrial and agricultural sector of Delhi, **larger part of the treated discharge would stand recycled, reutilized and a very small remaining part would be discharged into the River Yamuna.** The **environmental flow of Yamuna would be maintained, which will be preceded with controlled dredging, required to remove huge accumulation of sediments, sludge and debris.** Upon completion of this project, River Yamuna would stand restored to its crystalline and pristine form and would provide clean and wholesome water for use by the residents of Delhi, as well as its natural beauty would add to the glory of the National Capital.

74. It will also be ensured that the remaining debris which has not been lifted so far, should be removed from the Flood Plain of the River Yamuna and it should be ensured that no waste of any kind, much less construction debris or waste, is dumped or permitted to be dumped in that area again. We have already noticed and directed that **all the drains would be cleaned** and there will be complete prohibition on dumping of any kind of waste and construction and

demolition material in and on the banks of the drains, which would then carry only the treated effluent, free of any foul smell.

75. **Controlled dredging of river and drains has been recommended by the High-Powered Committee.** Such exercise would be necessary for cleaning of River Yamuna. For years, Yamuna has been carrying untreated sewage, trade and industrial waste and bearing the brunt of dumping of municipal and/or other waste, including construction debris, plastic, metals and even the wet waste. **With the passage of time, there has been a huge accumulation of sediments and sludge. This, besides causing serious pollution of the river, has considerably reduced the flood carrying capacity of the main channel.** This has even silted up wetlands, flood plain and water bodies. According to the High Powered Committee in several places, many of the spurs have lost their original purpose because of the flow in the river is highly reduced and regulated. In several places, these are being extended right up to the current channel and being developed as parks etc. Such development has to stop, to provide water space for the river channel to carry more water. Existing wetlands and water bodies, both upstream and downstream of Wazirabad reservoir, should be deepened and enlarged. Besides, recommending stopping of such activities on the Flood Plain, the **Expert Committees have made various recommendations which we accept**, inter-alia, that (i) **culverts must be constructed under the existing guide bunds of roads and flyovers**, which have fragmented massive wetlands, so that flood waters flow without obstructions along the river course and into the floodplain wetlands. This will also help movement of aquatic biota (e.g., fish) and enhance the groundwater recharge. (ii) a **greenbelt/greenway should be developed on both sides of the embankment**, for controlling erosion, reducing sediment load of the main channel, reduce pollution, and beautification. Nature trails may be provided across riparian areas for recreation to the public without losing ecological function of the Flood Plain.”

49. On the aspect of **maintenance of flood plain**, in para 79 to 84, 87 and 88, Tribunal said as under:

“79. Development and regulation of floodplain of rivers falls within the purview of the State. **Floodplain is an integral part of river system even though it is used only occasionally to pass down flood flows. When floodplain is not occupied by water it forms part of the land system providing possibilities of carrying on some restricted activity.** It is not possible to provide uniformity in the extent of floodplains with respect to different rivers as well as its various reaches.

80. Floodplain zoning has been accepted as an important nonstructural strategy for flood management. **The basic concept of floodplain zoning is to regulate land use of floodplains to restrict damage caused due to floods.** The floodplain zoning, therefore, aims at determination of locations so that flood damages are reduced to minimum. A very restrictive activity can be allowed in that area. **It is not only to protect the areas from damage resulting from floods and failure of water protective measures, but is also useful in reducing the damage caused due to drainage congestion, particularly in urban areas.** The Commission claims to have prepared a model bill relating to floodplain zoning. This model bill provides for different categories based of priorities in floodplain.

Following are the recommended priorities:

1. “Defense installations, industries, public utilities like hospitals, electricity, installations, water supply, telephone exchanges, aerodromes, railway stations, commercial centres, etc buildings should be located in such a fashion that they are above the levels corresponding to a 100 years frequency or the maximum observed flood levels. Similarly, they should also be above the levels corresponding to a 50 years rainfall and the likely submersion due to drainage congestion.
2. Public institutions, government offices, universities, public libraries and residential areas. Buildings should be above a level corresponding to a 25 year flood or a 10 year rainfall with stipulation that all buildings in vulnerable zones should be constructed on columns or stills as indicated above.
3. Parks and playgrounds. Infrastructure such as **playgrounds and parks can be located in areas vulnerable to frequent floods.** Since every city needs some open areas and gardens, by restricting building activity in vulnerable areas, it will be possible to develop parks and play grounds, which would provide a proper environment for the growth of the city.”

81. According to this affidavit, the National Water Policy – 2012 provides that conservation of rivers, river corridor, water bodies and infrastructure should be undertaken in a scientifically planned manner through community participation. **Encroachments and diversion of water bodies must not be allowed and wherever it has taken place, it should be restored to the extent feasible and maintained properly. Despite declaration of floodplains, demarcation has all along been a matter of concern.**

82. *The floodplain must be demarcated, kept free from any permanent developments and wherever it is possible, it should be restored to its original position.*

83. *Keeping in view the fact that various developments have taken on the floodplain of river Yamuna and to a larger extent they have adversely affected the river flow, its ecology and bio-diversity, we would direct that floodplain zoning should be taken with reference to the flood of once in 25 years, as against other suggested figure of more years. It is important to demarcate the floodplain on this basis immediately, to protect it from any encroachments or development activities, which has already discussed and requested by the High Powered Committee, would adversely affect the ecology and environment.*

84. *Thus, it is necessary to call upon the authorities to demarcate the floodplain for the flood of once in 25 years and to prohibit any kind of development activity in the area in question.* Furthermore, the Committee should consider restoration of the area and wherever necessary, even demolish the properties, which are likely to be dangerously exposed to the flood and are even affecting the ecology and bio-diversity and flow of the river.

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

87. Now let us revert to the developments on the banks of River Yamuna. **On a Flood Plain, rampant construction is prohibited under the law.** A regulated activity could be carried on, only with the approval of the concerned authorities. The DDA had proposed a plan for prohibition, restoration and beautification of the Flood Plain of River Yamuna which has been found to be prejudicial to the environment and ecology, as well as to the flow of the river. Besides these defects, the **Expert Committee has also pointed out that there could be heavy floods in Delhi, if the proposal of the DDA was implemented.** For these reasons, besides the ones recorded in the Expert Committee’s report, of which the DDA itself was a party, we do not approve of implementation of the DDA plan, but would **accept the report of the Expert Committee and direct the river bank/Flood Plain to be kept in the manner as indicated in the report.** We direct that walkways will be provided on the outer extreme of the Flood Plain of the River Yamuna, away from the embankments, with green area around providing a space and environment which is safe for walkers. In this judgment, of which the reports of the Expert Committee are an integral part, we have applied the precautionary principle by directing various steps which are required to be taken by the authorities, including **prohibitory orders**

in relation to dumping and throwing of waste of any kind in the drains in the River Yamuna to protect the environment. We have evoked the Polluter Pays Principle requiring the industrial clusters to contribute towards establishment of CETPs. Similar directions in regard to the contribution by residents for establishment of STPs wherever the State feels the need for that purpose. In any case, **maintenance of CETPs and STPs should be a burden that is required to be shared by the industries and residents of Delhi.** They have the fundamental duty to protect the environment, not only on the Polluter Pays Principle but even on the correct analysis of Article 51A(g) of the Constitution. There is a rapid growth in the construction and industrial activity in the city causing further and more serious pressures on the environment and infrastructures in the city. If the authorities are permitting such growth then they have to impose restrictions to regulate the same as well as incur such costs which are necessary for preventing irretrievable injury to the environment and ecology of River Yamuna in Delhi. The sustainable development would certainly require all these authorities and residents of Delhi to act with reasonable caution and restrictions on the one hand and contribute towards protection, improvement and restoration of the environment on the other.

88. Subject to any law coming into force, we have already stated that flood of once in 25 years would be considered for defining and demarcating the flood plain. No development/construction activity, except that is stated herein, would be permitted in the Flood Plain of River Yamuna. No authority or person before us has even taken up the plea that why development/construction activity cannot be carried on in other parts of NCR, Delhi. As of now, sufficient land is available, may it is expensive, but that cannot be a ground for destroying the ecology, environment and biodiversity of River Yamuna of Delhi. The result of indiscriminate, unregulated and uncontrolled development activity are widely visible and felt by each and every one in Delhi. It would not only be unwise, but may prove fatal, if such approach is continued any further.”

50. For the purpose of maintenance of environmental flow of river around the year, Tribunal in para 85 said as under:

“85. Environmental flow of river identifies the minimum flow which the river should maintain round the year. If no water or minimum desired level of water is maintained in River Yamuna through-out the year, then it would not help the cause of environment. **The flow of the river would by itself keep the river and environment healthier and also cause dilution to the requisite**

levels, even if some extent of pollutants enter the river. *The carrying capacity of the river has a direct co-relation to the availability of quantity of water. We have also noticed that water of river Yamuna in Delhi NCR is released at Tajewala. At Tajewala, the river is divided into two canals, which go through different parts of State of Haryana and ultimately join river Yamuna and Ganga. The **water released in river Yamuna passing through NCT Delhi is low or negligible except in monsoon period.** Thus, it adds to the concentration of the pollution and adds to the environmental degradation. This has to be prevented. Thus, we direct the Chief Secretaries of NCT of Delhi and State of Haryana to have a meeting with the Principal Committee and fix the quantity of water that should be released through-out the year to maintain the environmental flow of river Yamuna throughout the year to ensure prevention and control of pollution.”*

51. Lastly, Tribunal issued several directions vide judgment dated 13.01.2015 directing DJB to take effective steps for functioning of STPs, installation of requisite capacity of STPs to meet the gap, installation of CETPs for industrial clusters in Delhi etc.

52. Considering the matters on merits in the light of the report of Expert Committee, Tribunal observed that it is difficult to visualize the extent of pollution of River Yamuna particularly, in NCT of Delhi.

53. The neighboring States like State of Haryana were directed that no industrial effluent is discharged in River Yamuna from the industries or industrial clusters located near or at the banks of River Yamuna. Directions were also issued for re-possessing flood plain area from unauthorized and illegal occupants and to take further steps so that flood plain zone remain free and unoccupied so as to protect River Yamuna from pollution.

54. Various directions as contained in para 94 of the judgment are as under:

“94. We are not oblivious of the herculean task which will be required in carrying out the **‘Maily Se Nirmal Yamuna’** Revitalization Project, 2017, but we are of the firm view that **any further deferment in taking stern and serious steps for preventing and controlling pollution of River Yamuna, is bound to expose Delhi and its residents to grave environmental disasters.** Implementation of provocative action plan postulated by the Expert Committees and as described in this judgment is inevitable to protect public health, public interest and the environment. This is the only solution to bring down the highest contribution of pollutants (76% of the total Yamuna’s Pollution level) to a negligible and preferably to zero percent, in the interest of ecology, environment and to provide clean water to the residents of Delhi. To ensure complete and effective implementation of the recommendations made by the Expert Committees in their reports dated 19th April, 2014 and 13th October, 2014 respectively, as well as, to identify the authorities responsible for compliance for timely preparation and execution of action plans, prepared in terms of this judgment, **we hereby issue the following directions in the larger environmental and public interest:**

- i. The Tribunal hereby accepts both the reports filed by the Expert Committees: first report dated 19th April, 2014, read with the gist of recommendations submitted by the Principal Committee on 2nd August, 2014, on the aspects of preservation, restoration and beautification of the banks of River Yamuna and the second report dated 13th October, 2014, read with its annexure, in relation to drainage system in Delhi, together with the Action Plan prepared by the DJB for revitalization of River Yamuna. **Both these reports shall form integral part of this judgment.** All the concerned authorities of NCT of Delhi, State of UP and State of Haryana shall implement the same without demur and default, expeditiously. **The entire project contemplated under these reports and this judgment of the Tribunal shall be completed by 31st March, 2017.**
- ii. This project shall be called ‘Maily Se Nirmal Yamuna’ Revitalization Project, 2017.
- iii. Implementation of both these reports and the components of the project shall be simultaneously executed by the concerned agencies, who shall prepare their respective Action Plans in terms of the reports as well as this judgment and submit it to the Principal Committee constituted hereinafter, in not later than four weeks from the date of pronouncement of this judgment.

iv. (a) **Presently, under the jurisdiction of the DJB, there are 23 STPs in existence or planned to be made operational by 2015.** Out of them, the oxidation pond at Timarpur is proposed to be closed, as it was commissioned in the year 1947. **The STPs at Okhla and Kondli are lying closed** due to inadequate sewerage and majority of the STPs are not operating to their optimum capacity. Thus, **we direct that the DJB and other concerned Corporations under whose jurisdiction the existing STPs fall, shall, within two months from today, ensure that all these STPs, including the one proposed to be commissioned at Delhi Cantt., should be made fully operational, should operate to their optimum capacity and operate effectively 24x7, without compromising the quality of treated water released from such STPs.**

(b) It is further directed that **the Action Plan in regard to installation of STPs on 32 major and minor drains shall be prepared, in accordance with the recommendations in the Expert Committee Report afore-referred and action taken in furtherance thereto, within three months from the date of passing of this order.**

(c) **All the newly proposed 32 STPs should be constructed and installed with the requisite capacity varying from 0.6 mgd to 10 mgd, at the sites specified in the report of the Expert Committee within the time frame indicated in this judgment.** Once, the total of 55 STPs would operate effectively and to their optimum capacity, the water released from them shall be recycled and utilised for agriculture, horticulture and industrial purposes and least of this recycled water would be discharged into the River Yamuna.

(d) **Action Plan to be prepared to utilize the treated water from the existing 23 STPs as well as from the 32 proposed STPs.** It will be ensured that the release of water from these existing STPs should be strictly in accordance with the prescribed parameters and free of any odour and it should meet the faecal coliforms standards.

(e) Wherever necessary, the technology of the existing STP's should be upgraded to ensure proper performance and adherence to the prescribed standards of effluent discharge.

(f) The concerned authorities shall construct and install 26 pump stations at the locations and of the capacity as indicated in the Action Plan placed before the Tribunal. The process

thereof should begin within three months from the date of passing of this judgment.

(g) Further, **all the STPs shall be provided with a power backup to ensure that they operate effectively 24x7.** It shall be ensured that the functional data of all STPs is online and is connected to the Delhi Pollution Control Committee as well as the Central Pollution Control Board, particularly in respect of COD, TDS, TSS and pH and it shall be ensured that the STP's are operational even during power failures.

(h) **All the industrial clusters in Delhi shall be provided with Common Effluent Treatment Plants (CETPs).** These CETPs shall be effluent-specific and capacity-specific, with reference to the particular industrial cluster. The installation cost of the CETP shall be borne preferably by the authority that owns and maintains that industrial cluster. In the event of shortage of finances the authority concerned can require the persons running the industrial activity/unit in that cluster to share the cost on 'Polluter Pays Principle' in the ratio 2/3 and 1/3 respectively.

(i) We direct the State of Haryana to ensure that all the industries/industrial clusters that are located near or at the banks of River Yamuna, should preferably be no discharge units. If that is not possible, then such industrial clusters should be directed to install CETPs of the requisite size and standards, so as to ensure that the effluent discharged by them is strictly in accordance with the prescribed norms.

- v. (a) Having given our considered view to the various reports placed on record, submissions made by the Learned Counsel appearing for the parties and the Experts, **we are of the opinion that presently the flood plain should be identified for the flood of once in 25 years in the interest of ecology, biodiversity and the river flow.** Thus, we direct accordingly and also direct that the DDA shall prepare a map in this regard and would physically demarcate the entire flood plain.

Above interim prescription of the flood plain is not rigid, but is subject to change, in the event any of the public authorities, including the MoEF, moves the Tribunal, based upon some collected data or any other specific information in that regard.

(b) We direct and prohibit carrying on of any construction activity in the demarcated flood plain henceforth. We further direct the Principal Committee to identify or cause to be identified, all existing structures as of today which fall on the so identified and demarcated flood plain. Upon identification, the Principal Committee shall make its recommendations as to which of the structures ought or ought not to be demolished, in the interest of environment and ecology, particularly, if such structures have been raised in an unauthorised and illegal manner.

(c) The Principal Committee may keep in mind that certain structures need to be protected, amongst other reasons, for their historical, mythological and heritage importance and/or are protected structures. The Committee shall clearly spell out the regulatory regime that should be provided for dealing with such existing structure in the flood plain.

(d) We direct all the concerned authorities including the DDA, Municipal Corporations and the NCT of Delhi, to take immediate and effective steps for repossessing the Flood Plain area under the unauthorised and illegal occupation of any person and/or any other body.

This direction is also necessitated for the reason that as per the records before the Tribunal, out of total area of 9700 hectares for River Front Development ('O' Zone), only 1452 hectare is presently available with the DDA for development and the remaining area is occupied in an unauthorised manner and is under agriculture activity for which leases had been granted by the DDA or even otherwise

(e) It is an established fact that presently, vegetables, fodder grown and allied projects at the flood plain of River Yamuna are highly contaminated. **Besides containing ingredients of high pollutants, such produce is even found to contain metallic pollutants.** Thus, it is an indirect but a serious public health issue as the persons eating or using such agricultural produce can suffer from serious diseases including cancer.

Therefore, **we direct that no authority shall permit and no person shall carryout, any edible crops /fodder cultivation on the Flood Plain.** This direction shall strictly be adhered to till Yamuna is made pollution free and is restored to its natural wholesomeness.

- vi. (a) During the pendency of this application, it was brought on record that nearly 37,000 cubic m. construction debris are lying

on the eastern bank of River Yamuna, while 53,000 cubic m. debris is lying on the western bank of the River. The major part of this debris has already been removed under the orders of the Tribunal during pendency of this application. The local Commissioners appointed had reported to the Tribunal that major part of debris had been removed by the DDA, DMRC, Corporations, the PWD and the UP Government. DMRC has removed 33,000 cu. m. from Sarai Kale Khan and 20,000 MT from Shastri Park, the State of UP has removed 37,000 MT from the Flood Plain and DDA has removed 2500 cu. m. from Eastern Bank of River Yamuna and 7500 cu. m. from Western bank of River Yamuna, amongst others.

(b) Indiscriminate dumping of debris and construction waste is a direct source of not only pollution of River Yamuna, but even the environment and ecology as a whole. In order to control and prevent such pollution, **we confirm the interim order dated 22nd July, 2013, passed by the Tribunal, with the variation in payment of amount of compensation payable by the offender and direct that no person, authority, corporation and/or by whatever name or designation it is called, shall dump any kind of construction debris, municipal, or any other waste on the floodplain/river bed of River Yamuna and its associated water bodies. There shall be complete prohibition on dumping of any material in and around River Yamuna.**

(c) **Whoever violates this direction relating to the dumping of debris, shall be liable to pay compensation of Rs. 50,000/-** on the 'Polluter Pays' Principle and the Precautionary Principle. Such compensation shall be used for removal of such waste and restoration of environment.

(d) We hereby prohibit any person from throwing pooja material or any other material like, food-grain, oil, etc into River Yamuna, except on the designated site. **Any person who is found disobeying this direction shall be liable to pay compensation of Rs. 5,000/-** on the 'Polluter Pays' Principle. At the same time, **we direct the concerned authorities, particularly, the Irrigation Department and concerned Corporations or authorities to build special Ghats on the banks of River Yamuna, where people could offer or immerse such materials, which shall then be duly collected by the concerned authorities for immediate and proper disposal in a scientific manner.** It shall be ensured that no such material is permitted to join the main stream of the river at any point. In this regard they may take such steps, as

may be technically advised, including, providing of screens and barricades.

(e) We have provided the above compensation payable by the offenders who are found to be throwing municipal or any other waste into the river or its flood plain and by the persons who are found to be dumping construction and heavy debris, based on the 'Polluter Pays' Principle. Even though, it is not practically possible to determine the amount of compensation with exactitude, that such offenders should be directed to pay, however, on a rough estimation based on manpower required, time and money spent for removal of such waste and debris as well as making the river free from adverse environmental impacts of such dumping into the river and on the flood plain, **we have fixed the above compensation for environmental degradation under Section 15 of the NGT Act.**

(f) Whatever remnant construction or other waste is still lying on the banks of the entire stretch of Yamuna in NCT Delhi, would be removed positively within four months from today by the concerned authority/State under whose jurisdiction the said area falls.

- vii. **We direct all the concerned authorities, corporations, bodies including Resident Welfare Associations to clean all the 157 natural storm water drains as identified by the Committee, within four months from the date of passing of this judgment and the drains should be made obstruction free and no waste should be permitted to be dumped in such drains.** The drains may be cleaned mechanically or manually as the situation may demand. Such cleaning would include the dredging of the drains besides compliance of the specific recommendations of the Expert Committee. **There shall be controlled dredging of River Yamuna to remove the huge accumulation of sediments and sludge for restoration of the cross section and flood carrying capacity of the River Yamuna.**
- viii. **Existing wetlands and water bodies, both up-stream and downstream of Wazirabad reservoir, should be deepened and enlarged.** This should be done in addition to providing more water bodies.

We direct the Chief Secretaries of the States of Himachal Pradesh, Uttarakhand, NCT of Delhi, Haryana and Uttar Pradesh, Secretary, Water Resources, Government of India and Secretary, MoEF, to hold a meeting within four weeks from

today to prepare an immediate action plan required to ensure proper environmental flows throughout the year, in the entire river and particularly the stretch flowing through Delhi.

- ix. *The concerned Corporations under the guidance of the Principal Committee shall submit a report as to the identification and existence of the 44 drains (natural) which have been reflected in the Drainage Map of 1976, but were not traceable, as pointed out by the Expert Committee before the Tribunal. This report will be submitted to the Principal Committee within three months from the date of passing of this judgment.*
- x. *The compostable material drawn out of such immersion or offering, should be used for manure purposes and should not be unduly stored. All other scientific method may be adopted for its removal and disposal.*
- xi. *The **Yamuna River Front i.e. the flood plain shall be restored, preserved and beautified, strictly in accordance with the report of the Expert Committee dated 19th April, 2014 as per its acceptance on 2nd August, 2014 by the MoEF as well as High Powered Committee.***
- xii. *However, **restricted activities of floriculture and silviculture can be carried on, subject to such specific permissions and restrictions as may be imposed by the authorities/Principal Committee and also subject to the orders of the Courts, wherever, the matters are stated to be pending.***
- xiii. *The **respective Corporations and/or authorities would be responsible for execution of these directions directly under the supervision of the Principal Committee constituted herein.***
- xiv. *The Government of the NCT of Delhi and the neighbouring States shall, within a period of three months from today, identify the site where the sludge/dredged material from the drains and River Yamuna is to be stored. The Principal Committee shall also issue directions as to the best way of utilisation of such sludge/dredged material including, for construction of tiles, particularly in reference to paver blocks.*
- xv. *Sites for storage of fly ash are a direct source of air and water pollution. Therefore, in furtherance to the MoEF Notification*

dated 14th September, 1999 and this judgement, we direct proper covering of fly ash at the particular sites on the river bank of Yamuna. **All the concerned authorities shall ensure that such fly ash should be disposed of at the earliest.** Further, we direct that the Government should provide incentives for use of bricks made of fly ash in preference to red bricks. Since the Indraprastha Power Station generates considerable amount of fly ash and is located very close to the river bank, thus, the unit should take all effective steps to prevent pollution of the river water by dumping fly ash at suitable locations.

- xvi. We are informed that **Rupees Twenty Thousand Crores has already been provided under the planned expenditure to the NCT of Delhi, out of which Rs. Two Thousand Thirty One Crores have been specifically earmarked for providing sewage connection, sewage treatment, sewage disposal and water network.** As per the Expert Committee the total expenditure of the present project is estimated at Rs. Four Thousand Crores, which can safely be met from the above head under the planned budget. However, still if there be need, we direct that the public authorities/Municipal Corporations could require the public at large to contribute to this expenditure based on the 'Polluter Pays' Principle. Funds/compensation so collected shall exclusively be used for this project and allied projects, with the object of ensuring pollution free Yamuna, clean and effective drainage system and for providing wholesome water to the residents of Delhi. Such environmental compensation may be determined by the Authority/ Corporation with reference to the size of plots, construction raised thereupon, activity being carried on therein, consumption of water, quantum of sewage and domestic discharge and such other relevant considerations as the authority may deem fit and proper. The charges could be collected as part of the property/house tax.
- xvii. We direct all Public Authorities, Municipal Corporations and the concerned Departments, including the Department of Irrigation, to take effective steps to protect the Flood Plain as well as to educate all sections of society to co-operate and not to do any acts or deeds which are prohibited under this judgment and would have adverse consequences. These authorities should place large-sized dustbins, beyond the demarcated Flood Plain and towards the inhabitation, as well as in the bio-diversity parks. They shall request for concerted efforts both by the ones who are governing and ones who are governed. They shall issue circulars, display signages and may take recourse of

Print and Electronic Media for educating people at large for effective completion of this project.

