

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

Original Application No. 417/2022
(I.A. No.348/2025, I.A. No.139/2025)

Niranjan Bagchi

Applicant

Versus

State of Uttarakhand & Ors.

Respondents

Date of hearing: 27.05.2025

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None for the applicant.

Respondents: Mr. Kuldeep Singh, DAG, Ms. Anjali Rajput,
Advocates for respondents no. 1, 2, 5 and 7.

Mr. Savin Bansal, DM, Dehradun (Through VC).

Mr. Rahul Verma, Advocate for respondent no. 6
(Through VC).

Mr. GiGi C George, Advocate for NMCG,

Dr. Aman Rab and Payal Bhatia Mohanty, Advocates
for R-4 Nagar Nigam, Dehradun & Dept. of Irrigation
alongwith Mr. Sharad Srivastav, Supt. Dept of
Irrigation.

Mr. Vinay Garg, Advocate for respondent no. 8.
Mr. Kaushal Gautam, Advocate for UKPCB

ORDER

1. The applicant-Mr. Niranjan Bagchi had sent a letter petition dated nil which has been treated and registered as Original Application, for exercise of suo motu jurisdiction.

2. The applicant has raised the grievances regarding (i) unauthorized raising of jhuggis on the dry river bed of river Rispana in Dehradun the number of which is increasing every year as municipal facilities are now available to them; (ii) discharge of untreated domestic sewage, dairy waste and industrial effluent in river Rispana in Dehradun which in turn discharges pollution load in river Ganga at Haridwar; and (iii) apprehension of natural calamity and overflowing river Rispana creating havoc and washing away habitations with loss of lives as occurred in Dehradun since 2013.

3. Vide order dated 12.07.2022 this Tribunal constituted a Joint Committee with direction to submit factual and action taken report.

4. In compliance thereof report of the Joint Committee has been filed vide email dated 03.11.2022.

5. Vide order dated 10.11.2022 (1) State of Uttarakhand through Chief Secretary, Government of Uttarakhand, (2) Principal Secretary, Urban Department, State of Uttarakhand (3) State PCB, (4) Commissioner, Municipal Corporation, Dehradun, and (5) District Magistrate, Dehradun, were impleaded as respondents no. 1 to 5. Subsequently, Uttarakhand Payjal Nigam, Dehradun, Uttarakhand Jal Sansthan, Dehradun and Mussoorie Dehradun Development Authority, National Mission for Clean Ganga, Ganga Mission Authority, State Ganga Committee and District Ganaga Committee were impleaded as respondents no. 6 to 12 as per orders passed by this Tribunal.

6. In the course of hearing replies/reports have been filed by the respondents.

7. This Tribunal observed that this case involves the substantial environmental questions regarding (i) demarcation of flood plain zone of river Rispana, (ii) identification of encroachments and taking of appropriate action for removal of the encroachments and (iii) tapping discharge of untreated sewage and industrial effluents in river Rispana.

8. So far as demarcation of flood plain zone of river Rispana is concerned, interim notification under section 8 of the Uttarakhand Flood Plain Zoning Act, 2012 was issued on 07.10.2024 and further progress report is to be filed.

9. The Secretary, Irrigation Department, Government of Uttarakhand is directed to file further progress report in this regard at least three days before the next date of hearing fixed.

10. So far as tapping of discharge of domestic sewage and industrial effluent is concerned, the work of tapping of 177 drains of river Rispana is being carried out by Uttarakhand Payjal Nigam and Uttarakhand Jal Sansthan of Dehradun and monitoring of performance of sewage treatment plant is being carried out by UKPCB.

11. Uttarakhand Payjal Nigam and Uttarakhand Jal Sansthan and UKPCB are directed to file further progress report in this regard at least three days before the next date of hearing fixed.

12. So far as the question of identification of encroachments in the river bed in the river Rispana is concerned, the Joint Committee constituted by this Tribunal observed that number of jhuggi basties have been setup in the dry river bed of river Rispana. Municipal Corporation, Dehradun filed report that the task force identified 89 encroachments out

of which 69 encroachments have been removed. It was mentioned that 413 encroachments are to be removed by Mussoorie Dehradun Development Authority.

