

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

Original Application No.673/2018
(M.A. No. 1777/2018)

News item published in "The Hindu" authored by Shri Jacob Koshy
titled
"More river stretches are now critically polluted : CPCB

Date of hearing: 08.04.2019

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

For Applicant(s): None

For Respondent (s): Ms. Sharmila Upadhyay, Advocate for CPCB
Dr. S.D. Singh, APCCF, Uttarakhand

ORDER

1. The question for consideration is the remedial action to tackle the major problem of rivers pollution which is manifested in the form of 351 identified polluted river stretches based on the data compiled by the Central Pollution Control Board (CPCB) on the basis of analysis of sample by the State Pollution Control Boards (State PCB) as per National Water Quality Monitoring Programme (NWQMP) undertaken by the CPCB.
2. The Tribunal considered the matter by way of chamber meeting on 10.09.2018 with the participation of all the Members of the Tribunal and the representatives of CPCB, the Ministry of Water Resources

(MoWR), the Ministry of Environment, Forest & Climate Change (MoEF&CC), the NITI Aayog, the National Mission for Clean Ganga (NMCG), Ministry of Housing and Urban Affairs (MoHUA), States of Maharashtra, Gujarat, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Bihar, Punjab, Uttar Pradesh, NCT of Delhi and the Union Territory of Daman & Diu. (Some of the States appeared by video conferencing.

3. Present proceedings were initiated based on a news item dated 17.09.2018 in "The Hindu" under the heading "More river stretches are now critically polluted: CPCB"¹.
4. According to the news item, 351 polluted river stretches have been noted by the Central Pollution Control Board (CPCB). 117 such stretches are in the States of Assam, Gujarat, and Maharashtra. The CPCB has apprised the concerned States of the extent of pollution in the rivers. Most polluted stretches are from Powai to Dharavi – with Biochemical Oxygen Demand (BOD) 250 mg/L; the Godavari - from Someshwar to Rahed – with BOD of 5.0-80 mg/L; the Sabarmati – Kheroj to Vautha – with BOD from 4.0-147 mg/L; and the Hindon – Saharanpur to Ghaziabad – with a BOD of 48-120 mg/L. The CPCB has a programme to monitor the quality of rivers by measuring BOD. BOD greater than or equal to 30mg/L is termed as 'Priority I', while that between 3.1-6 mg/L is 'Priority V'. The CPCB considers BOD less than 3mg/L an indicator of a healthy

¹<https://www.thehindu.com/news/national/more-river-stretches-critically-polluted-cpcb/article24962440.ece>

river. In its 2015 Report², the CPCB had identified 302 polluted stretches on 275 rivers, spanning 28 States and six Union Territories. The number of such stretches has now been found to be 351 in 2018.

5. The Water (Prevention and Control of Pollution) Act, 1974 prohibits use of any stream or well for disposal of polluted matter. Any person doing so is punishable.
6. Article 48A of the Constitution casts a duty on the State to protect and improve the environment. Article 51A imposes a fundamental duty on every citizen to protect and improve the environment. The Stockholm Declaration (1972) recommended prevention of pollution by adopting the 'Precautionary Principle', the 'Polluter Pays Principle' and the principle of 'Sustainable Development'.
7. In spite of above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise has continued to be discharged in the water bodies including the rivers or the canals meeting the rivers. Violation of law is not only by private citizens but also statutory bodies including the local bodies and also failure of the regulatory authorities in taking adequate steps.
8. Above situation led to consideration of the matter by the Hon'ble Supreme Court in the context of pollution of river pallar in Tamil

²<http://cpcb.nic.in/cpcb/RESTORATION-OF-POLLUTED-RIVER-STRETCHES.pdf>

Nadu³ and river Noyyal. In *M.C. Mehta Vs. Union of India & Ors.*⁴, directions to enforce the statutory provisions by the municipal bodies and the industries by stopping discharge of untreated sewage and effluents in River Ganga were issued by the Hon'ble Supreme Court. It was noted that the water pollution caused serious diseases, including Cholera and Typhoid. Water pollution could not be ignored and adequate measures for prevention and control are necessary. It was also observed that the educational institutions must teach at least for one hour in a week lessons relating to protection and improvement of environment. Awareness should be created by organizing suitable awareness programs. In the same matter, the issue of Calcutta tanneries was considered in *M.C Mehta Vs. Union of India And Ors.*⁵, (Calcutta Tanneries' Matter). The tanneries were directed to be shifted by adopting the 'Precautionary Principle' so as to prevent discharge of effluents in the River Ganga.

