

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

**Original Application No. 06 of 2012
And
(M.A. No.199 of 2015, M.A. No.238 of 2015, M.A. No.344 of 2015,
M.A No. 512/2015 & M.A No. 513/2015)
In
Original Application No. 300 of 2013
And
M.A. No. 868 of 2014, M.A No. 440/2015 & M.A No. 441/2015
In
Original Application No. 06 of 2012**

IN THE MATTER OF:

**Manoj Mishra Vs. Union of India &Ors.
And
Manoj Kumar Misra & Anr. Vs. Union of India & Ors.
And
Manoj Mishra Vs. Union of India &Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE DR. A.A. DESHPANDE, EXPERT MEMBER**

Original Application No. 06 of 2012

Present: Applicant

**Mr. Rahul Choudhary, Adv.
Shri Venkatesh Anuj P. Agarwala Shashank
Khurana – M.A. No. 238/2015 L. Defece Colony
Welfare Association**

Respondent No. 2:

Mr. Vivek Kumar Tandon, Advs. for NCT

Respondent No. 3 :

**Mr. Rajiv Bansal, with Mr. Kush Sharma and
Ms. Arpita, Advs. For DDA**

Respondent No. 4 & 5 :

**Mr. Narender Pal Singh, Adv. with Mr. Dinesh
Jindal, L.O. DPCC**

Respondent No. 6 & 7 :

**Ms. Savitri Pandey & Ms. Azma Parveen, Advs.
and Mr. K.K. Jain, Chief Engineer, Yamuna,
state of U.P. and Mr. Dven Kumar, Assistant
Engineer, U.P. Irrigation**

Respondent No.8:

**Mr. Balendu Shekhar, Adv. For EDMC
Mr. Mahesh Kumar Sharma, Adv. with Mr.
Alkesh for DCB**

**Ms. Pinky Anand, Additional Solicitor General
with Ms. Kritika Sachdeva, Adv. for DJB**

Mr. Ishwer Singh, Adv. for NMCG

**Dr. Abhishek Atrey, Adv., Mr. Ashutosh Sharma,
Mr. Brijesh Panchal, Minakshi Joshi (Additional
Secretary Forest) and Mr. Subhash Chand
Pandey (Executive Engineer, Eragation and
Development)**

**Mr. Suryanarayana Singh, Addl. AG for State of
Himachal Pradesh**

Sushil Kapta, Special Secretary, IPH

**Mr. S.S. Shanshery, AAG with Ms. Aparajta
Sharma, Adv. Mr. Sumesh Mathur, Addl.
Secretary for State of Rajasthan and Mr. Vinod
Shah, Chief Engineer (Interstate)**

**Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Advocate for State of Haryana**

**Mr. Pawan Verma, Chief Engineer, IYWS
(South), Irrigation Dept, Haryana**

Mr. Moni Chinmoy, Adv. For DSIIDC

**Ms. Mansha Mehmood, Adv. with Ms. Sakshi
Popli, Adv. for NDMC**

Mr. S.L. Gundli, Sr. LO

**Ms. Puja Kalra, Adv. with Taeyal Ahmed and Sh.
Devender Kumar, Chief Secretary for Noth &
South MCD**

Original Application No.300 of 2013

(M.A. No.199 of 2015, 238/2015. 344/2015, 512/2015 & 513/2015)

Present: Applicant

Mr. Rahul Choudhary, Adv.

Mr. Salik Shafique and Mr. Adarsh Shrivastava, Adv. – Applicant in MA 513/15.

Respondent No. 2 :

Ms. Pinky Anand, Additional Solicitor General for DJB and Mr. Prabal Banghi, Adv. For DJB

Respondent No. 3:

Mr. Vivek Kumar Tandon, Adv. for NCT

Respondent No. 5 & 8:

Mr. Balendu Shekhar, Adv. For EDMC

Mr. Rajiv Bansal, with Mr. Kush Sharma and Ms. Arpita, Adv. For DDA

Respondent No. 10 & 11 :

Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, L.O., DPCC

Respondent No. 14 to 16 :

Mr. Yusuf Khan, Advocate Ms. Pinky Anand, Additional Solicitor General with Ms. Kritika Sachdeva, Adv. for DJB

Mr. Mahesh Kumar Sharma with Mr. Alkesh Sharma, Adv. for DCB

Mr. Moni Chinmoy, Adv. For DSIIDC

Original Application No. 06 of 2012

M.A. No. 868 of 2015, 440/15 & 441/2015

Present: Applicant

Mr. Rahul Choudhary, Adv.

Mr. Shaurya Sahay, Adv. in MA 440 & 441/2015

Respondent No. 2:

Mr. Vivek Kumar Tandon, Adv.

