

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

.....

**ORIGINAL APPLICATION NO. 87 OF 2015**

**IN THE MATTER OF:**

SOCIAL ACTION FOR FOREST AND ENVIRONMENT (SAFE)  
THROUGH ITS PRESIDENT  
MR. VIKRANT TONGAD  
A-93, Sector-36  
Greater Noida  
Uttar Pradesh-201308

....Applicant

Versus

1. Union of India  
Through the Secretary  
Ministry of Environment, Forests & Climate Change  
Indira Paryavaran Bhawan, Jor Bagh Road,  
New Delhi-110003
2. Union of India  
Through the Secretary,  
Ministry of Water resources,  
River Development and Ganga Rejuvenation  
Sham Shakti Bhawan, Rafi Marg  
New Delhi
3. Uttarakhand Forest Department  
Through Principal Secretary Forest  
Uttarakhand Secretariat  
4, Subhash Road, Dehradun  
Uttarakhand.
4. State of Uttarakhand  
Through its Chief Secretary  
Uttarakhand Secretariat  
Subhash Road  
Dehradun-248 001  
Uttarakhand
5. District Magistrate  
Pauri Garhwal  
Collectorate Compound  
Pauri Garhwal, Uttarakhand
6. Indian Association of Professional Rafting outfitters (IAPRO)  
Through its authorized representative,

Mr. Mani Shankar Ghosh,  
Having its registered office at:  
29/1-A, Anekant Palace, Rajpur Road,  
Dehradun, Uttarakhand- 248005.

7. Himalayan Outdoors Ptv. Ltd.  
Through its Authorised representative,  
Mr. Prateek Kalia,  
Having its registered office at:  
Shop No. 8, Om Plaza,  
Opposite Madhuban Ashram,  
Kailash Gate, Muni Ki Reti, Rishikesh,  
Uttarakhand
8. Himalayan River Runners (India) Pvt. Ltd.  
Through its authorised representative,  
Mr. Yousuf Zaheer,  
Having its registered office at: जयते  
N-8, First Floor, Green Park,  
New Delhi- 110016
9. Aquaterra Adventures (India) PVT. Ltd.  
Through its authorised representative,  
Mr. Vaibhav Kala  
Having its registered office at:  
S-507, Ground floor,  
Greater Kailash-II  
New Delhi- 110048.
10. Snow Leopard Adventure (India)  
Through its authorised representative,  
Mr. Nandan Singh,  
Having its registered office at:  
1<sup>st</sup> Floor, CSC, Sector B-1, Vasant Kunj,  
New Delhi-110017
11. Rimo Expeditors  
Through its Proprietor  
Mr. Chewang Motup Goba  
Having its office at:  
Hotel Kanglhachen Complex, Leh,  
Ladakh- 194101, J&K.
12. Indo Ganga Holidays Pvt. Ltd  
Through its authorised representative  
Mr. Manoj Todaria,  
Having its registered office at:  
29-A-1, Anikant Palace, Rajpur Road,  
Dehradun, Uttarakhand.

13. Red Chill Adventure Sports Pvt. Ltd.  
Through its Authorised representative,  
Mr. Vipin Sharma,  
Having its registered office at:  
Room No 307 Sai Chambers 783/16,  
D.B. Gupta Road, Karol Bagh 110005,  
New Delhi.
14. J2 Adventures  
Through its Proprietor,  
Mr. Tilak Joshi,  
Having its office at:  
50, Subash Nagar, Dehradun,
15. Riverwilds.  
Through its proprietor,  
Partha Pratim Saha  
Having its office at:  
10/17 A-3, Mehrauli Ward 1,  
New Delhi 110030.
16. Questraits Adventures Pvt. Ltd.  
Through its authorised representative,  
Mani Shankar Ghosh,  
Having its registered office at:  
5L, Second Floor, Jungi House,  
Shahpur Jat, Delhi 110049
17. Alpinestor Holidays Pvt. Ltd.  
Through its authorised representative,  
Mr. Manjul Rawat,  
Having its registered office at:  
19 Vikas Lok Lane-1,  
Sahastradhara Road,  
Dehradun- 248001, Uttarakhand
18. The Adventure Journey  
Through its Proprietor,  
Mr. Anirudh Rawat,  
Having its office at:  
Muni-ki-reti, Rishikesh- 249201,  
Uttarakhand.
19. Great Northern Himalaya.  
Through its Proprietor  
Mr. Amit Bhatia,  
Having its office at:  
604, Rajendra Nagar, Street No. 4,  
Lane No 9, Dehradun,  
Uttarakhand 248001.

.....Respondents

## **COUNSEL FOR APPLICANT:**

Mr. Ritwick Dutta and Mr. Rahul Choudhary, Advocates

## **COUNSEL FOR RESPONDENTS:**

Dr. Abhishek Atrey, Advocate for Respondent No. 1

Mr. A.K. Prasad and Mr. Jaydip Pati, Advocates for Respondent No. 2

Mr. Suryanarayan Singh, AAG for Respondent No. 3

Mr. Vijay Hansaria, Sr. Advocate with Mr. Amit Anand Tiwari, Advocate for Respondent No. 4

Mr. Raunak Parekh, Advocate for Respondent Nos. 6&7.

Mr. Mukesh Verma and Mr. Bikash Kumar Sinha, Advocates for UPPCB

Mr. Amit Anand Tiwari, Mr. Vivek Singh and Mr. Vinayak Gupta, Advocates for State of Uttarakhand

Mr. D.K. Thakur, AAG State of H.P. and Mrs. Seema Sharma, DAG, State of Himachal Pradesh

Mr. Rajkumar, Advocate and Ms. Niti Choudhary, LA for CPCB

Ms. Malavika Rajkotia and Ms. Soumya Maheshwari, Advocates for IAPRO

Mr. Rituraj Biswas, Advocate

Mr. Rudra Chatterjee, Advocate

## **JUDGMENT**

### **PRESENT:**

**HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER**

**HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**Reserved on: 2<sup>nd</sup> February, 2017**

**Pronounced on: 2<sup>nd</sup> March, 2017**

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**JUSTICE SWATANTER KUMAR, (CHAIRPERSON)**

### **FACTUAL MATRIX**

Social Action for Forest and Environment - the applicant had filed Original Application No. 87 of 2015 praying that the Tribunal should direct closure and removal of the camps along the River Ganga from Shivpuri to Rishikesh as they were causing

environmental and water pollution in River Ganga and the areas where they were located. It was further prayed that there should be a regular policy for regulating such activities, which are recreational facilities for tourists. No camp should be allowed to operate in areas which are part of the forest land without specific approval under the Forest (Conservation) Act, 1980 and it was also prayed for the restoration of area and removal of garbage or any other wastes from the camping site at the cost of the camp owners in accordance with, the Polluter Pays Principle besides praying for certain other allied reliefs.

