

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 189/2023(CZ)

IN THE MATTER OF:

BABU LAL JAJOO

R/o Jajoo Bhawan Bhilwara
Bhilwara, Rajasthan

Applicant(s)

Vs.

- | | |
|---|------------------|
| 1 STATE OF RAJASTHAN
Ministry of Environment, Forest & Climate
Change
Through Principal Secretary
Secretariate, Jaipur
Rajasthan | Respondent No. 1 |
| 2 NAGAR NIGAM KOTA
Through commissioner
Kota, Rajasthan
Dasheera maidan Kota, Rajasthan | Respondent No. 2 |
| 3 URBAN IMPROVEMENT TRUST
Through Secretary
Kota Rajasthan
UIT Kota Dadabadi Road,
C a d Choraha, Kota, Rajasthan | Respondent No. 3 |
| 4 RAJASTHAN STATE POLLUTION CONTROL BOARD
Through Member Secretary
Jhalana Dongri, Jaipur
Rajasthan. | Respondent No. 4 |
| 5 DISTRICT COLLECTOR, KOTA RAJASTHAN
Collectorate Office,
Kota, Rajasthan | Respondent No. 5 |
| 6 WATER RESOURCE DEPARTMENT
Through Superintending Engineer
Office Of Superintending Engineer
Kota, Rajasthan | Respondent No. 6 |
| 7 M/S DCM SHRIRAM INTEGRATED COMPLEX,
Shriram Nagar, Kota
Through Authorized Representative
Shriram Nagar, Udyogpuri,
P.O Kota (Rajasthan) | Respondent No. 7 |

8 **M/S SHRIRAM RAYONS, SHRIRAM
NAGAR, KOTA**

Through Authorized Representative
Shriram Nagar, Udyogpuri,
P.O Kota (Rajasthan)

Respondent No. 8

9 **M/S KOTA SUPER THERMAL POWER
STATION**

Sakatpua, Kota
Through Authorized Representative
Barrage Road, National Highway 76,
Electricity Board area,
Sakatpura, Kota, Rajasthan

Respondent No. 9

COUNSELS FOR APPLICANT(S):

Ms. Diksha Chaturvedi, Adv.

COUNSELS FOR RESPONDENT(S):

Mr. Rohit Sharma, Adv. for RSPCB
Mr. Shoeb H. Khan, Adv. for State
Mr. Lokendra Singh Kachhawa, Adv. for R-7 & 8
Mr. Kartik Seth, Adv. for R-9

CORAM:

**HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER**

Date of completion of hearing and reserving of order : 10.10.2025

Date of uploading of order on website : 16.10.2025

JUDGMENT

1. The issue raised in this application is violation of Water (Prevention & Control of Pollution) Act, 1974, Solid Waste Management Rules, 2016 and Environmental Rules by the Municipal Corporation, Kota and Urban Development Trust, Kota, Rajasthan by discharging the untreated effluents, sewage, industrial waste and domestic waste water into the Chambal River adversely affecting the water quality of the river and damaging the ecosystem which is dangerous to the habitat for the critically endangered Gharial crocodile and the Gangetic River dolphin, both of which are integral to the ecological balance of the river.

2. The unregulated sand mining along the Chambal River has led to environmental degradation, including riverbank depletion and disrupted natural flow, resulting in erosion and habitat loss. Simultaneously, the river contends with excessive legally sanctioned and illicit fishing activities by local fishermen and community members, contributing to the decline of aquatic biodiversity and posing a significant threat to the critically endangered Gharial crocodile and the Gangetic river dolphin, thus jeopardizing the ecological integrity of the Chambal River and its surrounding ecosystem. The current situation of the Chambal River is that the city produces a substantial 312 MLD of waste water while having a treatment capacity of only 50 MLD through existing sewage treatment plants. This disparity is expected to worsen over the next decade, posing challenges due to the lack of an adequate sewer network. Much of the waste water is funnelled through smaller drains, leading to larger open drains, which, during the rainy season, cause flooding issues and ultimately discharge into the Chambal River. Furthermore, the existing wastewater treatment facilities in Kota are far from ideal, with only 2 sewage treatment plants. Consequently, 262 MLD of wastewater is directly disposed off into the Chambal River through numerous open drains, contributing to consistent pollution.
3. It is further alleged that directions issued in this matter in O.A. No. 318/2014 original application No. 460/2014(CZ) and direction issued in the O. A. No. 606/2018 has not been complied with by the respondents.
4. The applicant has relied on the research paper which was published by the University, Department of Civil Engineering, Rajasthan Technical University, Kota, Rajasthan in the Magazine International Research General of Environmental Science Vol. 8(3), 21-25-July 2019, which reveals that in the district Kota, Rajasthan various industrial units are operating in addition of small and medium enterprises functioning in an around the city

which require a lot of water for their operation and maintenance. The increasing number of students in the Kota in the hub of the educational institution requires facilities of treatment plant, which are not properly managed by the local administration and matter requires urgent remedial steps by the State Administration.

5. The matter was taken up by this Tribunal and notices were issued to the respondents. In response to the notices, reply has been filed. During the course of hearing this Tribunal constituted a committee consisting representative of the Collector. Kota, representative of the CPCB and State PCB and one representative from the Water Resource Department to submit the factual and action taken report. In response to the above, they have filed the report. Applicant has filed the reply and rejoinder. Heard the learned counsel for the parties and perused the record.
6. The submission of the learned counsel for the applicant are that currently, Kota faces challenges in wastewater treatment, with only two sewage treatment plants (STPs) operating at a capacity of 50 MLD, while the city generates approximately 312 MLD of wastewater. The lack of an extensive sewerage network results in the discharge of wastewater through open drains into the Chambal River, contributing to its pollution. Furthermore, the study analyses the physical and chemical parameters of wastewater samples from drains and the Chambal River, revealing alarming levels of dissolved oxygen (DO), biochemical oxygen demand (BOD), chemical oxygen demand (COD), and total dissolved solids (TDS) beyond permissible limits. Despite the existing STPs working efficiently, the volume of wastewater far exceeds treatment capacities, highlighting the urgent need for additional sewage treatment infrastructure. Thus, the study underscores the importance of implementing a comprehensive sewerage system throughout the city to channel wastewater to treat plants before discharge into the river. Without immediate action, the continuous release of untreated wastewater

into the Chambal River poses a significant threat to both human health and aquatic life, emphasizing the pressing need for conservation efforts and sustainable wastewater management in Kota.

7. That the above-mentioned fact was squarely covered by Ministry of Jal Shakti in its paper namely 'Pollution in Rivers' which was published in the year 2021. Notably, this report was published significantly later than the orders issued by this Hon'ble Tribunal, indicating a substantial time gap between the Tribunal's directives and the report's findings. In this report, it was highlighted that in the State of Rajasthan, a conservation project for the river Chambal in the District Kota has been approved under the "Namami Gange Project," with a budget of Rs. 258.48 crore. The project encompasses the establishment of 2 sewage treatment plants (STPs) with capacities of 30 MLD and 6 MLD, the installation of 146 kilometres of sewer lines, six lifting stations, and the diversion of 22 drains. It's imperative to highlight that the wastewater generation in the entire Kota District stands at a substantial 312 MLD, while the sanctioned treatment capacity under the Namami Gange Project merely accounts for 36 MLD. This glaring discrepancy underscores the pressing necessity for enhanced wastewater and solid waste management practices within Kota to uphold the ecological well-being of the Chambal River. Regrettably, the existing situation entails that untreated wastewater continues to flow directly into the Chambal River, demanding immediate attention to ensure proper treatment and prevent further environmental degradation.
8. That moreover, South Asia Network on Dams, Rivers & People on 08.05.2022 squarely covered the aforementioned issues and more specifically the issue with respect to illegal mining in the river Chambal in its research paper while stating that the National Chambal River Sanctuary, encompasses regions like Morena District of Madhya Pradesh and Dholpur District of Rajasthan, which is grappling with a serious and persistent issue

of illegal sand mining. It further states that despite a ban imposed by the Supreme Court of India, extensive reports shed light on the ongoing environmental degradation in this ecologically sensitive area. The illegal activities are particularly rampant near the Rajghat bridge in Morena, where large-scale operations involving numerous tractors and heavy machinery continue unabated.

9. Contrary to the government's assertions of taking strict measures against sand mafias, the reports reveal a stark contrast on the ground. The situation is aggravated by the apparent knowledge and inaction of district authorities, including officials from the administration, forest, and police departments. The creation of illegal stockyards along the Chambal River in Bhupura and Nagra areas further underscores the systemic challenges in curbing the sand mafia. Whereas the conservationists have emphasized the severe ecological consequences of these illegal activities, impacting the habitats of endangered species such as the gharial, Indian skimmer, and roofed turtle. The destruction of pristine sandbanks, which serve as crucial breeding grounds for these species, poses a significant threat to their survival. Despite the presence of forest department personnel and police checkpoints, the sand mining operations continue unchecked, leading to the migration of aquatic animals to safer locations. Efforts to address the issue, including the formation of a task force comprising more than 200 personnel, have proven ineffective. The overarching concern revolves around the apparent inactivity and indifference of the government machinery towards preserving the National Chambal River Sanctuary. The lack of effective enforcement, compounded by the seemingly unchecked power of the sand mafia, raises questions about resource constraints, political support, and the commitment of authorities to protect this vital ecological reserve.

10. An article dated 19.07.2018 published in the renowned newspaper 'Times of India' states that Environmentalists and activists from the Chambal Bachao Andolan have raised concerns over the continuous flow of polluted water and waste from 28 nullahs into the Chambal River, known for being one of the least polluted rivers in the country. The Chambal river serves as a crucial drinking water source for Kota, Bundi, and Bhilwara. The Chambal Sudhikaran Pariyojna, a purification project, has only reached 40% completion in the last four years, with the treatment plants progressing at a slow pace. Despite plans and funds allocated in 2011 to address pollution, machinery and infrastructure for pollution control in the Chambal river remain incomplete, leading activists to voice their concerns through legal avenues. In the year 2017, discovery of two dead crocodiles in the Chambal river area revealed plastic and toxic chemicals in their bodies, highlighting the environmental degradation caused by pollution.
11. That another article was published in 'Times of India' on 27.02.2022 wherein it was stated that a study was conducted by the Rajasthan State Biodiversity Board (RSBB) in which the alarming impact of rampant illegal fishing within the National Chambal Sanctuary in Kota was uncovered, posing a severe threat to aquatic species, including the critically endangered gharial and the elusive smooth-coated otter. The report emphasizes that due to illegal fishing, the population of gharials has disappeared, and other species like otters and crocodiles often get trapped in nets, resulting in untimely deaths. The study estimates that illegal fishing extracts fish worth Rs 12 crore annually from the sanctuary, with 55 boats engaged in the practice extracting fish valued at Rs 5.28 crore, and 128 fishermen using tubes and nets to catch fish worth Rs 7 crore. The lack of patrolling by the forest department and the use of blasting techniques exacerbates the issue, necessitating immediate and strict action to curb these practices and protect the diverse aquatic ecosystem in the Chambal River. That another

article was published in 'Times of India' on 27.02.2022 wherein it was stated that a study was conducted by the Rajasthan State Biodiversity Board (RSBB) in which the alarming impact of rampant illegal fishing within the National Chambal Sanctuary in Kota was uncovered, posing a severe threat to aquatic species, including the critically endangered gharial and the elusive smooth-coated otter. The report emphasizes that due to illegal fishing, the population of gharials has disappeared, and other species like otters and crocodiles often get trapped in nets, resulting in untimely deaths. The study estimates that illegal fishing extracts fish worth Rs 12 crore annually from the sanctuary, with 55 boats engaged in the practice extracting fish valued at Rs 5.28 crore, and 128 fishermen using tubes and nets to catch fish worth Rs 7 crore. The lack of patrolling by the forest department and the use of blasting techniques exacerbates the issue, necessitating immediate and strict action to curb these practices and protect the diverse aquatic ecosystem in the Chambal River.

12. Another alarming publication was done by 'Times of India' on 15.04.2023 wherein a group of 10 environmentalists, associated with Chambal Parliament and People's World Commission for Flood and Drought (PWCFD), expressed concerns about the Chambal Riverfront construction project during their visit to the site. The Rs 1200-crore project, nearly complete, was criticized for lacking space for traditional plants and trees, and for not incorporating sustainable measures to combat pollution and maintain greenery. The environmentalists highlighted that the river, often compared to a patient in "ICU," was receiving cosmetic changes without addressing core environmental issues. They emphasized the need for proper water treatment plants, especially for upstream nullahs carrying polluted water into the Chambal River. The constructed riverfront was criticized for its focus on decorative elements rather than environmental conservation.

13. That a renowned newspaper – ‘Dainik Bhaskar’ has consistently reported lax adherence to National Green Tribunal (NGT) directives by the authorities concerned, allowing contaminated water to persistently flow into the Chambal River. In response to these concerns, environmentalists conducted an inspection of the Chambal purification plant and the drains discharging into the river. The findings revealed a failure to implement NGT guidelines, indicating ongoing pollution, particularly with the purification plant in Sagidehra reportedly being ineffective, allowing dirty water seepage into the river. Furthermore, objections were raised regarding the non-compliance with tree plantation commitments related to the Kota to Chittorgarh and Bundi four-lane project, underscoring the necessity for environmental responsibility. The inspection also addressed worries about Chambal's water quality affecting Kota residents and the encroachment of locks. Concurrently, during the inspection, it was observed that water from drains in front of the Municipal Corporation Sewerage Treatment Plant was not reaching the plant, causing STPs to operate at only half their capacity. This operational inefficiency poses a significant hurdle in meeting the NGT's directive to keep the Chambal River clean, further compounded by the direct disposal of untreated water from drains into the river. Out of the planned 300 MLD wastewater supply, only 56 MLD is presently operational, indicating a pressing need for corrective measures.
14. That the Chambal River, situated in the state of Rajasthan holds immense significance as a vital lifeline for the region, catering to agricultural needs, sustaining ecosystems, and providing a habitat for critically endangered species like the Gharial crocodile and the Gangetic river dolphin. These species play a crucial role in maintaining the ecological balance of the river. Unfortunately, recent observations indicate a severe environmental threat to the river, primarily stemming from escalating pollution caused by the

discharge of sewage, industrial effluents, and domestic wastewater. This not only directly jeopardizes the river's health but has also led to a significant decline in the populations of Gharials and Gangetic river dolphins, intensifying the ecological imbalance.

15. Environmental challenges faced by the Chambal River, demands urgent measures to safeguard its distinct biodiversity and emphasizes the crucial need for effective pollution control and conservation initiatives to uphold the river's continuous well-being. Tackling these challenges is of utmost significance for the sustainable development and ecological harmony of the region.
16. The submission of the learned counsel for the State, PCB, Rajasthan are that there are three major industries in Kota city to which discharge of industrial wastewater has been permitted. Details of the industries are as follows:-

a) “M/s DCM Shriram Integrated Complex, Shriram Nagar, Kota:

It has various units operational inside the complex. Water requirement of M/s DCM Shriram Integrated Complex for various industrial and domestic purposes is fulfilled through water supplied by RMC of Area Division Development (CAD) through the Right Main Canal (RMC) of Chambal River throughout the year. The industry has common water supply agreement with State Government for the entire complex. The State Government has permitted 29248.8 KLD water intake to unit.

