

Item Nos. 16 to 28

Court No. 1

**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: 27.05.2024

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

Applicant: Mr. Amit Upadhyay, Mr. Akash Singh & Mr. Vaibhav Shukla, Advs. for Applicant in OA 515/2023
Mr. Vijay Chandra Srivastava & Ms. Sunita Sharma, Advs. with Mr. Ram Chandra Sharma, Applicant in Person in OA 525/2023

Respondent: Mr. Bhanwar Pal Singh Jadon, Mr. Harsh Vardhan Singh, Mr. Chetan Jadon, Mr. Praval Arora & Mr. Dhruv Wadhwa, 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. Aman Nandrajog, Mr. Chaitanya Sharma, Mr. Varun Tankha, Ms. Shreya Singh, Mr. Ujjwal Malhotra, Mr. Tanveer Singh, Ms. Deepa Majumdar, Mr. Arjun Nanda & Ms. Bhawana Mapwal, Advs. for R - 26 in OA 515/2023
Mr. Amit Tiwari, Adv. 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)
Mr. Akbar Siddique, Adv. in OA 527/2023 (Through VC)

ORDER

1. In these matters, at this stage Tribunal is considering the issue of demarcation of floodplain zone of river Ganga and its tributaries in the State of UP and action by the concerned authorities to protect the floodplain zone.

2. In the previous order dated 15.03.2024, Tribunal had taken note of the relevant provisions of the river Ganga (Rejuvenation, Protection and

Management) Authorities Order, 2016 specially Clause 3(I) defining floodplain, 3(c) buffer area, Clause 4(ix) restriction relating to construction in floodplain, Clause 55 relating to the responsibility of District Ganga Committee, Clause 24 relating to State Ganga Committee and Clause 41 relating to National Mission for Clean Ganga. After noting the aforesaid provisions, Tribunal had noted that responsibility to determine the floodplain zone primarily lies at the first instance with the authorities and thereafter action to be taken for protection of the floodplain zone.

3. Learned Counsel for the State had informed that entire stretch from Bijnor to Ballia was divided in two parts in respect of phase-I from Bijnor to Unnao. Study in respect of ascertainment of floodplain was completed by Central Water Commission (CWC). He is directed to place the details of the same on record.

4. So far as the second phase from Unnao to Ballia is concerned, responsibility has been entrusted to the National Institute of Hydrology, (NIH), Roorkee.

5. Learned Counsel for the State had orally submitted that State authorities are demarcating the floodplain zone in the stretch concerned with the assistance of NIH. Same is the stand taken in the report but in the report dated 24.05.2024 filed by State of UP in compliance of the order dated 15.03.2024 but Memorandum of Agreement between NIH and Irrigation and Water Resource Department dated 22.12.2023, Annexure-R-2 to report mentions the scope of work as under:-

“ The scope of the proposed work includes:

*a. **Identify and demarcate** the flood plains of river Ganga in segment B of Phase-II on one in twenty-five year's cycle or appropriately.*

b. Identify no development/construction zone, regulatory zone and the activities that can be/cannot be carried on in the regulatory zone of the flood plain.”

6. Scope of work reveals that NIH has been entrusted with the responsibility of identification and demarcation of floodplains of river Ganga in the stretch concerned. Hence, the stand which has been taken in the report and the oral submission of Counsel for the State in this regard runs counter to the contents of the agreement.

7. Report dated 24.05.2024 also mentions that under the heading methodology the State has divided the floodplain zone in three parts as under:

“

- *Prohibited Zone: recurrence interval of 5 years.*
- *Regulatory Zone: 25-year return period flood.*
- *Warning Zone: 100-year return period flood.”*

8. The State has adopted the criteria of interval of five years, twenty-five years and hundred years for these three zones whereas the Ganga Rejuvenation Order in Clause 3(I) clearly provides for the floodplain on the basis of frequency once in 100 years. Ganga Rejuvenation Order does not mention about any such three types of zones which have been mentioned as Prohibited Zone, Regulatory Zone and Warning Zone in the report. Hence, it appears that State authorities are not strictly following the Ganga Rejuvenation Order 2016.

9. We also take note of the fact that in respect of the stretch of Yamuna river at Gautam Budh Nagar and Greater Noida in OA No. 275/2023, exercise for demarcation of floodplain zone has been undertaken on the basis of the map obtained from Survey of India with 01m contour interval. Therefore, State authorities may consider as to why

the same approach cannot be adopted for demarcating the floodplain zone of river Ganga in the stretch under consideration.

10. Learned Counsel appearing for State of UP has submitted that NIH will be able to submit the interim report by October 2024 and completion of work defined in the Agreement dated 22.12.2023 will be completed by December 2024.

11. Work of demarcation of floodplain zone is required to be expedited and the authorities are required to complete the same in the shortest possible manner as delay in this regard is affecting the rights of many of the parties.

12. Learned Counsel appearing for respondent no.26 in item number 16 (OA No.515/2023) has submitted that the delay in work of demarcation of floodplain zone is adversely affecting it because certain development on the land purchased by respondent no.26 is required to be carried out but on account of uncertainty, work has been held up since long.

13. In view of the observations made above, we direct the Principal Secretary, Irrigation Department, State of UP to file a fresh report atleast one week before the next date of hearing 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.

14. Having regard to the nature of the matter, we also direct Additional Chief Secretary (ACS)/Principal Secretary, Irrigation Department, State of UP to remain virtually present on the next date of hearing to assist the Tribunal.

15. We also deem it proper to implead the following as respondents in the matter:-

- (i) Central Water Commission (CWC) through its Chairman;
- (ii) National Mission for Clean Ganga (NMCG) through its Chairman.

16. Let notice be issued to above newly added respondents for filing their response at least one week before the next date of hearing.

17. Learned Counsel for some of the parties have also stated that IAs filed by them in the Writ Petition before the High Court are still pending. They are required to provide numbers of pending IAs so that they can be listed for consideration before the Tribunal.

18. A copy of this order be sent to Additional Chief Secretary (ACS)/Principal Secretary, Irrigation Department, State of UP by email for compliance.

19. List on 11.07.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 27, 2024
Original Application No. 515/2023
And connected OAs
JG.