

Item No. 12

Court No. 2

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

M.A. No. 89/2022
In
Original Application No. 176/2015

Shailesh Singh

Versus

Applicant

Hotel Holiday Regency

Respondent

Date of hearing: 19.03.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

ORDER

1. Original Application No. 176/2015 was registered to examine grievance of Shailesh Singh, Applicant that certain hotels namely; Hotel Holiday Regency at NH-24, Moradabad, Hotel Clark Awadh, Mahatma Gandhi Marg, Near Parivartan Chowk, Lucknow, Hotel Country INN, Sahibabad District Ghaziabad, Hotel Radisson Blu, Kaushambi, Ghaziabad, Hotel Sunshine Park, Sahibabad, District Ghaziabad are extracting ground water for the purpose of commercial activities without having any permission from Central Ground Water Authority (hereinafter referred to as '**CGWA**') and thereby, degrading ground water table, contaminating ground water and causing damage irreparable to the environment.

2. Tribunal passed various orders in Original Application from time to time and notices were also issued to respondents. Original Application was disposed of by judgment dated 25.02.2022 and directions issued by Tribunal contained in para 43 to 49 reads as under:-

“43. In the backdrop of the aforesaid observations which we have culled out from various orders of Tribunal, referred above, ultimately, in the order dated 20.07.2020, 4 issues were formulated in para 27 and in para 28, Tribunal said that the answer to the said issues is ‘no’. Tribunal held that as per mandate of sustainable development under Section 20 of NGT Act 2010, Regulator must direct its policy towards preventing further depletion of, and upgrading, ground water levels, based on impact assessment. Extraction can neither be unregulated nor allowed across the board without individual consideration. The directions were consequently issued to prepare meaningful regulatory regime, institutional mechanism for ensuring prevention of depletion, unauthorized extraction of ground water and sustainable management in OCS areas.

44. Unfortunately, the concerned Ministry and Regulator have acted in haste and just in 2 months i.e., 24.09.2020, have published Guidelines 2020 wherein most of the infirmities, irregularities, and failures, pointed out on the part of CGWA, in earlier Guidelines, as such, are present. Though there are minor variations and alterations, but the same are wholly inconsequential, looking to the gravity of the situation, arising due to consistent depletion of ground water.

45. The Notification issued by UPGWD shows that in State of UP almost every district, and some districts as a whole, are in serious stressed condition, having depletion of water to the extent of critical and over-exploited level, and a very few are exceptions.

46. The condition of NCT of Delhi, as already noticed, is already, seriously alarming.

47. The correctness/validity of this Guideline was also challenged in **OA No. 69/2020, Sushil Bhatt v. Moon Beverages Limited & Ors.**, and **Appeal No. 45/2020 (Earlier O.A. No. 218/2020), Devi Das Khatri v. Union of India & Ors.** We have examined the above Guidelines in our judgement, delivered today, in **OA No. 69/2020 (supra)** and **Appeal No. 45/2020 (supra)** and held that Guidelines dated 24.09.2020 fails to satisfy the requirement of environmental law for protection and preservation of ground water when tested on the ‘Precautionary’ Principle, ‘Sustainable Development’ as well as ‘Inter-generational Equity’ Principles. We have issued following directions:

“g. We also constitute a joint committee of CPCB, CGWA and UPPCB to conduct survey in State of UP and prepare data of various categories drawing ground water for commercial purposes, study impact assessment, suggest ways and modes to reduce ground water extraction in OCS areas, and how ground water level can be improved. Committee may induct any other expert as it may find necessary. District Magistrate of concerned district where Committee would visit, shall also be a member of the Committee.

h. CGWA is directed to forthwith issue appropriate orders/directions, regulating ground water extraction in the light of observations made above and the orders passed by Supreme Court in **M.C. Mehta vs. Union of India & Others**

(1997) (supra) and this Tribunal in various cases referred to in this judgment and must take all precautions and care to ensure that in OCS areas, ground water should not be allowed to be extracted in such a manner that general people would have to face problem of water for drinking and domestic purposes.”

