

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)
Original Application No.177 /2022

Abhist Kusum Gupta

...Applicant

Versus

...Respondents

State of Uttar Pradesh & Ors.

Date of hearing: 06.09.2022

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

Applicant: Mr. Sunil J Mathews and Mr. Aminesh Gupta, Advocates.
Respondent: Mr. Pradeep Mishra, Advocate for UPPCB.
Mr, Praveen Kumar, Regional Officer, UPPCB.

**Application under Section 18(1) readwith Section 14 and15 of the
National Green Tribunal Act, 2010.**

ORDER

1. Mr. Abhist Kusum Gupta has filed the present application under Sections 14 and15 read with Section 18 of the National Green Tribunal Act, 2010 raising a complaint about destruction and damage of wetlands/water bodies in District Gautam Buddha Nagar and making prayer that the Authorities concerned be directed to take steps for rejuvenation, restoration and improvement of the existing water bodies in the District and to take further steps to remove encroachment on the water bodies in the said District.

2. This Tribunal, vide order dated 08.04.2022, took cognizance and constituted a Joint Committee comprising of CPCB, State PCB, UP State Wetland Authority and District Magistrate, Gautam Buddha Nagar and directed the same to submit Factual and Action taken Report within two months. The relevant part of the order is reproduced below:

“In our view it would be appropriate to have a factual report and action taken report from the Authorities concerned. Accordingly, we constitute a joint Committee comprising CPCB, State PCB, UP State Wetland Authority and District Magistrate, Gautam Buddha Nagar to submit a factual and action taken report in respect of wetlands/ water bodies, list whereof has been given in OA, as stated above. State PCB shall be the nodal authority for coordination and compliance. The report shall be submitted within two months by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

3. In compliance thereof, Mr. Praveen Kumar, Regional Officer, UPPCB has submitted report of the Joint Committee dated 02.08.2022 to this Tribunal vide letter dated 04.08.2022 sent by email dated 04.08.2022. The relevant part of the report reads as under:-

“X X X X X X

2. In compliance of the said order passed by this Hon'ble Tribunal, Regional Office, U.P. Pollution Control Board, NOIDA & Gr.Noida has been nominated on behalf of the Board, Central Pollution Control Board has nominated Dr. D.K. Soni, Scientist 'E', CPCB, Lucknow and Shri Pramod Kumar, Divisional Forest Officer, Gautambudh Nagar has been nominated on behalf of State Wetland Authority. District Magistrate has nominated Additional District Magistrate (Administration) and Chief Development Officer, Gautambudh Nagar on its behalf.

3. The meeting of the said Committee was held on 30-06-2022 and 21-07-2022 which was attended by all the Sub Divisional Magistrates of Gautam Budh Nagar also. A proforma was decided in the said meeting for obtaining the information from all concerns and the same was sent to concerned SDMs to give information in respect of ponds situated in their respective areas.

4. It is further submitted that there are three Tehsils in District Gautambudh Nagar namely Sadar, Jewar and Dadri. The Sub Divisional Magistrates of all the three Tehsils have sent the required information in the format which is annexed as Annexure-1, 2 and 3.

5. That as per the information compiled from the said report received from all the SDMs, the position is as follows. There are total 1031 ponds in District Gautambudh Nagar as informed by the Sub Divisional Magistrates of the concerned sub-divisions. The status of the ponds in all the three Tehsils are as under:

*INFORMATION REGARDING PONDS IN TEHSIL SADAR
(TOTAL 245 PONDS)*

1. Encroachment free.	212
2. Encroachment (Partial/Full)	20 (Action is being taken in respect of removal of encroachment)
3. Old/Village abadi exists at site.	In respect of 08 pond.
4. Temple is existing.	In respect of some part of 02 pond.
5. Road has been constructed	In respect of 02 pond.
6. Greater Noida Authority acquisition	In respect of 01 pond (matter subjudice in the court of ADM, GBN)

*INFORMATION REGARDING PONDS IN TEHSIL JEWAR
(TOTAL 306 PONDS)*

1. Encroachment free.	265
2. Encroachment (Partial/Full)	30 (Action is being taken in respect of removal of encroachment)
3. Temporary encroachment	In respect of 02 ponds
4. Acquired for NOIDA International Airport, Jewar.	In respect of 08 ponds
5. YEIDA (Yamuna Expressway Industrial Development Authority) authority acquisition.	In respect of 01 ponds

*INFORMATION REGARDING PONDS IN TEHSIL DADRI
(TOTAL 480 PONDS, 5 nos. missing at sr. no-100)*

1. Encroachment free.	346
2. Encroachment (Partial/Full)	121 (Action is being taken in respect of removal of encroachment)
3. Railway Line survey	In respect of 2 ponds.
4. Old/Village abadi exists at site.	In respect of 2 ponds.
5. Road constructed	In respect of 2 ponds.
6. Veterinary Hospital and Fisheries Training Centre	In respect of 1 pond.
7. Temple	In respect of 2 pond.
8. Acquired for eastern peripheral expressway.	In respect of 2 ponds.
9. Cremation ground	In respect of 2 ponds out of which – 1 pond is within boundary of cremation ground.

