

**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 & M.A. No. 692 of 2015)**

In

Original Application No.300 of 2013

And

**M.A. No. 868 of 2014, M.A No. 441/2015,
M.A No. 641/2015, M.A No. 646/2015, M.A No. 627/2015, M.A No. 628/2015,
M.A No. 630/2015 & M.A No. 725/2015**

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.

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**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

Original Application No. 06 of 2012

Present: Applicant

Ms. Maneka Kaur, Adv.

Respondent No. 1:

Mr. Vivek Chib, Adv. With Mr. Ankit Prakash, Adv.

Respondent No. 2, 5 & 8

Mr. Vivek Kumar Tandon, Advs. for NCT

Respondent No. 3 :

Mr. Rajiv Bansal, with Mr. Kush Sharma, Advs. For DDA

Respondent No. 4 :

Ms. Sakshi Popli, Adv.

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

Ms. Puja Kalra, Adv. for North MCD and South MCD

Respondent No. 6 & 7 :

Ms. Savitri Pandey & Ms. Azma Parveen, Advs.

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

Mr. M.K. Sharma, Adv.

Mr. Moni Cinmoy, Adv. and Mr. Sharat Kumar, SE, for DSIIDC

Dr. Vijendra Mahandiya and Ms. Pallavi Awasthi, Advs. in M.A. No. 628 of 2015

Mr. Harish Chand, Adv. in M.A. No. 441 of 2015

Mr. Suryanarayana Singh, Addl AG, State of HP

Mr. Balendu Shekhar and Mr. Akshay Arora, Adv. for EDMC

Original Application No. 300 of 2012

Present: Applicant

Ms. Maneka Kaur, Adv.

Respondent No. 1:

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Respondent No. 2, 5 & 8

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Mr. Rajiv Bansal, with Mr. Kush Sharma, Advs. For DDA

Mr. Ardhendumauli Kumar Prasad, Adv.

Mr. Balendu Shekhar and Mr. Akshay Arora, Adv. for EDMC

Respondent Nos. 2, 4 & 7:

Mr. Ravi P. Mehrotra and Mr. Abhinav Kr. Malik, Advs.

Respondent Nos. 10&11 :

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

Mr. Suryanarayana Singh, Addl AG, State of HP

Mr. Salik Shatique, Adv. for Mr. Sanjay Upadhayay in M.A. No. 513 of 2015

Dr. Vijendra Mahandiya and Ms. Pallavi Awasthi, Advs. in M.A. No. 628 of 2015

Mr. Venkatesh, Mr. Anuj P. Agarwala and Mr. Shashank Khurana, Advs. in M.A. No. 238 of 2015

Mr. Moni Cinmoy, Adv.

Mr. M.K. Sharma, Adv.

	Date and Remarks	Orders of the Tribunal
	Item Nos. 10 to 12 August 11, 2015	<p>The Tribunal has pronounced a Judgment on 13th January, 2015 dealing with cleaning of river Yamuna under the project that was termed "Maili se Nirmal Yamuna Revitalization Plan, 2017". This is a self contained Judgment which provides complete mechanism for restoration of pristine nature of river Yamuna. It specify how the Project has to be carried out. The Judgment provides every technical details including a complete technological plan for construction of CETPs and STPs, tackling/interception of drains, recycling of treated water and minimum treated water entering to river Yamuna. Judgment was inclusive of the report of the Technical Expert Committee which was chaired by the Additional Secretary, MoEF, with representatives from various departments of NCT, Delhi, other Ministries, Directors/Professors from IITs and Nationally known experts, Ecologists, Hydrologists and Environmentalists.</p> <p>Various directions were passed during the course of submissions at the execution stage of the Judgment, on the basis of certain suggestions made, which were recommended by the Principal Committee appointed by</p>

the Tribunal. The same were also discussed in a Chamber meeting held with all concerned and the Expert Members of the Tribunal as well. The Project was divided into different phases and Phase-I related to cleaning of Najafgarh drain and Supplementary - Delhi Gate drain. These two drains would have taken care of nearly 67% of the pollution to river Yamuna as these drains carry sewage, treated effluent and even other wastes. The Judgment provided for acquisition of land, finances to be provided as well as construction and installation of the additional STPs and CETPs.

It is commonly suggested known and even expected that the Govt. of India as well as NCT, Delhi would be implementing the Judgment. Thus various directions were passed from time to time in relation to implementation of the Judgment to ensure that the Project is completed by 2017.

We must notice that there has been a definite demur and default on the part of the Government and its various departments and instrumentalities in implementing the Judgment. Various directions were passed in orders dated 02nd March, 2015, 08th May, 2015 and 11th June, 2015. On 11th June, 2015 specific directions were passed in relation to working of the CETPs and the effluents that they are releasing into the drain leading to Yamuna through CETPs or directly. It was stated that there have been 13 CETPs taking care of 17 industrial clusters. Some of them are underutilized and some others are not treating the effluents to the prescribed norms. Various departments of NCT, Delhi

including Delhi Jal Board were required to furnish information, statistics and correct position of pollutants from these CETPs in Delhi.

