

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

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

Abhist Kusum Gupta

...Applicant

Versus

State of Uttar Pradesh & Ors.

...Respondents

Date of hearing: 12.10.2022

**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 with the applicant in person.

Respondent: Ms. Garima Prashad, Sr. Advocate, AAG alongwith Ms. Priyanka Swami, Mr. Ravi Sharma, Mr. Angani Kumar Rai and Ms. Madhulika Rai Sharma, Advocates for respondent no. 1-State of U.P.

Mr. Bhanwar Pal Singh Jadon, Mr. Rovin Solanki, Mr. Harsvardhan, Advocates for respondent no.3-UPSWLA.

Mr. Sanjiv Sen, Sr. Advocate, Mr. Abdhesh Choudhary, Mr. Nishi Kant Singh, Advocates for respondent no. 5-NOIDA

Mr. Pradeep Misra, Mr. Daleep Dhyani, Advocates for respondents no. 7-UPPCB

Mr. Abdhesh Chaudhary, Mr. Nishi Kant Singh, Advocates for respondent no. 9-GNIDA

Mr. Amar Gupta, Mr. Pranav Tanwar, Advocates for respondent no.10-YEIDA.

Ms. Ritu Maheshwari, CEO, NOIDA and GNIDA.

Mr. Ravindra Prasad Gupta, Chief Legal Adviser, NOIDA.

Ms. Vandita Srivastava, ADM, and Mr. Pramod Kumar, DFO, Gautambudh Nagar.

Mr. Nagender Singh, Senior Manager and Mr. Priyansh Gautam, Dy. Law Officer, GNIDA.

Mr. Ravinder Singh, ACEO and Mr. A.K. Singh, DGM
(Project), YEIDA

**Application under Section 18(1) read with Section 14 and 15 of the
National Green Tribunal Act, 2010.**

ORDER

1. Mr. Abhist Kusum Gupta has filed the present application under Sections 14 and 15 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.
3. In compliance thereof, Mr. Praveen Kumar, Regional Officer, UPPCB 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.
4. On going through the report of the Joint Committee we noticed that the relevant aspects had not been scrutinized by the Joint Committee. The relevant part of order dated 06.09.2022 in this regard reads as under :-

"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. Vide order dated 06.09.2022, notices were ordered to be issued to originally impleaded respondents no. 1 to 6 as well as newly added respondents no. 8, 9 10 and personal appearance of the Chief Executive Officers, New Okhla Industrial Development Authority (NOIDA), Greater Noida Industrial Development Authority (GNIDA) and Yamuna Expressway Industrial Development Authority (YEIDA), Regional Officer, UPPCB and District Magistrate, Gautam Buddha Nagar was also ordered.

6. District Magistrate, Gautam Budh Nagar and Chief Executive Officer, Yamuna Expressway Development Authority (YEDA) have filed applications for exemption from personal appearance on the ground of urgent meeting regarding Jewar Airport in Lucknow. Although the applications are opposed by the applicant but in view of the urgencies explained and reasons given therein and arrangements made for providing the relevant information and Officers deputed to assist this Tribunal, the applications are allowed.

7. In compliance of order dated 06.09.2022, Ms. Vandita Srivastava, ADM, NOIDA, Mr Pramod Kumar, DFO, Gautam Budh Nagar, Mr. Ravinder Singh, ACEO, YEIDA and Mr. A.K. Singh DGM (Project), YEIDA, Mr. Praveen Kumar, RO, UPPCB, NOIDA and Mr. Bhuvan Yadav, RO, Greater Nodia, have appeared before this Tribunal physically and Ms. Ritu Maheshwari, CEO,

NOIDA and GNIDA has appeared before this Tribunal through VC and we have interacted with them.

8. Response has been field by the District Magistrate, Gautam Budh Nagar vide email dated 11.10.2022. In the response, it has been mentioned that the work of beautification/rejuvenation of 75 ponds, details of which have been given in tabular form in the response, has been done in District Gautam Budh Nagar, under the scheme of Amrit Mahotsav. In the response, information regarding the factual position of the ponds, the ponds which have been encroached upon, number of cases filed before tehsildar for removal of encroachment, number of ponds on which encroachment has been removed, number of cases which are pending for disposal and number of ponds on which construction of road, barat ghar, railway line etc. has been raised in public interest has been given in tabular forms as mentioned below:-

“जनपद में तहसीलवार जलाशयों की भौतिक स्थिति निम्नवत् है:-

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	480	53	153	0	12	262
2	SADAR	245	14	128	77	0	26
3	JEWAR	293	0	0	200	20	73
	TOTAL	1018	67	281	277	32	361