48. *In view of the fact that the subsequent Guidelines issued, has already been examined and the above directions have been issued in **OA No. 69/2020 (supra)** and **Appeal No. 45/2020 (supra)**, this OA is also disposed of in terms of the above directions.*

49. *The authorities concerned shall comply with the above directions and submit compliance report by 15th September, 2022 with the Registrar General, NGT, PB. If any further direction is found necessary, the Registrar General, NGT may place the matter before the Tribunal.”*

3. Pursuant thereto, a compliance report dated 13.09.2022 has been filed by CGWA. The said report in effect is not a compliance report but contains comments and submissions of CGWA on the observations made by Tribunal in its judgment dated 25.02.2022. The said comments and submissions of CGWA are reproduced as under:-

“

1. **"35. Guidelines 2020 do not provide protection and preservation of ground water, prevention of not only further depletion, hut a serious and effective attempt for recharge and restoration."**

It is submitted that the Abstraction / Restoration charges collected from project proponents are envisaged to be utilized by States for undertaking ground water recharge or conservation measures, including in rural areas. Also, in some states, rainfall is deficient and recharge is not possible. Hence, the focus is on conservation of fresh ground water, reduction on the use of ground water and recycling & reuse of ground water.

The 2020 Guidelines provide that "All industries abstracting ground water in excess of 100 m³/d shall be required to undertake annual water audit and reduce their ground water use by at least 20% over the next three years through appropriate means." After the 2020 Guidelines, many industries have requested for reduction in the sanctioned ground water withdrawal.

2. **"36. MSME, drawing ground water less than 10m³/day, even in the area where ground water level is critical or over exploited, is incomprehensible. The number of such units and impact of drawl of ground water, by such**

units, on the water level, it appears, has not been examined at all.

Only Micro & Small enterprises drawing less than 10 KLD groundwater are exempted; no exemption is granted to Medium industries.

Further, it is submitted that Withdrawal of 10 KLD has no significant impact on hydrogeology, and the same has been exempted keeping in mind the socio-economic situation of the country.

3. **"37. Only for industrial use, it is provided that NOC shall not be granted for ground water extraction to a new industry. The existing units are not covered by it.**

In Guidelines 2015, no NOC was to be given to any water intensive industry, even if it is MSME, in over exploited assessment areas. Now it is restricted to packaged water industries. Apparently, a drastic relaxation has been given in respect of water intensive industries, for no reason, and that too in flagrant defiance of order of Tribunal."

Closing down existing industries is not a feasible option. Water intensive industries as per 2015 guidelines included textile, paper, sugar, distilleries, pharmaceuticals, packaged drinking water units etc. During implementation of 2015 Guidelines, it was observed that some industries regarded as water-intensive industries have in fact lesser requirement than non-water intensive industries. With the advancement of technology, per unit water requirement in some paper industries and distilleries has in fact reduced considerably. In sugar industry, additional water is generated during the process, which is supplied by them to farmers for irrigation.

In the guidelines notified in 2020, Packaged Drinking Water units (PDW) which use ground water as their raw material are dealt separately. Abstraction charges in respect of PDW units are the highest. Also, no NOC is to be granted to new PDW units in OE areas even if they fall under MSME category.

Additionally, provision of water audit has been introduced to ensure reduced water consumption. Industries are required to reduce their ground water use by at least 20% over the next three years through appropriate means.

4. **"38. The critical and semi-critical areas have been left untouched and there is no such restriction at all."**

All types of the assessment units have been included in the purview of regulation. Necessary measures/ restrictions have been incorporated in the Guidelines.

Water management plans shall be prepared by all the State Ground Water Authorities/ Organizations for all Over-

exploited, Critical and Semi-critical assessment units starting with Over-exploited units.

All industries, mining projects and infrastructure projects drawing ground water in safe, semi-critical and critical assessment units shall be required to pay ground water abstraction charges.

All projects extracting/ proposing to extract ground water in excess of 100 m³/day in Over-exploited, Critical and Semi-critical areas shall have to mandatorily submit impact assessment report of existing/ proposed ground water withdrawal on the ground water regime and also socio-economic impacts report prepared by accredited consultants.

For infrastructure projects, NOC in critical and over-exploited areas is granted after ascertaining non availability of treated sewage water for construction within 10 km radius of the site.

5. **"39. Rates prescribed above are very nominal and virtually permits abstraction of ground water in stressed area almost free. Water charges prescribed by local bodies by supplying surface water are much inure. Such nominal rates for abstraction of ground water would in fact encourage more abstraction for commercial purpose."**

Rates have been decided after deliberations and discussions with State agencies and considering the economics of water. These rates are subject to revision from time to time. It is pertinent to mention that the rates for PDW are the highest.