Since then the proceedings before the Tribunal, have been stalled and are dealing only with the matter of CETPs and their consequential pollution in the NCT, Delhi. It was then informed to the Tribunal that there are 28 industrial clusters located in NCT, Delhi and there are 13 CETPs installed by various wings of the Government. These are serving 17 industrial clusters, the remaining 11 clusters are stated to be not connected with any CETP. Out of these 11 clusters, 7 clusters are connected to the STPs; 2 with Okhla stp and 5 with Keshopur STP. About remaining 4, no information could be provided, as requisite information in regard to details of these industrial clusters, quality of effluent discharged and ultimate treatment and release of the trade effluent was not brought to the notice of the Tribunal despite orders.

Tribunal had to adjourn cases for last more than three weeks for getting this information on day-to-day basis. We may notice that the Tribunal had clearly mentioned even to the officers concerned that the matter would be taken up on day-to-day hearing, right from July, 2015. However, matter could not be concluded even on this aspect for want of the requisite information and data by various departments of NCT, Delhi and its instrumentalities. This was also informed to the Principal Committee on 23rd July, 2015. On 29th July, 2015 the Tribunal noticed that arguments on installation, up-gradation and function of all these 13 CETPs were

addressed, but the Counsel appearing for the respective authorities prayed for time to seek instruction on the issues relatable thereto and the matter was adjourned to 30th July, 2015. Again matter was adjourned on the request of the officers. On 31st July, 2015 it came to notice that Lawrence Road CETP plant run by DSIIDC and Okhla plant run by Okhla CETP Society were not performing to the prescribed norms. It is emphasized that the officials were only shifting responsibilities from one department to another, from one organization to another. Matter was again adjourned three times and was taken up on 05th August, 2015 when all Authorities, Corporations, DJB, NCT, Delhi, DSIIDC, DPCC and all other concerned authorities were directed to hold a meeting and report to the Tribunal as to the status of the 11 industrial clusters which are not connected to the CETPs, status of effluent discharged, working of these units, to which STPs they are connected and what is the resultant impact on the pollution level of river Yamuna.

That information again was not furnished on 10th August, 2015 and the matter was adjourned to today. The Learned Counsel appearing for DPCC has informed today that out of the 11 industrial clusters, 7 are connected to Okhla and Keshopur drains leading to the STPs. Out of remaining 4, the Patparganj industrial area is connected to Shahdara drain, Shahzada Bagh is connected to Najafgarh drain, Mohan Co-operative Industrial Area is connected to Sarita Vihar and Okhla Flatted Factory is connected to Srinivaspuri drain.

No further specific information is available even

today despite request and directions from the Tribunal. The concerned officers have failed to sit together and provide to the Tribunal the basic and necessary information to enable the Tribunal to pass further and comprehensive directions in regard to CETPs amongst other interalia, but primarily on the following:

- (a) In the 7 industrial clusters, which are not connected to CETP, which industries are having their own ETP and they are discharging their trade effluent into the drain. This information is not correct at the face of it, as today, we are informed by the Member Secretary of the DPCC that no physical inspections have been conducted of these industrial clusters. According to him, these industrial clusters all the industries are not registered or have not even applied for getting consent of the Board for operating industry. The industry which had applied and received consent of the Board to operate, there is presently no information available as to whether their ETPs are operational and if so, are the resulting trade effluents as per the prescribed standards or not.

These industrial clusters have been set up by DSIIDC. DSIIDC also does not have information in this behalf. It may further be noticed that industrial clusters have been established by DSIIDC. Therefore one cannot understand as to how basic data in regard to no. of industries and what kind of effluent is being discharged information is not available and the capacity and level of treatment by the CETP/STP

for the discharged effluent, how it can even be imagined that these industries are discharging effluent which are free from pollutant and/or even are within the prescribed standards. We must also notice here that the blame game is effectively on as even DSIIDC submits that the Industries Department, NCT, Delhi is expected to take care of all these things as the licenses are issued by them. It not only appears, but it is certain that there is no co-operation and co-ordination between the various departments. We do record with great disappointment that the environment is the victim of all this.