जनपद में तहसीलवार अतिक्रमित जलाशयों की स्थिति तथा उक्त को अतिक्रमण मुक्त कराने हेतु प्रशासन द्वारा कृत कार्यवाही का विवरण।

जनपद में तहसीलवार अतिक्रमित जलाशयों की स्थिति :

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	134	49	39	0	5	41
2	SADAR	49	6	24	15	0	4
3	JEWAR	34	0	0	20	6	8
	TOTAL	217	54	58	29	11	51

अतिक्रमित जलाशयों को अतिक्रमण मुक्त कराने हेतु प्रशासन द्वारा कार्यवाही का विवरण।

जहाँ तालाबों में स्थाई अतिक्रमण में विद्यमान हैं वहां उभय पक्षों को सुनवाई का सामान अवसर देने के उद्देश्य से राजस्व संहिता की धारा 67 के अन्तर्गत सम्बन्धित तहसीलदार के न्यायालयों में शत प्रतिशत वाद दर्ज किये गए, तथा उनका समयबद्ध निस्तारण कराये जाने के निर्देश दिए गए, जिसमें तहसीलवार लम्बित वादों का विवरण निम्नवत है।

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	86	30	28	0	4	24.
2	SADAR	13	3	8	2	0	0
3	JEWAR	30	0	0	20	6	4
	TOTAL	129	33	36	22	10	28

जनपद स्थित जलाशयों को अतिक्रमण मुक्त कराने हेतु जिला प्रशासन द्वारा कतिपय निर्णीत वादों के निष्पादन के क्रम में तालाबों में अस्थायी अतिक्रमण को हटाया गया जिसका विवरण निम्नवत है

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	19	3	7	0	0	9
2	SADAR	1	0	1	0	0	0
3	JEWAR	0	0	0	0	0	0
	TOTAL	20	3	8	0	0	9

तहसीलवार निर्णीत वादों के निष्पादन की कार्यवाही की जा रही है जिसका विवरण निम्नवत है

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	4	2	0	0	0	2
2	SADAR	16	2	7	5	0	2
3	JEWAR	5	0	0	2	1	2
	TOTAL	25	4	7	7	1	6

इसके अतिरिक्त कतिपय प्रकरणों में जनपद स्थित आद्यौगिक विकास प्राधिकरणों द्वारा लोक उपयोगी निर्माण यथा सड़क, बारात घर, रेलवे लाइन आदि का निर्माण किया गया है जिसका विवरण निम्नवत है :

SNo	Tehsil	Total	NOIDA	GNIDA	YEIDA	NAGAR NIKAY	GRAM PANCHAYAT
1	2	3	4	5	6	7	8
1	DADRI	26	15	4	0	1	6
2	SADAR	17	1	8	8	0	0
3	JEWAR	0	0	0	0	0	0
	TOTAL	43	16	12	8	1	6

9. Mr. Pramod Kumar, Divisional Forest Officer/Member Secretary, District Wet Land Committee, Gauttam Budh Nagar has filed response vide email dated 12.10.2022, the relevant part of which reads as under:-

“X X X X X X

2. That in the consonance of letter no. 3143/14.04.2017- Writ (6)/2017 dated 11.01.2018 issued by Chief Secretary, State of U.P., the State Wetland Authority was constituted. Which comprises 16 members and Minister for Forest and Wildlife U.P. has been made Chairman and Principle Chief Conservator Forest and Wildlife has been made Member Secretary of the Wetland Authority.

3. That in pursuance of the letter dated 5 March 2018 issued by Principle Chief Conservator Forest and Wildlife U.P. to all the District Magistrate, District Wetland Authority was constituted and District Magistrate has been made Chairman and Divisional Forest Officer has been made Member Secretary of the Committee. It is submitted that the committee has been constituted for the suggestion to the concerned authorities for identification, sustainable development and preparation of the data, verification of Wetland. It is pertinent to mention here District Wetland Committee is obligated to prepare the brief documents after the verification of Wetland which area is more than 2.25 hectare on priority bases.

4. That after the formation of District Wetland Committee, several meetings were conducted under the chairmanship of District Magistrate Gauttam Budh Nagar and direction were issued for the identification of the Wetland which are more than 2.5 Hectare. It is german to mention here in District Gauttam Budh Nagar 16 Wetlands have been identified which arc more than 2.5-hectare Annexure RI. It is submitted that Brief document of Dhanori which is 25 hectares has been sent to the Member Secretary, State Wetland Authority for the notification. It is submitted that the proposal is under consideration since some objection has been raised by the State Wetland Authority therefore at District level again all the document formalities are yet to be done. Annexure R2. It is

pertinent to mention here that the proposal for Notification/Declaration as RAMSAR SITE is also sent by the Divisional Forest Officer to the Conservator Forest, Meerut.
ANNEXURE R-3

