

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

Original Application No. 859/2022
(I.A. No. 632/2023 & I.A. No. 769/2023)

Abhisht Kusum Gupta

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 15.12.2023

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

Applicant: Mr. Abhisht Kusum Gupta, Applicant in Person

Respondent: Mr. Bhanwar Pal Singh Jadon, Mr. Chetan Jadon, Mr. Harsh vardhan
Rajawat, Mr. Hardik Saxena, Mr. Rovin Solanki & Mr. Navin Singh, Advs.
for the State of UP
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)

ORDER

1. Heard Mr. Abhisht Kusum Gupta, applicant in person, Mr. Bhanwar Pal Singh Jadon, Learned Counsel for State of UP and Mr. Pradeep Misra, Learned Counsel for UPPCB.

2. Issue raised in this original application is regarding rampant pollution of river Hindon by discharging untreated industrial effluent as well as municipal and domestic sewage by local bodies and also total inaction on the part of the concerned authorities in observance of their statutory obligations for prohibiting such discharge.

3. A detailed order was passed on 17.03.2023 wherein it was observed that river Hindon is a tributary of river Yamuna having length of approximately 400 km. and an approximate basin/catchment area of 7083 sq. km. It is completely rain-fed river, supported by network of

marshes and wetlands across its length during non-rainy seasons. It provides water support to rural population in seven Districts and is a primary source of water for residential, agricultural and industrial purposes in the said Districts. Presently, river Hindon is heavily polluted due to unimpeded dumping of waste, discharge of untreated industrial effluent and municipal/domestic sewage by local bodies. District Administration as also State Pollution Control Board and its authorities are showing a total inaction in prevention of discharge of effluent and dumping of waste.

4. Tribunal referred to its earlier order dated 20.09.2018 passed in O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri. Jacob Koshy, wherein certain directions were issued which read as under:

"50. In view of above, we consider it necessary to issue the following directions:

- i) All States and Union Territories are directed to prepare action plans within two months for bringing all the polluted river stretches to be fit at least for bathing purposes (i.e BOD < 3 mg/L and FC < 500 MPN/ 100 ml) within six months from the date of finalisation of the action plans.*
- ii) The action plans may be prepared by four-member Committee comprising, Director, Environment., Director, Urban Development., Director, Industries., Member Secretary, State Pollution Control Board of concerned State. This Committee will also be the Monitoring Committee for execution of the action plan. The Committee may be called "River Rejuvenation Committee" (RRC). The RRC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory.*
- iii) The action plan will include components like identification of polluting sources including functioning/ status of STPs/ETPs/CETP and solid waste management and processing facilities, quantification and characterisation of solid waste, trade and sewage generated in the catchment area of polluted river stretch. The action plan will address issues relating to; ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river and plantation on both sides of the river. Setting up of biodiversity*

parks on flood plains by removing encroachment shall also be considered as an important component for river rejuvenation. The action plan should focus on proper interception and diversion of sewage carrying drains to the Sewage Treatment Plant (STP) and emphasis should be on utilization of treated sewage so as to minimize extraction of ground or surface water. The action plan should have speedy, definite or specific timelines for execution of steps. Provision may be made to pool the resources, utilizing funds from State budgets, local bodies, State Pollution Control Board/ Committee and out of Central Schemes.

- iv) The Action Plans may be subjected to a random scrutiny by a task team of the CPCB.*
- v) The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate action plan, as directed.*
- vi) All States and Union Territories are required to send a copy of Action Plan to CPCB especially w.r.t Priority I & Priority II stretches for approval.*
- vii) The States and the Union Territories concern are directed to set up Special Environment Surveillance Task Force, comprising nominees of District Magistrate, Superintendent of Police, Regional Officer of State Pollution Control Board and one person to be nominated by District Judge in his capacity as Chairman of Legal Services Authority on the pattern of direction of this Tribunal dated 07.08.2018, in Original Application No. 138/2016 (TNHRC), "Stench Grips Mansa's Sacred Ghaggar River (Suo-Motu Case).*
- viii) The Task Force will also ensure that no illegal mining takes place in river beds of such polluted stretches.*
- ix) The RRC will have a website inviting public participation from educational institutions, religious institutions and commercial establishments. Achievement and failure may also be published on such website. The Committee may consider suitably rewarding those contributing significantly to the success of the project.*
- x) The RRCs will have the authority to recover the cost of rejuvenation in Polluter Pays Principle from those who may be responsible for the pollution, to the extent found necessary. In this regard, principle laid down by this Tribunal in order dated 13.07.2017 in O.A No. 200 of 2014, M.C Mehta Vs. U.O.I will apply. Voluntary donations, CSR contribution, voluntary services and private participation may be considered in consultation with the RRC."*

5. An action plan for restoration of polluted stretch of River Hindon from District Saharanpur to District Ghaziabad was prepared by the

authorities in UP but Tribunal found that it is only on paper and nothing substantial was done at the ground level. Result was that river continues to be highly polluted in the entire length of its travel.

6. Tribunal further referred to its another order dated 02.02.2021 passed in O.A. No. 231/2014, *Doaba Paryavaran Samiti vs. State of UP & Ors.* with regard to issue of remedial measures for industrial and other pollutants in rivers Kali Nadi, Krishni and Hindon and extract of the order was quoted in paragraph no.4 of order dated 17.03.2023.

7. Despite directions issued in the above matters, nothing has improved and authorities have continued to fail in discharge of their statutory and constitutional duty for protect of environment.

8. Taking note of the situation, Tribunal by order dated 25.11.2022 constituted a joint committee comprising UPPCB, UP Jal Nigam, MoEF&CC, NMCG and representative of Principal Secretary, Department of Irrigation requiring to file a factual report.

9. Pursuant thereto, report dated 27.01.2023 was filed which mentioned 310 grossly polluting industries which were discharging their effluent in the river; sewage treatment plants in the area covered by river Hindon are inadequate; and not meeting norms resulting in discharge of untreated sewage into the river.