13. This Tribunal noticed the conflict between the provisions of **the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018** (which directs to maintain status quo thereby prohibiting taking of action for demolition/removal of encroachments against the encroachers/owners/occupiers of jhuggies established in the river bed of river Rispana till the year 2024) and **the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016** notified vide notification dated 07.10.2016 (which has overriding effect in view of the section 24 of the Environment (Protection) Act, 1986) and directed the Chief Secretary, Government of Uttarakhand to place the matter before the Government of Uttarakhand for initiating appropriate legislative and executive measures for removal of encroachments from the river bed/flood plain zone of river Rispana. State of Uttarakhand had filed Civil Appeal No. 1440/2025 titled as State of Uttarakhand & Ors vs. Niranjana Bagchi & Ors. against order dated 16.12.2024 being principally aggrieved by paragraph nos. 21 and 23 thereof. The appeal was disposed of by Hon'ble Supreme Court vide order dated 10.02.2025 with the direction to approach this Tribunal and move necessary application for appropriate directions in view of second proviso clause 6 (3) of the **River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016** notified vide notification dated 07.10.2016.

14. **I.A. No. 139/2025** was accordingly filed by respondent no. 1- State of Uttarakhand. In para no. 7 of the abovesaid application, it was submitted that out of 89 illegal encroachments 20 illegal encroachments are supported by valid proof of construction/residency prior to the cut-off date of 11.03.2016 and remaining 69 encroachments were removed. In

para no. 8 of the abovesaid application it was mentioned that out of 413 encroachments in villages Kathbangla, Veer Gabbar Singh Basti, Tarla Nangal, Chidowali, Kandoli, Dhakpatti and Happy Enclave on the banks of the Rispana River, 350 constructions were found to have existed/have been completed prior to 11.03.2016 and remaining 66 constructions have been removed.

15. Vide order dated 17.03.2025 respondent no. 1-State of Uttarakhand was directed to file affidavit alongwith copies of the above said reports alongwith supported documents which are essential for elucidation of factual aspects in order to determine the question of applicability of the second proviso to sub-clause 3 of clause 6 of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016. Respondent no. 1 is also directed to file copies of all relevant documents enclosed with the report to show the details as to when, by whom, on how much area and what kind of constructions were raised and what is the material in support of completion of the construction thereof before the cut-off date. In its affidavit respondent no. 1 shall also specifically mention as to whether in view of the Uttarakhand Flood Plain Zoning Act, 2012 raising of any construction is permissible on the bank of river/rivulet and whether the construction in question are permissible in view of the provisions of the above said Act.

16. In compliance thereof reply dated 02.05.2025 has been filed on behalf of and not by the Chief Secretary, Government of Uttarakhand,

17. **I.A. No. 348/2025** has been filed by respondent no. 1-State of Uttarakhand for exemption from filing legible annexures/documents filed with the affidavit in compliance of order dated 17.03.2025. In view of the reasons mentioned the application is **allowed** subject to the condition

that legible copies of the annexures/documents be filed in due course of time.

18. In reply filed on behalf of Chief Secretary, Government of Uttarakhand reference has been made to documents in support of reports regarding 89 and 413 encroachments and copies of the same have been filed. Reference has also been made to letter dated 02.04.2025 of the Irrigation Department that under Section 8 of the Uttarakhand Flood Plain Zoning Act 2012 the prohibited and restricted area are to be determined on both banks of river Rishpana as provided in Draft Notification dated 07.10.2024. It may be observed here that the above said reply has not been filed by the Chief Secretary, Government of Uttarakhand and the same has been filed by some officer whose name and designation are not disclosed in the reply and on perusal of annexure 'H' it is discovered that Commissioner, Municipal Corporation Dehradun has been authorized to file the reply on behalf of the Chief Secretary, Government of Dehradun. The authorization of such a subordinate officer to file reply on behalf of the Chief Secretary, Government of Uttarakhand by itself shows that the Chief Secretary, Government of Uttarakhand has no time to look into the matter and take appropriate action as may be required and is completely neglecting his duties and delegating the same to such a subordinate officer, who cannot take any decision and submit any proper reply. Further, in the reply no submission has been made regarding other aspects as mentioned in the order dated 17.03.2025. We are of the view that such response of the Chief Secretary, Government of Uttarakhand, being head of the State bureaucracy on one hand and also Chairman of the State Ganga Committee on the other hand, in a matter related to a river, which is lifeline of Doon Valley and one of the important Tributaries of river

Ganga, is violative of the Environmental Rule of Law and also the directions of this Tribunal.