6. *This Hon'ble Tribunal in O.A. No. 325 of 2015; Lt. Col. Sarvdaman Singh Oberoi Vs. Union of India & Ors. is also considering the issue of rejuvenation of wetland, ponds, lakes etc. in the country.*

7. *In compliance of the directions issued in the said Original Application No. 325 of 2015 the District Wetland Committee chaired by District Magistrate and District Forest Officer being Member Secretary is taking action."*

4. We have gone through the report of the Joint Committee. It is evident from the report of the Joint Committee that out of total 1031 ponds in District Gautambudh Nagar, only 823 ponds are free from encroachments while 171 ponds have been partially/fully encroached upon whereas there are temporary encroachments on 2 ponds, 12 ponds have been acquired, construction of abadi/temple/veterinary hospital and fisheries training center/cremation ground exist on 17 ponds and railway line/roads have been constructed on 6 ponds. Only reports were sought from the concerned Revenue Authorities and status of all the ponds has not been individually verified. There is no mention regarding any ameliorative measures taken in respect of the ponds free from encroachments. In the report, the Joint Committee has referred to the directions issued by this Tribunal in **O.A No. 325/2015 titled as Lt. Col. Sarvdaman Singh Oberoi Vs. Union of India & Ors.** and has also mentioned that the District Wetland Committee chaired by District Magistrate with District Forest Officer as Member Secretary has been constituted. In the report, it has also been mentioned that the said Committee is taking action but no details have been given in the report regarding action which has already been taken or which is proposed to be taken in compliance of the directions given by this Tribunal. In the report, it has also been mentioned that action has been taken for removal of encroachments but the details of the proceedings initiated, the stage at which the same are pending and the period of time the proceedings are likely to take have also not been given.

5. Learned Counsel for the applicant also seeks time to file objections to the report of the Joint Committee. Three weeks' time is granted for filing of the objections to the report of the Joint Committee and the objections if any be filed at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

6. In view of the peculiar facts and circumstances of the case (1) Uttar Pradesh State Ground Water Department, Ground Water Directorate, 9th Floor, Indira Bhawan, Ashok Marg, Lucknow-226001, (2) Greater Noida Industrial Development Authority, Plot No. 01, Knowledge Park-04, Greater Noida, Gautam Budh Nagar, Uttar Pradesh 201308 and (3) Yamuna Expressway Industrial Development Authority, First Floor, Commercial Complex, P-2, Sector- Omega I, Greater Noida, Gautam Budh Nagar, Uttar Pradesh are necessary parties for just and fair adjudication of the questions involved. Accordingly, Uttar Pradesh State Ground Water Department, Greater Noida Industrial Development Authority and Yamuna Expressway Industrial Development Authority are ordered to be impleaded as respondents no. 8, 9 and 10. The applicant is directed to file amended memo of parties within two weeks.

7. Notices be issued to originally impleaded respondents no. 1 to 6 as well as newly added respondents no. 8, 9 10 through E-mail requiring them to file their response/reply to the averments made in the application and observations/recommendations made in the report of the Joint Committee and also giving detailed particulars regarding action taken or proposed to be taken in compliance with directions given in the matter of conservation, rejuvenation and restoration of the wetlands/waterbodies by the Hon'ble Supreme Court and this Tribunal within one months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

8. The applicant is directed to take requisite steps for service of notices on respondents no. 1 to 6 and newly added respondents no. 8, 9 and 10 and file affidavit regarding the same by email at judicial-ngt@gov.in within three weeks.

9. List for further consideration on 12.10.2022.

10. In view of the facts and circumstance of the case, we also consider personal appearance of the Chief Executive Officers, New Okhla Industrial Development Authority, Greater Noida Industrial Development Authority and Yamuna Expressway Industrial Development Authority, Regional Officer, UPPCB and District Magistrate, Gautam Buddha Nagar on the next date of hearing to be essential for apprising this Tribunal regarding action taken/to be taken and working out appropriate action plan for ensuring compliance with the directions given by Hon'ble Supreme Court and this Tribunal and also assisting this Tribunal in just and proper adjudication of the questions involved in the case and they are accordingly directed to remain present before this Tribunal on that date.

11. A copy of this order, along with a copy of the application and documents attached therewith and the report of the Joint Committee be forwarded to Chief Executive Officers, New Okhla Industrial Development Authority, Greater Noida Industrial Development Authority and Yamuna Expressway Industrial Development Authority, Regional Officer, UPPCB and District Magistrate, Gautam Buddha Nagar by Email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

September 06, 2022
AG