2. This application was contested amongst the parties. Besides the respondents in the main application, *vide* order dated 6<sup>th</sup> May, 2015, the Indian Association of Professional Rafting Outfitters (for short 'IAPRO') and various other parties, having interest, were also permitted to be impleaded as interveners to address the Tribunal.

3. *Vide* its detailed judgment dated 10<sup>th</sup> December, 2015, the Tribunal, after consisting certain serious deficiencies; violations of the Rules in force and serious problems in relation to environment and water pollution arising therefrom, had also noticed that requirement of sustainable tourism had to be satisfied subject to compliance of the environmental laws. Right to decent and clean environment is a Fundamental Right under Article 21 and the Right to carry on business under Article 19(1)(g) of the Constitution of India is subject to limitations imposed by law. We may notice that under our Constitution, framers have now prescribed for a specific

right and obligations in relation to the environment and it could be termed as environmental triangle comprised of Articles 21, 48A and 51A(g). The State thus cannot shirk from its responsibilities to conserve and protect the forests and environment, on the plea of earning revenue. The entire Himalayan region, stretching nearly 3200 km along India's northern frontiers is an eco-sensitive area. It is more so in the case of State of Uttarakhand where different rivers flow from the Himalayan Mountains and are the lifeline for a large population of the country. River Ganga is one of the main rivers which needs environmental protection with definite emphasis. It was noticed in the said judgment that there were permanent or semi-permanent structures raised in and around the sites. The concept of 'Back to Nature' ought not to be used for revenue generation at the cost of environment and ecology. Thus, the Tribunal issued the following directions.

1. "No camping activity shall be carried out in the entire belt of Kaudiyala to Rishikesh and the Government would abide by its statement made before the Tribunal on 31<sup>st</sup> March, 2015, till the regulatory regime in terms of this Judgement comes into force and is effectively implemented. However, we make it clear that Rafting *per se* does not cause any serious pollution of river or environment. We permit rafting activity to be carried on with immediate effect.
2. We constitute a Committee of officers not below the rank of a) Joint Secretary from the Ministry of Environment and Forests and along with a specialist in this field from the Ministry.
  - b) Secretary, Department of Environment and Forest from the State of Uttarakhand.
  - c) Member Secretary, Central Pollution Control Board.
  - d) Chief Conservator of the Forests of the concerned area.
  - e) Member Secretary, Uttarakhand Environment Protection and Pollution Control Board.

- f) Director of Wildlife Institute of India or his nominee of a very senior rank.  
Member Secretary, Uttarakhand Environment Protection and Pollution Control Board would be the Nodal Officer and Convenor of this Committee and responsible for submitting report to the Tribunal as per the directions of this judgment.  
This Committee shall be at liberty to engage any Government Institution or a private body which have expertise in the line to prepare the regulatory regime and Regime is to be submitted to the Tribunal in accordance with law.
3. The Rapid Impact Assessment Report shall be treated as a relevant document and the Committee would conduct or get conducted further survey to satisfy itself.
  4. The Committee shall consider all aspects of Environment, Wildlife, River and Biodiversity while preparing the relevant regulatory regime.
  5. The Committee shall give recommendation for all preventive and curative measures and steps that should be taken for ensuring least disturbance to wildlife and least impact on the environment and ecology.  
5(A). The Committee shall specifically report in relation to carrying capacity of the area in regard to both the activities, in view of the fragile ecology of the area. (Carrying capacity in terms of visitor per day and other environmental loads of the activity taken together).
  6. After preparation of this report which should be prepared within 3 weeks from the pronouncement of this Judgement, the State of Uttarakhand through the Secretary, Forests Department would submit a Comprehensive Management Plan cum proposal for approval to MoEF. MoEF would consider the same in accordance with the law and accord its approval in terms of Section 2 of the Forest (Conservation) Act 1980 within 3 weeks thereafter.
  7. The Committee shall ensure that it not only identifies the sites which can be appropriately used for camping activity but also the manner and methodology in which such sites should be put to use for carrying on of these activities. It is only those sites that are decided by the Committee that would form the part of the Management Plan to be submitted by the State of Uttarakhand to MoEF.

8. After grant of approval, the State of Uttarakhand shall issue an order under Section 2 of the Forest (Conservation) Act 1980 and give permits in terms of its policy.
9. We make it clear that we are not in any way entering upon the methodology that should be adopted by the State of Uttarakhand in economic and technical terms. In terms of revenue and technical aspects, the State is free to take its decisions.
10. We further direct that if the Committee is of the opinion that rafting stations and number of rafting shafts to be permitted should be more than camp sites, it may so recommend but then, those rafting stations shall be used for very limited purposes of picking up and dropping the visitors without any other infrastructure.
11. We hope that the economic interest of the State of Uttarakhand would be duly kept in mind by the Committee and it would ensure that local persons should be provided with maximum chances of employment or other financial gains resulting from this Eco-Tourism.
12. We hereby impose complete prohibition on use of any plastic in the entire belt covered under this judgment. (Plastic such as plastic bags, plastic glass, plastic spoons, plastic bottles package and such other disposable items).
13. It shall be obligatory upon every person to whom permit/license for camping is granted by the State to collect the Municipal Solid Waste or all other wastes from the camping site at its own cost and ensure their transport to the identified sites for dumping.
14. If any licensee fails to comply with these directions, the department would take action in accordance with law and it would be treated as a breach in terms of the license.
15. In this regard complete record shall be maintained at the end of the licensee of the site as well as at the dumping site, in the records of the concerned authority.
16. No structure of any kind would be permitted to be raised, temporary, semi-permanent or permanent. We make it clear that making of the cemented platforms



or bricked walls would not be permitted within the limits afore-stated.

This will be done with reference to River Ganga Data maintained by the Central Water Commission. Within these 100 meters any construction activity what so ever would not be permitted under any circumstances. Wherever the road intervenes between 100 meters defined space, in that event, the camping can be permitted across the road towards the hill side.

17. The Committee also has to make this Report in relation to source, quantum of Water and source of Power needed keeping in view the camping activity.”

4. Before we proceed further, it needs to be noticed that the said judgment has attained finality and none of the parties had questioned the correctness thereof, before the Court of Competent Jurisdiction. At this stage, we may also notice that this Tribunal, in the case of '*Indian Council for Enviro Legal Action v. National Ganga River Basis Authority*' Original Application No. 10 of 2015, had passed a detailed order on 10<sup>th</sup>/18<sup>th</sup> December, 2015 wherein the demarcation of flood plain, restrictive user and restriction of 100 meters from the middle of the river was subject matter of discussion and directions.