- xviii. We direct all concerned to make every possible effort to ensure that the storm water drains do not carry sewage. Sewage may be carried through those drains upon which the STP's have already been installed, till the completion of the project. After the completion of the project, steps shall be taken so that only minimal quantity of treated water from the STPs reaches Yamuna.**
- xix. *The CPCB, DPCC in coordination with the DJB, shall collect samples from River Yamuna, its floodplain and from the respective STP's at different places and sites for detailed analysis. This shall form the baseline data for implementation of this project. It will also be helpful in determining the improvement in the water quality.*
- xx. *The authorities concerned shall take all steps to rejuvenate the water bodies associated with River Yamuna.*
- xxi. *All concerned authorities shall deal with utmost priority and expeditiousness, in case any application in furtherance to any construction or authorization is moved by any of the authorities, Corporations or DJB, directly or through the Principal Committee, in execution of the Project. We grant liberty to the State Authorities, Corporation and DJB to approach the Tribunal in the event there is undue delay in dealing with such application in accordance with law.*
- xxii. There shall be no construction and/or coverage of any of the drains in Delhi by any Authority or Municipal Corporation. All the drains shall be kept obstruction free by the concerned Corporation.** *Where substantial work (more than 85%) has been completed, such work is permitted to be completed by the Corporation after obtaining specific orders from the Tribunal in that regard. Rest of the work, **where construction has just begun, the construction, including iron material, shall be removed.** While completing such remnant work, Corporation shall ensure that the cross section of the drains to carry the requisite storm water for the flood of once in 25 years and other effluents, are not compromised. **Such construction and/or removal shall be carried on in terms of paragraph no. 61 of this judgment.***
- xxiii. *We constitute the 'Principal Committee' which shall be responsible and under whose supervision the directions*

contained in this judgment and the project reports shall be completely, effectively and expeditiously complied with. All concerned Authorities, Corporations, DJB and any other department, responsible for carrying out directives of this judgment, shall report the matters and submit the respective reports and data to the Principal Committee, for onward transmission to this Tribunal. The Committee shall file quarterly report of compliance before the Tribunal. The Committee shall consist of Special Secretary, MoEF, Joint Secretary of Ministry of Water Resources, Chief Secretary, Delhi Administration, Vice Chairman, DDA, Commissioner of all the Corporations, Commissioner, DJB, Secretary, Department of Irrigation, NCT of Delhi, concerned Secretaries of the States of Haryana, Uttar Pradesh, Himachal Pradesh and Uttarakhand.

The four Members, namely, Professor C.R. Babu, Professor A.K. Gosain, Professor Brij Gopal and Professor A.A. Kazmi shall be the Members of the Principal Committee and shall be associated with commencement and completion of all the aspects of this project. **The Delhi Jal Board along with Corporation under whose jurisdiction the required number of STP is to be constructed and established as well as the drains which are to be completed and made obstruction free shall be responsible for execution of the work as contemplated in the action plan, reports of the Committee and the judgment of the Tribunal. They shall work in tandem and under the supervision of the Principal Committee.**

- xxiv. All the Authorities, Corporation, DJB, CPCB, DPCC and any other department or authority, directly or indirectly connected with the compliance of these directions and the Project Reports, shall report to the Principal Committee in relation to all the actions taken in furtherance thereto and their progress from time to time. In the event of default, the Head of Department of such Authority/Corporation/Board would be held personally responsible.
- xxv. **These specific directions are in addition to any other direction that we have recorded in the entire judgment.**
- xxvi. By this judgment, we not only mandate but even request all the concerned Authorities, State Governments and the Principal Committee to ensure timely compliance of these directions, as this is the only plausible and practical way by which River Yamuna would become pollution free and its flood plain conducive for the biodiversity that it deserves. We have no

doubt that with the concerted efforts of all concerned, 'Maily Se Nirmal Yamuna' Revitalization Project, 2017, would be a success. It would not only meet the ecological and environmental standards prescribed but would also provide clean air and water to the residents of Delhi, who are entitled to it and have a legal and constitutional right to receive the same. It will also help in providing sufficient water for agricultural and industrial purposes, thus, saving considerable quantity of potable water, so as to enable the concerned authorities to provide the same to all the colonies of Delhi. We also express a pious hope that residents of Delhi would render all help and assistance to all concerned and even abide by their fundamental duty for rejuvenating River Yamuna.

xxvii. We would be failing in our duty if we do not record our sincere appreciation for the contribution made, efforts put in and technical guidance provided, by the Members of the Principal Committee constituted by the Tribunal particularly the Expert Members, namely, Professor C.R. Babu, Professor A.K. Gosain, Professor Brij Gopal and Professor A.A. Kazmi.

xxviii. We grant liberty to all the parties, the applicants or even the public, to approach the Tribunal for any clarification or modification or for removal of any of the difficulties felt by them in implementation of the directions contained in this judgment and/or of the project reports."

55. Tribunal, in the light of the discussion and directions noted above, disposed of **OA 06/2012 (supra)** and **OA 300/2013 (supra)** including M.A. Nos. 967/2013, 275/2014 in **OA 6/2012 (supra)** and M.A. Nos. 877/2013, 49/2014, 88/2014 and 570/2014 in **OA 300/2013 (supra)**.

56. **Tribunal's Order dated 02.03.2015:** Later, the matter came up before Tribunal on certain M.As. filed by MoEF&CC, DJB and SDMC on 02.03.2015. It was noted that there have not been effective steps for compliance of the directions contained in the judgment dated 13.01.2015 and none of the agencies have taken steps at all at the ground level. Tribunal observed that it has trappings of Civil Court hence may evolve its own procedure in consonance with the principle of natural justice. The

decisions or the directions of Tribunal are to be executed as a decree of Civil Court and no one must have the impression that order of Tribunal can be avoided without any justifiable reason. It accordingly reiterated that directions by it should be complied with by all the concerned, but to make the things clearer, issued following clarificatory directions for effective and expeditious implementation of the judgment dated 13.01.2015 in **OA 06/2012 (supra)** and **OA 300/2013 (supra)**:

- “(1) *The Tribunal has already prohibited in absolute terms throwing of any material or waste including Municipal Solid Waste into river Yamuna as well as dumping any construction or other debris on the bank of river Yamuna. It was further directed that dumping of the debris on the flood plain of River Yamuna would invite a fine of Rs. 50,000/- for each incident of such dumping and Rs. 5,000/- for dumping any other material into the river Yamuna. **We reiterate these directions for strict compliance.** This direction is being issued on the basis of “Polluter Pays Principle” in terms of Section 15 read with Section 20 of the NGT Act. **This direction has the force of law besides being decree of the Court.** Let these be executed without default. The **amount of compensation aforementioned shall be imposed by a person not less than the rank of the Assistant Commissioner of Police, Assistant Director or Assistant Engineer or any officer of that rank of DDA and Municipal Corporation.** The amount so collected shall be deposited with the DDA which shall maintain a separate account. **Amount so collected and deposited with DDA shall only be utilised for execution of the project under the judgement and not anywhere else at all.***
- (2) (a) ***Despite clear directions, the concerned Department of NCT Delhi has not demarcated flood plain of river Yamuna.*** It is stated that one Committee or the other agency including CWC has to consider this matter. This agency has desired to appoint National Institute of Hydrology, Roorkee to do this study. We really fail to understand this approach of the Department where more than 100 years of flood data is available with the Department. ***We also find that the demarcation of flood plain for one in 25 years flood directed by this Tribunal, is available in the reports submitted to us. Let, Secretary and the Chief Engineer of the Department be personally responsible for execution of this work of physical demarcation of the flood plain which should be***

done within three weeks from today and matter reported to the Tribunal directly.

(b) This direction is necessary because large number of compliance to the directions including restoration of biodiversity and wetland conservation, construction of Ghats, identification of points where STPs should be permitted to be established on drains before they join the River Yamuna, are all dependent upon this. Therefore, we do not find any reason for this department to delay to comply with this direction.

*(c) We further direct that it is not only the river Yamuna that needs to be clean, simpliciter. A fine distinction was sought to be raised before us during the course of the meeting between "Cleaning of Yamuna" and "cleaning of Delhi". The earlier would mean only treating the sewage at the end point of the drain before joining river Yamuna, while other would mean cleaning of drains in Delhi. **The compliance of the judgement clearly intends cleaning of Delhi and River Yamuna as well.** The citizens of Delhi are certainly entitled to breathe air free from foul smell and are entitled to cleaner environment for their health safety. **You cannot have drains flowing through all the colonies of Delhi which are full of sewage, industrial effluents, municipal waste and even being used for human evacuation. Therefore, all drains, in terms of judgement, as referred to in technical report of the Expert Committee should be cleaned forthwith.** However, we clarify that Special Secretary, Ministry of Environment & Forests shall take up the meeting immediately along with Vice-Chairman, DDA, CEO, Delhi Jal Board and concerned Secretary of NCT Delhi, while inviting all the three members of the expert team and take a final view as to the work that has already been done by Delhi Jal Board in regard to trapping of all three major drains for treatment in the STP.*

*In the considered opinion of the Tribunal, these works are already part thereof of the total proposal. **In the meanwhile, Delhi Jal Board shall not execute any further work except completion of the work which is in hand without taking concurrence of the Principal Committee appointed under the Judgement.***

(d) In order to control throwing of material into the river Yamuna and dumping waste in the flood plain of river Yamuna, it has been suggested that CCTV should be installed at different locations and there would be equal responsibility of the team

(Task Force) constituted by the DDA for implementing the direction of the Tribunal effectively. **We approve of such action and further direct Commissioner of Delhi Police to depute special force to help and cooperate with the DDA team to ensure no dumping of any material in the flood plain of river Yamuna.**

(e) The Committee referred under this judgement shall also ensure that the **drains which have already been trapped by DJB and the sewage is being sent to STP, does not contain industrial/trade effluent which is injurious to human health.** If it be so, appropriate CETPs should be installed to clear the sewage of the industrial effluents as this obviously adversely affects the functioning of the STP plant.

(f) We also direct that not only bio-diversity parks and wetland be created in terms of the judgement but the concerned authority would ensure the conservation of the existing bio-diversity parks and wetlands.

(g) The NCT has brought to the notice of the Tribunal today that there are **28 industrial clusters in NCT, Delhi** beside industries being located in the residential areas. **There are 13 CETPs taking care of 17 industrial pockets only.**

(i) Firstly, we do not understand why the department has not taken care to bring all these matters before the Tribunal during the course of hearing.

(ii) Secondly, why it was not brought to the notice of the Principal Committee and direction sought.

(iii) Be that as it may. Now we direct the Special Committee constituted under these directions to inspect or cause these CETPs to be inspected by the senior and responsible officer and report their present status and performance. It should be categorically reported upon proper study whether these CETPs are capable and have capacity to treat the quantum and quality of trade effluent that is being discharged by the industries located in that residential/industrial clusters. The samples shall be collected from each CETP and analysis report be submitted before the Tribunal.

(iv) How many and what is the time frame for installation of CETPs for remaining eleven industrial clusters which are presently not subject to any treatment by the administration.

(v) *The establishment of these CETPs (feeding eleven industrial clusters) should be taken only with due regard and in consonance with the report of the Expert Committees which are the part of judgement of the Tribunal dated 13th January, 2015.*

(vi) *The Government would take a clear stand as to what it proposes to do in regard to the industries located in the residential area, and unauthorised colonies as their discharge is not connected to any CETP. **We are informed that the Government has taken a decision to close all industries in the residential area and unauthorised colonies.** This decision has been taken by the Secretary, Environment as part of the State Level Committee in connection with the Ganga plan. Let the Learned Counsel appearing for the state take clear instructions and state before us on the next date of hearing as it is suggested that no CETP would be required to be installed in view of this policy decision of NCT, Delhi.*

(vii) *The report shall particularly provide details where the pickling and dyeing industries in Delhi are located in any of the industrial cluster.*

- (3) ***We reiterate the direction that the Agriculture activities on the flood plain of river Yamuna shall be prohibited forthwith.***
- (4) *We direct Delhi Jal Board, Secretary, Environment and Secretary, Department of Irrigation and Flood control NCT, Delhi to provide all requisite assistance to the Principal Committee constituted in the Judgement as well as the Sub-Committees constituted under this direction.*
- (5) *We make it clear that for the purpose of continuity, effective implementation and participation of the Central Government, as the project is not restricted simplicitor to NCT Delhi. We direct Special Secretary, MoEF&CC appointed under our judgement dated 13th January, 2015, Mr. Shashi Shekar, IAS would be the Chairman of the Principal Committee and would ensure compliance of the directions, unless otherwise specifically directed by the Tribunal.*
- (6) *One of the directions issued under our judgement is in regard to the maintaining **minimum environmental flow in river Yamuna.** This is largely dependent upon water released by the State of Haryana from Tajewala. We were informed that there is*

an agreement between five states on 12th May, 1994 as per which 10 Cumecs of water is released. Surely from the year 1994 to till date, there has been drastic growth. It is also informed that this flow is dependent upon the construction of the reservoir or the storage dams in the upstream reaches which would help in implementation of this agreement fully. Be that as it may, since 1994, huge development has been carried out, the density of population has increased many folds, the industrial activity and construction has gone up considerably. **Thus agreement of 1994, may not be very effective and may not satisfy the need of minimum environmental flow of river Yamuna.**

Thus we direct Chief Secretary, Haryana, Chief Secretary, Uttar Pradesh, Chief Secretary, Himachal Pradesh, Chief Secretary, Uttarakhand and Chief Secretary, Delhi to meet the Principal Committee and relook the desired need of maintaining minimum environmental flow of river Yamuna particularly from Hathnikund to Agra at a higher level.

- (7) Certain directions are required to be passed in relation to the State of Haryana as it is causing upstream pollution of river Yamuna. **There are industrial estates abutting flood plain of river Yamuna. They are particularly located in Panipat, Yamuna Nagar, Kundli, Barhi and Sonipat. These all are industrial pockets which are discharging their trade effluent.** The CETP have been installed at Panipat while STP has been installed at Yamuna Nagar but they are not proving effective and do not have the capacity to treat all ingredients of the polluting trade effluents. Thus, we direct that the CETP at Panipat shall be subjected to an inspection by the joint inspection team of Central Pollution Control Board, Delhi Pollution Control Committee and Haryana Pollution Control Board. The effluents shall be analysed from inlet and outlet of the CETP and report shall be submitted to the Tribunal. At Yamuna Nagar, immediate steps be taken to install CETP. CETP shall also be installed at industrial clusters of Kundli and Berhi. Establishment of CETP at the point where effluents discharged by the industrial cluster in the state of Haryana into Najafgarh drain shall also be considered. A comprehensive report with regard to establishment of CETP at Yamuna Nagar, Karnal, Panipat, Berhi, Kundli and point of Najafgarh drain, shall be submitted by the State of Haryana before the Tribunal within three weeks from today.”

57. SDMC submitted MA No.199/2015 seeking permission to carry out remaining work of covering drain i.e., Chirag Drain. Length of Chirag Drain

is 4466 meters and work on 1577 meters was proposed to be completed in the year. Tribunal directed Principal Committee constituted by it to examine the proposal but made it clear that no work will be carried out with regard to covering of drain without permission of Tribunal.

58. **Tribunal's Order dated 27.03.2015:** Again, matter came up before Tribunal on 27.03.2015 when it was found that pursuant to clarificatory directions issued on 02.03.2015, no Report was filed and even Department of Irrigation has not demarcated flood plain of River Yamuna with reference to one in 25 years and no compliance report was submitted. Tribunal reiterated the concerned authorities to comply with directions and in default, it will be compelled to take coercive steps including attachment of accounts and requiring the authorities to suffer civil imprisonment in accordance with the provision of Order XXI of Civil Procedure Code and other laws in force. Further, after hearing the parties, Tribunal issued following directions:

*"1. It is stated that the **Irrigation Department of NCT Delhi has prepared a flood plain map of NCT Delhi in furtherance to the direction of the Tribunal and has sent a copy thereof to the Learned Counsel for DDA for physical demarcation.** The submission is made that some of the areas of the flood plain of river Yamuna falls in the limits of NCT Delhi and the UP State simultaneously.*

- a. The Department of Irrigation NCT Delhi shall provide to DDA, State of UP the detailed flood plain map of NCT that has been placed on record of the Tribunal **preferably in the scale of 1:5000 within three days from today.***
- b. The State of UP shall within one week thereafter provide the requisite data to the Learned Counsel for DDA in relation to the area of the Yamuna flood plain that falls within their territorial limits from Palla to Wazirabad and downstream of Okhla.*

- c. *The **DDA thereupon shall ensure physical demarcation of the flood plain area within one week thereafter.***
 - d. *The Learned Counsel for DDA then shall forward the demarcation sketch/plan to the Principal Committee for dealing with the cases of unauthorized constructions/ occupation in accordance with the terms of the Judgment.*
2. *In our Order dated 2nd March, 2015 we had noticed that NCT Delhi Administration has taken a decision that there should be no polluting industries in the residential area. This is reiterated today also. We find that decision of the Government is in consonance with law. All such **industries which are operating in residential/domestic areas are firstly violating the prescribed use under the Master Plan and more seriously present a very pertinent and prominent source of pollution of the drains. They discharge their effluents into the drains without any treatment and majority of them are operating even without the consent of the Board. Even if an STP is established to treat the sewage that is passing through the drains in NCT Delhi still it would not be able to clean and provide the reusable water because of content of industrial effluent in the sewage. They are the source of continuous pollution and are prejudicial to restoration of river Yamuna.***

While accepting the stand of the State, we hereby direct:

- a. ***No industry which is operating or discharging any effluent or other such industrial waste and/or which has not obtained the consent of the Board would be permitted in the residential zone or areas of NCT Delhi, or non-conforming area.***
- b. *The concerned authority in whose jurisdiction such area falls shall forthwith issue notice for complete prohibition on carrying on of industrial activity which discharge effluent in the residential area.*
- c. *They will be given one months' period to shut down.*
- d. ***The DPCC and CPCB shall submit a Report regarding the effluent quality from all the 13 CETPs in Delhi. They shall clearly point out whether they are capable of treating the effluents depending upon the nature of the industries they are serving and the effluent of which they are stated to be treated.***

- e. *This team shall also submit a Report particularly in regard to pickling industries in Delhi which are located more particularly in the area of Wazirpur.*
- f. *We hereby direct the Principal Committee to file a Report before the Tribunal within one week from today without fail and default.*
- g. *The **Municipal Corporation and DJB shall submit a Report as to cleaning of the drains in terms of our Judgment dated 13th January, 2015 within one week from today.***
- h. *The matters in relation to release of minimum environmental flow in river Yamuna from the State of Haryana. The Learned Counsel appearing for the State of Haryana shall take instructions in that behalf and inform the Tribunal on the next date of hearing.*
- i. *DDA and all other authorities shall place a specific Report as to the persons who have been directed to pay compensation and the amount of compensation recovered from the persons who were found throwing waste into river Yamuna or dumping other waste on the bank of the river Yamuna.*
- j. *We further direct the Committee of DPCC and CPCB to submit analysis Report of the emission and dumping of the fly ash by the Indraprastha Power Station within two weeks from today.”*

59. **Tribunal’s Order dated 08.05.2015:** On 08.05.2015, the authorities appeared before Tribunal and a collective stand was taken that they would implement the judgment in its true spirit and substance. However, it was submitted that Tribunal may permit phased implementation of the judgment, and, issue specific but comprehensive directions in this regard. Hence, Tribunal issued following directions vide order dated 08.05.2015, as corrected on 12.05.2015:

- “1. The project submitted by Delhi Jal Board as first phase of the project **“Maily Se Nirmal Yamuna” Revitalization Plan, 2017** is accepted in principle subject to the specific directions contained herein after.
2. **Delhi Jal Board shall submit to the Tribunal within one week from today the complete action plan and time frame for completion thereof. We permit DJB to finalise its Action Plan within the stipulated period and invite the tenders within 45 day as prayed, from today. We make it clear that we will not grant any further extension and the erring officer would be personally liable for default.**
3. The maps annexed to this Judgment are the outline of the first phase of the project, approved by this Tribunal.
4. **Delhi Jal Board shall complete this project as expeditiously as possible and in any case not later than 2016.**
5. The Delhi Pollution Control Committee shall ensure that all CETP’s are operative to their optimum capacity and are capable of treating the industrial effluents that are brought to the CETP’s from their respective industrial clusters. Report in this regard shall be submitted within two months from today.
6. DSIDC and other concerned authorities who are responsible for owning and/or maintenance of the industrial clusters shall ensure that all the member industries or non-member industries discharge their trade effluents only in the drain (conveyor belt system leading to the CETP). In the event any industry declines to carry out the directions of these authorities or DSIDC, they are granted the liberty to move to this Tribunal for passing appropriate orders in accordance with law and the Delhi Pollution Control Committee shall also take action in addition thereto for closure of such industry for causing pollution or violating the directive issued by the Delhi Pollution Control Committee in these terms.
7. **The dredging of the Najafgarh drain along with supplementary drain and Delhi gate drain would be taken up by Irrigation and Flood Control Department in coordination with Delhi Jal Board, forthwith. The compliance report in that behalf shall be submitted within one month from today.**

8. *The Irrigation and Flood Control Department, Delhi Jal Board and all other department concerned therewith shall identify the sites and the methodology of the transportation of the sludge taken out from the drains and ensure compliance with to appropriate dumping site. The site shall be identified strictly in consonance with the Rules applicable. The sludge shall be transported without delay in any case not later than 7 days of the dredging.*
9. ***Delhi Jal Board shall ensure that all its existing STP's particularly in relation to the drains covered under the Phase 1 of the Project, are made to operate efficiently and to their optimum capacity. Report in this regard shall be submitted within one month from today.***
10. ***The Delhi Jal Board in coordination with Delhi Development Authority, Revenue Department or any other authority shall take possession of all the required land on which the STP's are intended to be constructed at the earliest and not later than 4 weeks from today. We grant liberty to Delhi Jal Board to move to the Tribunal in the event of default or necessity.***
11. *Delhi Jal Board has submitted a proposal to NCT of Delhi for acquisition of land in relation to **Goyala Vihar, Tikri Kala and Badu Sarai**. We direct NCT Land and Building Department, Delhi to acquire the said land under the emergency clauses of the Land Acquisition law and place it at the disposal of Delhi Jal Board as expeditiously as possible.*
12. ***All the STP's installed shall release the effluent to the prescribed standards as notified by MoEF & CC vide Notification of April, 2015 by the Central Pollution Control Board in accordance with law. These standards would apply to all the STP's and CETP's that may be established in terms of this Judgment.***
13. *The Central Pollution Control Board has submitted the baseline data of the effluents in the drains and the River Yamuna as of today. Further analysis will be taken up with reference to this baseline data.*
14. *The Delhi Jal Board and DSIDC through DPCC or otherwise shall introduce Online Monitoring System particularly at the specified observation points or locations where the STP's and CETP's are located. This information shall be put in the public domain informing the public at large in regard to the performance of the STP's/CETP.*

15. **The cost of the project is 3659 crores which includes establishing of new STP's as well as providing of interceptors and sewer line in relation to the first phase only.**
16. *Finances for the project shall be resourced inter alia but definitely from the Ministry of Water Resources under the National Mission for Clean Ganga.*

DDA has nearly 281 unauthorized colonies and 10.80 lakhs residential flats in various parts of Delhi, heavily contributing to the generation of the sewage. We direct Ministry of Urban Development under Urban Development fund to require DDA to release funds. Delhi Jal Board and NCT, Delhi shall finance this project primarily.

All these Ministries, Delhi Development Authority, Delhi Jal Board and other authorities of NCT, Delhi would share the liability in the proportion that may be determined by the Principal Committee under this Judgment keeping in view the total cost of first phase of the project.

We direct NCT of Delhi, Delhi Jal Board and all Municipal Corporations, Cantonment Board, electricity companies like BSES and all other civic authorities to **require payment of environmental compensation from every house hold which is generating sewage in the entire NCT of Delhi on the Polluters Pay Principle. It will be irrespective of whether a house hold is sewered or not. This would be equally applicable to the house hold located in the unauthorized colonies.**

17. *The monthly compensation payable by all the house hold in the NCT Delhi would be directly proportionate to the property tax or water bill whichever is higher, payable by such house hold. Where the house hold or person is not paying water bill, property tax and are located in unauthorized colonies, in that event, such house hold shall pay the sum of Rs 100 or Rs 500 per month as the case may be. This amount would be determined by the concerned authority with reference to the construction existing on the plot.*

The payment of the 'environmental compensation' in terms of the above clauses shall be added to electricity bills, water bill and the property tax demand in order of preference by the respective departments which will transfer the money to NCT,

Delhi/ DJB for creation and maintenance of STPs and sewerage system.