Another statement that all the water polluting industries are having ETPs, is again not supported before us as the officer, Senior Environmental Engineer, DPCC, submits that no physical inspection have been conducted in respect of these industries to find out whether ETPs have been actually installed and they are operating and performing as per the prescribed standard. Strangely, even the consents have been granted without having physical inspection and analysis of effluent of such polluting industry by the Board. DSIIDC absolutely shirks its responsibility on the ground that they have only to maintain infrastructure partly blaming the Department of Industries and NCT, Delhi. Out of the three STPs units 2 and 3 at Keshopur and 1 STP at Okhla are not performing to the prescribed standards. It is even as per the report submitted before the Tribunal by the Joint Committee that they are not working effectively. However, as the Learned

Counsel appearing submits that the Keshopur unit 2 is now functioning properly, we do not understand why concerned authorities do not take appropriate steps for ensuring that STPs operate properly and effectively and treat the sewage as per the prescribed standards. Another aspect is that these STPs would not treat the trade effluent which is an integral part of the effluent that is brought to it for treatment. Regular maintenance of these STPs is needed for ensuring effective compliance and performance of these plants. It is a statutory as well as public law duty of the DJB which, as admittedly, failed to perform. In relation to 13 CETPs, the joint inspection team consisting of officers from CPCB, DPCC, Ministry of Industries and others, have found that even most of these 13 CETPs are not performing effectively. In most of the cases Sulphide has been found to be in excess and in some of them even TDS has been found to be beyond the prescribed limits. Furthermore, on their inspection, even maintenance was found to be unsatisfactory and the following suggestions have been made by the Committee:-

1. All drains which carry effluent and pass through the 17 industrial areas catered by the 13 CETPs should be connected either to the CETP as they predominantly carry industrial effluent, or to the STPs' sewerage if they carry domestic sewage from nearby residential areas. The Govt. of Delhi should take decision on all such untapped drains carrying effluent and issue necessary directions to concerned agencies.
2. All CETPs should immediately stop improper use of

equalization tanks as a huge reservoir of effluent and sludge and instead restrict only a required portion of equalization tank volume with proper mixing facility for equalization purpose.

3. All CETPs should decide the volume of primary sludge to be wasted daily on the basis of proper assessment and decide the sludge wasting pattern throughout a day taking into account the sludge zone storage capacity of tube settlers and sludge thickeners.
4. The three CETPs having biological treatment system should decide the quantity of excess secondary biological sludge to be wasted daily using Solids Retention Time (SRT) as a controlling parameter.
5. All CETPs should assess the capacity of sludge thickening, intermediate storage and dewatering facilities and ensure that all elements of the sludge handling facility are adequate to meet the requirement.
6. In view of changed nature of effluents due to closure of seriously polluting industries in Delhi and further planned closure of the remaining seriously polluting industries and in order to address the problem of excessive sludge generation, it may be desirable to incorporate biological treatment process in all CETPs. The spare equalization tanks can be used for incorporating the biological treatment process in the CETPs.

It is not disputed before us that these deficiencies ought to have been complied with by DSIIDC and other

wings and the running agencies which they have failed as is evident.

Complete and comprehensive compliance to the directions of the Tribunal is absolutely essential, if river Yamuna is to be cleaned and revitalized to its original status or anywhere near that. DJB which is an agency responsible for water supply, establishment and carrying on of maintenance and operationalisation of the STPs in Delhi has spent thousands of Crore, but still Yamuna is becoming worse day by the day. Even when a comprehensive document has been prepared and directed to be implemented, a zeal to clean Yamuna, is lacking. The above fact clearly shows that the coordinated and cooperative efforts made on behalf of various departments of Govt. concerned need attention of the Highest Authority in the State. It is stated on the Bar that the Judgment of the Tribunal has been accepted by the all the concerned. If that be so, by no stretch of imagination there could be any sustainable reason in persistent default in compliance with the directions. Right to decent and clean environment particularly water is a fundamental right to enforcement of the fundamental right particularly in the field of environment which is duly covered by the schedule Act. The State could hardly raise any defense including the finances. It is the clear dictum of law declared by Hon'ble Supreme Court of India in its various Judgments.

The Government has to find a way to implement the Judgment expeditiously and effectively and by a coordinated and co-operative functioning of all the departments concerned. In the light of the above we pass

the following directions:-

1. For undue adjournment, non-compliance of the direction, not furnishing of the basic data, necessary for further implementation of the Judgment of the Tribunal, we impose cost of Rs. 1 Lakh on NCT, Delhi. The Cost would be paid which will be deposited with the Environmental Fund created under the Judgment of the Tribunal.

This sum of Rs. 1 Lakh at the first instance would be paid by NCT, Delhi and would be recovered from the salary of the erring officers of the departments concerned i.e. DPCC, DSIIDC, DJB, Department of Industries, Department of Environment and Science and Department of Irrigation. The Chief Secretary of NCT, Delhi shall examine the case and decide the amount to be deducted from the salary of the concerned offices and the report be submitted to the Tribunal within three weeks from today.