#### **REPORTS AND OBJECTIONS TO THEM**

5. After the passing of directions by the Tribunal in the aforesaid judgment dated 10<sup>th</sup> December, 2015, the following documents/reports came to be filed:

1. Rapid Assessment on Ecological Impacts of Camping Operations for River Rafting, between the Kaudiyala-Rishikesh along the River Ganga, State of Uttarakhand, February 2016 by Wildlife Institute of India (for short, "WII").

2. Report on Beach Camps in Ganga River, from Kaudiyala-Rishikesh, filed by the Uttarakhand Forest Department in furtherance to the order of the Tribunal dated 7<sup>th</sup> September, 2016.
3. Management Plan for Rafting beach camps and their Operations in this belt by Uttarakhand Forest Department.
4. State of Uttarakhand also filed a composite Document on Beach Camping in river Ganga, from Kaudiyala-Rishikesh.
6. We would now deal with the content, relevant for the present case, from the above reports. The Uttarakhand Environment Protection & Pollution Control Board has filed the Rapid Assessment on Ecological Impacts of Camping Operations for River Rafting, conducted by WII, for the portion in question. This report gives the Executive Summary as well as historical background with regard to river rafting as a popular sport. Thus, it deals with the carrying capacity, management plan, mitigation measures, while providing prescription for beach camping with reference to the regulatory regime. The assessment of all the camp sites, under this report, were undertaken on the scale of Wildlife Use Index, Riparian Vegetation Index, Beach Vulnerability Index and finally Cumulative Vulnerability Score were calculated by summing up the individual scores. This was then divided into Highly Sensitive Camps (Highly vulnerable to degradation), Moderately sensitive (Moderately vulnerable to degradation), Less sensitive (slightly vulnerable to degradation). The report stated that in total there were 56 beaches, out of which 8 beaches ranked as highly vulnerable and 21 as

moderately vulnerable. Out of the total, 38 beaches were recommended for beach activity and 18 beaches were specifically not recommended. These were 7, 13, 17, 19, 20, 22, 30, 33, 35, 37, 43, 45, 46, 48, 51, 52, 53 & 54.

7. Assessment of the width of the river at every 1 km interval, between Kaudiyala and Rishikesh, revealed an average of 88 m (bank to bank) of River Ganga. The maximum width of 170 m was observed at Laxman Jhula, near Rishikesh. 56 beaches were studied and they were mapped (34 on the right bank along the Rishikesh-Srinagar road; 22 on the left bank). Prior thereto there were 108 camps in existence and operational within this area of 36 km. On the basis of rapid assessment of beach camping operations carried out along the river bank, as already noticed, only 38 beach camping sites were recommended for beach camping activities, while 18 beaches are not recommended. The net area available for beach camping of 38 beach sites is estimated as 3,41,042.8 sq. meter, where a total number of 1364 tents can be pitched. This report recommended that given the topography of the mountainous terrain, camping within 100 meters from the middle of the river, if regulatory regime is strictly followed, would not harm the environment. A multi-institutional monitoring committee comprising of representatives from the Revenue, Forest and Tourism Departments including representatives of the Uttarakhand State Pollution Control Board, professional rafting associations, scientific institutions/university may be constituted to ensure compliance of 'Do's' and 'Don'ts' for operating the rafting and beach

camping operations, so also to monitor ecological and economic parameters. The objective of the management plan is to maintain the sanctity of the River Ganges by optimizing the local as well as regional, socio-economic and cultural benefits of rafting and beach camping along the river without impacting the ecological and environmental assets of the Himalayan region. The failure to follow best management practices and the rapid proliferation of river rafting camps along river Ganga has resulted in legitimate concerns regarding the environment. Although, this stretch of river Ganga has been designated as an eco-tourism zone, the carrying capacity of the number of camps had not been assessed. The mitigation measures included: human waste disposal, disposal of other solid wastes, campfire and fuel wood requirement, impact on wildlife as well as the adjoining forest and social issues. Being an ecotourism activity, beach camping essentially has an impact on socio-cultural and economic issues of local areas and its people. It also suggested that the best management practices are those which reduce impact of camping on the environment. The following are the best management practices, prescriptions and major steps in the regulatory regime that have been stated in this report:

**“Management Plan:**

Best management practices are actions recommended to reduce impact of camping on the environment. A generic guidance on management practices for minimizing environmental impacts of camping sites are:

**Planning Awareness and Safety drills:**

- Know the regulations and special concerns for the area you'll visit.
- Beach camp operators should ensure proper safety drills.
- Prepare for extreme weather, hazards; and emergencies.

- Schedule your trip to avoid times of high use.
- Visit in small groups when possible. Consider splitting large groups into smaller groups.
- Repackage food to minimize waste.
- Use a map and compass to eliminate the use of marking paint, rock cairns or flagging.

**Travel and Camp on Stable/Specified Surfaces:**

- Durable surfaces include established trails and campsites, rock, gravel, dry grasses or snow.
- Protect riparian areas by camping at least 200 feet from lakes and streams.
- Good campsites are found, not made. Altering a site is not necessary.
- In popular areas:
  - Concentrate use on existing trails and campsites.
  - Walk single file in the middle of the trail, even when wet or muddy.
- Keep campsites small. Focus activity in areas where vegetation is absent.
- In pristine areas:
  - Disperse use to prevent the creation of campsites and trails.
  - Above places where impacts are just beginning.

**Waste Disposal:**

- Pack it in, pack it out. Inspect your camp site and rest areas for trash or spilled foods.
- Pack out all trash, leftover food and litter.
- Pack out toilet paper and hygiene products.
- To wash yourself or your dishes, carry water 200 feet away from streams or lakes and use small amount of biodegradable soap. Scatter strained dishwater.

**Erection of Camp site:**

- No permanent structure should be erected for any purpose at any of the camp site.
- The number of tents established should be in proportion to the area available in the beach as per the report of WII.

**Leave Minimum Footprints:**

- Preserve the past: examine, but do not touch cultural or historic structures and artifacts.
- Leave rocks, plants and other natural objects as you find them.
- Avoid introducing or transporting non-native species.
- Do not build structures, furniture, or dig trenches.

**Wildlife Protection:**

- Observe wildlife from a distance. Do not follow or approach them.

- Never feed animals. Feeding wildlife damages their health, alters natural behaviours, and exposes them to predators and other dangers.
- Protect wildlife and your food by storing rations and trash securely.
- Control pets at all times, or leave them at home.
- Avoid wildlife during sensitive times: mating, nesting, raising young, or winter.