6. **"40. Effective steps capable of execution for recharge/restoration are clearly wanting in respect of mining and infrastructure projects i.e. existing as well as new projects in over-exploited areas."**

With recharge measures in a mining lease, the purpose of recharge of ground water would not be served. In case of mines, if the level of mining goes below the water table, dewatering is essential. Abandoned pits in case of mines naturally act as source of recharge / storage / water conservation structures. Hence, further special steps may not be required for mining projects.

Recharge in infrastructure projects is a part of building bye-laws and the same has already been incorporated in the Guidelines. Almost all the States / UTs have made RWH mandatory in their respective bye-laws.

7. **"41. CGWA not able to execute its power for prevention of depletion of water level and also for recharge/restoration/rejuvenation of water level; CGWA has failed at protection of ground water level in stressed or highly stressed areas."**

Stressed areas have been designated by CGWA on the basis of a scientific methodology. Aquifers that appear to be under stress are in fact more sustainable as their transmissivity / storativity is more. Copy of the Aquifer Systems in India (2012) are marked herewith and annexed as ANNEXURE-A.

Program of National Aquifer Mapping and preparation of Water Management Plans is being implemented by CGWB.

8. **"42 (i) Policy has to be rational, meeting basic need of everyone and at the same time preserving water for future generation."**

CGWA has prepared the policy after deliberations with various stakeholder Ministries, experts, States and UTs, and other stakeholders.

9. **"42 (ii) Policy must have punitive measures and recovery of damages from those who have extracted ground water in past and continue to do so unauthorizedly."**

Provisions of Environmental Compensation and Penalty have been included in the latest CGWA Guidelines in compliance to earlier observations of Hon'ble NGT.

10. **"42 (iii) Steps to be taken to tap all relevant sources specially the rain water harvesting and preservation of water bodies."**

Provision regarding RWH as per building bye-laws is in the Guidelines. Provision for protection of wetlands has been incorporated in the Guidelines. MoJS strives to promote RTRWH Recharge and conservation of GW.

11. **"42 (iv) When CGWA has classified, over-exploited, critical and semi critical areas for regulation, it has no reason to refuse regulation of such areas on the plea that it would govern/regulate only notified area."**

(v) CGWA cannot show apathy on the pretext of notified area, ignoring other areas where ground water level is similarly stressed i.e., Over-exploited, critical or semi-critical;

(vi) Extraction of ground water in over-exploited, critical and semi-critical area with or without permission, only on the pretext of being non-notified, amounts to failure of Statutory duty on the part of CGWA;"

Provision of notified / non-notified areas has been omitted and all areas including Over-exploited, Critical, Semi-critical, Safe and Saline have been brought under regulation.

Before implementation of 2020 Guidelines, 162 areas were notified. But as per the new guidelines, restrictions have been imposed in 1114 OE, 270 critical and 1057 semi-critical assessment units. Moreover, Ground Water Resource

Assessment is now being carried out every year and no. of OE blocks is updated accordingly.

12. **"42 (vii) Mechanical imposition of condition of recharge of underground water without any mechanism for ensuring its compliance or to check, whether complied or not, at all, while continuing to permit drawl of ground water for commercial purposes, is unjustified;"**

The recharge measures are proposed to be undertaken by Central / State Government. Accordingly, provision for Ground Water Conservation Fund has been included in the Guidelines for recharge / water conservation purposes.

Condition of recharge specified in the NOCs issued prior to implementation of 2020 guidelines was based on the dimensions of recharge structures as proposed by the proponent with the application. However, actual quantum of recharge varies depending on the actual rainfall.

Moreover, different measures to save water and use of water efficient mechanism by the units is included to compensate for the recharge measures.

13. **"42 (viii) Abstraction of ground water for building construction, watering plants, swimming pools, threatening availability of ground water in over-exploited, critical and semi-critical areas, specially, in absence of adequate steps for recharge of ground water, is unjustified;"**

For building construction in over-exploited assessment units, use of ground water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site.

Maintaining of green belt is also essential component of environment. As a compliance condition, the units are required to meet the requirement of water for greenbelt (horticulture) through recycled / treated waste water, wherever feasible.