Respondent No. 3 :

Mr. Rajiv Bansal, with Mr. Kush Sharma and Ms. Arpita, Adv. For DDA

Respondent No. 4:

Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, L.O., DPCC

Respondent No. 6 & 7 :

Ms. Savitri Pandey & Ms. Azma Parveen, Adv. and Mr. K.K. Jain, Chief Engineer, Yamuna, state of U.P. and Mr. Dven Kumar, Assistant Engineer, U.P. Irrigation

Ms. Pinky Anand, Additional Solicitor General with Ms. Kritika Sachdeva, Adv. for DJB and Mr. Mahesh Kumar Sharma with Mr. Alkesh Sharma, Adv. for DCB

Mr. Moni Chinmoy, Adv. For DSIIDC

| Date and Remarks | Orders of the Tribunal |
|--|---|
| Item No. 01 to 03 June 11, 2015 | ENVIRONMENTAL FLOW IN RIVER YAMUNA: Most Indian rivers have gone sick primarily due to excessive diversion of their flows. It is said that diversions have been planned and executed without taking into consideration the survival need of the nature and its riparian communities. To make pollution abatement measures effective in the form of infrastructure development may not go long way to improve the health of the rivers unless survival need of the river system is an integral factor in our river planning. River Yamuna is no exception to this. Vide our judgment dated 13 th January, |

2015, we had directed the Principal Committee as well as the Chief Secretary of the concerned State to submit their suggestions to the Tribunal in regard to minimum environmental flow that should be maintained in River Yamuna particularly while it is passing through NCT Delhi which is merely 26-27 kms. The Chairman of the Principal Committee on the project **“Maili se Nirmal Yamuna Revitalization Plan, 2017”** submits its Report to the Tribunal on 6th May, 2015. Referring to the current situation of the river, it is reported that River goes dry during the during the lean season months as only 160 cusecs is released into the rivers from the barrage at Hathnikund which is nearly 230 kms upstream from Delhi. This has also resulted in drastic fall in groundwater levels all along the riparian fringes of the river as there is no water in the river to recharge the groundwater aquifer. Biodiversity (flora and fauna) is hardly subsisting in the river or in its riparian fringes. The toxic industrial effluents from industries around the river at the various sites in Haryana and more particularly in Delhi (only 22 falls in the city of Delhi) which has converted one of the biggest river of Yamuna into drain of sewage and effluents. This is a matter of common knowledge of which the Tribunal would have no hesitation in taking a judicial note. Referring in its Report on the minimum ecological requirement, the Committee has dealt with the status in Paras 3.1 and 3.2 which it is necessary for us to reproduce at this stage.

The Three Member Principal Committee has given its Report which deals with the concept of E-Flows,

recommended methodology, minimum ecological requirement, e-flow hydrograph, river health regime and then proceeded to make the concluding remarks. In the report, the Committee recorded the following findings and recommendations:

Findings:

Considering all the facts and details given above and that it is essential to have a minimum e-flow in Yamuna required for its rejuvenation and for the river to discharge its various ecological functions including recharging the aquifers on which the riparian communities are historically dependant and perhaps have the first right, the following principles are recommended:

(i) Given very high variability of natural flow in the river that ranges from very low at 3500 cusec to very high at 8,00,000 cusec, there should not be any diversion into the canals during the lean period of December, January and February and there should be free flow of all the water in the river Yamuna. If this is not feasible then 2500 cusec i.e., 70% of the lean season flow must be designated as the e-flow into the river at HKB following the principles of Prof Gary Jones.

(ii) As HKB has a design safety upper limit (70,000 cusec) in terms of river flow where the structure ceases to function, both the canals are closed and river Yamuna flows free of the structure we have to also establish for the safety of the river and its riparian communities, a lower limit(e flow) as well when the structure (HKB) and the

canals shall once again cease to function. This lower limit (minimum e-flow) in case of Yamuna at HKB should not be less than 2500 cusec.

(iii) It is likely that during the initial period when such practice is put into operation, the river would take some time to truly become perennial as initial releases shall go to saturate the 'empty' river associated aquifers feeding the water table. But once saturated, it is expected that the river shall truly once again become perennial.