9. This Tribunal also considered the issue of pollution of river Yamuna, in *Manoj Mishra Vs. Union of India*⁶, river Ganga in *M.C. Mehta Vs. Union of India*⁷, river Ramganga which is a tributary of river Ganga in *Mahendra Pandey Vs. Union of India & Ors.*⁸, rivers Sutlej and Beas in the case of *Sobha Singh & Ors. Vs. State of Punjab & Ors.*⁹, river Son in *Nityanand Mishra Vs. State of M.P. & Ors.*¹⁰, river

³*Vellore Citizen' Welfare Forum v. Union of India*, (1996) 5 SSC 647

⁴ (1988) 1 SCC 471

⁵ (1997) 2 SSC 411

⁶O.A. No. 6/2012, 2015 ALL(I) NGT REPORTER (1) (DELHI) 139

⁷O.A No. 200 of 2014, 2017 NGTR (3) PB 1

⁸O.A. No. 58/2017

⁹O.A.No. 101/2014

¹⁰O.A. No. 456/2018

Ghaggar in Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case)¹¹”, river Hindon in *Doaba Paryavaran Samiti Vs. State of U.P. & Ors.*¹², river Kasardi in *Arvind Pundalik Mhatre Vs. Ministry of Environment, Forest and Climate Change & Ors.*¹³, River Ami, Tapti, Rohani and Ramgarh lake in *Meera Shukla Vs. Municipal Corporation, Gorakhpur & Ors.*¹⁴, rivers Chenab and Tawi in the case of *Amresh Singh Vs. Union of India & Ors.*¹⁵ and *Subarnarekha in Sudarsan Das Vs. State of West Bengal & Ors.*¹⁶ and issued directions from time to time.

10. On 08.08.2018, in *Doaba Paryavaran Samiti Vs. State of U.P. & Ors.*¹⁷, pollution in river Hindon was the subject matter of consideration. The matter was taken up on the allegation that 71 persons in Baghpat district died and more than 1000 persons were affected by diseases on account of pollution. The Tribunal noted that there was contamination of groundwater on account of pollution caused by sugar, paper, distilleries and tannery industries. An inspection team appointed by the Tribunal, found that 124 industries were causing pollution. It was noted that no punitive action has been initiated. The pollution caused included discharge of Mercury. The Tribunal observed that sources of contaminated water are required to be closed. The victims of diseases are required to be rehabilitated. A statement that there are 302 river stretches in the

¹¹O.A. No. 138/2016 (T_{NHRC})

¹² O.A. No. 231/2014

¹³ O.A. No. 125/2018,

¹⁴ O.A. No. 116/2014,

¹⁵ Execution Application No. 32/2016 in O.A. No. 295/2016,

¹⁶O.A.No. 173 of 2018

¹⁷ O.A. No. 231/2014

country was noted and the CPCB was directed to identify at least 10 most critical stretches and prepare an action plan, in similar format as that of river Hindon¹⁸. The directions issued by the Tribunal include making functionaries of the statutory authorities accountable for their failure, making potable water available, sources of contamination being closed, action plans being prepared at District, State and National levels for restoration of water quality and reversing the damage. The Committee headed by a former Judge of High Court was also constituted to oversee the execution of the directions.

11. As already noted, well known 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, encroachments of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not been achieved. Tough governance is the need of the hour. If pollution does not stop, the industry has to be stopped. If sewage dumping does not stop, local bodies have to be made accountable and their heads are to be prosecuted. Steps have to be taken for awareness and public involvement.

¹⁸Hindon action plan prepared by CPCB is explained in para 46

12. River Water is considered to be fit for bathing when it meets the criteria of having Bio-chemical Oxygen Demand (BOD) less than 3.0 mg/L, Dissolved Oxygen more than 5.0 mg/L and Faecal Coliform bacteria to be less than 500 MPN/100 ml.
13. As already noted, according to latest assessment by the CPCB, there are 351 polluted river stretches in India i.e. where the BOD content is more than 3mg/L. The plan of CPCB is to target enhancement of river flow. The plan for restoration of polluted river stretches is proposed to be executed through two-fold concepts. One concept is to target enhancement of river flow through interventions on the water sheds/catchment areas for conservation and recharge of rain water for subsequent releases during lean flow period in a year. This concept will work on dilution of pollutants in the rivers and streams to reduce concentration to meet desired level of water quality. Other concept is of regulation and enforcement of standards in conjunction with the available flow in rivers /streams and allocation of discharges with stipulated norms.
14. In view of above, this Tribunal found it necessary to take up the matter and direct preparation and execution of river action plans to control pollution and restore water quality of the river as per norms within reasonable time. There have been successful river cleaning programmes in other countries such as relating to rivers Thames(England), Rhine(Germany) and Danube(France). There is no reason why our polluted river stretches cannot be restored.