10. Status of compliance of 310 industries were noticed by Tribunal in paragraph 8 of its order dated 17.03.2023 which we are not repeating. However, from the report, Tribunal found that basic information like quantity of effluents being discharged through drains, standards of compliance etc. were not given in the report. Further, industries operating in the basin were in the discipline of textile, pulp and paper, distilleries, sugar, tanneries and others which are known for extracting

ground water/fresh water and do discharge trade effluents; as per consent conditions, many of these industries had to achieve zero liquid discharge (ZLD) and cut down their water requirement to reduce dependency on ground water; drains were not meant to carry trade effluents but all these aspects were not covered by the said report. There was no mention of compliance with consent conditions, their validity and the variables in environmental compensation imposed. Tribunal also observed that in the earlier report dated 28.01.2021, it was indicated that on 230 industries, Rs. 11.32 Crores of environment compensation was imposed but only Rs 4.14 Crores was recovered. In the report dated 27.01.2023, environmental compensation of only Rs. 1.89 Crore was mentioned. Report also shows Gross Polluting Industries numbering 453. Tribunal found that meager imposition of environmental compensation would not serve the purpose of compliance and protection of environment. Tribunal also observed that report was casual without any plan of action. Status of sewage discharge in river basin was also taken note in paragraph nos. 10, 13 and 14 and we find it appropriate to reproduce the same as under:

“ 10. With regard to sewage discharge in river basin, the position is mentioned as follows: -

<i>Hindon River Basin: Domestic Sewage Generation, Treatment and GAP</i>					
S.N o.	District	Sewage Discharge in MLD	Total Treatment capacity available (mld)	Total Gap in mld	Under Progress/ Proposed (mld)
1	Saharanpur	137.89	38	99.89	135
2	Muzaffarnagar	111.14	32.50	78.64	64.5
3	Shamli	33.5	0	33.5	DPR under review atNMCG
4	Meerut	10	0	10 (untreated discharge in Hindon)	DPR submitted to NMCG,it was returned on the basis of high COD
5	Bagpat	0.1	0	0.1	

6	Ghaziabad	381.20	510	-	
7	GBNagar	171	219	-	
	Total	844.63	799.5	222.13	

13. Details of drains in the area which are polluted are as follows: -

“The quality of drains monitored by UPPCB is delineated as follows:

S. No.	District	Drain Name	Sample Date	pH	BOD	Total Coliform (MPN/100 mL)	Faecal Coliform (MPN/100 mL)	Other Information
1.	Ghaziabad	Sahibabad Drain	10/15/2022	7.82	42	5800000	4300000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 133COD (mg/L) : 245
2.	Ghaziabad	Indirapuram Drain	10/15/2022	7.73	24	3100000	2100000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 99COD (mg/L) : 108
3.	Ghaziabad	kailabhatta road drain	10/15/2022	7.66	46	27000000	22000000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 97COD (mg/L) : 133
4.	Ghaziabad	Karedha Drain	10/15/2022	7.43	36	4300000	3100000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 140COD (mg/L) : 246
5.	Ghaziabad	PratapVihar Drain	10/15/2022	7.08	23	4600000	3300000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 56COD (mg/L) : 98
6.	Ghaziabad	Hindonvihar Drain	10/15/2022	7.36	9	3100000	2300000	Flow (m3/Hour) : 0 Total Chromium (mg/L) : OTSS (mg/L) : 101COD (mg/L) : 242
7.	Ghaziabad	Jawali Drain	10/15/2022	7.22	23	260000	210000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 73COD (mg/L) : 105
8.	Ghaziabad	Dasna Drain	10/15/2022	7.8	35	4100000	3400000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 116COD (mg/L) : 264
9.	Ghaziabad	Arthala Drain	10/15/2022	7.62	28	3800000	2600000	Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 73COD (mg/L) : 122
10.	Meerut	Sardhana Drain						Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS

			10/31/2022	5.9	524	840000		(mg/L) : 1786COD (mg/L) : 1536
11.	Meerut	Kinauni Drain	10/31/2022	7.6	30	27000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 173COD (mg/L) : 164
12.	Meerut	Ramala Drain	10/31/2022	7.5	32	3800		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 77COD (mg/L) : 168
13.	Shamli	Sikka Drain	10/25/2022	7.2	118			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 102COD (mg/L) : 296
14.	Shamli	Shamli Drain	10/25/2022	7.7	110			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 56COD (mg/L) : 256
15.	Muzaffarnagar	Titawi Drain	10/25/2022	6.9	62			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 54COD (mg/L) : 184
16.	Muzaffarnagar	Suzru Village Drain	10/25/2022	7.6	108			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 72COD (mg/L) : 272
17.	Muzaffarnagar	Shamli Road Drain	10/25/2022	7.3	94			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 52COD (mg/L) : 248
18.	Muzaffarnagar	Nyajipur Drain	10/25/2022	7.8	104			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 72COD (mg/L) : 264
19.	Muzaffarnagar	Nai Basti Khalapar Drain	10/25/2022	7.2	96			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 74COD (mg/L) : 240
20.	Muzaffarnagar	Mansurpur Drain	10/25/2022	7.7	92			Flow (m3/Hour) : OTotal Chromium

								(mg/L) : OTSS (mg/L) : 64COD (mg/L) : 232
21.	Muzaffarnagar	Laddawala Drain	10/25/2022	7.4	124			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 96COD (mg/L) : 288
22.	Muzaffarnagar	Krishnapuri Drain	10/25/2022	7.6	114			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 78COD (mg/L) : 256
23.	Muzaffarnagar	Khadarwala Drain	10/25/2022	7.5	102			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 72COD (mg/L) : 248
24.	Muzaffarnagar	Dhandhera Drain	10/25/2022	6.9	136			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 118COD (mg/L) : 456
25.	Meerut	Sardhana Drain	10/24/2022	5.6	512	790000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 1837COD (mg/L) : 1520
26.	Meerut	Kinauni Drain	10/24/2022	7.5	32	21000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 164COD (mg/L) : 172
27.	Meerut	Ramala Drain	10/24/2022	7.4	28	3900		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 84COD (mg/L) : 156
28.	Shamli	Sikka Drain	10/18/2022	7.2	104			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 90COD (mg/L) : 248
29.	Shamli	Shamli Drain	10/18/2022	7.5	108			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 78COD (mg/L) : 272
30.	Muzaffarnagar							