The details of various industries operational inside the Integrated Complex and permitted discharge to unit are as below:-

Sl. No.	Name of Unit	Product and Production capacity	Consent validity	Permitted discharge (KLD)
1.	M/s Shri Ram Vinyl Chemical & Industries (Calcium carbide plant)	Acetylene @ 110 TPD Calcium Carbide @330 TPD	31/01/2027	2772
		Carbide Acetylene @ 20 TPD	31/10/2024	
2.	M/s Shri Ram Vinyl Chemical & Industries (Caustic soda plant)	Caustic soda @ 1,90,000 TPA	30/09/2028	216
3.	M/s Shri Ram Vinyl & Chemical Industries (PVC resin plant)	PVC resin @ 200	31/01/2027	1240
		PVC resin @ 50	31/10/2024	
4.	M/s Shri Ram Vinyl & Chemical Industries (Hydrogen bottling plant)	Hydrogen bottling @ 325 MT/Annum	31/01/2027	NIL
5.	As Shri Ram Vinyl & Chemical Industries (Stable Bleaching powder plant))	Stable Bleaching Powder @ 42,000 TPA	31/03/2028	NIL
6.	Shriram Fertilizers & Chemicals (Captive Power Plant)	Power generation @ 66 MW	30/11/2024	2862
		Power generation @ 75 MW	30/01/2027	
7.	Shriram Fertilizers & Chemicals (Urea Plant)	Urea @ 1200 TPD Ammonia @ 700 TPD	30/09/2026	980
8.	Shriram Cement Works	Ordinary & Portland Pozzolona cement 1200 MT/day	31/01/2027	NIL
9.	Fenesta Building Systems	uPVC Profile @ 15.00 Lac m/Month uPVC Profile Subgrade @6.00 MT/Month	31/07/2027	NIL
10.	Shriram Polytech	Plastic Granules @ 90TPD	31/01/2029	NIL

As per various consents given to the units inside M/s DCM Shriram Integrated Complex by RSPCB, the unit has been permitted to discharge 8070 KLD treated wastewater into the drain after achieving standards as prescribed by the State Board. It is also pertinent to mention here that sampling of treated wastewater from the discharge point of M/s DCM Shriram Integrated Complex is being conducted by Regional Office, RSPCB, Kota, quarterly. The data from quarterly analysis report reveals that M/s DCM Shriram Integrated Complex is meeting the prescribed standards laid down in consents for discharge of treated wastewater into drain.

b) M/s Shriram Rayons, Shriram Nagar, Kota:

It has various units operational inside the complex. Water requirement of M/s Shriram Rayons, for various industrial and domestic purposes, is fulfilled through water supplied by RMC Division of Command Area Development (CAD) through the Right Main Canal (RMC) of Chambal River throughout the year. The industry has common water supply agreement with State Government for the entire complex. The State to Government has permitted 19572.6 KLD water intake unit. The details of various industries operational inside the M/s Shriram Rayons and permitted discharge to unit are as below:-

Sl. No.	Name of Unit	Product and Production capacity	Consent validity	Permitted discharge (KLD)
1.	M/s Shriram Rayons (Captive Power Plant)	Power generation @ 9.2 MW	30/11/2027	290
		Power generation @ 2 MW	30/09/2023 Unit has applied for renewal of CTO, which is under process.	
2.	M/s Shriram Rayons (Main Plant)	Rayon Tyre Cord @ 23 TPD	30/06/2026	3775
3.	M/s Shriram Rayons (Dipped Plant)	PVC resin @ 200	31/01/2027	1240
	Fabric	PVC resin @ 50	31/10/2024	
4.	M/s Shri Ram Vinyl & Chemical Industries (Hydrogen bottling plant)	Dipped Fabric @ 600 MT/month	30/11/2026	NIL
5.	M/s Shriram Rayons (Carbon Di-Sulphide Plant)	Carbon Di-Sulphide @ 15 TPD	31/10/2023 Unit has applied for renewal of CTO, which is under process.	60

As per various consents given to the units inside M/s Shriram Rayons by RSPCB, the unit has been permitted to discharge 4125 KLD treated wastewater into the drain after achieving standards prescribed by the State Board. It is also pertinent to mention here that sampling of treated wastewater as *वे. कोटा* from the discharge point of M/s Shriram Rayons is being conducted by Regional Office, RSPCB, Kota, quarterly. The data from quarterly analysis report reveals that M/s Shriram Rayons is meeting the prescribed standards most of the time laid down in consents for discharge of treated wastewater into drain.

Combined treated effluent of M/s DCM Shriram Integrated Complex and M/s Shriram Rayons travels about 2.5 Km in two numbers of closed conduit pipelines/drain and amalgamates with untreated domestic sewage of nearby habitation at Kansua Nallah. This nallah, after merging with river Chandraloi & Alania River, ultimately merges with Chambal River.

c) M/s Kota Super Thermal Power Station, Sakatpua, Kota:

It has 7 units operational inside the complex which are in 5 stages. Water requirement of M/s Kota Super Thermal Power Station, for various industrial and domestic purposes, is fulfilled through Chambal River. The State Government has permitted 2989715 KLD water intake to M/s Kota Super Thermal Power Station. The details of various industries operational inside the M/s Kota Super Thermal Power Station and permitted discharge to unit are as follows:

Sr. No.	Name of Unit	Product and Production capacity	Consent validity	Permitted discharge (KLD)
1.	Stage-1 (Unit 1 & 2)	Power generation @ 2 x 110 MW	10/08/2024	1056000
2	Stage-II (Unit 3 & 4)	Power generation @ 2 x 210 MW	10/08/2024	1200000
3	Stage-III (Unit 5)	Power generation @ 210 MW	10/08/2024	600000
4	Stage-IV (Unit 6)	Power generation @ 195 MW	10/08/2024	Nil
5	Stage-V (Unit 7)	Power generation MW @ 195	10/08/2024	Nil

M/s Kota Super Thermal Power Station has not provided cooling towers with Stage I, II and III. Unit has adopted OTC (Once Through Cooling) with Stage I, II and III and thus, the condenser cooling water of these stages is discharged directly into Chambal River. Besides above, some quantum of Affluent of other streams (i.e. boiler blow down of all units, cooling tower bleed of Stage IV and V, DM water reject after neutralization, domestic waste water of plant) is partially utilized for carrying bottom ash upto ash pond and for plantation purposes. and remaining effluent is also discharged into Chambal River through Mix drain I and II. Specific effluent treatment not facilities have been developed for treatment of trade effluent generated in form of boiler blow down and other effluent streams generated in form of domestic effluent and other mixed effluent.

M/s Kota Super Thermal Power Station is in the process of installing an ETP of 7200 KLD in order to treat the trade effluents generated from various streams of Stage III, IV and V. The consolidated analysis reports drains discharging condensate cooling water and mix drains reveals that parameters of mix drain are within prescribed limits. However, unit has not installed cooling towers in place of OTC (Once Through Cooling) system at Stage I, II & III and the condition of outlet water temperature to be not more than 5°C higher than the intake water temperature is not being maintained.

Answering respondent has issued a show cause notice for intended imposition of Environmental Compensation to M/s Kota Super Thermal Power Station on 11/03/2024 stating that the plant has to comply with new emission norms as per MoEF & CC,

Gol notification dated 07/12/2015 and subsequent amendments dated 31/03/2021 and 05/09/2022.

DISCHARGE OF DOMESTIC WASTE WATER/SEWAGE:

As per information provided by Nagar Nigam Kota (North) vide its letter dated 15/02/2024, the total sewage generation of Kota City is 236.17 MLD. Further, as per information provided by UIT, Nagar Nigam Kota (North) and Nagar Nigam Kota (South) vide their letter dated 29/01/2024, 15/02/2024 and 31/01/2024, respectively, collectively untrapped drains are discharging untreated domestic sewage into Chambal River. Sampling of these untrapped drains was carried out by Regional Office, RSPCB, Kota. Below are the analysis results of the various parameters of these samples:

Sl. No.	Parameter/ Locations	B.O.D. (mg/l)	C.O.D. (mg/l)	PH	TSS (mg/l)	Phosph ate as PO (mg/l)	Fecal Coliform (MPN/10 Oml)	Nitrate as N (mg/l)	Total Coliform (MPN/100 ml)	Oil and Grease (mg/l)
1.	Aadharshila Nallah	18	84	7.3	85	3.23	920	5.08	1600	2.2
2.	Godavaridh am Nallah	11.1	46	7.52	22	2.36	540	3.71	920	1.2
3.	Hazira Basti Nallah	6.7	27	7.81	16	1.36	540	2.85	920	NT
4.	RAC Nallah	29.6	165	8.05	36	3.64	1600	3.87	>1600	3.8
5.	Kishorepura Muktidham Nallah	35.2	172	7.4	74	3.19	1600	3.87	>1600	3.8
6.	Kishorepura Gurjar Mohallah Nallah	37.4	184	7.39	129	3.82	>1600	6.94	>1600	4.2
7.	Sajidheda Nallah	20.6	96	7.35	41	3.72	920	3.81	1600	2.4
8.	Hussaini Nagar ka-Nala	22.3	111	6.91	119	6.1	920	9.91	1600	1.4

The above analysis results indicate that these untrapped drains are carrying untreated domestic sewage into Chambal River.

It is also pertinent to mention here that the RSPCB has issued directions under 33A of the Water Act, 1974 on 15.02.2024 to Secretary, UIT, Kota and Commissioner, Nagar Nigam (North and South), Kota to stop discharge of untreated sewage/domestic waste into the Chambal River, provide Sewage Treatment plants of adequate capacity so as to treat the entire domestic waste water of city area Kota and divert all nallahs carrying city sewage from river Chambal STPS.

The content of Para 3.5 of the Original Application are accepted to the extent that as per the information provided by Nagar Nigam Kota (North) vide their letter dated 15.02.2024, the total sewage generation of Kota City is 236.17 MLD. Further, as per information provided by UIT, Nagar Nigam Kota (North), Nagar Nigam Kota (South) and RUIDP vide their letter dated 29.01.2024, 15.02.2024, 31.01.2024 and 30.01.2024, respectively, a total of 8 nos. of STPs having a total capacity of 158 MLD are operative in Kota with operational load of 80.84 MLD. Here it is pertinent to mention that 3 nos. of STPs of (2 MLD at Oxyzone, 15 MLD at Balita, and 40 MLD at Dhakadkhedi) have come into operation in last month.

Thus, the above facts reveal that, out of 236.17 MLD of Generated sewage, only 80.84 MLD of the sewage is being treated with the STPs of total capacity of 158 MLD and thus, 155.33 MLD of untreated sewage is being discharged into Chambal River. The consolidated details of these STPs is enclosed for ready reference.

That each water use has specific quality need. Therefore, to set the standard for the desired quality of a water body, it is essential to identify the uses of water in that water body. Central Pollution Control Board (CPCB) has developed a concept of designated best use. According to this, out of the several uses of water of a particular body, the use which demands highest quality is termed its designated best use. Five designated best uses have been identified which are as below:

Designated-Best-Use	Class of water	Criteria
Drinking Water Source without conventional treatment but after disinfection	A	Total Coliforms Organism MPN/100ml shall be 50 or less pH between 6.5 and 8.5 Dissolved Oxygen 6mg/l or more Biochemical Oxygen Demand 5 days 20C 2mg/l or less
Outdoor bathing (Organised)	B	Total Coliforms Organism MPN/100ml shall be 500 or less pH between 6.5 and 8.5 Dissolved Oxygen 5mg/ 1 or more Biochemical Oxygen Demand 5 days 20C 3mg/l or less
Drinking water source after conventional treatment disinfection	C	Total Coliforms Organism MPN/100ml shall be 5000 or les pH between 6 to 9 Dissolved Oxygen 4mg/l or more Biochemical Oxygen Demand 5 days 20C 3mg/l or less
Propagation of Wild life and Fisheries	D	pH between 6.5 to 8.5 Dissolved Oxygen 4mg/l or more Free Ammonia (as N) 1.2 mg/l or less
Irrigation, Industrial	E	pH betwown 6.0 to 8.5 Electrical Conductivity at 25C micro

Cooling, Controlled Goolin Waste disposal		mhos/em Max.2250 Sodium absorption Ratio Max. 26 Boron Max. 2mg/ l
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In order to ascertain the water quality of Chambal River in Kota, RSPCB has established 2 water quality monitoring stations under National Water Quality Monitoring Programme (NWMP) in Kota. One station is at intake Point of PHED supply at Akelgarh on the upstream of Kota Barrage and other is at Rangpur on downstream (2 Km. From Kota City) where monthly sampling is carried out by Regional office, RSPCB, Kota. The monitoring data for various parameters during the period from January 2023 December 2023 shows that the class of water as per designated best use water quality criteria of Chambal River was 'B' at intake Point of PHED supply at Akelgarh and 'C' at Rangpur, most of the time.

In addition to above, sampling at 6 locations of Chambal River in Kota was carried out by Regional Office, RSPCB, Kota on 02/02/2024. Below are the analysis results of the various parameters of these samples:

Sr. No.	Parameter/ Locations	B.O.D.(mg/l)	Dissolved Oxygen(mg/l)	pH	Total Coliform (MPN/100ml)	Class	Remarks
1	PHED Pump House, Akelgadh	BDL *	6.48	8.48	120	B	U/s of Kota Barrage
2	Bhitariya Kund	BDL *	6.4	7.97	210	B	
3	Mauji Baba Ki Gufa	1.22	5.9	8.43	220	B	
4	East side of River front near Fauwara Chowk	1.38	7	8.46	280	B	D/s of Kota Barrage
5	East side of River front near Singh Ghat	2.19	6.16	8.42	350	B	
6	Centre of River at Rangpur	1.62	6.64	8.83	350	C	

*Below detection limit

17. Learned counsel for the applicant has relied research work published in International Research General of Environmental Science Vol. 8(3) namely

“Analysis of municipal wastewater treatment facilities vis-à-vis quality of water in river Chambal at Kota, Rajasthan, India” where after research, it was reported that in India, almost all of the river basins and groundwater beds are on the edge of extinction and experiencing acute water shortages. In such a situation, the present and future demands for freshwater can be met by using water efficiently and at the same time properly managing the demands. The Chambal River is the one and only perennial source of water from drinking and agricultural point of views in Hadoti Region of Rajasthan as well as it is the habitat of aquatic animals. It flows through many districts in Rajasthan to other States like Madhya Pradesh and Uttar Pradesh. Kota had been known as an industrial city. In addition to some of the well known industries in Kota like Shri Ram Rayons, Shri Ram Fertilizers and Chemicals, Shri Ram Cement Works. Chambal Fertilizers and Chemicals Ltd., Kota Thermal Power Station, there are many other small and medium enterprises functioning in and around Kota which require a lot of water for their operation and maintenance. These days, Kota is better known for its coaching institutes for pre-engineering and pre-medical entrance tests. Every year lakhs of students from all parts of India, take admissions in these coaching institutes and hence there is a reasonable floating population of students and their parents in Kota.

18. Upon analyzing the results, it is reported that all the parameters of wastewater samples collected from drains i.e. DO, BOD, COD and TDS are much more than the permissible limits and if such wastewater is directly discharged into river water without any treatment, it is going to ruin the potable quality of water therein. Further, it can be seen that the BOD of water of the River Chambal at sampling locations S9 and S11 is beyond the permissible limits showing a clear sign of water pollution. Also the DO level at location S11 is below 4mg / l which is harmful for aquatic life to survive. Based on above analysis, we can infer that open drains discharging their

wastewater into the River Chambal are deteriorating its water quality at an alarming rate. Similar kind of results have been found by many researchers in past also. For Yamuna River in Agra city, it was found that the river is highly polluted and not safe for human consumption due to contamination of water due to disposal of untreated sewage". Studies for Ganga-10 and Narmada1-12 Rivers have also concluded that anthropogenic activities are primarily responsible for polluting the water quality of the rivers.

19. **Conclusion**

This study highlights the fact that important wastewater characteristics like DO, BOD, COD and TDS of wastewater samples from various locations are alarmingly higher than the tolerance limits prescribed by the Indian Standards. Approximately 312 MLD of wastewater is produced by the city. Hence, there is an urgent need for some more sewage treatment plants (STPs) in the city. The study shows that Kota city lacks proper system for treatment and drainage of wastewater, consequently leading the wastewater from household and industries to the lifeline of the city, the Chambal River. There is high need for laying of sewer lines throughout the city so that the wastewater can be easily carried to the STPs for proper treatment before discharging it into the river. In absence of immediate action, the continuous discharge of untreated domestic and industrial wastewater in the Chambal River for some more years may result in adverse pollution making the river poisonous for human consumption and at the same time causing serious problems for aquatic life also.

20. On the basis of above, it has been argued by the learned counsel for the applicant that, at present, the Chambal River is undergoing huge pressure of public encroachment, disposal of untreated municipal as well as industrial waste, direct dumping of municipal solid waste and unauthorized diversion of other wastewater into it.

21. It is further argued that, the state administration/State PCB has calculated the population in the ratio of the census of 2011, but due to the fact that the lakhs of residents and their parents are coming to quota for education, especially engineering and medical entrance, parents from all over the country to take admission in various coaching institutes located in the city, thus, the floating population had not been taken into account.
22. Members of the joint committee visited the site and submitted the report as follows:-

“Factual Status and Observations made during site visit:

In order to scrutinize the contentions presented by the applicants, the committee members conducted a site visit on 07/02/2024. The committee visited Sewage Treatment Plants (STPs), discharge points of industries viz, KTPS, DCM Shriram Ltd., Shriram Rayons and various drains/nallahs carrying domestic sewage into Chambal. The committee also reviewed the documents/details related to the matter. The point wise observations/ views of the committee are as below :-

A. Discharge of sewage/domestic wastewater and industrial effluent into Chambal River led to a substantial decline in population of gharial and Gangetic River dolphins

1. Chambal River is a principal tributary of river Yamuna and originates in the Vindhyan ranges near Mhow in Indore District of Madhya Pradesh, entering through a deep gorge in Rajasthan at Chourasigarh, about 96 km upstream of Kota. The deep gorge extends up to Kota and the river then flows for about 226 km

within Rajasthan in a north-easterly direction, and then forms the boundary between MP and Rajasthan for about 252 km.