Public Notice for ground water withdrawal for swimming pools has already been issued.

14. **"42 (ix) Mere provision for realization of some amount/charges for drawl of ground water is ridiculous and illegal, in respect of extraction of ground water in over-exploited, critical and semi-critical area;"**

Ground water abstraction and restoration Charges have been fixed after necessary deliberations and are based on the type of industry and criticality of the area in which it is located.

As such charges are intended to be used by the State Implementing Agencies for the purposes of restoration/ augmentation of ground water and water conservation measures to ensure sustainability.

The intention is to ensure that the users realize the economic value and extract only the required quantity of ground water, thereby preventing over-extraction of ground water.

15. **"42 (x) Drawl of ground water for industrial purposes with or without payment, in OCS areas, should be banned."**

Ground water withdrawal is permitted only where no or only partial water supply is available to the units and has been allowed taking into account the socio-economic situation of the country.

16. **"42 (xi) Checking of contamination of ground water by discharge of untreated effluents in water bodies need comprehensive planning and execution and on priority basis."**

Coordination is being done with State Pollution Control Boards to check GW contamination.

17. **"42 (xii) Apathy of authorities in last several years, in neglecting subject in breach of trust, reposed in such authorities, has been noted by Tribunal still no information was given with regard to compliance of earlier orders including action for illegal activities of CGWA."**

CGWA has worked with bonafide intention keeping in mind the interest of environment / sustainability of aquifers, development of country's economy and has never been involved in any kind of illegal activities. All the orders of Hon'ble NGT have been timely complied with and the reports have been submitted to Hon'ble NGT in this regard.

18. **"42 (xiii) Instead of laying down strict norms for extraction of ground water for commercial purposes and putting in place a robust institutional mechanism for surveillance and monitoring, extraction of ground water has been liberalized.**

42 (xiv) No study or data has been furnished or collected to justify this approach."

For surveillance and monitoring, District Collectors/Deputy Commissioners (DCs) /District Magistrates (DMs) are authorized to take enforcement measures. Technical officers of CGWB/ CGWA and State groundwater organizations are authorized to take actions with respect to monitoring and periodic inspections. In order to further decentralise and strengthen the monitoring and compliance mechanism as per the guidelines, officials of concerned Departments of Revenue and Industries of the States/UTs appointed as Authorised Officers in consultation with the State/UT Governments.

For digital surveillance, provision of realtime monitoring by way of installation of digital water flow meters and digital automatic water level recorders with telemetry system are incorporated in the Guidelines.

*For capturing details of ground water interventions, National Water Informatics Centre (NWIC) in association with CGWB has developed a portal for capturing details of Artificial Recharge Structures constructed by various agencies. NWIC has also developed a **mobile app** for data capture at field level.*

Development of Mobile App for reporting self-compliance and self-inspection along with module for verification by CGWB officers is in process, which is GIS based having facilities like geotagging of field photographs etc.

19. **"42 (xv) Drawl of ground water for all practical purposes made unregulated in all areas including OCS.**

(xvi) So called regulation is illusory."

The CGWA Guidelines provide for regulation of ground water extraction in OCS areas as well as safe and saline areas. Such regulation has been framed keeping in mind the hydrogeology of the area.

20. **"42 (xvii) Water conservation fee in effect a license to harness ground water to any extent even in OCS areas."**

Hon'ble Tribunal vide order dated 13.07.2017 in OA No 200/2014 (M.C. Mehta vs. Union of India) directed that every industry should be directed to pay for extraction of such water, that too, subject to the conditions stated in the order permitting such extraction.

The abstraction charges have acted as deterrent as they have resulted in reduction of quantum and the units are using ground water judiciously with utmost care.

21. **"42 (xviii) No institutional mechanism to monitor removal and replenishment of ground water"**

CGWB and State Ground Water agencies are monitoring ground water to assess replenishment and remediation through the network of ground water monitoring stations. District Collectors/Deputy Commissioners (DCs) /District Magistrates (DMs) are authorized to take enforcement measures.

22. **"42 (xix) No check on injunction of pollutants in ground water;**

(xx) No provision to check water quality and remediation, if there is contamination;"

Injection of treated/ untreated waste water into aquifer system is strictly prohibited.