15. Accordingly, vide order dated 20.09.2018, the Tribunal issued following directions:-

- “ i) *All States and Union Territories are directed to prepare action plans within two months for bringing all the polluted river stretches to be fit at least for bathing purposes (i.e BOD < 3 mg/L and FC < 500 MPN/100 ml) within six months from the date of finalisation of the action plans.*
- ii) *The action plans may be prepared by four-member Committee comprising, Director, Environment, Director, Urban Development., Director, Industries., Member Secretary, State Pollution Control Board of concerned State. This Committee will also be the Monitoring Committee for execution of the action plan. The Committee may be called “River Rejuvenation Committee” (RRC). The RRC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory.*
- iii) *The action plan will include components like identification of polluting sources including functioning/ status of STPs/ETPs/CETP and solid waste management and processing facilities, quantification and characterisation of solid waste, trade and sewage generated in the catchment area of polluted river stretch. The action plan will address issues relating to; ground water extraction, adopting good irrigation practices, protection and management of Flood Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river and plantation on both sides of the river. Setting up of biodiversity parks on flood plains by removing encroachment shall also be considered as an important component for river rejuvenation. The action plan should focus on proper interception and diversion of sewage carrying drains to the Sewage Treatment Plant (STP) and emphasis should be on utilization of treated sewage so as to minimize extraction of*

ground or surface water. The action plan should have speedy, definite or specific timelines for execution of steps. Provision may be made to pool the resources, utilizing funds from State budgets, local bodies, State Pollution Control Board/ Committee and out of Central Schemes.

- iv) *The Action Plans may be subjected to a random scrutiny by a task team of the CPCB.*
- v) *The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate action plan, as directed.*
- vi) *All States and Union Territories are required to send a copy of Action Plan to CPCB especially w.r.t Priority I & Priority II stretches for approval.*
- vii) *The States and the Union Territories concern are directed to set up Special Environment Surveillance Task Force, comprising nominees of District Magistrate, Superintendent of Police, Regional Officer of State Pollution Control Board and one person to be nominated by District Judge in his capacity as Chairman of Legal Services Authority on the pattern of direction of this Tribunal dated 07.08.2018, in Original Application No. 138/2016 (T_{NHRC}), "Stench Grips Mansa's Sacred Ghaggar River (Suo-Motu Case).*
- ix) *The Task Force will also ensure that no illegal mining takes place in river beds of such polluted stretches.*
- x) *The RRC will have a website inviting public participation from educational institutions, religious institutions and commercial establishments. Achievement and failure may*

also be published on such website. The Committee may consider suitably rewarding those contributing significantly to the success of the project.”

16. The Tribunal suggested that action plan prepared for River Hindon could be taken as a model for restoration of water quality.¹⁹ Salient features of the said Action Plan are:

- i. Execution of field surveys to assess pollution load generated by industries and sewage generated in a city or town discharging sewage and trade effluent into river Hindon and its tributaries.
- ii. Collating water quality monitoring data of Hindon and its tributaries and assigning the class as per primary water quality criteria.
- iii. Water quality assessment of river in context of sewage/industrial drain outfalls with dilution and distance factors.
- iv. Laying time-limes for regulating industrial pollution control by ensuring consent compliance and closing the defaulting industries till they comply with the norms stipulated to them.
- v. Setting up of STPs in towns located in the river catchment and emphasis on utilization of treated sewage.
- vi. Adopting water conservation practices, ground water regulation, flood plain zone management and maintaining environmental flow.

¹⁹ <http://cpcb.nic.in/NGT/CPCB-Reply-Affidavit-Report-on-Hindon-Action-Plan.pdf>

17. The data for the polluted river stretches indicated that the river stretches were identified in 5 categories as follows:-

I. Criteria for Priority I

- (a) Monitoring locations exceeding BOD concentration 30 mg/L has been considered as it is the standard of sewage treatment plant and in river it appears without dilution.(River locations having water quality exceeding discharge standards for BOD to fresh water sources)
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.
- (c) Monitoring locations exceeding 3 mg/L BOD are not meeting desired water quality criteria but does not affect to Dissolved Oxygen level in water bodies. If BOD exceeds 6mg/L in water body, the Dissolved Oxygen is reduced below desired levels.
- (d) The raw water having BOD levels upto 5 mg/L are does not form complex chemicals on chlorination for municipal water supplies. Hence the water bodies having BOD more than 6 mg/L are considered as polluted and identified for remedial action.

