

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

(By Video Conferencing)

O.A. No. 673/2018

In Re: News item published in “The Hindu” authored by Shri Jacob Koshiy, titled “More river stretches are now critically polluted: CPCB”
(With Reports dated 18.06.2020 & 19.06.2020)

Date of hearing: 22.06.2020

Date of uploading of order: 29.06.2020

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON’BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

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I. The issue: Remedial action for 351 polluted river stretches

1. This order is in continuation of order dated 06.12.2019 on the subject of remedial action to tackle the **problem of large-scale pollution of rivers in India, manifested in the form of 351 identified polluted river stretches, based on data compiled by the Central Pollution Control Board (“CPCB”). CPCB data is based on analysis of samples by State Pollution Control Boards/Committees (“PCBs/PCCs”) under CPCB’s National Water Quality Monitoring Programme (“NWQMP”).**

We may note that overlapping issues have also been dealt with in several other petitions¹ and directions issued from time to time. Additionally, cases dealing with pollution in rivers Gomti, Musi and Bhadra, Karamana, Tirur-Ponar as also coastal pollution, restoration of water bodies (also necessary for maintaining flow in rivers) are being dealt with by separate orders today. This list is not exhaustive.

¹ These orders include, orders dated:

- 16.01.2019 as updated subsequently in **O.A. No. 606/2018** (dealing with compliance of solid waste management and other environmental norms),
- 22.08.2019 as updated subsequently in M.C. Mehta V. UOI **O.A. No. 200/2014** (pollution of **Ganga**), see also 2017 NGTR (3) PB 1
- 28.08.2019 as updated subsequently in Paryavaran Surakhsha **O.A. No. 593/2017** (dealing with preventing discharge of untreated sewage and industrial effluents),
- 13.01.2015 (2015 (ALL(I) NGT REPORTER (1) (DELHI) 139), and 11.09.2019, as updated subsequently in Manoj Mishra V. UOI, **O.A. No. 06/2012** (pollution of **Yamuna**)
- 22.11.2019 in Stench Grips Mansa’s Sacred Ghaggar River (Suo-Moto Case) **O.A. No. 138/2016** (TNHRC) (pollution of river **Ghaggar**)
- Mahendra Pandey V. UOI & Ors. **O.A. No. 58/2017** (river **Ramganga**, a tributary of river Ganga)
- Sobha Singh & Ors. V. State of Punjab & Ors. **O.A. No. 101/2014** (rivers **Sutlej and Beas**)
- Amresh Singh V. UOI & Ors. **O.A. No. 295/2016, Execution Application No. 32/2016** (rivers **Chenab and Tawi**)
- Nityanand Mishra V. State of M.P. & Ors. **O.A. No. 456/2018** (river **Son**)
- Doaba Paryavaran Samiti V. State of U.P. & Ors. **O.A. No. 231/2014** (river **Hindon**)
- Arvind Pundalik Mhatre V. MoEF&CC & Ors. **O.A. No. 125/2018** (river **Kasardi**)
- Sudarsan Das V. State of West Bengal & Ors. **O.A. No. 173/2018** (river **Subarnarekha**)
- Meera Shukla V. Municipal Corporation, Gorakhpur & Ors. **O.A. No. 116/2014** (rivers **Ami, Tapti, Rohani and Ramgarh lake**)

2. Prior to judicially taking cognizance of this matter, on 10.09.2018, this Tribunal had held a chamber meeting with all Tribunal Members and representatives of CPCB, Ministries of Water Resources (“MoWR”), Environment, Forest & Climate Change (“MoEF&CC”), and Housing and Urban Affairs (“MoHUA”), NITI Aayog, National Mission for Clean Ganga (“NMCG”), States of Maharashtra, Gujarat, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Bihar, Punjab, Uttar Pradesh, NCT of Delhi and Union Territory of Daman & Diu. (Some participating by video conferencing). The issue of pollution of water bodies in the country and need for remedial action was discussed.

3. The present proceedings were initiated *suo-motu*, based on a news item dated 17.09.2018 in “The Hindu”, titled “More river stretches are now critically polluted: CPCB”². According to the news item, 351 polluted river stretches have been identified by the CPCB as polluted river stretches. 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. The most polluted river stretches are from:

- Powai to Dharavi – Biochemical Oxygen Demand (“BOD”) 250 mg/L;
- Godavari - from Someshwar to Rahed – with BOD of 5.0-80 mg/L;
- Sabarmati – Kheroj to Vautha – with BOD from 4.0-147 mg/L;
- Hindon – Saharanpur to Ghaziabad – with a BOD of 48-120 mg/L.

²<https://www.thehindu.com/news/national/more-river-stretches-critically-polluted-cpcb/article24962440.ece>

4. 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 river. In its 2015 Report³, the CPCB had identified 302 polluted stretches on 275 rivers, spanning 28 States and six Union Territories. The number of such stretches had now increased to 351 in 2018.

Magnitude of river pollution

5. The Hon'ble Supreme Court has noticed the level of degradation of rivers in India and apathy of the authorities as follows:

“58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.⁴

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, sewage, garbage, waste and air pollution, including the water management.

³ <http://cpcb.nic.in/cpcb/RESTORATION-OF-POLLUTED-RIVER-STRETCHES.pdf>

⁴ State of Orissa v. Govt. of India, (2009) 5 SCC 492

We club the pending case of water management with this matter.⁵

6. A reference to relevant observations from a series of judgments of the Hon'ble Supreme Court as well as this Tribunal, in context of several rivers, including river Ganga will be made later herein. Rivers' pollution has affected Indian civilization as a whole, what to talk of aquatic life, loss of biodiversity and affecting food safety. Needless to say that remedial action has to be taken on the principle of sustainable development, especially 'Intergenerational Equity'. The fact that 351 river stretches are identified as polluted is a serious matter. This shows that the concern expressed while enacting the Water Act in the year 1974 has remained largely unaddressed even after 46 years. In fact, the number of polluted river stretches has been rising and may further go up, if the entire relevant data is considered.

7. The Water (Prevention and Control of Pollution) Act, 1974 ("**Water Act**") prohibits use of any stream or well for disposal of polluted matter but this provision is certainly being held in breach without much consequences for the violators who are liable to be prosecuted and punished by imprisonment to uphold the rule of law and public health. 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'. The Statement of objects and reasons for The Water Act is as follows:

⁵ M.C. Mehta Vs UOI- W.P. (Civil) No. 13029/1985 dated 25.11.2019

“The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the growth of industries and the increasing tendency to urbanisation. It is, therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the water courses without adequate treatment as such discharges would render the water unsuitable as source of drinking water as well as for supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy.

A Committee was set up in 1962 to draw a draft enactment for the prevention of water pollution. The report of the Committee was circulated to the State Governments and was also considered by the Central Council of Local Self-Government in September, 1963. This Council resolved that a single law regarding measures to deal with water pollution control, both at the Centre and at the State levels, may be enacted by the Union Parliament. A Draft Bill was accordingly prepared and put up for consideration at a joint session of the Central Council of Local Self-Government and the Fifth Conference of the State Ministers of Town and Country Planning held in 1965. In pursuance of the decision of the joint session, the Draft Bill was considered subsequently in detail by a Committee of Ministers of Local Self-Government from the States of Bihar, Madras, Maharashtra, Rajasthan, Haryana and West Bengal.

