

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 200/2014
(arising out of CWP No. 3727/1985 on the file of Hon'ble Supreme Court)

(With report of NMCG dated 15.07.2022)

M.C. Mehta

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 22.07.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Katyayni, Advocate

Respondent(s): Mr. D.P. Mathuria, Executive Director, NMCG
Mr. Rahul Verma, AAG for the State of Uttarakhand
Mr. Mukesh Verma, Advocate for UKPCB

ORDER

1. The matter concerns prevention, control and abatement of pollution of river Ganga. Present proceedings are result of orders of the Hon'ble Supreme Court dated 29.10.2014¹ and 24.01.2017 transferring proceedings pending before the Hon'ble Supreme Court in CWP No. 3727/1985 to this Tribunal for closer monitoring and sending reports of progress to the Hon'ble Supreme Court every six months. Accordingly, the Tribunal has conducted proceedings based on status reports and passed further orders in the last eight years to which reference will be made. It may, however, be mentioned that the Tribunal has found each time that

¹ MC Mehta vs. UOI, (2015) 12 SCC 764

there has been very little progress and nothing to show reduction in pollution level.

2. Proceedings in Hon'ble Supreme Court commenced on 09.09.1985 on account of high level of pollution of river Ganga to the detriment of environment and public health. Number of orders were passed by the Hon'ble Supreme Court in the period spread to almost 30 years till transfer of proceedings to this Tribunal, first on the issue of preventing industrial pollution and later other issues. Some of the orders of Hon'ble Supreme Court include order dated 22.09.1987 with regard to pollution by tanneries, order dated 12.01.1988 with regard to imparting education relating to environment which may result in better enforcement, order dated 17.09.1993 for control of industrial pollution by 68 Grossly Polluting Industries (GPI) in States of U.P., Bihar and West Bengal (which then included Uttarakhand and Jharkhand), adding 17 more GPIs vide order dated 05.02.2014, order dated 01.11.1995 recommending monitoring by National River Conservation Directorate (NCRD), as monitoring was found to be inadequate.

3. Upto 29.11.2018, orders of this Tribunal include orders dated 10.12.2015, 13.07.2017, 19.7.2018, 29.7.2018, 6.8.2018 and 29.11.2018 for control of discharge of untreated sewage and effluents either directly into the River Ganga or its tributaries and connected drains, dumping of solid waste, bio-medical waste, hazardous waste, plastic waste, muck and other waste, illegal sand mining, illegal encroachment of the floodplains, extraction of ground water, restoration of water bodies and maintenance of e-flow. Directions include compiling information about status of projects planned and executed between Kanpur to Ganga Sagar, status of water quality in Uttarakhand, Bihar, Jharkhand, West Bengal and Uttar

Pradesh, demarcation of Flood plains, removing encroachments, undertaking afforestation, setting up bio-diversity parks, handing over flood plains to the State Forest Departments for afforestation and protection. No construction zone distance on flood plains was to be measured from the Highest Flood Line (HFL) in the last 25 years and flood plains were to be identified with longitude and latitude. State of UP was to provide funds for remediation of Chromium dumps at and near Kanpur. Tapping of drains and prevention of pollution was to be expeditiously ensured. NMCG was to monitor reduction of pollution load and improvement in water quality.

4. Thereafter, the Tribunal further reviewed the progress by orders dated 29.5.2019, 22.8.2019, 18.12.2019, 13.8.2020, 8.2.2021 and 23.11.2021. Present order is in continuation of the said orders. Some extracts from the earlier orders of the Tribunal are:-

29.5.2019

“8. xxx.....xxx.....xxx

30. The two Monitoring Committees for **Segment-A Phase-I** and **Segment-B Phase-I** may submit their final reports by 31.10.2019. Thereafter the Chief Secretaries of States of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal Director General, Namami Gange and Secretary, Water Resources, Jal Shakti, Government of India may personally monitor the progress and report compliance to the Tribunal in terms of progress at every quarter in a tabular form as follows:

Sr. No.	Targets to be achieved as per orders dated 10.12.2015, 13.07.2017 and the timelines	Targets achieved and the reasons for delay in compliance	Targets not achieved and the revised timelines proposed*	Action taken or suggested for violation of timelines or non-achieving of targets

**subject to payment of compensation as mentioned above”*

22.08.2019

“State of Uttarakhand (Phase-I, Segment-A)

16..... ***As already observed by this Tribunal including in the order dated 14.05.2019 that River Ganga being National River with distinct significance for the country, even a drop of pollution therein is a matter of concern..... To avoid procedural delay of tender processes, etc. specifications and norms for undertaking such activities may be specified in consultation with the CPCB as was earlier directed in our order dated 29.11.2018.....***

17..... ***Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB..... For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network.....***

18. ***With regard to works under construction, after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply. Further with regard to the sectors where STP and sewerage network works have not yet started, the State has to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.***

State of Uttar Pradesh (Phase -II), State of Bihar, Jharkhand and West Bengal

27. ***after 01.07.2020, direction for payment of environmental compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Ganga or its tributaries and Rs. 10 lakhs per month to CPCB per incomplete STP and its sewerage network will apply with regard to States of Uttar Pradesh, Jharkhand, Bihar and West Bengal falling in Phase II to IV. Further with regard to the sectors where STP and sewerage network works have not yet started, the States of UP, Jharkhand, Bihar and West Bengal have to pay an Environmental Compensation of Rs. 10 lakhs per month after 31.12.2020. The NMCG will also be equally liable for its failure to the extent of 50% of the amount to be paid. Till such compliance, bioremediation or any other appropriate interim measure may start from 01.11.2019.”***

18.12.2019

“9. xxxxxx.....xxx

23. **The States of Uttarakhand, UP, Bihar, Jharkhand and West Bengal need to take further action in terms of orders of this Tribunal for preventing pollution and rejuvenation of Ganga and its tributaries as per timelines already given.....**

....All that this Tribunal can observe is that clearance of legacy waste and sewage treatment being high priority areas, the authority should find ways and means to shorten the delays by avoiding DPRs/tender process which can be done if specifications and rates are standardized which may be explored by the concerned authorities.