II. Criteria for Priority II

- (a) Monitoring locations having BOD between 20-30 mg/L.
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

III. Criteria for Priority III

- (a) Monitoring locations having BOD between 10-20 mg/L.
- (b) All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

IV. Criteria for Priority IV

- (a) Monitoring locations having BOD between 6-10 mg/L.

V. Criteria for Priority V

- (a) Monitoring locations having BOD between 3-6 mg/l.
- (b) The locations exceeding desired water quality of 3mg/l BOD.

18. Table showing location and categories are reproduced in the said order. The action plans were required to cover the following:-

A) Source control

Source control includes industrial pollution control and treatment and disposal of domestic sewage as detailed below:-

(a) Industrial pollution control

- (i) Inventorisation of industries
- (ii) Categories of industry and effluent quality
- (iii) Treatment of effluents, compliance with standards and mode of disposal of effluents
- (iv) Regulatory regime.

(b) Channelization, treatment, utilization and disposal of treated domestic sewage.

- (i) Identification of towns in the catchment of river and estimation of quantity of sewage generated and existing sewage treatment capacities to arrive at the gap between the sewage generation and treatment capacities;
- (ii) Storm water drains now carrying sewage and sullage joining river and interception and diversion of sewage to STPs,
- (iii) Treatment and disposal of septage and controlling open defecation,
- (iv) Identification of towns for installing sewerage system and sewage treatment plants.

(B) River catchment/Basin Management-Controlled ground water extraction and periodic quality assessment

- (i) Periodic assessment of groundwater resources and regulation of ground water extraction by industries particularly in over exploited and critical zones/blocks.

- (ii) Ground water re-charging /rain water harvesting
- (iii) Periodic ground water quality assessment and remedial actions in case of contaminated groundwater tube wells/bore wells or hand pumps.
- (iv) Assessment of the need for regulating use of ground water for irrigation purposes.

(C) Flood Plain Zone.

- (i) Regulating activities in flood plain zone.
- (ii) Management of Municipal, Plastic, Hazardous, Bio-medical and Electrical and Electronic wastes.
- (iii) Greenery development- Plantation plan.

(D) Ecological/Environmental Flow (E-Flow)

- (a) Issues relating to E-Flow
- (b) Irrigation practices

(E) Such other issues which may be found relevant for restoring water quality to the prescribed standards.

19. The matter was thereafter taken up for consideration on 19.12.2018. It was noted that contamination of water and deterioration of water quality are matters to be taken seriously as they affect public health and right of citizen to have access to potable drinking water. Unfortunately, in spite of categorical directions of this Tribunal in the order dated 20.09.2018 based on earlier judgments of the Hon'ble Supreme Court and this Tribunal, 15 States and UTs failed to carry out the order of this Tribunal. The said States and UTs had not even taken the first requisite step of preparing action plans, showing total insensitivity to such a serious matter and public issue.

20. We also found that for 16 States/UTs which had prepared action plans, the action plans are not complete. Base line data was not been given, Preparation of action plans was assigned to third parties. Details of STPs etc. were not given. Timelines given were too long. Status of e-flow was not been given, action plans were not proposed to be placed on websites to involve educational and other institutions and the public at large. The said States/ UTs were directed to give revised reports on or before 31.01.2019 to CPCB after complying with the deficiencies. The CPCB was to examine the action plans and if they met the scientific and technical yardstick, was to approve the same and convey it to the respective States/UTs. The States/ UTs, after approval were to place/host these action plans on the respective website giving clear timelines for execution, agencies responsible for execution along with the matching budgetary provisions.

21. By way of last opportunity, we extended the time for preparation of action plans till 31.01.2019 with the stipulation that for delay thereafter, compensation for damage to the environment was to be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches. The payment was to be the responsibility of the Chief Secretaries of the States/Administrators of the UTs and the amount could be recovered from the erring officers. The CPCB was to prominently

place the names of the defaulting States and UTs and a notice to this effect on its website.