Proposal to make provision in the NOCAP to receive complaints regarding pollution observed by citizens for necessary action by CGWA is under consideration.

Proposal for Monitoring of Ground water quality 1 km downstream by orange / red category industries is under consideration.

23. **"42 (xxi) Instead of conservation of ground water necessary for providing access to drinking water in OCS areas, Guidelines would result in fast depletion of ground water and damage to water bodies;"**

In the latest guidelines, provisions for Abstraction/ Restoration Charges have specifically been kept with the view to utilize the amount so collected for implementation of water conservation schemes in order to prevent any long-term adverse impact on ground water regime of the area.

Adequate measures are to be taken through implementation of recharge schemes funded through GWCF by States/ UTs.

24. **"42 (xvii) Mandate of CGWA is not exploitation of ground water in depleted area but to conserve it;"**

CGWA has been constituted vide Notification dated 14.01.1997 for regulation and management of ground water in the country and issue regulatory directions for the same. CGWA is taking all necessary steps to fulfill the mandate and has issued the 2020 guidelines taking into account various provisions for the conservation of ground water as well.

All industries are required to adopt latest water efficient technologies so as to reduce dependence on ground water resources.

Industries extracting ground water are required to submit online annual water audit report.

NOC is granted in such cases where local government water supply agencies are not able to supply the desired quantity of water.

Proponents shall install roof top rain water harvesting & recharge systems in the project area.

25. **"42 (xxiii) OCS areas need regulation fir conservation of ground water, cannot be treated separately as notified or non-notified;"**

Categorization into Notified and non-notified areas have been removed. By removing provision of notified / non-notified areas, all OCS areas have been brought under regulation.

26. **"42 (xxiv) Compensation to be recovered for illegal abstraction, has to be deterrent, linked to the quantum of ground water extracted and period for which such extraction took place;"**

Provision for Environmental Compensation (EC) is incorporated in the Guidelines. EC is calculated based on quantum of extraction and criticality of area.

27. **"42 (xxv) CGWA must lay down and follow stringent norms to ensure that there is no depletion of ground water in OCS areas and depleted water level is improved and replenished;"**

Adequate measures are being taken by CGWA in this regard. In Over-exploited assessment units, No Objection Certificate shall not be granted for ground water abstraction to any new industry except those falling in the category of Micro, Small and Medium Enterprises (MSME).

Expansion of existing industries involving increase in quantum of ground water abstraction in over-exploited assessment units shall not be permitted.

All projects extracting/ proposing to extract ground water in excess of 100 m³/day in Over-exploited, Critical and Semi-critical areas shall have to mandatorily submit impact assessment report of existing/ proposed ground water withdrawal on the ground water regime and also socio-economic impacts report prepared by accredited consultants.

In over-exploited assessment units, use of ground water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site.

No 'No Objection Certificate' shall be granted for extraction of groundwater for Water Parks, Theme Parks and Amusement Parks in over-exploited assessment units.

Rates for ground water abstraction / restoration are prescribed according to the assessment unit.

28. **"42 (xxvi) The abstraction of ground water in over-exploited area should be permitted only for drinking purposes;"**

Hydrogeologically, the aquifers in OE areas are more prolific as compared to safe areas. Also, aquifers in OE areas can sustain water withdrawal for drinking purpose along with industrial uses as categorization is based on the fluctuation of water levels in unconfined aquifers only.

Majority of the ground water is abstracted for agricultural purposes.

For the regulation of bulk water suppliers, separate guidelines have been issued.

29. **"42 (xxvii) For calculation of environmental compensation, present categorization of area (over-exploited, critical and semi-critical) shall be considered, irrespective of when violation started or committed;"**

This provision is being followed by CGWA.

30. **"42 (xxviii) In case of demand of more than 5000 KLD in existing cases, permission be given only after examining scientific assessment of water availability and inter-generational equity. In case of repeated violations, environmental compensation shall be computed at 1.25 times of the previous environmental compensation;"**

To check the environmental impacts of a proposed project, an Expert Appraisal Committee (EAC) has been constituted for evaluation of the Impact Assessment Reports (prepared by accredited consultants) in NOC applications submitted by the project proponents (Industry/ Infrastructure/ Mining categories) and only after examining the Reports, NOC is issued to the units.