Having considered the relevant local provisions existing in the country and recommendations of the aforesaid Committees, the Government came to the conclusion that the existing local provisions are neither adequate nor satisfactory. **There is, therefore, an urgent need for introducing a comprehensive legislation which would establish unitary agencies in the Centre and States to provide for the prevention, abatement and control of pollution of rivers and streams, for maintaining or restoring wholesomeness of such water courses and for controlling the existing and new discharges of domestic and industrial wastes.”**

8. The Hon'ble Supreme Court has held in several matters that it is the duty of the State to ensure access to clean drinking water, which is part of Right to Life. The Hon'ble Court has repeatedly directed State bodies to enforce statutory provisions by municipal bodies and industries by stopping discharge of untreated sewage and effluents in rivers, and prevent water pollution in any form⁶. It was observed that water pollution

⁶ Orders dealing with pollution of

- river Pallar, Vellore Citizen Welfare Forum v. UOI, (1996) 5 SCC 647, A.P. Pollution Control Board II v. Prof. M.V. Nayudu, (2001) 2 SCC 62 ¶ 45
- river Noyyal, in Tamil Nadu, (2009) 9 SCC 737
- river Ganga, M.C. Mehta V. UOI & Ors. (1997) 2 SSC 411, (1988) 1 SCC 471

causes serious diseases, including Cholera and Typhoid⁷. It was also observed that the educational institutions must teach atleast for one hour in a week lessons relating to protection and improvement of environment, and suitable awareness programs be undertaken⁸. Likewise, the issue of Calcutta tanneries was considered in M.C Mehta Vs. Union of India And Ors.⁹, (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. In view of dangerous potential of pollution, it has been laid down that even the State cannot grant any exemption for discharge of pollutants in water in violation of 'Precautionary' principle.¹⁰

9. In spite of the above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise as also different forms of solid waste has continued to be discharged in the water bodies including the rivers or the canals/drains 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. There is no adequate coercive action or accountability, weakening the rule of law when large-scale violations go unaddressed despite repeated multitude of judicial orders.

10. It will be appropriate to note the crisis situation in the country on the subject of availability of potable water. The matter has been

⁷ M.C. Mehta (1988), *supra* n.6

⁸ *Id.*

⁹ M.C. Mehta (1997), *supra* n.6

¹⁰ M.V. Nayudu, *supra* n. 6

considered in the report of Niti Aayog on Composite Water Management Index (“CWMI”).¹¹

11. The following additional information as per reports in public domain (subject to verification) also need to be noted:

- (a) India is suffering from the worst water crisis in history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water¹². Critical groundwater resources – which account for 40% of our water supply – are being depleted at unsustainable rates¹³. The crisis is only going to get worse. By 2030, the country’s water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual ~6% loss in the country’s GDP¹⁴. As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137BCM. Thus, there is an imminent need to deepen our understanding of water resources and usage and use interventions that make our water use efficient and sustainable.

¹¹ Niti Ayog on “Composite Water Management Index”, June 2018, https://niti.gov.in/writereaddata/files/document_publication/2018-05-18-Water-Index-Report_vS8-compressed.pdf

¹²Source: WRI Aqueduct; WHO Global Health Observatory

¹³ Id.

¹⁴ McKinsey & WRG, ‘Charting our water future’, 2009 https://www.mckinsey.com/~media/mckinsey/dotcom/client_service/sustainability/pdfs/charting%20our%20water%20future/charting_our_water_future_full_report_.ashx; World Bank; Times of India

- (b) Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India’s groundwater wells are declining, and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million people¹⁵.
- (c) With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.
- (d) As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since 2013. Of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.¹⁶
- (e) As per ‘National Health Profile’ published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 deaths due to acute diarrhoeal diseases was reported during the year 2013.¹⁷

Main Causes and requisite Remedial Action for Rivers’ Pollution

12. 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 for various purposes affecting e-flow,

¹⁵ Source: UN Water, ‘Managing water under uncertainty and risk’, 2010; World Bank (Hindustan Times, The Hindu).

¹⁶ <https://www.indiaspend.com/diarrhoea-took-more-lives-than-any-other-water-borne-disease-in-india-58143/>

¹⁷ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=106612>

- encroachment of catchment areas and floodplains,
- over drawl of groundwater,
- river bank erosion due to number of anthropogenic reasons, such as illegal sand mining.

13. 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. As per CPCB report, 2016¹⁸, it has been estimated that **61,948 million liters per day (“MLD”) sewage is generated from the urban areas of which treatment capacity of 23,277 MLD is currently existent in India.** Thereby the deficit in capacity of waste treatment is of 62%. There is no data available with regard to generation of sewage in rural areas.

14. Effective governance is the need of the hour. **If industrial pollution does not stop, the polluters must be dealt with. If sewage dumping does not stop, local bodies have to be made accountable and their heads prosecuted as per the Hon’ble Supreme Court directions**¹⁹. The Hon’ble Supreme Court only recently²⁰, upheld prosecution of a local body for violation of provisions of the Water Act.

15. Steps have also to be taken for awareness and public involvement²¹. Water being scarce and necessary for human existence, a Welfare State cannot plead lack of funds for such overriding need for

¹⁸ http://www.sulabhervis.nic.in/Database/STST_wastewater_2090.aspx July 16, updated December 6, 2016

¹⁹ Paryavaran Suraksha Samiti v. UOI, (2017) 5 SCC 326, Para 10-13

²⁰ Criminal Appeal No. 1734 of 2019 in *Karnataka State Pollution Control Board Vs B. Heera Naik* (26.11.2019)

²¹ Supra n. 7

existence of human life²². Thus, requisite budgetary provision has to be made.

16. Implementation timelines for remedial action procedures and interventions have to be shortened to avoid delays. This Tribunal vide Order dated 18.10.2019 in **O.A. No. 606/2018**²³ while dealing with the issue of procedures of DPRs and tendering process, observed:

*“8. Expeditious compliance of directions for clearance of legacy waste sites as well as **stopping of discharge of untreated sewage and directions on associated subjects require immediate implementation for protection of environment and public health by curtailing undue delay.** As suggested, necessary technologies need to be standardized with cost breakups for operation and maintenance, including procurement. Besides this, the service providers need to be identified and empaneled. This exercise may also require the concerned authorities to explore business models.”*

This Tribunal has constituted a Committee headed by Niti Ayog on the subject to give a report within two months, pursuant to which Niti Ayog has done an exercise and uploaded a standards document to the GeM portal²⁴.

17. As per laid down standards, river water is considered to be fit for bathing when it has BOD < 3.0 mg/L, Dissolved Oxygen (“DO”) > 5.0 mg/L and Faecal Coliform bacteria (“FC”) < 500 MPN/100 ml.

18. As already noted, according to latest assessment by the CPCB, there are 351 polluted river stretches in India i.e. where the BOD > 3mg/L. The plan for restoration of polluted river stretches has to be executed through two-fold concepts. One concept is to enhance river

²² *Municipal Council, Ratlam v. Vardhichand* (1980) 4 SCC 162; *B.L. Wadhera v. UOI and Ors.* (1996) 2 SCC 594

²³ *Supra* n. 1

²⁴ As per letter dated 25.6.2020 received by the Registry of this Tribunal

flows through interventions in water sheds/catchment areas for conservation and recharge of rain water (for subsequent releases during lean flow period in a year). This concept will dilute pollutants in 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 available flow in rivers /streams and allocation of discharges within stipulated norms. The fact remains that desired result has not been achieved and more and more polluted river stretches are being added to the list. Apart from pH, DO, COD and BOD, if other standards such as FC etc. are also assessed, number of polluted stretches will go even further up.

II. Order dated 20.09.2018 (“First Order”) requiring preparation of Action Plans by States/UTs – Preventing discharge of sewage and effluents, dumping of waste, maintaining flood plain zones and e-flow, restoring water quality to bathing standards

Timeline: Action Plans in two months and execution in six months

19. 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. Accordingly, vide order dated 20.09.2018 proceedings were initiated as already mentioned para 3 above. **It may be noted that there have been successful river cleaning programmes in other countries such as those of river Thames (England), Rhine (Germany) and Danube (France).** There being no reason as to why our polluted river stretches also cannot be restored, this Tribunal issued the following directions:

- ***“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.**

- 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.
- 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.
- The Action Plans may be subjected to a random scrutiny by a task team of the CPCB.
- **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.**
- 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.
- 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 O.A. No. 138/2016 (T_{NHRC}), "Stench Grips Mansa's Sacred Ghaggar River (Suo-Motu Case).
- The Task Force will also ensure that no illegal mining takes place in river beds of such polluted stretches.
- 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.”