24. **The Tribunal has also directed that at least interim measures of treatment of sewage by way of bio-remediation and/or phytoremediation or any other measures may start positively from 01.11.2019, failing which the defaulting States may be liable to pay compensation of Rs. 5 lakhs per month per drain and for such violations, adverse entries must be made in the ACRs of the identified officers.....**

....The Chief Secretaries of concerned States are put to notice that in case of any default in compliance their salaries may be liable to be stopped and for enforcing the directions, further coercive measures including order of civil imprisonment may be liable to be passed personally against the Chief Secretaries.

25.....xxx.....xxx.....xxx

26. **It is not clear whether the STPs are functional and meet the norms. Bio-remediation, phytoremediation or any other measures for treatment of sewage have not started where STPs are not functional, except that in respect of 14 drains in Kanpur interception and diversion works are said to have been undertaken/completed.....**

27 **....There is thus need for further directions for effective monitoring mechanism. While the Chief Secretaries of the States are expected to monitor rejuvenation of Ganga on the pattern of monitoring of rejuvenation of 351 polluted river stretches, which include Ganga and its tributaries.....**

28. xxx.....xxx.....xxx

- i. **As already directed vide order dated 22.08.2019, timely completion of all projects relating to sewage treatment be ensured i.e. by 31.06.2020 in respect of ongoing projects and by 31.12.2020 in respect of**

others failing which compensation has to be paid in terms of the said order, apart from action against the erring officers. Till then, to avoid untreated sewage being discharged directly into Ganga, interim remedial measures have to be adopted and for the default after 01.11.2019 compensation has to be deposited in terms of order dated 22.08.2019. CPCB may make necessary calculation within one month from today and raise demands with the Chief Secretaries of the concerned States which may be complied within one month from the date of such demand failing which accountability will be of the Chief Secretaries personally.

- ii. NMCG and concerned States – Uttarakhand, UP, Jharkhand, Bihar and West Bengal may take further steps as per directions already issued for
- a) Preventing discharge of industrial effluents in Ganga and its tributaries/drains by ensuring installation of proper functioning of ETPs/CETPs.
 - b) Utilization of treated sewage, use of sludge as a manure and septage management.
 - c) Demarcation of flood plain zones and preventing encroachments thereof.
 - d) Maintenance of e-flow.
 - e) Preventing dumping of solid and other waste in and around Ganga.
 - f) Clearing old legacy waste dump sites.
 - g) Preventing and regulating illegal sand mining.
 - h) Steps for conservation of groundwater particularly with reference to critical, semi-critical or over-exploited areas.
 - i) Restoration of water bodies.
 - j) Monitoring and displaying of water quality.
 - k) Taking action against polluters by way of recovering compensation for restoration of the damage to the environment.
 - l) Closing, till compliance, all establishments near river banks being run without necessary STPs and compliance of environmental norms.
 - m) Public awareness and involvement for prevention and control of pollution of Ganga.
 - n) Regulating activities on and around river Ganga including ghats and other establishments.
 - o) Afforestation and setting up of biodiversity parks.
 - p) CPCB and SPCBs may periodically undertake biological assessment of Ganga. NMCG and States concerned may depict biological diversity of Ganga in public domain.
 - q) Any other directions covered by earlier orders of this Tribunal.
- iii. The State of UP may take steps for remediating Chromium dump at Rania and Khanchanpur Village near Kanpur, as directed earlier vide orders dated 22.08.2019 and 15.11.2019.

- iv. CPCB may take further action to finalise and circulate Guidelines for Biodiversity parks expeditiously which may be complied with by the concerned States and status of compliance included in the reports to be filed before this Tribunal.
- v. Apart from the Chief Secretaries, the progress may be monitored by the Monitoring Committee constituted in the State of UP vide order dated 21.10.2019 in O.A. No. 670/2018, by Justice U.C. Dhyani in the State of Uttarakhand and in such manner as may be laid down by the Chief Secretaries in the States of Jharkhand, Bihar and West Bengal in the light of discussion in para 27 above.”

08.02.2021

“15. xxx.....xxx.....xxx

“13. From the above, it is patent that the progress achieved so far leaves much to be desired. Table II in para 11 above shows out of 80 projects for treatment of sewage, only 20 have been completed so far. 11 projects are at tender stage. The summary of 3rd quarterly progress report filed by learned Senior Counsel for NMCG shows ‘partly complied’ status about various proposed targets in terms of earlier orders. Situation is particularly unsatisfactory in the States of Bihar and West Bengal. Even in Uttarakhand, UP and Jharkhand, there are areas of partial compliance. Obviously, water quality cannot improve till all the projects are successfully executed. This requires mission mode approach. This is only one aspect. Other steps have already been mentioned and need no repetition. It is only when all steps are effectively taken, one can say that there is good progress. During the interaction with the Chief Secretaries present, this has been conveyed to them.