### **Livelihood and Socio-economics**

- The activity should be in consonance with local culture.
- Be courteous. Yield to other users on the trail.
- Local people should be involved and activity should be able to generate employment for locals.

### **PRESCRIPTIONS FOR BEACH CAMP MANAGEMENT:**

1. Beach camping activities to be carried out only on the sites which have been declared fit by the study of the referred Wildlife Institute of India in order to maintain the long term ecological sustainability of the river and the adjoining area. Beach camping areas will be allotted to only those having valid rafting permits.
2. The case of camping activity in the reserve forest areas are activities which are for non forest purpose or are non forest activity in the forest area. These cases would attract the provisions of the Section 2(ii) and (iii) of the Forest Conservation Act, 1980. It is obligatory upon to seek prior approval from Ministry of Environment, Forest and Climate Change in terms of Section 2 of the Forest Conservation Act.
3. Camp operators should be instructed to separate biodegradable and non-biodegradable waste before disposal. There is a complete prohibition on the use of any plastic, such as plastic bags, plastic glass, plastic spoons, plastic bottles package and other disposable items, in the entire belt of the beach camp along the river Ganga.
4. Brighter lights should not be used in the beach camp area. Lighting will be limited only within the tent in night. Bright illumination will not be allowed. Lanterns and solar energy will be used only for running lights. The camps will not be allowed to light up after 9.00 p.m.
5. The use of Radio, Video, Tape-recorder, Music instruments, group singing and dancing will be prohibited in camp sites.
6. It will be obligatory upon every person to whom permit/license for camping is granted by the state to collect the Municipal Solid Waste or all other solid wastes from the camping site at its own cost and ensure their transport to the identified sites for dumping.
7. No structure of any kind would be permitted to be raised, temporary, semi-permanent or permanent. We make it

- clear that making of the cemented platforms or bricked walls would not be permitted within the area.
8. Flush toilets/Dry pit toilets should be strictly prohibited. Bio-toilets/digester would be used by all the beach camp operators in order to ensure waste discharge from the toilets in proper and hygienic manner.
  9. There will be complete ban on any type of camp fire in the beach camp areas.
  10. Use of permanent structures specifically toilets and kitchens in the Beach camps will be totally banned.
  11. The period of beach camping will be in between 1<sup>st</sup> October to 15<sup>th</sup> June or before the onset of monsoon.
  12. The number and locations of pick up points and drop points (apart from beach camps) will be fixed and should be strictly followed. These points will have establishment of forest guard chauki and will be manned by forest staff during the camping season.
  13. All the pickup and drop points should have surveillance system by closed circuit television cameras and may be monitored at divisional office in real time.
  14. There should be separate administrative unit to work under Shivpuri range to look a senior forester or deputy range officer of the range.
  15. Sufficient number of staff should be dedicated to this unit for the effective implementation of the various rules and regulations and the relevant regulatory regime being submitted with this plan. The staff should be equipped will torches, binoculars, cameras and other ancillary equipments which may be required to implement the regulatory regime in the beach camp area.
  16. Process for renewal of existing licenses and issue of new licenses should be laid down by the forest department or revenue department as the case be.
  17. A committee should be established to be headed by Sub District Magistrate or sub Divisional Forest Officer as the case may be, to assess the implementation of the various guidelines and compliances of all conditions laid. It will also submit its report to concerned DFO or DM as the case may be.
  18. Other ancillary activities like bird watching, trekking, rock climbing, rapling and Burma bridge etc. should be allowed along with the beach camping activities in the area.
  19. Parking of any vehicle at the beach site will be strictly prohibited. Nor any vehicle should be allowed to go beyond metalled road towards the beach camps under any condition.
  20. There should be an entry fee for each person entering and residing in the beach area. Part of this money should be revolved for the infrastructure development for the beach camping regulations.

21. Proper safety drills should be by the camp operators. The quality of all equipments used for beach camping/rafting should be conforming to the international standards.
22. Beach camping and river rafting is an ecotourism activity. So, it must be in consonance with local culture and ethos of the area. Local people must trained in these specialised activity. The activity should be structured in such a way to generate sufficient and due employment for the local people.

### **REGULATORY REGIME:**

Following major steps are proposed to strengthen the regulatory regime to protect Environment and ecology of the entire belt of Kaudiyala to Rishikesh along the river Ganga.

1. Divisional Forest Officer/Competent Authority of Revenue department will give permission to camps in the identified/designated areas.
2. Persons/visitors residing in the camps will not be allowed to keep fire weapons as well as explosive material.
3. The responsibility of fire safety in the nearby area of camp site will be of the authorised/registered company.
4. The generators for the lighting purpose and pumps to full fill the water requirement in which fuel used is diesel/petrol/kerosene is prohibited.
5. During the night time lighting should be centralised inside the tent. Intense lighting is not allowed. Only lantern and solar energy will be used for lighting purposes in the tents.
6. Use of loudspeakers and equipments like amplifiers/speakers is prohibited. If group activities like singing etc. take place sound level shall not exceed 10 dB(A) above the ambient noise standards for the area or 75dB(A) whichever is lower.
7. Radio, Video, Tape recorder, community singing/playing, use of cracker and fire work, musical instruments is prohibited in the camp area.
8. In the camp area garbage should be collected at the designated site in such a way that it is not allowed to be scattered in the camp area. The company will manage to transport collected garbage to the dust bins of nearby Municipalities/Town area. In any condition the garbage is not allowed to be thrown in the river nor allowed to be burned or buried in the camping area.
9. For human waste/sewage only Bio-toilets and common bio-digester shall be permitted outside the flood plain zone of the river.
10. The area declared/identified as wild life corridor by forest department, shall be strictly prohibited for camping.
11. The kitchen utensils shall not be cleaned with detergents. Cloth washing shall be strictly prohibited in the camp site.