20. This Tribunal noted that data compiled by CPCB on polluted river stretches classified such river stretches in five categories:

(a) **Criteria for Priority I**

- i. 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)
- ii. All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.
- iii. 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.
- iv. 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.

(b) **Criteria for Priority II**

- i. Monitoring locations having BOD between 20-30 mg/L.
- ii. All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

(c) **Criteria for Priority III**

- i. Monitoring locations having BOD between 10-20 mg/L.

- ii. All monitoring locations exceeding BOD concentration 6 mg/L on all occasions.

(d) **Criteria for Priority IV**

- i. Monitoring locations having BOD between 6-10 mg/L.

(e) **Criteria for Priority V**

- i. Monitoring locations having BOD between 3-6 mg/l.
- ii. Locations exceeding desired water quality of 3mg/l BOD.

21. A table showing the location and categories have been reproduced in the said order and reference to the same will also be made in the later part of this order. The Action Plans were directed to cover the following:

(a) **Source Control**

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

(i) **Industrial pollution control**

- A. Inventorisation of industries
- B. Categories of industry and effluent quality
- C. Treatment of effluents, compliance with standards and mode of disposal of effluents
- D. Regulatory regime.

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

- A. 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;

- B. Storm water drains now carrying sewage and sullage joining river and interception and diversion of sewage to STPs,
- C. Treatment and disposal of septage and controlling open defecation,
- D. 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)

- (i) Issues relating to E-Flow
- (ii) Irrigation practices

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

III. Order dated 19.12.2018 (“Second Order”) reviewing the progress of execution of First Order

- **Action Plans found incomplete and execution timelines too long; time extended to 31.01.2019 subject to compensation of upto One Crore/month per defaulting state;**
- **State PCBs directed to upload water quality online (to also reflect FC)**

22. On 19.12.2018 to consider status of compliance of the First Order, we found only 16 States/UTs had prepared Action Plans, but they were not complete. There was no base line data. Preparation of Action Plans was assigned to third parties. Details of STPs etc. were not given. Execution timelines were too long. Status of e-flow was not 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 yardsticks, to approve the same and convey it to the respective States/UTs. The States/ UTs, after approval were to upload these Action Plans on their respective websites giving clear execution timelines, indicating agencies responsible for execution, along with matching budgetary provisions. By way of last opportunity, we extended the time for preparation of proper Action Plans till 31.01.2019, with the stipulation that for delay thereafter, compensation for damage to the environment would 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 personally. The CPCB was to prominently place a notice to this effect and the names of the defaulting States and UTs and on its website.

23. The PCBs and PCCs were further directed to display the water quality of polluted river stretches on their respective websites within one-month alongwith action taken, if any, which was to be updated 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. CPCB was to devise within two weeks a mechanism for classification wherein, besides BOD, FC, pH, DO and COD shall also be a basis of water quality and classification in Priority Classes. It was further directed that any incomplete Action Plan would be treated as non-compliance. It was made necessary to furnish Performance Guarantees to ensure implementation of Action Plans within the above stipulated time to the satisfaction of CPCB in the sum of:

- (a) Rs. 15 crore for each of Priority I & II stretches;
- (b) Rs. 10 crore for each of Priority III stretches; and
- (c) Rs. 5 crore for each of Priority IV & V stretches

IV. Order dated 16.01.2019 in O.A. No. 606/2018 for reviewing significant environmental issues including Polluted River Stretches, in presence of Chief Secretaries of all States/UTs

24. While noticing pan-India violations of environmental norms particularly with regard to solid and liquid waste management, this Tribunal directed Chief Secretaries of all States/UTs to appear in person after acquainting themselves with compliance status of environmental laws and remedial Action Plans. Accordingly, they appeared on various

dates and this Tribunal directed further remedial action, including restoration of polluted river stretches in terms of their Action Plans, within six months. After expiry of this stipulated period, with no significant results in respect of all of the States/UTs, the Chief Secretaries were again directed to appear. Some States/UTs have already appeared in second round though much work remains to be done. **Thus, all the States/UTs have had sufficient notice of their respective failures to comply with statutory obligations and Hon'ble Supreme Court directions. Any continuing failure has to be viewed seriously and visited with requirement to pay compensation already stipulated, to enforce the Rule of Law.**

V. Order dated 08.04.2019 ("Third Order") extending time for execution of Action Plans till 31.03.2021 and constituting a Central Monitoring Committee (CMC) to prepare a National Plan for Rejuvenation of Polluted River Stretches as per timeline

25. The matter was thereafter taken up on 08.04.2019 in light of consolidated and updated report filed by the CPCB on 05.04.2019 to the effect that 28 States and 3 Union Territories had constituted River Rejuvenation Committees ("RRCs"). The CPCB constituted a 'Task Team' for scrutiny of the Action Plans under the Chairmanship of Member Secretary, CPCB. CPCB 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 were 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 were not 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 was submitted that the Action Plan in respect of River Hindon was required to be implemented by the Government of

Uttar Pradesh in compliance of the NGT Orders in O.A. No. 231/2014 & O.A. No. 66/2015.

26. This Tribunal further observed:

“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.

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 (“CMC”) 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 CMC 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 disincentives for non-compliant states. Such scheme may be framed preferably before 30.06.2019.

27. The composition of CMC was modified vide orders dated 24.04.2019 and 17.05.2019 in O.A. 606/2018 to the effect that other important issues be also considered by the CMC and having regard to the significance of the issues involved, the deliberations of CMC may be presided over by the Cabinet Secretary if viable and if possible, PMO may depute an Observer at important deliberations.

VI. CMC Report dated 11.06.2019 and Tribunal order dated 18.07.2019 disapproving the same for not being in conformity with its orders

28. The CMC meeting was held on 11.06.2019 without taking cognizance of further orders dated 24.04.2019 requiring other issues also to be taken up for consideration and order dated 17.05.2019 requesting the Cabinet Secretary to preside over the deliberation²⁵. Accordingly, this Tribunal observed that CMC may give its report by 31.08.2019, failing which, the Tribunal may proceed without the benefit of such report. On MoEF&CC application²⁶ seeking extension of time to furnish CMC report, this Tribunal so granted extension until 31.10.2019. The report was ultimately filed only on 19.06.2020, and that too not by CMC, but rather a monitoring committee constituted under a later order.

²⁵ Order dated 18.07.2019 in O.A. No. 606/2018 (State of J&K)

²⁶ I. A. 551/2019 disposed of on 04.09.2019

29. The report dated 11.06.2019 was considered vide order dated 06.12.2019 and it was observed:

“32. The above timelines being in conflict with the mandate of environmental law, and the Constitutional guarantees in terms of the judgments of the Hon’ble Supreme Court and earlier orders of this Tribunal, and cannot be accepted. Vide order dated 18.07.2019 in O.A. No. 606/2018 (J&K), Para 47, this Tribunal noted that proceedings dated 11.06.2019 did not meet the mandate of this Tribunal. Further the Tribunal had already fixed specific timelines which the Committee could not change. The Committee was expected to facilitate the directions of this Tribunal and not to nullify the same. As already noted, the issue is a major concern for the people of the country. Discharge of untreated sewage is a criminal offence and affects right to life. Failure to enforce the law cannot be condoned by giving long timelines unconditionally. Apart from the timelines fixed in the order dated 08.04.2019, timelines given by the Hon’ble Supreme Court for 100% sewage in Paryavaran Suraksha, (2017) 5 SCC 326 have expired. This Tribunal has directed that compensation will be payable if 100% sewage is not ensured even till 31.03.2020. In the context of river Ganga, outer timeline for ensuring that all the requisites STPs are set up is 31.12.2020 and interim in-situ remediation is 31.10.2019 and for Yamuna also somewhat similar timeline has been fixed.