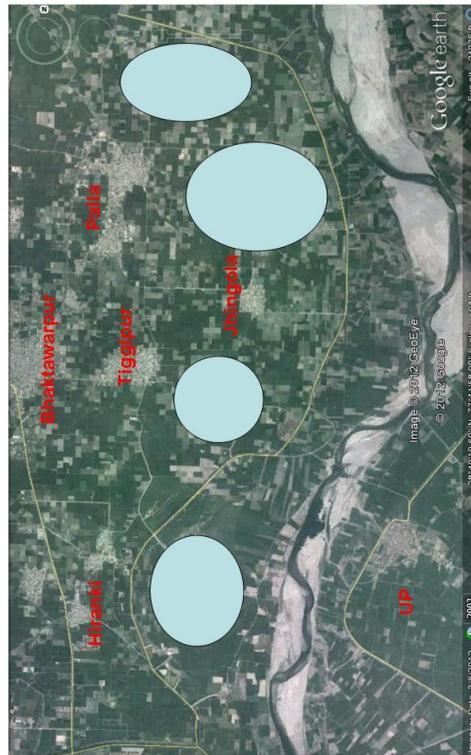
(iv) Since human habitations especially big towns and cities have large water footprint on the rivers, such riparian cities shall be mandatorily encouraged to develop off-river reservoirs within and close to the river flood plains, where adequate quantity of river flows only during its high flows (monsoon) shall be collected and conserved to meet the lean season water needs of the cities like Yamuna Nagar, Karnal, Sonapat, Panipat, Delhi, Agra etc and that in addition shall also recharge ground water near these cities. This practice is in vogue in many countries of the world*.

***City of London – an example**

City of London in UK manages its water supplies in form of off-river distributed reservoirs created on the bank of river Thames and river Lea. Water from river Thames / Lea during high flows in winter months is collected for later use.



NCT of Delhi



NCT of Delhi can create a number of off-river distributed reservoirs (in a north-south direction) in the river Yamuna flood plain in its Zone P II located in its north bordering Haryana and the river Yamuna. This would facilitate water transfer using gravity since north of the city is at a higher elevation than the south.

Similarly placed off-river reservoirs could be created by the riparian cities like Yamuna nagar, Karnal, Panipat, Sonapat and Faridabad etc in Haryana and Saharanpur, Baghpat, NOIDA, Mathura, Agra and Etawah etc in UP.

While such locations within the flood plain of the river could be easily located (specially the ox bow lakes of the river and some relict channels of the river) but wherever such reservoir might still require land from a farmer or other land holder, the latter may be mandatorily made a partner in the enterprise with his/her piece of land taken by the city managers on a long term lease and a lease amount (regularly adjusted against inflationary changes) paid in perpetuity to the lessor in form of a payment for ecological services (PES) that the city dwellers/water users must be made to contribute as a cess.

(v) Further each city shall be statutorily mandated to resort to 'rain water harvesting' in all the buildings and all over the city. This will recharge ground water significantly that will augment city water supply from the ground water and to the extent of augmentation, additional quantum of e-flow could be increased in the Yamuna river from HKB.

(vi) In all the urban towns situated along the Yamuna river the sewerage water must be mandatorily treated and the treated (secondary and tertiary level) water should be mandatorily supplied for industrial processes, railway & bus cleaning, fire-fighting, city parks, urban forestry, horticulture, construction activities, flushing by creating dual piping system etc and the balance for irrigation purposes near the cities. For such purposes use of fresh water should be prohibited

and made an offence. This will save significant amount of fresh water which is today diverted from the river and to the extent that such fresh water is saved, e-flow in the river should be further augmented from HKB.

(vii) There are a large number of industrial clusters in and around the towns located near or on the banks of river Yamuna. All these industries must be mandated to set up Common Effluent Treatment Plant (CETP) with Zero Liquid Discharge arrangement. This means that the treated water will be reused by the industries in their processes. Even the top-up water requirement should be met from the treated sewerage. These industries, therefore, should be banned from drawing fresh water from the ground water or supply by the municipalities. This will again save huge quantum of fresh water and to that extent additional e-flow from HKB should be released in the river Yamuna.

(viii) Agricultural practices shall be mandatorily made water efficient in terms of cropping and water use. Use of fresh water from rivers for irrigation purposes shall be discouraged and the use of treated sewage from the urban centres shall be encouraged and rewarded. Current practice of indiscriminate extraction of the ground water to meet cash crop agricultural needs shall also be curtailed by law.

E-Flow scheme and irrigation requirement

It is a fact that presently around 70-80 % of water for irrigation both during the Rabi and the Kharif season is being sourced from the underground sources and the canal irrigation is meeting only around 30% of the irrigation need of the farmer. This dependence on ground water is more pronounced during the Kharif season (Dec – Feb) which is also the lean season for the river. Fortunately water needs during the Kharif season is far less than during the Rabi season (June – August). Thus any measure that would augment the ground water would be helpful for the farmer. This is exactly what a flowing river does and hence the provision of a flow in river Yamuna is going to be helpful to the farmer. As regards increased water needs during the Rabi sowing, it being the monsoon season, there already is enough water available in the canals to meet the canal fed irrigation needs. In addition it is suggested that during the high flows let there be water collected in various relict channels of the river which are to be easily found spread all over in close vicinity of the WYC. This water can then be used to augment irrigation needs during the Kharif season.

