

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

Original Application No. 177/2013

Sushil Raghav Vs. State of UP & Ors.

**CORAM: HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE DR. G. K. PANDEY, EXPERT MEMBER
HON'BLE SHRI BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:

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| Applicant(s) | :Mr. R. Venkataraman and Adesh Kumar, Adv. |
| Respondent Nos. 1 to 3 | :Mr. Raman Yadav, Adv. |
| Respondent No. 4 | :Mr. A.S. Kulshrestha, Mr. A.K. Sharma and Mr. Lalit Kumar, Adv. |
| Respondent No. 5 | :Mr. Vishwajit Singh, Mr. Abhindra Maheshwari and Mr. Pankaj Singh, Adv. |
| Respondent No. 6 | :Ms. Rina Singh, Mr. D.K. Singh, Mr. Pradeep Shukla and Mr. Archita Phookur, Adv. |

| Date and Remarks | Orders of the Tribunal |
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| Item No. 7 July 2, 2014 | <p>The issue raised in this Petition is with regard to the encroachments made in various water bodies, ponds and lakes in and around Ghaziabad.</p> <p>Learned Counsel appearing for the Applicant submits that in the light of the directions issued by the Hon'ble Supreme Court in Civil Appeal No. 1132 of 2011 all State Governments, District Administrations and other concerned Authorities are required to ensure the protection and preservation of the water bodies, ponds and lakes, etc. and any encroachments/trespass has to be cleared by the Authorities.</p> <p>The issue that has been further raised is as a result of the encroachments as well as altering the status of the water bodies either by the construction of private residences and sometimes even by state agencies for the purposes of industry or otherwise e.g. using them as land fill sites. The character of water bodies has been totally lost in some cases. In some cases, the catchment areas have also been obstructed and some of the water bodies were used as land fill sites by the local authorities as also Municipal Solid Waste, sewage, industrial and hazardous wastes was allowed to be accumulated in such water bodies and polluting them. As a result</p> |

of such indiscriminate use contrary to various Rules framed thereunder the Environment (Protection) Act, 1986, the ground water has become contaminated and sometimes unfit for human consumption also. The extinction of such water bodies which were lifeline for maintaining and augmenting the level of the ground water has resulted in depletion of the ground water levels as has been reflected in the reports of the Central Ground Water Authority.

During the course of hearing, it was pointed out that the Respondent No. 1 in their Reply itself has filed Annexure A-1 which is the list of water bodies under the jurisdiction of Ghaziabad Nagar Nigam. As many as 135 such water bodies in various revenue areas and villages have been identified and the name of encroachers and the nature of encroachment has also been indicated by the Respondents in the said list filed as Annexure A-1 along with the reply. Learned Counsel appearing for the State (Respondent No. 1) submitted that notices to all the encroachers were issued earlier as mentioned in the said document on 12th August, 2013 and subsequently again on or about 21st March, 2014 during the pendency of this petition for removal from encroachment of such water bodies.

It is not disputed that the notice period for removal of the encroachments has also expired. Learned Counsel appearing for the Respondent No. 1 (State of UP) prayed that sometime may be allowed to submit as to what has been the progress in the matter after the notices were issued to the encroachers as identified and mentioned in the list as Annexure A-1.

We are inclined to give time to the Respondent No. 1 for submitting the aforesaid information. We would, however, impress upon the Respondent No. 1 that they must submit the action taken report before this Tribunal. In case no action has been taken so far then within a time bound programme should proceed immediately

by deputing a special officer for considering the response to the notices issued to the persons identified and to whom notices were issued by the Respondents as per the list annexed as Annexure-A-1. After hearing of the notices action be taken where the encroachment is found and direct the removal of the encroachments by fixing a deadline, since already sufficient time has elapsed since the order was passed by the Hon'ble Supreme Court.

It is the responsibility of the State to ensure, that not only the area is made free of encroachments but also to ensure that any debris that may be lying must be removed from the area of the water bodies, ponds/lakes and shift it to a proper identified designated spot so that the water body may be restored to its original size and depth and there is no obstruction in the flow of water during the monsoon and rains as a result of any debris or material that may be lying there or in the channels leading to the water bodies. The encroachment from the channels should also be removed.

Learned Counsel appearing for the State submitted that as a first step, the Respondents shall ensure that no further encroachments into identified water bodies is allowed to take place and also no contamination or pollution by way of MSW, Sewage or industrial waste is allowed to come into either the nalas or the water bodies/ponds or lakes and any such channels which may be existing shall be cleared to all such pollutants material that may be existing at present.

The State of UP through the District Administration, Ghaziabad Development Authority and Municipal Corporation Ghaziabad shall all undertake the aforesaid exercises of cleaning the nalas in the catchment area and the pollutants that may be there in the nalas would be removed to the designate spot in accordance with rules

for disposal of MSW etc. to allow flow of water to the ponds, lakes, etc. so that the water bodies may be restored.

Any industries found discharging industrial effluents into such nalas/water bodies either indirectly or directly shall be dealt with in accordance with the provisions of Water Act and the Environment (Protection) Act and the rules made thereunder in the aforesaid task shall be performed by the UP Pollution Control Board.

Since the rainy season is around the corner and the necessity of allowing the water to flow into the ponds as a result of the rains, the channels which allow the rain water to come into the water bodies must be cleared within the 15 days from today. The matter shall be listed before the Tribunal to see the response of the State on the above issues. We allow six weeks' time to the Respondents to do the needful.

List the matter on the 28th August, 2014.

....., JM
(Dalip Singh)

....., EM
(Dr. G. K. Pandey)

....., EM
(B.S. Sajwan)

