

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

**Original Application No. 116 of 2014
(M.A. No. 1054 of 2015, M.A. No. 554 of 2018 &
M.A. No. 716 of 2018)**

In the matter of :-

Meera Shukla Vs. Municipal Corporation, Gorakhpur & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant:	Ms. Katyani and Ms. Mehak Rastogi, Adv.
UPPCB:	Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Adv.
Respondent no. 1:	Ms. Alpana Pandey, Adv.
CPCB:	Dr. Abhishek Atrey, Adv. and Mr. Prateek Gaur, Adv.
NMCG:	Mr. Ishwer Singh, Mr. Varun Thakur and Mr. Brajesh Pandey, Adv.
CGWA:	Mr. B. V. Niren and Mr. K. Mudgall, Adv.
GIDA:	Mr. Gaurav Dhingra and Mr. Ashok Upadhaya, Adv.
State of Uttar Pradesh:	Ms. Priyanka Swami, Mr. Gaurav Parkash and Mr. Sanjeev Kumar, Adv.
Gorakhpur Development Authority:	Mr. Sanjay Visan and Mr. Saurabh Tripathi, Adv.
Uttar Pradesh Jal Nigam:	Mr. I. K. Kapila, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 06 August 23, 2018 HB & DV	<p>1. Ramgarh Lake, Ami River, Rapti River and Rohani River in and around District Gorakhpur are said to be severely polluted on account of untreated sewage and industrial effluents being discharged therein. The said rivers are tributaries of Ghaghara and the river Ghaghara is a tributary of River Ganga. River Ghaghara meets River Ganga somewhere near Ballia.</p> <p>2. O.A. No. 116 of 2014 was filed before this Tribunal on 24.05.2014 and has been pending for the last more than four years. The main grievance in the application is that the steps required to prevent contamination of the water bodies and ground water are not been taken. This is adversely affecting the farmers and other inhabitants, flora, fauna and ecology of area. The applicant has pointed</p>

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>out the details of environmental degradation in Gorakhpur District. It is stated that 103 water bodies which originally existing are under threat. There is no proper management of solid waste disposal, leading to vector borne diseases and health problems. There are no designated sanitary landfills. The 2021 Master Plan does not take care of these problems. <i>Ramgarh Taal</i> is encroached and is subjected to dumping of waste. Underground municipal sewerage system covers only a small area. Urban development of the city is haphazard. The Gorakhpur Industrial Development Area (GIDA) is under obligation to oversee the integrated, development of the township and has to ensure setting up of CETP. As a result of pollution, productivity has been adversely affected. Industries are not complying with the environmental norms. The UPPCB is not performing its duty. The sample tested by the CPCB found a lot of pollution and a report to this effect was submitted in June, 2011. There is a high organic load in terms of B.O.D and C.O.D in River Ami as well as in the river Rapti. There are sugar distilleries and other factories responsible for the pollution. The underground water has been contaminated with Arsenic. In the year 2012, 557 persons died with encephalitis deaths. In the last 30 years, 50,000 people have died. A financial package of Rs. 4,000 Crore was given by the Central Government to fight the said diseases but there is no proper utilization of the amount. Apart from the 557 death in Gorakhpur Division more deaths have taken place in the area as stated in the news report dated 16.07.2013. The total deaths reported are 1256 in the year 2012.</p>
--	---	---

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>3. Accordingly, the applicant has sought direction for installation of adequate STPs, MSW facilities, removing encroachments, closing down the polluting industries and restoring the damage made to the ecology, after study by the experts.</p> <p>4. The matter has been dealt with on several dates in the last four years. Reference may only be made to the orders passed on 11.02.2015, 13.10.2015, 24.04.2017, 31.01.2018 and 23.03.2018.</p> <p>5. On 11.02.2015, it was noted that two source of drinking water i.e. Ramgarh Lake and Rapti River have become highly polluted on account of industrial and domestic discharge of waste water. It was noted that since river Rapti joins river Ganga, the pollution of Rapti also pollutes river Ganga. Accordingly, direction was issued to UPPCB, UP Jal Nigam, Gorakhpur Municipal Corporation, Gorakhpur Development Authority, Gorakhpur Industrial Development Authority, Central Pollution Control Board and Central Ground Water Authority to consider the matter of installation of STPs/CETPs and ground water regulation. The Tribunal also directed that the no MSW be dumped on the banks of the river Rapti and the Municipal Corporation was directed to identify the dump site. The industries were directed to set up ETPs, STPs and CETP.</p> <p>6. On 13.10.2015, it was noted that existing STPs were not being fully utilized while three more STPs were required.</p> <p>7. On 24.04.2017, it was stated that Environmental Clearance was granted for the land fill site but the site has not been constructed. UPPCB had not taken any action</p>
--	---	--