2. We issue notice to Okhla Society and DSIIDC to show cause why should they not be directed to pay environmental compensation in terms of Section 15 of the NGT, Act, 2010 for not ensuring that plant at Okhla and plant at Lawrence Road functioning as per norms.
3. Okhla STP Society and DSIIDC shall file reply to show cause in relation to the CETP established at Okhla and at Lawrence Road within three weeks from today.
4. We also issue show cause notice to DJB as to why

environmental compensation under the same provision be not imposed upon them for having failed to ensure proper functioning and effective performance as per the prescribed standards of the STP at Okhla and plant 2 and 3 at Keshopur and plant 4 at Kundli.

5. We further direct all departments concerned and as even mentioned in this order to furnish all the requisite data as afore-recorded within one week from today as prayed. The report shall be prepared and signed by DPCC, DSIIDC, Department of industries and the respective Societies.

This report to be submitted to the Tribunal will be placed before the Chief Secretary of the NCT, Delhi for confirmation of its content.

The effluents random samples would be taken from the industries for analyzing the effluent they are discharging and the report be placed before the Tribunal.

Joint inspection team shall also take sample of STPs managed and operated by DJB and place the analysis report before the Tribunal within three weeks from today.

6. The DSIIDC and DPCC together with Department of Industries shall submit a joint statement as to how many industries are in the 11 industrial clusters and are operating without consent of the Board.
7. The DSIIDC shall also place on record as to how many illegal and unauthorized industries are operating in each of these industrial clusters which

are discharging their trade effluent and the action taken against them.

8. It will be stated in the report as to how many industries are there in each industrial cluster. The Department of Industries will furnish the complete list of industries in these clusters to the officers of these two bodies within two days from today.
9. The industries which are operating in any of the 28 industrial clusters without consent of DPCC and are causing pollution, should be served with notice of closure within two weeks from today.
10. NCT, Delhi will inform the Tribunal on the next date of hearing that what steps have been taken in furtherance to the order that was passed at the request of the Government itself that the industries operating in the residential areas should be closed as it was impossible to treat the effluents discharged by them into the various drains of the residential areas and they are operating in the non-conforming zone. This information will be provided by the NCT, Delhi, all the Corporations and other land holding agencies would provide information within one week to the concerned department of NCT, Delhi.
11. A separate list will be submitted to the Tribunal in respect of all the industries which are operating in any of the industrial clusters particularly 11 which are not connected to CETP unit, which are not having ETPs and whose ETPs are not operational and are causing pollution. Show cause notice would be issued to all such industries.

12. The CPCB, DPCC, DSIIDC, Department of Industries, Delhi and all the concerned Societies would ensure that 13 CETPs should operate effectively to their optimum level and release of any other effluent from STP/CETP should be strictly within the prescribed parameters. Similar steps should be taken by the DJB in relation to other STPs established and operated by them directly or indirectly.

13. These steps should be taken now positively without default and demur and compliance report be submitted to the Tribunal.

14. We make it clear that the concerned Secretary of these departments, NCT, Delhi and Head of Departments of all these bodies, organization, authorities and Corporations would be personally liable for compliance of these directions.

15. The Member Secretary and the Learned Counsel appearing for DPCC submit that all the concerned authorities particularly DJB, DSIIDC and Societies have already been directed to install online monitoring system to show continuous performance of these plants. We direct that online monitoring system for all the STPs and CETPs shall be installed by the concerned authorities at the earliest and compliance report be submitted to the Tribunal.

Tribunal had directed issuance of Notice to the Nurseries which were carrying on commercial activities, manufacturing concrete products, were throwing their

waste on the river bank and were also found to be burning plastic and other material on the river flood plain.

The Learned Counsel appearing for the NCT, Delhi and DDA submit that the notices were issued. However, as they have not been accepted by the persons present on behalf of those Nurseries, the notices were pasted, but none is present.

We direct Notice be issued and served to all the 38 Nurseries, the list of which have been placed before us today. Photographs showing unauthorized and illegal polluting activities are on the flood plain. Notice will be served through the SHO, Geeta Colony/concerned SHO who will ensure service to all of them and all the Noticees would be required to be present before the Tribunal and show cause why they not be directed to pay environmental compensation in terms of Section 15 of the NGT, Act, 2010.

We may notice that photographs have been placed along with this list showing illegal and unauthorized activities which are causing direct pollution and encroachment on the flood plain. Notice Returnable on 11th September, 2015.

The land, admittedly, belongs to DDA and it is stated that most of the licenses/leases have already been revoked and some of them have no right whatsoever as far as DDA is concerned.

List for the above subject matter for further directions on 11th September, 2015.

List this matter on 12th August, 2015.

.....,CP
(Swatanter Kumar)

		<p>.....,JM (M.S. Nambiar)</p> <p>.....,EM (Dr. D.K. Agrawal)</p> <p>.....,EM (Prof. A.R. Yousuf)</p>
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