Water supply to Delhi

There is yet another way of getting the allocated water from HKB by the State of the Delhi. This is by means of getting the entire quantum allocated under the agreement directly from the river and not from the canal (WYC). In other words, the quantum meant for Delhi State will flow at HKB in the river and reach Delhi where Delhi will take its share directly from the river. This arrangement will have a number of benefits like

recharging the ground water throughout its journey from HathniKund to Delhi in addition to maintaining e-flow and it will enable the river to discharge its various other ecological functions. This will also necessitate zero disposal of any pollutant into the river by any city upstream of Delhi.

Recommendations:

(a) An order may kindly be considered to be passed asking the Ministry of Environment, Forest & Climate Change to determine and notify e-flow for river Yamuna for different seasons.

(b) Consider passing an order on all the points mentioned in para 8 and 9 above mandating actions on parts of the authorities. Such an order will go a long way in maintaining e-flow that will not only enable the river to discharge all its ecological functions restoring its connection to the aquifers as well as sustain the rights of the riparian community but also mandatory rain water harvesting shall significantly augment the city's water resources, reduce its negative water footprint on the river and ensure that all the water needed to meet the non-potable water requirements are met by treated sewage only.

(c) Once the cities begin to invest in off-river distributed collection of water (reservoirs) where the allocated water is lifted and collected during the river's high flow season, they shall have much better estimate of available water and control over its own water resources, rather look towards distant and unsustainable sources of water supplies, over which they might have little control with

potential situations emerging of bitter contests and conflicts. Such water reservoirs shall also in due course become an excellent areas of green spaces much welcomed as sites of public recreation.

(d) Since one of the key outcomes of E-Flow in the river is going to be the recharge of the ground water levels, the farmer who is otherwise constraint with falling ground water table is going to be an important beneficiary of the measure.

Inadequacy in e-flow of river Yamuna or through the years has been a matter of concern as even stated by the Committee with great emphasis. Besides maintaining the requisite e-flow, creation of number of channel reservoirs in River Yamuna flood plain as well as of reservoirs all cities should make it mandatory to have rain water harvesting and reuse of recycle of treated waste water to save the fresh water in the river, flood, irrigation should be prevented and substituted by other economical modes of irrigation, water supply to industrial unit strictly rationed and they be encouraged to turn zero discharge in its operations.

From the record, it appears that despite a compelling demand for suggesting the exact extent of e-flow in river Yamuna, and extent of water to be released from Hathnikund, the Committee has not made any concrete suggestion. This matter is of immediate concern and require appropriate directions at the earliest in the interest of environment, ecology and for effectively resolving the pollution of river Yamuna and this is one of the most essential steps for taking this Judgment to its

logical end. This question and phenomenon of minimum e-flow in river Yamuna is not of recent times. The Supreme Court of India in Writ Petition 537 of 1992 and IA 17 was dealing with the pollution of River Yamuna more particularly, with the requirement of minimum flow in river Yamuna to facilitate restoration of desired water quality. It has even constituted a Committee to suggest remedial measures both long term and short term for maintaining the minimum flow in the river. The Committee submitted its report which suggested short term measures and long term measures. In its order dated 14th May, 1999, Supreme Court *inter alia* held as under:

“It was informed that Haryana was already transferring 4 cumecs of fresh water through the Yamuna Channel in Delhi for irrigation purposes in South Haryana. This water is being put into the river just below Wazirabad barrage. It was decided that the riparian states, in a mutually agreed ratio should ensure release of the remaining 6 cumecs for purposes of maintaining a minimum flow of 10 cumecs of fresh water in the river. With the diversion of the entire treated sewage water away from the river, the 10 cumecs of fresh water will remain fresh in the river throughout. It was felt that the diverted treated waste water rich in nutrients from Delhi will be quite suitable for irrigation purposes in UP and Haryana.”

On 12th May, 1994, Memorandum of Understanding between UP, Haryana, Rajasthan, Himachal Pradesh and National Capital Territory of Delhi regarding allocation of surface flow of Yamuna.

Preamble of Agreement

The important recital of the said agreement reads as under:

“And whereas the States have agreed that a minimum flow in proportion of completion of upstream storages going upto 10 cumecs shall be maintained downstream of Tajewala and downstream of Okhla Headworks throughout the year from ecological considerations, as upstream storages are built up progressively in the phased manner.”