14. At the cost of repetition, it may be mentioned that inspite of the fact that Water (Prevention and Control of Pollution) Act, 1974 was enacted 47 years back, to give effect to the decision in Stockholm Conference in the year 1972, the water pollution remains rampant. Though water pollution is a serious criminal offence under the law of the land, the authorities have failed to take stringent action against the violators. In a way the major violators remain State-authorities, who are constitutionally under obligation to ensure treatment of sewage before the same is discharged into the rivers and drains connected thereto which is not fully happening. The effect of water pollution on health and food safety is well known. Water is scarce and large population remains deprived of access to drinking water but still steps to prevent pollution of sources of drinking water are inadequate. The Hon’ble Supreme Court in its judgment in Paryavaran Suraksha vs. Union of India & Ors., (2017) 5 SCC 326 discussed the problem in detail and fixed a firm deadline of 31.03.2018 by which all necessary CETPs/STPs/ETPs should be in place failing which coercive action, including prosecution of State authorities was mandated. The States continue to violate the directions of

the Hon'ble Supreme Court and give their own convenient deadlines which are thereafter further relaxed at will. This can hardly be held to be conducive to the environmental rule of law. The sewage treatment is less than 50% (**the sewage generation from the urban population of the country is reported to be about 70000 MLD and treatment capacity about 27000 MLD**)² which is a matter of serious concern. The Tribunal has issued repeated directions. Till it is remedied, the goal of sustainable development is far cry.

15to18xxx.....xxx.....xxx

19. **In view of above, control of pollution of river Ganga needs to be taken seriously at all levels in Uttarakhand, UP, Bihar, Jharkhand and West Bengal. In absence thereof, the desired result of rejuvenation of river Ganga which is dream of every Indian will remain unfulfilled.** As observed earlier, the Hon'ble Supreme Court has monitored the subject for 34 years (1985-2014) and finally transferred the matter to this Tribunal in the year 2014. Though certain steps have been taken, the tables and compliance summary filed by NMCG quoted above show that with respect to various projects, the matter is still at the tender/DPRs stage and progress in completing the ongoing projects in a timely manner remains a challenge, inspite of availability of funds, supported by the Government of India initiatives.

20. **We have noted the huge gaps in preventing water pollution and generation. We also note inadequate steps in demarcating and protecting the floodplain zones inspite of there being a clear Notification dated 07.10.2016 issued by the Ministry of Water Resources, River Development, and Ganga Rejuvenation under the Environment (Protection) Act, 1986. The definition is as follows:**

“3. xxx.....xxxxxx

(l) flood plain” means such area of River Ganga or its tributaries which comes under water on either side of it due to floods corresponding to its greatest flow or with a flood of frequency once in hundred years;”

21. While removing already raised constructions from the floodplain zones may be dealt with separately, there is need to atleast identify and take protective measures. All remedial measures have already been outlined in the earlier orders of this Tribunal and need not be repeated. As earlier observed, the desirable situation is that not a drop of pollution is discharged into the river Ganga, but in any case, **every next report must show decreasing trend of pollution load which needs to be quantified by the NMCG in a tabular form giving the extent of pollution load on a particular date and reduction**

² As per report of the CPCB dated 30.09.2020 quoted in the order of this Tribunal dated 05.02.2021 in OA 95/2018, Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors.

achieved in terms of gap after steps for treatment. Stopping pollution is as much necessary as stopping any other heinous crimes of homicides and assaults as pollution is acknowledged cause of deaths and diseases and deprivation of access to drinking water.

22. Out of reverence for the Ganga water, innocent citizens drink the same without knowing the harmful contents including high level of faecal coliform. **Least expected from the authorities, till satisfactory results are shown, is to notify the extent of harmful contents at appropriate locations including at Ganga Sagar to avoid adverse health effects. These steps are required on war footing.**”

23.11.2021

“9. Quantity of Sewage being discharged in river Ganga and its tributaries /connected drains and correspondingly proposed/existing STPs to intercept the same with timelines.

xxx.....xxx.....xxx

Table-4: Details of Existing Sewage Infrastructure in the 5 Ganga Basin States

No.	State	Sewage generation (MLD)	Existing STP (capacity in MLD and Nos.)	Capacity Utilization (MLD)	Gap in Treatment at present (MLD)
1	Bihar	1100	230 (6 STPs)	100 (44%)	870
2	Jharkhand	452	103.5 (15 STPs)	77%	348.45
3	Uttarakhand	329.3	396.75 (66 STPs)	235.82 (59%)	-
4	Uttar Pradesh	5500	3471.8 (108 STPs)	2616.7 (75%)	2028.2
5	West Bengal	2758	474.69 (31 STPs) +910 MLD addl. Treatment through EKW	1201 (86%)	1373.31
	Total	10,139.3	5586.74 (226 STPs)	68%	4619.96

10. Performance of STPs and their compliance, particularly for Faecal coliform.

xxx.....xxx.....xxx

Table- 5: Compliance Status of STPs in 5 Ganga Basin States (Till October 31st 2021)

State	Towns covered by 128 STPs	Average Sewage Generation in Ganga Front towns (MLD)	Installed sewage treatment capacity (MLD)	Utilized Capacity (MLD)	Total STPs monitored	Operational STPs	No. of non-complying STPs	No. of STPs Non-Complying for Fecal Coliform (<230 MPN/100 ml) norms
Uttarakhand	16	239.8	347.2	214.1	54	51	36	35*
Uttar Pradesh	11	1255.2	1137.9	930.11	32	29	26	19
Bihar	01	480	205	64	05	04	4	04
Jharkhand	01	12	12	07	02	02	2	2
West Bengal	22	1571.5	545.7	184.9	35	16	15	14
Total	51	3558.5	2247.8	1400.1	128	102	83	74