22. The SPCBs and Pollution Control Committees of UTs were to display the quality of the water of polluted river stretches on their respective websites within one month, along with action taken, if any, which was to be revised every three months. The CPCB was also to display the water quality of the river stretches and action/inaction by such States on its websites. It was made clear that BOD will not be the sole criteria to determine whether a particular river stretch is a polluted river stretch. Other parameters including Faecal Coliform (FC) bacteria will also be the criteria for classifying a stretch as polluted or otherwise. CPCB was to devise within two weeks a mechanism for classification wherein two criteria pollutants that is BOD and FC shall henceforth be basis of classification in Priority Classes.

23. The Tribunal directed that the CPCB may also examine whether river Rangpo in Sikkim falls in the category of polluted river stretches and if it is so, CPCB may give appropriate directions with regard to the said river also.

24. Further direction in the order dated 19.12.2018 is that any incomplete action plan will be treated as non-compliance. Performance guarantees are to be furnished for implementation of action plans within the above stipulated time to the satisfaction of Central Pollution Control Board in the sum of:

- (i) Rs. 15 crore for each of Priority I & II stretches
- (ii) Rs. 10 crore for each of Priority III stretches
- (iii) Rs. 5 crore for each of Priority IV & V stretches.

25. We have taken up the matter for consideration to consider further progress. Apart from response of other parties, consolidated and updated reports have been filed by the CPCB on 05.04.2019.

26. Before proceeding further, we may also note that vide order dated 16.01.2019 in Original Application No. 606 of 2018, dealing with the issue of compliance of Municipal Solid Waste Management Rules and other important issues, the Tribunal directed presence of Chief Secretaries of all States/ Union Territories on specified dates before this Tribunal in person after monitoring the progress in their respective States on several issues, including the issue of polluted river stretches. By now, Chief Secretaries of Himachal Pradesh, Haryana, Punjab, Delhi, Bihar, Odisha, Uttarakhand, and West Bengal and Advisor to Administrator, Chandigarh have appeared in person before this Tribunal and indicated progress in the said States/UTs which was not found to be satisfactory and further directions have been issued on 05.03.2019, 06.03.2019, 07.03.2019, 11.03.2019, 15.03.2019, 26.03.2019, 07.03.2019, 26.03.2019 and 02.04.2019.

27. Coming to the updated consolidated report dated 05.04.2019 filed by the CPCB, we find that 28 States and 3 Union Territories have constituted River Rejuvenation Committees (RRCs). The CPCB

constituted a 'Task Team' for scrutiny of the action plans under the Chairmanship of Member Secretary, CPCB. So far, CPCB has received 41 out of 45 action plans with reference to P-I, 14 out of 16 action plans with reference to P-II and total 182 action plans received with reference to P-III to P-V polluted river stretches. 6 out of 61 action plans in respect of P-I and P-II have not been received from the States of Assam (P-I: 3 viz., Bharalu, Borsola, Silsako) and P-II:1 (Sorusola)), Manipur (P-II: 1 viz., Nambu) and Uttar Pradesh (P-I: viz., river Hindon). It is also submitted that the action plan in respect of River Hindon is required to be implemented by the Government of Uttar Pradesh in compliance to the Hon'ble NGT Orders passed in Original Application No. 231/2014 & Original Application No.66/2015. State-wise Identified Polluted River stretches and the Status of Action Plans received (as on 03.04.2019) is given in Table 2.

“Table 2. State-wise Identified Polluted River stretches and the Status of Action Plans as received by CPCB (as on 04.04.2019)”

Name of the State / UT	Total No. of Identified Polluted River Stretches (PRS)	Priority I Identified Polluted River Stretches		Priority II Identified Polluted River Stretches		Priority - III to V Identified Polluted River Stretches		Total Action Plans Received
		No. of P-I PRS	Action Plans received w.r.to P-I	No. of P-II PRS	Action Plans received w.r.to P-II	No. of P-III to P-V	Action Plans received w.r.to P-III to P-V	
Andhra Pradesh	5	0	0	0	0	5	5	5
Assam	44	3	0	1	0	40	1	1
Bihar	6	0	0	0	0	6	6	6
Chhattisgarh	5	0	0	0	0	5	5	5
DD & DNH	1	1	1	0	0	0	0	1