		Titawi Drain	10/18/2022	6.7	68			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 72COD (mg/L) : 176
31.	Muzaffarnagar	Suzru Villae Drain	10/17/2022	7.3	102			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 52COD (mg/L) : 256
32.	Muzaffarnagar	Shamli Road Drain	10/17/2022	7.5	94			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 74COD (mg/L) : 232
33.	Muzaffarnagar	Nyajipur Drain	10/17/2022	7.2	108			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 90COD (mg/L) : 264
34.	Muzaffarnagar	Nai Basti Khalapar Drain	10/17/2022	6.9	84			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 70COD (mg/L) : 240
35.	Muzaffarnagar	Mansurpur Drain	10/17/2022	7.4	98			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 102COD (mg/L) : 232
36.	Muzaffarnagar	Laddawala Drain	10/17/2022	7.6	108			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 82COD (mg/L) : 264
37.	Muzaffarnagar	Krishnapuri Drain	10/17/2022	7.1	104			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 94COD (mg/L) : 240
38.	Muzaffarnagar	Khadarwala Drain	10/17/2022	7.5	92			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 78COD (mg/L) : 256
39.	Muzaffarnagar	Dhandhera Drain	10/17/2022	7.3	132			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 112COD (mg/L) : 440
40.	Meerut	Sardhana Drain	10/17/2022	5.7	524	840000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 1886COD

								(mg/L) : 1532
41.	Meerut	Kinauni Drain	10/17/2022	7.6	30	31000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 168COD (mg/L) : 168
42.	Meerut	Ramala Drain	10/17/2022	7.4	28	3400		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 87COD (mg/L) : 156
43.	Shamli	Sikka Drain	10/11/2022	7.1	116			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 90COD (mg/L) : 280
44.	Shamli	Shamli Drain	10/11/2022	7.2	108			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 78COD (mg/L) : 272
45.	Muzaffarnagar	Titawi Drain	10/11/2022	6.8	68			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 52COD (mg/L) : 188
46.	Muzaffarnagar	Suzru Village Drain	10/11/2022	7.6	102			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 56COD (mg/L) : 254
47.	Muzaffarnagar	Shamli Road Drain	10/11/2022	7.3	90			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 56COD (mg/L) : 208
48.	Muzaffarnagar	Nyajipur Drain	10/11/2022	7.6	106			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 89COD (mg/L) : 264
49.	Muzaffarnagar	Nai Basti Khalapar Drain	10/11/2022	7.2	84			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 70COD (mg/L) : 240
50.	Muzaffarnagar	Mansurpur Drain						Flow (m3/Hour) : OTotal

			10/11/2022	7.4	92			Chromium (mg/L) : 0TSS (mg/L) : 58COD (mg/L) : 224
51.	Muzaffarnagar	Laddawala Drain	10/11/2022	7.5	118			Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 90COD (mg/L) : 280
52.	Muzaffarnagar	Krishnapuri Drain	10/11/2022	7.3	104			Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 64COD (mg/L) : 256
53.	Muzaffarnagar	Khadarwala Drain	10/11/2022	7.2	110			Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 76COD (mg/L) : 248
54.	Muzaffarnagar	Dhandhera Drain	10/11/2022	6.9	138			Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 106COD (mg/L) : 464
55.	Meerut	Sardhana Drain	10/10/2022	6	512	790000		Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 1912COD (mg/L) : 1524
56.	Meerut	Kinauni Drain	10/10/2022	7.6	32	27000		Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 176COD (mg/L) : 164
57.	Meerut	Ramala Drain	10/10/2022	7.5	30	3800		Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 94COD (mg/L) : 160
58.	Shamli	Sikka Drain	10/4/2022	7.1	116			Flow (m3/Hour) : 0Total Chromium (mg/L) : 0TSS (mg/L) : 98COD (mg/L) : 288
59.	Shamli							

		11. Shamli Drain	10/4/2022	7.6	110			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 56COD (mg/L) : 256
60.	Muzaffarnagar	Titawi Drain	10/4/2022	6.9	60			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 50COD (mg/L) : 180
61.	Muzaffarnagar	Suzru Village Drain	10/4/2022	7.5	106			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 70COD (mg/L) : 264
62.	Muzaffarnagar	Shamli Road Drain	10/4/2022	7.2	90			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 48COD (mg/L) : 232
63.	Muzaffarnagar	Nyajipur Drain	10/4/2022	7.8	102			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 70COD (mg/L) : 256
64.	Muzaffarnagar	Nai Basti Khalapar Drain	10/4/2022	7	92			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 74COD (mg/L) : 240
65.	Muzaffarnagar	Mansurpur Drain	10/4/2022	7.6	90			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 60COD (mg/L) : 224
66.	Muzaffarnagar	Laddawala Drain	10/4/2022	7.3	120			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 90COD (mg/L) : 280
67.	Muzaffarnagar	Krishnapuri Drain	10/4/2022	7.5	110			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 72COD (mg/L) : 264
68.	Muzaffarnagar	Khadarwala Drain						Flow (m3/Hour) :

			10/4/2022	7.4	108			OTotal Chromium (mg/L) : OTSS (mg/L) : 68COD (mg/L) : 256
69.	Muzaffarnagar	Dhandhera Drain	10/4/2022	6.8	134			Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 48COD (mg/L) : 448
70.	Meerut	Ramala Drain	10/3/2022	7.4	34	4000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 87COD (mg/L) : 164
71.	Meerut	Kinauni Drain	10/3/2022	7.9	36	31000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 198COD (mg/L) : 168
72.	Meerut	Sardhana Drain	10/3/2022	5.8	518	840000		Flow (m3/Hour) : OTotal Chromium (mg/L) : OTSS (mg/L) : 1940COD (mg/L) : 1592

14. Quality of effluents flowing in drains is with respect of 72 drains and flow shown by and large is 0 m³/hr not explaining their tapping status. As per the report of Oversight Committee dated 28.01.2021, out of 133 drains, 102 drains were un-tapped for which DPRs were either sent or were under preparation. Further, there is no mention of status of results achieved where bio-remediation was commissioned, completion of piped water supply in remaining villages, regulation of ground water, demarcation of flood plain zone (FPZ) and other issues detailed out in Hindon River Action Plan and in context of last order dated 02.02.2021 in O.A No. 231/2014.”