33. We may note the observations of the Hon’ble Supreme Court in several decisions:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. **Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted.** A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. **These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be**

enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.²⁷

“45..... The Government could not pass such orders of exemption having dangerous potential, unmindful of the fate of lakhs of citizens of the twin cities to whom drinking water is supplied from these lakes. **Such an order of exemption carelessly passed, ignoring the “precautionary principle”, could be catastrophic.**”²⁸

“61. If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. **Such blatant misuse of properties at large-scale cannot take place without connivance of the officers concerned. It is also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.**”²⁹

“15. Time has come to require the State Governments to explain why they should not be asked to compensate the persons who are being affected by bad air quality. Obviously, the State is run by the administration, why liability should not be imposed for such a tort on the concerned machinery also of the various States which are failing to discharge their basic duties. This Court in *Municipal Council, Ratlam Vs. Vardhichand & Ors.*, reported in (1980) 4 SCC 162 has held they have to take proper and positive action in this direction. It is their bounden duty to provide civic amenities, and also to see that self-created bankruptcy does not come in the discharge of the statutory obligation which are necessary for existence of human life. We have seen during the course of the arguments that one State is passing the burden upon the Centre and then it is stated on behalf of the Central Government that they have framed scheme and it for the State Governments to implement it. We expect not only the ‘policy making’ but also its ‘implementation’. Let the States of Punjab, Haryana, Uttar Pradesh and the Government of NCT of Delhi respond, due to the air pollution, why the concerned Government and its concerned machinery, from

²⁷ INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION V. UOI & ORS. (1996) 5 SCC 281

²⁸ A.P. Pollution Control Board II v. Prof. M.V. Nayudu, (2001) 2 SCC 62

²⁹ M.C. Mehta v. UOI, (2006) 3 SCC 399 – Public functionaries

top to bottom, should not be asked to compensate the citizens of Delhi and adjoining areas for various diseases which are being caused and sufferings and troubles which are being faced and the report indicates the life span is being shortened. Let show cause notice be issued to the various State Governments, and to the Chief Secretaries, to submit reply within six weeks. Let the matter be listed for consideration on 17.01.2020. The Chief Secretaries to the States of Punjab, Haryana, Uttar Pradesh and Government of NCT of Delhi be personally present on that date.”³⁰

34. In view of above observations, the timeline proposed in the minutes of CMC dated 11.06.2019 cannot be accepted and the timeline already laid down will have to be strictly adhered to with the consequences as stipulated therein.”

VII. Order dated 22.08.2019 - Directions regarding control of pollution of river Ganga in pursuance of orders of Hon’ble Supreme Court in (2015) 12 SCC 764 and orders of this Tribunal

30. In **M.C. Mehta v. Union of India**, (2015) 12 SCC 764, the Hon’ble Supreme Court held:

“2. This Court has over the past thirty years or so passed a series of orders to which we need not refer except a few that are specially notable. The first of these orders was passed as early as on 9-9-1985 by which this Court issued notices to all the industries situated in the urban areas on the banks of River Ganga to stop discharging effluents from their factories without treating the same properly in accordance with the standards prescribed by the Central Pollution Control Board. General notices pursuant to the said direction were issued and published in various newspapers in response where to some of the industries filed affidavits while others did not even choose to appear. By another order dated 10-12-1991¹ this Court directed compliance with the earlier directions and closure of such of the industries as failed to do the needful.

3. The third significant order to which we must refer at this stage is an order dated 22-9-1987² whereby this Court directed closure of as many as 20 tanneries working on the banks of Ganga and discharging effluents into the river. The relevant passages from the said order read: (M.C. Mehta case², SCC pp. 479-80, paras 14-17)...

4. What is important is that **this Court upon consideration of several reports including scientific studies recorded a specific finding to the effect that industrial pollutants were ten times more noxious than domestic waste no matter the latter is also one of the causes for the pollution of the river.** The above directions were soon followed by a further order dated 12-1-1988³ by which this Court while reiterating the earlier

³⁰ M.C. Mehta Vs UOI- W.P. (Civil) No. 13029/1985 dated 25.11.2019

directions ordered the municipalities concerned to set up sewage treatment plants to ensure that untreated domestic sewage does not enter the river to pollute the waters. This Court observed: (M.C. Mehta case³, SCC p. 489, para 17)

“17. It is no doubt true that **the construction of certain works has been undertaken under the Ganga Action Plan at Kanpur in order to improve the sewerage system and to prevent pollution of the water in the River Ganga. But as we see from the affidavit filed on behalf of the authorities concerned in this case the works are going on at a snail’s pace.** We find from the affidavits filed on behalf of the Kanpur Nagar Mahapalika that certain target dates have been fixed for the completion of the works already undertaken. We expect the authorities concerned to **complete those works within the target dates mentioned in the counter-affidavit and not to delay the completion of the works beyond those dates.** It is, however, noticed that the Kanpur Nagar Mahapalika has not yet submitted its proposals for sewage treatment works to the State Board constituted under the Water Act. The Kanpur Nagar Mahapalika should submit its proposals to the State Board within six months from today.”

This Court also directed that **applications for grant of licences to establish new industries shall be refused unless adequate provisions are made for the treatment of trade effluents flowing out of the factories and that immediate action should be taken against industries found responsible for polluting the river.**

...

15. We regret to say that **the intervention and sustained efforts made by us over the past 30 years notwithstanding no fruitful result has been achieved so far except the shutting down of some of the polluting units. This is largely because while orders have been passed by us their implementation remains in the hands of statutory authorities including the CPCB and the State PCBs which have done practically nothing to effectuate those orders or to take independent steps that would prevent pollution in the river. A total lack of monitoring by the statutory bodies has also contributed to the current state of affairs. The report of the Comptroller and Auditor General to the effect is a clear indictment of the statutory authorities and those at the helm of their affairs.**

16. There is no gainsaying that **River Ganga** has for the people of this country great significance not only in the spiritual or mythological sense but also in material terms for it **sustains millions who are settled on its bank or eke out their living by tilling lands that are fertilised by its water.** Despite the experience of the past we have not lost hope, for the Central Government appears to be resolute in its efforts to ensure that the mission of cleaning the holy river is carried forward and accomplished. How far will the Government’s renewed zeal make any difference on the ground is for anyone to guess.

17. What is, however, clear is that if the mission has to succeed, all those concerned will have to rededicate themselves to the accomplishment of the cause that will not only cleanse the holy river but comfort millions of souls that are distressed by the fetid in what is believed to be so holy and pure that a dip in its water cleanses all sins. **Statutory authorities that are charged with the duty to prevent pollution need to monitor and take action where they find any breach of the law. Failure of the authority to do so may also have to be noted for such action as may be required under law. This may call for a closer monitoring of the performance of all concerned.** Time constraints unfortunately do not allow us to do that on a continuing basis no matter we have over the past thirty years devoted enough time and energy in that direction.

18. We are comforted by the thought that the National Green Tribunal has been established under the National Green Tribunal Act, 2010. The Tribunal, it is evident from the provisions of the Act, has the power to take stock of the situation and pass necessary orders on the subject. **It has the legislative mandate to undertake effective and speedy adjudication and disposal of issues touching preservation of environment by prevention of pollution. It is in the above backdrop that we consider it more appropriate to refer the issue relating to enforcement of the provisions of the statutes touching environment and its preservation arising out of discharge of industrial effluents into River Ganga to the National Green Tribunal.**

19. We are confident that the Tribunal which has several experts as its members and the advantage of assistance from agencies from outside will spare no efforts to effectively address all the questions arising out of industrial effluents being discharged into the river. This will include discharge not only from the grossly polluting industries referred to in the earlier part of this order but also discharge from “highly polluting units” also. As regards the remainder of the matter concerning discharge of domestic sewage and other sources of pollution we will for the present retain the same with us.