Provisions of EC in the notified guidelines are as per the report submitted by CPCB to the NGT. However, imposition of EC at 1.25 times of previous EC in case of repeated violations is under consideration.

31. **"42 (xxix) Since OCS areas have been found seriously affected by overdrawl of ground water, regulation of such drawl for commercial purposes cannot be dispensed with for any industry, even in industrial area."**

The categorization of OCS assessments units is done based on scientific data.

Only over-exploited assessment units involve over-withdrawal, not critical and semi-critical assessment units. No new industry, except MSME (excluding PDW), is permitted in OE areas.

32. **"42 (xxx) In absence of replenishment of ground water, unregulated drawl cannot be permitted to any commercial entity;"**

Daily withdrawal for commercial activities is being regulated. Industries are being encouraged to reduce their fresh water consumption.

33. **"42 (xxxi) Shortage of availability of water for commercial purposes cannot be remedied by permitting drawl of ground water in OCS areas."**

Permission for ground water extraction is given only where local government water supply agencies are not able to supply the desired quantity of water.

In Over-exploited assessment units, No Objection Certificate is not be granted for ground water abstraction to any new industry except those falling in the category of Micro, Small and Medium Enterprises (MSME).

In critical and semi-critical assessment units, there is a development scope for ground water hydrogeology.

34. **"42 (xxxii) Water is a scarce resource; hence, industry has to cope up with such scarcity and find out its own alternative ways to meet the requirement of water."**

The industries are encouraged to find alternative ways and permission related to ground water withdrawal is given only when government supply agencies are unable to supply the desired quantity of water.

All industries abstracting ground water in excess of 100 m³/d shall be required to undertake annual water audit and reduce their ground water use by at least 20% over the next three years through appropriate means.

It is also provided in the guidelines that the Proponents shall install roof top rain water harvesting & recharge systems in the project area.

Wherever feasible, requirement of water for greenbelt (horticulture) shall be met from recycled / treated waste water. Recycling/ reuse of treated water for flushing are also taken into account.

It shall be mandatory for all the mining industries to ensure that water available from de-watering operations is properly treated and should be gainfully utilized for supply for irrigation, dust suppression. mining process. recharge in downstream and for maintaining e-flows in the river system.

In over-exploited assessment units, use of ground water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site.

Installation of Sewage Treatment Plants (STP) shall be mandatory for new projects, where ground water requirement is more than 20 m³/day. The water from STP shall be utilized for toilet flushing, car washing, gardening etc.

35. **"42 (xxxiii) They cannot be permitted indiscriminate drawl of water in such areas till situation improves;"**

There is no indiscriminate withdrawal as the quantum of abstraction is fixed in the issued NOCs. Moreover the charges have ensured the reduced consumption of ground water.

To reduce their financial burden, project proponents have reduced the consumption of ground water which has resulted in its conservation and realizing the economic value of water.

36. **"42 (xxxiv) Liberalization of ground water extraction across the board, to certain categories, without any impact assessment and effective checks, are against law;"**

The provision of Impact Assessment Reports in case of industries and Comprehensive Hydrogeological Reports in case of mines has been incorporated in line with practice followed by MoEF&CC. Expert Appraisal Committee has also been constituted.

37. **"42 (xxxv) No road map has been prepared by CGWA as to how revised Guidelines will check and neutralize falling ground water level particular, when it has continuously gone down. Liberalization of abstraction of ground water would defeat the purpose of Constitution of CGWA and is contrary to mandate of Public Trust doctrine."**

Various measures / schemes (Jal Shakti Abhiyan, Atal Bhujal) are being taken up and are being implemented by the Government through MNREGA etc. to check the falling ground water levels and restore ground water, and also for spreading awareness.

38. **42 (xxxvi) Effective steps for protecting ground water in OCS areas against individual commercial considerations are must to serve general people.**

Adequate measures are being taken by CGWA in this regard. In Over-exploited assessment units, No Objection Certificate shall not be granted for ground water abstraction to any new industry except those falling in the category of Micro, Small and Medium Enterprises (MSME).

Expansion of existing industries involving increase in quantum of ground water abstraction in over-exploited assessment units shall not be permitted.