2. The Chambal River flows prominently through Kota, Rajasthan. The city of Kota is situated on the banks of the Chambal.

3. Each water use has specific quality need. Therefore, to set the standard for the desired quality of a water body, it is essential to identify the uses of water in that water body. Central Pollution Control Board (CPCB) has developed a concept of Designated Best Use (DBU). According to this, out of the several uses of water of a particular body, the use which demands highest quality is termed its Designated Best Use.

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There are three major industries in Kota city to which discharge of industrial wastewater has been permitted. Details of the industries are as follows:

(i) M/s DCM Shriram Integrated Complex.

Shriram Nagar, Kota.

(ii) M/s Shriram Rayons, Shriram Nagar,

Kota.

(iii) M/s Kota Super Thermal Power

Station, Sakatpua, Kota.

i. M/s DCM Shriram Integrated Complex has various units operational inside the complex. Water requirement of M/s DCM Shriram Integrated Complex for various industrial &

domestic purposes is fulfilled through water supplied by RMC Division of Command Area Development (CAD) through the Right Main Canal (RMC) of Chambal River throughout the year. The industry has common water supply agreement with State Government for the entire complex. The State Government has permitted 29248.8 KLD water intake to unit.

M/s Kota Super Thermal Power Station is in the process of installing an ETP of 7200 KLD in order to treat the trade effluents generated from various streams of Stage III, IV and V. The consolidated analysis reports drains discharging condensate cooling water and mix drains reveals that parameters of mix drain are within prescribed limits. However, unit has not installed cooling towers in place of OTC (Once Through Cooling) system at Stage I, II & III and the condition of outlet water temperature to be not more than 5°C higher than the intake water temperature is not being maintained.

(i) Regarding the population of gharial and Gangetic River Dolphins, DCF. Ramgadh Vishdhari Tiger Reserve vide his letter dated 08/02/2024 informed following in tabular form:

A. Population of gharial, crocodiles and dolphins in Chambal River

	2020	2021	2022
Gharial	900	954	976
Crocodile	465	469	484
Dolphin	13	14	15

The above data reveals that population of gharial, crocodiles and Gangetic River Dolphins is increasing in Chambal River. Besides, DCF, RVTR has also commented that Gangetic River Dolphins are found in Chambal River only in the region of District Dholpur.

B. Uncontrolled sand mining along Chambal River

As per information provided by DCF (Ramgadh Vishdhari Tiger Reserve) vide letter dated 08/02/2024, 76 cases of illegal sand mining along the Chambal River (in Kota) have been registered in last 3 years. Further, penalty of Rs. 31,50,400/- has been imposed by Forest Department in 71 cases of illegal sand mining along the Chambal River in Kota in last 3 years and 28 cases are still pending. DCF, RVTR has also provided action plan to prevent illegal sand mining along the Chambal River in the same letter.

C. Excessive legally sanctioned and illicit fishing activities are a substantial threat to critically endangered gharial and the Gangetic River dolphins

As per information provided by Assistant Director, Fisheries Department, Kota vide his letter dated 31/01/2024, 7 cases of illegal fishing activity in Chambal River (in Kota) have been registered in last 3 years. Further, fishing nets having a total weight of 63.45 Kg has been confiscated by Fisheries Department in these 7 cases of illegal fishing activity in Chambal River (in Kota) in last 3 years. Assistant Director, Fisheries Department, Kota has also provided action plan to prevent illegal fishing activity in Chambal River in the same letter.

The data provided by DCF, RVTR regarding population of gharial, crocodiles and Gangetic River Dolphins reveals that population of gharial, crocodiles and Gangetic River Dolphins is

increasing in Chambal River. Besides, DCF, RVTR has also commented that Gangetic River Dolphins are found in Chambal River only in the region of District Dholpur.

D. 312 MLD domestic wastewater is being generated from Kota City while having a treatment capacity of only 50 MLD through 2 nos. of sewage treatment plants

As per information provided by Nagar Nigam Kota (North) vide their letter dated 15/02/2024, the total sewage generation of Kota City is 236.17 MLD.

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The above information reveals that, out of 236.17 MLD of total generated sewage. only 80.84 MLD of the sewage is being treated with the STPs of total capacity of 158 MLD and thus, 155.33 MLD of untreated sewage is being discharged into Chambal River.

The sampling of all the 8 nos. of STPs was also carried out by Regional Office. RSPCB, Kota on 07/02/2024, 12/02/2024 and 13/02/2024. The analysis report of the samples reveals that out of all the 8 nos. of STPs, analysis results of 6 nos. of STPs are meeting prescribed standards. However, analysis results of 2 nos. of STPs i.e. 30 MLD STP at Balita and 30 MLD STP at Sajidheda are not meeting few parameters. Observed value of phosphate is 1.48 mg/l (against prescribed 1 mg/l) for 30 MLD STP Balita. And Observed value of TSS is 39 mg/l (against prescribed 20 mg/l) and N is 12.72 mg/l (against prescribed 10 mg/l) for 30 MLD STP Sajidheda.

E. Inadequate sewer network in Kota, thus discharge of 262 MLD wastewater directly in Chambal River

As per information provided by Nagar Nigam Kota (North) vide their letter dated 15/02/2024, the details of laying of sewer line and house sewer connection in Kota City are as below:

Details of laying of Sewer Line

Sr. No.	Name of Agency	Particular	Target	Executed
1.	UIT	Sewer line	284 Km	263 Km
2.	RUIDP Phase I	Sewer line	72 Km	42 Km
3.	RUIDP Phase II	Sewer line	407 Km	407 Km
4.	NNK North	Sewer line	280 Km	28 Km
5.	PHED	Sewer line	10 Km	10 Km
Total			1053 Km	750 Km

Details of House Sewer Connection				
Sr. No.	Name of Agency	Particular	Target	Executed
1.	UIT	House sewer connection	5200 nos.	4250 nos.
2.	UIT	House sewer connection	18250 nos.	Nil
3.	UIT	House sewer connection	38100 nos.	Nil
4.	RUIDP Phase I	House sewer connection	10000 nos.	7592 nos.
5.	RUIDP Phase II	House sewer connection	48218 nos.	38048 nos.
6.	NNK North	House sewer connection	21800 nos.	Nil
Total			141568 nos.	49890 nos.

The above table indicates that out of 1053 Km of target for laying sewer line. 750 Km has been executed. Similarly, out of target of 141568 nos. of house sewer connections, 49890 nos. have been achieved.

Action Taken

1. RSPCB has issued directions under 33A of the Water Act, 1974 on 15/02/2024 to Secretary, UIT, Kota and Commissioner, Nagar Nigam (North & South), Kota to stop discharge of untreated sewage/domestic waste into the Chambal River, provide Sewage Treatment plants of adequate capacity so as

to treat the entire domestic waste water of city area Kota and divert all nallahs carrying city sewage from river Chambal to STPS.

2. In order to maintain the water quality of Chambal River. Water Resource Department. Kota is maintaining E-flow from year 2017 in the downstream of Chambal River wherein 5000 cusec water is discharged for 35 mins from month of January to onset of monsoon on every Monday.”

23. During the course of hearing, the applicant has also impleaded three respondents of the industrial units and notices were also issued to them. Respondent M/s Shriram Rayons, Shriram Nagar, Kota has submitted that the answering respondent industry came into existence way back in the year 1962 and since then there are technological development and changes in the industry so as to reduce its water requirement which resulted into reduction in water discharge. It is submitted that the first agreement for supply of water at the cost of consumer was signed between the answering respondent industry and Government of Rajasthan in the year 1985. Subsequently, the agreements for supply of water were signed, which clearly shows that the water requirement of the answering respondent industry has gradually reduced, the details of agreement are as follows:-

S.No.	Date of Agreement	Permitted water capacity per day
1.	17.06.2006	Upto 8 cusecs
2.	07.11.2013	Upto 4 cusecs
3.	04.09.2024	Upto 3 cusecs

Similarly, reduction of water requirement and technological development with passage of time led to gradual reduction in water discharge also. It is also submitted that answering respondent is

discharging the water within the prescribed parameters as per norms, this fact is evident from the sample analysis reports annexed in the joint committee report.

24. That the answering respondent is operating the plant after obtaining requisite permissions from the competent authorities and as per the terms & conditions as stipulated in the permissions accorded to the answering respondent industry. As stated above, no violations were observed by the joint committee report in its report. Submission of the above respondent is that the water supply is from the Government of Rajasthan, and papers of the agreement has been attached with the reply.
25. The submission of the learned counsel for M/s DCM Shriram Ltd., Kota are that the respondent industry came into existence way back in the year 1962 and since then there are technological development and changes in the industry so as to reduce its water requirement which resulted into reduction in water discharge. It is submitted that the first agreement for supply of water at the cost of consumer was signed between the answering respondent industry and Government of Rajasthan in the year 1962. Subsequently, the agreements for supply of water were signed, which clearly shows that the water requirement of the answering respondent industry has gradually reduced, the details of agreement are as follows:-

S.No.	Date of Agreement	Permitted water capacity per day
1.	31.07.1985	Upto 25 cusecs
2.	01.10.2013	Upto 14 cusecs
3.	19.10.2022	Upto 11.955 cusecs

Similarly, reduction of water requirement and technological development with passage of time led to gradual reduction in water discharge also. It is also submitted that answering respondent is

discharging the water within the prescribed parameters as per norms, this fact is evident from the samples analysis reports of last two years annexed in the joint committee report and further argued that the necessary permission of concerned condition has been obtained from the State Pollution Control Board. It is further argued that in the joint committee report, no violation has been observed.

26. Learned counsel for the respondent no. 9, M/s Super Thermal Power Station, Kota, Rajasthan, Rajya Vidyut Upadhan Nigam Limited argued that for the functioning of a Thermal Power Plant, water is a necessary resource which is used at various stages for multiple purposes, including but not limited to, cooling the condenser, disposing of ash (by way of permissible environment friendly procedures), and removing heat from plant auxiliaries. Similarly, the functioning of KSTPS is reliant on the water which is sourced from Chambal River.
27. Since water is one of the primary resources utilized in regulating the temperatures of different plant equipment and auxiliaries, it is pertinent to highlight the procedures and usage of the water used by KSTPS or its units. The cooling systems used by various units of the KSTPS include the following:-
 - i. Units 1, 2, 3 and 4 operate on a Once-Through Cooling System (OTCS), where river water is utilized for condensing the steam in the condenser. The water is then discharged back into the river without any contamination.
 - ii. Units 6 and 7 operate on a Close Cycle Cooling System (CCCS), where circulating water is used to condense steam in the condenser. The warmed water is then cooled

by the force draft cooling tower. Thus, no water is discharged into the river.

- iii. With respect to Unit 5, for the installation of cooling tower, price bid has already been opened and the finalization of L-1 bidder is presently under process.

28. It is noteworthy that in the present scenario, the plant effluent water is utilized in the wet ash slurry system. The effluent water mixes with the bottom ash and thereafter, the same is directly dumped into the ash pond having a capacity of 157.869 Hact. And 261.002 Hact, which is located at a separate site. In order to make the KSTPS even more environmentally viable, an Effluent Treatment plant (ETP) with a capacity of 7.2 MGD is presently under construction and is likely to be completed by 30.04.2025. Upon the commissioning of the said ETP, it will treat the effluent water, which will then undergo Reverse Osmosis (RO) processing thereby making the treated water ready for reuse.
29. A Sewage Treatment Plant with a capacity of 1692 KLD is already installed and working in the thermal plant's colony area. The treated sewage water is utilized for plantation purposes within the colony. Moreover, a Sewage Treatment Plant (STP) having capacity 100 KLD is also proposed in the plant premises, the technical bid for which has already been opened and the technical evaluation is presently under progress. Presently, sewage water is being dumped in the safety pit/tank, which is located at a different site of the power plant.
30. It is argued that the primary reason for the contamination of Chambal river's water is attributable to Kota city's sewage and drainage system which is continuously polluting the river by dumping untreated water. It is, therefore, submitted that KSTPS, Kota is committed for zero sewage and effluent water discharge into Chambal River and also in future, effluent

water shall be used in the plant premises after completion of ETP which is scheduled to be completed in the April 2025.

31. Learned counsel for the respondent no. 2 & 5 Mr. Shoeb Hasan Khan Standing Counsel for the State of Rajasthan, has argued that as per the article published in "Times of India" dated 19.07.2028, 28 drains were allegedly discharging into the Chambal River. However, it is submitted that under the Namami Gange Project, 22 of these drains have already been tapped by the Urban Improvement Trust/Kota Development Authority. The remaining 6 drains are also in the process of being connected to the sewerage system through combined efforts of Nagar Nigam Kota and KDA. Furthermore, the Chambal Riverfront now covers 26 ghats over 2.80 km within the Gharial Abhyaran and has eliminated illegal activities and water pollution sources at riverbanks and that Kota City presently has 8 functional Sewage Treatment Plants (STPs) with a total installed capacity of 158 MLD, which is sufficient to handle the wastewater load. The STP details are as follows:

SL. No.	STP	Capacity	Status
1.	Oxizone Park	02 MLD	Operational
2.	Sajidehra	30 MLD	Operational
3.	Balita	30 MLD	Operational
4.	Balita	06 MLD	Operational
5.	Balita	15 MLD	Operational
6.	Kala Talab	15 MLD	Operational
7.	Dhakadkeri	40 MLD	Operational
8.	Dhakadkeri	20 MLD	Under upgradation since Jan 2024
TOTAL - 158 MLD			

That three new STPs at Oxyzone (2 MLD), Balita (15 MLD), and Dhakadkhedi (40 MLD) have become operational recently. The analysis of treated sewage from all 8 STPs as per the Joint Committee report indicates that 6 STPs meet the prescribed standards. However, the 30 MLD STPs at Balita and Sajidhera showed deviations in phosphate, TSS, and nitrogen levels. The authorities are actively working to address these deviations. All STPs have been granted Consent to Establish and Consent to Operate by the Rajasthan State Pollution Control Board.

32. That the Namami Gange Project has been implemented in Kota with a sanctioned budget of Rs. 258.48 crore. Under this project, the Kota Development Authority undertook the following works:
- a) Laying, joining, testing, and commissioning of lateral and main sewer lines (2021-22);
 - b) Operation and maintenance of a 6 MLD STP and one pumping station (2021-22);
 - c) Operation and maintenance of another 6 MLD STP and one pumping station (2021-22).
33. That no illegal sand mining is taking place near the Chambal River within the jurisdiction of the Municipal Corporation, Kota. The Ghats of the Chambal River falling within the municipal limits are duly protected. Whether upstream or downstream, the areas along the Chambal River that fall within the jurisdiction of the Municipal Corporation are being actively maintained. In particular, the downstream Ghats have been developed under the Chambal River Front Project by the Kota Development Authority (KDA).
34. The illegal fishing activities that were previously reported in the aforementioned area have now been effectively restricted due to the development of the Chambal River Front. The construction of the Chambal

River Front, extending downstream up to the Nayapura Flyover on both banks of the river, has transformed previously unregulated and vulnerable areas into protected and beautified zones. Earlier, substantial fishing activities were reported in the area; however, after the intervention of the Kota Development Authority and the development of the River Front, small-scale fishing activities have been completely curtailed, and the water quality of the river has also significantly improved.

35. In pursuance of the directions issued by the Local Self Government Department, Government of Rajasthan, and in accordance with the provisions of the Sewage Water Reuse Policy, 2016, the Nagar Nigam Kota (North) is in the process of implementing a sustainable framework for the reuse of treated sewage water.
36. Under the proposed initiative, it is envisaged to supply treated wastewater from the existing Sewage Treatment Plants (STPs) to nearby industrial units, following tertiary treatment, so as to ensure compliance with the prescribed quality standards for industrial usage. The objective of this initiative is to promote the reuse of treated wastewater in non-potable applications, thereby conserving vital freshwater resources and advancing the goals of environmental sustainability as envisaged under the State Government's policy framework and further that in order to operationalize this initiative, Memorandums of Understanding (MoUs) are being executed with willing industrial stakeholders, who have expressed their readiness to utilize the treated wastewater for their respective operational needs.
37. Learned counsel for the applicant has made a certain objection and reservation on the calculation method which was made on the basis of census of 2011 and on that basis, the discharge of water has been calculated as 157.7 MLD and the grounds taken are the research paper which has been published and relied on. Even on that basis, the total treatment capacity of the Municipal Corporation/Municipal Council is not

meeting the generation. There are still gaps between the capacity to generate and capacity to treat the water.