12. Noticing the fact that there was continued rampant unregulated industrial and sewage pollution and also neglect by the authorities in the State, since, no meaningful action was taken either against the errant industries or local bodies; neither prosecution was initiated nor erring industries were closed nor adequate compensation to meet the cost of restoration with deterrent element considering financial capacity of the industries was assessed and recovered; liability of State for discharging untreated sewage was also not fixed; and in these circumstance, Tribunal found it appropriate to observe that there was a

need for remedial action in the interest of rule of law and protection of environment. However, it observed that before passing any coercive order for past violation, it may give an opportunity to the highest official of the State i.e. Chief Secretary, State of UP to look into the matter, constitute appropriate committee and take appropriate action. Directions issued by Tribunal contained in paragraph nos. 18, 19, 20, 21 and 22 are reproduced as under:-

“ 18. Before passing any further coercive order for past violations, we direct a joint Committee headed by Chief Secretary, Uttar Pradesh with the involvement of MoEF&CC, NMCG, CPCB, State PCB, concerned District Magistrates and concerned Commissioners/Superintendents of Police, Additional Chief Secretary, Environment and ACS/Principal Secretary, Urban Development Department, State Irrigation and Flood Control, Uttar Pradesh to take remedial action for control of pollution of Hindon without further delay and also to deploy field monitoring teams to assess the real ground situation.

19. Environment and ACS/Principal Secretary, Urban Development Department, Uttar Pradesh will be the joint nodal agencies for coordination and compliance. The proceedings of the committee need not to wait for further nomination. MoEF&CC, DG, NMCG and Chairman CPCB may ensure nominations to the committee.

20. The Committee may meet within one week and will be free to function online or offline, undertake visit to the sites and interact with concerned authorities and stakeholders. Remedial action will involve assessment of compensation against erring industries for past violations equal to 10% turnover but not lower than assessed cost of restoration, closure of units which are continuing to cause pollution, prosecution of the owners of the industries under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, following due process of law. The State itself is liable to pay compensation for discharge of untreated sewage @ ₹Two Crore per MLD on the pattern of order of this Tribunal dated 03.08.2022 in O.A No. 1002/2018, Abhisht Kusum Gupta v. State of Uttar Pradesh & Ors. and in recent orders passed in respect of 28 States/UTs in O.A. 606/2018.

21. The erring industrial units may be put to notice of these proceedings by the State PCB for their response, if any, before this Tribunal.

22. An action taken report complete in all aspects be filed before this Tribunal on or before 30.06.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. UPPCB will be the nodal agency for compliance and coordination”

13. Report was not furnished by 01st August, 2023 which was the date fixed by order dated 17.03.2023 and taking serious view of the matter, Tribunal by order dated 10.10.2023 allowed two weeks further time to submit report.

14. By letter dated 06.12.2023, report has been filed which is signed by Sh. Devendra Singh Chauhan, Under Secretary, Environment, Forest & Climate Change, Govt. of UP, Lucknow.

15. It is surprising to notice that Additional Chief Secretary/Principal Secretary, Urban Development and Environment were made nodal agency for coordination and compliance with regard to proceedings and submission of report yet report has been filed under Signature of an Under Secretary which cannot be said to be a strict compliance of earlier order dated 17.03.2023.

16. Even otherwise, we find from the report that Chief Secretary had constituted Committees by Office Memorandums dated 05.04.2023 and 28.04.2023 but progress and remedial action was reviewed by hybrid mode on 26.07.2023 and 28.08.2023 i.e. after more than 3 months each, the remedial action shows only future promises, meetings, some decisions, actions to be taken in future but virtually there is no improvement of the situation, as it was on the last day when order dated 17.03.2023 was passed. We may reproduce the contents of report from para 4 to para 11 as under:-

“4. Remedial action for control of pollution of Hindon

Hindon is purely rain fed river with a stretch of 400 km and flows through 07 districts of Uttar Pradesh namely Saharanpur, Muzaffarnagar, Shamli, Baghpat, Meerut, Ghaziabad, and Gautam Buddha Nagar. It joins river Yamuna just outside Delhi. Major tributaries of Hindon are River Kali (West) (Pithlokar village, District Meerut) and River Krishni (Barnawa village in Baghpat district). Minor tributaries of Hindon are Pandhoi, Dhamola, Naagdev Rau and Chacha rau (Saharanpur district). Hindon has

catchment area of 7,083 sq. km which has population of 19 million.

A. Status of Drains

As per the report of CPCB, there are total 55 identified drains of River Hindon (26), Kali-West (17), Dhamola (5) and Krishni (4). Uttar Pradesh Pollution Control Board (UPPCB) is monitoring 32 major drains on stretch of Hindon River Basin, out of which 09 Drains are Domestic drains and 23 drains are Industrial/ mixed drains. As per the latest monitoring report of drains in October 2023, there are 27 drains where BOD ranges between 0-150mg/l and 02 drains have BOD more than 150 mg/l. 17 drains had COD levels between 0 and 250 mg/l, while 12 drains have COD levels beyond 250 mg/l. Monitoring data of drains is annexed as **Annexure-6**.Following table depicts the district wise list of tapped and untapped drains:

S. No	District	Domestic drains	Industrial/mixed drains	Number of Drains (Total)	Tapped / Untapped
1	Haridwar	00	01	01	01 Untapped
2.	Saharanpur	05	07	12	10 Untapped, 01 Partially tapped, 01 Dry
3	Muzaffarnagar	12	07	19	17 Untapped, 02 Tapped
4	Shamli	00	02	02	02 Untapped
5	Meerut	00	02	02	01 Untapped, 01 Dry
6	Baghpat	00	01	01	01 Untapped
7	Ghaziabad	05	09	14	12 Untapped, 01 Tapped, 1 Dry
8	Gautam Budh Nagar	02	02	04	04 Untapped
	Total	24	31	55	48 Untapped, 03 Tapped, 01 Partially Tapped, 03 Dry

It has to be clarified that number of drains in order dated 17.03.2023 actually double count drains monitoring data.