18. *Delhi Jal Board has to provide by itself or through appropriate agency desludging vehicles which will collect sludge from the septic tanks in the colonies and take it to the nearest STP.*
19. *Such vehicles shall be provided with GPS to ensure proper collection and transportation to the designated location.*
20. ***Delhi Jal Board shall execute this project by clubbing of the items specified under project. There are expected to be 15 STP's which are to be established. 4 STP's are in existence. One is under the process of completion. Delhi Jal Board and all concerned authorities and NCT, Delhi itself would take effective steps to complete the establishment of new STP's as expeditiously as possible to ensure that the project is completed within the stipulated time.***
21. *Director of Environment, State of Haryana submitted that he has instructions from the Government to assure that they would establish the STP at Gurgaon border where the drain from Haryana joins with the Najafgarh drain in Delhi. They will submit within two weeks from today the complete action plan and the timeframe for completion and operationalization of that STP.*
22. ***We hereby direct all the Municipal Corporations of Delhi to clean all the drains of any municipal or other waste. They will further ensure that no person including the corporation employees itself are permitted to throw any municipal or other waste into the drains. The cleaning of 2 drains in question will be done on the priority basis and completed within one month from today and submit compliance report to the Tribunal.***
23. *The Corporations and all public authorities shall forthwith take action in accordance with law and **ensure that no illegal, unauthorized washing, slaughtering or running of dairies is permitted on the banks of the drains. All the Corporations and authorities including PWD shall ensure that there is no encroachment on the drains or on its banks in any part of Delhi.***
24. *Undertaking of NCT Delhi, Delhi Jal Board, all other authorities, corporations of NCT, Delhi and State of Haryana in the above terms is recorded and accepted.*

25. *We make it clear that 162 kms of sewer lines proposed to be laid down in the Colony Budh Vihar under first phase of the project would not be taken up by the Delhi Jal Board at the first instance. It will only ensure installation of the requisite STP at the mouth of the Nangloi drain for treating the sewage flowing from that colony. Laying down of the sewer line would be taken up subsequently subject to the orders of the Tribunal.*
26. **We direct Delhi Jal Board to place before the Tribunal complete and comprehensive action plan for maintenance and operationalization of the constructed STP's including the financial arrangements in that behalf.**
27. *We further make it clear that the interim orders passed by the Tribunal shall continue and Delhi Jal Board would not carry on further work on existing projects or any new project, except with the specific permission of the Tribunal in that regard.*
28. *We hereby direct all the Authorities, Corporation, DDA, NDMC, DJB, State of Haryana, State of Uttar Pradesh, Government of NCT Delhi, CGWA and all concerned Ministries of Central Government to ensure compliance of directions contained in this order and in the Judgement of the Tribunal dated 13th January, 2015. They shall further ensure that there is no default on part of the department or any of its officer irrespective of the status in the hierarchy of the department.*
29. *We further direct that the **environmental compensation/damages, payable for violating these directions and as even stated in the Judgement of this Tribunal dated 13th January, 2015 for throwing any Municipal Solid Waste into the drain or into the river Yamuna would be at the rate of Rs. 5,000/- per incident. That should be implemented without default by all concerned.***
30. *We hereby direct NCT Delhi and the Electricity Companies supplying electricity to Delhi to comply with these directions and deposit the amount so received with the NCT, Delhi/ DJB in terms of this order."*
60. *Thereafter, on various occasions, MAs filed in above **OA 06/2012 (supra)** and **OA 300/2013 (supra)** were taken up by Tribunal and orders*

were passed particularly relating to CETPs and the effluents they are discharging into drains leading to Yamuna directly or through CETPs.

61. **Tribunal's Order dated 06.06.2016:** Aspect of execution of work in phases as permitted by Tribunal was also considered on various dates subsequently by Tribunal.

62. *MA*s No. 441/2015, 641/2015, 628/2015 and 630/2015 were filed in **OA 06/2012 (*supra*)** requesting Tribunal to permit agricultural/farming activities on the banks of River Yamuna and to modify/vary the judgment dated 13.01.2015 to that extent. These applications were rejected vide order dated 06.06.2016 observing that water of River Yamuna is highly contaminated and Tribunal has dealt with the issue of restoration and rejuvenation of River Yamuna to its original pristine in the entire judgment. Water is highly polluted which contains acidic elements, heavy metals and other high pollutants injurious to human health. It cannot be treated as source of irrigation for agricultural purposes and if it is permitted, shall become part of food chain which will reach to human being causing various diseases. Yamuna carries not only quantity of sewage but also industrial effluent waste. There are electro plating industries, textile dying industries and other polluting industries located in various parts of Delhi. Tribunal has already permitted horticulture and sericulture activities and no other activities can be permitted in the area till the time River Yamuna is made pollution free and restored to its original status and to the extent that had tolerable limits which will prevent environmental and human hazards.

63. **Tribunal's Order dated 26.07.2016:** On behalf of Maharani Bagh Co-operative House Building & Welfare Society Ltd., **MA No. 1346/2015**

was filed with a prayer that concerned agencies including DJB and SDMC be directed to reinstate and cover the portion of Maharani Bagh Drain running through Maharani Bagh Colony and judgment dated 13.01.2015 be clarified to this extent. This was considered and decided vide judgment dated 26.07.2016.

64. Issues raised by Maharani Bagh Drain House Building & Welfare Society Ltd. are very much common to the issues involved in the present MA, hence, we find it appropriate to reproduce the order whereby the said MA was disposed of, as under:

*“2. In the case of ‘Manoj Misra v. Union of India & Ors.’, Original Application No. 300 of 2013, the Tribunal had passed a detailed judgment dated 13th January, 2014 which related to cleaning of River Yamuna under the project “Maily se Nirmal Yamuna” Revitalization Project, 2017. **A number of directions were passed inter-alia also relating to the prohibitory orders against covering the storm water and major drains of Delhi which ultimately were meeting into Yamuna and were a source of serious pollution and degradation of water of River Yamuna.** Some of the relevant directions in relation to drains in Delhi are as follows:*

***“V. We direct all the concerned authorities, corporations, bodies including Resident Welfare Associations to clean all the 157 natural storm water drains as identified by the Committee, within four months from the date of passing of this judgment and the drains should be made obstruction free and no waste should be permitted to be dumped in such drains.** The drains may be cleaned mechanically or manually as the situation may demand. Such cleaning would include the dredging of the drains besides compliance of the specific recommendations of the Expert Committee. There shall be controlled dredging of River Yamuna to remove the huge accumulation of sediments and sludge for restoration of the cross section and flood carrying capacity of the River Yamuna.*

*VI. We direct all concerned to **make every possible effort to ensure that the storm water drains do not carry sewage.** Sewage may be carried through those drains upon which the STP's have already been installed, till the completion of the project. After the completion of the project, steps shall be taken*

so that only minimal quantity of treated water from the STPs reaches Yamuna.

VII. There shall be no construction and/or coverage of any of the drains in Delhi by any Authority or Municipal Corporation. All the drains shall be kept obstruction free by the concerned Corporation. Where substantial work (more than 85%) has been completed, such work is permitted to be completed by the Corporation after obtaining specific orders from the Tribunal in that regard. Rest of the work, where construction has just begun, the construction, including iron material, shall be removed. While completing such remnant work, Corporation shall ensure that the cross section of the drains to carry the requisite storm water for the flood of once in 25 years and other effluents, are not compromised. Such construction and/or removal shall be carried on in terms of paragraph no. 61 of this judgment.”

2. The Applicant Society has been registered to promote welfare to its members and provide healthcare facilities for the community. Under its objects, it has to also take up any work or activity associated with maintenance of civic amenities, welfare and cultural activities, etc. According to the Applicant Society, vide letter dated 6th April, 1965, the Municipal Corporation of Delhi conveyed the approval of Standing Committee vide Resolution No. 967 dated 2nd December, 1964 as to the proposal of covering the nallah running through Maharani Bagh layout colony which was to be completed in 12 months from the date of sanction i.e. 2nd December, 1964. And **in 1965, the drain was fully covered with the sanction of the Municipal Corporation of Delhi.** As per the Master Plan for Drainage of Storm Water, 1976, the Maharani Bagh drain, with a total length of 3.7 kms and catchment area of 554 hectares, had a maximum discharge of 19.5 Cumecs and was recognized as being built up almost in its entire reach and in total cover on the downstream side beyond Mathura Road (from RD. 2256 to 3093) and for a portion in Srinivas Puri (from RD. 1174 to 1220).

3. **As there was persistent problem of water-logging caused inter- alia due to silt in the storm water drain, the Delhi High Court vide its orders dated 30th April, 2013 and 22nd August, 2013 in ‘Nyaya Bhoomi v. Commissioner MCD, WP(C) 8683/2011 had ordered the Delhi Municipal Corporation and Public authorities to clean and de- silt all the storm water drains in Delhi including Maharani Bagh drain. The SDMC had broken/opened the Maharani Bagh drain at various locations**

of the colony around August, 2013 for the purpose of cleaning and de-silting the drain in furtherance of the order of the Delhi High Court. The entire process was carried out in a hurried, unplanned and slipshod manner. Despite request to the contrary, severe damage was caused to the two parks, namely the Central Park and the E-Road Park. **The Association approached the SDMC on various occasions and requested to cover the drain. However, the request was not acceded to. This drain carries sewage and other polluted and dirty water rather than storm water and leaving the drain open has resulted in unbearable stench emanating from the drain, stagnation of water, breeding of mosquitoes, spread of diseases, unhygienic and polluted conditions, etc.** They had also made a representation to the Lt. Governor of Delhi on 12th and 22nd June, 2014 but still no order covering the drain has been passed. The SDMC Engineering Department the prepared a plan for covering the open portion of Maharani Bagh drain with pre-cast RCC at an estimated cost of Rs. 4.68 Crores. However, no further work has been done. So far as the covered drains existing since 1965 is concerned, the Tribunal in its judgment dated 13th January, 2015 had also observed that 85% work has been completed through the concerned authorities. Though, **in the present case, no new work is to be carried out** and it has primarily been the prayer for restoration of the work and status of the nature as it existed in 1965.

It is also averred that **Delhi High Court in its judgment in the case of 'IFS Co-operative Society & Ors. v. GNCTD in WP(C) 2385/2011 dated 24th April, 2014 had observed that whether the drain should be covered or not must be a decision taken on each case depending on various factors.** The Supreme Court of India in the case of '**Subhash Kumar u. State of Bihar & Ors., (1991) 1 SCC 598**, has held that right to live is a fundamental right under Article 21 of the Constitution and it includes right to enjoyment of pollution free water and air for full enjoyment of life. Thus, the residents of Maharani Bagh Society have a right to cleaner environment. It has been averred in this application that the chemical analysis of the Maharani Bagh drain had been undertaken in June 2014 and the **analysis report shows levels of Oil & Grease, Chromium. Sulphide, COD, Iron, Copper, Mercury, Arsenic, and Lead overshooting the prescribed limits.** According to the Society, all these pollutants and metals have serious environmental and health effects. Lead toxicity may cause symptoms like headache, vomiting, abdominal pain, and severe toxicity may also lead to Motor neuropathy, Encephalopathy, Cerebral edema, Seizures, Coma, severe abdominal cramping. Epiphyseal lead lines in children (growth arrest) and Renal failure. In case of Mercury, anaerobic organisms bio-transform the inorganic form to methyl mercury which gets bio-

accumulated in food chain and is the most toxic form of mercury and has adverse health effects like neurological disorders. Similarly, highest concentration is found in kidney and liver. Cadmium contamination associated with low diet in calcium causes disease like Itaiitai. Chronic exposure to arsenic can result in poisoning of the nervous system, liver damage and peripheral vascular disease, leading to gangrene of the lower limbs.

4. In the main judgment dated 13th January, 2015, all aspects had duly been considered by the Tribunal. The Expert Reports which were submitted by the Experts and examined by the Principal Committee and then scrutinized with approval of the **Tribunal in its judgment had concluded that the storm water drain of Delhi should carry rain water and no sewage and they should be kept open in the interest of ecology, environment and public health Comparative study was also carried out in relation to the public health factors.** In fact, it is impossible in Delhi to segregate the sewage from the drain water and storm water. **There are more than 1200 unauthorized colonies in Delhi which do not have sewer line and they directly discharge sewage and domestic effluent into the main drain.** It was keeping in view the entire scenario that appropriate directions be passed. **Thus, we do not see any reason to permit covering of the drains as a beneficial feature.**

It has also been contended on behalf of the applicants that the Tribunal so far has not passed any direction for demolition of the constructions raised by the Public Authorities or private persons in and around the natural storm water drains of Delhi. In fact, **where the public authorities have raised some constructions by dividing the drains, even that has not been directed to be demolished as yet. It is true that as of now the Tribunal has not passed any direction for removal of construction in the drains. Passing such a direction would be considered once the 23 existing STPs are upgraded and 32 new STPs are established which treat the sewage and discharge the water which could either be reutilized or could be permitted to flow in the drains without any environmental damage and degradation.**

The judgment has been pronounced by a larger bench and has attained finality between the parties. There is no reason to change the judgment.

5. We would have normally not permitted even the covering of the remaining part of the drain but for the reason that the status existed since 1965. The applicants are not praying for carrying out any fresh

alterations or a project which will be entirely laid down or cover the drain. **All the drains in Delhi are expected to carry water free from obstruction, free of metals, acidic substance and smell.** Once the drain trapping and STPs work, in terms of the judgment dated 13th January, 2015 is completed, Delhi will be a much healthier and better place to live. So far as the drainage system is concerned, **the applicants have prayed that the status as it existed since 1965 should be restored particularly when a very small part of the drain remains to be covered and the major part of the drain is covered.**

Only with a view to restore the status as it existed, we would permit covering of the Maharani Bagh drain in Maharani Bagh temporarily by use of pre-cast RCC slabs which will not be cemented, leaving vents in between which will not be covered by laying down mud, or grass or in any other form whatsoever. The major portion of the drain would be kept open once the requisite number of STPs/CETPs, in terms of the judgment dated 13th January 2015, at Maharani Bagh are established/constructed and made operational.

The residents of applicant's association also contribute to the pollution of the drains, besides they want this work to be done on certain assumptions and for their benefit. In view of that they must be liable to pay as contributory to the 'Precautionary Principles' and 'Polluter Pay Principles'. The total estimated cost is stated to be Rs. 4.68 Crores. Major part thereof should be incurred by the authorities. However, 15% of the total cost should be borne by the Society and its residents. Restoration of the drain to its status prior 1965 shall be subject to final orders which the Tribunal may pass in the main case. We further direct that till further orders, the drain would be kept in the same status as of prior to 1965, without covering the slabs by soil, grass or any other material and would be kept in a removal condition.

With the above directions, this application stands disposed of with no order as to costs."

65. Poor status of non-compliance continued as was observed by **Tribunal in its order dated 12.04.2017.** DJB was to construct and operationalize 14 STPs, 07 from its own funds and 07 to be finalized by National Mission for Clean Ganga. However, progress in respect of all the

14 STPs was almost nil. For expeditious set up of the above STPs, directions were issued.

66. The progress towards execution of judgment was very minimal and noticed by **Tribunal in its order dated 05.12.2017** observing that compliance of judgment was expected in two phases; one relating to cleaning of Najafgarh Drain and Delhi Gate drains which would deal with 63% pollution of River Yamuna and Phase-II relating to all other drains in NCT Delhi, joining River Yamuna with the remaining pollution load of 37%.

67. **In the order dated 06.12.2017**, Tribunal observed that DJB is statutorily obliged under Section 9 of Delhi Water Board Act, 1998 (hereinafter referred to as '**DWB Act 1998**') and responsible for entire planning, maintenance and operationalization of sewage and water system in NCT Delhi and in terms of judgment, paramount executer of the judgment was DJB, but not showing any effective progress and performance.

68. **In the order dated 25.07.2018**, Tribunal had retrospect of earlier orders and observed that despite repeated directions in the last more than 03 years, no meaningful progress has been shown at the ground level. The work of 14 STPs has not even begun at site. There was no justification for such lapse. Tribunal observed, *"There is clear inference that the **officer in charge for setting up the 14 STPs is either not competent enough to handle the situation or is not being allowed to proceed**".*

69. With regard to management of drains, Tribunal observed that with regard to Najafgarh drain, it is stated that substantial work has been done and the same will be positively completed by 31st December, 2018. An

affidavit to this effect be filed within two weeks by the person incharge who is looking after the said work. With regard to Phase-II, it is stated that 11 drains have been trapped and the effluents are being treated with regard to the said drains. With regard to remaining 06 drains which drain into Shahdara drain, it is stated that the work for trapping for 05 drains awarded will be completed in December, 2020 except for one which will be completed by 2018. We are surprised as to how such long date could have been given on the face of the timelines in the order of this Tribunal.

70. Status Report was published by DJB on sewage management in NCT Delhi which was considered by **Tribunal in its order dated 26.07.2018** and the chart showing capacity utilization and performance status at STPs was reproduced as under:

Table 1: Capacity utilization & performance status at the STPs

S. No.	Location of STP	Phase wise break up	Capacity (MGD)	Utilization		Performance		Remarks
				MGD	%	Designed parameters (BOD / SS, mg/l)	Achieved parameter (BOD / SS, mg/l)	
1	Okhla	Phase-I	30	Nil	-	-	-	Plant closed. To be reconstructed under YAP-III.
		Phase-II	12	Nil	-	-	-	Under maintenance. To be Rehabilitated under YAP-III.
		Phase-III	37	18.24		30 / 50	16 / 16	To be rehabilitated under YAP-III.
		Phase-IV	45	38.80		30 / 50	28 / 31	
		Phase-V	16	14.16		30 / 50	26 / 26	Below capacity
		Phase-VI	30	28.36		20 / 30	8 / 6	Functioning well. DBO plant
2	Rithala	Phase-I	40	28.70		30 / 50	36 / 70	To be rehabilitated under YAP-III

		Phase-II	40	47.05		15 / 20	16 / 22	Not meeting the norms. DBO plant
3	Kondli	Phase-I	10	Nil	-	-	-	Plant closed. To be rehabilitated under YAP-III
		Phase-II	25	21.99		30 / 50	20 / 42	To be rehabilitated under YAP-III.
		Phase-III	10	Nil		-	-	
		Phase-IV	45	44.23		20 / 30	16 / 23	Functioning well. DBO plant
4	Keshopur	Phase-I (New)	12	11.00		20 / 30	8 / 30	Functioning well. DBO plant
		Phase-II	20	16.32		30 / 50	26 / 44	Below capacity
		Phase-III	40	41.57		30 / 50	50 / 46	Not meeting the norms
5	Yamuna Vihar	Phase-I	10	4.23		30 / 50	20 / 30	Below capacity
		Phase-II	10	Nil		-	-	Plant closed as new plant has been commissioned .
		Phase-III	25	8.78		20 / 30	13 / 20	Below capacity DBO plan
6	Vasant Kunj	Phase-I	2.2	1.82		30 / 50	27 / 38	Below capacity
		Phase-II	3	1.16		30 / 50	13 / 16	Below capacity
7	Mehrauli	-	5	3.22		20 / 30	16 / 18	Below capacity
8	Coronation Pillar	Old	10	Nil	-	-	-	Abandoned
		Phase-I	20	16.39		30 / 50	26 / 32	Below capacity
		Phase-II	10	5.0		30 / 50	25 / 28	Below capacity DBO plant
9	Timarpur	-	6	Nil		-	-	Closed. To be redesigned.
10	Narela	-	10	1.40		30 / 50	24 / 27	Below capacity
11	Nilothi	Phase-I	40	17.57		30 / 50	16 / 22	Below capacity
		Phase-II**	20	19.36		10 / 10	5 / 7	Functioning well DBO plant
12	Najafgarh	-	5	2.75		30 / 50	- / 48	Below capacity

13	Pappankalan	Phase-I	20	16.37		30 / 50	- / 43	Below capacity
		Phase-II	20	19.30		10 / 10	- / 3	Functioning well DBO plant
14	Sen Nursing Home Nallah	-	2.2	2.31		10 / 15	9 / 9	Functioning well DBO plant
15	Delhi Gate Nallah	Phase-I	2.2	2.29		10 / 15	8/10	Functioning well DBO plant
		Phase-II	15	15		10 / 15	8/10	Functioning well DBO plant
16	Rohini	-	15	4.15		30 / 50	38 / 60	Below capacity
17	Ghitorni	-	5	0.5		-	-	Only 0.5 MGD flow is received at the plant
18	Kapashera	-	5	2.04		10 / 10	8.6 / 6	Below capacity
19	Chilla	-	9	9.01		10 / 10	3.1 / 7	Functioning well DBO plant
20	Common Wealth Village	-	1	0.20		2 / 1	1.5 / 1	Below capacity
21	Molar Bandh	-	0.66	0.63		30 / 50	28 / 28	Below capacity
22	Bakakrwala	-	0.66	Nil	-	-	-	Plant closed as no sewage is received
Out of total 607.06 MGD operational capacity, 476.74 MGD* sewage is treated which is about 78.5% of operational treatment capacity.								

71. Tribunal found the situation most unsatisfactory and required urgent steps. There was no proper management of sludge produced as most of the STPs locations with all the digesters lying defunct or unused. Two-member Committee comprising Member Secretary, Ms. Shailaja Chandra, former Chief Secretary, Delhi and Mr. B.S. Sajwan former Principal Chief Conservator of Forests and former Expert Member was constituted with the following mandate to the said Committee:

- “i. To take stock of all the actions taken so far in the light of the various directions of the Tribunal.

- ii. *Propose time bound action plan to deal with the problem. The Committee may suggest the framework for implementation. Preferably a comprehensive, integrated and inclusive strategy with clear measurable indicators of progress and success.*
- iii. *The time lines prepared by the committee will be treated as revised time lines to substitute the time line earlier laid down by the Tribunal.*
- iv. *The committee may requisition services of any technical experts.*
- v. *The action plan should also include creation of Biodiversity Parks created by the Centre for Environmental Management of Degraded Ecosystems (CEMDE) of University of Delhi, A Centre of Excellence of the Ministry of Environment and Forest & Climate Change, Government of India and City Forests of Urban Forests belt of suitable species that are capable of capturing pollutants from environment on the entire Yamuna flood plains right from Wazirabad to Okhla in NCT of Delhi. For this Purpose the DDA, who is the owner of the land in Yamuna flood plains, shall make the entire flood plain available to the Forest department after demarcating the land on the ground. All such lands should be cleared of all the encroachments if any.*
- vi. *After assessing the current status of Yamuna, they may clearly indicate the reasons for delay in implementation of our orders issued from time to time.*
- vii. *Ozonation and aeration in some of the drains may be experimented. **It is to be ensured that the treated effluents should not be mixed with untreated effluents and the treated effluents are utilised for horticulture and other relevant purposes.***
- viii. *The online mechanism for monitoring the sewage treatment plants should also be connected to the servers of CPCB and DPCC so that the CPCB can also monitor the data.*
- ix. *The Monitoring Committee may also setup a website for receiving and giving information on the subject.*
- x. *The Committee may also involve educational institutions for expectations, awareness and feedback about the results.*
- xi. *The Monitoring Committee will have powers to make such inspections as may be necessary including to have the water quality inspected from time to time. The Committee may also*

call for such help of security forces as may be necessary and require dedicated forces being made available for removing the encroachment on the floodplains of river Yamuna. The Delhi Police may make temporary recruitment to be funded out of the present project if so suggested by the Committee.

- xii. *The **mandate of the Monitoring Committee is to ensure requisite level of standard of water at the entry point and the exit point of river Yamuna as well as the in drains which meet river Yamuna so that there are no pollutants beyond the determined standards.***
- xiii. *If the final plans are likely to take longer time, interim targets may be fixed for the specific purpose. The **existing STPs may be planned to be fully operational within the specified time.** Terminal points of the drains should be first cleaned.*
- xiv. *The Monitoring Committee may also consider and approve any plan for collection of funds on the Principle of Polluter Pays apart from requisitioning funds from the concerned authorities in terms of the orders already passed by this Tribunal.*
- xv. *The **Committee will also issue directions to deal with the problems of idol immersion in the river Yamuna taking into account the guidelines of the CPCB to ensure that no pollution is caused in Yamuna at Delhi.***
- xvi. *No application in respect of work to be executed by the Committee will henceforth be moved before this Tribunal directly till further orders.*
- xvii. *The States of Haryana and Uttar Pradesh may consult the members of the Monitoring Committee appointed by this Tribunal for constituting their own full time committees. Members of the Committees of States of Haryana and Uttar Pradesh may also have a joint meeting with the members of the Monitoring Committee appointed by this Tribunal, after making mutual arrangements. The State of Uttar Pradesh will be at liberty to assign work of Phase-II of Ganga to the same Committee depending on the performance.*
- xviii. *The State of Uttar Pradesh will also be at liberty to file a copy of status report before the Committee for information on behalf of the Uttar Pradesh Jal Board.*
- xix. *Any existing Committee already working may work intandem with the Monitoring Committee constituted today.”*

72. The above Committee submitted Report dated 22.10.2018 and an Interim Report dated 16.01.2019 which were considered by **Tribunal in its order dated 29.01.2019**. Having noticed the contents of the Reports, Tribunal suggested the Committee to consider some other aspects also, mentioned in para 22 of the said order, as under:

“22. We suggest that the Committee may also consider the following besides fixing timelines in Action Plan with respect to issues as contained in para-7 supra:

- i. Fixing a timeline for securing a report from National Institute of Hydrology, Roorkee on environmental flow from Hathnikund to Agra preferably by 30.04.2019.*
- ii. Developing river front preferably of 2 kms. by a stipulated date.*
- iii. Collect information about biodiversity status of river Yamuna.*
- iv. Require DPCC to recover compensation from authorities of defaulting STPs.*
- v. DPCC may also be required to recover damages for delay from agencies delaying action required on their part for setting up of STPs or taking other steps for intercepting the drains by the stipulated date.*
- vi. DPCC may require to take coercive measures of prosecuting, prohibiting and compensating for non-maintaining CETPs standards by the concerned CETP operator or the concerned member.*

73. The matter was heard by **Tribunal on 23.08.2019** and the order was uploaded on 11.09.2019. The said order considered Monitoring Committee's Reports dated 16.01.2019, 27.05.2019, and Supplementary Reports dated 28.06.2019, 02.07.2019. The **Reports show that as per DJB, sewage generation in Delhi was 720 MGD (2,724.00 MLD) though actual treatment was only 500 MGD (1,892.705 MLD)**. The existing

STPs capacity utilization was shown less than 70% for 13 STPs and some were having capacity utilization of just 10%.

