

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(BY HYBRID MODE)**

Original Application No. 771/2022
(I.A. No. 531/2023)

Nishant Bhargav	Versus	Applicant
State of Uttar Pradesh		Respondent

Date of hearing: 04.09.2023

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

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB
Mr. Sanjay Upadhyay, Ms. Arushi Malik & Ms. Sonali Sengupta, Advs. for Jaypee Infratech Ltd.

ORDER

1. The Project Proponent (PP) has filed I.A. No. 531/2023, an application for impleadment. In effect, the PP is already before us and the reply to the report of joint Committee as also the objection has been filed by the PP. Even otherwise, the PP is entitled to an opportunity of hearing before this Tribunal. Therefore, in circumstances of the case, I.A. No. 531/2023 is allowed and PP is impleaded as respondent in the matter.
2. The joint Committee was appointed by the Tribunal by order dated 04.01.2023 to the following effect:

“xxxxxx.....xxx

2. In our view, a substantial question relating to environment for implementation of the scheduled enactments under NGT Act, 2010 has arisen but before taking any further action in the matter, we find it appropriate to obtain a factual report for the purpose whereof, we constitute a joint Committee comprising State PCB and District Magistrate, Gautam Budh Nagar who shall visit the site, collect relevant information and submit a factual and action taken, if any, report within one month 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. The report needs to clarify and bring out factual compliance status with respect to Water Act, 1974 and Air Act, 1981 as well as environmental conditions, if specified in EC.”

3. The joint Committee has submitted the report vide covering letter dated 10.02.2023 for finding following violations/lapses:

“xxxxxx.....xxx

- 1. The above said project is an under construction residential complex, which is partially operational.*
- 2. During inspection, project was found under construction regards to residential tower. Civil and structural work of multistoried residential towers is completed and plaster and finish work is going on. It was observed that project proponent has not maintained arrangements to control dust on the construction site as per rules. At site proper water sprinkling, net covering, physical barricading of the area and other dust mitigation measures were not taken in to account.*

*In view of above shortcomings, imposition of **Environmental Compensation of Rs. 5,00,000/- (Rs. Five Lakh only)** against project proponent as per directions of Hon'ble NGT in O.A. no. 21/2014 Verdhman Kaushik Vs UOI & Ors., is under process and a show cause notice has been issued to the Project proponent by UPPCB vide letter dated 09.02.2023. The copy of the same is annexed as **Annexure-5**.*

- 3. Sewage treatment plant of Sector-133 for treatment of domestic effluent generated from residential project was found under construction. Civil work of the STP was found under process and approximate 50% of the civil work is completed by the Project proponent. The project proponent informed that it will take around more than 06 months to complete the installation and operation of the STP.*

In relation to the above, it was informed by the project representative that till the completion and operation of sector- 133 sewage treatment plant, as an alternative arrangement, sewage generated from the project is being disposed through tankers and established/operated Sector-128 STP of Jaypee Wish Town.

During the inspection, the evidence of the said was sought by the committee as any record of vehicle movement, CCTV Footage of collection and disposal of sewerage, permission from Noida Authority regarding transportation of sewerage, registration no. and details of tanker used, capacity of each tanker, logbook regarding entry and exit of vehicle but project proponent has not presented any evidences for the same till date.

It was informed by the complainant and project residents present during the inspection that due to lack of proper disposal of

domestic effluent generated from their houses, the generated effluent overflows through the manholes, causing inconvenience. During inspection, manholes of the Project were observed but overflow was not there at the time of inspection but to mention that as there is no suitable network for disposal of generated sewerage it may cause overflow from the manholes.

Occupancy was allowed in the Project (Year-2015, as informed by residents) before completion of the statutory and directed environmental infrastructure for treatment of domestic sewerage generated from the Project, it is clear violation of provisions of the Water Act as applicable. Regarding this violation, Environmental Compensation is assessed as per the guidelines and direction of Central Pollution Control Board, Delhi.

*Show cause notice is issued to the Project Proponent for imposition of **Environmental Compensation of Rs. 5,47,80,000/- (Rs. Five Crore Forty Seven Lakh Eighty Thousands only)** by UPPCB vide letter dated 09.02.2023. The copy of the same is annexed as **Annexure-6**.*

It is clear from the above facts that the project developer/ IRP has not addressed the issue of public nuisance. Section-133 of Criminal Procedure Code (CrPC) authorizes the District Magistrate to exercise the power of the said section and direct the project developer/IRP accordingly. District, Gautam Buddha Nagar has been declared Police Commissionerate in January-2020 and power District Magistrate Under Criminal Procedure Code (CrPC) has been transferred to Police Commissioner in Gautam Buddha Nagar. Therefore, the Police commissioner be requested to direct Deputy Commissioner of Police, Noida to register case under section-133 of Criminal Procedure Code (CrPC) and issue legal mandate to the project developer/ appointed IRP to ensure public nuisance is removed and norms are adhered with.

It may also be requested to Chief Executive Officer, New Okhla Industrial Development Authority (NOIDA) to direct the project developer/appointed IRP to ensure treatment facilities and other relevant public convenience facilities are developed immediately in the project.”

4. The PP has filed reply to the status report of the joint Committee as also objections. The stand of the PP is that there is no violation of the environmental norms and there are only some housekeeping issues. It has also pointed that as many as four show cause notices have been issued to the PP i.e. 08.02.2023, 09.02.2023, 09.02.2023 and 15.05.2023. We make it clear that the proceedings in pursuance to the said show cause notices will continue without being affected by the pendency of this OA before the Tribunal.

5. Shri Pradeep Misra, learned Counsel appearing for the Uttar Pradesh Pollution Control Board submits in view of stand of the PP a fresh inspection by the joint Committee in terms of previous direction of this Tribunal will be carried out within four weeks and reply and objection filed by the PP before the Tribunal will be looked into and responded within the same period.

6. In view of impleadment made above, the description of the respondents in this OA will be as under:

1. State of Uttar Pradesh through the Secretary, Environment.
2. Uttar Pradesh Pollution Control Board through the Member Secretary.
3. District Magistrate through Gautam Budha Nagar, UP.
4. Jaypee Infratech Ltd. through Implementation and Monitoring Committee.
5. NOIDA Authority through CEO.

7. Let the concerned parties who are not present today be noticed by the Registry of this Tribunal.

8. List on 21.11.2023.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

September 04, 2023
Original Application No. 771/2022
(I.A. No. 531/2023)
DV