

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

**Original Application No.145 of 2015
(M.A. No. 430 of 2015, M.A. No. 1059 of 2015 & M.A. No. 1060 of 2015)**

IN THE MATTER OF:

D.K. Joshi Vs. Union of India & Ors.

**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 MR. B.S. SAJWAN, EXPERT MEMBER**

Present:

Applicant : Mr. Rahul Choudhary and Ms. Pallavi Talware, Adv.

Respondent No. 1 : Mr. Panchajanya Batra Singh, Adv. for MoEF & CC

Respondent No. 2, 4,5,6,8, 11,13 & 14 : Ms. Savitri Pandey and Ms. Azma Parveen, Advs.

Respondent No. 3 : Mr. Pradeep Misra and Mr. Daleep Kumar Dhayani, Advs.

Respondent No. 6: Mr. Raman Yadav and Mr. Dalsher Singh, Adv. for State of U.P.

Respondent No. 7 : Ms. Rachana Joshi, Adv.

Respondent No. 10 : Mr. Avijit Bhushan, Advs.

Respondent No. 9 : Mr. I.K. Kapila, Adv. for U.P. Jal Nigam
Mr. Aditya Parolia, Piyush Singh and Mr. Rajeev Saxena, Adv. for Ganpati Builders
Mr. Bibhav Vatika, Adv. for Noticee

Respondent No. 12 : Mr. Ajit Sharma, Adv.
Mr. RAjendra Prasad Saxena, Adv. for Noticee No. 10
Mr. Arjun Pant, Adv. for Baibhan Batika
Mr.A.D.N. RAo and MR. Sudipto Sircar for Mangal Estate and Tanishq RAjshree Estate
Ms. Antima Bazaz, Adv. for Rahul Green and Tulip Paradise
Mr. J.M. Sharma, Sr, Adv. and Mr. Sameer Singh, Adv. for Pushapanjali Constructions and Astha City Centre.
Mr. Shivendra Gam, Adv. for Tarachand.

Date and Remarks	Orders of the Tribunal
Item No. 15 October 12, 2015 A	<u>Original Application No.145 of 2015</u> It is commonly conceded that in terms of the order dated 08 th June, 2015 all the Noticees/Builders have been served with the Notices and they are present before the Tribunal. It is further stated that all of them have filed their respective Replies to the show cause issued to them. Vide the same order we have directed the Irrigation Department and the U.P. Jal Nigam to determine the flood

plain area and physical demarcation of the area. There is some dispute as to whether the same has been complied with. However, learned counsel appearing for the State of U.P. submits that they have already filed the Map of demarcation of the flood plain and the physical demarcation has been completed. At this stage it is not necessary for us to deal with this controversy.

Further vide our dated 10th September, 2015, we had issued Notices to 10 parties who are responsible for releasing the untreated sewage into the river Yamuna. Out of them Rahul Green, Tulip Paradise and Radhavallabh Inter College are represented before us. Let all these Noticees file their Replies within two weeks from today.

As far as other 7 Noticees are concerned, Learned counsel appearing for Agra Nagar Nigam submits that they have served all the Notices and filed the proof of service before the Tribunal. Despite service of Notice nobody is present on their behalf. Consequently, we issue bailable warrant against the 7 Noticees in the sum of Rs. 10,000/- to the satisfaction of the arresting Officer, in exercise of our powers and in terms of the provision of Section 19 (4) (a) of the National Green Tribunal Act, 2010 read with Order XVI Rule 10(3) and Section 151 of Code of Civil Procedure, 1908. These bailable warrants will be issued against the President of the Residential Association of the respective colonies mentioned and will be executed through the SHO concerned. In the event the bailable warrants are not executed, the SHO shall be present before the Tribunal.

Vide same order, we had directed issuance of

Notices to the violaters who are dumping C&D waste on the flood plain of river Yamuna. They all have been served and are present before us. Let the Replies to the show cause Notices be filed by them within two weeks from today.

In the meanwhile, we direct the Irrigation Department of State of U.P. that they would file the complete report of the physical demarcation of the flood plain on river Yamuna in relation to the year 2010, as it is commonly conceded that it was in 2010 in the 25 years highest flood occurred.

We make it clear that on the next date of hearing we will not grant any further adjournment to any of the parties.

The issues that the concerned parties are at liberty to argue, are:-

1. Payment of environmental compensation in terms of Section 15 and 17 of the National Green Tribunal Act, 2010 on the above referred facts.
2. Demarcation of the flood plain.
3. Deposit of C&D waste on the flood plain or near river Yamuna.
4. That sewage is directly discharged into the river Yamuna.

We direct the learned counsel appearing for the State of U.P. and the Nagar Nigam Agra to inform us if there are any STP plants for treatment of sewage being discharged by all the builders, which are close to river Yamuna even if beyond the flood plain and what are the

schemes to recycle the treated water.

The status QUO order shall continue. We direct that nobody would pass or create any third party interest till adjudication of this Application, which we have also noticed will finally be disposed, matter on the next date of hearing.

List this matter on 04th, 05th and 06th November, 2015 for final disposal, at the end of the Board.

M.A. No. 1060 of 2015

This is an Application filed by the Applicant for impleadement. The Application is allowed without prejudice to the rights and contentions of the parties and without any party admitting the contentions in this Application. The Applicant is only permitted to intervene in the matter and address the Tribunal at the time of hearing.

Accordingly, M.A. No. 1060 of 2015 stands disposed of without any order as to costs.

M.A. No. 1059 of 2015

This Application is dismissed. The relief would be considered at the time of final hearing of the matter.

Accordingly, M.A. No. 1059 of 2015 stands disposed of without any order as to costs.

.....,CP
(Swatanter Kumar)

.....,JM
(M.S. Nambiar)

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