

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

Original Application No. 417/2022

Niranjan Bagchi

Applicant

Versus

State of Uttarakhand

Respondent

Date of hearing: 24.07.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): None

Respondent(s): Ms. Anjali Rajput, Advocate for State of Uttarakhand and DM Dehradun with Ms. Sonika, DM Dehradun (through VC)  
Mr. Kaushal Gautam and Ms. Snehpreet Kaur, Advocates for Respondent No. 3 UKPCB with Dr. Parag Madhukar, Member Secretary, UKPCB  
Mr. Raj Panjwani, Senior Advocate with Dr. Aman Rab, Mr. Devang Mishr and Ms. Sunidhi Sah, Advocates for Respondent No. 4 with Mr. Nitesh Kumar Jha, Secretary, Urban Development, Mr. Gaurav Kumar, Municipal Commissioner, Dehradun and Mr. Ravi Pandey, Superintendent (through VC)

**ORDER**

1. Matter was taken up on 13.05.2024 when with regard to demarcation of Flood Plain Zone of river Rispana, statement of District Magistrate, Dehradun was recorded that same shall be completed and demarcation will be done within two month. With regard to removal of encroachment on the Flood Plain Zone of river Rispana at Dehradun, statement of Municipal Commissioner, Nagar Nigam was recorded that all encroachments on the river bank shall be removed by 30.06.2024.

2. Today, report dated 20.07.2024 has been filed by Nagar Nigam, Dehradun stating that in respect of encroachment made on river bank side, Sections 4(2) and 4(3) of Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018 provides protection. Encroachers covered by protection cannot be removed till rehabilitation is made by the State.

3. It is also said that Task Force constituted by Municipal Commissioner, Dehradun vide letter dated 25.04.2024 identified 89 encroachments which were under control and jurisdiction of Municipal Corporation. Notices were issued to them on 08.05.2024 and therefore, steps for removal of encroachment have been taken and 69 encroachments have been removed.

4. Mr. Raj Panjwani, Senior Advocate has appeared on behalf of Nagar Nigam, Dehradun. He stated that remaining encroachments which are identified by Task Force shall also be removed within one month. He also stated that with respect to protected category of encroachers, recommendation for steps for rehabilitation by State Government shall be made within two months and, thereafter, final steps shall be completed expeditiously.

5. It is also stated by Shri Raj Panjwani, Senior Advocate that major part of river bank falls in the jurisdiction of Mussorie Dehradun Development Authority and removal of encroachment on such part of land is the responsibility of the said authority, but said authority is not one of the respondent and no steps have been taken by said authority.

6. We accordingly implead Mussorie Dehradun Development Authority through its Vice Chairman as respondent 8.

7. Registry shall issue notices to the newly impleaded respondent who shall file its response particularly in respect of the steps taken for removal of encroachments and if not taken in past, it shall take effective steps in next two months and submit Report before next date.

8. On behalf of State of Uttarakhand i.e., respondents 1, 2 and 5, a Report dated 23.07.2024 has been filed by District Magistrate, Dehradun stating in para 2 as under:

*2. That in compliance of directions given by Hon'ble Tribunal, a report has been received from Superintendent Engineer, Jal Vigyan Mandal, Baharabad. Which mentions that the demarcation of the flood plain Zone of Rispana River is being done. The details of approach and methodology of flood plain demarcation work from the starting point of Rispana river i.e., Shikhar Fall to Motherwala (Bindal River Confluence) is updated as follows:*

- a) The work of Data Preparation, Flood Frequency Analysis, Rainfall analysis & catchment Delincation has been completed.*
- b) Survey and hydrological studies and Hydraulic Modeling work has been completed. As a result, the work of the flood lines for different return periods i.e., 25 years & 100 years has been completed.*
- c) The work of preparation of flood plain maps, ground truth verification work has been completed and the preparation of the report is in process.*
- d) Interim Notification and asking for objections and disposal.*
- e) Final notification making of Flood Lines on Shajra, Sheets.*
- f) Installation of Pillars at site.*

*That Superintendent Engineer, Jal Vigyan Mandal, Baharabad has montioned vide letter dated 18.07.2024, in the compliance of order dated 13.05.2024, by that respondent no.4 that the copy of the letter dated 20.07.2024 of Municipal Corporation, Dehradun is annex herewith as Annexure-A."*

9. Principal Secretary, Urban Development is also present by VC. He stated that for completion of remaining steps and issuing final notification with regard to flood plain zoning, some further time is required. He said that flood plain zone has been demarcated in accordance with Uttarakhand Flood Plain Zoning Act, 2012. However, it could not be disputed by the said officer that River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 which was notified by Ministry of Environment Forest and Climate Change in exercise of the powers under Sections 3, 4, 5, 9, 10, 11, 19, 20 and 23 of Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**') has not been taken note since it was not in the knowledge of the officers and authorities. It is really strange that under provisions of EP Act, 1986, a statutory order was issued as back as in 2016, but the same is still not in the knowledge of authorities particularly in view of Section 24 of EP Act, 1986 which gives over-riding in fact to EP Act, 1986 over any other law.

10. However, for completion of flood plain zoning in accordance with law, we grant, as a last opportunity, two months further time to State of Uttarakhand and make it clear that in case, the said work is not completed within aforesaid time, this Tribunal will have to proceed to take further stringent and punitive action in accordance with the provisions of EP Act, 1986. We also make it clear that in case exercise of flood plain zoning is not completed by next date, Chief Secretary, Uttarakhand shall appear before Tribunal on the next date.

11. List this matter on 15.10.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 24, 2024  
Original Application No.417/2022  
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