38. It is further argued that the district-wise state sewerage and wastewater policy generation and the gap was prepared by the State of Rajasthan and at Sl. No. 6, the Kota ULB's existing capacity is only 10% while after completion of the ongoing sanctioned projects, the capacity will be only 48% and in proposed project there is a provision of 42% but the Sr. No. 2 & 3 which is proposed capacity of first phase i.e. 48% and second phase i.e. 42% has not reported to be complete, thus, the existing capacity 10% which has been reduced in writing in the report has been relied by the learned counsel for the applicant and submitted that required capacity of treatment facility has not been provided by the Municipal Council.
39. It is further argued that action plan for reuse of treated wastewater in Rajasthan which was prepared by the local self-government and published in the month of April 2019 has not been fully complied with and the the target has not been achieved. The implementation plan was to meet out the target of minimum 25% reuse of treated wastewater by local body up to March 2022 and up to 50% by March 2024 and above 50% by March 2026. The target up to March 2024 has not been achieved till yet and nothing has been reported for compliance.
40. The submission of the learned counsel are that the policies framed by the State Government has not been complied with by the local administration at Kota. It is further argued that the State of Rajasthan urban Infrastructure Development Project meeting was held and notification was issued on 27.02.2025 that functional and non-functional STPs with the details of the inflow and outflow shall be submitted within 7 days and at every 7 days the next step for the control of the discharge of untreated water into the water body must be taken and reported to the authorities concerned, but the notification and direction issued by the State Government has not been

acted upon. The action plan has not been executed within a time frame as shown in the above letter.

41. Learned counsel for the applicant has further argued that the Petitioner himself has undertaken a detailed site inspection on 07.08.2025 and 08.08.2025, covering all major drains (nallas) of Kota city, and documented photographic and video evidence with GPS coordinates and timestamps. Each of these drains corresponds to areas falling within the catchment of the STPs that the Respondent claims are “functional” and “sufficient.” The on-ground position, however, reveals systemic noncompliance and deliberate misrepresentation by the Respondent.

FACTUAL DEMONSTRATION OF UNTREATED SEWAGE DISCHARGE FROM KOTA NALLAS:

I. SHAJI DADA KA BADA NALA:

That the Shaji Dada ka Bada Nala is one of the principal discharge points in Kota city and falls within the catchment of the Balita and Dhakadkeri STP clusters, which together are claimed by the Respondent to handle more than 100 MLD of sewage. This nala drains waste water from thickly populated residential areas and carries it towards the Chambal. During inspection on 07.08.2025, the Petitioner documented photographic evidence with GPS coordinates (25°9'29"N, 75°49'17"E; 25°10'22"N, 75°49'53"E). The photographs show untreated sewage, black in colour and laden with plastics and solid waste, flowing directly into the Chambal River. The heavy discharge and visible pollution clearly establish that the STPs alleged to be operational are not treating this sewage, and the Respondent's assertion of interception stands falsified.

II. ADHARSHILA KA BADA NALA

That the Adharshila ka Bada Nala is a major outlet located in the central part of Kota city and falls within the catchment area of the Balita and

Dhakadkeri STP clusters, which the Respondent claims have a combined treatment capacity of 111 MLD. This nala carries wastewater from adjoining residential colonies and market areas and discharges it towards the Chambal River. On inspection conducted by the Petitioner on 07.08.2025, photographs were taken with GPS coordinates (25°9'31"N, 75°49'13"E; 25°9'33"N, 75°49'14"E). The evidence shows a continuous flow of untreated, foulsmelling black sewage intermingled with floating plastics and other municipal waste directly entering the river. The condition of this nala demonstrates that no effective interception or treatment is occurring, and directly contradicts the claim of the Respondent that the Balita and Dhakadkeri STPs are functional and adequate.

III. RAC KA CHHOTA NALA:

That the RAC ka Chhota Nala is a smaller but significant drain emerging from the residential settlements near the Rajasthan Armed Constabulary (RAC) campus in Kota. It falls within the catchment of the Balita and Dhakadkeri STP clusters, which the Respondent asserts are fully operational and sufficient to treat sewage generated in this zone. This nala primarily carries household wastewater and discharges it towards the Chambal River. During inspection by the Petitioner on 07.08.2025, photographic evidence was captured with GPS coordinates (25°9'9"N, 75°48'45"E to 25°9'14"N, 75°48'52"E). The photographs show a waterfall-like cascade of untreated sewage, laden with froth and pollutants, directly entering the Chambal. The blackened water and foam clearly establish that sewage from this catchment area is bypassing treatment altogether. This reality directly falsifies the claim of the Respondent that all sewage is being intercepted and treated before reaching the river.

IV. SHIVPURI KA SABSE BADA NALA:

That the Shivpuri ka Sabse Bada Nala is one of the largest drains of Kota, located in the northern sector of the city, and falls within the influence of

the Sajidehra and Balita STP clusters, which together are claimed by the Respondent to be capable of handling a significant portion of the sewage of the city. This nala collects wastewater from dense residential areas as well as commercial establishments before emptying into the Chambal River. Upon inspection by the Petitioner on 07.08.2025, photographs with GPS coordinates (25°9'29"N, 75°49'17"E) revealed an uncontrolled discharge of untreated sewage, visibly black in colour, mixed with plastics, textiles, and heaps of solid waste, flowing unchecked into the river. The sheer scale of untreated discharge demonstrates that interception and treatment at this nala has completely failed. This factual situation directly contradicts the claim of the Respondent that the STPs are fully functional and treating all sewage generated in the city.

V. RAILWAY STATION – SANJAY NAGAR NALA:

That the Railway Station – Sanjay Nagar Nala is a major drainage channel located in the vicinity of Kota Railway Station and the adjoining Sanjay Nagar area. It falls under the catchment of the Balita and Dhakadkeri STP clusters, which the Respondent claims together contribute more than 100 MLD of treatment capacity. This nala receives heavy sewage load from nearby residential colonies, market areas, and establishments, and eventually drains into the Chambal River. During inspection on 07–08.08.2025, photographs with timestamps and GPS coordinates captured the unabated flow of untreated black sewage carrying plastics, polythene bags, and organic waste. The water was visibly foul, accompanied by solid waste deposits along the nala bed. Such conditions make it clear that no effective interception or treatment is taking place. This evidence directly belies the Respondent's affidavit of "100% sewage treatment" and exposes the continuing pollution of the Chambal River from this discharge point.

VI. NYAYPURA MAIN NALA:

That the Nyaypura Main Nala is one of the primary outlets in the central part of Kota city and falls within the catchment of the Sajidehra and Balita STP clusters, which the Respondent has claimed are functional and sufficient to manage sewage from this zone. This nala drains wastewater from large residential pockets and adjoining areas before discharging into the Chambal River. On inspection conducted by the Petitioner on 08.08.2025, photographic evidence with GPS tagging documented the flow of untreated, foul-smelling black sewage interspersed with solid waste and plastics moving unhindered towards the river. The nala water showed no signs of treatment or interception. This ground reality clearly disproves the Respondent's assertion of complete sewage treatment and highlights that untreated sewage from Nyaypura continues to pollute the Chambal unabated.

VII. SAKATPURA NALA:

That the Sakatpura Nala is a significant drain located in the southern belt of Kota and falls within the catchment of the Balita and Dhakadkeri STP clusters, which the Respondent asserts together account for over 100 MLD of sewage treatment capacity. This nala carries domestic sewage and sullage from surrounding residential colonies and discharges directly into the Chambal River. During inspection on 07.08.2025, photographs taken with GPS tagging recorded the continuous flow of untreated black sewage mixed with plastics, polythene, and other municipal solid waste. The polluted water, accompanied by floating debris and foul odour, establishes that no effective treatment or diversion has occurred. The existence of such discharge from Sakatpura Nala flatly contradicts the Respondent's affidavit of complete interception and treatment.

VIII. KISHOREPURA, DOSTPURA, HARIJAN BASTI, KHELRI PHATAK & GAUNDI NALAS:

That these drains collectively represent a cluster of discharge points situated in the older parts of Kota city, each falling within the catchment areas of the Sajidehra, Balita, and Kala Talab STP clusters that the Respondent claims are operational and treating the city's sewage. The cluster drains receive wastewater from densely populated residential localities and low-lying settlements, and all ultimately lead into the Chambal River. During the Petitioner's inspection on 07-08.08.2025, photographic and video evidence with GPS tags documented the continuous flow of untreated sewage, black in colour and accompanied by large amounts of solid municipal waste, including plastics and other non-biodegradable material, directly entering the river. The visuals also show floating debris and accumulation of waste on the riverbanks, demonstrating sustained contamination. The existence of such widespread and untreated discharge from multiple nallas together proves that the Respondent's claims of full interception and treatment are false and that sewage management across the city has failed in practice.

IX. NYAYPURA CHHOTI POLIYA NALA:

That the Nyaypura Chhoti Poliya Nala is a smaller but direct outlet situated close to the Chambal riverbank and falls within the catchment of the Sajidehra STP cluster, which the Respondent asserts is functional and treating sewage from this locality. Despite this claim, the inspection carried out by the Petitioner on 07.08.2025 revealed a continuous flow of untreated black sewage carrying froth, foul effluents, and floating municipal waste directly into the Chambal River. Being located so close to the riverfront, the discharge from this nala enters the river without any interception or diversion, clearly establishing systemic failure of sewage management. The existence of this nala in such condition directly contradicts the Respondent's assertion that all sewage has been intercepted and connected to operational STPs.

X. RIVER FRONT – KULHADI SMASHAN GHAT NALA:

That The Kulhadi Smashan Ghat Nala is located along the Chambal Riverfront near the cremation ground, an ecologically and socially sensitive stretch. It falls within the coverage area of the Balita and Oxizone Park STP clusters, which the Respondent has claimed to be operational and treating sewage before discharge. However, during inspection on 07.08.2025, photographic evidence with GPS tags recorded a heavy discharge of untreated sewage, dark in colour and foul-smelling, mixed with plastics and solid waste, flowing directly into the river at the riverfront. The pollution at this location not only degrades the river ecology but also causes serious nuisance and public health concerns in the vicinity of the cremation site. The ongoing discharge from this nala demonstrates that no functional interception or treatment exists here and directly falsifies the Respondent's assertion of scientific sewage management along the Riverfront.

XI. RIVER FRONT – EASTERN SIDE (KHAI ROAD) NALA:

That the Khai Road Nala is a major outlet situated on the eastern side of the Chambal Riverfront and falls within the catchment of the Balita and Dhakadkeri STP clusters, which together are claimed by the Respondent to intercept and treat sewage from this zone. This nala is one of the biggest discharge points feeding directly into the Chambal. During the inspection done by the Petitioner on 07.08.2025, a voluminous flow of untreated black sewage accompanied by froth, garbage, and floating plastics was documented. The foul stench and scale of discharge captured in the visuals make it evident that interception and treatment measures are absent at this location. The condition of this nala flatly contradicts the Respondent's assertion of adequate and functional sewage treatment infrastructure at the Riverfront.

XII. AMARNIVAS MAHAL MAJOR NALA:

That the Amarnivas Mahal Major Nala is located adjacent to the historic Amarnivas Mahal on the Chambal Riverfront and falls within the catchment of the Balita and Oxizone Park STP clusters, which the Respondent asserts are fully functional and intercepting sewage from this area. Being one of the principal outlets at the heritage stretch of the river, this nala directly influences both ecological and cultural aspects of the riverfront. On inspection carried out by the Petitioner on 07.08.2025, photographic evidence with GPS coordinates captured a heavy flow of untreated sewage intermingled with solid waste, plastics, and debris being discharged into the Chambal River. The visuals clearly portray gross neglect and absence of any functioning interception structures. The continued discharge at such a sensitive and high-profile location exposes the hollowness of the Respondent's compliance claims and demonstrates that sewage from this area is entering the river without treatment.

42. Learned counsel for the applicant Ms. Diksha Chaturvedi has strongly objected and opposed the actions taken by the state administration \ district administration and submitted that there are serious environmental violations by the Nagar Nigam, Kota which are as follows :-

A. VIOLATION OF STATUTORY MANDATE:

Section 24 of the Water (Prevention and Control of Pollution) Act, 1974 expressly prohibits the discharge of any polluting matter into a stream or river. The continued flow of untreated sewage from multiple drains constitutes a direct violation of this statutory provision. Further, under Section 33A of the Water Act, the Respondent is under a continuing duty to comply with directions of the State Pollution Control Board, which it has failed to discharge.

B. NON-COMPLIANCE WITH JUDICIAL DIRECTIONS:

The Hon'ble Supreme Court in *Paryavaran Suraksha Samiti v. Union of India*, (2017) 5 SCC 326, mandated that no untreated sewage or effluent shall be allowed to enter any water body and that all municipal bodies must ensure functional sewage treatment systems. The Respondent's failure to prevent untreated discharges is a breach of this binding mandate. The principle has been reiterated in *Almitra H. Patel v. Union of India*, (2000) 2 SCC 679, where municipal authorities were held directly responsible for mismanagement of solid waste and sewage contaminating water bodies.

C. BREACH OF CPCB GUIDELINES:

The Central Pollution Control Board, through its 2021 Guidelines on Sewage Management, requires interception, conveyance, and 100% treatment of sewage prior to disposal. The presence of untreated discharges from all inspected drains demonstrates gross non-compliance. This also violates the binding "Standard Operating Procedures for Sewage Management" issued by CPCB pursuant to orders of this Tribunal.

D. CONTINUING WRONG AND MISREPRESENTATION:

The pollution of the Chambal River is not a one-time occurrence but a continuing wrong, with fresh untreated discharges flowing daily. Further, by filing a reply asserting complete compliance, the Respondent has misrepresented facts before this Tribunal, warranting strict scrutiny. The doctrine of continuing wrong, as recognised in Indian

Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212, squarely applies to ongoing pollution of the river.

E. APPLICATION OF ENVIRONMENTAL PRINCIPLES:

The continuing pollution and misrepresentation attract strict liability under the Polluter Pays Principle and necessitate urgent preventive action under the Precautionary Principle, as consistently applied by the Hon'ble Supreme Court and this Hon'ble Tribunal. In M.C. Mehta v. Union of India, (1987) 1 SCC 395 (Oleum Gas Leak case), the Court evolved the rule of absolute liability for environmental harm, which squarely fastens liability upon municipal authorities for discharge of untreated sewage.

43. It is further argued by the Learned Counsel Ms. Diksha Chaturvedi for the applicant that Ministry of Housing and Urban Affairs has issued guidelines namely River Centric Urban Planning Guidelines for States and Union Territories. The said guidelines has a reference of a draft notification of Ministry of the Environment, Forest and Climate Change. The said guidelines have been issued for (i) Town & Country Planning Department, (ii) Urban Development Authorities and (iii) Urban Local Bodies to ensure sustainability of rivers passing through cities and towns and to regulate the development along the river banks and flood plains. It is submitted that, though these are guidelines, but the same acts as a framework for the local bodies and department for river water conservation and recommends planning strategies and that under the draft notification pertaining to the River Regulation Zones issued by the Ministry of Environment, Forest and Climate Change GoI, which has been incorporated in the River Centric Urban Planning Guidelines, the river stretches and their tributaries are classified into three categories namely floodplain rivers, seasonal rivers and mountain rivers/ hill streams. It is further submitted that the river

regulation zones have been divided into three categories depending upon the permission granted to carry out developmental activities :-

- (i) **Prohibited activities zones:** level in past 50 years. In case of the presence of embankments in the floodplain area, then this zone will extend from the riverbank to the present outermost embankment and further a 100 meter buffer is provided outside that embankment.
- (ii) **Restricted activities zone:** It will have limits extended from the outer limits of the prohibited zone and up to 1 kilometers.
- (iii) **Regulated activities zone:** This zone extends up to 3 km from the outer limits of the restricted activities zone. Certain activities would be permitted in this zone. Activities which are permitted include Traditional grazing by domestic animals, traditional capture fishing and organic farming, discharge of treated domestic waste waters, withdrawal of ground water using hand pump, recreational activities which will not require boat jetties etc. As per the guidelines, the activities which are not permitted include bunding, dumping of solid waste, construction of new embankment, land reclamation, toxic materials, and withdrawing water for commercial purposes other than hydro power and irrigation projects.

44. The applicant relied on law laid down by the Hon'ble Supreme Court of India in the matter of *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 wherein it has been observed that:-

“25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such

a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

“Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses.”

35. We are fully aware that the issues presented in this case illustrate the classic struggle between those members of the public who would preserve our rivers, forests, parks and open lands in their pristine purity and those charged with administrative responsibilities who, under the pressures of the changing needs of an increasingly complex society, find it necessary to encroach to some extent upon open lands heretofore considered inviolate to change. The resolution of this conflict in any given case is for the legislature and not the courts. If there is a law

made by Parliament or the State Legislatures the courts can serve as an instrument of determining legislative intent in the exercise of its powers of judicial review under the Constitution. But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership, or for commercial use. The aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use unless the courts find it necessary, in good faith, for the public good and in public interest to encroach upon the said resources.”