For the allocation of the utilizable of the water resources of river Yamuna assessed on mean year availability, they agreed as follows:

Now therefore, considering their irrigation and consumptive drinking water requirements, the Basin States agree on the following allocation of the utilizable water resources of river Yamuna assessed on mean year availability.

- | | | |
|----|------------------|-----------|
| 1. | Haryana | 5.730 BCM |
| 2. | Uttar Pradesh | 4.032 BCM |
| 3. | Rajasthan | 1.119 BCM |
| 4. | Himachal Pradesh | 0.378 BCM |
| 5. | Delhi | 0.724 BCM |

It is commonly stated before us that the attendant commitments to this agreement have not been satisfied even as of now. On the contrary, the storage barrages upstream have not even began.

The order of the supreme Court has hardly been implemented to make any headway in that direction. The twin purpose sought to be achieved by these documents was primarily providing drinking water, irrigation and proper e-flow of the river rather than any improvement on either of them. The things have gone bad to worse with the passage of time in all these respects. In light of this, we are compelled to pass interim directions at this stage with a further direction to the Principal Committee to make clear and unambiguous recommendations in this behalf.

It is a clear stand of State of Haryana before us that they have no hesitation in releasing 10 cumecs water at Hathnikhund barrage in river Yamuna. At this stage any order directing increase may jeopardise their interest, therefore, the matter should be examined by the appropriate Committee and the State of Haryana would

put forward its case. From the memorandum signed between the States, it is clear that the States have agreed with the minimum flow in proportion of completion of upstream going up to 10 cumecs shall be maintained downstream from Tajawala and downstream of Okhla headway work throughout the year from the ecological consideration. This memorandum further provided that considering the irrigation and consumption of drinking water requirements in the Basin States, the water utilisation shall be as per the share indicated in Clause 7 of the memorandum. This memorandum was entered into on 12th May, 1994 and was subject matter of consideration before the Hon'ble Supreme Court of India which passed order on 14th May, 1999. In clause 'b', the Supreme Court of India noticed that since the availability of 10 cumecs of fresh water in the river Yamuna particularly along Delhi will not be adequate for the purpose of dilution of treated waste water to bring its BOD down to the desired level, constructions of trunk sewage system along with Delhi stretch would be necessary. In clause 'e' the Supreme Court further directed that Haryana was already transferring 4 cumecs of fresh water through Yamuna channel in Delhi to South Haryana and this water is put into river which is being below Wazirabad barrage. Noticing that the riparian States on the basis of mutually agreed ratio should ensure release of remaining 6 cumecs for the purpose of immediate flow of total 10 cumecs of fresh water in the river that the diversification of the entire treated sewage water away from the river to which is of fresh that will remain fresh in the river

throughout. It was also noticed that State of Haryana was already transferring 4 cumecs of fresh water through the Yamuna channel. The contention of the State of Haryana and the Central Water Commission that they would not be increase of e-flow of river Yamuna was rejected by the Hon'ble Supreme Court of India. There was objection raised on behalf of State to release further water. The Supreme Court then proceeded to direct the meeting of the High Power Committee for the purpose of determining the share of the riparian states.

In light of the above and after hearing the Learned Counsel appearing for the various parties we direct the State of Haryana shall release of 10 cumecs water directly into main stream of river Yamuna from Hatnikhund barrage and maintain e-flow of the river till Wazirabad.

- i. This release would be without prejudice to the sharing of water rights as per agreement between the State and order of the Hon'ble Supreme Court of India for the purposes of consumptive & irrigation purposes.
- ii. This should be in addition to the seepage, besides seepage from the barrage body if any.
- iii. At this stage we do not propose to issue any directions for enhancement or any variation in the utilisation of water by the riparian states.
- iv. The States are free to go by their own agreement and as they may decide otherwise, but in any case, 10 cumecs water flow in river Yamuna shall be maintained. It is to clarify the order of the Supreme Court, it has to be from Hathnikund to Wazirabad.

v. We direct the Principle Committee to grant hearing to all the concerned States and after considering their respective cases, if necessary, obtaining advices from the technical experts including Ministry of Water Resources and Central Water Commission answering the following:-

A. What should be the E-flow of river Yamuna in all these States more particularly from Hatnikund to Wazzirabad up to Agra.

B. For maintaining this E-flow what should be the release of water at Hathnikund with any variations in the shares of the States.

C. We do expect the Committee to take into consideration the development activity and other attendant factors but at the same time give utmost importance to the pollution to river Yamuna in all these States while making the recommendations for E-flow of river Yamuna all through these States.