Delhi	1	1	1	0	0	0	0	1
Goa	11	0	0	0	0	11	9	9
Gujarat	20	5	5	1	1	14	14	20
Haryana	2	2	2	0	0	0	0	2
Himachal Pradesh	7	1	1	1	1	5	5	7
Jammu & Kashmir	9	0	0	1	1	8	8	9
Jharkhand	7	0	0	0	0	7	7	7
Karnataka	17	0	0	0	0	17	17	17
Kerala	21	1	1	0	0	20	0	1
Madhya Pradesh	22	3	3	1	1	18	0	4
Maharashtra	53	9	9	6	6	38	38	53
Manipur	9	0	0	1	0	8	0	0
Meghalaya	7	2	2	0	0	5	5	7
Mizoram	9	0	0	0	0	9	0	0
Nagaland	6	1	1	0	0	5	5	6
Odisha	19	1	1	0	0	18	8	9
Puducherry	2	0	0	0	0	2	2	2
Punjab	4	2	2	0	0	2	2	4
Rajasthan	2	0	0	0	0	2	2	2
Sikkim	4	0	0	0	0	4	4	4
Tamil Nadu	6	4	4	0	0	2	2	6
Telangana	8	1	1	2	2	5	5	8
Tripura	6	0	0	0	0	6	6	6
Uttar Pradesh	12	4	3	0	0	8	6	9
Uttarakhand	9	3	3	1	1	5	5	9
West Bengal	17	1	1	1	1	15	15	17
Grand Total	351	45	41	16	14	290	182	237

28. State-wise status of action plans received and the action plans recommended for approval by the CPCB Task Team is enclosed as Table 3.

“Table 3. State-wise status of action plans received and the action plans recommended for approval by the CPCB Task Team w.r.t Priority I & Priority II Polluted Rivers (as on 03.04.2019)

STATE	Total Identified Polluted River	Identified PRS Priority	Identified Priority	No. of Action Plans	No. of Action Plans Not	Action Plans Not	Action plans approved subject
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	Stretches (PRS) Priority-I & Priority II	-I	- II	Received	Receive d	Recomm ended for approval	to condition s
ASSAM	4	3	1	0	4	-	0
DAMAN, DIU AND DADRA NAGAR HAVELI	1	1	0	1	0	-	1
DELHI	1	1	0	1	0	1	0
GUJARAT	6	5	1	6	0	-	6
HARYANA	2	2	0	2	0	-	2
HIMACHAL PRADESH	2	1	1	2	0	-	2
JAMMU & KASHMIR	1	0	1	1	0	-	1
KERALA	1	1	0	1	0	-	1
MADHYA PRADESH	4	3	1	4	0	-	4
MAHARASHTRA	15	9	6	15	0	-	15
MANIPUR	1	0	1	0	1	-	0
MEGHALAYA	2	2	0	2	0	2	0
NAGALAND	1	1	0	1	0	1	0
ODISHA	1	1	0	1	0	-	1
PUNJAB	2	2	0	2	0	-	2
TAMIL NADU	4	4	0	4	0	4	0
TELANGANA	3	1	2	3	0	-	3
UTTAR PRADESH	4	4	0	3	1	3	0
UTTARAKHAND	4	3	1	4	0	4	0
WEST BENGAL	2	1	1	2	0	-	2
TOTAL	61	45	16	55	6	15	40

29. 55 out of 61 total action plans received so far, 40 action plans pertaining to the States /UT of Daman [P-I (01)], Gujarat [P-I (5), P-

II (01)], Haryana [P-I (01), P-II (01)], Himachal Pradesh [P-I (01), P-II (1)], J & K [P-II (01)], Kerala [P-I (01)], Madhya Pradesh [P-I (03), P-II (1)], Maharashtra [P-I (09), P-II (06)], Odisha [P-I (1)], Punjab [P-I (02)], Telangana [P-I (01), P-II (02)] and West Bengal [P-I (01) and P-II (01)] have been approved along with the conditions. 15 action plans received require further improvement with reference to either of the following:

- (i) Identification of polluting sources including drains contributing to river pollution, functioning status of STPs/ETPs/CETP and solid waste management and processing facilities;
- (ii) Map showing Polluted River, its tributaries, drains, major towns, industrial estates, location of STPs/CETPs
- (iii) Detailed gap analysis w.r.t town-wise water consumption (including ground water consumption), sewage generation, existing infrastructure in the catchment area of the and the gap analysis;
- (iv) Detailed gap analysis w.r.t industrial water consumption, wastewater generation, existing infrastructure for treatment of industrial effluent (both captive ETPs/CETPs and their performance assessment), gap analysis w.r.to the industrial effluent management in the catchment area;
- (v) Quantification and characterisation of waste (such as solid waste, industrial hazardous waste, bio-medical waste, E-Waste), STP sludge management, existing infrastructure and detailed gap analysis;
- (vi) Latest Water quality of polluted river, its tributaries, drains with flow details and ground water quality in the catchment of polluted river;
- (vii) Aspects such as ground water extraction, adopting good irrigation practices, protection and management of Flood