20. **We accordingly request the Tribunal to look into all relevant aspects and to pass appropriate directions against all those found to be violating the law. We will highly appreciate if the Tribunal submits an interim report to us every six months only to give us an idea as to the progress made and the difficulties, if any, besetting the exercise to enable us to remove such of the difficulties as can be removed within judicially manageable dimensions..”**

(internal citations omitted) (emphasis supplied)

31. Vide order dated 22.08.2019³¹, this Tribunal issued directions and laid down coercive measures to be taken to restrain discharge of untreated sewage in river Ganga:

*“16As 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. **All the authorities have to be stringent and depict zero tolerance to the pollution of River Ganga. Wherever STPs are not operating, immediate bioremediation and/or phyto-remediation may be undertaken if feasible. 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.** Performance guarantees may be required to be furnished for ensuring timely performance. It needs to be ensured that setting up of STPs and sewerage network to be completed and carried out so as to avoid any idle capacities being created. Performance guarantees may be taken for preventing such defaults.*

*17. **Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. 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. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. 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. It will be open to the State to recover the said amount from the erring officers/contractors.***

*15. **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.”***

³¹ O.A. 200/2014, dealing with the pollution of river Ganga

VIII. Order dated 28.08.2019, in pursuance of Hon'ble Supreme Court judgment in (2017) 5 SCC 326, for 100% treatment of sewage by 31.3.2018

32. In **Paryavaran Suraksha Samiti v. UOI**, (2017) 5 SCC 326, the Hon'ble Supreme Court held:

“10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.

12. We are of the view that in the manner suggested above, the malady of sewer treatment, should also be dealt with simultaneously. We, therefore, hereby direct that “sewage

treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.

13. We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment plants” within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. **The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions.** They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional **National Green Tribunal.**

14. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.”

(emphasis supplied)

33. Vide order dated 28.08.2019³², this Tribunal held:

“15. It is clear from the order of the Hon’ble Supreme Court³³ that the responsibility of operating STPs under Article 243W and item 6 of Schedule XII to the Constitution is of local bodies who have to evolve norms to recover funds for the purpose which is to be supervised by the States/UTs. The norms were to be finalized upto 31.03.2017 to be implemented from the next year, i.e 01.04.2018. In absence thereof, the States/UTs have to cater to the financial requirement from its own resources. The States/UTs are to prioritize the cities, towns, villages discharging effluents/sewage directly into the water bodies. Industrial activity without proper treatment plants (ETPs and CETPs) is not to be allowed by the State PCBs and the Secretaries, Environment of the States/UTs are to be answerable. Thus, the source for financial resources for the STPs, stands

³² O.A. No. 593/2017, Paryavaran Suraksha Samiti v. UOI

³³ Para 10-14 in Paryavaran Suraksha Samiti v. UOI, (2017) 5 SCC 326

finalized under the binding judgment of the Hon'ble Supreme Court. Authorities and persons accountable are identified. Rigid implementation has been laid down. This Tribunal has been required to monitor compliance of the directions and timelines.

16. It is in this background that the present report needs to be appraised and further directions given. As regards the Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water is accepted as an interim measure. With regard to setting up of STPs, while we appreciate the extensive work of the CPCB based on information furnished by States/UTs, the challenge remains about verification of the said data on the one hand and analysis of the steps taken and required on the other. There is already a database available with the CPCB with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites. This needs to be collated and river basinwise macro picture needs to be prepared by the CPCB in terms of need for interventions, existing infrastructure and gaps therein. The States have given timelines which need to be effectively monitored both by the CPCB and the Chief Secretaries in terms of its execution.

17. **As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is discharged in water bodies. Doing so is a criminal offence under the Water Act and is harmful to the environment and public health. 'Precautionary' principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on 'Polluter Pays' principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs, the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018.**

21. We may now sum up our directions:

(i), (ii).

(iii) All the Local Bodies and or the concerned departments of the State Government have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.”

34. The above matter (O.A. No. 593/2017) was further reviewed recently vide order dated 21.05.2020. Reference may only be made to paras 13 and 26 as follows:

“13. The above report shows that some steps have been initiated against non-compliant ETPs/CETPs/STPs while further steps need to be taken. With regard to industries not having ETP or not connected to CETP, pending construction of CETPs as mentioned in the above report, the State PCBs/PCCs may ensure that there is no discharge of any untreated pollutants by the industries and such polluting activities must be stopped and compensation recovered for the non-compliance, if any, apart from any other legal action in accordance with law. As regards non-compliant STPs, further action may be completed by the State PCBs/PCCs and it may be ensured that there is 100% treatment of sewage and till STPs are set up, atleast in-situ remediation takes place. **However, on account of Corona pandemic which has affected several on-going activities, the timeline of levy of compensation in terms of order dated 28.08.2019 in O.A. No. 593/2017 read with order dated 06.12.2019 in O.A. No. 673/2018, of 01.04.2020 may be read as 01.07.2020 and 01.04.2021 may be read as 01.07.2021.** Further reports may be taken by the CPCB from all the State PCBs/PCCs as per the system evolved by the CPCB from time to time.

...

...

....

26. Summary of directions:

i. All States/UTs through their concerned departments such as Urban/Rural Development, Irrigation & Public Health, Local Bodies, Environment, etc. may ensure formulation and execution of plans for sewage treatment and utilization of treated sewage effluent with respect to each city, town and village, adhering to the timeline as directed by Hon'ble Supreme Court. STPs must meet the prescribed standards, including faecal coliform.

CPCB may further continue efforts on compilation of River Basin-wise data. Action Plans be firmed up with Budgets/Financial tie up. Such plans be overseen by Chief Secretary and forwarded to CPCB before 30.6.2020. CPCB may consolidate all Action Plans and file a report accordingly.

Ministry of Jal Shakti and Ministry of Housing and Urban Affairs may facilitate States/UTs for ensuring that water quality of rivers, lakes, water bodies and ground water is maintained.

As observed in para 13 above, 100% treatment of sewage/effluent must be ensured and strict coercive action taken for any violation to enforce rule of law. Any party is free to move the Hon'ble Supreme Court for continued violation of its order after the deadline of 31.3.2018. This order is without prejudice to the said remedy as direction of the Hon'ble Supreme Court cannot be diluted or relaxed by this Tribunal in the course of execution. PCBs/PCCs are free to realise compensation for violations but from 1.7.2020, such compensation must be realised as per direction of this Tribunal failing which the erring State PCBs/PCCs will be accountable.

- ii. The CPCB may study and analyse the extent of reduction of industrial and sewage pollution load on the environment, including industrial areas and rivers and other water bodies and submit its detailed report to the Tribunal.**
- iii. During the lockdown period there are reports that the water quality of river has improved, the reasons for the same may be got studied and analysed by the CPCB and report submitted to this Tribunal. If the activities reopen, the compliance to standards must be maintained by ensuring full compliance of law by authorities statutorily responsible for the same.**
- iv. Accordingly, we direct that States which have not addressed all the action points with regard to the utilisation of sewage treated water may do so promptly latest before 30.06.2020, reducing the time lines in the Action Plans. The timelines must coincide with the timelines for setting up of STPs since both the issues are interconnected. The CPCB may compile further information on the subject accordingly.**
- v. Needless to say that since the issue of sources of funding has already been dealt with in the orders of the Hon'ble Supreme Court, the States may not put up any excuse on this pretext in violation of the judgment of the Hon'ble Supreme Court."**

IX. Order dated 11.09.2019 – Directions regarding control of pollution of river Yamuna in pursuance of orders of Hon'ble Supreme Court in (2012) 13 SCC 736 and Tribunal's earlier orders

35. In News Item Published in Hindustan Times Titled “And Quiet Flows the Maily Yamuna”, In re, (2012) 13 SCC 736, the Hon'ble Supreme Court observed:

“1.4. This writ petition is of the year 1994 and has been pending in this Court since then (approximately for a period of 18 years).