74. Tribunal issued various directions vide order dated 23.08.2019/11.09.2019. The directions in respect of New Delhi were as under:

“A. IN RESPECT of NCT DELHI

(i) Environmental Flow:

- a) *The impact on ground water regime due to pilot project may be monitored by CPCB, DPCC and CGWA. The study being carried out by the National Instituted of Hydrology, Roorkee (NIH) on directions of NMCG may be completed as per schedule by March 2020. An interim report be furnished by December 2019.*
- b) ***The current regime of Environmental flows may be augmented especially in lean seasons by way of coordination amongst member states stakeholders.***

(ii) Demarcation and Rejuvenation of the Flood Plains:

- a) ***DDA may undertake physical demarcation of the entire floodplain within three months and thereafter, after taking re-possession within next three months, fence such areas and convert them into bio-diversity parks as per the action plan proposed by them. DDA will be liable to pay a sum of Rs. 5 Lakh per month till compliance of this direction from 01.04.2020 which may be recovered from the erring officers and deposited with the CPCB for restoration of the environment. The Monitoring Committee will look into the compliance.***
- b) ***No activity of edible crop/ cultivation on the floodplain may be undertaken. The DDA may ensure compliance in the same manner as direction (a) above with regard to accountability of officers.***
- c) *The DDA to assign the task of demarcation, re-possession, fencing and development of bio-diversity park thereon to an appropriate and dedicated institutional set up.*
- d) *DDA shall complete the work of putting of CCTVs and keep the area secure from further encroachments as such.*
- e) *The agencies (Railways, NHA and GAIL) shall give requisite permission to DDA for launch of optical fiber cable within one month of the receipt of such request after which the DDA will*

be free to proceed subject to any objection there against being considered by this Tribunal.

- f) The UP Irrigation Department shall give permission to DDA for the execution of CCTVs related work to the DDA within one month of the receipt of such request after which the DDA will be free to proceed subject to any objection there against being considered by this Tribunal.
- g) **DDA to strictly regulate illegal dumping of malba or carrying the same to flood plain by collecting compensation wherever violations are found and submit action taken report to Monitoring Committee.**
- h) The prohibition with regard to the throwing of pooja material or any kind of other material in river Yamuna except only designated sites to be ensured by DDA, GNCT, UP and Haryana.
- i) The Transports Departments of GNCT, UP and Haryana need to enforce the said polluter pays principle so that **no malba is dumped on the flood plains.**
- j) In view of comments of the Monitoring Committee, the **DDA is directed to undertake the work of restoration of flood plains so that such flood plains undertakes or performs the requisite ecological functions** and DDA submits an action plan with timelines to Monitoring Committee in this regard, within one month from today.

(iii) Quality of River Water:

Monthly reports on the water quality be furnished by DPCC to the Monitoring Committee which must also contain data on faecal coliform and till the time DPCC establishes its own laboratory network, the samples may be got analyzed either from CPCB laboratory or other accredited laboratory with respect to aforesaid parameter. Such reports must be placed on the website of DPCC and CPCB. **For failure to comply with this direction, DPCC will be liable to pay environment compensation of Rs. 2 lakh per month to CPCB for restoration of environment with effect from 01.10.2019.** The amount can be recovered from the erring officers apart from appropriate entries in their service records.

(iv) Sewage Treatment Plants:

- a) DJB has to **give definite milestones and timelines to bridge the gap in terms of poor capacity initialization within one month.**
- b) The DJB to prepare an Action Plan with timelines for better capacity utilization of STPs by tapping the drain as a short

term measure to reduce pollution in River Yamuna within one month.

- c) DJB to prepare an action plan with specific timelines and implement the same in terms of bridging the capacity gap and upgradation of existing STPs that are functioning on old parameters.
- d) DJB to take concerted steps in terms of actions not taken so far and fix the accountability of erring officials.
- e) **DJB to complete the task of setting up of STPs by 31.12.2020.**
- f) The DJB needs to spell out action to be taken with specific timelines within one month.
- g) **Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.01.2020, failing which the Govt. of NCT of Delhi may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB.** This however, is not to be taken as an excuse to delay the installation of STPs, sewerage network and its connectivity. **For delay of the work, the Chief Secretary, Govt. of NCT Delhi must identify the officers responsible and assign specific accountability.** Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers for delay in setting up of STPs, sewerage network and its connectivity by the concerned head of the department.
- h) **The Govt. of NCT, Delhi will be liable to pay Environment Compensation if defaults take place as under:**
 - i. The operational deficiencies of the existing STPs must be rectified within three months failing which Environmental compensation of **Rs. 5 Lacs per month for STP shall be deposited with CPCB.**
 - ii. With regard to works under construction, **after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Yamuna and Rs. 10 lakhs per month to CPCB per incomplete STP, sewerage network and its connectivity will apply.**
 - iii. With regard to the situation where works with regard to STP, sewerage network and its connectivity have not yet started, the **Govt. of NCT, Delhi has to pay an Environmental Compensation at the rate of Rs. 10 lakhs per**

month per STP, Sewerage network and its connectivity after 31.12.2020 for the delay in setting up of the same. It will be open to Govt. of NCT of Delhi to recover the said amount from erring officers/contractors.

(v) Interceptor Sewerage Project (ISP):

- a) DJB to put the systems in place for project monitoring so that timelines are adhered to.
- b) DJB is directed to adhere to the timelines with regard to ISP and treat all the 242 MGD sewage by 31.12.2019.
- c) For failure to comply with the above directions compensation will be payable at the rate of Rs. 5 Lakhs per month till compliance from 01.01.2020. Entries be also made in the service records of the erring officers to fix their responsibility.

(vi) Maintenance of Drains:

- a) The DJB and NDMC to identify and plug the sources of sewage within two months positively and report compliance to Monitoring Committee.

b) Tapping of Drains :

- i. **Qudasiabagh + Mori Gate drain (Flow: 43.2 MLD):** DJB to make an assessment of sewage coming from sewered areas and prepare an action plan with timelines for plugging the discharge into storm water. New STPs be established only for non-sewered areas.
- ii. **Barapula Drain (Flow: 145.15 MLD):** DJB to submit action taken on Action Plan which it had submitted to NGT in 2014 in terms of actions on short term, medium term and long terms measures envisaged.
- iii. **Maharani Bagh Drain (30.24 MID):** DJB to indicate proposal to stop the flow in the drain with specific timelines in terms of tapping or laying of sewer lines in un-authorised colonies.
- iv. **Najafgarh drain (2056 MID) and Shahdara outfall drain (475 MID):** The DJB is directed to attend to the observation of Monitoring Committee so that all the intercepted sewage is treated. The States of Haryana and UP are directed to submit their Action Plan with specific timeline to attend the flow of untreated sewage into said drains.
- v. **Status of other storm water drains carrying sewage:** The DJB is directed to **submit a specific timeline with specific**

accountability so that no sewage finds its ways from sewerage areas into the storm water drain.

- vi. **Status of Punctured Sewers:** *DJB to ensure that such instances are attended on priority with specific accountability.*
 - vii. **Ameliorative measures for cleaning drains & Constructed Wetlands and In-situ Bioremediation Technology:** *The Irrigation and Flood Control Department to develop a mechanism of third party verification report on the ameliorative measures undertaken by it.*
 - viii. **Controlled Dredging in River Yamuna:** *The finding of the study undertaken by NEERI to assess slug deposition on river bed of Yamuna be evaluated and appropriate decisions be undertaken by IFCB (The Irrigation and Flood Control Department).*
- c) **For failures in tapping the drains, environmental compensation at the rate of Rs. 5 lakh per drain per month will be paid by the DJB or concerned department to the CPCB for environmental restoration.** *Entries in the record of the erring officers also be recorded consistent with the earlier directions.*

(vii) Industrial Pollution:

- a) *DPCC is directed to continue with the survey and monitoring of industries both in confirming and non-confirming areas and take action in accordance with law against polluting units and file report of action three months besides recovery of EC. In case of non-compliance Delhi Govt will be liable to pay Rs. 5 lakh per month from 01.01.2020*
- b) *As there are 13 Departments responsible for regulating illegal dumping of solid waste and C & D waste in Yamuna and drains leading to Yamuna. The Chief Secretaries, GNCT Delhi is directed to coordinate so an effective mechanism is evolved for stopping of said waste in Yamuna or its drains. In case of non-compliance Delhi Govt will be liable to pay Rs. 1 lakh per month from 01.11.2019 to the CPCB in the manner mentioned earlier. Accountability of the officers may be determined in the manner mentioned earlier. The Committee may monitor this aspect.*

(viii) Sewage and Faecal Sludge Management and Levy of Environmental Compensation:

- a) *An incremental progress of collecting 2 MGD of septage in 120 days needs to be quantified by DJB in terms of the number of households with pit latrines, map the SPS' where*

the collected septage has to be deposited colony wise and sub-district wise and monitor licenses issued at a disaggregated level. DJB to assign responsibility to an organisation which can collect and furnish incremental progress.

- b) **DJB may prepare an Action Plan for providing unauthorized colonies with sewerage systems.***
- c) Govt. of NCT Delhi, DJB, DMCs and DDA to collectively undertake advance planning for location of STPs, SPS', peripheral and trunk lines before new populations settle in.*
- d) Chief Secretary, Govt. of NCT Delhi make it mandatory for those provided with piped water supply and those having a sewage conveyance system in the vicinity to take sewer connections.*
- e) Chief Secretary, Govt. of NCT Delhi, DJB and DMCs to introduce the regime of **levy sewerage charges** as presently no such charges are being levied within two months including areas where network has been laid (whole of East Delhi).*
- f) Considering that tens of thousands of households spew their garbage into the storm water drains and pay nothing for the environmental damage caused, the **CEO, DJB and DMCs to ensure sever connectivity where sever network has been laid before 31.12.2019 failing which both these agencies shall be saddled with environment compensation to the tune of Rs. 10 lakh per month and disciplinary action against the Zonal Officer responsible for his zone.***
- g) The Chief Secretary, GNCT Delhi, DJB and DMCs to ensure that a mechanism is evolved where by raw sewage from unauthorized colonies gets collected and taken to some central STP facility for treatment till the time sewer line network is laid in unauthorized colonies within three months and six months thereafter ensure implementation of laying of sewer line network failing which Environmental Compensation of Rs. 10 lacs per month shall be levied on each of them.*
- h) An institutional mechanism be established by the Chief Secretaries, GNCT Delhi, DJB and DMCs whereby the collection, transportation and disposal of septic tank waste is monitored.*
- i) Accountability of the officers may be determined in the manner mentioned earlier. The Committee may monitor this aspect.*

(ix) Online Monitoring of STPs and CETPs

Regular calibration of OLMS in Sewage Treatment Plants

and CETPs to validate sensor results with lab results to be overseen by DPCC and DJB and report submitted to the Chief Secretary, Delhi and Monitoring Committee on quarterly basis.

(x) Use of treated waste water

*DJB and park owning societies like DDA, DMCs, PWD to mandatorily use the treated water from STPs for all parks within 5 km radius of STPs and pending laying of pipelines, such treated water to be transported through tankers. Compliance be reported by 31.12.2019 **failing which DJB, DDA, DMCs, PWD and others shall each be charged Environmental Compensation at the rate of Rs. 5 lakh per month till compliance is reported.** This shall be overseen by the Chief Secretary, Govt. of NCT, Delhi and the Monitoring Committee as this colossal waste of treated water cannot be allowed.*

(xi) Pollution due to Idol Immersion

The Chief Secretary Delhi to oversee and monitor and quarterly submit the report in terms of quantitative and qualitative improvement in this regard to the Monitoring Committee.

xii) The DDA is not shown to have to furnished performance guarantee in terms of order dated 29.01.2019. The same may now be furnished with additional sum of Rs. 5 lakhs for the delay within one month failing which coercive method have to be adopted for enforcement of the order.”

75. The recommendations made by Yamuna Monitoring Committee were considered again in Tribunal’s order **dated 22.01.2020** and in continuation thereof, another order was passed **on 05.03.2020**. Following directions were issued by Tribunal:

“67. Accordingly, we direct as follows:

- a.** *In the light of observations in the third report of the YMC dated 05.02.2020 showing inadequate progress in compliance of orders of this Tribunal dated 11.09.2019, **all concerned authorities (in Delhi, Haryana and U.P.) need to take further action expeditiously on the issues of sewage management, industrial pollutants, solid waste management and other issues, as per laid down***

timelines and to pay compensation wherever timelines have not been met which may be ensured by the CPCB.

CPCB may issue notice to the entities accountable to pay compensation and in case of non-payment and seek execution by moving this Tribunal.

Wherever coercive measures are required to be taken in terms of orders of this Tribunal dated 11.09.2019 and have not been taken against official lethargy, action may be taken as already directed by the concerned administrative heads. In case of any failure, this Tribunal may have to take further action for strict compliance. The Authorities may give their progress reports of the status as on 30.04.2020 to this Tribunal by email at judicial-ngt@gov.in before the next date.

- b. **The DDA may constitute a Special Purpose Vehicle (SPV) preferably within two weeks from today for rejuvenation of river Yamuna. The functions of such entity will include ecological restoration of the flood plain zones, setting up of bio-diversity parks, artificial wetlands, phyto-remediation of drains at the river mouth locations, maintaining the vigil and undertaking flow measurement, creating ecological services, removing encroachments and undertaking other activities, including river front development.** It may also take steps to attract and educate the citizens and nature enthusiasts for nature related activities, including building environmental temper amongst citizenry, without in any manner causing any damage to the flood plains.
- c. Delhi Government may set up within two weeks from today an **‘Integrated Drain Management Cell’ (IDMC)** under the Chief Secretary for remediation and management of all drains of Delhi with representatives of all agencies/ departments/Urban Local Departments owning such drains, not below the level of Chief Engineer dealing with the management of drains to the IDMC. The CEO, DJB will be the ex-officio Member Secretary of the IDMC. The IDMC may meet atleast once in a week, to start with. Constitution of IDMC will not affect ownership of the drains. IDMC may send its reports to this Tribunal every two months by e-mail at judicial-ngt@gov.in.
- d. CPCB may revise its report on ‘Alternate Technologies for Management of Waste Water in Drains’ in the light of comments of the YMC dated 17.02.2020 and forward the same to the Ministry of Urban Development, Jal Shakti, Govt. of India, NMCG, Governments of Delhi, Haryana and U.P.

within one week from today for further necessary action on their part for making a policy which may be finalized within one month from today. CPCB may file a compliance report after collecting status of compliance from the said authorities by e-mail at judicial-ngt@gov.in before the next date. Revised CPCB report may be placed on its website and also circulated to all States/UTs and PCBs/PCCs.

- e. The IDMC may prepare and execute an action plan on the subject of 'Alternate Technologies for Management of Waste Water in Drains' after appropriate techno-economic evaluation at its end in the light of reports of the CPCB referred to by the YMC in its recommendations dated 20.01.2020 and 17.02.2020 or any other relevant inputs on the subject, within three weeks from its constitution which may be ensured by the Chief Secretary, Delhi. It is made clear that this direction does not in any manner obviate the need to comply with the earlier direction of this Tribunal and the timelines already laid down. It is made further clear that **Tribunal has not expressed any opinion about viability or desirability of any particular process or technology indicated in the report or otherwise.** Only object of direction of this Tribunal is reduction and abatement of pollution load by using the best possible option.*
- f. **Chief Secretaries of Haryana and U.P. may also ensure action on the pattern of direction 'e' above in their respective jurisdiction within three weeks from today.***
- g. The Government of Delhi may review its 'free sewer scheme' referred to in para 22, 51 to 52 above, in the light of the order of the Hon'ble Supreme Court dated 24.10.2019 in Civil Appeal No. 9276-9290 of 2015 (Tata Power Delhi Distribution Ltd. v. Manoj Mishra), referred to in para 8 above, earlier orders of this Tribunal dated 08.05.2015 (referred to in para 22 above) and dated 11.09.2019 [para 15 (viii) (e)] and recommendations of the YMC (para 22 above).*
- h. **A joint Committee comprising CPCB, NMCG, NEERI, IIT Roorkee and IIT Delhi may assess damage to environment, in monetary terms after the date of order of this Tribunal 13.01.2015, on account of degradation of river Yamuna, by continued inaction of the authorities in Delhi, Haryana (from Hathnikund till entry in State of UP), U.P. (upto Mathura), within three months from today. CPCB will be the nodal agency for***

coordination and compliance. The Committee will be at liberty to take such assistance from any individual(s)/institutions as may be necessary.

76. Tribunal also noticed that directions, issued vide order dated 23.08.2019/11.09.2019 to the extent Government of NCT was required to introduce and implement **‘sewerage charges’**, stood upheld by Supreme Court vide order dated 24.10.2019 passed in ***Civil Appeal No. 9276-9290 of 2015, Tata Power Delhi Distribution Ltd. NDPL House vs. Manoj Misra & Others.***

77. **On 06.07.2020**, Tribunal had retrospect of the earlier orders in detail and observed that major problem of pollution of River Yamuna was due to discharge of sewage, industrial effluents and other pollutants which has continued. Rejuvenation of River Yamuna is possible only if such discharge either directly or through drains is stopped. This is possible only if the Integrated Drain Management Cell set up by Delhi Government performs its functions effectively to prevent discharge of untreated sewage into drains or into River Yamuna. DPCC was also required to ensure that polluting industries are stopped and new industries are not allowed without safeguards. The second major issue was protection of flood plains and undertaking of other restoration measures for which DDA has to perform in an effective manner. Tribunal observed that large area of flood plains is still under encroachment and setting up of adequate wetlands and other such useful activities was a distant dream. The third major issue noted by Tribunal was maintenance of e-flow which required appropriate action at the administrative level.

78. Tribunal considered recommendations of Yamuna Management Committee and accepted the same.

79. Suggestion was made by DDA that a Special Agency to deal with protection of flood plains and undertaking restoration programmes be constituted. Rejecting the same, Tribunal observed that in the light of Statutory provisions applicable to DDA under DDA Act, 1957, no such special agency is required to be constituted. Ultimately, Tribunal issued following directions:

- a. **DDA must forthwith comply with the earlier direction instead of finding lame excuses and taking stand of avoiding public duty.***
- b. Let the concerned authorities in Delhi, Haryana and UP to take further action in terms of the recommendations of the Committee as well as earlier directions of this Tribunal dated 13.01.2015, as updated vide earlier orders dated 11.09.2019 and 05.03.2020. The **compliance may be overseen by the Chief Secretaries concerned.** The Committees headed by Justice Pritam Pal in Haryana and Justice SVS Rathore in UP may also oversee such compliances in their respective states and give their independent reports periodically.*
- c. The YMC may continue to monitor compliance of the directions in continuation of its earlier working for the time being. The facilities provided to the Committee including the office space may continue so that the Committee can operate effectively.*
- d. **CPCB may complete its task of assessment of compensation in coordination with the NMCG, NEERI, IIT Delhi and IIT Roorkee as earlier directed.***
- e. The Delhi Government may forthwith comply with the order of the Hon'ble Supreme Court dated 24.10.2019 on the subject of levy and recovery of the sewage charges.*
- f. IDMC may carry out its functions as already directed.*
- g. Let the authorities in Delhi, Haryana and UP consider and adopt the report of the Niti Ayog in shortening the procedures in dealing with the waste management activities.*
- h. The order of this Tribunal in 351 river stretches¹⁹ as well as in Paryavaran Suraksha Samiti to prevent discharge of any pollutants in river bodies and order for compliance of solid waste*

management norms, in regards to river Yamuna, may be complied with and monitored by the Chief Secretaries at the State Level and by the Secretary, Ministry of Jal Shakti with NMCG and CPCB at the national level. The Principal Committee constituted by this Tribunal may resolve the difficulties, if any, in coordination with the YMC.

- i. The issue raised by the YMC, of the **unavailability of land preventing setting up of STPs may be addressed by DDA**, and monitored by the Principal Committee. Having regards to the priority to be given to the treatment of sewage disposal in the drains joining river Yamuna, the **land available on the flood plains may be utilized for the purpose, if there is no other alternative or till other land becomes available**. Needless to say, such safeguards sites for such purpose may be approved by the Principal Committee.*
- j. The issue of e-flow may be resolved by the Principal Committee as recommended by YMC.*

80. Delhi Police Force filed a **Miscellaneous Application No. 56/2020** seeking permission from Tribunal to raise construction for accommodation of Police trainees in the flood plains of River Yamuna. This application was rejected vide order dated 28.09.2020 observing that the project is sought to be raised right on the flood plains and has potential of generating solid waste and sewage causing pollution of River Yamuna.

81. **Vide order dated 27.01.2021**, the entire matter was considered in retrospect. Tribunal observed in para 21 that the matter was dealt with by Supreme Court for 23 years before its transfer to Tribunal in 2013 and thereafter for almost 09 years before this Tribunal. Finding inadequate compliance, a Monitoring Committee was constituted by Tribunal on 26.07.2018 with a hope that day to day monitoring by an independent Committee may result in some improvement. Committee had functioned for more than two years and contributed in a big way in steering the authorities with a clear road-map by its exhaustive Reports on every

aspect but the authorities' action has been found to be inadequate and that continues to be so. What is required is change in the attitude of the authorities and rise to the occasion to discharge their Constitutional obligation to the citizens to provide clean environment by protecting the scarce source of water by stringent steps against erring officers and violators and by effective monitoring at appropriate higher levels, reviewing/modifying the failed models and failed officers. Tribunal observed that all the issues had been duly identified and categorical directions have been issued but the same have not been properly complied with. Committee appointed by Tribunal cannot be expected as a substitute for governance. Tribunal also referred to directions of Supreme Court in the judgment dated 24.04.2017, directing monitoring by Additional Chief Secretary, Urban Development and Chief Secretary, Delhi and fixing of dead line of 31.03.2018 for ensuring pollution control devices etc. However, satisfactory results were not visible on account of failure of enforcement and monitoring as found by Monitoring Committee. In the result issuing directions in para 23 to 27, Tribunal disposed of the matter. Paras 23 to 27 of the order read as under:

*“23. Accordingly, we direct that in terms of directions of the Hon’ble Supreme Court and earlier orders of this Tribunal, henceforth **the Chief Secretary, NCT of Delhi, in coordination with other authorities (such as, Additional Chief Secretary Urban Development, DDA, IDMC, DPCC, DJB) and the Chief Secretaries of Haryana and UP may personally monitor the progress, by evolving effective administrative mechanism to handle grim situation caused by years of neglect.** Causes of failure of existing mechanism and remedial measures required be addressed in the light of reports of the Committee. This needs to be further overseen at National level by the Central Monitoring Committee, headed by Secretary Jalshakti, which also includes NMCG and CPCB, in terms of earlier orders of this Tribunal. To give effect to the orders of the Hon’ble Supreme Court, the Tribunal has already directed constitution of **River Rejuvenation Committees (RRCs)** in all the States/UTs by order passed in OA No. 673 of 2018 in Re: News item published in*

*“The Hindu” authored by Shri Jacob Koshy titled “More river stretches are now critically polluted : CPCB, to be headed by the Environment Secretaries of States/UTs, to prepare and execute action plans for restoration of the polluted river stretches, under the oversight of the Chief Secretaries of the States/UTs. Such action plans are already in place. **The RRCs of Delhi, Haryana and UP may accordingly monitor execution of the action plans with proper inter-departmental coordination, to remedy the polluted stretches of river Yamuna in their respective jurisdiction, subject to oversight of the Chief Secretaries on quarterly basis, who may thereafter give their quarterly reports to the Central Monitoring Committee (CMC) headed by the Secretary, Jal Shakti in terms of order dated 21.09.2020 in O.A. No. 673/2018, supra.***

24. We place on record our appreciation for the contribution of YMC in the last more than two years. With the taking over of the further monitoring by the Chief Secretaries of NCT of Delhi (and other authorities of Delhi, including DDA, DJB and Municipal Corporations), Haryana and UP, proceedings of the Committee constituted by this Tribunal on the subject will stand concluded, subject to further monitoring by the concerned State Authorities.

25. As noted earlier, in terms of directions atleast by four orders i.e. dated 24.04.2017 in W.P. No. 725/1994, (in the case of Yamuna) dated 22.02.2017 in (2017) 5 SCC 326 (dealing with the issue of preventing water pollution), in (2015) 12 SCC 764 (regarding Ganga, which also includes Yamuna) and dated 2.9.2014 in Almitra Patel, WP No. 888/1996¹, referred to in para 10 above (regarding solid waste management), the Hon’ble Supreme Court has directed this Tribunal to monitor compliance of directions of the Hon’ble Supreme Court to prevent pollution, particularly of rivers. The Tribunal has accordingly attempted to do so and also required Chief Secretaries of all States/UTs to appear before the Tribunal in person for interaction on the issues. Based on such interaction, further directions were given. In view thereof, the registry of this Tribunal has sent, apart from other orders, copies of its orders dated 21.05.2020 and 29.06.2020 to the Secretary General, Hon’ble Supreme Court², with the request that the matter be considered on the judicial side of the Hon’ble Supreme Court, if required. **In continuation, we direct the registry of this Tribunal to forward a copy of this order to the Secretary General, Supreme Court of India, for the matter being placed on the judicial side, if so required.** We also note that the Hon’ble Supreme Court has taken suo moto cognizance on the

¹ Almitra H. Patel Vs. Union of India & Ors.

² As mentioned in Paras 9 and 12

subject of remediation of polluted Rivers in **Suo Moto W.P. (C) No. 01 of 2021.**

26. **With the above directions, all proceedings before this Tribunal will stand disposed of**, subject to the matters being further considered by the Tribunal in O.A. No. 593/2017 and 673/2018 in the light of reports of the CMC, based on monitoring by it with the assistance of Chief Secretaries of States/UTs in terms of orders of this Tribunal to give effect to the orders of the Hon'ble Supreme Court, referred to above. However, it is made clear that this order will not affect earlier directions, including the constitution and functioning of the 'Principal Committee', headed by Secretary, Jal Shakti in terms of order dated 13.01.2015 read with later orders. Wherever the YMC has suggested filing of periodical reports with this Tribunal, such reports be filed with the Secretary, Ministry of Jalshakti, heading the 'Principal Committee' in terms of order dated 15.1.2015 and also heading the CMC. The website set up by the YMC and all other record available with it may now be utilized as per directions of the Chief Secretary, Delhi.

