

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

Original Application No. 515/2023

Ganga Pollution Applicant

Versus

State of UP & Ors. Respondent(s)

WITH

Original Application No. 516/2023

M/s Sundrop Colonigers Pvt. Ltd. Applicant

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 517 /2023

Gokul Chandra Sharma & Ors. Applicant(s)

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 518 /2023
(I.A. No. 06/2024)

Sri Math Jagatguru Ramanand
Acharya Peeth & Anr. Applicant(s)

Versus

State of UP & Anr. Respondent(s)

WITH

Original Application No. 519 /2023

Smt. Meena Mishra Applicant

Versus

State of U.P Respondent

WITH

Original Application No. 520 /2023

Smt. Vimla Devi Applicant

Versus

State of U.P Respondent

WITH

Original Application No. 521 /2023

Sarvamangla Adhyatma Yog Vidya Peeth Applicant

Versus

Union of India & Ors. Respondent(s)

WITH

Original Application No. 522 /2023

Shri Shri Guruji Tapasthali Applicant

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 523 /2023

Vinod Kumar Pandey Applicant

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 524 /2023

Ram Rekha Jaiswal Applicant

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 525 /2023

Pt. Ram Chandra Sharma Applicant

Versus

State of U.P. & Ors. Respondent(s)

WITH

Original Application No. 526 /2023

Ganga Sewa Abhiyan & Ors. Applicant(s)

Versus

Union of India & Ors. Respondent(s)

WITH

Original Application No. 527 /2023

Kautilya Society through
General Secretary & Anr. Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 15.03.2024

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

Applicant: Mr. Vijay Chandra Srivastava & Ms. Sunita Sharma, Advs. for Applicant in OA 515/2023
Mr. Manoj Kumar Singh, Adv. for Applicant in OA 518/2023 (Through VC)

Respondent: Mr. Bhanwar Pal Singh Jadon & Mr. Chetan Jadon, Advs. for the State of UP
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)
Mr. Vibhav Misha, Adv. for Prayagraj Development Authority
Mr. Sumeer Sodhi & Mr. Chaitanya Sharma, Advs. for R - 26 in OA 515/2023
Mr. Amit Tiwari & Mr. Chetanya Puri, Advs. for Varanasi Development Authority in OA 527/2023
Mr. Ajay Kumar Singh & Mr. Rohit A. Sthalekar, Advs. for R - 6 to 8 in OA 527/2023
Mr. Atif Suhrawardy, Adv. for CPCB in OA 515 & 526/2023 (Through VC)

ORDER

1. The core issue involved in these petitions revolves around defining the flood plain zone of river Ganga and its tributaries in the State of UP and action by the concerned authorities to protect the flood plain zone.
2. In terms of the previous order, Counsel for the State of UP has filed the compilation in five volumes containing the various orders passed by

the High Court and Rules, Regulations, Bye-laws and Circulars in this regard.

3. The flood plain is required to be determined in terms of the provisions which are contained in The River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016. In that order, the flood plain has been defined under Clause 3 (l) as under:

“3.(l) “flood plain” means such area of River Ganga or its tributaries which comes under water on either side of it due to floods corresponding to its greatest flow or with a flood of frequency once in hundred years;

4. In addition to defining the flood plain, the order also defines the buffer area as under:-

“3. (c)“Buffer Area” means an area which extends beyond the flood plain of a stream;”

5. Clause 4 (ix) of the order provides for protection of the flood plain from the construction, as under:-

“4. (ix) the bank of River Ganga and its flood plain shall be construction free Zone to reduce pollution sources, pressures and to maintain its natural ground water recharge functions;”

6. Clause 55 of the order deals with functions and powers of District Ganga Committee and in terms of Clause 55 (1), every District Ganga Committee is responsible to perform the duties for rejuvenation, protection, restoration and rehabilitation of river Ganga and its tributaries in the specified District as provided in para 6 and 7 of the order as per the principles specified in Clause 4. Clause 4(ix) has already been quoted above.

7. Clause 24 of the order provides for powers, duties and functions of the State Ganga Committee and one of the responsibility of the State Ganga Committee is to protect the flood plains as under:-

*“24.(3)(a) coordination and implementation of the conservation activities relating to River Ganga including augmentation of sewerage infrastructure, catchment area treatment, **protection of flood plains**, creating public awareness and such other measures at the State level and regulation of activities aimed at the prevention, control and abatement of pollution in the River Ganga to maintain its water quality, and to take such other measures relevant to river ecology and management in the State concerned;”*

8. The powers of the National Mission for Clean Ganga have been prescribed in Clause 41. Sub-Clause 2 (f) thereof, relates to *inter-alia* approval of planning, functioning and execution of programme for protection of flood plains and reads as under:-

*“41.(2)(f) approve the planning, financing and execution of programmes for abatement of pollution in the River Ganga including augmentation of sewerage and effluent treatment infrastructure, catchment area treatment, **protection of flood plains**, creating public awareness, conservation of aquatic and riparian life and biodiversity and such other measures for promoting environmentally sustainable river rejuvenation;”*

9. The National Mission for Clean Ganga on the basis of the reports from State Ganga Committee and District Ganga Committee and another authorities is required to prepare a consolidated report every year in respect of each specified District abutting river Ganga and its tributaries which includes the condition of flood plain disclosing as under:-

“49.(1)(d) condition of River Bed and flood plains and habitat in the specified District;”

10. A perusal of the above clauses clearly reveals that the responsibility lies with the authorities, at the first instance, to determine the flood plain and thereafter to take action for protection of the flood plain and carry out various responsibilities as enumerated in 2016 order. It is not in

dispute that till now the flood plains have not been demarcated. So far nothing has been placed on record indicating what parameters and methodology have been adopted for demarcation of the flood plain in terms of the definition of flood plain as provided in the order of 2016. A Standard Operating Procedure (SOP) is required to be prepared for demarcation of flood plain of River Ganga and its tributaries in the Districts.

11. Learned Counsel appearing for State of UP has submitted that the entire stretch from Bijnor to Ballia has been divided in two phases. The first phase is from Bijnor to Unnao and the second phase is from Unnao to Ballia. He submits that the study in respect of ascertainment of flood plain in the first phase has been completed by Central Water Commission and for the second phase it is being conducted by National Institute of Hydrology (NIH), Roorkee. Learned Counsel for the State has also failed to point out as to why the responsibility for defining the flood plain in the second phase has been entrusted to NIH instead of CWC.

12. In this background, Counsel for the State has prayed for six week's time to place on record a comprehensive report by the State disclosing the parameters for determining the flood plain, the action taken by the authorities for defining the flood plain and as to how the District and State Committees formed under 2016 order are discharging their responsibilities to protect the flood plains of river Ganga and its tributaries in the State of UP when even the flood plain has not been defined till now.

13. List on 27.05.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

March 15, 2024
Original Application No. 515/2023
& other connected matters
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