Plain Zones (FPZ), rain water harvesting, ground water charging, maintaining minimum environmental flow of river (by having watershed management provisions), plantation on both sides of the river, setting up biodiversity parks on flood plains by removing encroachment., proper interception and diversion of sewage carrying drains to Sewage Treatment Plant (STP), upgradation of existing sewage treatment plants if not in a position to comply with effluent discharge norms, emphasis on utilization of treated sewage so as to minimize extraction of ground or surface water be included,

- (viii) Speedy, definite or specific timelines for execution of action plans and the estimated budget including the monitoring agency
- (ix) Achievable goals with specific timelines for restoration of water quality of polluted rivers
- (x) Organisation-wise action plans with timelines and the estimated budget for implementation of action plans.

30. It has also been stated that water quality of polluted river stretches has not been displayed by Manipur, Sikkim, Tamil Nadu and Delhi UT on their respective websites.

31. CPCB has suggested that as against the timeline laid down by this Tribunal, longer timeline may be required where infrastructure has to be set up and where no infrastructure was possible, the polluted river stretches be diluted by using fresh water, preventing disposal of waste or adoption of bio-remediation/provision of green bridges/proper O&M of existing STPs, ensuring proper disposal of STP sludges, ODF, etc. In case of industries, 100 % strict compliance to the discharge norms by the industries should be

ensured and in case of non-compliance, penalty or environmental compensation as per guidelines of CPCB on such industries should be levied in addition to prosecution under various provisions of Rules, as necessary.

32. CPCB has further suggested that scale of performance guarantee should be as follows:

“

No. of Polluted River Stretches in a State/UT	Suggested Performance Guarantee (in Rupees)
> 10	15 Crore
5 to 10	10 Crore
< 5	5 Crore

”

33. We have heard Mr. A. Sudhakar, Scientist-E, In-charge Member Secretary, CPCB and Dr. A.B. Akolkar, Member of Task Team, CPCB. They have assisted this Tribunal by highlighting various aspects of the problem. None appears for any other State/UT or authority.

34. As already noted, pollution of 351 river stretches has caused serious threat to safety of water and environment. On account of use of polluted water in irrigation, there is threat to food safety. On account of consumption of polluted water in absence of any other source of drinking water being available and partly on account of ignorance of the persons consuming such water, health of human being is threatened, apart from the aquatic flora and fauna, animals wild and domestic who may consume such water. It is therefore,

necessary to have regular hygienic survey of the rivers particularly with reference to pathogenic organisms having impact on human health directly or indirectly. It is also important to note that biological health of the rivers is an important aspect. Much of the important biodiversity is lost on account of severe pollution in the rivers. There has to be a regular study of the Indian rivers with regard to biological health and its diversity. We understand that bio-mapping of rivers and setting biological goals/criteria is part of River Rejuvenation Programmes in some countries. There is threat to the environmental rule of law of the country.

35. These are substantial questions relating to the environment. For enforcing legal right to clean environment, which is also a fundamental right, this Tribunal has to pass appropriate orders for relief to the victims of pollution and for restoration of the environment even in absence of an identified victim. All the States and UTs have been duly put to notice of the present case.

36. In this endeavor, this Tribunal directed constitution of RRCs by the concerned States/UTs by including Departments of Environment, Urban Development, Industries and the Pollution Control Boards/Pollution Control Committees and further directions to the Chief Secretaries of the States/UTs to monitor the progress. At the national level, CPCB has been required to assist the Tribunal by way of compiling the data and furnishing its views. A copy of order dated 29.09.2018 was directed to be forwarded to the Niti Ayog, Ministry of

Water Resources, Ministry of Environment, Forest & Climate Change, Ministry of Housing and Urban Affairs, National Mission for Clean Ganga, apart from other authorities as the said authorities were represented in a chamber meeting before this Tribunal to consider the problem of pollution of rivers.

37. Having regard to the exercise already undertaken in pursuance of orders of this Tribunal, we find that while substantial number of States have framed their action plans within the extended time i.e. 31.01.2019, some have defaulted in spite of clear stipulation that failure will require this Tribunal to direct payment of compensation for the damage to the environment on account of inaction of the said States.²⁰ No explanation has been given by defaulting States. The order has attained finality.