1.5. This Court should find appropriate ways to pass such orders which would dispose of this petition while attaining the object of making the Yamuna pollution free. It should also ensure that no person, including corporations or other industries, discharge their sewage, trade or other effluents directly into Yamuna, without treating the same in accordance with the provisions of the Environment Protection Act.

1.6. In order to have a complete background of this case and the directions required to be passed by this Court, it is required that:

1.6.1. The learned counsel appearing for the parties be directed to file written submissions supported by an affidavit stating the complete background of the case according to that authority, litigant or industry.

1.6.2. Whether any treatment plants have been constructed by the public authorities, in particular for treatment of sewage before its discharge into River Yamuna at Delhi, Haryana and the districts of Uttar Pradesh.

1.7. If the answer to the same is in affirmative, then its details and if the same is in the negative, its reasons. It may also be stated as to why was it not possible for the authorities concerned to construct such treatment plants and ensure their functioning even after lapse of such a long period of time. If they could not be made operational, why the alternative systems of sewage or trade disposal were not adopted rather than discharging metric cubic tonnes of discharge into Yamuna River.

1.8. Whether any of the State Governments and particularly Haryana, Delhi and Uttar Pradesh has appointed Consultants to finalise the design and places of installation of sewerage treatment plants. If so, whether such experts have submitted their reports to the State Governments and what action has been taken by the respective State Governments.

1.9. Committees: How many committees have been appointed under the orders of this Court or otherwise, by the State

Governments, directly with reference to this writ petition. Details with regard to the functioning of these committees, analysis of the reports, if any, submitted by the said committees and implementation of their reports, may also be furnished.

1.10. Costing: How much expenditure has so far been incurred by the Central or the respective State Governments on the projects relating to cleaning and making Yamuna River free of pollution and the details of such projects on which such expenditures have been incurred by the respective States.

1.11. Whether audit of such expenditure has been done by any competent authority i.e. CAG or the State Accounts Department, if so, the particulars of the reports and if any objections were taken/pointed out.”

(emphasis supplied)

36. The proceedings were then transferred to this Tribunal. The Supreme Court later observed:

“We are satisfied, that the National Green Tribunal is examining the issue in hand effectively, and is passing appropriate orders from time to time. In the instant view of the matter, we consider it just and appropriate to transfer these proceedings and the writ petition to the National Green Tribunal. Ordered accordingly.”³⁴

37. Vide the order dated 11.09.2019, in O.A. No. 06/2012, dealing with river Yamuna, this Tribunal observed as follows:

“12. One of the major concerns of this Tribunal is that repeated directions remain un-complied and in spite of largescale failures, no accountability is fixed. There is huge loss to public exchequer for which no action is taken. Timelines are conveniently and unilaterally changed. Officers indulge in blame game in shifting responsibility from one to another. There is failure at higher levels in monitoring and taking actions. If this continues, it is difficult to expect any positive change for long. This requires paradigm shift in approach adopted so far. The approach to be adopted is to have clear time- bound plan with flexibility and due to accountability for failure by way of departmental action and monetary compensation. The rescheduled timelines have to be compressed so as to complete every action by December, 2020 except where shorter timelines are specified in this order or are otherwise possible. If any contract permits longer timeline, it is clearly in violation of binding orders of the Tribunal which has attained finality. Violation thereof is per se criminal offence. Such longer timeline has to be consistent with orders of the Tribunal and compressed within

³⁴ Order dated 24.04.2017, W.P. No. 725/ 1994 (Supreme Court).

31.12. 2020. Failing to do so may invite criminal prosecution NMC&G may also monitor the compliance. The Chief Secretaries of Delhi, Haryana and U.P. have to personally see the compliance and have to set up Monitoring Cell directly under them. Vice Chairman, DDA can also monitor and coordinate with Chief Secretary, Delhi. All other departments can monitor subject to overall directions of the Chief Secretaries. This can avoid shifting of responsibilities once ownership is with highest authorities in the State. Monthly review reports may be shared with the Monitoring Committee and also placed on websites of concerned States. Failure and successes of the individual involved may be specifically recorded and reflected in service record of the concerned officer. Stock taking may be done by the Chief Secretaries of the failure and successes so far and appropriate actions be initiated against those who have been responsible for the failure. Nodal Officers may be identified in respect of different projects clearly defining the responsibilities. Wherever there is misappropriation of funds, criminal case has to be registered. Posting of Officers entrusted with the responsibility may be reviewed from time to time depending on their responsibility. Procedure for giving of contracts may be shortened and standardized at State level and if possible at National level by NMC&G and CPCB. Giving of contracts should be based on successful credentials instead of mere lowest rates. Pollution load at entry and exist point of each concerned State may or at entry points of each drains need to be recorded periodically. The Chief Secretaries of Delhi, Haryana and U.P. may furnish action taken reports in this regard at the time of their personal appearance before this Tribunal in O.A. 606/2018.

13. Priorities need to be planned. The first step is to ensure that no pollutant is discharged into the river or drains connected thereto. Projects of setting up and upgradation of STPs including setting up of interceptors, laying of sewerage line network etc. have to be completed within strict timelines. Pending such action, immediate bioremediation and/or phytoremediation or any other alternative remediation measure may be undertaken as an interim measure. Pollution of river or water bodies is a criminal offence which needs to be checked by setting up ETPs/CETPs/STPs. The Hon'ble Supreme Court has directed³⁵ that establishment and proper functioning of ETPs/CETPs/STPs in the country be ensured. This is to enforce the right of access to water. It has been noted by the Hon'ble Supreme Court that water pollution is the cause of various diseases and also affects food safety apart from affecting the environment as such. Following the said judgment, this Tribunal has directed³⁶ that "All the local bodies have to ensure 100% treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the

³⁵ (2017) 5 SCC 326

³⁶ Order dated 28.08.2019 in Paryavaran Suraksha Samiti & Anr. V. UOI & Ors., O.A No. 593/2017

environment.” While dealing with the pollution of river Ganga, this Tribunal directed:

“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. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. 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. It will be open to the State to recover the said amount from the erring officers/contractors.

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.”³⁷

“15. A. (iv):

- e). DJB to complete the task of setting up of STPs by 31.12.2020.
- g) Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.01.2020, failing which the Govt. of NCT of Delhi may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs, sewerage network and its connectivity. For delay of the work, the Chief Secretary, Govt. of NCT Delhi must identify the officers responsible and assign specific accountability. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers for delay in setting up of STPs, sewerage network and its connectivity by the concerned head of the department.
- h) The Govt. of NCT, Delhi will be liable to pay Environment Compensation if defaults take place as under:
 - i. The operational deficiencies of the existing STPs must be rectified within three months failing which Environmental compensation of Rs. 5 Lacs per month for STP shall be deposited with CPCB.
 - ii. With regard to works under construction, after 01.07.2020, direction for payment of environmental

³⁷O.A No. 200/2014 order dated 22.08.2019

compensation of Rs. 10 lakhs per month to CPCB for discharging untreated sewage in any drain connected to river Yamuna and Rs. 10 lakhs per month to CPCB per incomplete STP, sewerage network and its connectivity will apply.

- iii. With regard to the situation where works with regard to STP, sewerage network and its connectivity have not yet started, the Govt. of NCT, Delhi has to pay an Environmental Compensation at the rate of Rs. 10 lakhs per month per STP, Sewerage network and its connectivity after 31.12.2020 for the delay in setting up of the same. It will be open to Govt. of NCT of Delhi to recover the said amount from erring officers/contractors.”