We direct the Committee to also submit in its report the recommendations some of which have already been placed before the Tribunal including encouragement of zero discharge of industrial unit, recycling of treated waste water, creation of reservoirs on the river Bank and upstream and steps to be taken for increasing the bio-diversity on the flood plain.

We also direct the BBDM Board to be present before the Committee for particularly in relation to release of more water for the neighbouring States. The Committee

should also make recommendations as to how as per the memorandum 10 cumecs e-flow should be maintained throughout the year in the river Yamuna in terms of para 5 of the MoU.

We make it clear that the Chairman of the Principal Committee Mr. Shashi Shekhar who is presently the Secretary of Water Resources shall continue to be the Chairperson of the Committee and shall hold the meeting positively of all these authorities at 11:00 AM on 22nd June, 2015 at his office. All the States and the senior officers present before the Tribunal are hereby given notice to submit their submission to the Chairperson of the Principle Committee by 20th June, 2015 positively. The hearing of the Committee would take place in terms of these directions on the date and time above given. The applicant is permitted to be present in that meeting.

The State of Uttarakhand is also granted liberty to be present and make his submission before the Principle Committee.

We will request to provide answer of our question in unambiguous terms so as to enable the Tribunal to pass appropriate directions finally. The Committee may give recommendations on the status as it exists today.

The Committee will also suggest conservation method for irrigation purpose as opposed to flood irrigation. We may also now proceed to notice the progress made by the various Departments and the NCT Delhi in furtherance to Judgment of the Tribunal dated 13th January, 2015. Parties are directed to

recommendation of the High Power Committee which had submits its report in the year 1999 also before the Tribunal as well as before the Principle Committee.

DDA

Learned Counsel appearing for the DDA has submitted the Status report on behalf of the authorities. According to the report, the DDA has taken effective steps to safeguard the flood plain of river Yamuna, they have deployed security guards, appointed consultants which has submitted its report in furtherance to which tender for installation of CCTV cameras on the river bank has already been invited and effective steps in that direction are being taken. Tender is likely to be opened shortly on 24th June, 2015. We permit the DDA to expedite the matter and ensure that no person dumps any waste including concrete, municipal waste and uses the flood plain for any purpose whatsoever.

Learned Counsel appearing for the authority submits and is reported that demarcation of the flood plain falling in the area of DDA has been practically concluded. Bollards has been fixed, however, in some parts, it still remains to be fixed. The areas falling commonly between Delhi and Uttar Pradesh in either side of the river, both the States are taking effective steps. Learned Counsel appearing for the State of UP submits that within four weeks from today bollards shall be fixed without default, Chief Executive Engineer of river Yamuna gives an undertaking that this work shall be completed and reported to the Tribunal.

Learned Counsel appearing for DDA further submits

that in regard to making of bio-diversity park in furtherance to the Judgment of the Tribunal, the DDA is taking effective steps and has already identified the site. Let all steps in that directions be taken immediately and in any case not later than within four weeks from today and report shall be submitted to the Tribunal.

DDA has to handover the land to the DJB for establishment of STP, only one site which at village Kakrola. It is stated on behalf of the DDA that the site is in the progress be handed over to DJB. It is stated that the allotment letter to DJB would be issued within one week from today subject to completion of legal formalities required under law. Let this be done within 15 days from today and DJB shall report to the Tribunal after taking over of the site from DDA.

It is stated on behalf of the DDA that no construction debris or municipal waste is being thrown on the flood plain and the DDA is also taking steps to prevent dumping of Pooja and other material into the river.

Learned Counsel appearing for the State of Haryana submits that State of Haryana has three outlets into Nazafgarh drain, cleaning of which is part of the phase one programme under the Judgment of this Tribunal. As far as Leg-1 is concerned State of Haryana has taken a decision to pluck the drain and no effluent will be permitted to enter Nazafgarh drain at point lead one. Let the plugging work be completed within two months from today. The DJB, concerned corporation and NCT Delhi will ensure that after two months from today, no untreated sewage is permitted to enter Nazafgarh drain at

point of lead one.

As far as Leg-2 is concerned, effluent discharge from this drain is said to be 40MLD, State of Haryana has decided to establish STPs and CETPs as the case may be, after comprehensive analysis and examination of the report or study of the trade effluent and would ensure that the STP is completely operationalised. It is further stated that land for the establishment of STPs has already been identified at Sector 107, Gurgaon. Let the State Government invoke emergency provision in acquisition of this land and take all other effective steps to ensure completion of establishment and operationalisation of the STP at the point in question. We direct State of Haryana to invite tender within one month from today and submit the report to the Tribunal. We expect the work to be completed with utmost expeditiously.

