

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

Original Application No. 275/2023
(I.A. No. 869/2023)

Mahesh Kumar Applicant

Versus

State of Uttar Pradesh through Chief Secretary Respondent

With
Original Application No. 569/2023
(I.A. No. 719/2023)

Alok Kumar Applicant

Versus

Union of India Ministry of Environment Forest
& Climate Change Respondent

Date of hearing: 29.01.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Satyabeer Singh, Adv. for Applicant in OA 275/2023 (Through VC)
Mr. Anand Mishra, Mr. Prashant Kanha & Ms. Nisha Rai, Advs. for
Applicant in OA 569/2023

Respondent: Ms. Garima Prashad, AAG & Ms. Priyanka Swami, Adv. with Mr. Manish
Kumar Tiwari, DM, Gautam Budh Nagar and Mr. Rakesh Kumar Singh,
DM, Ghaziabad
Mr. Ravindra Kumar, Senior Advocate (Through VC), Mr. Binay Das, Mr.
Vipin Kumar Saxena & Mr. Shivam Saksena, Advs. for Greater Noida
Mr. Daleep Dhyani, Adv. for UPPCB
Mr. Abdhesh Chaudhary & Mr. Nishi Kant Singh, Advs. for Noida
Authority
Mr. Yagyawalkya Singh & Ms. Divya Swamy, Advs. for Ghaziabad
Development Authority
Mr. Rajesh Aggarwal, Adv. for Intervenor

ORDER

1. At this stage, Tribunal is considering the issue of demarcation of
flood plain zone of River Yamuna and River Hindon, though, original

applications involve the larger issues in respect of unauthorized construction over the flood plain zone of these rivers in Village Lakhnawali, Greater Noida, Gautam Budh Nagar and Ghaziabad, Uttar Pradesh.

2. Other issues will be considered once the flood plain zones are defined. It is not undisputed that flood plain zone is to be defined in terms of “River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016”, now called “the River Ganga (Rejuvenation, Protection and Management) Authorities (Amendment) Order, 2024”. Tribunal had considered the issue in the previous proceedings dated 16.01.2024 and had observed as under:-

- “4. The report dated 31.10.2023 by District Magistrate, Gautam Budh Nagar has been filed but after perusal of the said report and the enclosure, Tribunal found that exercise for demarcation of flood plain zone of rivers Yamuna and Hindon in reference to the Notification dated 07.10.2016 has not been carried out. The report simply states that area between bund and river is flood plain zone which is identified and demarcated. No such demarcation report in terms of the order of 2016 was on record.*
- 5. Hence, District Magistrate, Gautam Budh Nagar and District Magistrate, Ghaziabad were required to place on record the demarcation report relating to demarcation of the flood plain zone of river Yamuna and Hindon flowing within the limits of their district in reference to Notification dated 07.10.2016.*
- 6. The matter was taken up on 02.11.2023 when Counsel for State of UP submitted that exercise of demarcation of flood plain zone for concerned districts will be positively completed within a period of two months and accepting such statement, this Tribunal granted two months’ time to District Magistrates, Gautam Budh Nagar and Ghaziabad to complete the exercise and submit report.*
- 7. A status report vide letter dated 09.01.2024 has been filed by District Magistrate, Gautam Budh Nagar stating that National Institute of Hydrology, Roorkee was contacted and to determine submergence area of Hindon River and Yamuna River and they have informed that for carrying out a study for Yamuna River in Gautam Budh Nagar, six months’ time will be required and for study in Hindon River, it will require nine months’ time.*

8. *We find that for the purpose of demarcation of flood plain zone under River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, responsibility lie at District level with District Magistrate who is In-charge of District Ganga Committee and relying on earlier statement given by learned Counsel for State of UP where it was shown that demarcation will be completed within two months', the time was granted. But today, a totally unjust request has been made. No report has been filed by District Magistrate, Ghaziabad.*
9. *In these circumstances, we direct District Magistrates of Gautam Budh Nagar and Ghaziabad, both, to appear in person before Tribunal on the next date of hearing."*

3. In terms of the pervious directions, District Magistrates of Gautam Budh Nagar and Ghaziabad are present but they have again reiterated about construction of bandh both sides of River Ganga whereas it was already rejected by the Tribunal in the previous proceedings by observing about demarcation of flood plain zone in terms of 2016 and 2024 Notifications.

4. A report in compliance of order of the Tribunal has been filed on behalf of District Magistrate, Ghaziabad stating that the process of demarcation of flood plain zone is on and for this purpose, assistance of National Institute of Hydrology, Jal Vigyan Bhawan, Roorkee has been taken. Stand of District Magistrate, Ghaziabad in this regard in the report filed on 27.01.2024 is as under:-

- “3. *That according to the notification issued on 07.10.2016 by the Ministry of Water Resources, River Development, and Ganga Rejuvenation in compliance with the order dated 02.11.2023 passed by the Honorable Tribunal, the submerged area on both sides of Yamuna River and Hindon River in the districts Ghaziabad and Gautam Buddha Nagar in relation to the last 100 years. The National Institute of Hydrology, Roorkee was contacted by the Irrigation Department for demarcation and marking. So that the submerged area can be determined logically and the work marking/demarcation can be done as per the order of the Honorable Tribunal. This in this regard, Dr. Surjit Singh, scientist of the National of Institute of Hydrology, Jal Vigyan Bhawan, Roorkee, informed through e-mail on 02.12.2023 that it will take about 06 months to determine the submergence area of Yamuna*

River and about 06 months to determine the submergence area of Hindon River. It is likely to take approximately 9 months, to complete both the rivers. The submerged area will be determined only after a survey and floodplain zoning study by the National Institute of Hydrology, Jal Vigyan Bhawan, Demarcation can be done only after determining the submergence area.”

5. Learned Counsel for the State in consultation with the district magistrates who are present in person before the Tribunal has submitted that the process of demarcation of flood plain zone can be expedited and can be completed within a period of one month. Hence, we grant one month time to demarcate the flood plain zones in question and submit a fresh report atleast one week before the next date of hearing.

6. List on 12.03.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

January 29, 2024
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JG.