

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

Execution Application No. 36/2023

in

Original Application No. 329/2021

(I.A. No. 868/2023 & I.A. No.867/2023)

Devanshu Bose

Applicant

Versus

Agra Development Authority & Ors.

Respondent(s)

Date of hearing: 02.01.2025

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

Applicant : Mr. Devanshu Bose, Applicant in Person (Through VC)

Respondent: Mr. Manish Kumar Vikkey & Mr. Kanchan Kumar Jha, Advs. with Mr.
 Rakesh Pratap (Through VC), Executive Engineer, ADA
 Mr. Bhanwar Pal Singh Jadon, Mr. Harsh Vardhan Singh Rajawat & Ms.
 Gargi Chaturvedi, Advs. for the State of UP
 Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB

ORDER

1. This execution application has been filed by the applicant seeking compliance of the order dated 18.01.2023 passed in O.A. No.329/2021.
2. The applicant had filed the original application raising the grievance in respect of discharge of sewage on open land from Nalanda Town, a housing colony developed by a builder at Shamshabad Road area of Agra, Uttar Pradesh.
3. It was alleged that the Agra Development Authority (ADA) was primarily responsible for the same, which it had failed to discharge.
4. Tribunal while disposing of the OA by order dated 18.01.2023 had taken note of the report of the Joint Committee dated 22.02.2022

showing that sewage was not being treated and was being discharged on the land and was going to the drain and there was no sewer line.

5. The tribunal also took note of the order of the State Pollution Control Board levying the compensation of Rs. 2,13,98,438/- for the discharge of sewage in the open against the developer. The tribunal also considered the general issue that the sewage treatment capacity available in Agra was only 220.75 MLD against 286 MLD sewage generation. The tribunal, accordingly, held that ADA is responsible for ensuring that no housing colony comes up without having the requisite infrastructure for sewage management. Tribunal had disposed of the OA by directing as under:

“xxx.....xxx.....xxx

9. *In facts and circumstances discussed above, we hold that ADA is liable to pay further amount of Rs. 2 Crores towards compensation for restoration of damage to the environment over and above compensation of Rs. 25 lakhs earlier levied. This will be in addition to liability of the State for gap in generation and treatment of sewage. The amount may be deposited with State PCB for restoration measures in accordance with the District Environment Plan. Likewise, the amount levied on the developer on recovery may also be utilized in the same manner along with amount of Rs. 25 lakhs earlier levied which is to have been deposited with the District Magistrate by ADA. The District Magistrate may remit the amount of Rs. 25 lakhs deposited with the State PCB.*

15. *It is patent that ADA has failed to prevent damage to the environment by permitting colonies to be set up without requisite infrastructure Though STP is stated to have been now set up and made operational, it is also stated that electricity connection is yet to be granted. I.A No. 12/2023 filed by ADA for impleadment of the violator appears to be an unnecessary attempt to avoid its responsibility to take requisite action against the violator when it is all powerful to remedy the situation. ADA will be well advised to change its attitude and perform its statutory duties for protection of environment and enforcement of rule of law.*

16. *Let further remedial action be taken by the ADA in coordination with other concerned authorities expeditiously in accordance with law.*

17. With regard to list of more colonies, ADA and State PCB may verify the grievance that they do not have requisite infrastructure for waste management and take remedial action in respect thereof as per law.

18. The ACS, Urban Development and ACS, Housing and Development, UP may oversee remedial action by calling an online meeting State PCB may coordinate. An action taken report in this regard be filed by ACS, UD by email with the Registrar General, NGT 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 within six months. If any further direction is found necessary, he may place the matter before the Bench.

Subject to above, the application is disposed of.”