27. On the above pattern, the monitoring by the Committee headed by Justice Pritam Pal for the stretch of Yamuna in Haryana will also stand concluded, subject to the monitoring being now undertaken by and under the Chief Secretary, Haryana and filing of reports with the CMC, on same pattern as in Delhi.

The application is disposed of."

82. After disposal of the matter, some M.A.s and I.A.s were filed and we may refer the same in brief:

- (A) **M.As. 75/2020 and 76/2020:** These applications were filed by Central Reserve Police Force seeking direction for construction of CRPF Camp/Premises in flood plains of River Yamuna. These applications were rejected by Tribunal vide order dated 27.01.2021.
- (B) **M.A. 09/2021:** Yamuna Khadar Slum Union, Mayur Vihar, Phase-I, Delhi and Shakil Ahmed, Batla House, Jamia Nagar, Okhla, Delhi filed this application seeking direction to the authorities concerned for taking steps for rejuvenation of River Yamuna including removal

of encroachments from flood plain zone. This application was dismissed by order dated 03.03.2021.

- (C) **M.A. 25/2021:** South Delhi Municipal Corporation (hereinafter referred to as '**SDMC**') filed this application alleging that it is maintaining 6822 parks but borewells for irrigation of the parks have been sealed by DJB pursuant to order dated 27.01.2021 passed in OA 06/2012. Tribunal observed that since there is *inter se* dispute between SDMC and DJB which should be resolved at the higher level of the administration of both the authorities taking into account all practical considerations etc., the application was disposed of accordingly vide order dated 26.03.2021.
- (D) **M.A. 26/2021:** This application was similar to M.A. 25/2021 and disposed of in the same terms as contained in the order dated 26.03.2021 vide Tribunal's order dated 05.04.2021.
- (E) **M.A. 32/2021:** This application was filed by East Delhi Municipal Corporation (hereinafter referred to as '**EDMC**') seeking a direction to DJB to supply water for parks but when taken up on 19.05.2021, Tribunal was informed that the issue has been resolved departmentally hence application as disposed of on 19.05.2021.
- (F) **IA 555/2023:** This application was filed by DDA seeking permission for installation of a lighthouse in the greenway, adjacent to the Yamuna flood plains, for additional surveillance and security of the flood plains. Application was disposed of vide order dated 19.05.2023 with the following directions:

"Direction

15. On consideration of the above, we are of the view that **on principle there can be no objection to the proposal if its approved by the HLC and is meant for protection of flood plain zone and is within the purview of permissible activity in terms of para 80 of the order of this Tribunal dated 13.1.2015 and River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.** This will require examination of the details of the project with its location in context of notified flood plain zone, structural designs, maintenance infrastructure like Power backup, basic amenities support and construction period with integrated environmental management requirements. Since after order of this Tribunal dated 13.1.2015, NMCG has been named statutory regulator in terms of para 42 of the Ganga order quoted above, **in our view further appraisal of activity being permissible should be by NMCG and if permission is given considering all relevant parameters, suitable safeguards found necessary for protection of the flood plain zone of Yamuna be adopted.** NMCG may take decision preferably within one month of receiving of proposal. Statutory regulators may oversee compliance as per law.

I.A. No. 555/2023 stands disposed of.”

83. Tribunal’s order dated 27.01.2021 passed in **OA 06/2012, Manoj Misra vs. Union of India & Ors. (supra)** was appealed by ‘**Nizamuddin West Association**’ before Supreme Court in **Civil Appeal No. 3465/2022, Nizamuddin West Association vs. Union of India & Others. Vide order dated 21.10.2022,** Appeal was decided by Supreme Court directing that further monitoring is necessary and to the extent, application was disposed of by Tribunal, that direction was set aside and OA was restored. Order of Supreme Court reads as under:

“1 This appeal arises from an order dated 27 January 2021 of the National Green Tribunal in OA No 6 of 2012.

2 The issue which was considered by the NGT pertained to the rejuvenation of the river Yamuna through the execution of the directions contained in a previous order dated 13 January 2015 and subsequent orders, including those dated 8 May 2015 and 7 December 2017. The NGT also noted that certain directions had been issued by this Court.

- 3 *In this backdrop, the NGT directed that the Chief Secretary, NCT of Delhi, in coordination with other authorities such as the Additional Chief Secretary, Urban Development, DDA, IDMC, DPCC and DJB and the Chief Secretaries of Haryana and Uttar Pradesh, may personally monitor the progress by providing an effective administrative mechanism to handle the grim situation of the river caused by years of neglect. The NGT has issued certain ancillary directions for monitoring. However, the NGT has disposed of the OA at that stage.*
- 4 *Pursuant to the issuance of notice by this Court on 25 April 2022, the Union of India has been represented by Ms Aishwarya Bhati, Additional Solicitor General.*
- 5 *We have heard Ms Mugdha, counsel appearing on behalf of the appellant and Ms Aishwarya Bhati, Additional Solicitor General.*
- 6 ***In our considered view, having regard to the previous directions which have been issued by the NGT for monitoring the steps to be taken for cleaning of the river Yamuna, the ends of justice require that the matter be monitored by the NGT.***
- 7 *Ms Aishwarya Bhati has stated that the Ministry of Jal Shakti has been filing status reports before the NGT.*
- 8 ***In order to facilitate judicial oversight by an expert adjudicating body, we request the NGT to monitor the matter and compliance of its orders at periodic intervals. To facilitate this process, we set aside the direction contained in the impugned order dated 27 January 2021 for the disposal of the application. OA No 6 of 2012 shall continue to remain on the file of the NGT. The NGT shall list the OA at an early date so that necessary directions can be given so as to enable it to assess the status of compliance with its previous orders and for considering whether any further orders are necessary to meet the exigencies of the situation.”***

84. **Change of Cause Title:** Tribunal considered the matter in the light of Supreme Court’s judgment dated 21.10.2022 on 16.02.2023 and found that original applicant Manoj Misra had not shown any interest to pursue the matter. Since Appeal before Supreme Court was filed by Nizamuddin West Association, Tribunal observed that the title of OA be replaced showing name of ‘Nizamuddin West Association’ who preferred Appeal in

Supreme court so that OA may continue to be pursued by an active litigant.

I.A. No. 537/2023:

85. The residents of BLK (North) GK-I RWA i.e., IA applicants filed letter petition dated 16.05.2023 registered as IA 537/2023. This petition is signed by B.B. Patel, President, B-165, GK-1; Dr. Sanjay Sachdeva, Sr. Vice President (Principal Director, Department of ENT, Max Healthcare and Dalip Jolly, Vice President, B-205, GK-1, New Delhi. They have brought their plight to the notice of Tribunal which had arisen due to lack of proper maintenance of Storm Water Drain touching back of the houses in B-Block in Greater Kailash-1, New Delhi.

86. Applicants have said that for redressal of their grievance, they filed ***Writ Petition No. 4246/2019, B B Patel & Others vs. Govt. NCT of Delhi & Others*** before Delhi High Court which was disposed of vide judgment dated 24.04.2019. In Delhi High Court, petitioners sought a direction to cover Storm Water Drain which was causing great harm to them. Delhi High Court was also informed that this Tribunal has passed various orders with regard to coverage of Storm Water Drain and petitioner approached the Committee constituted by Tribunal with their grievance but no heed was paid by Committee. In the backdrop of above facts, Delhi High Court directed the committee constituted by Tribunal to look into the grievance of petitioners and pass appropriate order and if petitioners still have any grievance, they may approach the Tribunal. Order of High Court is reproduced as under:

“The present writ petition is filed by the petitioners with the following prayers:

“a) Pass a writ in the nature of mandamus or any other appropriate writ directing the respondents to take all necessary steps, including necessary permissions, if any, to cover the remaining about 1/4th of 10.31 of the storm water drain from adjacent to the residences of the petitioners and to cover & develop the same with greenery as done in other parts of Greater Kailash-I and Defence Colony;

b) Pass a writ in the nature of mandamus or any other appropriate writ directing the respondents to ensure that the storm water drain is sewage and sullage free and no untreated sewage/sullage/any other waste is allowed into the same;

c) In the alternative pass a writ in the nature of mandamus or any other appropriate writ directing the respondents directing the respondents to dismantle the entire cover/uncover the storm water Nallah and thereafter conduct timely and periodic cleaning of the same and continue to use the same as a Storm Water Drain and not as a sewerage drain;

d) Pass such other further order as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case”.

*It is the submission of Mr.Jasmeet Singh, learned counsel for the petitioners that the **petitioners are seeking the coverage of storm water drain, which is causing the great harm to the petitioners herein who are residents of properties adjacent to the storm water drain.** He concedes to the fact that the **National Green Tribunal (NGT) has passed various orders with regard to the coverage of storm water drain.** According to him, the petitioners have approached the Committee, constituted by the NGT, with their grievance, but, unfortunately, the said Committee has not considered the representation.*

*Ms.Puja Kalra, learned counsel appearing for the respondent No.2 also states that various orders have been passed by the NGT from time to time. She also draws my attention to page 173 of the paper book to contend that **there is a restraint order of the NGT against coverage of the storm water drain.** She states that appropriate would it be for the petitioners to approach the NGT with the prayers as sought for, in this writ petition.*

Mr.Jasmeet Singh states, he would be contented if a direction is issued by this Court to the Committee constituted by the NGT, to consider the representation of the petitioners and pass appropriate orders.

Noting the above submissions made by the counsel for the parties, I direct the Committee constituted by the NGT to look into the representation of the petitioners dated February 19, 2019 and pass appropriate orders, as expeditiously as possible, preferably within a period of two months from today. It goes without saying that if the petitioners still have any grievance against the order to be passed by the aforesaid Committee on their representation, they can approach the NGT.

With the aforesaid direction, the petition is disposed of.

Order dasti.”

87. The petitioners before Delhi High Court i.e., IA applicants approached the Committee appointed by Tribunal and various meetings took place but their grievance is that no corrective action has been taken by Committee.

88. In the application dated 16.05.2023 (IA 537/2023), Residents, Greater Kailash have expressed their grievance stating that they are suffering for the last 25 years, since 1990, due to illegal/unauthorized discharge of untreated sewage in the rain Water/Storm Water Drain **(Kushak Drain)** touching their houses wherein no cover/lid has been provided on the drain to the extent of 1466.11 m² which ranges houses from B-159 to B-187 though rest of the drain of 14209.776 m² has been covered. This small uncovered portion though concretized at the bottom and sides but cover/lid has not been provided and it operates as a chimney like outlet emitting extremely obnoxious and poisonous gases due to unauthorized discharge of sewage in the Storm Water Drain. Poisonous and obnoxious gases enter the houses' kitchens/bedrooms of the residents making their lives hell and also endanger the lives of the residents. In order to protect residents from emission of foul smell etc. from Storm Water

Drain mixed with sewage, MCD decided to cover Storm Water Drain. A large portion thereof i.e., about 14209.776 m² was covered by MCD but thereafter, the remaining portion could not be covered in view of an application filed before this Tribunal wherein covering of drain was stopped. MCD left small portion of 1466.11 m² uncovered which is now acting as a Chimney like outlet emitting foul smell and releasing poisonous gases causing health hazards to the residents.

89. Residents, Greater Kailash thus, have come up with a prayer before Tribunal that direction be issued to MCD to cover the remaining portion of Storm Water Drain touching back of houses in B-Block, Greater Kailash-1 and develop greenery in other parts of Greater Kailash and Defence Colony on the said Storm Water Drain. Further it is prayed that DJB be directed to ensure Storm Water Drain free from sewage and sludge and no untreated sewage/sludge/any other waste is allowed to enter the Storm Water Drain.

90. **Tribunal's Order dated 19.05.2023:** IA was taken up by Tribunal on 19.05.2023. Tribunal noted that Kushak Drain is approximately 6.5 km long Storm Water Drain near South Extension which carries storm water and sewage from several South Delhi localities such as Mehrauli-Badarpur Road, Chirag Delhi, INA, Defence Colony and Pushp Vihar. It meets Barapullah Drain near Nizamuddin West and then flows into Yamuna River. It is necessary that the same is kept free from sewage. Channelising/treating and using sewage scientifically as per norms is responsibility of Statutory Authorities like MCD and DJB to effectuate right of citizens to clean environment. However, Tribunal also observed that though the residents, Greater Kailash deserve remediation of their

grievance but covering of entire drain is not proper solution. Covering of drain can be allowed only if a proper separate pipeline to carry sewage is provided and only rain water is carried in the drain which is not the case in hand. Covering of drain is liable to result in emission of gases trapped in the drain which can be harmful, dangerous and threat to safety. The solution would be to prevent flow of sewage into drain and periodic cleaning of drain including de-silting. Tribunal accordingly issued directions to a Joint Committee of CPCB, DPCC, DJB and MCD to look into the matter and resolve issue with the mandate of ensuring that no toxic gases are released from the drain in question due to discharge of sewage, and Sewage flow may be intercepted at appropriate location and channelized to the nearest STPs. A compliance Report was required to be filed by the said Committee within four months. Tribunal also permitted Residents, Greater Kailash to make their representation before the said Committee.

Status Report dated 25.09.2023 filed by DJB:

91. Pursuant to order dated 19.05.2023 passed in IA 537/2023, Joint Committee through DJB filed status report dated 25.09.2023 (at page/8671). Report said that Committee made a joint inspection at Chirag Delhi Drain/Kaushik Drain, Barapulla Drain on 20.09.2023. It found trapping of certain drains necessary and directions were issued accordingly. Report gave status of trapping of 11 drains as under:

S. No.	Location	Action taken
1	<i>Sewage falling into the drain from Shiekh Sarai Phase-1, Khirki extension, Panchsheel Vihar & Savitri Nagar</i>	<i>Sewage coming into Nallah has been trapped.</i>

2	<i>Sewage falling into the drain from Chirag Delhi Village near Dhalao and Amul Milk Booth.</i>	<i>Sewage coming into Nallah has been trapped.</i>
3	<i>Sewage falling into the drain from Chirag Delhi village near small culvert No. 1 near Ravidas Mandir Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>
4	<i>Sewage falling into the drain from Chirag Delhi Village near small culvert No. 2 and near T-265 Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>
5	<i>Sewage falling into the drain from Chirag Delhi Village near H.No. T-265 C/10 Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>
6	<i>R&S Block Nallah from Outer ring road to S-363 to B-272 GK-1, near corner DDA Park Krishi Vihar.</i>	<i>Work order to trap this Nallah has been issued and work is to be taken up by EE(M)-50, DJB Division under ACE(M)-10 after getting permission from DDA Horticulture Department.</i>
7	<i>Sewage falling into the drain from Jagdamba Camp (JJC Camp) behind Triveni Market.</i>	Trapping of the sewage into the sewer line is not feasible at source , however it will be trapped ultimately at Krishi Vihar trapping.
8	<i>To make functional and maintain the already constructed trapping at Chirag Delhi Drain near Krishi Vihar Culvert.</i>	<i>Necessary action to be taken by EE(C) Dr. —VI, DJB, Jal Sadan, Lajpat Nagar</i>
9	<i>Sewage falling into Chirag Delhi Drain at press enclave road Culvert (Opp. Saket Court) from PWD Drain coming from Khirki Village side.</i>	<i>Yet to be trapped by EE(SR)-II/EE(M)-43 C/o ACE(M)-10, DJB.</i>
10	<i>Sewage coming from Tigri and Sangam Vihar near Vayu</i>	<i>Yet to be trapped by</i>

	<i>Sena (Air Force Station) Dakshinpuri into Chirag delhi Drain.</i>	<i>ACE(M)-11, DJB.</i>
11	<i>Sewage coming from Mehrauli, Treated effluent from 5 MGD STP mehrauli and SaidullaJab into Chirag Delhi Drain.</i>	<i>Yet to be trapped by ACE(M)-11, DJB.</i>

92. **Tribunal's Order dated 03.11.2023:** Tribunal considered on 03.11.2023 status Report dated 25.09.2023 filed by DJB. The stand taken by DJB before Tribunal was that further action is awaited which will require six months' time. Tribunal observed that the parties did not dispute before it that the drain in question is '**Storm Water Drain**' and the sewage is entering the said drain from different locations. Tribunal did not find six months' time to be reasonable and instead directed DJB to file a time bound schedule for the action remediating situation and resolve grievance of IA applicants raised in **IA 537/2023**.

Objections dated 21.10.2023 filed by applicant:

93. Applicant vide e-mail dated 21.10.2023 filed objections to the Status Report dated 25.09.2024 submitted by DJB on behalf of Joint Committee and highlighted the deficiencies as follow:

- "A) *The affected parties here are residents of Block -B (North) GK-1 who have been severely suffering due to the illegal discharge of untreated sewage into the rainwater/ storm water drain, namely, Kushak Nallah flowing from behind the house nos. B-159 to B-187, Block-B (North), Greater Kailash-1.*
- B) *The **purpose of the drain in question was only to carry rainwater and stormwater and the same used to be maintained as such.***
- C) *However, over a long period of time, several unauthorized colonies have surfaced in and around the said area and the*

Respondent Authorities have illegally allowed untreated sewage to flow from the said unauthorized colonies and other sewerage places into the Kushak Nallah.

- D) The quantum of the untreated sewage falling into the storm water/rainwater drain has increased exponentially ever since and has now reached a point where the **open Nallah has become an extreme environmental and a life threatening health hazard for the residents of the area.**

The word “environment” brings within its ambit “hygienic atmosphere and ecological balance”. According to the Oxford dictionary the word “environment” means the conditions and surrounding in which a person, animal or a plant lives or operates. As per section 2 (c) of the NGT Act, 2010 environment includes “water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organisms and property.”

It is humbly submitted here that enjoyment of a healthy and hygienic environment and to breathe clean pollution free air is a fundamental right under Article 21 of the Constitution of India. Therefore, **by allowing untreated sewage to be discharged into the storm water drain the Respondent Authorities are causing irreparable permanent damage to health of residents and environment and property.** Moreover, this illegal act of the Respondents is also in clear violation of the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.

- E) Since, the **Delhi Jal Board has failed to stop the unauthorized discharge of untreated sewage into the drain for the last over 20 years, the Municipal Corporation of Delhi with a view to give some relief to the residents, decided to cover the open drain and majority part (approx. 90%) was covered.** However, owing to the intervention by an NGO, covering of the Nallah was halted and a small portion (approx. 10/31%) remained open.
- F) That 1/4th i.e. 25% of this 10.31% of the open Nallah falls right behind the houses of the Applicants and because it is covered from three sides i.e. bottom and two sides and only top cover/lid is not provided, this acts as a chimney like outlet constantly emitting toxic, obnoxious and poisonous gases that enter the houses of the Applicants.”

94. Thereafter, applicant gave details of their earlier efforts made for redressal of their grievance and sought to explain that since substantial part of drain i.e., about 90% has been already covered, the remaining part should also be directed to be covered, temporarily by putting lid/cover. It is said that DJB Report is misleading as on the ground level, no effective work has been undertaken by it and there is not even the slightest change in air quality in the area where IA applicants are residing.

Status Report dated 17.11.2023 filed by MCD Delhi (P/9005):

95. MCD filed a Status Report by way of short affidavit dated 17.11.2023. Affidavit is sworn by S.K. Meena, Executive Engineer (Maintenance Division)-II, South Zone, MCD. It is said that jurisdiction of division starts from Press Enclave Road to Lala Lajpat Rai Marg. Starting point of the said drain on the upstream side is somewhere from Khanpur and end point on the downstream side is located at Lala Lajpat Rai Marg in **‘Defence Colony Nallah’** discharging into **‘Barahpula Nallah’** through **‘Kushak drain’**. Total length of open drain under the jurisdiction of division of deponent filing short affidavit is 3325 meters approximately out of which 1175 meter of length of drain is covered and **2150 meter approximately of drain is open**. Stretch of the drain referred by IA applicants is from the link road connecting BRT and Hansraj Gupta Marg to Lala Lajpat Rai Marg. Length of the drain is 945 meters approximately and out of these 645 meters approximately is covered and 300 meters approximately is open drain. Desilting of drain is continuous process. As per policy of the department, desilting activity is carried out in two phases in a year i.e., 1st phase from 15.01.2023 to 31.05.2023 and 2nd phase from 01.08.2023 to 15.01.2024. In the 1st phase, part of the drain which was within jurisdiction of concerned division, desilting was carried out by

deploying Poclain machines, JCB etc. and 591 MT of silt was removed and sent to SLF Okhla. 2nd phase of desilting was in progress by deploying JCB machine, Poclain and Super Sucker machine. Poclain machine was deployed on 06.11.2023, 07.11.2023, 08.11.2023, 09.11.2023, 10.11.2023 and 16.11.2023 for desilting of open portion of drain. Huge quantity of silt extracted from open drain was stacked up for drying. Covered portion of the drain is having 10 nos. of vent shafts at the approximate interval of approximately 30 meters. Desilting of covered portion was carried out by removing cover slabs and using JCB of small bucket on 09.11.2023, 15.11.2023 and 16.11.2023. **In some of the covered portion due to restricted width, JCB machine could not be operated.** Desilting of these portions was being carried out by deploying super sucker machine which was deployed on 11.11.2023, 14.11.2023 and 16.11.2023. About 56 MT of silt extracted from the covered portion of the drain and sent to SLF Okhla. Screening is also installed at certain locations to trap floating material which are cleaned regularly by the departmental Nallah Beldars. Water is flowing freely in the drain without any obstruction.

Affidavit dated 21.11.2023 filed by DJB (P/9051):

96. Giving in brief the details of Barapulla drain and its tributaries, DJB has said as under:

*“Barapulla drain, derives its name from a 12-arch bridge of the Mughal period. **This storm water drain of Delhi outfalls into the river Yamuna** across the ring road near Sarai Kale Khan Village and is emanating from the following smaller drains: -*

- i. **Satpula** (7 arched bridge) **drain** originating from the south ridge.
- ii. **Kushak drain** (including Mehrauli drain) originating from the central ridge.
- iii. **Drains near AIIMS, INA Market and Lajpat Nagar,**

iv. **Sunehri Nalla** from Lodhi Garden area.

*The drains of South Delhi falls into the Barapulla Basin. The Kushak Nallah- Barapulla Nallah enters MCD area behind INA Market. After this a tributary, called Defence Colony Nallah joins the Kushak Nallah. **There after Sunehri Nallah from New Delhi Areas joins it. From this point the Kushak Nallah is called Barapulla Nallah.** In the upper reaches, the Defence Colony Nallah is named as Chirag Delhi Drain and Chirag Delhi drain is passing behind the B-Block G.K.-I which actually affects the Applicant's. This drain originates from three hilly Nallahs above Devli Bandh in Mehrauli."*

97. It is further stated by DJB that Delhi has been experiencing fastest urban expansion, attracting huge migrants to settle in Delhi which has resulted in creation of number of unauthorized colonies in the catchment areas of Chirag Delhi Drain in Chatterpur, Mehrauli around Saidullajab, Devli, Khanpur, Sangam Vihar, Tigri, Dakshinpuri Extension etc.

Discharge of sewage of unauthorized colonies into storm water drain and improper desilting of drains due to covering of drain and other reasons have caused stagnation of sewage and generated foul gases.

To resolve the problem, various meetings of Joint Committee were held.