As far as the drain of Badshapur joining Nazafgarh is concerned, we have directed the state of Haryana to establish STP of 500 MLD to treat the effluent that is generated and put into Nazafgarh drain. It is submitted on behalf of the state of Haryana that state of Haryana has established three numbers of STPs at the catchment area of this drain which would become operational. The effluent in the drain will not contain any pollutants thereafter. He further submits that the state has proposed to recycle the entire treated water for various activities in the district to Gurgaon including supply to industrial area.

The Learned Additional Solicitor General appearing for Delhi Jal Board submits that joint inspection

conducted yesterday shows that drain is having very high pollutants and is carrying particularly black water. According to her, if this state of affairs continues, it will not be possible to continue to clean Nazafgarh drain under the action plan submitted to the Tribunal by the Delhi Jal Board.

Having heard the Learned Counsel appearing for the parties, the state of Haryana agrees that by 2017, it would plug this drain, effluent being entering Nazafgarh drain through this Badhshah drain and in March, 2017, Delhi Jal Board, Corporation and NCT, Delhi may plug the entry of any untreated effluent water and submits that plugging of the entry of any effluent from this drain would be only if by March, 2017, the treated water proposed to be drained into the Nazafgarh drain upon analysis is found to be not meeting at prescribed standards. In the event testing report shows to contrary to Delhi Jal Board, it shall plug any untreated effluent into the drain. State of Haryana shall furnish the security bond to the Registrar of this Tribunal for performing the above within the time specified.

DSIDC

The Learned Counsel appearing for DSIDC submits that upon joint inspection, site for establishment of STP at Baprola has been identified. The Officer on behalf of DSIDC submits that they are in a position to handover the land to Delhi Jal Board and the same shall be handed over to DJB within one week from today. Let the handing over and taking over of the identified site be completed within

two weeks from today and then submit the compliance report before the Tribunal.

The Learned Counsel appearing for DSIDC, DPCC, Corporation and NCT, Delhi submit that they have complied and carried out various direction passed by the Tribunal vide its Judgement dated 13th January, 2015. It is submitted that the industrial clusters of Delhi have been provided by 13 CETPs. These CETPs are not operating to their optimum capacity. It is further submitted that number of industrial units in industrial area are not discharging their effluent through conveyer belt, but openly throwing in drain discharging unauthorisingly.

Learned Counsel appearing for DSIDC submits that they have served 1200 notices upon various industries in industrial clusters under the control of DSIDC to the units which are discharging their effluent in other than conveyer belt drain. The industries have been directed to connect such discharge to CETP within 7 days which is likely to be expired in another three to four days. In light of the above, we direct DSIDC, NCT, Delhi and Corporation to connect other drains to the CETP through conveyer belt if it is possible. They shall also direct the closure of the 1200 industries to whom notices have been issued and are discharging into open drain and expected through the conveyer belt. The closure order will be passed by the DPCC in exercise of its power contemplated under the Water (Prevention & Control of Pollution) Act, 1974 and Environment (Protection) Act, 1986. This will also apply to DJB which also operate CETP'S in certain industrial

pockets.

These all authorities would submit a report before the Tribunal as to the following:-

- (a) Compliance to the above.
- (b) What steps have been taken by all these authorities including NCT, Delhi to stop identified industrial activity in the residential and non-conforming areas, vide order dated 27th March, 2015 which was passed at the request of the NCT, Delhi that the industries in non-conforming area, would be required to be shut down immediately.
- (c) Whether the CETPs are also receiving sewage or domestic discharge if so whether such CETPs are capable to treat sewage including trade effluent that is coming through conveyer belt. Let report be submitted within three weeks from today.

The DPCC shall also analyse the discharge from the CETPs and submit the report to the Tribunal. The sample collection and analysis would be done keeping in mind that to what the industrial activity is being carried out in the industrial cluster which is connected to that particular CETP.

In relation to de-silting of drains and removing the waste from the drain and deposit/dumping at the appropriate site. After hearing the Learned Counsel appearing for parties, we direct as follows:-

- (a) The Learned Counsel appearing for the DDA submits that 22.23 acre of land at different sites

is already handed over to the Corporation.

- (b) The land measuring about 55.4 acre of land at three different sites can be allotted to all the corporations, though allotted only to NDMC, but can be used as dumping site to all the other corporations, provided they comply all the conditions stated in the letter. However, he further submits that as far as the cost of land is concerned, matter is being processed at the DDA Authority appropriately.

We direct the senior most officer of the Corporation to take up the matter immediately with DDA for change of land use with Principal Commissioner (land disposal) DDA and sort out these issues.