5. Vide order dated 23.11.2021, the Tribunal comprehensively reviewed the status of compliance of earlier orders of the Tribunal for preventing discharge of pollution in Ganga and its tributaries and taking other remedial measures including maintenance of e-flow, protection of floodplain zones, preventing illegal sand mining, afforestation and setting up of biodiversity parks and other related issues. The Tribunal noted the Thirty-ninth CAG report dated 19.12.2017 on Rejuvenation of river Ganga (Namami Gange)³ deficiencies in terms availability and utilisation of funds, implementation of Projects, inadequacy of human resources, inadequacy of monitoring and evaluation have been noted and it has been suggested that more rigorous and serious execution of Namami Gange project is required. The Tribunal also noted that NMCG's final report on Environmental and Social Audit⁴ (December, 2020) pointed out

³ https://cag.gov.in/cag_old/sites/default/files/audit_report_files/Report_No.39_of_2017_-_Performance_Audit_on_Ministry_of_Water_Resources%2C_River_Development_%26_Ganga_Rejuvenation_Union_Government.pdf

⁴ https://nmcg.nic.in/writereaddata/fileupload/23_NMCG_FINAL_FOLLOW-UP_E&S-Audit-Report_March2021_f1_ES%20.pdf

deficiencies observed include untreated sewage, Drains, Rural sanitation, encroachment of FPZs, E flows, depiction of Water quality in terms of FC and FS etc. Analysis, conclusion and directions of the Tribunal are as follows:-

“Analysis and further directions:

21. *As observed in the earlier orders of this Tribunal including the last order dated 08.02.2021, progress in control of pollution of Ganga leaves much to be desired. There does not seem to be any significant improvement over the compliance status noted in the order dated 08.02.2021 quoted above. Table 4 of the report of NMCG, quoted earlier, shows that gap in sewage generation and treatment is about 46%. It shows that only 68% of the available STP capacity is utilized. Treatment capacity is about 55% only, out of which 32% is un-utilized. Table 5 shows that out of 128 STPs, only 102 are operational out of which 83 are non-compliant. Non-compliance for Fecal coliform component is 74. Compliance thus appears to be about 20% only. Table 7 dealing with the status of CETPs shows that all the CETPs are non-compliant. Status of remediation of drains meeting river Ganga shows that all the drains have not yet been remediated in any of the concerned States. While in Uttarakhand, 9 out of 13 drains are said to have been taken up for treatment and tendering work has been done, in UP out of 459 drains, work has been done only in 42. In Bihar, out of 416 drains in-situ bioremediation is done for 89 drains. 42 drains are discharging directly into Ganga and 111 drains are discharging into the tributaries of Ganga. 83 drains are discharging in low-lying areas. In Jharkhand, only tendering is said to be under process and interim steps have been taken only for four drains. In West Bengal, steps have been taken for 41 drains and no steps have yet been taken for 50. With regard to sewerage infrastructure, all necessary steps have not yet been taken as per requirements of the Water Act and as per directions of the Hon’ble Supreme Court in Paryavaran Suraksha (Supra). In Uttarakhand, the matter is pending at the stage of DPRs. In UP, letter of award for 131 towns has been issued. Some work has been allotted while other work is at tender stage. In Bihar, DPRs are awaiting sanction. In Jharkhand also, the work is at tender stage. In West Bengal, some plants are under construction and some have been commissioned. With regard to Industrial Pollution Management, in Table 1 statement, it is mentioned that CETPs are to be upgraded and other steps taken.*

22. *On the subject of e-flow, Srinagar HEP (GVK) and Pashulok Barrage do not comply with the e-flow norms and many other projects have been found to be non-compliant in Uttarakhand. Information on the subject about UP is not complete. While it is stated that data is not being provided by the Kanpur Barrage Project Authority on the ground that drinking water supply is a priority. In Jharkhand, there is no issue of e-flow. Flood plain*

demarcation issue has also not been finalized. In Uttarakhand, the matter is pending for approval, in UP demarcation of flood plains is to be notified at most of the places. In Bihar, the issue remains un-resolved. In Jharkhand, demarcation has yet not been done. In West Bengal also, action remains to be taken. Much remains to be done on the subject of setting up of biodiversity parks. The issue is still at planning stage in UP and in other States also no substantial progress is reported. NMCG is providing funds to the State Ganga Committees and also directly to the District Ganga Committees.

Conclusion:

23. Thus, it is clear that challenge of cleaning Ganga remains inspite of monitoring by the Hon'ble Supreme Court and by this Tribunal for the last 36 years. Though, initiatives at the level of Central Government have been taken by way of Ganga Action Plans I & II and thereafter, setting up of NMCG, pollution of Ganga remains unabated. We note:

- i. No data showing reduction in pollution load and progressive improvement provided in terms of preventing discharge of sewage and other effluents and discharge of liquid and solid waste from different sources as a result of steps for treatment of sewage/effluents before discharge into Ganga directly or through various tributaries/drains.**
- ii. Various projects are planned but not fully executed.**
- iii. Timelines are breached without accountability and adverse consequences. Encroachment of flood plains also remains a challenge. Uncontrolled continuous unscientific river bed mining aggravates the situation.**
- iv. Public awareness programmes undertaken are not shown to be adequate.**
- v. Directions of this Tribunal requiring the Chief Secretaries of the concerned States to remedy the situation remain un-complied in most of the States. In short, the ownership and responsibility remain lacking.**
- vi. On being asked, Shri Mathuria fairly stated that even when failures are noticed and established, matter of taking action is left to the States. States have never taken any meaningful action.**
- vii. Not even a single case of misappropriation has been filed nor any action is shown to have been taken for non-compliance. Thus, the situation remains disappointing.**
- viii. Level of Fecal coliform very high. 4619.96 million litres per day of sewage is being discharged into main Ganga river. CETPs are non-compliant.**
- ix. Flood plain zones are encroached as Ganga States are not having demarcation of FPZ.**
- x. E-flow and its maintenance at critical locations, particularly in summers, downstream of Narora to border of UP and Bihar are not given.**

- xi. Tributaries are still pouring degraded water into Ganga.***
- xii. States are still caught up in issues of locating sites for STPs and unending prolonged tendering processes.***
- xiii. There is no ownership and accountability of States on their responsibility to keep water quality at Ganga stretch in their State at least of bathing level.***
- xiv. There is no assurance on maintaining E flows, ensuring stoppage of encroachment even for future, control of industrial pollution control at individual and CETP level, water quality in terms of fecal coliform and fecal streptococcus as per MoEF laid down criteria for bathing waters.***

24. We have already noted the reports of CAG (2017) and report of internal audit of NMCG itself (2020) noting deficiencies in monitoring and execution of Namami Gange which need remedial action in the light thereof.

Directions:

25. We are thus of the view that time has come when accountability needs to be fixed for proper and timely utilization of funds allocated and timely performance of constitutional obligation of ensuring clean environment, including clean water of the rivers by meeting of the targets in taking steps. Failure of monitoring and fixing accountability only results in wastage of public funds, continued pollution and resultant deaths and diseases. There appears to be need to consider, at the highest level in the hierarchy of the concerned administration, structural changes in functioning of the NMCG in terms of fixing accountability for maintaining the timelines and exploring management strategies so as to achieve the targets within foreseeable time. Performance parameters and timelines need to be clearly defined and performance audit conducted. The same may include Sewage treatment, tackling encroachments of FPZ, E flows at critical locations, remedying non-compliant CETPs and other issues, including those specified in para 21 of the order dated 18.12.2019, quoted above in para 9 of this order.

26. Standard DPR and tender process SOPs need to be in place. Further, there is need for due investigation about the funds allocated and utilized in terms of achieving the result of reducing pollution load. To the extent failure, causes for the same and persons responsible needs to be identified and made appropriately accountable. A mechanism needs to be worked out to be operative on continuous basis in this regard of identifying those responsible for failure in performance. Without disciplinary and quality control, there may be little chance of success of the laudable mission. In-house review mechanism is required to be strong which at present does not appear to be. If it is found that agencies employed by NMCG for executing its pollution abatement and control plan cannot adequately deliver, structural changes need to be considered by assigning the work to an appropriate agency – Governmental, Private or

Hybrid, who can be held accountable in terms of performance and achieving the targets. In short, performance needs to be evaluated and accountability fixed. Quarterly report giving the details of the funds allotted and progress achieved in terms of reduction in pollution load and other parameters may be placed on the website of NMCG so as to enable enhanced community participation and support. **Compensation as directed in the last order may now be positively collected by the CPCB and the NMCG within two months. In case of non-compliance, coercive measures be taken including initiating prosecution against the defaulters under Section 26 of the NGT Act, 2010. NMCG and CPCB may file their report of further progress as on 31.3.2022 by 15.4.2022 which may also be simultaneously uploaded on their respective websites. Report may state the progress in qualitative as well as quantitative terms under different heads as per para 21 of the order dated 18.12. 2019 preferably State-wise in tabular form with remarks.**

27. Needless to say, the mission undertaken by the Central Government is under the Environment (Protection) Act, 1986, with reference to List 1, Entry 14 of Schedule 7 of the Constitution read with Article 253 to give effect to International Obligations. There is no lack of legislative/administrative authority in the Central Government for any decision on the subject. There is also equal responsibility of the States under Articles 48A, 51 and 51A and also of the Local Bodies and District Magistrates under Articles 243G and 243W read with 11th and 12th Schedules of the Constitutions. Further, obligations of public authorities also flows from “Public Trust Doctrine” and the fact that clean environment is part of Right to Life under Article 21 of the Constitution.”

Latest status report dated 15.7.2022 filed by NMCG for today’s consideration

6. In pursuance of above, NMCG has filed its 5th Quarterly report on 15.07.2022 incorporating the quarterly reports furnished to it by the States of Uttarakhand (on 14.04.2022), Bihar (on 19.04.2022), West Bengal (on 22.04.2022), and Jharkhand (on 19.04.2022) and Uttar Pradesh (on 23.04.2022). The progress has been summed up in tabular form as follows:

Table- I: Details of Sewage Infrastructure in the 5 Ganga Basin States is as follows:-