All projects extracting/ proposing to extract ground water in excess of 100 m³/day in Over-exploited, Critical and Semi-critical areas shall have to mandatorily submit impact assessment report of existing/ proposed ground water withdrawal on the ground water regime and also socio-economic impacts report prepared by accredited consultants.

In over-exploited assessment units, use of ground water for construction activity shall be permitted only if no treated sewage water is available within 10 km radius of the site.

No 'No Objection Certificate' shall be granted for extraction of groundwater for Water Parks, Theme Parks and Amusement Parks in over-exploited assessment units.

Rates for ground water abstraction / restoration are prescribed according to the assessment unit.

39. ***"44 The concerned Ministry and Regulator have acted in haste and just in 2 months i.e., 24.09.2020, have published Guidelines2020 wherein most of the infirmities, irregularities, and failures, pointed out on the part of CGWA, in earlier Guidelines, as such, are present."***

The Guidelines have been framed keeping in mind the timeline provided by Hon'ble NGT after consultation with States and stakeholders. MoJS / CGWA has made best efforts by taking, in good faith, all reasonable steps to achieve the objective of effective conservation of ground water resources to comply with the directions of NGT.

40. *CGWA has been constituted under Section 3 (3) of the Environment (Protection) Act, 1986, to regulate and control, management and development of ground water in the country and to issue necessary regulatory directions for the purpose. Ministry of Jal Shakti (MoJS) is promoting conjunctive use of surface water and ground water in an optimal manner so as to ensure sustainability of available water resources and has been working together persistently with other ministries for a sustainable and effective management of ground water resources with a special focus on demand side management and supply side interventions.*

In view of the foregoing, it is most respectfully stated that CGWA under MoJS has made best efforts, decisively as well as resolutely, by taking, in good faith and with right earnest, all reasonable steps to achieve the objective of effective conservation of ground water resources to comply with the directions as contained in the Order dated 20.07.2020 as well as 25.02.2022 passed by this Hon'ble Tribunal. The present Compliance Report may kindly be taken on record. The above is submitted for perusal of Hon'ble NGT."

4. From the said report, we find that more attention has been paid by CGWA for purpose of protection of industries and other persons extracting ground water ignoring the fact that in stressed area, indiscreet extraction of ground water, if allowed, may result in creating a serious scarcity of ground water which will affect ultimately surface water and will cause a serious water scarcity in the concerned area.

5. We may take judicial notice of the fact that a serious water scarcity condition due to uncontrolled and unmonitored extraction of groundwater has already caused water scarcity in Cape Town, South

Africa. In Bangalore also, similar situation has recently arisen. It is high time when CGWA should pay more attention to ensure continuity of availability of ground water by restricting extraction of ground water in stressed area in a planned manner and not to allow its extraction only on payment of certain charges as money cannot substitute water and if water scarcity arises, it will be difficult to meet the situation at that stage.

6. Entire attempt on the part of CGWA is not to regulate and monitor availability of ground water in an effective manner but virtually an explanation as to how it is permitting extraction of ground water on payment of some charges even in Over Exploited Critical and Semi-Critical area i.e. stressed area. Further, there is no mention about regulation on geological contamination of ground water in many parts of country due to illegal extraction of ground water at a depth of more than the prescribed limit causing serious health hazard to consumers.

7. This kind of approach on the part of CGWA is highly condemnable and cannot be appreciated. It appears that CGWA has not been able to appreciate its own statutory responsibility and purpose for which this body was constituted under order of Supreme Court in **MC Mehta vs. UOI, (1997) 11 SCC 312**. Moreover, report also says that effective steps have been taken but details of such steps are not given and therefore, report given by CGWA is very vague.

8. We accordingly, reject the report and require CGWA to take into account observations made above and also observations made in the judgment dated 25.02.2022 to understand the fact that judgment of this Tribunal is binding on CGWA and it has no jurisdictional authority to make any comment on judgment of Tribunal. Further, non-compliance of Tribunal's judgment is an offence under Section 26 of National Green

Tribunal Act, 2010 and violator can be prosecuted. CGWA, therefore, shall submit a fresh report for compliance of direction given in the judgment dated 25.02.2022 and also by taking into account the observations made hereinabove.

9. The M.A. is disposed of accordingly.

10. The report as directed above, shall be submitted by CGWA within three months with Registrar General 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, who if find necessary may place the matter before Tribunal for further consideration.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

March 19, 2024
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