45. The Hon’ble Supreme Court in the matter of *Tirupur Dyeing Factory Owners Assn. v. Noyyal River Ayacutdars Protection Assn.*, (2009) 9 SCC 737 has held as under:-

22. In Indian Council for Enviro-Legal Action v. Union of India [(1996) 3 SCC 212] , this Court ruled that once the industrial activities carried out are found to be hazardous or inherently dangerous, the person carrying on such activities are liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying out his industrial or commercial activities. Therefore, the polluting industries are absolutely liable to compensate for the harm caused by it to villagers or other affected persons of the area, to the soil and to the underground water and hence, the industry is bound to take all necessary measures to prevent degradation of

environment and also to remove sludge and other pollutants lying in the affected area. As the liability of the polluter is absolute for harm to the environment it extends not only to the victims of pollution but also to meet the cost of restoring the pollution-free environment.

23. In Vellore Citizens' Welfare Forum v. Union of India [(1996) 5 SCC 647 : AIR 1996 SC 2715] this Court considered various constitutional provisions including Articles 47, 48-A, 51-A(g) and came to the conclusion that it is the duty of the State to protect and preserve the ecology, as Article 21 of the Constitution guarantees protection of life and personal liberty and every person has a right to pollution-free atmosphere. Therefore, the "precautionary principle" and the "polluter pays" principle have been accepted as a part of the law of the land being the part of environmental law of the country.

24. Similar view has been reiterated in People's Union for Civil Liberties v. Union of India [(1997) 3 SCC 43 : 1997 SCC (Cri) 434] , A.P. Pollution Control Board v. Prof. M.V. Nayudu [(1999) 2 SCC 718 : AIR 1999 SC 812] and M.C. Mehta v. Union of India [(2009) 6 SCC 142] , observing that environment and ecology are national assets. They are subject to intergenerational equity. The sustainable development principle is a part of Articles 21, 48-A and 51-A(g) of the Constitution of India.

25. In M.C. Mehta v. Union of India [(2004) 12 SCC 118] this Court explained the scope of "precautionary principle" observing that it "requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not

always necessary that there should be direct evidence of harm to the environment.” (SCC p. 168, para 48)

26. The concept of “sustainable development” has been explained that it covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development, that can take place and which can be sustained by nature/ecology with or without mitigation. Therefore, in such matters, the required standard is that the risk of harm to the environment or to human health is to be decided in public interest, according to a “reasonable person's” test. The development of the industries, irrigation resources and power projects are necessary to improve employment opportunities and generation of revenue, therefore, cannot be ignored. In such eventuality, a balance has to be struck for the reason that if the activity is allowed to go on, there may be irreparable damage to the environment and there may be irreparable damage to the economic interest. A similar view has been reiterated by this Court in T.N. GodavarmanThirumulpad (104) v. Union of India [(2008) 2 SCC 222] and M.C. Mehta v. Union of India [(2009) 6 SCC 142] .

27. In case in spite of stringent conditions, degradation of environment continues and reaches a stage of no return, the Court may consider the closure of industrial activities in areas where there is such a risk. The authorities also have to take into consideration the macro effect of wide-scale land and environmental degradation caused by absence of remedial measures. The right to information and community participation

for protection of environment and human health is also a right which flows from Article 21 [vide Bombay Dyeing & Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group [(2006) 3 SCC 434 : AIR 2006 SC 1489] , T.N. GodavarmanThirumulpad v. Union of India [(2002) 10 SCC 606] , Research Foundation for Science Technology National Resource Policy v. Union of India [(2005) 10 SCC 510] , N.D. Jayal v. Union of India [(2004) 9 SCC 362 : AIR 2004 SC 867] , M.C. Mehta v. Kamal Nath [(2002) 3 SCC 653 : AIR 2002 SC 1515] and Susetha v. State of T.N. [(2006) 6 SCC 543 : AIR 2006 SC 2893]

46. The Ministry of Housing and Urban Affairs, Govt. of India guidelines provides River Centric Urban Planning containing the following Regulations : -

“38. United Nations has on 26 July, 2010 resolved unanimously to declare “right to safe and clean drinking water and sanitation as a human right”. Healthy rivers are essential for realization of the said obligation by India as a Party to the UN. Further, statutory mandate from Section 3, 5 and 6 of the Environment (Protection) Act, 1986 seeks to regulate such activities that are found to be incompatible with maintaining the health of the river systems as dynamic and life sustaining entities. It is thus proposed to frame rules to regulate harmful activities in and around the rivers.

Categorization of urban river stretches

Category I *Urbanized stretch shall include stretches of rivers (including their tributaries), with or without embankments, in designated urban areas where infrastructure facilities in the*

form of roads, buildings (residential, commercial, recreational), temples, ghats etc exist.

Category II *Peri urban stretch shall include stretches of rivers (including their tributaries) in suburban and rural areas, with or without embankments, where infrastructure development if any is moderate and the land is primarily under natural vegetation, forestry, agriculture and grazing.*

Lateral zonation of river banks

“Active Flood Plain” is defined as High Flood Line (HFL) which in entrenched / embanked stretches of a river stretch shall be the available space (including the river channel/s) in the valley of entrenched stretch or between two embankments or between existing roads on either side along a river acting as an embankment. In other stretches of the river, HFL/ active flood plain shall be the 100-year flood line.

No Development and Construction Zone

(NDCZ): The competent authority shall determine a NDCZ on either bank for each river which shall not be less than the “Active Flood Plain” of the river.

High & medium impact zones:

The competent authority shall identify and designate suitable distance/s from the NDCZ on either bank keeping local topographical conditions in mind, to be called as high impact and medium impact zones. In plains, where river topography is relatively flat, these distances shall not be less than 1 and 3 Km respectively from the NDCZ depending on the width of the urban river.

Following public facilities shall not be permitted in active flood plain/ NDCZ:

- Hospitals, nursing homes, and housing likely to have occupants who may not be sufficiently mobile to avoid injury or death during a flood,*
- Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after the flood,*
- Structures or facilities that produce, use, or store highly volatile, inflammable, explosive, toxic, and/or water-reactive materials,*
- Public semi-public facilities like sewage and water treatment plants (STP/ WTP); power plants and stations; bus depot; metro stations/ depot etc. which form the life line infrastructures for any city,*
- Commercial extraction of ground water by non-government / private agencies shall not be permitted with in NDCZ in any category of the river.*

The Urban Local Body/ Urban Development Authority shall act as per the directions of Ministry of Environment and Forests to designate the State Environment Impact Assessment Agency (SEIAA) or the State Pollution Control Board (SPCB) to act as the Competent Authority for implementation of these regulations for environmental conservation and

preservation, including water bodies, forests and drains, parks, playgrounds, burial and crematoria.

Uses/Activities permitted

Parks/Gardens, playgrounds, sports facilities including stadium, swimming pools, burial cemeteries and crematoria may be permitted under this category. The Parking for these facilities shall be provided as per the provisions of the Master Plan and up to 2% of the total land area with FAR of 0.50 and G+1 structure may be permitted for ancillary uses required to support the main activity such as eating joints/ restaurants, stalls, sheds for storage etc.

Uses/Activities permissible under

Special circumstance by the Competent Authority

i. Open air theatres, indoor recreational uses, dwelling for watch and ward, sports clubs, water front tourism development projects, libraries, milk booths, Horticultural Producers' Cooperative Marketing and Processing Society (HOPCOMS), public toilets.

ii. The ground coverage for such use shall not exceed 5% of the total area with required parking facility and shall not be more than G+1 floor in any case.”

47. Learned counsel for the applicant has further argued that excessive sand mining, with regard for the natural source, have following environmental effects –

- *Change of morphology of the river destroys the riparian vegetative cover. Riparian habitat helps in controlling erosion, providing nutrient inputs into the stream and prevents intrusion of pollutants in the stream through runoff.*
- *Bed degradation due to sand mining is also responsible for channel shifting, causing loss of properties and degradation of landscape.*
- *Undermining of bridge supports, pipe lines or other structures.*
- *The in-stream habitat is highly affected by the increase in river gradient, suspended load, sediment transport and sediment deposition.*
- *Excessive sediment deposition increases turbidity which lowers light required for photosynthesis and reduces food availability of aquatic fauna.*
- *Change in morphology of the river bed which is an important part of aquatic habitat.*
- *Excessive mining can deplete the gravelly bed material thereby causing harm to the aquatic habitat.*
- *Ground Water table could be lowered.*
- *Depletion of ground water for the purpose of irrigation and drinking.*
- *Increase in channel bank scouring and erosion.*
- *Bank collapse and erosion due to rapid bed degradation.*
- *Pollution of ground water by reducing the thickness of the filter material.*

- *Increased concentration of suspended sediment in the river which in turn causes siltation of water resources projects.*
- *Increase in health hazards such as degradation of air quality and dust fog.*
- *The biodiversity and pest risks also increases due to excessive mining.*
- *Excessive in-stream sand mining results in destruction of aquatic and riparian habitat through changes in channel morphology.*

Consequently, to conserve the natural eco-system, use of alternates of river sand such as M sand and sand produced from coal overburden should be encouraged. Further, there are multiple benefits of promotion of alternates of river sand such as:

- *Uninterrupted supply of sand can be ensured throughout the year without any seasonal effect.*
- *Employment can be generated through the processing plant.*
- *Revenue can be generated from an otherwise waste product (over burden)*
- *Over exploitation of river sand can be minimized*
- *Price of river sand/ ordinary sand can be kept under check*

After estimation of gap derived from demand-supply assessment, States need to analyse the alternatives options of natural sand available with them. Considering large demand-supply deficit, alternate options need to be promoted for below reasons:-

- *Alternate supply option will reduce pressure on river sand*

- *Supply of alternatives may reduce prices of river sand*
- *Alternate options can cater to the needs of monsoon season/
peak season.*

48. The material as submitted by the learned counsel for the parties discloses that there are severe environmental damage and degradation, causing existential threat to the River. The crisis has been caused by rampant illegal mining and stone-crushing activities in the riverbed, unlawful encroachments, and inadequate maintenance with explosives being illegally used for blasting boulders, posing a grave risk to local residents while they continued the operation of illegal stone-crushing and mining activities, encroachments on adjoining streams and the inaction of the Rajasthan State Pollution Control Board, State Authorities and the Industrial Development Corporation.

49. It is to be noted that in the O.A. no. 606/2018 this Tribunal in accordance with the CPC Guideline has directed all the local bodies and concerned department to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the State UTs w.e.f. 01.04.2020. In default of such collection, the State/UTs are liable to pay such compensation. It is noticed that rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna and Delhi and other states looks like a black dream. Several perennial rivers, like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining. Main causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters for various purposes, affecting e-flow, encroachment of catchment areas and flood plains, overdrawal of groundwater, riverbank erosion on account of illegal sand mining. There is a lack of proper monitoring and installation of ETP,

STP, STEP and its functional according to the parameter laid down by the CPCB.

50. The issues of solid as well as liquid waste management are being monitored by this Tribunal as per orders of the Hon'ble Supreme Court order dated 02.09.2014 in Writ Petition No. 888/1996, *Almitra H. Patel vs. Union of India & Ors.*, with regard to solid waste management and order dated 22.02.2017 in W.P. No. 375/2012, reported in (2017) 5 SCC 326, *Paryavaran Suraksha vs. Union of India*, with regard to liquid waste management. Other related issues include pollution of 351 river stretches, 122 non-attainment cities in terms of air quality, 100 polluted industrial clusters, illegal sand mining etc. have also been dealt with earlier but currently proceedings are confined to two issues of solid waste and sewage management. Similarly, the issue of liquid waste management, vide judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha* (2017) 5 SCC 326, the Hon'ble Supreme Court fixed deadline for setting up of treatment plants within three years which was to be monitored by this Tribunal. During the course of hearing in various matters of all the States and District Headquarters, it was found by various orders that large scale non-compliance of environmental norms was continuing which was reportedly resulting in deaths and diseases and irreversible damage to the environment. Directions for remedial action were issued which include constitution of a four member special task force in every district having – one each nominated by District Magistrate, Superintendent of Police, State Pollution Control Boards and District Legal Services Authority (DSLAs) for awareness about SWM Rules, 2016 by involving educational, religious and social organizations including local Eco-clubs. Involvement of DLSAs was subject to the approval of the National Legal Services Authority (NALSA) which is the apex body under the Legal Services Authorities Act, 1987. It was observed that Information, Education and Communication (IEC) programmes can go a long way for protection of

the environment. Such program can be successful if network of Legal Services Authorities and Educational Institutions at every level is involved.

51. Vide order dated 28.02.2020 dealing the matter of the solid waste and liquid waste, this Tribunal in the above noted case directed the States as follows:-

*a. In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, **interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs.1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies.***

Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

b. Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28 even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22),

which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.

c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e- waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:

i. Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

ii. Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.

iii. Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.

e. Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.

f. An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.

g. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."

52. Issue of liquid waste management was separately dealt with in OA 593/2017 on directions of Hon'ble Supreme Court and in suo motu proceedings for restoration of 351 identified polluted river stretches in OA 673/2018. Vide order dated 28.08.2019, the Tribunal directed that 100% sewage treatment must be ensured by all local bodies. Vide further order

dated 06.12.2019 in O.A. No. 673/201810, the Tribunal directed that for failure to commence in-situ remediation, compensation will be payable at the rate of Rs. 5 lakh per month per drain after 31.03.2020 and for failure to commence setting up of STPs after 31.03.2020 compensation is to be paid at the rate of Rs. 5 lakh per month per STP. For failure to complete the project, compensation has to be paid at the rate of Rs. 10 lakh per STP per month after 31.03.2021. Relevant part of the order is quoted below:-

***“47. (i) 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in- situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.*”**

ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.”

53. The Tribunal further observed ~~in para-29~~ as follows:-

“We have noted the gaps in generation and processing of waste and need to address the same in the interest of

protection of environment and public health. Such gaps exist even after monitoring of issue of solid waste management from 1996 to 2014 by the Hon'ble Supreme Court and for the last nine years by this Tribunal as far as solid waste is concerned and monitoring of issue of water pollution for decades by the Hon'ble Supreme Court in the context of Ganga, Yamuna and other rivers and water bodies by discharge of sewage and other waste, apart from industrial pollution. There are policies of Central Government like swachh bharat and Namami Gange. Still, there are mountains of garbage generating methane and other gases which are source of pollution causing diseases and deaths, apart from occupying huge valuable public resource. Segregation of biodegradable waste and its processing closest to the point of generation is a task which requires good governance and according of high priority. Similarly, preventing sewage discharge into the sources of drinking water has to receive highest priority. Such discharge results in scarcity of drinking water for all living beings apart from degradation of environment and damage to public health. Gaps in compliance have been noted earlier. The Hon'ble Supreme Court vide order dated 22.2.2017 in Paryavaran Surakhsha fixed three year deadline for waste water treatment systems which has been monitored by the Tribunal in the last six years. Discharge of sewage in drains leading to rivers, lakes, sea or in water bodies and lands has led to serious damage to environment and public health and needs to be addressed on war footing, using indigenous technology wherever viable or such other technology but no drop of sewage can be mixed in drinking water. Timelines are deviated without accountability. There is no justification of any further delay having regard to adverse impact on humanity and citizens' right of access to drinking water. Sewage continues to be mixed in sources of drinking water to the detriment of public health and environment for which earnest efforts are required in the highest level of administration. There was no dearth of technology and no

justification of repeated and unending extensions of timelines without fixing accountability for past delays.”

54. Order dated 11.05.2023 relating to the repeated gap existing in some of the States, the observations are as follows:-

“28. There appears to be need for change at policy and execution level after study of success stories elsewhere and in the light of several orders of the Tribunal dealing with the issue in respect of other States, particularly relating to solid waste management at Indore and low-cost sanitation management adopting Seechewal Model¹² at least for flat terrain and fecal sludge treatment plant at some of the Towns in Odisha¹³. There has to be a dedicated Cell in the office of the Chief Secretary manned by senior level officers to coordinate such serious issues to regularly monitor progress of execution of projects on time and maintaining inter-departmental co-ordination.

It is necessary to ensure that wet solid waste (bio-degradable) is kept separate from dry waste (non-biodegradable and recyclable) at all source generating levels, collection, transportation or handling which can inter alia be resource for compost or biogas generation. Dry waste can be separately handled by setting up Material Recovery Facility with sorting mechanism for further recycling or reuse. It is necessary that District Headquarters and Semi Urban and Rural Areas after segregation of waste and the waste which is recyclable, need to be properly coordinated for utilization like in cement kilns and by the authorized scrap dealers/recyclers.