12. Forest Officer/competent authority of other department shall have the rights to check (inspect) the camp area, tents and instruments used in rafting at any time.
13. The camping & rafting permission will be cancelled if found to be in breach of imposed conditions and action will be initiated under the Indian Forest Act, 1927/Wild Life Protection Act/Sarai Act and other relevant acts and rules made there under.
14. River rafting team or members and organisers will establish temporary camp, tent at those places only where the permission is given by District Forest Officer/competent officer of other department.  
The duration of the temporary camp will be decided by the Director General Tourism and also it will be only within their jurisdiction to increase or decrease the duration.
15. The organisers and team members of river rafting shall not use wood for cooking but only use of PLG/Kerosene will be allowed. Campfire will be strictly prohibited on the bank of river.
16. No fishing is permissible during rafting activity.
17. The member and organiser of river rafting shall construct temporary bio-toilets/common bio digester and at the end of session these shall be shifted to safer places outside the river flood zone. In no circumstances discharge of human excreta, urine, detergent, solid waste in the river shall be permitted so as to maintain the quality of the river.
18. Consent to establish should be taken by new camps and consent to operate for the operation under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 as amended.
19. Water quality monitoring at upstream of Kaudiyala, upstream of Shivpuri and Upstream of Laxmanjhula will be carried out by UEPPCB at 30 days intervals.
20. The solid waste generated from the camp will be the responsibility of the member/organiser of beach camp to collect from the camping site at its own cost and ensure their transport to identified sites for dumping or the application of the suitable Bio-digestible technology.
21. Complete record of the visitors as well as the waste generation and its disposal shall be maintained.
22. Structure of cemented platform or bricked wall of any kind is not permitted.
23. Prohibition on use of any plastic as plastic bags, plastic glass, plastic spoons, plastic bottles package and such other disposable items.”

8. In the latter part of this report, the details of the survey conducted during the preparation of the Rapid Assessment Report have been given in relation to all the attributes like objectives,

vulnerability, carrying capacity and details of each beach have been dealt with in greater detail with documents, statistics and photographs.

9. The WII report has been challenged by the State Government on the ground that it has been prepared by conducting survey for 24 hours in the motor boat and therefore it cannot be relied upon by the Tribunal for the purpose of determining the carrying capacity or to assess the environmental impacts on river rafting and beach camps on river Ganga as well as other environmental issues. The applicant also has raised certain objections with regard to beach no. 1 and 2, as they have been assessed Highly Vulnerable but they have still not been shown in the sites which are highly vulnerable for beach camping. In fact, they should have been shown under the head 'not recommended' and therefore, the number of beaches, not recommended beaches should have been 20 instead of 18. Though, they have been shown as 'not recommended' but they have not actually been added in that list. Further, the applicant submits that the arithmetical formulae adopted in the report cannot be applied universally and there has to be a proper study in greater depth taking various aspects into consideration. The applicant also points out that the impact on wildlife has not been appropriately appreciated in this report. The report is based on one season while during other seasons such as during the summers the wildlife activity is entirely different. Camp site no. 50 is contradictory to the report of the WII itself as well as scientific reasoning, and therefore the same ought not to be permitted. The WII report at para 4.1.1 at

page 10 has examined the significance of the tributaries and feeder streams to the river Ganga, which are important for breeding of fish and the report has categorically mentioned that these areas should be free from any kind of human disturbance (such as beach camping).

10. The regulatory regime suggested is not comprehensive and it only intends to shift the burden to the State of Uttarakhand. Lastly, the applicant has contended that there has been total failure of proper regulatory regime in relation to holding of the beach camps and rafting in the State of Uttarakhand. He has heavily relied upon the judgment of the Tribunal dated 10<sup>th</sup> December, 2015 and the records produced by the concerned stakeholders, including State Government, to support his contention that the failure of proper regulatory regime has caused substantial damage to the environment and ecology and has polluted River Ganga, as a consequence thereof. According to the interveners also, this report is not complete and comprehensive and it has excluded the beach camps which ought to have been included in the list of recommended sites. It is their case that the restriction of 100 meters has no basis and the same needs to be relaxed. Even the beaches which fall within 100 meters from the middle of the river should be permitted to be operated as it will cause no harm. The interveners claim to be very environmentally cautious and would take all measures to ensure proper implementation of the regulatory regime.

11. Another aspect which can be noticed in relation to this report is that in the clarification sought by the State, it was stated by the Wildlife Institute of India that Beach no. 1, 2 and 50 fall within private land and, therefore, are not under the control of the State Government and hence not included in the 'not recommended' list. The High Powered Committee appointed by the Tribunal, while dealing with some objections, were of the opinion that whether the land in question is privately owned or government owned, irrespective of the ownership of the land, the regulatory regime would be applicable in all its rigour and these beach camp sites being highly vulnerable should be included in the list of 'not recommended' beaches for camping activities. The WII also clarified specifically that Beach no. 26 & 44 are located on the true left bank of the Ganges and fall within the limits of Rajaji Tiger Reserve and therefore they should be included in the 'not recommended' list. This brings the figure of 'not recommended' sites to 23, 2 added in the same category later by an affidavit submitting that it was closer to Rajaji Tiger Reserve and 3 being highly vulnerable and in private properties.

12. The Management Plan submitted by the Uttarakhand Forest Department described Rishikesh as a small town by the foothills of Garhwal Himalayas and referred to it as the "Yoga Capital of the World". It is stated to be a popular destination among foreigners and river rafting is one of the most popular adventure sports in Himalayan Rivers. The limited river rafting activity was offered by local entrepreneurs in 1980s. With the passage of time, it

expanded and currently there are about 35 beach camp sites on forest land, 20 on revenue land and 20 on privately-owned land in Rishikesh between Kaudiyala and Lakshaman Jhula. Purpose of preparing a management plan is to regulate the rafting and beach camping along the Ganga river near Rishikesh. The objective is to maintain the sanctity of the Ganges by optimizing the local and regional, socio-economic and cultural benefits of rafting on Ganges in Uttarakhand without affecting the ecological and environmental assets of this Himalayan region. It is important to rationalize the annual and daily operating time, number of rafts and rafting camps. Due to failure to follow the best management practices, the rapid proliferation of river rafting camps along river Ganga has resulted in legitimate concerns. The exponential growth of camping sites in past five years has led to major concerns on damage to the riparian forest, wildlife and pollution along Ganga. The guidelines issued by the Forest Department based on Rapid Impact Assessment study carried out by the WII in 2010, had in some elaboration described the guidelines that should be followed for the purposes of carrying on rafting activity. The environmental aspect of beach camps need to cover both positive aspects (opportunities and potential for sustainable use of environmental assets) as well as the negative impacts (for example, problem of environmental degradation and pollution) that had to be central to the development of safeguards for addressing the impacts of camping sites in the Rishikesh-Kaudiyala stretch. While dealing with the precautions in relation to planning, awareness and safety drills,

travel and camp on stable/specified surfaces, disposal of waste properly, erection of camp sites, leave minimum footprints, minimise campfire impacts, wildlife protection, livelihood and socio-economics, the recommendations have been made with specific reference to different beaches. The total area in the 56 beaches for camping is 464102 sq. m. and the area available in 38 out of 56 beaches is 341042.8 sq. m. The total number of tents that could be pitched in 38 beaches are 1364 and as per the Management Plan it was recommended that multi-institutional monitoring committee comprising of different department including professional rafting association should be made responsible for operating the rafting operations, monitoring of ecological and economic parameters. Finally, the management plan identifies the 'Do's' and 'Don'ts' as follows:

“Do's and Don'ts

1. All beach camps will be erected in places, which are recommended by WII, with the permission of respective DM and DFO, Narendranagar. The approach road which is prescribed for link between main road and campsite by forest department will be followed by camp owner, their staff and tourists.
2. This will be responsibility of camp owner to inform concerning Range Officer immediately about setting up camps in allotted places.
3. No Raft will run after 6.00 pm in River.
4. No person is allowed to keep Firearms and explosive in the camp site.
5. During the period of beach camping, no person will be allowed for catching fish or any other wild life and their hunting.
6. The responsibility of fire protection in Forest areas around the camp will be on the allotted camp owner.
7. The use of generator for lightning and use of diesel/petrol/kerosene oil generated pumps for water supply in camps will be totally prohibited.
8. Lighting will be limited only within the tent in night. Bright illumination will not be allowed.

Lanterns and solar energy will be used only for running lights. The camps will not be allowed to light up after 9.00 pm.

9. The use of Radio, Video, Tape-recorder, Music instruments, group singing and dancing will be prohibited in camp sites.
10. The use of Cracker and Fireworks in camp site will be strictly prohibited. Similarly there will be strict prohibition on any type of camp fire at the beach camp.
11. The collection and disposal of garbage in camp site will be done in a fixed place so that it has not spread in camping site. The Collected litter bins will be lifted by the camp owners themselves into the nearest municipal garbage dumping area. In any case, no garbage will be thrown into the river nor will be lit in the camp site.
12. Flush toilets/Dry pit toilets should be strictly prohibited. Bio-toilets/digester would be used by all the beach camp operators in order to ensure pure waste discharge from the toilets. The number and place to erect such toilets will be told by the concerning Range Officer.
13. Any part of beach or any area which is marked for the safe movements of Wildlife by the Forest Officers will not be used for establishing beach camping.
14. The fuel wood will not be used for cooking in any camp site. The food can be cooked only by using LPG or Kerosene oil.
15. The use of detergents for cleaning pots and cloths in camp site will be prohibited.
16. The Forest Officers can check campsite, tents and instruments used for camping and rafting anytime.
17. The Camp owners must employ locals in various capacities to perform best duties.
18. The Camp Owners must provide skill development trainings to their staff for their capacity building in Camp management, cooking, Guest relations, store keeping, accounting, logistics planning as well as Wilderness First-Aid etc.
19. The Camp Owners must follow all the rulings of Forest Department.
20. In case of the violation of any above mentioned rules, the permission given for rafting and camping will be cancelled immediately and the legal action will be taken against the camp owner under Indian Forest Act 1927, Wild Life Protection Act 1972 and other concerning rules.”

13. The applicant has raised certain concerns about the Management Plan prepared by the State of Uttarakhand. It is averred that the plan does not provide the methods for creating awareness amongst visitors in relation to 'Do's' and 'Don'ts' and the consequences thereof. It also does not provide specific guidelines to take care of the violations which had been admittedly committed in relation to the previous guidelines of 1995. The report is vague and toothless about controlling of noise pollution and such activities which should be totally prohibited upon the beaches to prevent environmental degradation and proper pollution control. The members of the rafting associations should not be included as part of the supervisory regime as there will be conflict of interest.

14. After passing of the judgment of the Tribunal dated 10<sup>th</sup> December, 2015, the matter came up for hearing before the Tribunal on different dates. On 24<sup>th</sup> February, 2016, the learned Counsel appearing for the State of Uttarakhand submitted that the report filed on record was acceptable to them and they did not propose to file any objection to the report. In fact, in furtherance to the said report they had filed the management and regulatory regime to MoEF&CC. Consequently, MoEF&CC was directed to take a final decision with regard to both these aspects. When the matter came up for hearing on 21<sup>st</sup> March, 2016, the learned Counsel appearing for the State submitted that in all there are 56 camping beaches and out of these only 38 have been found to be appropriate sites by the WII in its report. Out of these 38 camping beaches, 20 are located in forest area requiring forest clearance from MoEF&CC



for which steps have been taken and same is pending. The remaining 18 beaches do not require Forest Clearance (for short, "FC") and the regulatory regime and management plan in regard thereto have already been submitted to MoEF&CC. The management plan and regulatory regime in relation to 18 beach camping sites had been approved by the MoEF&CC vide their letter dated 17<sup>th</sup> March, 2016. Copies of these documents were placed on record and parties were granted time to file objections. On 20<sup>th</sup> July, 2016, Tribunal was informed by the State that there was definite progress in the matter and the report was under finalization and that the final meeting was fixed for 20<sup>th</sup> July, 2016, immediately thereafter the report would be filed. They were directed to file reply positively within one week from the date of the order dated 20<sup>th</sup> July, 2016. The report was filed eventually and taken on record on 3<sup>rd</sup> August, 2016 by the Tribunal. Vide order dated 23<sup>rd</sup> August, 2016, the State was also directed to file detailed information in relation to rejection or acceptance of the beach for carrying on of rafting and camping activity and the reasons in support thereof. The MoEF&CC through its Counsel had informed the Tribunal on 22<sup>nd</sup> December, 2016 that the Management Plan and Regulatory Regime and the report of WII had already been approved by the Ministry. FC Stage-I for 18.367 hectares of forest land has already been cleared and Stage-II clearance has not been granted, as the State of Uttarakhand has not responded to the queries raised by the Ministry vide its letter dated 5<sup>th</sup> August, 2016, and the Tribunal noticed these facts in its order dated 22<sup>nd</sup> December, 2016. It also

noticed that the primary questions that would remain to be considered by the Tribunal in view of the submissions made as per that order are as follows:

“The Learned Counsel appearing for the Ministry of Environment, Forest and Climate Change submits that they have already cleared and approved the Regulatory Regime, Management Plan and Wildlife Institute of India (WII) report. He further submits that even Stage-I of Forest Clearance of 18.367 hectares of forest land has already been cleared, however vide their letter dated 05th August, 2016 wherein they have raised certain queries which have not been responded and therefore Stage-II clearance has not been granted by now. We direct the State Government to respond to the said letter and attend personally meeting held with the Regional Office of Ministry of Environment, Forest and Climate Change within one week from today and MoEF would take a final view there upon within two weeks thereafter and place decision thereof before the Tribunal for acceptance and issues of further directions as may be necessary. The Applicant as well as intervener have filed their submissions raising certain issues with regard to the regulatory regime as well as to the report of the Wildlife Institute of India. Now there will be two matters to be examined by the Tribunal:-

1. Approval of Ministry of Environment, Forest and Climate Change to the Wildlife Institute of India’s report, Regulatory Regime and Management Plan in this regard. We would hear the application as well as the Intervener besides the State Government.