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>beyond issuing show cause notice. The Tribunal observed that there was sufficient cause for prosecution of the officers and as well as payment of environmental compensation.</p> <p>8. On 25.08.2017, this Tribunal directed sealing and dismantling of hand pumps, so that contaminated water is not extracted in the Ballia District.</p> <p>9. On 30.01.2018, Status Report submitted by the UPPCB dated 06.11.2017 was considered. It was stated that the Gorakhpur Nagar Nigam had failed to set up Waste to Energy Plant despite of Environmental Clearance already granted. It was noted that the DPR has been prepared and placed before the NMCG. The NMCG stated that the DPR is to be considered by the State of UP for setting up of STP. UPPCB was directed to close 28 units which have not set up any ETP/STP in spite of the fact that they were legally required to do so. The CGWA, CPCB and UPPCB were directed to take ground water sample from the borewell where there was contamination. The Health Department of the Gorakhpur Nagar Nigam was directed to carry out health survey. The report of the Gorakhpur Nagar Nigam is that there is no Health Wing in Nigam.</p> <p>10 In view of the above, it is clear that the authorities have failed in performing their duties to protect environment and also to carry out the orders of the Tribunal to take necessary steps in the matter.</p> <p>11. On 22.03.2018, the Tribunal imposed cost of Rs. 5 Lakhs on Gorakhpur Nagar Nigam; Rs. 1 lakh on State of UP and Rs.1 Lakh on CGWA for not complying with the</p>
--	---	--

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>order of this Tribunal. The amount was to be deposited in the ratio of 25 %, 50 % and 25 % respectively with the CPCB, UPPCB and Legal Aid Committee, NGT.</p> <p>12. Subsequently, the Joint Inspection Report dated 19.03.2018 has been filed on behalf of CPCB, CGWB and UPPCB. 17 Groundwater samples were collected, the findings of the committee inter alia are follows:</p> <p>“04. Findings:</p> <p><i>Analysis of ground water samples referred above revealed following specific observations:</i></p> <p>a. <i>It was found that by and large ground water is found to be generally suitable for drinking purposes as per Drinking Water Standards, BIS (IS 10500 : 2012/2015) in terms of the parameters tested, except Nitrate, Iron, Manganese and Fluoride found beyond the permissible limit at some locations.</i></p> <p>b. <i>Nitrate concentration was found more than 45 mg/l at Bargadwa (H/P IM-II), Betia Hata Chauraha (H/P IM-II) and at Bahrampur, Madarasa road (H/P IM-II). Iron concentration was found more than 1.0 mg/l at Ram Janaki Nagar, Opposite House No. 449-D (H/P IM-II), Mahadeo Jharkhandi colony, Zone-I, near Overhead tank no. 04 (H/P IM-II), Betia Hata Chauraha (H/P IM-II), Harraiya Chungi, Nausarh (T/W), R/o ShSukhu Seth harraiya Chungi Nausarh (Punjab Machine (Shallow Hand-pump), Kaushal Vikas Kendra Laldiggi (H/P IM-II) and at Bahrampur, Madarasa road (H/P IM-II). Manganese concentration was fund more than 0.3 mg/l at Ram Janaki Nagar, Opposite House No. 449-D (H/P IM-II), Betia Hata Chauraha (H/P IM-II), R/o Sh Sukhu Seth Harraiya Chungi Nausarh (Punjab Machine (Shallow Hand-pump) and at Bahrampur, Madarasa road (H/P IM-II). High concentration of Fluoride was found at Lala Toli, Ilahibagh (Mini Tube well).”</i></p> <p>05. Suggested action:</p> <p><i>“a. High concentration of Nitrate in ground water is mainly due to anthropogenic activities. Ground water having Nitrate concentration more than 45 mg/l should not be used. In areas where high concentration of nitrate is reported, it was noted that a general sanitary conditions have not been observed satisfactory. Improper management of sewage and municipal solid waste can be one of the probable factors for impact of organic pollutants on the groundwater quality in the nearby locations. Thejoint inspection team is of the view that the local sanitary conditions should be</i></p>
--	---	--

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p><i>improved and alternate sources should be identified for provision of hand pumps.</i></p> <p><i>b. Iron, Fluoride and Manganese contamination in ground water is geogenic (natural/contributed by soil/aquifer quality) in nature. In areas where high Iron, Manganese and Fluoride concentration in ground water is reported, the joint inspection team is of the view that alternate sources should be identified for provision of hand pumps and in case the problem of the groundwater quality persists, at source Iron and Fluoride Removal Technologies be adopted before supplying water to the community. High concentration of Fluoride at Ilahibagh needs further investigation to ascertain the contributing source.”</i></p> <p>13. Though, the report clearly shows failure in the municipal waste management, the joint inspection does not cover all the areas and cannot said to be comprehensive to enable this Tribunal to pass a final order on that basis.</p> <p>14. It is undisputed that more than 500 children have died on account of pollution. No adequate steps have been taken even to prevent discharge of untreated effluents in future.</p> <p>15. Learned Counsel for the UPPCB has stated that tenders have been invited for setting up of MSW Plant, to convert waste to energy, and the issue is pending with the State Government for the last four months. Environmental Clearance has been granted for setting up of such plant on 32 acres of land. Learned counsel for the State of UP has no explanation as to why the matter has not been processed.</p> <p>16. The stand of NMCG has earlier been that the matter is to be considered by the State Government. Vide order dated 30.01.2018, this Tribunal has already directed the State of UP to take a decision in the matter of grant of sanction of the DPR.</p>
--	---	---