Similarly, the sewage after necessary treatment can be utilized for agriculture or other non-potable purposes. The decentralized technology or traditional technologies may also be explored. It would also be necessary to address issue about continuation of septic

tanks and soak pit methods as acceptable methodologies approved for bridging the gap and perspective in terms of environmental aspects. Our further observations follow.

Solid Waste Management

29. Collection, Segregation, transportation and processing of waste has to be as per SWM Rules 2016. Thus, for addressing the issue of bridging the gap in management of MSW (which is 252.60 TPD), segregation of the solid waste at source and its earliest processing nearest to the point of generation with defined destination is imperative. The available potential sites for waste processing need to be identified. The data presented shows gap in solid waste processing in urban and for rural areas no status has been reported. In particular, adequate composting/vermicomposting/ bio- methanation centers need to be set up and upgraded nearest to the source of generation of wet solid waste and listing people's involvement. Use of wet biodegradable waste as animal feed for Piggeries etc. can also be explored without causing environmental nuisance. This may also require establishing de-centralized and centralized waste processing facilities. In the name of pit composting, the waste should not be just dumped causing environmental havoc. Waste generators can themselves be required to process the waste under guidance and handholding by the Administration, with the assistance of identified empaneled service providers and such details may be posted on State's/Center's GeM portal. This may perhaps reduce planned expenditure. Composting and bio-methanation has to be undertaken considering the climatic conditions. Quality of compost so produced may be periodically verified. Keeping these aspects in view, the State needs to strengthen and augment waste processing/treatment facilities at SWM centres and at the point of waste generation. Setting up SWM centres may be considered for all the district headquarters and semi- urban and rural areas as per geographical/regional needs or

improved version of waste processing be adopted at the point of generation to effectively utilize 100% segregated waste.

55. Further observations to explore implementation mechanism:-

*“48. In the light of above observations, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a **centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level**. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. **It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments – Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries**. The mechanism should be working on fulltime basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste management and establishing, continuous interaction with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed. The State may interact with the municipal agencies like Indore Municipal Corporation, Punjab Pollution Control Board and Bhubaneswar Municipal Corporation to have more feedback and teams may undertake field visits.*

49. Mechanism be considered to engage service providers by due diligent process who may execute work relating to solid and sewage management simultaneously throughout the State – all districts, cities and towns. Selection of service

providers may be done taking into account of his past performance and number of projects and capacity to handle successfully. As applicable, consultancy may be sought initially and thereafter execution done with departmental efforts under due supervision.

Need for compliance of statutory duties by specified authorities under SWM Rules and monitoring by NMCG and MoUD for centrally assisted/sponsored schemes

50. Under the Solid Waste Management Rules, 2016, statutory authorities for various actions have been specified. Under Rule 5, a Central Monitoring Committee (CMC) is to be constituted headed by the Secretary, MoEF&CC with representation from Ministries of Urban Development, Rural Development, Chemicals and Fertilizers, Agriculture, CPCB, State PCBs/PCCs, Urban and Rural Development Departments, Urban Local Bodies and Towns from the of the States, FICCI, CII and subject experts. The CMC is to meet once in a year.

The Ministry of Urban Development has to coordinate with the States/UTs under Rule 6 for periodic review and formulation of National Policy and strategies and taking other measures. Under Rule 7, the Department of Fertilizers, Ministry of Chemical and Fertilizers (MoCF) have to provide market development assistance for compost and promote marketing of such compost. MoCF has to comply with Hon'ble Supreme Court's order dated 1.9.2006 in WP(C) No. 888/1996 and ensure that instructions given to the fertilizer companies on 2.6.2008 and 18.6.2012 on co-marketing of compost from city garbage with chemical fertilizers as a 'Basket approach' be complied with. Further, MoCF may review its subsidy fertilizer policy considering Rule 8(g) of the Solid Waste Management Rules, 2016 and the media report.¹⁸ Under Rule 8, Ministry of Agriculture has to evolve mechanism for utilization of compost. Under Rule 9, Ministry of Power has to decide compulsory purchase and tariff issues. Under Rule 10, Ministry of New and Renewable Energy Sources has to facilitate infrastructure creation and provide for subsidy. Under Rule 11, the concerned Secretaries of Urban Development have to prepare State Policy and Management strategies and the Town Planning Department has to ensure setting up waste processing and disposal facilities and take other enumerated actions. Under Rule 12, the District Magistrates

have to identify suitable lands and review performance of local bodies. Under Rule 13, the Secretaries of Panchayats have also to perform similar duties. Under Rule 14, CPCB is to coordinate with State PCBs and formulate standards of ground water, ambient air quality, noise, etc. **Under rule 15**, local authorities have to prepare solid waste management plans, collection of waste and coordination with the other stakeholders for enumerated steps. **Under Rule 16**, the SPCBs/PCCs have to enforce the rules and monitor compliances. **Under Rule 17**, there are duties of private bodies, including the manufacturers to be monitored by the State Bodies. **The timelines are provided in Rule 22** for various steps. Last timeline of 5 years from the Rules expires on 7.4.2021. There is also provision for audit and submitting of annual report **under Rule 24**. Since there has been large scale non-compliances of the said rules, all the concerned authorities need to review the progress and perform their responsibility in accordance with law. The MoEF&CC has to finally monitor compliance, as already mentioned.

51. In view of continuing huge gap in solid and liquid waste generation and treatment, it is high time that Ministry of Housing and Urban Development (MoUD) and National Mission for Clean Ganga (NMCG) who have programmes like Swachh Bharat Mission (SBM – Urban 2.0)¹⁹, AMRUT 2.0²⁰, Swachh Bharat Mission (Grameen)²¹ and River Cleaning, appropriately monitor compliance of waste management norms by concerned States/UTs and take remedial action on their part. Central Funding and State budgetary provisions need to be adequately allocated and apportioned keeping in view of environment compensation which is based on the restoration work estimate. While granting/disbursing funds to States/UTs, execution mechanism for centralized tendering at the State level to overcome delays at each city/town level may be considered. This may facilitate timely utilization of funds. MoEF&CC and CPCB may continue monitoring as per MSW Rules and the Water Act. MoUD and NMCG may also note the gaps reported by the States and UTs in solid and liquid waste management. MoUD may further consider to render proper financial and technical support to States and UTs.”

56. Hon'ble Supreme Court of India vide order dated 30.01.2025, SLP (C) No. 23633-23634/2010 titled *Vellore Citizens' Welfare Forum v. Union of India* [(1996) 5 SCC 647 : AIR 1996 SC 2715] has discussed the Doctrine of Public Trust, and liability to pay compensation, and determination of compensation, and observed as follows:-

1. “BASIC PRINCIPLES

At the outset, it is imperative to establish the three foundational principles viz., (i) Doctrine of Public Trust, (ii) Principle of Sustainable Development, and (iii) Right to healthy environment, that must guide the consideration of other aspects in this case.

2. PUBLIC TRUST DOCTRINE

*The Doctrine of Public Trust asserts that vital natural resources such as rivers, seashores, forests, and air are held in trust by the State for the benefit and enjoyment of the public. Rooted in Roman law, which classified these resources as common property (res communis) or unowned (res nullius), and refined by English common law, this doctrine places a fiduciary duty on governments to protect them from privatization or exploitation that compromises public interests. It imposes three key restrictions viz. (a)resources must remain accessible for public use, (b)cannot be sold for private gain, and (c)must be preserved in their natural state. Courts internationally, have extended its scope to protect wetlands, riparian forests, and ecologically fragile lands, emphasizing the need for environmental preservation in light of modern ecological challenges. This evolving interpretation reflects the doctrine's relevance in maintaining the balance between sustainable development and environmental conservation. In *M.C. Mehta v. Kamal Nath*¹, this court elucidated the doctrine of public trust as follows:*

¹ (1997) 1 SCC 388

“24. The ancient Roman Empire developed a legal theory known as the “Doctrine of the Public Trust”. It was founded on the ideas that certain common properties such as rivers, seashore, forests and the air were held by the Government in trusteeship for the free and unimpeded use of the general public. Our contemporary concern about “the environment” bears a very close conceptual relationship to this legal doctrine. Under the Roman law these resources were either owned by no one (res nullious) or by everyone in common (res communious). Under the English common law, however, the Sovereign could own these resources but the ownership was limited in nature, the Crown could not grant these properties to private owners if the effect was to interfere with the public interests in navigation or fishing. Resources that were suitable for these uses were deemed to be held in trust by the Crown for the benefit of the public. Joseph L. Sax, Professor of Law, University of Michigan — proponent of the Modern Public Trust Doctrine — in an erudite article “Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention”, Michigan Law Review, Vol. 68, Part 1 p. 473, has given the historical background of the public trust doctrine as under:

‘The source of modern public trust law is found in a concept that received much attention in Roman and English law —

the nature of property rights in rivers, the sea, and the seashore. That history has been given considerable attention in the legal literature, need not be repeated in detail here. But two points should be emphasised. First, certain interests, such as navigation and fishing, were sought to be preserved for the benefit of the public; accordingly, property used for those purposes was distinguished from general public property which the sovereign could routinely grant to private owners. Second, while it was understood that in certain common properties — such as the seashore, highways, and running water — “perpetual use was dedicated to the public”, it has never been clear whether the public had an enforceable right to prevent infringement of those interests. Although the State apparently did protect public uses, no evidence is available that public rights could be legally asserted against a recalcitrant government.’

25. The public trust doctrine primarily rests on the principle that certain resources like air, sea, waters, and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of

private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the public trust doctrine imposes the following restrictions on governmental authority: "Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third property must be maintained in particular types of uses".

- ³ Further, in *Vedanta Limited v. State of Tamil Nadu*², it was observed by this Court as follows:

"25. In addition, the public trust doctrine, recognized in various jurisdictions, including India, establishes that the state holds natural resources in trust for the benefit of the public. It reinforces the idea that the State must act as a steward of the environment, ensuring that the common resources necessary for the well-being of the populace are protected against exploitation or degradation. These principles underscore the importance of balancing economic interests with environmental and public welfare concerns. While the

² 2024 SCC Online SC 230

industry has played a role in economic growth, the health and welfare of the residents of the area is a matter of utmost concern. In the ultimate analysis, the State Government is responsible for preserving and protecting their concerns.”

4. SUSTAINABLE DEVELOPMENT

The doctrine of sustainable development was evolved to strike a balance between economic advancement and environmental safeguards. It envisions development that can be sustained by nature / environment. While the advancement of industries and infrastructure is indispensable for fostering employment and generating revenue, such growth cannot come at the cost of irreparable ecological damage. This Court has already extensively considered the concept of sustainable development in the following decisions, the relevant paragraphs of which are reproduced below: -

(i) Vellore Citizens' Welfare Forum (supra):

“10. The traditional concept that development and ecology are opposed to each other is no longer acceptable. “Sustainable Development” is the answer. In the international sphere, “Sustainable Development” as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called “Our Common Future”. The

Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known as “Brundtland Report”. In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a document called “Caring for the Earth” which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in history—deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents, namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio “Sustainable Development” has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the

supporting ecosystems. “Sustainable Development” as defined by the Brundtland Report means “Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”. We have no hesitation in holding that “Sustainable Development” as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.”

(ii) Intellectuals Forum v. State of A.P³:

“84. The world has reached a level of growth in the 21st century as never before envisaged. While the crisis of economic growth is still on, the key question which often arises and the courts are asked to adjudicate upon is whether economic growth can supersede the concern for environmental protection and whether sustainable development which can be achieved only by way of protecting the environment and conserving the natural resources for the benefit of humanity and future generations could be ignored in the garb of economic growth or compelling human necessity. The growth and development process are terms without any content, without an inkling as to the substance

³ (2006) 3 SCC 549

of their end results. This inevitably leads us to the conception of growth and development, which sustains from one generation to the next in order to secure “our common future”. In pursuit of development, focus has to be on sustainability of development and policies towards that end have to be earnestly formulated and sincerely observed. As Prof. Weiss puts it, “conservation, however, always takes a back seat in times of economic stress”. It is now an accepted social principle that all human beings have a fundamental right to a healthy environment, commensurate with their well-being, coupled with a corresponding duty of ensuring that resources are conserved and preserved in such a way that present as well as the future generations are aware of them equally.”

(iii) Tirupur Dyeing Factory Owners Assn. v. Noyyal River Ayacutdars Protection Assn.⁴

“The concept of “sustainable development” has been explained that it covers the development that meets the needs of the person without compromising the ability of the future generation to meet their own needs. It means the development, that can take place and which can be sustained by nature/ecology with or without mitigation. Therefore, in such matters, the required standard is that

⁴ (2009) 9 SCC 737

the risk of harm to the environment or to human health is to be decided in public interest, according to a “reasonable person's” test. The development of the industries, irrigation resources and power projects are necessary to improve employment opportunities and generation of revenue, therefore, cannot be ignored. In such eventuality, a balance has to be struck for the reason that if the activity is allowed to go on, there may be irreparable damage to the environment and there may be irreparable damage to the economic interest. A similar view has been reiterated by this Court in T.N. Godavarman Thirumulpad (104) v. Union of India [(2008) 2 SCC 222] and M.C. Mehta v. Union of India [(2009) 6 SCC 142].”

(iv) Vedanta Limited (supra)

“24. The closure of the industry is undoubtedly not a matter of first choice. The nature of the violations and the repeated nature of the breaches coupled with the severity of the breach of environmental norms would in the ultimate analysis have left neither the statutory authorities nor the High Court with the option to take any other view unless they were to be oblivious of their plain duty. We are conscious of the fact that the unit, as this Court observed in its decision in 2013, has been contributing to the productive assets of the nation and providing employment and revenue in the area. While these aspects have undoubted relevance, the Court has to be mindful of other well-settled principles including the principles of sustainable development, the polluter pays

principle, and the public trust doctrine. The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population.

.....

26. As consistently held in numerous decisions of this Court, the unequivocal right to a clean environment is an indispensable entitlement extended to all persons. Air, which is polluted beyond the permissible limit, not only has a detrimental impact on all life forms including humans, but also triggers a cascade of ecological ramifications. The same is true for polluted water, where the pervasive contamination poses a profound threat to the delicate balance of ecosystems. The impact of environmental pollution and degradation is far reaching: it is often not only severe but also persists over the long term. While some adverse effects may be immediately evident, the intensity of other kinds of harm reveals itself over time. Persons who live in surrounding areas may develop diseases which not only result in financial burdens but also impact the quality of life. The development and growth of children in these communities may become stunted, creating a tragic legacy of compromised potential. Basic necessities, such as access to potable water, may not be met, exacerbating the

challenges faced by these already vulnerable populations. Undoubtedly, such adverse effects are felt more deeply by marginalised and poor communities, for whom it becomes increasingly difficult to escape the cycle of poverty.

27. This Court is also alive to the concept of intergenerational equity, which suggests that “present residents of the earth hold the earth in trust for future generations and at the same time the present generation is entitled to reap benefits from it.” The planet and its invaluable resources must be conscientiously conserved and responsibly managed for the use and enjoyment of future generations, emphasising the enduring obligation to safeguard the environmental heritage for the well-being of all.

28. It is an undeniable and fundamental truth that all persons have the right to breathe clean air, drink clean water, live a life free from disease and sickness, and for those who till the earth, have access to uncontaminated soil. These rights are not only recognized as essential components of human rights but are also enshrined in various international treaties and agreements, such as the Universal Declaration of Human Rights, the Convention on Biological Diversity, and the Paris Agreement. As such, they must be protected and upheld by governments and institutions worldwide, even as we generate employment and industry. The ultimate aim of

all our endeavours is for all people to be able to live ‘the good life.’ Without these basic rights, increased revenue and employment cease to have any real meaning. It is not merely about economic growth but about ensuring the well-being and dignity of every individual. As we pursue development, we must prioritize the protection of these rights, recognizing that they are essential for sustainable progress. Only by safeguarding these fundamental rights can we truly create a world where everyone has the opportunity to thrive and prosper.

29. We have heard these proceedings for several days and after a careful evaluation of the factual and legal material, we have come to the conclusion that the Special Leave Petitions do not warrant interference under Article 136 of the Constitution.”

(v) M.C.Mehta v. Union of India⁵

“19.....As stated above, in the past when mining leases were granted, requisite clearances for carrying out mining operations were not obtained which have resulted in land and environmental degradation. Despite such breaches, approvals had been granted for subsequent slots because in the past the Authorities have not taken into account the macro effect of such wide scale land and environmental degradation caused by absence of remedial measures (including rehabilitation plan). Time has now come, therefore, to suspend mining in the above Area till

⁵ (2009) 6 SCC 142

statutory provisions for restoration and reclamation are duly complied with, particularly in cases where pits/quarries have been left abandoned. Environment and ecology are national assets. They are subject to inter-generational equity. Time has now come to suspend all mining in the above Area on Sustainable Development Principle which is part of Articles 21, 48A and 51A(g) of the Constitution of India. In fact, these Articles have been extensively discussed in the judgment in M.C. Mehta's case (supra) which keeps the option of imposing a ban in future open. Mining within the Principle of Sustainable Development comes within the concept of "balancing" whereas mining beyond the Principle of Sustainable Development comes within the concept of "banning". It is a matter of degree. Balancing of the mining activity with environment protection and banning such activity are two sides of the same principle of sustainable development. They are parts of Precautionary Principle.”