B. Sewage Treatment

i. Status of installed Capacity for Sewage Treatment

As per the latest information provided by Uttar Pradesh Jal Nigam, GoUP, total sewage generation in Hindon river basin is 943.63 MLD. For treatment of sewage, 16 STPs with treatment capacity of 867.5 MLD are installed. The utilization capacity of 16

STPs is 711.6 MLD. To bridge the gap in sewage treatment capacity, the state is taking further steps and 4 STPs of capacity 86 MLD are under construction & 7 STPs of capacity 221 MLD have been planned which will create total capacity of 1174.5 MLD by Dec, 2025. List of under construction and proposed STPs along with timelines is enclosed as **Annexure-7.**

District	Sewage Generation (MLD)	STP Installed			Gap (MLD)	STP Under Construction/ under Tendering	Timeline	STP Proposed (Future Plan)	Time line
		Number	Installed Capacity (MLD)	Utilized capacity (MLD)					
Sharan pur	137.89	1	38	38	99.89	-	-	2 (155 MLD)	Dec 2025
Ghazia bad	480	9	510	500	0	1 (21.5 MLD)	Trial Run will be getting electricity connection	-	-
Bagpat	0.10	0	0	0	0	-	Discharge is from Ramala Sugar Mill. ZLD has been achieved by the industry	-	-
Meerut	10	0	0	0	10	-	-	1 (6 MLD)	Dec 2025
Shamli	33.50	0	0	0	33.50	-	-	4 (60 MLD)	Dec 2025
Gautam Budh Nagar	171	5	287	143	0	-	-	-	-
Muzaff arnagar	111.14 including 34.45 MLD industrial discharge	1	32.50	30.6	44.19	3 (64.5 0 MLD)	Dec 2023	-	-
Total	943.63	16	867.5	711.6	222.1 3	4 (86 MLD)	Dec 2023	7 (221 MLD)	Dec 202 5

District-wise status of sewage generation, existing treatment capacity, gaps and plan to bridge the gaps is enclosed herewith as Annexure-8.

ii. Khoda-Makanpur I&D Works.

In the regard to sewage generation in Khoda-Makanpur, it is to submit that a project amounting Rs. 14,110.86 lacs is estimated to address the discharge of untreated sewage of Khoda-Makanpur into two drains namely Delhi side drain and Noida side drain, which finally joins river Yamuna through Kondali drain. Under this project, I&D of Delhi side drain and Noida side drain, an interceptor sewer of 11.00 km length, Main Pumping Station (MPS) and STP of 66 MLD is proposed. In the meeting

headed by Chief Secretary, GoUP dated 02.12.2023, Noida Authority has expressed his accordance to arrange and provide 16,000.00 Sqm of land for the construction of STP. District Magistrate, Ghaziabad has consented to make the payment for the land to Noida Authority from the funds available with Khoda-Makanpur under 15th finance commissions. Under this project, the waste water discharge into above mentioned drains will be intercepted and diverted to proposed STP.

iii. Status of compliance of STPs in Hindon River Basin

There are 16 Sewage Treatment Plants (STP) installed in Hindon River Basin with installed capacity of 867.5 MID and utilized capacity of 691.64 MUD. Regular monitoring of STPs is carried out by Uttar Pradesh Pollution Control Board. As per latest monitoring data of 16 STPs of October 2023 (a copy is enclosed herewith as **Annexure-9**), 13 STPS are achieving and 03 STPs are non-achieving in terms of fecal Coliform (FC) Following actions have been taken against non-achieving STPs for achieving norms-

- a) 56 MLD Trans Hindon (Indirapuram), Ghaziabad:- Environment Compensation (EC) of ₹ 36.13 Lakh has been imposed. Construction of Chlorination unit for treatment of Fecal Coliform is under process and will be completed by Nov, 2023.
- b) 70 MLD U.A.S.B.R. Dudahaida Vijay Nagar, Ghaziabad:- Environment Compensation (EC) of ₹ 141 Lakh has been imposed.
- c) 32.5 MLD Nagar Palika Parishad, Kidwainagar, Muzaffarnagar: upgradation work in process.

C. Industrial Pollution Management

i. Status of Industries in Hindon River Basin

There are 363 industries identified in Hindon river basin. Out of 363 industries, 23 industries are Zero liquid industries (ZLD). Total effluent generation from industries is 72,170.9 KLD, whereas installed treatment capacity in the effluent treatment plants established for the industries is 72,776.9 KLD. District wise status of industries in FY 2023-24 is tabulated in table below:

S. No .	District	Present no. of industries	ZLD industries	Effluent generation (in KLD)	Installed Treatment Capacity (in KLD)	Gap
1	Sharanpur	47	2	16,604	16,604	0
2	Ghaziabad	217	1	13536.9	13536.9	0
3	Bagpat	1	0	1,000	1,000	0
4	Meerut	5	2	1,348	1,600	0

5	Shamli	6	3	3,400	3,400	0
6	Gautam Budh Nagar	25	1	3,756	4,110	0
7	Muzaffarnagar	56	14	32,526	32,526	0
	Total	357	23	72,170.9	72,776.9	0

Note:-Total 06 dismantled industrial units (Saharanpur-1, Ghaziabad-3, G.B. Nagar-2) has been removed from the list.

ii. Status of Action taken against defaulting Industries inHindon River Basin

In FY 2023-24, Environment Compensation (EC) of ₹ 76.78 Cr is imposed on 13 defaulting units. Show cause notices have been issued to 47 defaulting units for imposition of environmental compensation equivalent to 10% turnover but not lower than assessed cost of restoration, as per the directions by Hon’ble Tribunal. UPPCB has also issued closure orders to 33 defaulting units.

S. No	District	No. of SCN	No. of Closure	EC imposed (in lakh ₹)	EC recovered (in lakh ₹)
1	Sharanpur	12	4	22.40	12.90
2	Ghaziabad	26	27	169.87	37.945
3	Bagpat	0	0	0	0
4	Meerut	0	1	0	0
5	Shamli	1	0	0	0
6	Gautam Budh Nagar	3	1	0	0
7	Muzaffarnagar	5	0	7,686	45.90
	Total	47	33	7,878.27	96.745

Letters have been issued to the concerned District Magistrates for issuing Recovery Certificates of unpaid or outstanding Environmental Compensation as arrears of revenue. Copies of letters are enclosed herewith as Annexure-10.

5. Status of Inspections of Field Monitoring Teams

In compliance to the direction of Hon'ble Tribunal dated 17.03.2023 Field Monitoring teams are conducting inspection in Saharanpur, Muzaffarnagar, Shamli, Meerut, Gr. Noida (Gautam Budh Nagar), Ghaziabad districts. List of industrial units/ Drains inspected is given in **Annexure-11**. District wise details of inspections done by Field Monitoring Team constituted by Government of U.P. vide O.M. dated 26.06.2023 are mentioned below:

A. Saharanpur District
Highlights:

- i. Field Monitoring Team has conducted inspections of 16 Industries, 03 Drain, 01 STP and Hindon and Krishni River between the period from 28.06.2023 to 22.09.2023.