DJB has given, in respect of Chirag Delhi nallah, an updated action taken Report, as under:

S. No	Location	Status	Short Term Action Plan	Long Term Action Plan	Target date of completion	Remarks
1	Sewage falling into the drain form Shiekh-Sarai extension, Panchsheel Vihar & Savitri Nagar	Sewage coming into Nallah has been trapped.	It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.	N/A	Completed	Shown as point A&B on the site plan of Chirag Delhi Nallah Annexed as Annexure R-5
2	Sewage falling into the drain from Chirag	Sewage coming into Nallah has	It has been trapped in peripheral	N/A	Completed	Shown as point C on Annexure R-5

	<i>Delhi Village near Dhalao and Amul Milk Booth</i>	<i>been trapped.</i>	<i>Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>			
3	<i>Sewage falling into the drain from Chirag Delhi village near small culvert No.1 near Ravidas Mandir Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	N/A	Completed	Shown as point D on Annexure R-5
4	<i>Sewage falling into the drain from Chirag Delhi Village near small culvert No. 2 and near T-265 Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	N/A	Completed	Shown as point E on Annexure R-5
5	<i>Sewage falling into the drain from Chirag Delhi Village near H.No. T-265C/10 Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	N/A	Completed	Shown as point F on Annexure R-5
6	<i>R&S Block Nallah from Outer ring road to S-363 to B-272 GK- 1, near corner DDA Park Krishi Vihar</i>	<i>Work order to trap this Nallah has been issued and work is in progress and likely to be completed by 30/11/2023.</i>	<i>Work is in progress and likely to be completed by 30/11/2023</i>	-	30/11/2023	Shown as point G on Annexure R-5

7	<i>Sewage falling into the drain from Jagdamba Camp (JJC Camp) behind Triveni Market</i>	<i>Trapping of the sewage into the sewer line is not feasible at source, however it has been trapped ultimately at Krishi Vihar trapping</i>	<i>The flow is very nominal, however it will be trapped ultimately at Krishi Vihar trapping, which shall be functional after commissioning of Okhala STP by 31.03.2024.</i>	-	31.03.2024	
8	<i>To make functional and maintain the already constructed trapped at chirag delhi drain near Krishi Vihar Culvert</i>	<i>Necessary action for trapping rectification is in progress and is likely to be completed by 30.11.2023</i>	<i>The trapping at Krishi Vihar was already constructed however, some portion of it got damaged and reduced to non functional. Now the trapping rectification work is in progress and likely to be completed by 30/11/2023. DJB is undertaking work of 124 MGD STP at Okhla which will be commissioned by 31.03.2024. After which trapping will be functional.</i>	-	31.03.2024	<i>The untrapped sewage at. sources which is flowing into the drain, will be trapped soon by 30.11.2023 DJB is undertaking commissioning of additional 124 MGD STP at Okhla which will be commissioned by 31.03.2024. The full functionality of trapping will be after commissioning of additional 124 MGD STP Okhla by 31.03.2024</i>
9	<i>Sewage falling into Chirag Delhi Drain at press enclave road Culvert (Opp. Saket Court) from PWD Draincoming from Khirki</i>	<i>Work is likely to be completed by 15/01/2024</i>	<i>Work is likely to be completed by 15/01/2024</i>	-	15.01.2024	

	Village side.					
10	Sewage coming from Tigri and Sangam Vihar near Vayu Sena (Air Force Station) Dakshinpuri into Chirag Delhi Drain	Trapping partially done as an interim measure and sewerage system yet to be laid	As an interim measure, sewage coming from Tigri and Sangam Vihar etc. has partially been trapped into peripheral sewer line leading to Okhla STP. Further as an interim measure trapping of drain is done at Krishi Vihar. DJB is undertaking upgradation of Okhla STP which shall also be functional by 31.03.2024 After completing Okhla STP, the trapping will be made functional.	Out of 47 U/A colonies on Ratia Marg, Mangal Bazar Road and Tigri Road, 39 U/A colonies are on the Forest area/ O-zone. Request has been sent to Forest Department for issuing sewer lines in these U/A colonies. Sewer lines in these colonies will be laid in 12 months after received of NOC from the forest department. In the rest 8 nos. U/A colonies, sewer lines is being laid and is likely to be completed by March, 2024. List of colonies attached as Annexure R-6	31.03.2024	
11	Sewage coming from Mehrauli	The Sewage flow from westend road and IGNOU road (Saidullajab Village and colony, Neb Sarai Village and colony (20 Points, programme), Freedom fighter colony,	The Sewage flow from westend road and IGNOU road (Saidullajab Village and colony, Neb Sarai Village and colony (20 Points programme), Freedom Fighter colony, Paryavaran Complex, etc.) is likely to be connected by Dec 2023.	Recently it has been observed that at Mehrauli STP more than the designed capacity of the plant i.e. 5 MGD sewage is being received, therefore proposal for the capacity augmentation of Mehrauli STP shall be taken up by DJB. The work is likely to be completed	30.06.2025	

		<i>Paryavaran Complex, etc.) is likely to be connected by Dec 2023. However, as an immediate measures flow has been trapped at Krishi Vihar.</i>	<i>However, the flow has been trapped at Krishi Vihar trapping as an immediate measures. The DJB has undertaken work of 124 MGD STP which shall be commissioned by 31.03.2024.</i>	<i>by June 2025.</i>		
--	--	--	--	----------------------	--	--

98. **Tribunal’s Order dated 22.11.2023:** Reports of MCD and DJB were considered on 22.11.2023. Tribunal observed that till the action as proposed by DJB is completed, remedial measures to solve the immediate problem faced by residents of IA applicants need be addressed. Counsel for MCD accepted the proposal that the vents on the covered area of the drain can be increased so that the concentrated foul smell may not emit from the open drain near the residence of IA applicants. MCD Report revealed that there are 10 vent shafts at the approximate interval of 30 meters in the entire covered area of 645 meters. Tribunal directed officers of MCD to explore the feasibility and possibility of increasing number of vents in the covered area of drain and also to take appropriate action in this regard. The concerned authorities were also directed to undertake regular de-silting activities of open area of the drain and also regular measure for adequate de-silting of covered area and submit Action Taken Report.

99. However, Counsels for parties during the course of arguments informed that the **covered part of the drain in question has four**

channels which are interconnected and on account thereof, there is difficulty in cleaning it. Tribunal required MCD to produce the project report on the basis whereof four channels of drain were constructed and also the object and purpose of constructing four channels in the drain. DJB was directed to disclose capacity of Okhla STP, extent of sewage diverted to it and capacity of the plant whether sufficient to treat sewage which is diverted from 11 points as disclosed by DJB in paragraph 11 of the Report.

Status Report dated 21.12.2023 filed by DJB:

100. Pursuant to order dated 22.11.2023, DJB has filed Status Report dated 21.12.2023. It is said that 142.36 MGD (**537.82 MLD**) sewage is being received/diverted at Okhla STP from different sources. Discharge in Chirag Delhi Drain coming from untapped source is approximately 6.00 MGD (22.68 MLD). After trapping of this discharge, it will be received at Andrews Ganj Sewage Pumping Station with designed capacity of 40 MGD (151.4164 MLD). **Total discharge received at Okhla STP after trapping all 11 points would be 148.36 MGD (142.36+6=148.36 MGD) (560.62 MLD). After commissioning of upgraded Okhla STP by 31.03.2024 it will have the capacity of 170 MGD (642.50 MLD) and sufficient to treat all sewage coming from all 11 points.**

Action Taken Report dated 21.12.2023 filed by MCD:

101. MCD has filed its Action Taken Report dated 21.12.2023 stating that de-silting of covered portion was carried out on 13.12.2023 to 16.12.2023 by deploying JCB machines, super sucker machines at each bay. Desilting of the open portion of the drain was carried out on 19.12.2023 and 20.12.2023 by deploying Poclain machine and is presently in progress. On

the aspect of feasibility and possibility of increasing number of vents in the covered area of the drain, DJB has prepared proposal for “Construction of additional vent shafts on the covered portion from H. No. B-213 to B-149 of GK-I Nallah” and tenders were invited vide NIT No. 4129, opened on 13.12.2023, after allocation of budget, work will be awarded within a week and thereafter proposed work of providing additional vent shafts be taken up and completed possibly within 45 days.

102. With regard to construction of four channels/bays in the covered portion of the drain, the record was filed as annexure-C which shows that RCC multi-cell box type structure was proposed but why it was designed in channels, no reason we could discern from the said Report. The record also shows that the purpose of covering major nallah from Press Enclave Road to Ring Road Andrews Ganj covering an area of 106837m² was to make available space for traffic, parking and green area development. Record does not show whether practicability and feasibility of cleaning of drain including de-silting by machines was considered at all. Total length in meters of covering was 3885 meters.

103. **Tribunal’s Order dated 22.12.2023:** The above Report was considered by Tribunal on 22.12.2023. It was stated on behalf of MCD that work order for erecting 40 additional vend sheds will be issued within 2 to 3 days. However, **MCD Action Taken Report showed that di-silting of drain would not have any effect on the foul gases/smell emitting open part.**

104. IA applicants also stated before Tribunal that foul smell with same intensity is continuously emitting from open area. Tribunal recorded stand of the parties that four concrete chambers made in covering of drain is

creating difficulty in cleaning of the drains. The purpose of making four channels also could not be disclosed either from the record or otherwise, produced by MCD to Tribunal. Hence Tribunal required MCD and DJB to submit a fresh Report.

Action Taken Report dated 05.01.2024 filed by MCD:

105. MCD submitted its Action Taken Report dated 05.01.2024 at page 9497. It was stated that till additional vends are provided, MCD has proceeded by puncturing RCC slab at four places but thereafter the work was stopped since GK-I RWA suggested that this exercise will not serve any remedial measure to prevent toxic gases emitting from untreated sewage entering the storm water drain. Regarding de-silting of open and covered portion of drain, MCD said that as per policy, de-silting activity is carried out throughout the year i.e. pre-monsoon and post-monsoon. 60% of the desilting to be done in the 1st phase during the period from 15.01.2023 to 31.05.2023 (pre-monsoon) and remaining 40% of the de-silting to be done during the period 01.08.2023 to 15.01.2024 in 2nd phase (post monsoon).

106. For de-silting, MCD provides supervision but actual work is executed by engagement of private agency to the extent of supply of required machinery like excavator, poclain, trucks etc. Departmental labor and machinery is regularly engaged for cleaning/removal of the floating material from the drains. Quantity of silt is measured by dumped quantity at SLF Okhla, which is the only designated site where silt can be dumped. MCD however categorically stated in para 7 as under:

“A foul smell/gases emitting from the flowing water is likely to continue till the time the sewage is intercepted at source by DJB.”

107. De-silting of covered portion of drain was carried on by deploying super sucker machine from 1st to 3rd January, 2024.

Affidavit dated 06.01.2024 filed by Chief Executive Officer, DJB:

108. An affidavit dated 06.01.2024 has been filed by Chief Executive Officer, DJB to disclose the time schedule leading to completion of trapping of all 11 drains and Mahrauli and it stated in the form of a chart, as under:

S. No.	Location	Status	Short Term Action Plan	Long Term Action Plan	Target date of completion	Remarks
1.	Sewage falling into the drain from Shiekh Sarai Phase - 1, Khirki extension, Panchsheel Vihar & Savitri Nagar.	Sewage coming into Nallah has been trapped	It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.	N / A	completed	
2.	Sewage falling into the drain from Chirag Delhi Village near Dhalao and Amul Milk Booth.	Sewage coming into Nallah has been trapped.	It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.	N / A	completed	
3.	Sewage falling into the drain from Chirag Delhi village near small culvert No. 1 near Ravidas Mandir Chirag Delhi Village.	Sewage coming into Nallah has been trapped.	It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.	N/A Completed	N/A Completed	
4.	Sewage falling into the drain	Sewage coming into	It has been trapped in	N/A Completed	N/A Completed	

	from Chirag Delhi Village near mall culvert No. 2 and near T-265 Chirag Delhi Village.	Nallah has been trapped.	peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.			
5.	Sewage falling into the drain from Chirag Delhi Village near H.No. T-265 C/10 Chirag Delhi Village.	Sewage coming into Nallah has been trapped.	It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.	N/A	Completed	
6.	R&S Block Nallah from Outer road to S-363 to B-272 GK1, near corner DDA Park Krishi Vihar.	Trapped	-	-	Completed	
7.	Sewage falling into the drain from Jagdamba Camp (JJC Camp) behind Triveni Market.	Trapping of the sewage into the sewer line is not feasible source, however it has been trapped ultimately at Krishi Vihar trapping	The flow is very nominal, however it is trapped Krishi Vihar.	-	31.03.2024	
8.	To make functional and maintain the already constructed trapping at Chirag Delhi Drain near Krishi Vihar Culvert.	-	Work of raising of broken wall has been completed at krishivihar. However, during peak hour i.e. from 10am to 11:30 drain overflows as discharge in the trunk sewer is itself is more. Excess		31.03.2024	DJB is undertaking commissioning of additional 124 MGD STP at Okhla which will commis

			discharge from the drain is trapped at Andrews Ganj trapping. DJB has undertaken work of 124 MGD STP at Okhla which will commissioned / functional by 31.03.2024 after which all the discharge of drain shall be trapped through Barapula Drain			sioned / functional by 31.03.2024. the full functionality of trapping will be completed after commissioning of additional 124 MGD STP Okhla by 31.03.2024.
9.	Sewage falling into Chirag Delhi Drain at press enclave road Culvert (Opp. Saket Court) from PWD Drain coming from Khirki Village side.	Work is likely to be completed by 15/01/2024	Work is likely to be completed by 15/01/2024	-	15.01.2024	
10	Sewage coming from Tigri and Sangam Vihar near Vayu Sena (Air Force Station) Dakshinpuri into Chirag Delhi Drain	Trapping partially done as an interim measure and sewerage system yet to be laid.	As an interim measure, sewage coming from Tigri and Sangam Vihar etc. Has partially been trapped into peripheral sewer line leading to Okhla STP. Further as an interim measure trapping of drain is done Krishi Vihar. DJB is undertaking upgradation of Okhla STP which shall also be functional by	Out of 47 U/A colonies on Ratia Marg, Mangal Bazar Road and Tigri Road. 39 U/A colonies are on the Forest area/ O-zone. Request has been sent to Forest Department for issuing	31.03.2024	

			31.03.2024. After completing Okhla STP the trapping will be made functional.	sewer lines in these U/A colonies Sewer lines in these colonies will be laid in 12 months after received of NOC from the forest department. In the rest 8 nos. U/A colonies sewer lines is being laid and is likely to be completed by March 2024.		
11.	Sewage coming from Mehrauli,	The Sewage flow from westend road and IGNOU road (Saidullaj ab Village and colony, Neb Sarai Village and colony (20 Points programme), Freedom Fighter colony, Paryavaran Complex, etc.) is likely to be connected by Dec 2023. However, as an immediate measures flow has been trapped at Krishi Vihar.	The Sewage flow from Westend road and IGNOU road (Saidullaj ab Village and colony, Neb Sarai Village and colony (20 Points programme), Freedom Fighter colony, Paryavaran Complex, etc.) is likely to be connected by February, 2024 as the permission from PWD& Traffic were received recently on 16.12.23 & 27.12.23 respectively. The DJB has undertaken work of 124 MGD STP which	Recently it has been observed that at Mehrauli STP more than the designed capacity of the plant i.e. 5 MGD sewage is being receive, therefore proposal for the capacity augmentation of Mehrauli STP shall be taken up by DJB. The Work is likely to be completed	30.06.2025	

			shall be commissioned / functional by 31.03.2024.	by June 2025.		
--	--	--	---	---------------	--	--

109. With regard to completion of functioning and expanded Okhla STP, the affidavit said as under:

“5. In compliance of order dated 22.12.2023 passed by Hon’ble Tribunal wherein it had directed the Delhi Jal Board to disclose the completion and functioning of the expended Okhla STP. The report is as under:

- (i) **Presently existing Plant at Okhla has Phase-II, III, IV, V and VI with an installed capacity 12 MGD, 37 MGD, 45 MGD, 16 MGD and 30 MGD respectively.** After the completion of new 124 MGD Okhla STP, Phase-II, III and IV will be demolished. Therefore, after completion of new STP of 124 MGD Okhla the total installed capacity at Okhla will be 170 MGD (i.e. 16 MGD +30 MGD +124 MGD).*
- (ii) **As regards 124 MGD new STP, it is submitted that the Plant has started on 29.12.2023 with part raw sewage. New STP will start functioning with full raw sewage w.e.f. 31.03.2024.”***

110. **Tribunal’s Order dated 09.01.2024:** The above responses were considered on 09.01.2024. The information supplied by DJB was disputed by IA applicants contending that drain at sl. No. (1) in the chart was not trapped and wrong information was given that the same has been trapped. Tribunal granted time to IA applicants to file objections along with supporting material.

111. On the aspect of additional vends in the covered area, MCD informed Tribunal that process of opening of 40 additional vends in covered area was objected by IA applicants.

112. On the contrary, IA applicants stated that the process was started from near the open area from which foul smell was emitting and opening of additional vends in that area would have aggravated the problem hence objection was raised.

113. In the above backdrop, Tribunal observed that despite the matter taken repeatedly, no solution has come forth and problem has not been remediated and MCD and DJB are mutually shifting responsibility blaming each other. Tribunal therefore directed higher officials of MCD and DJB to hold a joint meeting, find out solution and disclose it to Tribunal by filing a joint Report.

Joint Report dated 19.02.2024 filed by MCD and DJB:

114. Pursuant to order dated 09.01.2024, Joint Report dated 19.02.2024 has been filed by MCD and DJB. It is said that official of DJB and MCD on 17.01.2024 and 05.02.2024 held meetings and GK-I drain site was also inspected on 07.02.2024. Giving history of covering the drains and some part left open, it was mentioned that for covering of nallah from Press Enclave Road passing through Sheikh Sarai, Chirag Delhi, Panchsheel Enclave, Greater Kailash-I, Andrews Ganj upto Ring Road behind Police Station, Defence Colony **for providing parking/road cum parking under the jurisdiction of MCD, proposal was approved for funding under JNNURM by erstwhile Ministry of Urban Development, Govt. of India** vide order dated 24.12.2009. The **project involved covering of drain/nallah with a length of 3885 meters intended to be used as road/parking and green area.** Approximately 1175 meters of the drain was covered till the time Tribunal vide order dated 13.01.2015 in **OA 6/2012 (M.A. Nos 967/2013 and 275/2014), Manoj Misra vs. Union of**

India & Ors. stopped covering of drain. Catchment area of drain received discharge from the far-flung areas of Sangam Vihar, Ghitomi, Mehrauli, Sultanpur Village, Tigari, Fatehpur, Devli, Dakshinpuri, Pushp Vihar, Chirag Delhi and Saket, which are on the upstream side, discharge effluent into GK-I drain and tapping of the same is being done by DJB. Suggesting long term solution, it is said that de-silting of drain is within the jurisdiction of MCD. The difficulty in providing any solution has been expressed in the following words of para 7:

“Since the base of the drain along with vertical RCC walls have already been casted and only the roof casting remains in stretch from B-159 to B-187, GK.”

115. The short-term solution suggested is;

- (i) RWA may be permitted to temporarily cover the open area by placing Arch shaped transparent acrylic fiber sheet or removable pre-cast RCC slabs from their own funds.
- (ii) Uncovered area of the drain having 55 meters (Keshopur Mandi Culvert) and 60 meters length (Chaukandi Culvert) may be covered with the condition that the addition of such coverage will not be considered for NGT clause of more than 85% completion work.

116. The affidavit also refers to Tribunal’s order dated 13.01.2015 and 26.07.2016 passed in **OA 6/2012**.

Objections dated 22.02.2024 filed by applicant:

117. IA applicants filed objections vide e-mail dated 22.02.2024 stating that R & S Block Nallah Outer Road mentioned at sl. No. 6 in the chart of DJB is still discharging sewage in Kushak drain and has not been trapped; regular de-silting and cleaning of drain is also not carried out by the

concerned authority; Okhla STP is not functional at the capacity as claimed in the affidavit dated 06.01.2024 and large amount of sewage is flowing through Kushak drain before entering Yamuna.

118. IA applicants thus have requested that temporary/non-permanent cover to block toxic fumes and gases from the open part of drain be allowed.

119. **Tribunal's Order dated 01.04.2024:** When the matter was taken up on 01.04.2024, noticing that still sewage is flowing in the storm water drain and respective drains have not been tapped, Tribunal observed that interim compensation need be imposed for continuous violation of environmental laws and norms and opportunity was granted to DJB to address Tribunal on this aspect.

Status Report dated 12.04.2024 filed by MCD:

120. Thereafter, vide e-mail dated 12.04.2024, Status report has been filed by MCD giving details of the measures taken by it to mitigate foul smell and to maintain flow of the drain as under:

- “6. *As per the policy of the department, the desilting of the drain is carried out in two phases in a calendar year i.e. 1st phase starts from 15th January & 2nd phase starts from 1 October.*
7. *The desilting of the said drain in the previous year i.e. 2023 of 1st phase from 16.01.2023 to 31.05.2023 was carried out by deploying poclain machines, JCB, etc.,*
8. *The 2nd phase of desilting of the drain from 1st October to 15th January 2023 was also carried out by deploying JCB machines, poclain & Super sucker machines.*
9. *The poclain machine was deployed in 2nd phase on 06.11.2023, 08.11.2023, 09.11.2023, 10.11.2023, 16.11.2023, 19.12.2023 & 20.12.2023 and desilted of open portion of the drain.*
10. *The cover portion of the drain having 10 Nos. of vent shaft at*

the approximate interval of 30.00 meters was desilted by removing cover slabs through a small bucket JCB in 2nd phase on 09.11.2023, 15.11.2023, 16.11.2023, 13.12.2023, 14.12.2023, 15.12.2023 & 16.12.2023, and by deploying super sucker machine on 11.11.2023, 14.11.2023, 16.11.2023, 01.01.2024, 02.01.2024 & 03.01.2024.

11. *A total of 841.06 MT of silt was removed from the GK-1 drain in the previous year i.e. 2023 and sent to SLF Okhla. The expenditure incurred during the last financial year 2023-24 Rs. 15 Lacs.*
12. *As per the order dated 22.11.2023 in which the suggestion was put forth by Hon'ble Bench to increase the number of vents in addition to the already existing 10 number of vents at a distance of approximately 30 meters. **The work of providing vents was taken up by the department and RCC slabs were punctured at 4 places. The further work was stopped by the petitioner RWA suggesting that it will not serve any remedial measure to prevent the toxic gases emitting from the untreated sewage entering to the storm water drain.** The petitioner RWA submitted the same before the Hon'ble NGT and representation was submitted to the MCD in this regard.*
13. *The screening is also installed at certain locations to trap the floating material with cleaning regularly by the departmental nallah beldars.*
14. *The desilting work for 1 phase of the current year 2024 has been started recently by deploying the JCB & poclain machine and the work is in progress. Approximately 50 MT of silt has been extracted from the drain.*
15. *It is pertinent to mention here that the desilting of drains is a continuous process and as per the policy of the department the desilting activity is carried out throughout the year i.e. pre-monsoon & post-monsoon. 60% of the desilting is to be done in 1st phase (pre-monsoon) and 40% to be done in 2nd phase (post-monsoon).*
16. *It is further submitted that the department maintained the flow of water in the drain regularly and checked the quantum of silt time to time. **The foul smell /gasses emitting from the flowing sewage water can't be stopped until the Delhi Jal Board will not trap the whole sewage water from the upstream catchment areas** as mentioned above in para no. 2."*

Status Report dated 15.04.2024 filed by DJB:

121. Status Report dated 15.04.2024 has been filed by DJB stating that there are 3 main causes of emission foul smell from open area of the drain in question which are as under:

- (i) The discharge of sewage of the unauthorized colonies such as Chatterpur, Mehrauli around Saidullajab, Devli, Khanpur, Sangam Vihar, Tigri, Dakshinpuri Extension etc. into the storm water drain, **unauthorized construction whereof has not been controlled by MCD.**
- (ii) **Improper desilting of the drains due to covering of the drain by MCD.** The desilting of the drain is the sole responsibility of MCD. **It has constructed four concrete chambers/channels which are interconnected within the drain in question, therefore, cleaning/de-silting of the drain has become difficult,** which is the main cause of emission of foul smell. MCD could not explain as to why four channels have been constructed and the object and purpose thereof despite direction of Tribunal could not be disclosed.
- (iii) **Other factors including covering of storm water drain by MCD** which otherwise was an open and flowing drain.

122. DJB's status report further said that IA applicants have sought direction to permit covering of uncovered part of drain but in view of Tribunal's order dated 13.01.2015 in **OA 6/2012 (supra)**, such direction cannot be issued. DJB has disclosed its timelines for trapping of all drains by filing its report before Tribunal. Moreover, there has been a phenomenal growth in habitation and unauthorized colonies unchecked by MCD which has come along with catchment area of drain in question. DJB has

provided sewerage system in all such colonies where NOCs have been received from concerned authority. Certain unauthorized colonies which fall under Forest and Wildlife Department/effluent category, sewerage system can be laid only after receipt of NOC from Forest Department/Urban Development Department of Govt. of NCT of Delhi.