2. Issue which is most material to be determined is the Beaches list which have been submitted by the State as recommended and not recommended conditions is raised that even if the Beach falling within the 100 meters in the middle of the river still would be permitted.

We shall examine these issues on the next date of hearing. Except hearing on the above issues this matter stands closed for all other purposes.

List this matter for hearing on 18th January, 2017 at the end of the board.”

However, subsequently the Counsel appearing for MoEF&CC informed that, in principle, Stage-I clearance has been granted, however, it is subject to clarification with regard to area for afforestation and number of beaches

allowed. He further stated that, Stage-II clearance was pending consideration and would be processed only after Stage-I clearance is specifically granted.

15. It is in light of the above orders passed by the Tribunal that State of Uttarakhand filed another detailed report on beach camps in river Ganga from Kaudiyala – Rishikesh on 23<sup>rd</sup> September, 2016. In this report, the parameters taken into consideration to decide for selection or rejection of beach were stated to be fish spawning, wildlife rich area and high beach vulnerability. The vulnerability assessment was based on the following criteria :

- a. Distance to human habitation and road.
- b. Width of the beach.
- c. Location and type of kitchen/toilets.
- d. Proportion of the forested habitat used for camping.

16. This survey was conducted from 15<sup>th</sup> to 18<sup>th</sup> September, 2016 and the presence of wildlife, proportion of beach area coming within 100 meters and reasons for recommendations/non-recommendations were collected and documented in the report. In the report, it was also mentioned that the camping activity is carried out in various parts of the world, particularly on an island in River Thames in United Kingdom. Apart from this, camping and other adventure activities are carried out near Nantcol waterfalls hugging a riverbank, Bungay in Suffolk, river Wharfe in North Yorkshire; to name a few places. In the United States of America, river beach side camping is conducted at several places like

Kittatinny in Pennsylvania. River Beach Campsites are located on the scenic Delaware river and Cummins Creek. In Russia, camping activity is carried out near the Russian river. Campsites can be found all over the Russian river resort area with proximity to Armstrong Redwoods, Russian river beaches, the Sonoma coast and Sonoma wine country.

17. However, they hasten to add that there is no parallel to this kind of temporary beach camping over 8 to 9 months of a year available in the world.

Then the report proceeds to discuss each beach number with general comments, area falling within 100 meters, location of each beach, presence of wildlife and vulnerability or otherwise of the beach. This study finally noticed the recommendations or otherwise of the Committee in relation to each beach. Out of the total 56 beaches, they recommended 33 beaches while not recommending 23 beaches. In the recommended 33 beaches even the beaches falling within 100 meters distance from the middle of the river were recommended.

18. There were also certain objections raised by the applicant to this report. The applicant stated that the report was irrational and to some extent contradictory. It was averred that the beach sites in question have not even been visited by the Forest Department or the Committee. Beach no. 1 had all through been permitted to be exploited by the Forest Department and the Government of Uttarakhand, while in the report it was stated that

the beach was highly vulnerable and therefore is not recommended, as its rapid use will have adverse impacts upon the original pristine nature. Similar was the objection with regard to beach No. 2 and 50. The applicant also stated that the actual survey was not conducted and major part of the report is copy pasted from the report of the WII afore-referred. It was also pointed out that the State Government's report is deficient in many ways. During the inspection by WII, the utilization of various beaches by wildlife with specific footprint, etc. were noticed. How could after a month, the same foot impression be noticed with similar distance by the representatives of the forest department. The report is merely an eyewash.

19. It is also placed on record that in relation to beach no. 3 in the earlier reports filed it was shown that 0.66% of the site was within 100 meter. However, in the final report it has been stated that no area of the beach falls within 100 meters. After filing the above reports and documents on record and during the course of arguments, the parties concerned were *ad-idem* that there are 56 sites for beach camping, out of which 23 have not been recommended for carrying on of such activities on different grounds, while 33 beaches have been recommended. Out of these 33 recommended beaches, 20 require F.C., while 13 do not require F.C. and 3 beaches fall completely outside the distance of 100 meters from the middle of the river Ganga. 8 beach sites, fall entirely within the distance of 100 meters from the middle of the river. Remaining 22 beaches fall partially within the distance of 100

meters from the middle of river and partially beyond 100 meters. The State Government and the IAPRO have, therefore, vehemently contended that the imposition of prohibition on having any camping site within 100 meters by the Tribunal should be relaxed and all 30 sites which fully or partially fall within 100 meter should at least be permitted to be utilized for beach camping. Depending upon such relaxation, the objections by MoEF&CC in relation to providing land for afforestation should be directed to be complied expeditiously and Stage-II F.C. should be granted as the State has already complied with all other requirements of the letter dated 5<sup>th</sup> August, 2016, particularly in view of the fact that the management plan and regulatory regime in relation to carrying on operation of beach camps and rafting sites has already been approved by the MoEF&CC. In light of these facts, the controversy before the Tribunal falls within a very narrow compass.

### **DISCUSSION ON MERITS**

20. It cannot be disputed that river rafting is one of the significant components of eco-tourism. It needs to be encouraged but with a clear mandate that it should not cause any environmental and bio-diversity degradation particularly in relation to the flood plains and the forest areas adjacent to the sites identified for river rafting. The reports including the Regulatory Regime that we have afore-referred makes an exception to this rule. They, in fact, unambiguously spell out the Do's and Don'ts in relation to camp sites and river rafting, as the Precautionary Principle in terms of Section 20 of the National Green Tribunal Act, 2010 (for short, "Act of 2010") would come into

play. The precautions that the stakeholders including the regulatory authorities are required to take are with regard to selection of camping sites, protection of aquatic life, sanitation and waste management, carrying capacity, restorative measures for damage to the ecology, bio-diversity and environment. Another very important aspect which requires all concern is the protection of wildlife and avoidance of man-animal conflict. All the reports have categorically expressed that there has been degradation of environment and ecology because of the camping activity being carried on in an indiscriminate manner and without following the prescribed guidelines, in fact the reports indict the authorities for lack of regulatory or supervisory control. With reference to these reports, the State of Uttarakhand has already prepared the Management Plan as well as the Regulatory Regime which have been approved by the MoEF&CC in exercise of its statutory powers. We also find no patent errors in these two documents. However, they shall be subject to the orders and directions passed in this judgment.