- ii. *M/s Star Paper Mills, Ltd. has submitted time bound Action Plan for installation of Tertiary treatment for Colour removal.*
 - iii. *It is observed by committee that industrial units shall utilize the treated effluent in maximum ways through recycle mechanism so that there is no adverse impact on recipient drains /water bodies.*
 - iv. *The silt collected in the Thaska drain should be cleaned so that the flow in the drain can be uninterrupted*
- Detailed Report of inspected units in Saharanpur District is attached here as **Annexure-12**.*

B. Muzaffarnagar

Highlights:

- i. *Field Monitoring Team has conducted inspections of 12 Industries between the period from 27.06.2023 to 05.09.2023.*
- ii. *It is observed by committee that:*
 - 1) *Paper mill units shall strictly adhere to provision of charter regarding water Consumption, waste water generation and treatment methodologies as prescribed depending on waste paper-based units/ agro-based units.*
 - 2) *The units shall strictly adhere to effluent discharge norms and shall inculcate self-monitoring mechanism within premises in order to control water pollution load.*
 - 3) *Operating parameters of effluent treatment plant shall always conform to the designed characteristics of each unit of ETP through adoption of continuous operation and maintenance practices.*

*Detailed Report of inspected units in Muzaffarnagar District is attached here as **Annexure-13**.*

C. Shamli

Highlights:

- i. *Field Monitoring Team has conducted inspections of 05 Industries on 13.09.2023 and 14.09.2023.*
- ii. *It is observed by committee that:*
 - 1) *The inspected units mainly comprised paper mill and dyeing units. These units need to maintain ZLD mechanism through complete recycling of treated effluent so that there is no contribution of Water pollution load to recipient drain.*

- 2) The units shall continue to implement charter provisions through effective self-monitoring methodology.
Detailed Report of inspected units in Shamli District is attached here as Annexure-14.

D. Meerut

Highlights:

- i. Field Monitoring Team has conducted inspections of 05 Industries, 03 drains (Sardhana and Kinoni) between the period from 26.06.2023 to 23-08-2023
- ii. It is observed by committee that:
 - 1) To solve the problem of sewage water pollution in Sardhana Drain, continuous meetings have been organized under the chairmanship / instructions of the District Magistrate, Meerut.
 - 2) At present, for the treatment of sewage generated from Sardhana town area, a STP of 06 MLD capacity has been proposed by UP Jal Nigam (Urban) under Swachh Bharat Mission 2.0, for which, land marking process is in progress.
 - 3) A case under section 133 of CrPC was filed by the Municipal Council, Sardhana before the Hon'ble Court, Sub-Divisional Magistrate, Sardhana, Meerut against the dairy operators located in Sardhana town and as per the orders received from the Court, fine has been imposed and for its recovery RC has been issued to 63 dairy operators in Tehsil Sardhana
 - 4) UPPCB has issued directions under section 33 of Water Act 1974 to Nagar Palika Sardhana for shifting of Dairies and cleaning of Sardhana Drain
 - 5) At present, irrigation department Meerut Division, Gang Nahar, Meerut has conducted cleaning work for 17 km stretch of Sardhana Drain and has spent ₹60 Lakh for the work.
Detailed Report of inspected units in Meerut District is attached here as Annexure-15.

E. Gautam Budh Nagar (Greater Noida)

Highlights:

- i. Field Monitoring team has inspected 12 industrial units, 02 STPs, and 02 Drains in conforming areas between period 28.06.2023 to 24.07.2023
- ii. Direction has been issued by UPPCB to all Textile Units for installation of Colour Removal Unit with combination of biological system.
- iii. It is observed by committee that:

- 1) *Untreated sewage generated from areas such as Rahul Vihar and Bahrapur which is situated at entry point of Gautam Budh Nagar needs to be treated through nearby STPs by concerning Development Authority/Municipal Corporation/Local body.*
- 2) *The Untreated sewage being generated in flood plain areas such as Chijarsi, Bahlolpur, Chotpur, Tigri, Yusufpur which drains in River Hindon and untreated domestic sewage from residential areas located on GT Road, which meets Dasana Drain needs to be treated to nearby STP by concerning local authority.*
- 3) *The electricity supply of illegal units existing in non-conforming areas need to be disconnected by concerning PVVNL/NPCL. Detailed Report of inspected units in Gautam Budh Nagar District is attached here as Annexure-16.*

F. Ghaziabad

Highlights:

- i. *Field Monitoring Team has conducted inspections of 05 Industries between the period from 26.06.2023 to 24-07-2023.*
- ii. *It is observed by committee that: -*
 - a) *The inspected units mainly comprised paper mill and dyeing units. These units need to maintain ZLD mechanism through complete recycling of treated effluent so that there is no contribution of Water pollution load to recipient drain.*
 - b) *The units shall continue to implement charter provisions through effective self-monitoring methodology.*

*Detailed Report of inspected units in Ghaziabad District is attached here as **Annexure-17**.*

6. CPCB's Plan for restoration of polluted Stretch of Hindon and its Tributaries based on studies of CPCB

*Central pollution Control Board (CPCB) has mapped pollution sources and drafted detailed plan for restoration of polluted stretch in River Hindon catchment area attached herewith as Annexure-18. The Chief Secretary, government of Uttar Pradesh vide letter dated 06.11.2023 has issued instructions to the concerned departments for its effective implementation. The letter of Chief Secretary dated 06.11.2023 is annexed as **Annexure-19**. The status of its implementation through concerned departments/ agencies as detailed below:*

A. Industry specific Ongoing Actions on the lines of CPCB Advice for Rejuvenation and Pollution Abatement of River Hindon.