The Learned Counsel appearing for Corporation submits that de-silting as their regular activity nearly two Lakh MT of silt taken out of the drain and dump at these three different sites. All these sites for depositing silt are already saturated. Department of Irrigation and Flood Control and PWD is stated to be responsible for major drains for de-silting as de-silting being regularly done by these authorities. Let these authorities shall also approach the DDA in the above terms. It is also brought to our notice that nearly 100 acre of land available with NCT, Delhi and gram sabha in Sultanpur Dabs. The NCT, Delhi should take final decision to provide land for earmarking sites for such dumping of different kinds of wastes.

We have no doubt that Corporation shall comply with the condition, but it should be first determined as the

whether the sites are being used for dumping of Municipal hazardous waste or otherwise. Let the DPCC and CPCB submit analysis report on samples of the silt taken out separately as to and it is contained and characteristics.

Let all these authorities discuss the matter amongst themselves and then with the Chief Secretary, Delhi who shall in terms submit a report before the Tribunal within four weeks from today and also to make recommendation in regard to source of pollution in the soil and steps that can be taken for the purpose of remedying the same.

DJB

Delhi Jal Board has submitted its action plan, 2017 which is taken on record. It is stated that the tender for part of the first phase for execution of the Project would be issued by 22nd June, 2015. It is further stated that the soil testing of area in question has already commenced and the work already been allocated to EIL. In regard to the acquisition of land, we have already directed that all the concerned authorities including NCT, Delhi would take appropriate steps expeditiously and acquire the land of emergency provision to ensure for establishment of CETPs on time. DJB is liberty to take to the Tribunal for finalisation of the tender, before allotting the tender indicating the proposed budget as well.

It is undisputed that the fund amounting to Rs. 1,666 Crores has already been sanctioned in favour of DJB for some projects, however nothing has been spent out of the funds allocated. The MNCG states that the said fund could not be utilised for completion of the first phase under the Judgement of 13th January, 2015 for which

they would take appropriate steps. Thus, we direct to DJB that the fund of Rs. 1,666 Crores shall be utilised only for compliance of first phase of the “Maili se Nirmal Yamuna Revitalization Plan, 2017”. The DJB has prayed for grant of further fund for that purpose, they propose to send letter with proposal for providing of funds to DDA, PWD and other authorities including Urban Ministry, under the Urban Development fund to provide necessary infrastructure. Let this letter be written, if not already written. It should be considered at utmost priority by the concerned authority. We may note here that NMCG would also consider for providing of further fund for cleaning of river Yamuna, tributary of main River Ganga. NMCG would consider application of DJB for grant of fund. All authorities decide and deal such proposal, if submitted, expeditiously. The compliance report should be submitted within the time stipulated i.e. 14th July, 2015.

List this matter on 14th July, 2015.

DDA

1. DDA to report on flood plain, demarcation, stand of UP, the exact time frame for that purpose.
2. Position with regard to the flood plain of river Yamuna including biodiversity parks.
3. Removal of construction debris & municipal waste.
4. Fixation of CCTV Cameras and persons who have been funded in that regard.
5. Position of handing over of sites for establishment of STP.

Admittedly State of Haryana has discharged 4.5 cumecs at Hathnikund Tajewala and 4 cumecs at western canal out

of 10 cumecs bringing irrigation and need it at Wazirabad binding Yamuna.

State of Haryana

1. Establishment of STP, admitted position that there are three points of passage to Delhi; leg 1, leg 2 and Najafgarh drain.
2. General that Government is taking various steps to establish STP's to control pollution.

Delhi Jal Board

1. Action has been submitted on 25th May, 2015.
2. Tendered for part of the first phase of the programme would be issued by 22nd June, 2015.
3. Soil testing and consultancy given to EIL.
4. Steps for acquisition needs to be expedited with Gram Sabha, DSIDC, DDA.
5. Permission to take up pending works which are part of the main project.

DSIDC, DPCC and Corporations

1. Huge quantity varying from 1600 metric tonnes to 232 metric tonnes since January, 1915.
2. 8000, 16000 and 32000 metric tonnes from 182 drains falling under different corporations.
3. Silting had been carried out.
4. Dumping site and directions.
5. All CETP's checked and claimed to be found in order.
6. Closure of industries.
7. Steps taken in regard to the direction for closure of industries in the residential areas.
8. Ground water extraction.

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| | | <p>9. Land needed for deposit of dump of silt, steps to be taken in that regard.</p> <p>Chemical analysis of the stilt and its user.</p> <p>List this matter on 14th July, 2015.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (Dalip Singh)</p> <p>.....,EM (Dr. D. K. Agrawal)</p> <p>.....,EM (Dr. A.A. Deshpande)</p> |
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