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>17. It has been stated by the UPPCB that out of 28 units which did not have ETPs, 8 have now installed ETPs, 13 have changed their process and 5 units are closed. GIDA has acquired the land for CETP and DPR is under consideration. This does not justify action for violation of law earlier nor delay in setting up pollution control devices justified.</p> <p>18. We are thus of the view that there is undoubtedly failure of the administration for preventing pollution which has resulted in death of children as already noted. There is continued violation of environmental norms for which action is not being taken. In spite of direction in the last four years very little and insignificant steps have been taken and the result is that the pollution still continues. In such an emergent situation the stand of the authorities of shifting the burden of the responsibility from one department to another is against the spirit of the Constitution. They have to come together and take immediate steps to prevent any further damage and also to reverse the damage already done. Those responsible for failure have to be made accountable. Those who have suffered need to be rehabilitated.</p> <p>19. All applications seeking waiver of the cost imposed are without any substance and are earlier rejected. The authorities dealing with the matters are liable to be proceeded against for their negligence and failure of duties in appropriate civil and criminal proceedings in accordance with law.</p> <p>20. In the above crises situation of failure of law, the Tribunal is left with no alternative but to constitute a</p>
--	---	---

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>credible mechanism to oversee planning and execution of further steps in the matter on urgent basis. A Monitoring Committee is accordingly constituted as follows:-</p> <ol style="list-style-type: none"> i. Justice Devi Prashad Singh, former Judge, Allahabad High Court – Chairman. ii. Senior Representative of Central Pollution Control Board. iii. Senior Representative of Uttar Pradesh State Pollution Control Board. iv. Dr. A.B. Akolkar, Ex-Member Secretary, Central Pollution Control Board, Delhi. v. Representative of Uttar Pradesh Jal Nigam. <p>21. The technical/scientific members of the Monitoring Committee shall collect samples, cause analysis of such samples at Central Pollution Control Board Laboratory. They shall also carry out joint inspection of industries and other entities viz. ETPs, STPs, MSW site etc to ascertain contribution to environment degradation. The Central Pollution Control Board shall be the convenor of technical and scientific team, which shall submit its report to the Chairman of Monitoring Committee.</p> <p>22. The Chief Secretary of Uttar Pradesh is directed to provide logistic support to the Monitoring Committee and determine their remuneration in consultation with them. All concerned authorities will co-operate with the Committee and comply with such directions as may be issued by the Committee, subject to any further orders in the matter by the Tribunal.</p> <p>23. The Committee will have an action plan prepared for</p>
--	---	--

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>the steps required for setting up of Municipal Solid Waste plant, ETPs/CETPs or other urgent steps at the earliest possible. The action plan may provide for strict timelines. The Committee may also secure information from the concerned authorities as to whether the ETPs already installed are functioning.</p> <p>24. It is stated by learned Counsel for the applicant that polluting industries have hidden pipelines and the effluents are being discharged through such pipelines instead of being treated in the ETPs.</p> <p>25. The Committee may also oversee the steps for availability of potable water for the inhabitants. The names of the persons responsible for dealing with the situation in Gorakhpur representing UPPCB, Nagar Nigam, Jal Nigam, GIDA to be displayed on the respective websites for information of all concerned.</p> <p>26. The Committee may also oversee the rehabilitation programme for compensating the victims who have suffered on account of pollution caused. The Committee may also oversee that all effluents are directed to the ETPs, CETPs and STPs for treatment.</p> <p>27. It will be open to the parties to give their suggestions to the Committee. The Committee may have its own website to furnish information about the steps taken and also to receive any suggestions with a view to involve the local public in its endeavours.</p> <p>28. The report of the progress made by the Committee may be furnished to this Tribunal after three months of its functioning by E-mail at filing.ngt@gmail.com. The Committee will also be at liberty to issue any direction of</p>
--	---	---

	<p>Item No. 06</p> <p>August 23, 2018</p> <p>HB & DV</p>	<p>interim measures to meet emergent situation.</p> <p>The application stands disposed of.</p> <p>A copy of this order be sent to the concerned authorities by E-mail.</p> <p>List for consideration of the Report of the Committee on 10th January, 2019.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">23.08.2018</p>
--	---	---