- i. *Strict compliance to CPCB's charter for Distillery, Pulp & Paper, Sugar, and Textile industries is ensured. All new and upcoming distillery units are mandatory to have incinerator/ slop boilers with Condensate Polishing Unit (CPU), ensure ZLD for abatement of colored effluent. There are 23 ZLD units in 07 districts of Hindon River Basin which includes Distillery, Pulp & Paper, Sugar, Textile industries and Thermal Power Plants.*
- ii. *In Ghaziabad, action against illegal industries running in non-conforming areas of Sahibabad and Loni has been taken by District Level Committee against. Total 1,368 illegal units have been demolished and electricity disconnection was also done.*
- iii. *In Ghaziabad, letter dated 14.08.2023 has been issued by Regional Office, Ghaziabad, UPPCB to 220 industrial units to install colour removal units along with Physio-chemical treatment, Tertiary treatment/ Multi-grade Filter and Activated Carbon filter in the ETP installed in the units.*
- iv. *UPPCB has issued closure order against 123 Dairy units on dated 15-03-2023. Out of this electricity has been disconnected for 10 units and for the rest, this drive is in process by Joint Committee comprising of District Administration, Nagar Palika Parishad, Electricity Department, UPPCB & Police Administration.*
- v. *A proposal for establishing compressed biogas plant(CBG) in PPP model is under preparation by Nagar Palika Parishad, Sardhana to solve the issue of dairy effluent.*

Government of Uttar Pradesh vide Gazette No. 331/76-3-2020-13N.G./2020 dated 17.06.2020, has "Notified Areas" for taking up appropriate measures for overall management and regulation of ground water with effect from October 02, 2020 in rural and urban areas of the State of Uttar Pradesh.

7. Management of Ecological Flow

Irrigation and Water Resource Department, GoUP has informed vide letter no. 522/Mu.A.Y(G.S.)/Aning-1/Anikh-3 dated 17.10.2023, (copy of letter is enclosed herewith as Annexure-20) that Hindon River is a non-perennial river, in which only rain water flows. During the remaining time the flow in this river remains negligible. Hence, the determination of e-flow in Hindon River is not possible.

In review meeting under the chairmanship of the Chief Secretary, Uttar Pradesh Government dated 26.07.2023, Irrigation and Water Resources Department, GoUP has been directed to ensure availability of additional water to discharge in River Hindon for improving the water quality of Hindon River. In compliance to this

direction, Irrigation and Water Resources Department, GoUP has informed that Upper Ganga Canal originates from Bhimgowda Barrage situated on the Ganga River in Haridwar, has estimated discharge of 13000 cusec. Through this canal system, districts Haridwar, Muzaffarnagar, Saharanpur, Meerut, Ghaziabad, GautamBudh Nagar, Bulandshahr, Hapur, Agra, Mathura, Aligarh, Hathras, Etah, Kasganj, Firozabad and through the parallel Deoband branch feeder channel, districts Shamli, Muzaffarnagar, Baghpat, and Ghaziabad, irrigation water is provided to the farmers for Kharif and Rabi crops.

At present, about 1500 cusecs of water is released into the Hindon River from the Jani Escape of the Upper Ganga Canal, which is found in the Hindon River at approximately Km. 111.00 and flows in the river from Km. 111.00 to Km. 49.100 of the Hindon River. Water from the Hindon Barrage constructed at km 49.100 of the Hindon River is given to the Agra Canal for irrigation through the Hindon Cut Canal as per the established distribution of river water. The remaining water available in Hindon River is released in downstream of Hindon Barrage. Due to non-availability of additional water in the Upper Ganga Canal, it is not possible to release additional water into the Hindon River.

8. Management of Flood Plains

The flood plain zone of Hindon River has been demarcated by the Chief Engineer (Yamuna), Irrigation and Water Resources Department, Uttar Pradesh, Okhla vide OM No. 1891/Mu.A.Y/N.G.T./Hindon River, dated 19.09.2020.Based on coordinates mentioned in the report titled “Hydrodynamics Simulation & mapping of 25 years return period flood plain of river Hindon” drafted by IIT Delhi, approval of project for installation of RCC pillars for marking the flood plain zone is under process.

9. Status of piped water supply

In compliance to the directions issued by Hon’ble NGT regarding completion of piped water supply work in 148 villages, all 148 villages have been covered with piped water supply completely.

10. Plantation drive along the Hindon river

The state has taken up massive plantation drive on the banks of river Hindon. In FY 2023-24, 2,67,391 saplings are planted within 5 km radius of Hindon river banks. In last 05 years FY (2019-24), 6,66,152 saplings are planted within 5 km radius of Hindon River bank.

S. No	District	No. of Saplings					
		2019-20	2020-21	2021-22	2022-23	2023-24	Total (2019-24)
1	Sharanpur	30,800	76,500	50,300	30,000	31,200	2,18,800
2	Ghaziabad	-	-	-	900	55,300	56,200

3	Bagpat	85,100	1,13,750	87,900	1,18,850	1,21,991	227,594
4	Meerut	-	-	-	21,658	10,700	32,358
5	Shamli	-	-	-	-	48,200	48,200
6	Gautam Budh Nagar	-	30,000	20,000	-	-	50,000
7	Muzaffarnagar	6,600	26,400	-	-	-	33,000
	Total	1,22,500	2,46,650	1,58,200	1,71,408	2,67,391	6,66,152

11. Improvedwater quality of River Hindon

A significant reduction has been observed in terms of BOD and COD. Following table depicts the improvement in water quality of Hindon in January to October 2023 with respect to January to October 2022.

S.No	Sampling Point	2022 (Jan to October)	2023 (Jan to October)	Percent change in BOD values in year 2023 as compared to year 2022
		B.O.D (mg/l)	B.O.D (mg/l)	
1	D/S Maheshpur Saharanpur	43.60	40.50	-7.11
2	Sardhana-Budhana Road, Vill Baparsi, Meerut	54.80	59.40	8.39
3	Meerut Baghpat Road, Meerut	40.20	26.60	-33.83
4	Karheda village, Ghaziabad	21.70	17.30	-20.28
5	Mohan Nagar Road Bridge, Ghaziabad	17.80	16.60	-6.74
6	Chijarsi Bridge, Ghaziabad	33.46	14.40	-56.96
7	D/S Kulsera Bridge, Noida	43.40	38.30	-11.75

Graph showing values omitted.