38. Accordingly, States of Assam, Manipur and Uttar Pradesh are liable to pay compensation in terms of order dated 19.12.2018 for delay after 31.1.2019 till the action plans are furnished for failing to submit action plan in respect of four river stretches. The said amount may be deposited with the CPCB within one month. CPCB may use the amount for restoration of environment as per law. It will be open to the States to recover the amount from the erring officers. For delay, interest @ 12% will be payable. Responsibility for payment will be of Chief Secretaries. CPCB is at liberty to seek enforcement of this order as decree of Civil Court by civil imprisonment of Chief Secretaries concerned or attachment of salary

²⁰Para 12, Order dated 31.01.2019

or assets as per Section 51, Code of Civil Procedure read with Section 25 of the National Green Tribunal Act, 2010. It is also permissible to initiate prosecution under Section 26 of NGT Act, as noncompliance of order of NGT is a criminal offence.

39. The report of the CPCB further shows that 6 States have furnished incomplete action plan as given in Table 3 quoted above. The said six states i.e. Delhi, Meghalaya, Nagaland, Tamil Nadu, Uttar Pradesh and Uttarakhand are liable to pay compensation as per order dated 19.12.2018 for delay after 31.1.2019 at the scale of 50% of the compensation payable by the States who have failed to submit any action plan.

None of the above defaulting States except the State of Uttarakhand is represented before this Tribunal. There is no satisfactory explanation by any of the States, including the State of Uttarakhand who is represented by an officer. This part of order will be governed by earlier para for interest and enforcement. The requirement to pay compensation will continue till action plans are furnished or completed. The action plans may be uploaded on the websites of the CPCB as well as respective States/UTs and the MoEF&CC after former approval by the CPCB.

40. As regards 108 river stretches for which action plans have not still been furnished for Priority-III, Priority-IV and Priority-V river stretches, we direct that same scale of compensation will apply for

failure to furnish action plans in further extended timeline upto 30.06.2019. The Action Plans not so far furnished, as required by earlier order of this Tribunal, may also now be furnished upto 30.06.2019.

41. We accept the proposal of CPCB to revise the scale of performance guarantee with regard to timeline. We also accept the suggestions of CPCB to extend the timeline for execution of action plans to the extent that upper limit for execution of the action plans will be two years from 01.04.2019 and the monitoring of the action plans may be done not only at the level of the Chief Secretaries of the States/UTs but also by the CPCB.

42. We direct that CPCB with SPCBs and PCCs to launch nationwide programme on biodiversity monitoring and indexing of the rivers to assess the efficacy of river cleaning programme. Further, for safety of human health and maintaining sanctity of the rivers, regular hygienic surveys of the rivers should be carried out with reference to fecal coliform and fecal streptococci, as indicated in the primary water quality criteria for bathing waters. Nodal agency will be CPCB.

43. Having given due consideration to the serious issue and inadequacy of success achieved so far, we find it necessary to constitute a Central Monitoring Committee to undertake a national initiative by way of preparation and enforcement of a national plan to make river stretches pollution free comprising a senior representative of NITI

Aayog, Secretaries Ministry of Water Resources, Ministry of Urban Development, Ministry of Environment, Forest and Climate Change, Director General, National Mission for Clean Ganga and Chairman CPCB. Chairman CPCB will be the nodal authority for coordination. Senior most among them will preside over the deliberations.

44. The Central Monitoring Committee will also co-ordinate with the RRCs of the States and oversee the execution of the action plans, taking into account the timelines, budgetary mechanism and other factors. Chief Secretaries of States will be the nodal agency at State level. The Chief Secretaries of the States may undertake review of progress of RRCs by involving concerned Secretaries of Department of Urban Development, Environment, Industries, Irrigation and Public Health, Health etc.

45. We also direct the MoEF & CC to consider a policy for giving environmental awards to outstanding persons (natural and juristic) and Institutions/States and introducing dis-incentives for non compliant states. Such scheme may be framed preferably before 30.06.2019.

46. First meeting of the Central Monitoring Committee may be held by 30.06.2019. The Central Monitoring Committee may consider identifying experts, best practices and models for use of treated water, including plan to supply untreated sewage for a price or

otherwise so that the concerned needy party can treat and utilize such water as is reportedly being done at Surat in Gujarat, Nagpur in Maharashtra and Bhilwada in Rajasthan or any other place. Use of treated water for agriculture or other purpose may save potable surface and ground water.

47. The Central Monitoring Committee may give its report by 31.07.2019.

A copy of this order be furnished to CPCB for being mailed to all concerned.

List for further consideration on 05.08.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 08, 2019
Original Application No.673/2018
(M.A. No. 1777/2018)
A & DV