X. Order dated 06.12.2020 (“Fourth Order”) in the present matter (last date)

38. Vide order dated 06.12.2019, this Tribunal further observed:

“40. From the above, it is clear that this Tribunal has fixed specific timelines in view of object of the law and repeated failures of the authorities which has resulted in continuing pollution of rivers adversely affecting the environment and the public health. It is not desirable to prolong the problem on any ground. The apparent conflict in above timelines needs to be clarified. Vide order dated 08.04.2019 in the present matter, timeline for final execution of all steps of Action Plan stands extended till 31.03.2021 after which compensation is to be recovered from the defaulting States and action is to be against the erring officers. Vide order dated 22.08.2019 in the case of river Ganga, outer timeline for compliance is 31.12.2020. In terms of order dated 28.08.2019 in Paryavaran Suraksha Samiti, outer timeline for 100% sewage treatment is 31.03.2020. We clarify that since order in Paryavaran Suraksha was passed on 28.08.2019 and all concerned have been put to notice, it is desirable that 100% treatment of sewage takes place as directed atleast to the extent of in situ remediation and commencement of setting up of STPs and connecting all the drains and other sources of generation of sewage to the STPs. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as directed vide order dated 28.08.2019, supra. The timelines for Ganga, Yamuna or other rivers covered by specific orders will stand, as already directed. Timeline for completing all steps of Action Plan till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In view of this, the timelines proposed by the CMC cannot be accepted, as observed earlier. The States/UTs may take necessary steps accordingly.

41. **Consolidated status report has been filed by CPCB on 18.11.2019 with reference to the present matter as well as dealing with the Musi River in the State of Telangana (O.A. 426/2018) and with regard to coastal pollution (O.A. 829/2019). Separate orders are passed in O.A. 426/2018 with regard to Musi River and O.A. 829/2019 dealing with the coastal pollution. The present order deals with the issue of 351 polluted river stretches.**

42 to 45. ...

46. The report of CPCB shows the status of compliance. As already noted, the Action Plans have been prepared with respect to 351 river stretches by the concerned States/UTs with regard to category P-I & P-II (the most polluted river stretches), the Action Plans have been duly recommended by CPCB with certain changes. The said Action Plans are reported to be complete with respect to necessary components for river rejuvenation including identification of drains, their interception, setting up of STPs, utilization of treated water, identification of flood plain zones, maintaining e-flow, etc. Let the same be executed by 31.03.2021 as already directed. No case is made out to extend the laid down timeline unconditionally. **As noted earlier, situation of water pollution is grim in the country and there has been deterioration inspite of the Water Act which was enacted way back in 1974 which was intended to bring about any improvement. This Tribunal has repeatedly put all authorities to notice in the light of earlier orders of the Hon'ble Supreme Court on the subject. Directions were also issued for budgetary support as part of the Action Plans which has been done in indicative terms. There can be no plea of lack of funds on issue threatening the existence of human beings. We have thus no option except to be strict about the timelines already laid down.** We are also of the view that adherence to the timelines must be monitored by the Chief Secretaries of all the States/UTs and should also be monitored at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB. For this purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance and may give its quarterly report to this Tribunal commencing from 01.04.2020. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the secretary level and ensuring appropriate adverse entries in the ACRs. Monitoring at State level must take place on fortnightly basis and record of progress maintained. The Chief Secretaries may have an accountable person attached in his office for this purpose. Monthly progress report may be furnished to Secretary, Ministry of Jal Shakti with a copy to CPCB. Steps for in situ remediation as an interim measure may be ensured as directed above as per laid down timeline. Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level.

Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.

CPCB may after scrutiny finalize the Action Plans relating to P-III and P-IV also as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the Action Plans prepared by the States which may start forthwith, if not already started.

I. Directions:

47. We now sum up our directions as follows:

- i. 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.**
- ii. Timeline for completing all steps of Action Plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.**
- iii. We further direct that an institutional mechanism be evolved for ensuring compliance of above directions. For this purpose, monitoring may be done by Chief Secretaries of all the States/UTs at State level and at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB.**
- iv. For above purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance who may take assistance of CPCB and may give its quarterly report to this Tribunal commencing 01.04.2020.**
- v. The Chief Secretaries may set up appropriate monitoring mechanism at State level specifying accountability of nodal authorities not below the Secretary level and ensuring appropriate adverse entries in the ACRs of**

erring officers. Monitoring at State level must take place on **fortnightly basis and record of progress maintained.** The Chief Secretaries may have an accountable person attached in his office for this purpose.

- vi. Monthly progress report may be furnished by the States/UTs to Secretary, Ministry of Jal Shakti with a copy to CPCB. **Any default must be visited with serious consequences at every level, including initiation of prosecution, disciplinary action and entries in ACRs of the erring officers.**
- vii. As already mentioned, procedures for DPRs/tender process needs to be shortened and if found viable business model developed at central/state level.
- viii. Wherever work is awarded to any contractor, performance guarantee must be taken in above terms.
- ix. **CPCB may finalize its recommendations for Action Plans relating to P-III and P-IV as has been done for P-I and P-II on or before 31.03.2020. This will not be a ground to delay the execution of the Action Plans prepared by the States which may start forthwith, if not already started.**
- x. **The Action Plan prepared by the Delhi Government which is to be approved by the CPCB has to follow the action points delineated in the order of this Tribunal dated 11.09.2019 in O.A. No. 06/2012.**
- xi. Since the report of the CPCB has focused only on BOD and FC without other parameters for analysis such as pH, COD, DO and other recalcitrant toxic pollutants having tendency of bio magnification, a survey may now be conducted with reference to all the said parameters by involving the SPCB/PCCs within three months. Monitoring gaps be identified and upgraded so to cover upstream and downstream locations of major discharges to the river. CPCB may file a report on the subject before the next date by e-mail at judicial-ngt@gov.in.
- xii. Rivers which have been identified as clean may be maintained.”

XI. Review of Monitoring Reports filed in pursuance of directions in “Fourth Order”

Review of CPCB Report dated 18.06.2020

39. We have carefully considered the consolidated status report dated 18.06.2020 filed by the CPCB. **The said report merely gives status of approval of Action Plans and that States/UTs, State PCBs/PCCs**

were requested to ensure compliance of the orders of this Tribunal.

It is stated as follows:

“Till date, all 61 out of total 61 Action Plans pertaining to P-I and P-II received by CPCB from 18 States and 2 UTs have been approved by CPCB Task Team along with the conditions. Further, in pursuance to Hon'ble NGT directions dated 06.12.2019, CPCB also organised three Task Team meetings for review of Action Plans pertaining to P-III and P-IV categories of PRS. Ninety one Action Plans out of 115 target Action Plans pertaining to P-III and P-IV polluted river stretches submitted by 17 States and 01 UT have been approved by CPCB Task Team. The Action Plans in respect of the States viz., Chhattisgarh, Jharkhand, Punjab, Rajasthan, Uttarakhand and West Bengal required modifications in light of the recommendations of the CPCB Task Team whereas Nagaland State could not participate in 12th Task Team meeting in view of technical problem. State-wise action plans (Priority I to Priority IV PRS) approved with conditions by CPCB Task Team is annexed at Annexure-IV and Annexure-V and also detailed in Table 1 below:-