19. **In these facts and circumstances, we are constrained to direct personal appearance of the Chief Secretary, Government of Uttarakhand on the next date of hearing to assist this Tribunal in just and proper adjudication of the questions involved in the case.**

20. **The Chief Secretary, Government of Uttarakhand is also directed to file his own affidavit with respect to the aspects mentioned in order dated 17.03.2025 at least three days before the next date of hearing fixed.**

21. Vide order dated 17.03.2025 newly respondents no. 9 to 12 were directed to file reply to the O.A. and I.A. No. 139/2025.

22. In compliance thereof reply dated 02.05.2025 has been filed by District Ganga Committee, Dehradun, reply dated 03.05.2025 has been filed by the District Magistrate, Dehradun and reply affidavit dated 05.05.2025 has been filed by National Mission for clean Ganga.

23. In his affidavit dated 02.05.2025 filed by the District Magistrate, Dehradun on behalf of the District Ganga Committee reference has been made to letters issued for compliance with the directions given by this Tribunal. In his affidavit dated 03.05.2025 the District Magistrate, Dehradun has referred to orders and communications issued to State officials / stake holders for compliance with the provision of section 6 (3) of notification dated 07.10.2016 while mentioning that there was non-compliance of the directions issued by him.

24. In its reply NMCG has submitted that NMCG vide its letter dated 30.04.2025 addressed to the Secretary, Uttarakhand Irrigation Department requested to submit a comprehensive report for examination

by NMCG, including details of flood plain zoning along the banks of river Rispana, copies of any relevant State Government orders or notifications defining protected or regulated zones and the criteria adopted therein, as well as any other information or material deemed pertinent to the matter. In response thereto, the Irrigation Department Uttarakhand has vide its letter dated 03.05.2025 submitted that final notification pertaining to the Flood Plain Zoning for a 27 Km stretch along river Rispana is expected shortly.

25. In the present case respondent no. 1-State of Uttarakhand is relying on second proviso of clause 6 (3) of the **River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016** notified vide notification dated 07.10.2016 which provides further that in case any such construction has been completed before the commencement of this order in the river bank of river Ganga or its Tributaries or active flood plain area of river Ganga or its tributaries, the National Mission for Clean Ganga shall review such constructions so as to examine as to whether such constructions are causing interruption in the continuous flow of water or pollution in river Ganga or its tributaries and if that be so it shall cause for removing them.

26. In its reply, NMCG has not made specific submissions regarding conduct of such review and passing of orders in this regard. NMCG is directed to conduct such review in respect of all the construction raised in the river bank/dry river bed of river Rispana and to pass appropriate order in respect of the same in terms of second proviso to clause 6 (3) of the **River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016** within two months and file report in this regard at least three days before the next date of hearing fixed.

27. In the peculiar facts and circumstances of the case the Director General, NMCG is directed to appear before this Tribunal physically or through VC and the District Magistrate, Dehradun, the Commissioner, Municipal Corporation, Dehradun and the Vice-Chairman Mussoorie Dehradun Development Authority are directed to appear before this Tribunal physically on the next date of hearing fixed to assist this Tribunal in just and proper adjudication of **I.A. No. 139/2025**.

28. List on 18.08.2025 for further hearing.

29. In the meanwhile, order dated 16.12.2024 passed by this Tribunal shall remain in abeyance and the question of modification/recalling of the same will be considered on the date of hearing fixed.

30. A copy of this order may be sent to the Chief Secretary, Government of Uttarakhand, the Director General, NMCG, the District Magistrate, Dehradun, the Commissioner, Municipal Corporation, Dehradun and the Vice-Chairman Mussoorie Dehradun Development Authority by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 27th, 2025
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