5. RIGHT TO HEALTHY ENVIRONMENT

Right to life inherently includes the right to enjoy, pollution free environment, which are essential for the full enjoyment of life. If anything endangers or impairs the quality of life in derogation of laws, a citizen has the right to have recourse to Article 32 of the Constitution to address the pollution of environment which may be detrimental to the quality of life. This court has recognised the concept of ‘right to healthy environment’ as part of the ‘right to life’ under Article 21 and thereby has also recognised the ‘right to clean drinking water’ as a

fundamental right. Infact, environmental rights, which encompass a group of collective rights, are now described as “third generation” rights. Therefore, the State, so as to sustain its claim of functioning for the welfare of its citizens, is bound to regulate water supply by safeguarding, maintaining and restoring the water bodies to protect the right to healthy water and prevent health hazards. This court has also laid down in many cases, that the States shall ensure that the water bodies are free from encroachments and steps must be taken to restore the water bodies. In this context, we may refer to the following judgments and observations made thereunder:

(i) Subash Kumar v. State of Bihar⁶

“7. Article 32 is designed for the enforcement of Fundamental Rights of a citizen by the Apex Court. It provides for an extraordinary procedure to safeguard the Fundamental Rights of a citizen. Right to live is a fundamental right under Art 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Art. 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life.”

(ii) State of Karnataka v. State of Andhra Pradesh⁷

⁶ (1991) 1 SCC 598 : 1991 SCC OnLine SC 42

⁷ (2000) 9 SCC 572

“175. Water is a unique gift of nature which has made the planet earth habitable. Life cannot be sustained without water. In the National Water Policy issued by the Government of India in 1987, it was declared that water is a prime natural resource, a basic human need and a precious national asset. Water, like air, is the essence for human survival. The history of water availability and its user is tied up with the history of biologically evolution in all civilizations. It will not be wrong to say that not only the life started in water but rather water is life itself. It is essential for mankind, animals, environment, flora and fauna. There is no denial of the fact that in the ancient times water played an important role in the origin, development and growth of civilization all over the globe. Water is an important factor in the economic development of the countries which ultimately affects the social and human relations between the habitants. Planned development and proper utilization of water resources can serve both as a cause as well as an effect off the prosperity of a nation. Water on earth is available in the form of frozen snow, rivers lakes, springs, water ways, water falls and aqueducts, etc.”

(iii) A.P. Pollution Control Board II v. Prof. M.V. Naidu and Others ⁸

⁸ (2001) 2 SCC 62 : 2000 SCC OnLine SC 1679

“7. Our Supreme Court was one of the first Courts to develop the concept of right to 'healthy environment' as part of the right to 'life' under Article 21 of our Constitution. [See Bandhua Mukti Morcha v. Union of India (1984 (3) SCC 161)]. This principle has now been adopted in various countries today. 8. In today's emerging jurisprudence, environmental rights which encompass a group of collective rights are described as "third generation" rights. The "first generation" rights are generally political rights such as those found in the International Convention on Civil & Political Rights while "second generation" rights are social and economic rights as found in the International Covenant on Economic, Social and Cultural Rights. "Right to Healthy Environment". (See Vol.25) 2000 Columbia Journal of Environmental Law by John Lee P.283, at pp.293-294 fn.29).”

“POLLUTER PAYS PRINCIPLE

71. Coming to the aspect of liability, it would be relevant to discuss the “polluters pay principle” which is the universal principle followed for fastening liability on the polluter for the proportionate damage caused to the environment, resulting in violation of right to clean and healthy environment as guaranteed under Article 21 of the Constitution of India. In Indian Council for Enviro-Legal Action v. Union of India⁹, it was noted that when an activity is inherently hazardous or dangerous, the individual or entity engaging in such activity

⁹ (1996) 3 SCC 212

bears absolute liability for any harm caused, regardless of the care exercised. Polluting industries, therefore, are under an obligation to fully compensate for the damage caused to affected communities. More importantly, the Court clarified that the Polluter Pays Principle extended beyond compensating victims of pollution; it included the cost of reversing environmental degradation, in other words, they are required to undertake all necessary remedial measures to remove pollutants and restore the environment. This principle, along with the Precautionary Principle, has been recognized as part of the law of the land, drawing strength from Article 21 of the Constitution, which guarantees the right to life and personal liberty. It underscores that environmental protection is not merely a regulatory obligation but a constitutional imperative aimed at safeguarding the fundamental rights of individuals and preserving ecological balance. The relevant paragraphs are as under:

"65.....We are convinced that the law stated by this Court in Oleum Gas Leak case [M.C. Mehta v. Union of India, (1987) 1 SCC 395: 1987 SCC (L&S) 37] is by far the more appropriate one apart from the fact that it is binding upon us. (We have disagreed with the view that the law stated in the said decision is obiter.) According to this rule, once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule

is premised upon the very nature of the activity carried on. In the words of the Constitution Bench, such an activity: (SCC p. 421, para 31)

"... can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not".

The Constitution Bench has also assigned the reason for stating the law in the said terms. It is that the enterprise (carrying on the hazardous or inherently dangerous activity) alone has the resource to discover and guard against hazards or dangers and not the person affected and the practical difficulty (on the part of the affected person) in establishing the absence of reasonable care or that the damage to him was foreseeable by the enterprise.

67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" principle. [(Historic Pollution Does the Polluter Pay? by Carolyn Shelbourn Journal of Planning and Environmental Law, Aug. 1974 issue.)]

"The Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of Government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays principle was promoted by the Organisation for Economic Cooperation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on Government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialised society. Since then there has been considerable discussion of the nature of the Polluter Pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactorily agreed.

Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ((1987) OJC 328/1) makes it clear that 'the cost of preventing and eliminating

nuisances must in principle be borne by the polluter', and the Polluter Pays principle has now been incorporated into the European Community Treaty as part of the new articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the community, and that action is to be based on three principles: the need for preventive action; the need for environmental damage to be rectified at source, and that the polluter should pay."

72. Referring to the aforesaid judgment, this Court in Vellore Citizen Welfare Forum (supra) held in paragraph 12, as under:

"12. The Polluter Pays Principle" has been held to be a sound principle by this Court in Indian Council for Enviro-Legal Action v. Union of India ((1996) 3 SCC 212: JT (1996) 2 SC 196). The Court observed: (SCC p. 246, para 65)

"... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country."

The Court ruled that: (SCC p. 246, para 65)

"... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The

rule is premised upon the very nature of the activity carried on".

Consequently, the polluting industries are thus "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."

73. *In M.C. Mehta v. Kamal Nath*¹⁰, it was observed by this Court as follows:

"8. Apart from the above statutes and the rules made thereunder, Article 48-A of the Constitution provides that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. One of the fundamental duties of every citizen as set out in Article

¹⁰ (2000) 6 SCC 213 : 2000 SCC OnLine SC 963

51-A(g) is to protect and improve the natural environment, including forests, lakes, rivers and wildlife and to have compassion for living creatures. These two articles have to be considered in the light of Article 21 of the Constitution which provides that no person shall be deprived of his life and liberty except in accordance with the procedure established by law. Any disturbance of the basic environment elements, namely, air, water and soil, which are necessary for "life", would be hazardous to "life" within the meaning of Article 21 of the Constitution.

9. In the matter of enforcement of rights under Article 21 of the Constitution, this Court, besides enforcing the provisions of the Acts referred to above, has also given effect to fundamental rights under Articles 14 and 21 of the Constitution and has held that if those rights are violated by disturbing the environment, it can award damages not only for the restoration of the ecological balance, but also for the victims who have suffered due to that disturbance. In order to protect "life", in order to protect "environment" and in order to protect "air, water and soil" from pollution, this Court, through its various judgments has given effect to the rights available, to the citizens and persons alike, under Article 21 of the Constitution. The judgment for removal of hazardous and obnoxious industries from the residential areas, the directions for closure of certain hazardous industries, the directions for closure of slaughterhouse and its relocation, the various directions issued for the protection of the Ridge area in Delhi, the directions for setting up effluent treatment plants to the

industries located in Delhi, the directions to tanneries, etc., are all judgments which seek to protect the environment.

10. In the matter of enforcement of fundamental rights under Article 21, under public law domain, the court, in exercise of its powers under Article 32 of the Constitution, has awarded damages against those who have been responsible for disturbing the ecological balance either by running the industries or any other activity which has the effect of causing pollution in the environment. The Court while awarding damages also enforces the "polluter-pays principle" which is widely accepted as a means of paying for the cost of pollution and control. To put in other words, the wrongdoer, the polluter, is under an obligation to make good the damage caused to the environment."

Therefore, the industries are liable to not only compensate but also bear the costs for restoring the river. Needless to point out that the remedial action would not stop at restoration, but it is a continuous process, to sustain the river, pollution free and a fresh cause of action would commence again if the industries and the local bodies fail in their duty.

(E) EXTENT OF LIABILITY DEEMING FICTION AND PRECAUTIONARY PRINCIPLE

74. The idea of the Polluter Pays Principle, though seemingly progressive, must be carefully examined to ensure it does not result in the emergence of a "right to pollute" for those who are financially capable or willing to pay. One key question that arises is the extent of liability for the pollution caused,

specifically, whether the liability ends once compensation, as determined by the Court or other authorities, is paid, or whether it is a continuing liability that persists until the actual pollution is curbed and its effects reversed. This Court has recognized that the Polluter Pays Principle, when applied absolutely, has not yet sufficiently mitigated the harm caused to the environment, yielding below-average results. The tanneries have clearly exploited this system, discharging effluents, assuming that payment of compensation grants them the right to pollute. This issue is not limited to the Vellore tanneries alone; it is a broader problem seen across industries in developing countries, where it is often seen as more cost-effective to pay the relatively low compensation than to invest in cleaner technologies that would reduce pollution. Industries, when faced with a choice between the marginal damage cost and the marginal cleaning cost, often opt for the former, thus perpetuating the cycle of environmental degradation. Few examples to illustrate the same as under:

(a) Kanpur Tanneries¹¹: *Despite the Court's order, it was revealed that the tanneries in Kanpur were operating illegally for all 30 days instead of the Government-mandated 15 days per month. These tanneries have also been discharging contaminated water into the river Ganga, continuing their harmful practices despite legal orders.*

(b) Bicchri Industrial Cluster¹²: *The Court passed a verdict in 1999, ordering the company to pay Rs 37.4 crore for remediation. However, the company filed multiple*

¹¹ 1988 SCR (2) 530

¹² 1999 SCC (3) 212

interlocutory applications to delay the payment. In 2011, the Court directed the company to pay the fine along with compound interest at 12% per annum from November 1997 until the amount was fully paid or recovered. Despite this, the village continues to suffer from water contamination and scarcity, impacting drinking water availability, livestock, and agricultural yields. The community, which won the case, has been waiting for over three decades for justice, but compensation has not reached them, and the water crisis persists.

*(c) **Perundurai**¹³: In this case, although the Court directed industries to comply with the ZLD system, many units continue to violate the norms. They discharge untreated effluents into open places, borewells, wells, and rainwater, and bury sludge in the earth. The TDS levels reportedly reached as high as 20,000 ppm per liter, highlighting a continued disregard for environmental norms¹⁴.*

75. Further, in Vellore Citizens Welfare Forum (supra), this Court endorsed the application of the absolute liability principle as an integral component of the polluter pays principle, so long as the polluting activity results in harm or damage.

"12.... Consequently the polluting industries are absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are

¹³ Order dated 20.12.2004 passed by the Madras High Court in Writ Petition Nos. 15244 of 2004

¹⁴ <https://www.newindianexpress.com/states/tamil-nadu/2018/Jun/16/perundurai-becomes-capital-of-cancer-in-erodedistrict-1829072.html>

bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas. The Polluter Pays Principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of Sustainable Development and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."

76. We may also refer to the following decisions, regarding this aspect:

**(i) Indian Council For Enviro-Legal Action (supra) (1996)
3 SCC 212**

"60.... Be that as it may, we are of the considered opinion that even if it is assumed [for the sake of argument] that this Court cannot award damages against the respondents in these proceedings that does not mean that the Court cannot direct the Central Government to determine and recover the cost of remedial measures from the respondents. Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government [or its delegate, as the case may be] to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment Section 5 clothes the Central Government [or its delegate] with

the power to issue directions for achieving the objects of the Act. Read with the wide definition of environment in Section 2(a), Sections 3 and 5 clothe the central Government with all such powers as are necessary or expedient for the purpose of protecting and improving the quality of the environment. The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilize the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. We find that similar directions have been made in a recent decision of this Court in Indian Council for Enviro-Legal Action and Ors. [supra]. That was also a writ petition filed under Article 32 of the Constitution. Following is the direction:

It appears that the Pollution Control Board had identified as many as 22 industries responsible for the pollution caused by discharge of their effluents into Nakkavagu. They were responsible to compensate to farmers. It was the duty of the State Government to ensure that this amount was recovered from the industries

and paid to the farmers. It is, therefore, idle to contend that this Court cannot make appropriate directions for the purpose of ensuring remedial action. It is more a matter of form."

(ii) Bajri Lease Lol Holders Welfare Society v. State of Rajasthan¹⁵

"16. The CEC has recommended imposition of exemplary penalty of Rs. 10 lakh per vehicle and Rs.5 lakh per cubic metre of sand seized, which would be in addition to what has already been ordered / collected by the State agencies as compensation. Compensation/penalty to be paid by those indulging in illegal sand mining cannot be restricted to the value of illegally-mined minerals. The cost of restoration of environment as well as the cost of ecological services should be part of the compensation. The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology".

77. When there is a violation in compliance with the environmental laws, be it by engaging in activities

¹⁵ (2022) 16 SCC 581

directly involved in causing pollution or failure to take steps to curb the pollution and restore the environment or violating any terms of licence granted by any State or central authority and acts in a manner detrimental to the environment, the effect of which causes or is likely to cause degradation of the environment, then the deeming fiction of polluting the environment becomes applicable and the polluter is not only liable to payment of compensation but also to restore the environment. As we have already seen, there is a persistent duty on the State to ensure that all steps are taken to ensure the protection of the environment. The State, even in the absence of any law, must put in place a mechanism to address the issue of degradation by taking preventive measures. The measures should lean towards protection and preservation rather than facilitation of economic activity by reliance upon lack of scientific details for adverse effects. The State must endeavour through its research wings to identify the industries and activities which impacts or can impact the environment before permitting such activities as there is a possibility that the damage could not only be irreversible but also the effects of such damage could be far more threatening the human race than the commercial benefits arising out of such activity. This precautionary principle, that has been recognized in various judgments as seen above and in Vellore Citizen Welfare Forum's case (Supra) was reiterated by this

Court in T.N. Godavarman Thirumulpad, In re v. Union of India¹⁶, the relevant passage of which reads as under:

"43. The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this writ petition itself in an order passed on 9-5-2022 [T.N. Godavarman Thirumulpad v. Union of India, (2022) 9 SCC 306] in connection with another set of applications. In this order, it has been observed and held: (T.N. Godavarman Thirumulpad case [T.N. Godavarman Thirumulpad v. Union of India, (2022) 9 SCC 306], SCC pp. 315-16, paras 16-19)

"16. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, courts are required to balance development needs with the protection of the environment and ecology [T.N. Godavarman Thirumulpad (104) v. Union of India, (2008) 2 SCC 222]. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718]. While economic development should not be allowed to take place at the cost of ecology or by

¹⁶ (2022) 10 SCC 544 : 2022 SCC OnLine SC 716

causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment [Indian Council For Enviro-Legal Action v. Union of India, (1996) 5 SCC 281].

17. In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647], this Court held that the "precautionary principle" is an essential feature of the principle of "sustainable development". It went on to explain the precautionary principle in the following terms: (SCC p. 658, para 11)

11. (i) Environmental measures by the State Government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

18. *The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential (A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718].*

19. *A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest [M.C. Mehta v. Union of India, (2004) 12 SCC 118]. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment."*

While dealing with the applications in the present set of proceedings, we shall follow the same principles."