Entire sewage generated from unsewered area flowing to the subject drain on account of unauthorized colonies attributed primarily to failure of MCD who is responsible authority for preventing unauthorized construction. DJB has carried out in all earnestness its responsibility of taking all feasible actions to ensure sewer free drain. Substantially, trapping of all points/locations wherein sewage is being discharged in the drain in question, has been completed. For some points, like Mehrauli where sewage is coming from unauthorized colonies, DJB has made comprehensive schemes which are under execution for laying of sewage line system and as a temporary measure in the meanwhile, DJB has undertaken work of trapping of drains. As a long term measure, DJB is committed to set upgradation of STPs and laying of sewerage system. Progress report of status of trapping of drains flowing in the storm water drain in the form of chart is given as under:

S. No.	Location	Status	Short Term Action Plan	Long Term Action Plan	Target date of completion	Remarks
1.	<i>Sewage falling into the drain from Shiekh Sarai Phase - 1, Khirki extension, Panchsheel Vihar & Savitri Nagar.</i>	<i>Sewage coming into Nallah has been trapped</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	<i>N / A</i>	<i>completed</i>	

2.	<i>Sewage falling into the drain from Chirag Delhi Village near Dhalao and Amul Milk Booth.</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	<i>N / A</i>	<i>completed</i>	
3.	<i>Sewage falling into the drain from Chirag Delhi village near small culvert No. 1 near Ravidas Mandir Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped. It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant</i>	<i>Sewage coming into Nallah has been trapped. It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant</i>	<i>N / A</i>	<i>completed</i>	
4.	<i>Sewage falling into the drain from Chirag Delhi Village near small culvert No. 2 and near T - 265 Chirag Delhi Village.</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment plant.</i>	<i>N / A</i>	<i>completed</i>	
5.	<i>Sewage falling into the drain from Chirag Delhi Village near H .No. T - 265 C /10 Chirag Delhi Village</i>	<i>Sewage coming into Nallah has been trapped.</i>	<i>It has been trapped in peripheral Sewer Line and sewage is carried to SPS Andrews Ganj and then to Okhla Sewage Treatment</i>	<i>N / A</i>	<i>completed</i>	

			plant.			
6.	R& S Block Trapped Nallah from Outer ring road to S - 363to B-272 GK1, near comer DDA Park Krishi Vihar.	Trapped	-	-	completed	
7.	Sewage falling into the drain from Jagdamba Camp (JJC Camp) behind Triveni Market.		The flow is very nominal, however it trapped ultimately at Krishi Vihar			Trapping of the sewage into the sewer line is not feasible at source, however it has been trapped ultimately at Krishi Vihar trapping
8.	To make functional and maintain the already/constr ucted trapping at Chirag Delhi Drain near Krishi Vihar Culvert	-	Work of raising of broken wall has been completed at Krishi Vihar. However, during peak hour i.e. from 10 AM to 11.30 PM drain overflows discharge in the trunk sewer is itself is more. Excess discharge from the drain is trapped at Andrews trapping. DJB has undertaken work of 124 MGD STP at Okhla which will be commissioned functional 31.03.2024 after which all	-	31.03.2024	Partially trapped at Krishi Vihar. During peak hour i.e. from 10 AM to 11.30 PM drain overflows discharge in the trunk sewer is itself is more. Thereafter, the discharge from the drain is trapped at Andrews Ganj trapping

			<i>the discharge of drain shall be trapped through Barapula Drain</i>			<i>and further pumped to Okhla STP. DJB has undertaken work of 124 MGD STP at Okhla which is under stabilization partially commissioned. Full commissioning of the STP is likely by June 2024 after which all the discharge of drain shall be trapped through Barapula Drain Interceptor Sewer Project.</i>
9.	<i>Sewage Completed falling into Chirag Delhi Drain at press enclave road Culvert (Opp. Saket Court) from PWD Drain coming from Khirki Village side.</i>	<i>Trapped sewer line falling in the drain at Khirki Village near foot over bridge into main sewer line. The remaining flow in the drain is due to individual house connection facing the main road.</i>		-	<i>Completed</i>	

10.	Sewage coming from Tigri and Sangam Vihar near Vayu Sena(Air Force Station) Dakshinpuri into Chirag delhi Drain	Trapping partially done as an Interim measure and sewerage system yet to be laid.	As an Interim measure, Sewage coming from Tigri and Sangam Vihar etc. has partially been trapped into peripheral sewer line leading to Okhla STP. Further as an interim trapping of drain is done at Krishi Vihar. DJB is undertaking upgradation of Okhla STP which shall also be functional by 31.03.2024. After completing Okhla STP the trapping will be made functional.	Out of 47 U/A colonies on Ratia Marg, Mangal Bazar Road, 39 U/A colonies are on the Forest area/ Ozone. Request has been sent to Forest Department for issuing sewer lines in these U/A colonies. Sewer lines in these colonies will be laid in 12 months after received of NOC from the forest department. In the rest 8 nos. U/A colonies, sewer lines have been laid and work has been completed in March, 2024.	20.05.	Trapping of Sewage in drains near Vayu Sena (Air Force Station) Dakshinpuri will be completed by 20.05.2024
11.	Sewage coming from Mehrauli,	The Sewage flow from Westend road and IGNOU road (Saidullajab village and colony, Neb Sarai Village and colony (20 points programme) Freedom Fighter colony, Paryavaran	The Sewage flow from Westend road and IGNOU road (Saidullajab Village and colony, Neb Sarai Village and colony (20 points programme), Freedom Fighter Colony, Paryavaran Complex, etc.) is likely to be	Recently it has been observed that at Mehrauli STP more than the designed capacity of the plant i.e. 5 MGD sewage is * being received, therefore proposal received,	30.06.2025	There are about 113 unauthorized colonies in the Chhatarpur Mehrauli AC which are in the upstream area of Greater Kailash. Sewerage system in 31 no. of

		Complex, etc.) is likely to be " connected by Dec, 2023. However, as an immediate measures flow has been trapped at Krishi Vihar.	connected by February, 2024 as the permission from PWD & Traffic were received recently on 16.12.23 & 27.12.23 respectively. The DJB has undertaken work of 124 MGD STP which shall be commissioned functional by 31.03.2024	therefore proposal for the capacity augmental on of Mehrauli STP shall be taken up by DJB. The work is likely to be completed by June 2025.		colonies has been provided by Delhi Jal Board where NOC received from concerned authorities , 55 unauthorized colonies falls under Forest & Wildlife Deptt and Affluent category and sewage system can only be laid after receipt of NOC from Forest Department/ Urban Development Department Delhi. Therefore, the entire sewage generated from the un-sewered area is flowing to the drain. Efforts are being made by DJB to trap sewage generated from the area whenever
--	--	--	---	--	--	---

						technical possible. Timeline for trapping of sewage coming from Mehrauli area is 30.06.2025 . Therefore, sewage will continue flow in the drain till Mehrauli STP is upgraded 30.06.2025
--	--	--	--	--	--	---

123. The capacities of STPs/expanded STPs and discharge in Chirag Delhi drain coming from untapped sources is given as under:

- “a. *The **142.36 MGD total sewage is received/diverted at Okhla STP** from different sources as per **Annexure R12**.*

- b. *The discharge in Chirag Delhi drain coming from un-sewered areas is approximately 6 MGD. It is received at Andrews Ganj with designated capacity of 40 MGD as per **Annexure R13** and **further is pumped to Okhla sewage treatment plant for treatment.***

- c. *Total sewage which is received at Okhla STP after tapping all 11 points is (142.36+6=148.36 MGD approximately). **The present capacity of Okhla STP which is made functional w.e.f. 29.12.2023 is 160 MGD and hence it is sufficient to treat all sewage coming received from all sources including discharge in Chirag Delhi drain coming from un-sewered areas.** However, during peak hour i.e. from 10 AM to 11.30 PM the discharge overflows from the trapping in the drain near Krishi Vihar Culvert towards Barapula Drain. **DJB has undertaken the work of 124 MGD STP at Okhla which is under stabilization and partially commissioned.** Full*

commissioning of the STP is likely by June 2024 after which all the discharge of drain shall be trapped through Barapula Drain interceptor Sewer Project.”

ARGUMENTS:

124. Learned Counsel for IA applicants argued that despite number of status reports, affidavits etc. filed by DJB and MCD, the plight of IA applicants is continuing and they are suffering on account of emission of foul smell and toxic gases from the open part of drain in question which is causing serious health hazards to the residents. For bringing this situation, it is contended that both the Statutory Bodies i.e., DJB and MCD are responsible. MCD acted wholly illegally in covering storm water drain which was carrying huge quantity of sewage despite the fact that such drains are not to be covered as neither it is technically permissible nor otherwise advisable. DJB is responsible for permitting discharge of sewage from various drains to storm water drain which is causing entire problem to the IA applicants.

125. Learned Counsel for the MCD on the contrary contended that under the provisions of DWB Act, 1998 for management of sewage, DJB is responsible and if there is any fault/violation or non-compliance, it is DJB who is liable for such action as Tribunal may deem fit. However, on the question of covering of storm water drain carrying huge quantity of sewage and its permissibility, **Counsel for MCD said that for making the land available for parking and green belt this exercise was undertaken but when stopped by Tribunal it was stopped and therefore the area which could not be covered which include the open area in question remained uncovered and that is the cause of grievance to IA**

applicants. With regard to solution of this problem, Learned Counsel for MCD stated that it shall abide by such order as may be passed by Tribunal.

126. On behalf of DJB, it is argued that for preventing/stopping discharge of sewage from various drains into storm water drain, steps are being taken by DJB in all earnestness and in most cases, drains have been trapped. Complete discharge can be stopped only when all the drains are trapped which will take some time. It is however not disputed before us that under Section 9 of DWB Act, 1998, maintenance of sewerage/sewage system is that of DJB but it is contended that it is trying to take all possible steps to mitigate the plight of the citizens including IA applicants and it would require some further time to prevent complete entry of sewage into storm water drain.

ISSUES:

127. We have heard Counsels for the parties and perused the record.

128. In the light of rival submissions and the stand taken in various reports and affidavits etc., following questions, in our view, need be considered and adjudicated by this Tribunal:

- (I) Whether DJB is responsible and has violated environmental laws including Section 24 of Water Act, 1974 by not stopping discharge of sewage from different drains into storm water drain which is ultimately meeting River Yamuna?
- (II) Whether MCD could have covered storm water drain and if not, whether it has also violated environmental laws?
- (III) Whether DJB and MCD, both or either of them, are/is liable to pay environmental compensation?

- (IV) What preventive, prohibitive, punitive and remedial action is required to be taken in the matter against MCD and DJB?
- (V) Whether IA applicants are entitled to any relief, and if so, what appropriate order is required to be passed in this matter?

ISSUES I AND II:

129. We proceed to consider issues I and II together.

130. IA applicants have grievance in respect of RCC cover made over Kushak drain to the extent of 14209.776 m² but left open 1466.11 m² which open part passes through their houses emitting obnoxious and poisonous gases due to discharge of sewage in Kushak drain.

131. It is said that Kushak drain is a storm water drain of discharge of sewage from various drains to Kushak drain is wholly illegal and unauthorized and that is causing grievance to IA applicants.

132. Before us, it is not disputed by the parties that the drain in question is a storm water drain. In the affidavit dated 21.11.2023 filed by DJB, it is said that there are 04 similar drains namely Satpula, Kushak, Sunehri Nalla and drains near AIIMS, INA Market and Lajpat Nagar. These drains of South Delhi fall into the Barapulla Basin which is also a storm water drain and outfalls into River Yamuna. 11 drains which are discharging sewerage into storm water drains, mentioned in details in the Status Report dated 15.04.2024 filed by DJB, shows that trapping of drains has been completed in respect of 08 and for rest, it is in the process.

133. As per the information given by DJB, there are total 40 STPs operating in Delhi out of which 08 are actually not functioning. 06 STPs including Kondli, Kondli Phase-2, Kondli Phase-3, Rithala Phase-1 and Kondli Phase-4 are under trial. 05 STPs i.e., Okhla STP Phase-4, Mehrauli STP, Vasant Kunj Old 5, Vasant Kunj New and Ghitorni have not yet been tendered. There are about 59 slum clusters but only one drain has been trapped so far. Delhi generates 744 MGD (2817 MLD) of sewage though supply of water to the city is 930 MGD (3521 MLD). 30 STPs are operating in Delhi presently, capable of treating only 84.2% of the total sewage generated i.e., 667 MGD (2527 MLD) though the actual functional utilization is much less i.e., 566.9 MGD (2147.40 MLD).

134. We may also notice at this stage that supply of water in the city, disclosed by DJB is based on the metered supply which is known to DJB but thousands of borewells are illegally operating in the city extracting huge quantity of water which is also adding to the quantity of sewage generated in the city and therefore, actual quantity of sewage generated in the city is much more hence the gap in the capacity of treatment of sewage by STPs vis-a-vis generation of sewage is much wider than sought to be disclosed by DJB.

135. It is said by DJB that they are setting up India's largest STP at Okhla with the capacity of 564 MLD which is part of construction under Yamuna Action Plan-III. Initial date of completion was sometimes in 2022 but it has been extended and presently it is in trial stage.

136. The future capacity available to DJB is one thing. Present capacity of treatment of sewage has to be considered by us. The reason being that law prohibits totally discharge of polluting material directly or indirectly

into any stream, well, sewer and land and, therefore, so long as the discharge of polluting material continues, the violation of law i.e., Section 24 of Water Act, 1974 continues.

137. DJB also informs that Okhla complex of 06 STPs is as under:

Sl.No.	Phase no.	Quantity in MLD
1	Phase-1	136 MLD
2	Phase-2	55 MLD
3	Phase-3	205 MLD
4	Phase-4	168 MLD
5	Phase-5	73 MLD
6	Phase-6	136MLD

138. We are also informed that after commissioning of new system, existing phases 2, 3, and 4 shall be closed.

139. We repeatedly enquired from DJB as to what is the actual treatment capacity at present at Okhla STP but no definite information has been given. It is also not made clear as to whether the treatment at Okhla leads to release of treated water meeting prescribed standards/parameters.

140. In the absence of the above information, it is difficult to hold that trapping of 07 drains which has already completed as per DJB by carrying sewerage to Okhla STP has resulted in treatment of sewage meeting prescribed standards and further after completion of trapping of remaining four, the same will also result similar.

141. In fact, in respect of sewage flowing into drain from Jagdamba Camp (behind Triveni Market) the stand of DJB is that trapping of this sewer line is not feasible at source.

142. In these facts and circumstances, we have no option but to draw inference that though out of 11 drains, 07 have been trapped, 01 partially and remaining are yet to be trapped but still there is no material to show that the diversion of sewerage to Okhla STP is resulting in treatment of sewerage satisfying the prescribed parameters and that being so, ultimately the alleged treated water meeting River Yamuna is causing pollution continuously.

143. The information given by DJB in this its report is not very satisfactory and categorical.

144. The sewage of trapped drains and other carries to Okhla STP is 160 MGD (605.6 MLD) whereat upgradation would result only in making capacity of 124 MGD (469.34 MLD).

145. Okhla STP, thus would receive after trapping of 11 drains 148.36 MGD (560.62 MLD) sewage besides 40 MGD (151.4164 MLD), it is receiving from Andrews Ganj but its functional capacity would be much lower and that too in future.

146. The facts stated hereinabove shows that Okhla upgraded STP proposed to be installed is with capacity of 564 MLD i.e., 149.31 MGD but this would not be sufficient to meet the entire sewage diverted to Okhla STP which would be more than 646 MLD i.e. 170.90 MGD.

147. When we heard the matter, till that date none had placed anything to show that Okhla STP was treating the entire sewage diverted to it after tapping of 08 out of 11 drains by meeting the prescribed standards.

148. Be that as it may, the fact remains that in storm water drain, sewage drains have been connected which are discharging the sewage and have turned storm water drain into a huge drain carrying sewer from different drains and ultimately, this effluent is causing pollution of river Yamuna.

149. Storm water drain is a structure/channel which carry storm water/rain water to ponds, lakes, streams and river etc. The purpose of storm water drain is to help prevent flooding by diverting rain water into natural body water.

150. Storm water means water that originates from precipitation (storm) including heavy rain and meltwater from hail and snow. These drains help in diversion of excess water running from buildings, roads, pathways, hard surfaces etc. and carry the same to natural water bodies. Due to very nature, these drains normally operate seasonally and do not carry water in a perennial form. They are distinct from sewers or drains carry sewerage which are maintained by local bodies for clearing sewage collected from different localities and carried to a treatment system whereafter the treated water of sewer/drains carrying sewer is used for different purposes and unused water is discharged in natural water bodies, streams/rivers.

151. The Storm water drain in question was admittedly an open storm water drain i.e., long uncovered channel run parallel to streets/roads/properties carrying storm water. In normal course, these drains do not create any health hazards or inconvenience to public at large since neither they emit any foul smell or obnoxious gas nor carry any dirty

substance or garbage to create any inconvenience to the inhabitants. Sewers/drains carrying sewerage are in different category and maintained by local bodies in discharge of their statutory duties.

152. In Delhi for the purpose of discharging functions relating to water supply, drainage and sewage disposal, Delhi Jal Board, 1988 was enacted which received assent of the President on 30.03.1998 (hereinafter referred to as '**DJB Act, 1998**').

153. Section 2(m) defines the term '**Drain**' as under:

"Definitions

2. In this Act, unless the context otherwise requires -

*(m) "**Drain**" included a sewer, a house drain, or a drain or any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying of sewage, offensive matter, polluted water, waste water, but not designed to carry rain water or sub-soil water;"*

154. Section 2(ag) defines '**Sewage**', (ah) defines '**Sewer**' and (ai) defines '**Sewerage Work**' as under:

*"(ag) "**Sewage**" means night-soil and other contents of water closets, latrines, privies, cess pools or drains, and waste water or other normal effluent from shafts, kitchens, bathrooms, stables, cattle sheds and other like places but excludes cow-dung;*

*(ah) "**Sewer**" means any device for carrying of sewage;*

*(ai) "**Sewerage Work**" means any sewer channel, duct, collection, treatment and disposal unit, pumping station, engine, mobile collecting unit and other machinery and any adjacent land not being private property and any land, building or other thing for the collection or treatment or disposal of sewage;"*

155. In terms of the above definition of drain, it is clear that any channel which is designed to carry rain water or sub-soil water will not be included in the term '**drain**' which is primarily for carrying sewage, offensive matter, polluted water, waste water, etc.

156. DJB is a statutory body constituted under Section 3(3) and a body corporate having perpetual succession and common seal and the power to acquire and hold property and to sue and be sued. It is thus a statutory body under DJB Act, 1988, required to discharge its functions in the manner prescribed in the Act and Rules and Regulations made thereunder. Functions of DJB are mentioned in Section 9 which reads as under:

“Functions of the Board

9. (1) Without prejudice to any other provisions of this Act, the Board may perform the following functions:-

- a. Treat, supply and distribute water for household consumption or other purposes to those parts of Delhi where there are houses, whether through pipes or by other means;*

Provided that this clause shall not be construed to require the board to do anything which is not in the opinion of the board practicable at a reasonable cost, or to provide water supply to any premises which have been constructed in contravention of any law or in which adequate arrangement for internal water supply, including internal storage, as may be required by the Board, does not exist:

- b. Plan for, regulate and manage the exploitation of ground water in Delhi in consultation with Central Ground water Authority and also give advice in this regard to the New Delhi Municipal Council, the Delhi Cantonment Board or any other local authority, except with the prior approval of the central government;*

Provided that the Board shall, as far as may be, take over the management of all drains fed wholly or in part by drains under the management of the Board;

- c. Promote measures for conservation, recycling and reuse of water;*
- d. If so directed by the Government or the Central government, take over and **carry out any functions relating to the management and regulation of sewerage and ground water or the drains of any area, hitherto being carried***

out by the Government, the Delhi Development authority or any other agency;

Provided that the Board shall, as far as may be, take over the Management of all drains fed wholly or in part by drains under the management of the Board;

e. Collect, treat and dispose-of sewage from any part of Delhi and carry out works connected with sewerage, sewage treatment and sewage disposal including the planning, design, construction, operation and maintenance of works relating thereto;

f. Take up or promote any other measures necessary for or ancillary to the functions of the Board laid down under this Act, including negotiations with other Boards or similar authorities, or the central or any state government, and entering into agreement with them, or the formulation and implementation of schemes, or research and development works.

g. Make provision for unfiltered water supply.

(2) The Board may, with the prior approval of the Government entrust any of the tasks and functions referred to in this section to a local body, limited company, registered society, research institute or government undertaking, including provision for private investment in any works thereof including ownership of the facility, on such terms and conditions as may be approved by the Board.

Water supplied for domestic purpose not to be used for non-domestic purposes.”

157. A perusal of Section 9(d) and (e) clearly shows that disposal of sewerage, carry out works connected with sewerage, sewage treatment and sewage disposal including planning, design, construction, operation and maintenance are the statutory functions of DJB. The scheme of Act clearly shows that for discharge and disposal of sewage, the drains could have been used but not “Storm Water Drain”.

158. However, in the present case, admittedly, since last several years, drains carrying sewerage and polluted matter have been connected with storm water drains to carry sewerage. That is how the entire storm water drains have been converted in the drains defined in Section 2(m) of DJB Act, 1988 which carry sewerage/polluted water.

159. This is a failure of discharge of statutory function on the part of DJB which has not been able to maintain difference in the drains and therefore, for such failure **undoubtedly, DJB is responsible.**

160. Section 24 of Water Act, 1974 prohibits discharge of polluting material on any land, streams, wells, sewers. Since DJB has failed in prohibiting discharge of sewerage in storm water drain and on the contrary has allowed the same to continue for years together, it has violated the mandate of Section 24 of Water Act, 1974 which reads as under:

“24. Prohibition on use of stream or well for disposal of polluting matter, etc.— (1) Subject to the provisions of this section,-

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [stream or well or sewer or on land]; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely: —

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice,

dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.”

161. Here is not the case where failure on the part of DJB in preventing discharge of sewage in storm water drain which is ultimately leading to River Yamuna has been noticed, condemned and castigated for the first time but various orders noticed above passed in OA 6/2012 clearly show that repeatedly directions were issued, time was granted and opportunity was granted to Statutory body like DJB to prevent discharge of sewerage in storm water drains so as not to outfall in River Yamuna but all efforts have failed which has led to filing of IA 537/2023 by IA applicants before this Tribunal.

162. The grievance and plight of residents particularly IA applicants has been aggravated by a wholly unmindful and illegal activity on the part of MCD in covering storm water drain by constructing four chamber RCC structure and that too, not for the purpose of anything relating to

protection of environment but only to make additional land available for parking/road cum parking. Therefore, even MCD has contributed to the situation worsening by such unmindful illegal act.

163. Concretization of drains is not found friendly with ecology and environment. In Tribunal's order dated 13.01.2015 passed in OA 06/2012, reference has been made to Expert Committee's Report which has recommended against concretization or covering of drains particularly natural drains in Delhi. Expert Committee noted that 'Storm Water Drain' is designed to carry rain water only and also to allow discharge in ground water through its drainage system as well as through other bodies. Storm water drain system has been designed based on the good engineering practices and taking average intensity of rain fall as 1 cusecs per acre.

Storm water drain system should carry rain water and nothing else to maintain the ecology and environment. Ideally, storm water should flow through its designed natural drainage system and sewage through sewerage network and finally treated at STPs before it is finally disposable into the river.

164. Policy decision taken by a Committee chaired by Chief Secretary, Delhi in respect of the various drains as circulated by Circular dated 25.02.2014 is also referred in the above judgment which provided that the policy in respect of natural drains that natural drains shall neither be lined (concretizing the surface) nor shall they be allowed to be covered in any case.

165. Tribunal found that view expressed by Expert Committee are acceptable being in consonance with the settled principles of ecology. Tribunal reiterated that the natural drains cannot be permitted to be

concretized or covered as it would not only destroy flora and fauna but even destroy ecology of the entire area. It was held that neither it is appropriate nor in public interest to permit Corporations to concretize and cover all the natural drains of Delhi. However, since some work had already been started, Tribunal, with a view to prevent wastage of public funds, allowed construction covering drain where the work was complete but elsewhere it was directed to be dismantled.

166. We may also take notice of the fact the National Capital Regional Planning Board (hereinafter referred to as '**NCRPB**'), Ministry of Urban Development in its meeting held on 28.04.2016 approved Functional Plan on Drainage for NCR. The issues considered therein included protection of natural drainage system and allied issues. The Plan was prepared in the light of recommendations of a study group under the Chairmanship of Engineer-in-Chief, Department of Irrigation, Government of Haryana with Chief Regional Planner, NCRPB as Co-Chairman. Other members of Study Group included Director, Central Water Commission, Government of India; Chief Engineers of Department of Irrigation of NCR participating States; UP Jal Nigam; DJB; Chief Town Planners/Chief Co-coordinator Planners of NCR participating States etc. Plan examined various aspects having impact on drainage system of an area, such as geology, geomorphology, physical features, hydro-meteorology as well as existing drainage system of various sub-regions, pollution etc. besides studying various norms and standards, for example, design criteria of drainage system in the participating States; CPHEEO norms, recommendations by National Disaster Management Authority on drainage, etc.

167. In order to ensure an efficient drainage system in NCR, Functional Plan gave important recommendations on protection of natural drainage system; promotion of recreational use along drainage channels; preparation of Master Plan of inter-state regional drainage and for individual cities/towns; segregation of sewage and drainage, etc. Some of the discussion in the report are on the subject:

- (i) Encroachment on natural drainage channels in urban areas,
- (ii) Covering of drains/construction over the drainage channels,
- (iii) Silting of drains, and
- (iv) Mixing of sewage and drainage.

168. On these aspects, the Report said as under:

(I) Encroachment on natural drainage channels in urban areas: Natural streams and watercourses have formed over thousands of years due to the forces of flowing water in the respective watersheds. Habitations started growing into towns and cities alongside rivers and watercourses. As a result of this, flow of water has increased in proportion to urbanization of watersheds. Ideally, natural drains should have been widened (similar to road widening for increased traffic) to accommodate higher flows of storm water. But on the contrary, there have been large scale encroachments on natural drains and river flood plains. Consequently, capacity of natural drains has decreased, resulting in flooding. Generally, drains and linear patch of land on either side of the drain are neglected due to foul smell and filthy look due to drain. Because of this reason, land value along drain is lower

compared to other lands in the city. Local authorities also neglect the nallah land and its surroundings because this land does not provide any source of income to them. Negligence by local authorities provides an opportunity for the encroachers to carry out construction activities on the lands along the nallahs. Encroachment also reduces the effective width of the drain, which further aggravates the problem in monsoon.

(II) Covering of drains/construction over the drainage

channels: A new phenomenon has been observed that in urban areas drains and natural nallahs are covered for urban activities use mainly for transportation and commercial activities due to scarcity of land in the cities. **Covering of drains poses difficulty in cleaning and leads to reduction in the carrying capacity of the drains**

(III) Silting of drains: During the rain, velocity of water is high.