Sr. No.	States	Sewage generation in State (MLD)	Existing STP Capacity (in MLD and Nos.)	Capacity Utilization (MLD)	STP Capacity Under Construction (MLD)	STP Capacity Proposed (MLD)	Gap in Treatment (MLD) as reported on 31.10.2021	Gap in Treatment (MLD) as on 30.06.2022
1.	<i>Bihar</i>	1100	224.50 (7 STPs)	44%	449	33	870	334.50
2.	<i>Jharkhand</i>	452	107.05 (16 STPs)	68%	89	442	348.45	344.95
3.	<i>Uttarakhand</i>	329.3	397.20 (67 STPs)	59%	135	22.75	NIL	NIL
4.	<i>Uttar Pradesh</i>	5500	3655.28 (118 STPs)	83%	763.55	397.60	2028.20	683
5.	<i>West Bengal</i>	2758	1438.35 (37 STPs)	86%	352.25	339.55	1373.31	329.50
	Total	10,139.3	5,822.38 (245 STPs)	68%	1,788.80	1,234.90	4,619.96	1,691.95

Table- II: Compliance Status of STPs in 5 Ganga Basin States (as on 30.06.2022) is as follows:-

States	A								B
	Towns covered by 110 STPs	Avg. sewage generation in Ganga Front towns (MLD)	Installed sewage treatment capacity (MLD)	Utilized Capacity (MLD)	Total STPs monitored	Operational STPs	Non-complying STPs	STPs Non-Complying for Fecal Coliform norms	STPs Compliance as per SPCBs/operational STPS
Uttarakhand	18	239.80	341.20	242.50	53	49	45	40	07/61
Uttar Pradesh	13	1255.20	1197.90	1134.29	35	31	29	22	77/102
Bihar	01	480	220	64	05	03	02	01	03/03
Jharkhand	01	12	12	6.70	02	02	02	01	02/02
West Bengal	27	1571.50	665	181.20	41	20	18	12	15/32
Total	60	3558.50	2436.20	1628.60	136	105	96	76	104/200

Note: 1. Column A - Status based on latest reports received from CPCB and compliance status of STPs based on standards prescribed by the Hon'ble NGT in the matter of O. A. No. 1069/2018 – *Nitin Shankar Despande Vs. Union of India & Ors.* vide order dated 30.04.2019 (pH: 5.5- 9.0; BOD: 10 mg/l; TSS: 20 mg/L; COD: 50 mg/L; Total Nitrogen: 10 mg/L; Total Phosphorus: 01 mg/l (for discharge into ponds and lakes); Faecal Coliform: Desirable limit 100 MPN/100 ml, Permissible limit 230 MPN/100ml).

2. Column B - Status as reported by SPCBs in latest MPRs (submitted in OA No.673/2018 for respective States) – Total no. of operational STPs is 200 out of which 89 are complying.

3. No. of non-complying STPs as per old criteria – Uttarakhand – 01, U.P. – 25, Bihar - 0, Jharkhand – 0 and W. B. – 0

Table – III: Compliance Status of CETPs (as on 31.05.2022) in 5 Ganga Basin States is as follows:-

S. No.	CETP Name /District	Installed Capacity (MLD)	Utilized capacity (MLD)	Compliance status	Action taken by CPCB/UPPCB
1.	CETP Jajmau Kanpur, UP	36 (09 MLD industrial + 27 MLD sewage)	34.35	Non-complying	CPCB issued direction dated 08.12.2021 to UPPCB under section 18 (1) (b) of Water Act, 1974 regarding non-compliance of CETP Jajmau.
2.	*CETP, Site-II, Unnao, UP	2.15	0.80 (average)	Non-complying	CPCB issued Show cause notice dated 14.02.2022 issued to UTPCC under Section 5 of Environment (Protection) Act, 1986 regarding non-compliance.
3.	*CETP, Banthar Unnao, UP	4.5	0.84 to 1.24	Non-complying	CPCB issued directions dated 10.01.2022, under Section 5 of Environment (Protection) Act, 1986, issued to BIPCC and directed to deposit Environmental Compensation of Rs.9,30,000/-.
4.	CETP, Panthnagar (SIDCUL) US Nagar, UK	4.0	2.3	Non-complying	CPCB issued Show Cause Notice dated 23.12.2021 to SIIDCUL under section 5 of E (P) A, 1986 regarding non-compliance of CETP Panthnagar

S. No.	CETP Name /District	Installed Capacity (MLD)	Utilized capacity (MLD)	Compliance status	Action taken by CPCB/UPPCB
					<i>w.r.t. treated effluent quality standards.</i>
5.	<i>CETP, Sitarganj US Nagar, UK</i>	4.0	1.5-1.8	Non-complying	<i>CETP was found operational and non-complying during inspection carried out on 23.09.2021. CPCB issued Show Cause Notice dated 31.01.2022 to M/s ELDECO SIDCUL Industrial Park Ltd. under section 5 of E (P) A, 1986 regarding non-compliance of CETP Sitarganj w.r.t. treated effluent quality standards.</i>
6.	<i>#CETP SIDCUL, Haridwar, UK</i>	4.5	5.39	<i>Complying</i>	<i>CPCB issued a letter dated 21.02.2022 issued to SIIDCUL.</i>
7.	<i>*CETP, Rooma Kanpur, UP</i>	1.55	0.49	Non-Complying	<i>CPCB issued a Show Cause Notice dated 14.02.2022 was issued to CETP under Section 5 of E(P)Act, 1986.</i>
8.	<i>*CETP, Pilkhuwa Hapur, UP</i>	2.1	0.8	<i>Complying</i>	<i>CPCB issued a Show Cause Notice dated 10.01.2022 was issued to CETP under Section 5 of E(P)Act, 1986.</i>

Note: *State of U. P. in MPR for March 2022 (OA NO. 673/2018) has reported CETPs at Unnao (site II), Banthar, Rooma Kanpur and Pilkhuwa Hapur to be complying while CETP at Jajmau is reported to be non-complying.