78. *To tackle this issue, the NGT has adopted the above principles in the following cases:*

“(i) Court on its own motion v. State of HP¹⁷”

"36. The liability of the polluter is absolute for the harm done to the environment which extends not only to compensate the victims of pollution but is also aimed to meet the cost of restoring environment and also to remove the sludge and other pollutants. [Ref: Indian Council for Enviro-Legal Action v. Union of India supra]. The Supreme Court held that the person causing pollution by carrying on any hazardous or dangerous activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his commercial or industrial activity. In the light of these principles, it is clear that the persons who are causing pollution in the eco-sensitive areas resulting in environmental hazards must be required to compensate for the damage resulting from their activity. A large number of tourists and vehicles which are using the roads and are carrying on such other activities for their enjoyment, pleasure or commercial benefits must be made to pay on the strength of the 'Polluter Pays' principle. It will be entirely uncalled for and unjustified if the tax payers' money is spent on taking preventive and control measures to protect the environment. One who pollutes must pay. We have already discussed at some length that the high tourist activity, vehicular pollution and deforestation attributable to acts of emission require to be

¹⁷ 2014 SCC Online NGT 1

compensated. restored and maintained in a manner that there is minimum damage and degradation of the environment. Such an approach can even be justified with reference to the doctrine of sustainable development,"

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(ii) Saloni Ailawadi v. Union of India¹⁸

"23. We may also observe that Precautionary Principle and "Sustainable Development principle are part of Article 21 of the Constitution and Section 20 of the National Green Tribunal Act, 2010. "Polluter Pays' principle does not mean polluter can pollute and pay for it. It would include environmental cost as well as direct cost to people. Environmental cost is not restricted to those which is immediately tangible but full cost for restoration of environmental degradation¹⁹. If cheat devices leading to pollution are ignored only on account of absence of a procedural protocol, it will be against the said accepted principles of environmental jurisprudence. Accepted global procedural norm can be accepted unless prohibited in India expressly or impliedly.

24. The law has to encourage honesty and fair dealing in business transactions and certainly business considerations cannot override environmental protection...."

(F) DETERMINATION OF COMPENSATION

¹⁸ 2019 SCC OnLine NGT 69

¹⁹ Research Foundation for Science v. Union of India, (2005) 13 SCC 186

79. Now that we've discussed the aspect of liability, let us turn our attention to the determination of compensation for pollution-related damage. As highlighted earlier, polluters bear the absolute liability for the harm they cause to the environment. However, it is well known that quantifying the extent of that damage is never an easy task and is usually quite complex. Unlike tangible property damage, the harm inflicted upon ecosystems such as the destruction of flora, fauna, aquatic life, and the disruption to micro-organisms is not easily measurable in monetary terms. Additionally, the impact on local communities, particularly their livelihoods, is difficult to assess. The loss of biodiversity, degradation of natural resources, and long-term socio-economic consequences extend beyond the realm of financial valuation. Therefore, while the liability is clear, the process of determining an equitable compensation amount is fraught with challenges, as it must account for both the tangible and intangible damage inflicted on the environment and the affected communities. However, we can refer to past environmental cases, both Indian and international, to grasp the principles made therein relating to this aspect.”

**GOVERNMENT PAY PRINCIPLE VIS-À-VIS
RESPONSIBILITY OF THE GOVERNMENT:**

82. It is also apposite to state that while polluters bear absolute liability to compensate for environmental damage, the Governments (both Union and State) share an equally significant responsibility to prevent environmental degradation and ensure the implementation of effective remedial action. Moreover, Sections 3 and 5 of the

Environment (Protection) Act, 1986, empower the Central Government to issue directions. Thus, the Central Government, with the assistance of the State Government, RPCB or any other agency or authority, authorized, empowered or constituted by it, if so required, is entrusted with determining the amount required for remedial measures, ensuring its recovery, and overseeing their execution. In fact, in Tata Housing Development Company Ltd v. Aalok Jagga and others²⁰ it was observed as follows:

"35. In Indian Council for Enviro Legal Action vs. Union of India and others, (1996) 5 SCC 281, this Court has made the following observations:

'41. With rapid industrialisation taking place, there is an increasing threat to the maintenance of the ecological balance. The general public is becoming aware of the need to protect environment. Even though, laws have been passed for the protection of environment, the enforcement of the same has been tardy, to say the least. With the governmental authorities not showing any concern with the enforcement of the said Acts, and with the development taking place for personal gains at the expense of environment and with disregard of the mandatory provisions of law, some public-spirited persons have been initiating public interest litigations. The legal position relating to the exercise of jurisdiction by the courts for preventing

²⁰ (2019) 14 SCALE 641

environmental degradation and thereby, seeking to protect the fundamental rights of the citizens, is now well settled by various decisions of this Court. The primary effort of the court, while dealing with the environmental-related issues, is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. The courts, in a way, act as the guardian of the people's fundamental rights but in regard to many technical matters, the courts may not be fully equipped. Perforce, it has to rely on outside agencies for reports and recommendations whereupon orders have been passed from time to time. Even though, it is not the function of the court to see the day-to-day enforcement of the law, that being the function of the Executive, but because of the non-functioning of the enforcement agencies, the courts as of necessity have had to pass orders directing the enforcement agencies to implement the law.”

83. Furthermore, we are also well aware that mere imposition of liability might not have much impact unless it is accompanied by strict enforceability. As mentioned earlier, in India, despite laws like the Water Act, 1974, and Environment Protection Act, 1986, enforcement mechanisms remain weak, as evidenced by persistent pollution in the river, 28 years after a court judgment in Vellore Citizens Welfare Forum (supra). We are conscious of the fact that normally the government

cannot be held liable for the action of third parties. But, the State, which is entrusted with the duty to protect not only its citizens but also the environment, cannot absolve itself from its failure in implementing the laws and allowing the activities that continue in violation of the laws. The role of the State is not restricted to initial verification but also extends to continuous inspection and to ensure compliance of all laws and orders. It is pertinent to mention that the States could enforce the compliances of all the laws and the orders even during renewal of any licences. Therefore, it is equally important to recognize the role of the Government and other regulatory bodies as well to impose upon them, a responsibility with penalizing consequences in ensuring strict compliance with the orders and directions given by the Courts as well as the applicable environmental laws and principles. In other words, while the "Polluters Pay Principle" focuses on directly penalizing offenders, its effectiveness is inherently tied to the vigilance and enforcement mechanisms of the Government and regulatory bodies, and thus, in situations where authorities fail to regulate polluters adequately, the resultant environmental degradation underscores a shared responsibility. The 'Government Pay Principle' emerges from this context, aiming to hold governments accountable for regulatory and enforcement lapses. Examples from countries like South Africa, and Chile demonstrate how holding governments accountable can drive proactive environmental protection measures:

(a) In the late 1980s, South Africa witnessed a shift towards government compensation for environmental harm caused by

private injurers, which led to legislative intervention. Section 19 of the Environmental Conservation Act, 73 of 1989 empowers the government to take the necessary steps to repair the damage and to recover the cost from the polluter for its failure to take adequate measures .

(b) In Chile²¹, the Framework Law contains provisions for citizen-suits to address environmental harm. The law allows individuals to initiate legal actions against local governments to recover the compensation for environmental damage. It provides that victims of environmental harm may require the municipality in which the activity damaging the environment occurred to take action on their behalf, holding the municipality jointly and severally liable for the environmental damage suffered by the petitioner in cases of government inaction.

(c) In Fundación Natura contra Petro Ecuador case²², an Ecuadorian court, when approached by an environmental activist NGO, ordered the state agency to assess the damage and to compensate the community, holding that the state could sue the corporation once the assessment was completed.

Thus, by holding the Governments accountable, the approach ensures a dual-layered system of responsibility, fostering more stringent oversight and proactive environmental governance. In fact, the National Green Tribunal (NGT) has

²¹ Sullivan, M. (1996). Chilean environmental law. Comparative Environmental Law, 1. CHL-16 (Nicholas A. Robinson ed., 1996)

²² Fundación Natura contra Petro Ecuador de la Provincia de Buenos Aires, Expediente No. 221-98-RA Corte Constitucional de Ecuador, 1998), upholding Fundación Natura contra Petro Ecuador, Expediente No 1314 (Juzgado decimo primero de lo civil de Pichincga, April 15, 1998).

already adopted similar approaches by ordering Governments to compensate victims and recover costs from polluters in the decision cited supra.”

RELEVANT PROVISIONS UNDER THE WATER ACT

88. We will not reiterate the provisions of law related to the issue at hand as it is well settled. However, we deem it necessary to highlight the relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974. The Water Act provides for the constitution of the Central and State Pollution Control Boards and empowers them to carry out a variety of functions. These include establishing quality standards, research, planning and investigations to promote cleanliness of streams and wells and to prevent and control pollution of water. Importantly, it also provides that no industry, etc. which is likely to discharge sewage or trade effluents, can be established by any person without obtaining the consent of the State Board. The aforesaid provisions are extracted below for ready reference:

“24. Prohibition on use of stream or well for disposal of polluting matter, etc.

(1) Subject to the provisions of this section,—

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [stream or well or sewer or on land]²³; or

²³ Substituted by Act No. 53 of 1988, for the words "stream or well"

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

25. Restrictions on new outlets and new discharges.—

[(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage: Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution)

Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or

premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or (b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on

an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,—

(a) the expression “new or altered outlet” means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or

not) is substantially altered after such commencement;

(b) the expression “new discharge” means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

26. Provision regarding existing discharge of sewage or trade effluent.—

Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a [stream or well or sewer or on land]²⁴, the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section [shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette].

²⁴ Subs. by Act 44 of 1978, s. 13, for “stream or well” (w.e.f. 12-12-1978)

43. Penalty for contravention of provisions of Section 24

Whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than [one year and six months]²⁵ but which may extend to six years and with fine.

44. Penalty for contravention of section 25 or section 26

Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than [one year and six months]²⁶ but which may extend to six years and with fine.”

In Gujarat Pollution Control Board v. M/s. Nicosulf Indst. & Exports Pvt Ltd²⁷, a complaint was filed under various sections of the Water (Prevention and Control of Pollution) Act, 1974, against M/s. Nicosulf Industries & Exports Pvt. Ltd. and its directors for allegedly discharging 10,800 liters of polluted water daily during nicotine sulphate production, where the court held that under sections 24 and 25 of the Act, every industry is compulsorily required to obtain prior permission or approval of the Board for discharging its polluted water either within or outside the industry as per section 25(i) of the Act.

90. Additionally, in the 1983 case of U.P. Pollution Control Board v. M/s. Mohan Meakins Ltd. and Others²⁸, relating to Gomti River pollution caused by the respondent therein, faced prolonged delays. The High court gave its judgment in 1999 and

²⁵ Substituted by Act No. 53 of 1988, for the words "six months

²⁶ Substituted by Act No. 53 of 1988, for the words "six months

²⁷ 2009 (2) SCC 171

²⁸ 2000 (3) SCC 745

thereafter, this court held that where an offence under the Act has been committed by a company, every person who was in charge of and was responsible for the company's conduct of business, is also guilty of the offence.

91. Thus, it is evident that Vellore's current status highlights the critical consequences of unchecked industrialization and exploitation of natural resources. The district, once known for its agricultural prosperity and natural resources, now faces a grave environmental crisis driven by pollution from the tanning industries, illegal sand mining, and poor waste management. These activities have degraded vital ecosystems, polluted water bodies like the River Palar and reduced the groundwater availability, severely impacting the livelihoods of farmers, fishermen, and local communities.”

57. The analysis of the above report, and submissions reveals that M/s Kota Super Thermal Power Station has seven units operational inside the complex, but the effluents untreated water is directly discharged into Chambal River through mixed drain I & II. Specific effluent treatment facilities have not been developed for treatment of dead effluent generated in form of boiler, blow-down and other effluent streams. Unit has also not installed cooling towers in place of OTC (once through cooling) system at stage 1, 2 and 3.

58. In view of the above facts, we direct as follows :-

- i. Uncontrolled illegal mining and encroachments are potential threat for not only to human being residing along river bank as also to the critically endangered Ghariyal and the Gangetic River Dolphins. Secretary (Environment) is directed to constitute a committee of the competent officers

to initiate appropriate actions to address the issue of illegal mining and encroachments enabling to restore the river eco-system and safeguard the interests of the local communities. The responsibility should be given to the concerned District Magistrate for periodical monitoring of the efforts made in stoppage of illegal mining and removal of encroachments.

- ii. Secretary (Environment) is further directed to prepare a time-bound action plan for restoration of the river and to take action in a phased manner to rejuvenate the river by taking vegetative measures, soil and moisture conservation works and other mechanical measures.
- iii. For restoration of water quality and control and prevention of the potential rise in pollution for avoiding the further deterioration as well as meeting fresh water quality requirement of human use and ecological-cum-environmental health, the river needs continuous water flow. This can be possible by addressing the river-centric challenges with a holistic, sustainable and basin-wide approach along with maintaining a natural balance among interacting limnological conditions across the critical intersection areas of hydrological, geological, meteorological, geographic and morphological and the respondent has to comply and make a balance to maintain the river flow.
- iv. Sand mining within the River and its streams must be regulated in accordance with the Sustainable Sand Mining Management Guidelines, 2016 & The Enforcement and

Monitoring Guidelines for Sand Mining, 2020 and in-case of any violation, the regulatory measurements with punitive action must be taken by the respondents.

- v. Guidelines issued by the Ministry of Housing and Urban Affairs, namely River Centric Urban Planning Guidelines must be strictly enforced and acted upon to regulate the riverbanks and floodplains.
- vi. Respondents are directed to ensure that there will not be any discharge of untreated water, chemical water or sewage water into the river and remedial measures must be taken immediately to ensure that only treated water should be utilized for the cultivation purposes.
- vii. The Kota Municipal Council/ Nagar Nigam has not made arrangement for disposal/treatment of the sewage generated, and there is a huge gap between the generation and the gap. There is inadequate sewer network in Kota, and house-to-house sewer line has not been connected to the main sewer line. Out of 141568 of target of house-sewer connection, the Kota City Nagar Nigam has achieved only 49890 which is very less and not satisfactory.
- viii. The Kota Municipal Council/ Nagar Nigam is directed that house-sewer connection and its connectivity with the main line must be completed within a time frame up to March 2026 and to ensure not to discharge untreated water into the water bodies and State PCB is directed to realize the amount of environmental damage @ of 5 lakhs per month from the date of violation or w.e.f. 01.04.2020 in light of the

order in original application no. 606/2018 till the date of completion of the project.

- ix. The Nagar Nigam is directed to calculate the above amount and voluntarily deposit in the environmental fund as directed by the State PCB within a time frame, failing which the State PCB shall be at liberty to proceed according to rules.
- x. After the completion of STP, the Nagar Nigam may inform the State PCB about the completion of the project and after examining, the State PCB has to take necessary actions. All the environmental damage may be adjusted against the cost of the STP after the submission of any application by the Nagar Nigam before this Tribunal.
- xi. M/s Kota Super Thermal Power Station is directed not to discharge untreated water into the Chambal River through the Nagar Nigam drain and to install the cooling towers in place of OTC according to rules and parameters laid down by the guidelines and necessary facility of treatment of untreated water must be completed within a time frame say before March 2026. In the meantime, State PCB is directed to realize the environmental damage for discharge of untreated water into the water body for polluting the river water @ of 5 lakhs per drain per month and the amount so realized must be utilized for the environmental and ecological restoration purposes in and around the area for long term conservation of river.

- xii. The floodplains must be demarcated appropriately and floodplain zoning must be regulated as per norms.
- xiii. No illegal mining of sand and other minerals be permitted from the riverbed and no brick kilns be allowed to be established in the vicinity of the river.
- xiv. No fishing by illegal means be permitted, including by use of chemicals, electrocution etc., and proper arrangement for cremation along the riverbank of the river be maintained keeping a safe distance.
- xv. The Principal Secretary, Urban Development Department shall take stringent action and steps for controlling and preventing solid waste going into the river and the bio-diversity of the local flora and fauna in the river valley of the river must be preserved.
- xvi. The Irrigation Department is directed to coordinate with the Forest Department of the State and to identify the vacant area floodplain zone on the bank of river, such as which may be developed as green belts and action plan is required to be completed and executed within six months. All the Collectors of the district, situated on the bank of the River are directed to take necessary action to protect and demarcate the River, Floodplain Zones and also to ensure that there should not be any Encroachment, and if it is found, necessary action must be initiated for removal of the said encroachments as per norms.

59. We would like to express our sincere appreciation and gratitude to Advocate Diksha Chaturvedi for exceptional legal expertise, meticulous drafting, thorough preparation, articulate arguments, dedication to environmental

law, commitment to upholding the principles of justice, professionalism, expertise, outstanding representation in the environment matter, passion for the law setting a high standard, which significantly contributed to the successful outcome of the environment case and we are grateful for this invaluable contributions.

60. With above directions **Original Application No. 189/2025** stands **disposed of.**

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

16th October, 2025,
OA No. 189/2023(CZ)
PN