6. The above order of the Tribunal was subject matter of challenge before the Hon’ble Supreme Court in Civil Appeal No(s). 3546/2023. Hon’ble Supreme Court by order dated 03.12.2024 has disposed of the Civil Appeal. A perusal of the order of the Hon’ble Supreme Court reveals that there was a direction to deposit Rs. 25 lakhs by the appellant with the UPPCB on 03.07.2023 and there was a further direction to deposit Rs. 10 lakhs on 03.05.2024. Hon’ble Supreme Court while disposing of Civil Appeal had directed as under:

“xxx.....xxx.....xxx

9. The ADA will deposit the amount of compensation/cost(s) directed by the National Green Tribunal. The amount deposited would be utilized for the sewage treatment plant/drainage etc. In addition, the ADA must ensure that sewage is lifted and transported from the colony so that there is no collection of sewage or effluent in the colony itself. This exercise must be undertaken every week and an affidavit in this regard will be filed by the Vice-Chairman of the ADA before the NGT. In case there is any default and failure to lift and transport the sewage and the sewage treatment plant is not working as per the required parameters, the NGT will be entitled to pass appropriate orders, including imposing costs/compensation as may be required and justified in law.

10. The Vice-Chairman of the ADA will nominate a senior officer of the said authority, who shall be responsible for ensuring compliance

with this order as well as the directions given by the NGT. The details, including name and designation of the said officer, will be furnished by the ADA to the NGT within a period of three weeks from today.

11. The amount lying in this Court will be sent to the NGT and would be treated as a deposit made towards costs/compensation as awarded.

12. In view of the aforesaid factual background, we inclined to are not interfere with the impugned judgment and, accordingly, the present appeal is dismissed. Pending application(s), if any, shall stand disposed of.”

7. No compliance report by Vice -Chairman, ADA has been filed till now.

8. Learned Counsel for ADA has submitted that Executive Engineer, ADA, has been nominated as the officer responsible for compliance with the order in terms of the direction contained in paragraph 10 of the order of the Supreme Court. A copy of the order dated 13.12.2024 issued by the in-charge officer of ADA in this regard has been produced during argument. A perusal of the said order reveals that Executive Engineer, ADA, has been appointed by an in-charge officer of ADA with the permission of the Vice-Chairman, ADA. Though, strictly in terms of the order of the Supreme Court, vice chairman was required to nominate a senior officer. Sh. Rakesh Pratap, Executive Engineer, ADA nominated by order dated 13.12.2024 has appeared virtually but he is not in a position to disclose the requisite details, such as the quantity of sewage generated from the society concerned or the steps that have been taken till now in compliance of the order of the Supreme Court. He has candidly admitted that he does not have any financial power for the implementation of the project. Hence, we find that the order of the Supreme Court has not been taken seriously by the Vice-Chairman and an officer senior enough to

effectively comply with the order of the Supreme Court has not been nominated.

9. The applicant has filed written submissions on 29.12.2024 clearly stating as under:

“xxx.....xxx.....xxx

16. *ADA has not complied with abovesaid directions, the raw sewage from septic tank is still being pumped using a 6 kilowatt machine from the park no. 3 of Nalanda Town the alleged location of STP via and under ground pipeline to the place outside the colony gate.*

23....A. *Urgency for Lifting Raw Sewage from Site*

ADA has refused to make a temporary arrangement for removing raw sewage from the site. Such deviances promote lawlessness.”

10. The applicant appearing virtually has submitted that the sewage network in the colony has not been completed till now and about 10% of the work is still remaining, untreated sewage is being pumped outside from the colony, which gets collected and causes health hazard. He has submitted that on account of such mismanagement, many of the occupants of the colony have been forced to leave their houses. He has also submitted that STP is not operational.

11. In such circumstances, we direct the Vice-Chairman, ADA to appear virtually on the next date of hearing and appraise the Tribunal about the compliance of the direction of the Hon’ble Supreme Court.

12. Learned Counsel for ADA has submitted that a sum of Rs. 2 crores has been deposited till now. He has submitted that the remaining amount will be deposited within two weeks.

13. The applicant has submitted that the drain which authorities are constructing will carry the untreated sewage from other colonies also, as other colonies do not have any sewage treatment plants.

14. Mr. Pradeep Misra, Learned Counsel appearing for UPPCB has submitted that in such circumstances, ADA should place on record a comprehensive plan of sewage management in that area along with a timeline to ensure that no untreated sewage is discharged from those colonies.

15. In view of the above submission, the Vice-Chairman, ADA is also directed to file a detailed affidavit within six weeks.

16. List on 03.04.2025.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

January 02, 2025
Execution Application No. 36/2023
JG..