Table 1. State-wise Status of Action Plans (P—I to P-IV) Approved by CPCB

Name of the State / UT	Total No. of Identified Polluted River (PRS)	Priority I & II PRS		Priority III & IV PRS		Priority-V PRS*	Total Action Plans (P-I to P-IV PRS) Approved by CPCB Task Team along with conditions
		Priority-I PRS approved	Stretches Priority-II PRS approved	Priority — III & IV PRS received	Priority-III & IV PRS approved		
Andhra Pradesh	5	-	-	2	2	3	2
Assam	44	3	1	7	7	33	11
Bihar	6	-	-	1	1	5	1
Chhattisgarh	5	-	-	4	-	1	-
DD & DNH	1	1	-	-	-	-	1
Delhi	1	1	-	-	-	-	1
Goa	11	-	-	3	3	8	3
Gujarat	20	5	1	8	8	6	14
Haryana	2	2	-	-	-	-	2
Himachal Pradesh	7	1	1	1	1	4	3
J & K	9	-	1	4	4	4	5
Jharkhand	7	-	-	3	-	4	-
Karnataka	17	-	-	11	11	6	11
Kerala	21	1	-	5	5	15	6
Madhya Pradesh	22	3	1	4	4	14	8
Maharashtra	53	9	6	24	24	14	39
Manipur	9	-	1	-	-	8	1
Meghalaya	7	2	-	3	3	2	5
Mizoram	9	-	-	4	4	5	4
Nagaland	6	1	-	3	-	2	1

Odisha	19	1	-	5	5	13	6
Puducherry	2	-	-	1	1	1	1
Punjab	4	2	-	1	-	1	2
Rajasthan	2	-	-	1	-	1	-
Sikkim	4	-	-	-	-	4	-
Tamil Nadu	6	4	-	1	1	1	5
Telangana	8	1	2	4	4	1	7
Tripura	6	-	-	-	-	6	-
Uttar Pradesh	12	4	-	3	3	5	7
Uttarakhand	9	3	1	5	-	-	4
West Bengal	17	1	1	7	-	8	2
Grand Total	351	45	16	115	91	175	152

*Note:- *Approval of CPCB Task Team is not required in case of P-V category PRS. These action plans to be approved by the RRC Constituted by the State Governments or UT Administrations”*

40. Under the heading ‘Identification of Gaps in water quality monitoring locations and for water quality monitoring for physico-chemical and biological parameters’, it is stated that the water quality monitoring network has been increased to 4111 locations, including 2021 river monitoring locations. Further, it is stated that as per order dated 06.12.2019, national level monitoring was conducted by the Secretary, Department of Water Resources, the Chief Secretaries of the States/UTs and the Member Secretaries of the State PCBs/PCCs and that certain States/UTs have furnished performance guarantees in pursuance of order dated 06.12.2019.

41. We find the report to be wholly unsatisfactory and inadequate. The report does not give the extent of status of compliance of the mandate of law under the Water Act and the remedial action against the law violators who are discharging pollutants in the water bodies and are responsible for pollution of river stretches. Nothing is mentioned about the improvement in water quality, reduction in pollution load and

nature of action taken or planned against continued discharge of sewage or effluent recovery of compensation from the law violators, including disciplinary action against the erring officers. Nothing is mentioned about immediate preventive steps when no budget is planned or treatment plans are immediately in sight. There is thus no meaningful strategy for enforcement of law. There is no clear plan to raise resources where adequate budget is not available. Even corporate social responsibility has not been explored. Should citizens continue to suffer inspite of fundamental right to pollution free environment when such massive environment violations are taking pace with impunity? In a country governed by rule of law, crime cannot be allowed to be free. **The data already referred to above, shows large scale violation of law in discharging pollutants in the rivers. The law violators include government authorities as well as commercial establishments. There is also large-scale inaction by the statutory authorities entrusted with the task of enforcing the law in preventing pollution by closing polluting activities in discharge of statutory powers and recovering compensation from the polluters. In spite of large-scale violation, no matching action has been taken against the polluters or authorities entrusted with the task of taking such action. Such action is resulting in avoidable damage to lives and public health and to the environment reversing which may be a difficult task and cost public revenue hugely and allow law violators to go scot free.** The Chief Secretaries as well as the Secretary, Water Resources who were expected to monitor

meaningfully by way of taking and overseeing action do not appear to have done so for reasons difficult to fathom.

Review of NMCG Report dated 19.06.2020

42. We have also carefully perused the report dated 19.06.2020 furnished by the NMCG. **The report does not show any meaningful action in terms of directions of this Tribunal. The report merely refers to certain meetings and field visits by the officials of the Ministry of Jal Shakti. There is, however, no mention of compliance of law and rigorous steps which are expected against law violators when violations are rampant and patent. The implementation timelines are unsustainably long, in complete defiance of orders of the Hon'ble Supreme Court in (2017) 5 SCC 326, repeated orders of this Tribunal, law of the land and the seriousness of the problems.** The Water Act was enacted 46 years ago and still discharge of pollution is taking place with impunity and inaction and tolerance by monitoring and statutory authorities has led to total lawlessness. **Clear direction of the Hon'ble Supreme Court requiring prosecution of the erring officers and orders of this Tribunal requiring recovery of compensation on "Polluter Pays" principle continue to be flagrantly violated.**

43. As already mentioned, this Tribunal is also monitoring the issue in *O.A. No. 593/2017, Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors.* in pursuance of direction of the Hon'ble Supreme Court.

44. We may reiterate that the authorities' generic, vague and repeated stand over the decades, that some steps are being taken, or proposed to be taken in future, is untenable. This is so because such piecemeal action or remote planned action, which ultimately fails to stop or prevent water bodies' pollution nor result in punitive action against violators, cannot condone the continuing crime and damage to the environment. Indeed, also as repeatedly observed by the Hon'ble Supreme Court, the same stand, culpable inaction, and 'passing-the-buck' approach has continued since decades³⁸, and the situation only continues to worsen, much to the detriment of valuable human and other life. For current and continuing violations, action must be taken according to law by way of recovery of compensation, closing polluting activity and other measures. Violators must be brought to justice. Not doing so by the authorities may lead to inference of collusion with law violators and demonstrate a lack of commitment to public duties entrusted to the statutory and oversight authorities.

XII. Directions:

45. We reiterate our directions in order dated 6.12.2019 in the present matter, reproduced in Para 38 above, read with those in order dated 21.5.2020 in OA 873/2017 and direct CPCB and Secretary, Jal Shakti to further monitor steps for enforcement of law meaningfully in accordance with the directions of the Hon'ble Supreme Court and this Tribunal. **The monitoring is expected with reference to ensuring that no pollution is discharged in water bodies and any violation by local bodies or private persons are dealt with as per mandate of law as laid down in orders of the Hon'ble Supreme Court and this Tribunal without any**

³⁸ M.C. Mehta (2015), Para 15, supra, Para 30; M.C. Mehta (2006), Para 61, supra note 29; M.C. Mehta (2019), Para 15, note 30.

deviation from timelines. The higher authorities must record failures in ACRs as already directed and recover compensation as per laid down scale. Every State/UT in the first instance must ensure that at least one polluted river stretch in each category is restored so as to meet all water quality standards upto bathing level. This may serve as a model for restoring the remaining stretches.

Further reports be filed by the CPCB and Secretary Jal Shakti by 15.9.2020 by e-mail at judicial-ngt@gov.in (preferably in the form of searchable/OCR PDF and not image PDF).

As already noted, the constant difficulty faced by this Tribunal in monitoring abatement of pollution in river Ganga (as well other polluted rivers) remains failure of States and PCBs/PCCs to enforce its orders, despite repeated directions and close monitoring, even in physical presence of Chief Secretaries who have appeared before this Tribunal.

A copy of this order be sent to the Chief Secretaries of all States/UTs, Secretaries of MoHUA and Ministry of Jal Shakti, Govt. of India, CPCB and all the State PCBs/PCCs by e-mail.

A copy of this order be also sent to the Secretary General, Supreme Court of India with reference to the order of the Hon'ble Supreme Court in (2015) 12 SCC 764, for information and any further directions in terms of para 20 of the said judgement. This is being sent in continuation of earlier orders passed in O.A. 200 of 2014 (relating to River Ganga). **The Secretary-General may place the matter on the judicial side in terms of the direction of the Hon'ble Supreme Court in para 20 of said judgement.**

List for further consideration on 21.09.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

June 29, 2020
OA No. 673/2018
A & DV