State of Uttarakhand in MPR for March 2022 (OA NO. 673/2018) has reported CETP, Haridwar is non-complying against discharge norms and UKPCB has issued show-cause notice under Water (Prevention and Control of Pollution) Act, 1974.

Table – IV: Compliance Status of GPIs (as on 30.06.2022) in 5 Ganga Basin States is as follows:-

S. No.	State	Total No. of GPIs	Total No. of Inspection Completed	Action Completed as on 06.06.2022	Operational	Complied	Non-complied	Show Cause Notice Closure Direction (Non-Complying)	Closure Direction (Non-Complying)	Temporary Closed	Permanent Closed
1.	Uttarakhand	58	58	58	51	48	3	3	0	7	0
2.	Uttar Pradesh	867	867	824	676	548	128	116	12	135	13
3.	Bihar	66	66	66	61	60	1	0	1	5	0
4.	Jharkhand	5	5	5	5	1	4	4	0	0	0
5.	West Bengal	55	55	55	50	45	5	5	0	04	01
	Total	1051	1051	1008	843	702	141	128	13	151	14

7. Information has also been provided with regard to drains as far tapped and ongoing projects, budgetary provision for creation of sewerage infrastructure projects and solid waste management across 97 towns, circulation of standard tenders as per SOP/standard DPR, maintenance of environmental flow and flood plain zone demarcation. It is mentioned that the State of Bihar has taken a stand that flood plain zoning is not feasible, with which NMCG is not agreeable. Further details of water quality assessment at inter-state borders and data on water quality monitoring at 97 locations in association with SPCBs in five States (January – December 2021) have been given.

8. We have heard Shri D.P. Mathuria, Executive Director, NMCG who is present during the hearing. Other Counsel present have merely stated that their stand is as per report already submitted.

Tribunal's analysis

9. As found in earlier order dated 23.11.2021, the progress in control of pollution of river Ganga can hardly be held to be satisfactory even today. There is no significant improvement in control of discharge of untreated sewage and effluents. Table-1 shows that the existing capacity to treat sewage is about 58% out of which only 68% capacity is utilized. **It means that only about 40% sewage is being treated and 60% untreated sewage is going into Ganga. Table-2 shows that out of 226 STPs for treating 5586.74 MLD existing in five States, CPCB has monitored 136 STPs of which 105 are operational STPs, 96 are non-compliant and only nine STPs are compliant. Since compliance has to be as per norms in terms of BOD, TSS and FC water of River Ganga is also used not only for religious bathing but also 'Achman'. Non-operational and non-compliance of STPs lead to disposal of untreated sewage in river**

Ganga or its tributaries. Compliant STPs need to use treated sewage for industries, agriculture or by other bulk water consumers, rather than disposing the same in Ganga. Table-3 shows that out of eight, only two CETPs are compliant while six are non-compliant. Non-compliance of CETP of the biggest tannery cluster at Jajmau is a serious issue for many years. Directions have been issued by CPCB to UPPCB dated 08.12.2021 for taking action which may include closure of member industries and levying environmental compensation. Similarly, CPCB has issued directions on 14.02.2022 and 10.01.2022 in respect of non-compliant CETP at Unnao and Banthar. CPCB needs to closely monitor with SPCBs about remedial action against non-compliant CETPs and member units, including action against those non-compliant with PETP standards. Since effluent of CETP at places like Jajmau goes to river Ganga during rainy days when not required for irrigation, industries need not to operate or reuse the diluted effluents back in process after nano-filtration etc., as required. Table-4 shows that out of 843 operational GPIs, 141 are non-compliant which means 15% of untreated trade effluent from GPIs is being discharged into Ganga.

10. Gap in sewage generation and treatment is 2589.76 MLD, considering the fact that 32% capacity utilization is yet to be achieved, STPs for 1788.80 MLD are under construction and for treating 1234.90 MLD is still at the proposal stage. Gap will increase if projected estimated sewage generation in future is to be considered.

11. Table V relating to water quality at 97 locations shows that downstream of Ganga, after Narora, water quality is degraded on account of sewage disposal, enhancing FC crossing limits of permissible 500 MPN/100 ml. NMCG and CPCB need to jointly take stock situation to come

up with advisory on performing 'Achman' and mass bathing in Ganga, in view of harmful effect of such water quality with high level of FC particularly downstream of Narora upto Diamond Harbour. E flow of Ganga is also affected by extraction of huge quantity of groundwater without having due permissions and replenishment backup. NMCG needs to act upon maintaining E-flow and also deal with encroachments and demarcation of flood plain zones as per 2016 Order. CPCB and NMCG need to cross-check performance of CETPs and take actions as per Acts/Rules, assessing performance of STPs and imposing utilization of treated industrial as well as sewage effluents.

12. As already noted, rejuvenation of national river Ganga may require upgradation of water quality of the entire stretch of the river so as to be fit for 'Achman' and 'Bathing', considering criteria of FC and FS. As at present, this does not appear to be the goal. There has to be tangible rejuvenation plan to prevent the discharge of sewage and industrial effluents with zero tolerance to violations. At present no serious action appears to be taken against violators. NMCG may also put to notice the Chief Secretaries of five States to review status in their States in light of the 5th Quarterly report dated 15.07.2022 and give response to NMCG in a months' time and also fixing accountability and resolving any disputes and impediments.