S.No	Sampling Point	2022 (Jan to October)	2023 (Jan to October)	Percent change in COD values in year
		C.O.D (mg/l)	C.O.D (mg/l)	

				2023 as compared to year 2022
1	<i>D/S Maheshpur Saharanpur</i>	<i>185.80</i>	<i>162.80</i>	<i>-12.38</i>
2	<i>Sardhana-Budhana Road, Vill Baparsi, Meerut</i>	<i>365.60</i>	<i>352.40</i>	<i>-3.61</i>
3	<i>Meerut Baghpat Road, Meerut</i>	<i>287.80</i>	<i>166.40</i>	<i>-42.18</i>
4	<i>Karheda village, Ghaziabad</i>	<i>128.60</i>	<i>59.10</i>	<i>-54.04</i>
5	<i>Mohan Nagar Road Bridge, Ghaziabad</i>	<i>117.10</i>	<i>58.60</i>	<i>-49.96</i>
6	<i>Chijarsi Bridge, Ghaziabad</i>	<i>203.20</i>	<i>63.40</i>	<i>-68.80</i>
7	<i>D/S Kulsera Bridge, Noida</i>	<i>205.20</i>	<i>185.10</i>	<i>-9.80</i>

”

17. Learned Counsel appearing for State of Uttar Pradesh stated that steps have been taken for installation of required number of Sewage Treatment Plants but could not show anything on record that quantity of treatment of sewage has increased or there is any improvement in quality of treated water or the treated water is meeting standards prescribed under law. In respect of some of STPs where it was mentioned that they are under trial run and will be made fully effective by September, 2023, we find that deadline has been extended till December, 2023, meaning thereby, that functioning of STPs which were claimed to be under trial more than three months back, is still continuing same. This shows lack of seriousness and earnest efforts on the part of the authorities in discharge of their statutory functions for protection of environment. We also find that even till this date, against

the gross polluting industries, stringent actions like closure of industries and prosecution have not been taken.

18. Learned Counsel appearing for State stated that prosecution can be initiated only by State Pollution Control Board but when we placed before him Section 43, Section 49 (1) (p) of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act, 1974**'), it could not be disputed that besides Board Officials, any person can initiate criminal proceedings against violators. In present case, State Authorities also could have taken action for initiating criminal prosecution against violators but no such action has been taken.

19. We also find that despite matter being pending for last more than one year, nothing substantially was improved with regard to quality of water of river Hindon and continuous discharge of untreated sewage and trade effluent is still rampant, polluting river water continuously.

20. Section 24 of Water Act, 1974 prohibits discharge of any polluting material in any stream or well or sewer or on land and non-compliance of Section 24(1) of Water Act, 1974 is an offence under Section 43 of the said Act, which says that whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine. Section 47 and 48 deals with Offences by Companies and Offences by Government Department and by virtue of Section 47, any person responsible for conduct and business of company shall be deemed to be guilty of offence and liable for prosecution and punishment. Similarly, when offence is committed by Government Department, it is the head of Department who shall be deemed to be

guilty of offence and liable to be proceeded against and punished accordingly.

21. We may also observe that the cognizance can be taken by Magistrate of offence without insisting for sanction under Section 197 Cr.P.C. since Supreme Court in **V.C. Chinnappa Goudar vs. Karnataka State Pollution Control Board & Anr., (2015) 14 SCC 535** and **Noorulla Khan vs. Karnataka State Pollution Control Board & Anr., (2021) SCC OnLine SC 601** has held that Section 197 is not attracted for offences when prosecution is initiated under Water Act, 1974 against the public servants with reference to Sections 47 and 48 of Water Act, 1974.

22. In **Noorulla Khan (supra)**, Supreme Court while referring to **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** said that in the context of Section 48 of Water Act, 1974, Commissioner of Municipal Corporation or Chief Officers of Municipal Councils may not strictly be called heads of the departments but such officials would still come under the provisions of Section 47 of Water Act, 1974. The law laid down in **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** was summarized in para 11 of judgment in **Noorulla Khan (supra)** as under:

“11. What emerges from these decisions of this Court is:

- a. If the violation of the provisions of the Water Act was at the hands of a Department, subject to the satisfaction of the requirements under Section 48 of the Water Act, “the Head of the Department” would be deemed to be guilty. This would of course be subject to the defences which are available to him to establish whether the offence in question was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*
- b. By virtue of the decision of this Court in V.C. Chinnappa Goudar (Supra), because of deeming fiction under Section 48 of the Water Act, the protection under Section 197 of the Code would not be*

available and the matter ought to be considered de hors such protection.

- c. If the concerned public servant happens to be a Chief Officer or Commissioner of a Municipal Council or Town Panchayat, he cannot strictly be called “the Head of the Department of the Government”. Therefore, in terms of decision of this Court in B. Heera Naik (Supra), the matter would not come under Section 48 of the Water Act. But the matter would come directly under Section 47 of the Water Act. According to said decision, even in such cases, the deeming fiction available under Section 47 of the Water Act would dis-entitle the public servant from the protection under Section 197 of the Code.*
- d. If the offenders are other than public servants or where the principal offenders are corporate entities in private sectors, the question of protection under Section 197 would not arise.”*

23. Since, cognizance of offence can be taken in the manner as prescribed under Section 49 (1) of Water Act, 1974 and we are satisfied that neither local bodies for discharging sewage through drains in rivers have taken effective steps for prevention of discharge of polluted effluents and sewage into river but even industries are also continuously doing same but no effective steps have been taken against them.

24. In these circumstances, we direct Member Secretary, UPPCB forthwith to initiate or get initiated criminal prosecution by lodging criminal complaint in appropriate court for committing offence under Section 43 read with Section 24 of Water Act, 1974 against the Officers-in-Charge of Municipal Corporations/Municipal Bodies of Saharanpur, Muzuffarnagar, Shamli, Meerut, Baghpat, Ghaziabad and Gautam Budh Nagar and also initiate criminal prosecution against industries which are discharging polluting materials in the river.

25. Besides, State Pollution Control Board and its authorities shall take immediate action for closure of the industrial and other establishments, which are discharging polluted matter in river Hindon and shall also proceed to assess and finalize adequate Environmental

Compensation in view of the principles laid down by Supreme Court in ***M.C. Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575; Goel Ganga (2018) 18 SCC 257; Goa Foundation v Union of India & Ors. (2014) 6 SCC 590 and Common Cause Vs. UOI & Ors., (2017) 9 SCC 499*** and take steps for recovery of the same.

26. A compliance report shall be filed by Member Secretary, UPPCB within two months.

27. List this matter on 23.02.2024.

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

December 15, 2023
Original Application No. 859/2022
(I.A. No. 632/2023 & I.A. No. 769/2023)
JG