This high speed flowing water washes the earth and carries with it soil, leaves, wood logs, dead bodies etc. The soil carrying capacity of water decreases with the reduction in velocity of water. After reduction in velocity of water, flood water leaves behind this material in the drain. This reduces carrying capacity of drain to carry the same quantity of water wider drain is required. Otherwise, the water spread (flooding) takes place. **To maintain the same carrying capacity in a limited width, the drain needs to be cleaned periodically.**

(IV) Mixing of Sewage and Drainage: Storm water drainage is meant to carry storm water (rain water) or any other clean surface water. It is fundamentally neither suitable nor designed for carrying sewage or industrial wastewater or even septic tank effluent. Even the effluent from STP cannot be discharged into drain unless it meets the norms set by Bureau of Indian Standards (BIS) code and CPCB. **In urban areas it is desirable to have separate system for carrying the sewage and storm water.** In accordance with this principle in cities, the drainage and sewerage systems are provided separately. The problem arises due to blockage in sewerage system resulting the back flow in houses and in nearby areas. In order to avoid back flow and immediate relief is given by puncturing the sewerage line and diverting the sewage to nearby drains. Thus, in urban areas the drains also serves as a substitute to sewerage system, for which the drains are not designed. **The raw sewage mixed with storm water directly flow to the major drains and ultimately to the rivers cause serious water pollution in rivers which are the major source of drinking water of supply effects the aquatic life.** There is a need to plan and construct separate sewerage and drainage system and necessary measures may be taken so that sewage are not punctured during floods and drained into the drains.

169. The above Report also deprecated even covering of drains by residents for access to their houses from roads and discussed as under:

*“In urban areas drains run along the roads and public is allowed to cover drains in front of their entrances for access from roads. It has been **observed that the drains are covered along the property boundary especially in the commercial property. This results into covering of drains for a longer distance and cleaning becomes difficult which ultimately leads to blockage of drain and flooding on roads.** A standard design for the drain for removable cover at regular interval should be incorporated in building byelaws so that the above problem can be avoided. It should be checked by the agency while granting building permission or at the time of providing occupancy certificate. A provision for recovering the demolition costs from the property owners, if any, should be integral part of Bye laws.”*

170. The above report shows that covering of drains particularly storm water drains/natural drains is neither viable nor in the interest of ecology nor serve the purpose of protection of environment and on the contrary, raises many constraints in different ways which ultimately affects environment adversely.

171. We may also observe at this stage that the manner in which substantial part of storm water drain has been covered by constructing four chamber RCC covers and walls, MCD has made even cleaning of the drains and de-silting practically impossible to a larger extent. Due to the partition RCC wall, laid in the storm water drain, width of the drain has been reduced substantially and this, including RCC cover, is obstructing de-silting process by uses of the machines like poclain, JCB or Super Sucker. This is the admitted position that to some extent or only marginally, de-silting process could function in the covered part of the drain. Substantial area remained uncleaned. Size of the drain is so big that its manual cleaning is not advisable but risky and dangerous for human life also. This results in creating a serious handicap and thus deteriorating the situation, that too only to make certain additional land

available for parking or road-cum-parking which is really unfortunate and shows a complete non-application of mind and arbitrary act on the part of MCD.

172. It is thus clear that in altering the conditions, situation and functional efficacy of storm water drain which was also carrying sewerage due to connection of 11 sanitary drains, MCD has acted beyond its authority, altered illegally the functional capacity of drain and thus equally guilty of causing pollution and violation of Section 24 of Water Act, 1974.

173. **In view of the above discussion, we answer questions I and II both holding that DJB and MCD both responsible** by disturbing the structure of the drain as also conditions and hold that both have violated environmental laws and particularly the provisions of Water Act, 1974.

ISSUE III:

174. From the discussion made above and our answer to issues I and II, it is evident that DJB has failed to discharge its statutory functions and thereby contravene Section 24 of Water Act, 1974. Even MCD has committed a manifest illegality by disturbing and changing the structure of storm water drain, carrying simultaneously sewerage also due to being connected with 11 sanitary drains and thereby bringing a situation where cleaning of drains becomes practically impossible in an effective manner and it is resulting in emission of huge quantity of obnoxious and toxic gases from open part of the drain causing health hazards to the local people and also causing air pollution. Hence, MCD is also responsible for violation of environmental laws including Water Act, 1974 as well as Air Act, 1981.

175. Hence both the bodies having violated environmental laws are liable to pay environmental compensation by application of principle of 'Polluter Pays'.

176. Now the question is what should be method or methodology we should adopt to compute environmental compensation.

Methodology for Computation of Environmental Compensation:

177. The question of **assessment of environmental compensation** includes the principles/factors/aspects, necessary to be considered for computing/assessing/determining environmental compensation. Besides judicial precedents, we find little assistance from Statute. Section 15 of NGT Act, 2010 talks of relief of compensation and restitution. It confers wide powers on this Tribunal to grant relief by awarding compensation for the loss suffered by individual(s) and/or for damage caused to environment. Section 15 reads as under:

"15. Relief, compensation and restitution-(1) The Tribunal may, by an order, provide-

a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

b) for restitution of property damaged;

c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and Compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section of (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be

entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the' applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

*(4) The Tribunal may, **having regard to the damage to public health, property and environment**, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.*

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may, be, compensation or relief received from, any other Court or authority.”

178. Sub-section 1 of Section 15 enables Tribunal to make an order providing relief and compensation to (i) the victims of pollution, (ii) other environmental damage arising under the enactments specified in the Schedule I.

179. Tribunal is also conferred power to pass an order providing relief for restitution of property damaged. Section 15(1)(c) enables Tribunal to pass an order providing relief for restitution of the environment for such area or areas, as Tribunal may think fit. Section 15 sub-section 4 says that Tribunal may divide compensation or relief payable under separate heads specified in Schedules II, having regard to the damage to public health, property and environment so as to provide compensation or relief, (i) to the claimants and (ii) for restitution of the damaged property or environment, as it may think fit.

180. Schedule II of NGT Act, 2010 gives a list of heads under which compensation or relief for damage may be granted. It has 14 heads in total out of which items (a) to (f), (l), (m) and (n) relate to loss, damage etc. sustained to the person or individual or their property. Items (i) to (k) relate to harm, damage, destruction etc. of environment or environmental system including soil, air, water, land, and eco-system. Items (i) to (k) of Schedule II of NGT Act, 2010 are as under:

“(i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;

(j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

(k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;”

181. Items (g) and (h) relate to expense and cost incurred by State in providing relief to affected person; and loss caused in connection with activity causing damage.

182. The damage to environment covers a very wide variety of nature as is evident from definition of ‘Environment’ under Section 2(c) which is inclusive and says; **‘environment includes water, air, and land and the interrelationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property’.**

183. Even Rules framed under NGT Act, 2010 are silent on this aspect. Issue of determination of environmental compensation is significant in the sense that it should be proportionate to or bears a reasonable nexus with the environmental damage and its remediation/restoration. Similarly in

case of compensation to be determined for a victim, it needs to co-relate to injury caused or damage suffered by such person as also cost incurred for treatment/remediation. Computation of environmental compensation may involve some degree of subjectivity but broadly it must be based on objective considerations as it saddles financial liability upon the violator.

184. Taking into consideration multifarious situations relating to violation of environmental laws *vis-a-vis* different proponents, nature of cases involving violation of environmental laws can be categorized as under:

- (i) Where Project/Activities are carried out without obtaining requisite statutory permissions/consents/clearances/NOC etc., affecting environment and ecology. For example, Environmental Clearance under Environment Impact Assessment Notification dated 14.09.2006; Consent under Water Act, 1974 and Air Act, 1981; Authorisation under Solid Waste Management Rules, 2016 and other Rules; NOC for extraction and use of ground water, wherever applicable, and similar requirements under other statutes.
- (ii) Where proponents have violated conditions imposed under statutory Permissions, Consents, Clearances, NOC etc. affecting environment and ecology.
- (iii) Where Proponents have carried out their activities causing damage to environment and ecology by not following standards/norms regarding cleanliness/pollution of air, water etc.

185. The above categories are further sub-divided, i.e., where the polluters/violators are corporate bodies/organizations/associations and group of the people, in contradistinction, to individuals; and another category, the individuals themselves responsible for such pollution.

186. Further category among above classification is, where, besides pollution of environment, proponents/violators action also affect the community at large regarding its source of livelihood, health etc.

187. The next relevant aspect is, whether damage to environment is irreversible, permanent or is capable of wholly or partial restoration/remediation/rejuvenation.

188. Determination/computation/assessment of environmental restoration/remediation/rejuvenation should also take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of “being punitive”. The idea is not only for restoration/remediation or to mitigate damage/loss to environment, but also to discourage people/proponents from indulging in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment.

189. To impose appropriate ‘environmental compensation’ for causing harm to environment, besides other relevant factors as pointed out, one has to understand the kind and nature of ‘Harmness cost’. This includes risk assessment. The concept of risk assessment will include human-health risk assessment and ecological risk assessment. U.S. Environmental Protection Agency has provided a guideline to understand harm caused to environment as well as people. For the purpose of human-

health risk assessment, it comprised of three broad steps, namely, planning and problem formulation; effects and exposure assessment and risk categorization. The first part involves participation of stakeholders and others to get input; in the second aspect health effect of hazardous substances as well as likelihood and level of exposure to the pollutant are examined and the third step involves integration of effects and exposure assessment to determine risk.

190. Similarly, ecological risk assessment is an approach to determine risk of environmental harm by human activities. Here also we can find answer following three major steps, i.e., problem codification; analysis of exposure and risk characterization. First part encompasses identification of risk and what needs to be protected. Second step insists upon crystallization of factors that are exposed, degree to exposure and further comprised of two components, i.e., risk assessment and risk description.

191. In totality, problem is multi-fold and multi-angular. Solution is not straight but involves various shades and nuances and vary from case to case. Even Internationally, there is no thumb-rule to make assessment of damage and loss caused to environment due to activities carried out individually or collectively by the people, and for remediation/restoration. Different considerations are applicable and have been applied. As the term suggest, compensation means a return for loss or damage sustained. Therefore, it must always be just and not based on a whim or capricious.

192. In India, where commercial activities were carried out without obtaining statutory permissions/consents/clearance/NOC, Courts have determined, in some matters, compensation by fixing certain percentage of cost of project. In some cases, volume of business transactions,

turnover, magnitude of establishment of proponent have also been considered as guiding factors to determine environmental compensation. In some cases, a lump sum amount has been imposed.

193. In an article, '*the cost of pollution-Environmental Economics*' by Linas Cekanavicius, 2011, it has been suggested, where commercial activities have been carried out without consent etc., and pollution standards have been violated, Total Pollution Cost (hereinafter referred to as '**TPC**') can be applied. It combines the cost of abatement of environmental pollution and cost of pollution induced environmental damage. The formula comes to **TPC(z)=AC(z)+ED(z)**, where **z** denotes the pollution level. Further, clean-up cost/remediation cost of pollution estimated to be incurred by authorities can also be used to determine environmental compensation.

194. When there is collective violation, sometimes the issue arose about apportionment of cost. Where more than one violator is indulged, apportionment may not be equal since user's respective capacity to produce waste, contribution of different categories to overall costs etc. would be relevant. The element of economic benefit to company resulting from violation is also an important aspect to be considered, otherwise observations of Supreme Court that the amount of environmental compensation must be deterrent, will become obliterated. Article 14 of the Constitution says that unequal cannot be treated equally, and this principle must also be given due consideration and be taken care.

195. Determination/assessment/computation of environmental compensation cannot be arbitrary. It must be founded on some objective and intelligible considerations and criteria. Simultaneously, Supreme Court also said that its calculations must be based on a principle which is

simple and can be applied easily. In other words, it can be said that wherever Court finds it appropriate, expert's assessment can be sought but sometimes experts also go by their own convictions and belief and fail to take into account judicial precedents which have advanced cause of environment by applying the principles of 'Sustainable Development', 'Precautionary Approach' and 'Polluter Pays', etc. In such circumstances, it is the ultimate responsibility of Court's to assess and compute environmental compensation, rationally.

196. Clean-up cost or TPC, may be a relevant factor to evaluate damage, but in the diverse conditions as available in this Country, no single factor or formula may serve the purpose. Determination should be a quantitative estimation; the amount must be deterrent to polluter/violator and though there is some element of subjectivity but broadly assessment/computation must be founded on objective considerations. Appropriate compensation must be determined to cover not only the aspect of violation of law on the part of polluter/violator but also damage to the environment, its remediation/restoration, loss to the community at large and other relevant factors like deterrence, element of penalty etc.

197. This Tribunal vide order dated 31.08.2018 passed in **OA 593/2017, Paryavaran Suraksha Samiti and another vs. Union of India and others** observed that *"CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment"*.

198. Pursuant thereto, CPCB published a Report on 15.07.2019 suggesting methodology for assessment of environmental compensation

which may be levied or imposed upon industrial establishments who are guilty of violation of environmental laws and have caused damage/degradation/loss to environment. The above Guidelines do not encompass individuals, statutory institutions and Government etc. Since in the present case, we are concerned with statutory bodies, therefore, we are not going into the details of the said Guidelines as the same have no application to the present case.

199. In some cases, compensation has been awarded by Tribunal on lump sum basis without referring to any methodology. For example:

- (i) In ***Ajay Kumar Negi vs. Union of India, OA No. 183/2013***, Rs.5 Crores was imposed.
- (ii) In ***Naim Shariff vs. M/s Das Offshore, Original Application no. 15(THC) of 2016***, Rs.25 Crores was imposed, and
- (iii) ***Hazira Macchimar Samiti vs. Union of India***, Rs.25 Crores was imposed.

200. In ***Goa Foundation vs. Union of India & Others (supra)***, Supreme Court relied on ***Samaj Parivartana Samudaya & Others vs. State of Karnataka & Others, (2013) 8 SCC 209*** and held that **10% of the sale price** of iron ore during e-auction should be taken as compensation. To arrive at the above view, Court observed that this was an appropriate compensation given that mining could not completely stopped due to its contribution towards employment and revenue generation for the State. Further, Court directed to create a special purpose vehicle, i.e., “Goan Iron Ore Permanent Fund” for depositing above directed compensation and utilization of above fund for remediation of damage to environment.

201. In ***Goel Ganga Developers vs Union of India and Others, (2018) 18 SCC 257***, Tribunal imposed Rs.195 Crores compensation since construction project was executed without EC. Supreme Court made it **Rs.100 Crores or 10% of project cost whichever is higher**. Supreme Court also upheld Rs.5 Crores imposed by Tribunal vide order dated 27.09.2016. Thus, total amount exceeded even 10% of project cost.

202. In ***Mantri Techzone Private Limited vs. Forward Foundation & Others, (2019) 18 SCC 494***, Supreme Court affirmed imposition of environmental compensation by Tribunal, considering cost of the project, where there was violation regarding EC/consent and proponent proceeded with construction activities violating provisions relating to EC/Consent. Tribunal determined environmental compensation at 5% and 3% of project cost of two builders. 5% of project cost was imposed where project proponent had raised illegal constructions while 3% was imposed where actual construction activity was not undertaken by project proponent and only preparatory steps were taken including excavation and deposition of huge earth by creating a hillock. Besides, Tribunal also directed for demolition and removal of debris from natural drain at the cost of project proponent.

203. On the issue of assessment of compensation for damage to environment in the matter of illegal mining, recently Supreme Court in ***Bajri Lease LOI holders Welfare Society vs. State of Rajasthan and others, SLP (Civil) No. 10584 of 2019*** (order dated 11.11.2021) has said that compensation/penalty to be paid by those indulging in illegal sand mining cannot be restricted to be value of illegally mined minerals. The cost of restoration of environment as well as the cost of ecological services

should be part of compensation. 'Polluter Pays' principle as interpreted by this Court means that absolute liability for harm to the environment extends not only to compensate victims of pollution but also cost of restoring environmental degradation. Remediation of damaged environment is part of the process of "sustainable development" and as such the polluter is liable to pay the cost the individual sufferers as well as the cost of reversing the damaged ecology.

204. Recently, in respect of pollution of River Yamuna due to violations caused by Nagar Nigam, Agra and Nagar Nigam, Mathura-Vrindavan in **OA 840/2022, Sanjay Kulshresthra vs. Government of Uttar Pradesh & Others** and **OA 773/2022, Rajesh Pareek vs. Government of Uttar Pradesh & Others** passed on 24.04.2024, this Tribunal has computed environmental compensation by applying the rate of compensation at Rs. 0.01 per MLD per day since that was a case of discharge of untreated sewage in River Yamuna by a statutory body.

205. Considering the issue of computation of environmental compensation where due to discharge of polluting matters through drains in River Yamuna, DJB and MCD are violating environmental laws, we find that the proper course of computation of environmental compensation would be to compute environmental compensation by taking into account the quantity of polluting material in terms of the quantity of sewerage and the number of days for which the violation has continued and multiplying the same by appropriate Rupee factor so as to give the proper figure in terms of money which is to be recovered from violators.

206. The stand of DJB is that in the existing STPs of Okhla, the diverted sewage is being treated but it could not be shown that treated water is

meeting the prescribed standards or that the existing capacity of STPs at Okhla is sufficient to meet the quantity of sewage it is receiving after diversion of the drains by DJB. Upgraded Okhla STP drain of 564 MLD is yet to be commissioned and we are informed that more than 90% work has been completed. We do not go by percentage of completion of work since the fact remains that it has not commissioned and, therefore, is of no use for the purpose of holding that there is compliance of Section 24 of Water Act, 1974. In the result, it can be safely held that huge quantity of sewerage is being discharged in River Yamuna on account of complete neglect on the part of DJB by allowing sanitary drains/sewer lines to discharge sewerage in storm water drain and thereby mandate Section 24 of Water Act, 1974 is being flouted.

207. MCD is also equally guilty and responsible for violation of environmental laws by changing the natural shape of storm water drain constructing box type RCC chamber and that too, in such a manner by raising a partition wall also that its regular cleaning and de-siltation is not practically possible through machines and this is adding to the woes of the local people.

208. The period of violation is very long and though in law, both the violators are liable to pay environmental compensation for the entire period they have violated environmental laws but taking into consideration the fact that both the violators are statutory bodies and the amount of compensation for payment will be taken away from public exchequer, we take a considerate view and propose to compute environmental compensation for a period of 90 days before the date when we heard this matter i.e., from 17.01.2024 to 15.04.2024 i.e., 90 days. Even the rate of

computation, we propose to impose at the minimum possible i.e., **One Paisa/liter/day**. For the purpose of quantity of sewage water, we refer to the Status Report dated 21.12.2023 which says that total discharge received at Okhla STP after trapping all 11 drains would be 148.36 MGD i.e., 560.62 MLD (560,620,000 liter/day). Environmental compensation thus, is computed as under:

$$\mathbf{560,620,000\ liters \times Rs.\ 0.01 \times 90\ days = Rs.\ 50,45,58,000/-}$$

209. We hold that DJB and MCD both are liable to pay the above amount by sharing equal responsibility and, therefore, each of them shall deposit half of the amount of environmental compensation computed above within two months with CPCB. In other words, DJB and MCD, both shall pay Rs.25,22,79,000/-, each, and deposit with CPCB within two months.

210. We direct CPCB to take steps to initiate penalty proceedings against the responsible authorities/officers of DJB and MCD for violation of Section 24 read with Section 43 of Water Act, 1974 and Section 45B of Water Act, 1974 read with Rule 3/4 of Water (Prevention and Control of Pollution) (Manner of Holding Inquiry and imposition of Penalty) Rules, 2024 by filing appropriate complaint before the concerned Adjudicating Authority in accordance with law within two months and submit a compliance Report before Tribunal.

211. **We answer issues III accordingly.**

ISSUES IV AND V:

212. Now the question is how the problem is to be resolved so that IA applicants may also be saved from inhuman conditions and plight, they are facing on account of covering of storm water drain carrying sewage in

huge quantity due to patent illegal, unmindful and arbitrary act of DJB and MCD, as discussed above.

213. One of the way is removal/demolition of the entire covering and RCC walls constructed by MCD across the storm water drain and to make the entire drain open. Huge public money has already been used for the above purpose and obviously, the same would go waste.

214. We had provided enough opportunity to both the statutory bodies to resolve the problem by taking a conscious and well-discussed decision but they have not arrived at any solution in that direction.

215. In these circumstances, we have four options:

- (i) Direct partial removal of cover across the length of storm water drain at different intervals so that not only cleaning/de-silting becomes convenient and possible but also the gases/foul smell finds its exit and not accumulate at one place so as to shoot out from a single point.
- (ii) Creation of more vends across the length for making it easier to the gases and foul smell to escape from the closed chambers.
- (iii) Demolition/removal of the entire covering of four chambers RCC walls and to restore the storm water drain to its original situation.
- (iv) Immediate prevention of DJB from discharging sewage in storm water drain from any drain in terms it is defined in Section 2(m) of DJB Act, 1988.

216. So far as the fourth aspect is concerned, it is stated by DJB that immediate stoppage of discharge of sewage from drains carrying sewage is not possible, particularly, in view of the fact that a large number of unauthorized colonies are on the way and they are directly discharging untreated sewage in sewerage/drains.

217. With regard to creation of more vends, i.e., option II, it is said that it will not make convenient cleaning/de-silting of the drains by using heavy machines and even Super Suckers would not properly function, therefore, substantial grievance will continue to stay.

218. Now we have only first and third options i.e., breaking open of covers at different intervals across the line of the storm water drain or the complete removal and restoration of storm water drain to its original position. In the peculiar facts and circumstances of the case, we are of the view that let first option be examined and implemented by MCD and DJB within three months. If it solves the problem, nothing further will be required to be done except regular cleaning/de-silting of storm water drain and ultimate stoppage of discharge of sewerage in storm water drain.

219. However, in case the effective success is not experienced by adopting the first option, then, in the absence of any other option, MCD will have to proceed to remove the entire four chambers RCC covering/walls from storm water drain in its entire length so as to restore the storm water drain to its original condition. If necessary, this step shall be completed in next three months.

220. We also direct DJB to take steps for immediate diversion/tapping of drains carrying sewerage meeting the storm water drain by taking appropriate steps within three months.

221. A Compliance Report shall be submitted by both i.e., DJB and MCD with Registrar General of this Tribunal within 15 days after expiry of above directed period.

222. **Issues IV and V are answered accordingly.**

223. Before parting, we may also provide that amount of environmental compensation realized/recovered from DJB and MCD shall be utilized by CPCB for remediation and restoration of environmental damage caused in Delhi in pursuance to a Restoration Plan which shall be prepared by a Joint Committee comprising Member Secretary, CPCB; Member Secretary, DPCC; Principal Chief Conservator of Forest, Delhi; and a representative of MoEF&CC within two months and it shall be executed in next three months after realization of environmental compensation.

224. Member Secretary, CPCB shall be nodal authority for co-ordination and compliance.

225. With regard to compliance of the above directions, CPCB shall submit compliance Report by 28.02.2025.

226. In view of above, we summarize our findings and directions as under:

- (i) DJB and MCD, both are responsible for causing water pollution by permitting sewage of sanitary drains to be discharged in storm water drain which ultimately pollute River

Yamuna and disfiguring and disturbing storm water drain by raising RCC construction of 4 chambers and partition work so as to render its cleaning/desilting etc. improbable and impossible, causing health hazards to IA applicants.

- (ii) DJB and MCD both have violated the provisions of Water Act, 1974 in general and Section 24 thereof, in particular.
- (iii) DJB and MCD both are liable to pay environmental compensation by application of principle of 'Polluter Pays'. DJB and MCD both shall pay Rs.25,22,79,000/- each towards environmental compensation and deposit the same with CPCB within two months.
- (iv) CPCB through its authorized officer shall take steps for initiation of penalty proceedings against responsible authorities/officers of DJB and MCD for committing offence under Section 24 read with Section 43 of Water Act, 1974 and Section 45B of Water Act, 1974 read with Rule 3/4 of Water (Prevention and Control of Pollution) (Manner of Holding Inquiry and imposition of Penalty) Rules, 2024 and submit a compliance Report before Tribunal by 31.01.2025.
- (v) In the peculiar facts and circumstances of the case, for redressal of IA applicants, we direct MCD and DJB to break open storm water drain covers/lids at different intervals across the line of the entire covered drain so that not only cleaning/desilting becomes convenient and possible but also the gases/foul smell find its exit and do not accumulate at one place so as to shoot out from a single point. This exercise shall

be completed within one month and its consequences and result shall be examined in the next one month as to whether it solves entire problem or not. If the problem of IA applicants and similar other persons is solved, no other action is required.

(vi) If the steps taken above in direction no. (v) do not result in solving the problem, MCD will remove the entire 4 chambered RCC cover/walls from storm water drain in its entire length so as to restore storm water drain in question to its original condition and this exercise shall be completed in the next 3 months.

(vii) The amount of environmental compensation realized/recovered from DJB and MCD shall be utilized by CPCB for remediation and restoration of environmental damage caused in Delhi in pursuance to a Restoration Plan which shall be prepared by a Joint Committee comprising Member Secretary, CPCB; Member Secretary, DPCC; Principal Chief Conservator of Forest, Delhi and a representative of MoEF&CC, within one month and it shall be executed in next two months after realization of environmental compensation. Member Secretary, CPCB shall be nodal authority for coordination and compliance. CPCB shall submit compliance Report in respect of this direction by 28.02.2025.

227. IA is partly allowed and disposed of in the light of findings recorded in the judgment and directions given hereinabove.

228. Copy be forwarded to DJB; MCD; Member Secretary, CPCB; Member Secretary, DPCC; Principal Chief Conservator of Forest, Delhi; Chief Secretary, Govt. of NCT, Delhi and MoEF&CC for information and compliance.

PRAKASH SHRIVASTAVA,
CHAIRPERSON

SUDHIR AGARWAL,
JUDICIAL MEMBER

ARUN KUMAR TYAGI,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

November 21, 2024
IA No.537/2023
in OA No. 06/2012
R