13. In view of disappointing factual position noted above, paradigm shift in execution and monitoring appears to be necessary. It appears that execution by State authorities is not adequate, too slow and lacking ownership. NMCG does not appear to be in a position to take stringent measures against non-compliances and failure to achieve goals in time bound manner. In dealing with such long pending challenge, executing agency has to be proactive and effective, with simpler and flexible procedures and timelines being sacrosanct. There has to be zero tolerance

to further delay. Working has to be goal oriented with defined accountability, followed by strict consequences for defaults. It may not be advisable to fix loose and convenient distant timelines with no consequences for breach. At the moment reverse is happening. None is accountable for breaching the timelines in the last four decades. Blame is shifted from one authority to another. In dealing with Ganga pollution, there has to be change in attitude of those who have to execute remedial measures. Unless such change takes place, no purpose is achieved in the ritual of monitoring by this Tribunal and direction of the Hon'ble Supreme Court for effective monitoring is defeated.

River Ganga Order, 2016 of Central Government and its success

14. Significant development on the subject is notification dated 07.10.2016 under Section 3 and other relevant sections of the Environment (Protection) Act, 1986 applicable to States in river Ganga basin, called **“The River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016”**, issued by the Central Government. It constitutes authorities for taking various measures in relation to river Ganga and matters connected therewith. Principles for rejuvenation, protection and management of river Ganga have been specified. Provisions have been made for prevention, control and abatement of pollution in river Ganga and its tributaries. Under para 12, **National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council) is constituted in whom superintendence direction and control of management of river Ganga is vested**. Further, Empowered Task Force has also been constituted, apart from State Ganga Committees and District Ganga Committees. NMCG is to comply with the directions of the National Ganga Council (NGC) and to implement Ganga Basin Management Plan approved by it, apart

from other functions. Principles are laid down for rejuvenation, protection and management of Ganga. E flow is to be maintained. Environmental pollution is to be prevented, controlled and abated. Local bodies cannot discharge sewage in Ganga or its tributaries. Encroachments are to be removed and prevented. Emergency measures are to be taken in case of violations. Safety audit is to be conducted. Over arching powers are conferred on NMCG, including monitoring online, with satellite imagery and other remote sensing technologies as well as physically. Huge funds are allocated for the purpose. Result in terms of water quality and actual treatment of pollutants and other measures are shown by the report dated 15.7.2022 which is hardly encouraging even after six years of the said Order of 2016. There is need to see the extent of success and to consider course correction.

Further direction/Suggested way forward:

15. Apart from directions for remedial action by the States and the statutory regulators, we consider it necessary to make further suggestion in the matter.

16. As already noted, close monitoring by the Tribunal even in recent years shows that progress in preventing discharge of sewage and trade effluents is not taking place on expected lines. Either the necessary treatment systems are yet to be set up at several locations or STPs/treatment facilities established are not fully functional. There is unacceptable and unchecked delay with no accountability. Substantial funds are provided by the NMCG without expected results. Reasons for not achieving results may be due to tardy processes or lack of effective credible mechanism. Timelines have kept changing conveniently since decades. Even now there is no commitment for any fixed timeline in future, to the

great and irreversible detriment of Ganga. This disappointing state of affairs needs change which is possible with the intervention of highest authority under the 2016 order. With every interval of time, there should be graphic reduction in pollution load which is not happening. As noted in para 26 of the last order, quoted above, it is high time that alternative credible executing mechanism is explored so that treatment systems are established and operated in fixed timeline and errant persons are made accountable so that not a drop of pollution goes to Ganga. Such mechanism may be accountable to NMCG, subject to final control of the NGC in terms of the 2016 Order. As shown above, even after decades of monitoring of six years after 2016 Ganga Order of the Central Government, still nearly 50% of untreated sewage and substantial industrial effluents are continuing to be discharged in the river or its tributaries/drains, in absence of requisite functional treatment capacity. Thus, instead of indefinitely continuing the proceedings without success, as has happened in the last 37 years, **we suggest that the Member Secretary, NGC i.e. DG, NMCG may place the agenda of reviewing the existing mechanism for executing the work of setting up and maintaining requisite treatment systems to ensure prevention of pollution of Ganga in the next meeting of the NGC, which is the highest authority under the 2016 Ganga Order, preferably within one month or as early as possible thereafter.** The alternative agency to be identified must be credible in terms of performance - Governmental, Private or Hybrid. It may be called SPV or otherwise. It has to be tasked to ensure setting up of 100% treatment capacity of sewage within specified time, not exceeding one year. The quality and discipline control of the agency can remain with the NMCG, subject to final control of the NGC, in terms of the 2016 Order. All other statutory powers in terms of 2016 Order can be exercised by the prescribed

authorities to achieve the objects mentioned in the Order. The capacity should cover not only the current waste water generation but also the projected generation in reasonable future. It may also be considered whether, apart from the work of sewage treatment, any other part of the plan stipulated to be approved by NMCG in terms of para 38 of 2016 Order can also be entrusted to such agency.

17. Member Secretary, NGC may file an action taken report before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List for further consideration on 14.10.2022.

A copy of this order be forwarded to Member Secretary, National Ganga Council, CPCB, Chief Secretaries of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal by e-mail for compliance.

A copy of this order be also forwarded to the Hon'ble Supreme Court in terms of directions of the Hon'ble Supreme Court vide order dated 29.10.2014, (2015) 12 SCC 764, Para 20.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

July 22, 2022
Original Application No. 200/2014
(C.W.P. No. 3727/1985)
SN+DV+A+AB