5. That in the direction of Original Application 325/2015 Lt. Sarvdaman Singh Oberoi Vs. Union of India, the Principal Secretary, Ministry of Environment, Forest and Climate change has written a letter to the Principle Chief Conservator and Wildlife to give information with regard the proposed action plan for restoration of polluted water bodies (lakes and Ponds) in a prescribed format. It is germane to mention here that the information in the prescribed format of 306 water bodies/lakes / Wetland has been prepared in the prescribed format and the information with regard the other water bodies/lakes / Wetland under preparation.
ANNEXURE R-4

6. It is submitted that the District Wetland Committee has been performing its duty with utmost sincerity and taking necessary steps for the protection, conservation of the water bodies/ Wetland.
It is therefore requested to you kindly place the present information along with the Annexures before the Hon'ble Tribunal for the adjudication of the Original Application.....”

10. Short replies/compliance affidavits have been filed on behalf of New Okhla Industrial Development Authority (NOIDA) and Greater Noida Industrial Development Authority (GNIDA) vide emails dated 12.10.2022. As per the short replies/compliance affidavits about 67 ponds have been identified to be falling in the area notified under NOIDA and about 281 ponds have been identified to be falling in the area notified under GNIDA as mentioned in the following tables respectively:-

11.

Ponds falling in the area notified under NOIDA		
A.	Ponds which are in existence fully or partially	13 ponds
B.	Ponds on which development work like road, green belt, public utility houses, Smarak park etc	08 ponds
C.	Ponds on which factory, group housing, industrial plots have been allotted	06 ponds
D.	Ponds on which dense population exited even before the same came to be vested with NOIDA on 28.12.2020 and as such it is the prerogative of District Administration to clear the encroachment in terms of section 67 of the Revenue Code	40 ponds

	Total	67 Ponds
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Ponds falling in the area notified under GNIDA		
A.	Ponds which are in existence fully or partially	215 ponds
B.	Ponds on which development work like road, green belt, public utility houses, Smarak park etc	07 ponds
C.	Ponds on which factory, group housing, industrial plots have been allotted	05 ponds
D.	Ponds on which dense population existed even before the same came to be vested with NOIDA on 28.12.2020 and as such it is the prerogative of District Administration to clear the encroachment in terms of section 67 of the Revenue Code	54 ponds
	Total	281 Ponds

”

12. It has been mentioned in both the replies/compliance affidavits that the Authority is taking all steps for the purpose of amelioration/rejuvenation of ponds/water-bodies falling in category A, to provide alternate ponds/water bodies as envisaged under Government order dated 03.06.2016 in lieu of ponds/water-bodies falling in category B and C and taking up the matter with the Revenue Authorities for removal of encroachments on ponds/water-bodies falling in Category D under section 67 of the Uttar Pradesh Revenue Court, 2006 and prayer has also been made for issuance of directions to the Revenue Authorities in this regard.

13. In both the replies/compliance affidavits, the following point of the concern has also been raised:-

“X X X X X X
these Ponds existed and were re-charged by water from its catchment area falling adjoining to the said pond. Thus, once, the area around the pond has been developed and drainage system came in place, the water coming from the catchment area water finds its way into the drainage system and not to the pond. Thus, these ponds dried up during the passage of time, due to no water

from the catchment area. Further, due to the drainage system and the depleting water table, the natural pond has no water to be charged, rather for its existence it has to depend on artificial source.”

14. Learned Counsel for YEIDA seeks time to file reply/response on behalf of YEIDA. Reply on behalf of YEIDA be filed within three months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

15. The District Wetland Committee is directed to look into the aspect of recharging the ponds/water-bodies and take appropriate steps for protection and management of catchment area of the ponds/water-bodies and specifically mention in its Action Taken Report requisite details regarding action taken/proposed to be taken in this regard.

16. The District Wetland Committee headed by the District Magistrate, Gautam Budh Nagar is also directed to convene meetings specially inviting CEOs, NOIDA, GNIDA and YEIDA as Special Invitees and formulate action for restoration/rehabilitation of the wetlands/lakes/ponds which are free from encroachment on priority and for removal of encroachments and restoration/rehabilitation of the wetland/lakes/ponds which were encroached upon after removal of encroachments.

17. Further, Action Taken Reports be filed by the District Magistrate, Gautam Budh Nagar and CEOs, NOIDA, GNIDA and YEIDA separately within three months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

18. List for further consideration on 08.02.2023.

19. A copy of this order be forwarded to Chief Executive Officers, New Okhla Industrial Development Authority, Greater Noida Industrial

Development Authority and Yamuna Expressway Industrial Development Authority, State PCB, District Wetland Committee and the District Magistrate, Gautam Budh Nagar by Email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 12, 2022
AG