21. The first aspect that we are required to deliberate upon is with regard to site selection of the beach camping activity in terms of these reports. As already stated, out of 56 sites upon which camping activity was going on for this period, the WII and the State Government in the Management Plan and the final report submitted before the Tribunal, have found that 23 sites cannot be permitted to be utilized for site camping for variety of reasons that have been stated in their report. Amongst others, it includes the sites having

high beach vulnerability, high wildlife use, high forest area utilization, fish spawning ground and small unused beaches not suitable for camping, this was because of space limitation and dynamic nature of beach formation.

22. This aspect of the report is being fully supported even by the applicant, however, according to the applicant there should still be a large number of beaches which must not be used for beach camping. The State of Uttarakhand has also not opposed the rejection of 23 sites. In fact, the report of the State itself is in conformity therewith. The interveners do have certain reservations on the number of rejected beach sites for beach camping. According to them, some of the rejected beaches could be permitted to be used for the activity, subject to more stringent regulatory measures.

23. Out of the 33 sites recommended for beach camping, 3 fall entirely outside the restriction of 100 meters imposed by the Tribunal in various cases, 8 sites are wholly within 100 meters while the remaining 22 sites are partially within 100 meters and partially outside 100 meters. This data is based upon actual physical survey conducted by the different teams, i.e. under the WII report and the other, under the report submitted by the State. Thus, we would not be willing to entertain any objections with regard to this data. Resultantly, 8 sites which wholly fall within 100 meters cannot be utilized for camping sites unless the restriction is relaxed by the Tribunal. The suitability of 22 sites which partially fall within and partially outside 100 meters needs to



be examined at this stage. As per the chart filed by the State of Uttarakhand in terms of area in percentage within or outside 100 meters, it is pointed out that it varies from 18.65% to 98.35%. From the chart prepared with reference to these reports and placed on record, it is evident that there is only one beach of which 50% to 60% of the area falls within the restriction of 100 meters. There are 3 beach sites whose land area between 60% to 70% falls within the restriction of 100 meters. There are 3 sites whose area between 70% to 80% falls within the prohibited area. There are 2 sites whose 80% to 90% area falls within prohibited zone. Still, there are 4 more sites whose 90% to 100% area falls within the prohibited area. There are 8 sites which are entirely located in the prohibited area in terms of the directions passed by the Tribunal. There are nearly 6 other sites whose 80% to 100% area falls within the limits of 100 meters from the middle of the river. The fundamental issue that we have to consider is whether restriction of 100 meters from the middle of the river is required to be relaxed or not. Secondly, whether 22 sites which are partially within as well as outside the 100 meters restriction should be permitted to be utilized for camp activity or not.

24. This would depend on various factors but more importantly upon the effectiveness of the Regulatory Regime on the one hand and disciplined carrying on of camping activity by all the stakeholders on the other hand. The State Government and the Interveners have vehemently contended that all the sites particularly the 22 sites which are partly within and partly outside

the restriction of 100 meters should be permitted to be used for camping activity in their entirety. In other words, there should be a complete relaxation of 100 meter restriction in relation to these sites. As already noticed, the applicant and MoEF&CC have argued in support of 100 meter restriction. The WII in its report has indicated that the restriction of 100 meter could be relaxed and camping activity could be permitted subject to strict application of the Regulatory Regime. The recommendation of WII is conditional. If that condition is incapable of compliance, the said institute is not in favour of relaxing the restriction. It is the undisputed case before the Tribunal that both the regulatory and supervisory regime had completely failed. Once these regimes are rendered in-effective, the damage to nature, environment and ecology is irretrievable.

In the main judgment of the Tribunal dated 10<sup>th</sup> December, 2015, this aspect was dealt with at great length. It was found that there was complete abuse of regulatory powers and the supervision by the Forest Department and the other Governmental agencies was negligible. A number of people had been challaned and even cases have been registered for violation of conditions of allotment and non-compliance of the statutory requirements. Not only this, it also came to light that the authorities responsible for granting permissions for camp site had practically truncated the prescribed procedure and the three tier system for granting such permission at different levels of the hierarchy at the this stage, was completed within 24 hours. This was clearly demonstrated by the records produced before the Tribunal by the Governmental authorities that

the large number of defaulters included people carrying weapons, drinking on the beaches and even raising permanent/concrete structure at the camping sites. The illegal and improper activities at the camping sites led to the pollution of river Ganga, forest areas and there was violation of the norms and guidelines with impunity. It was in light of these peculiar circumstances prejudicial to the environment and ecology, that the Tribunal had imposed various restrictions including that there will be no activity carried on within 100 meters from the middle of the river Ganga amongst other restrictions and directions issued in relation to survey, study and preparation of Management Plan And Rapid Impact Assessment Report. Historically and with reference to prior experience, it is evident that the restriction with regard to 100 meters must stay atleast for the period till there is proper Regulatory Regime in place and is implemented satisfactorily. There has to be proper supervision by all the concerned authorities including camping activity being carried on in a very disciplined manner by the stakeholders that such relaxation or removal of restriction could be considered by the Tribunal.

25. We may also notice here that besides placing a restriction of 100 meters in the main judgment of '*Social Action for Forest and Environment vs. Union of India & Ors.*' (supra) Original Application No. 87 of 2015, the Tribunal had also placed similar restriction for detailed reasons recorded in the case of '*Indian Council for Enviro Legal Action v. National Ganga River Basis Authority*' Original Application No. 10 of 2015 and '*M.C. Mehta vs. Union of India &*

Ors.’ Original Application No. 200 of 2014 *vide* its judgment dated 10<sup>th</sup>/18<sup>th</sup> December, 2015. In this judgement while the Tribunal was primarily dealing with the issue of demarcation and fixation of Flood Plains it took note of the recommendations made by the MoEF&CC with respect to ‘no-go areas’, the Tribunal also noticed the orders passed by Hon’ble High Courts of Uttarakhand and Uttar Pradesh as well as directions of the Hon’ble Supreme Court of India while discussing the requirements of demarcation of flood plain and restriction of 100 meters or more, the Tribunal held and issued directions as follows:

“73. In light of the above, now we have to consider what should be the prohibited and regulated area in the flood plain. We do find substance in the submission of the State that complete prohibition or absolutely restricted activity in 500 meter from the flood plain may not be an imposition in accordance with the Principle of Sustainable Development. This is a State with peculiar geographical and economical conditions. Although it is an eco-sensitive area with a fragile ecology but still it has to develop within such limitation. Eco friendly activities or tourism has to be encouraged. As far as hydropower projects are concerned, they are pending for adjudication before the Hon’ble Supreme Court of India, thus, we not wish to deal with that aspect at all. In the present case, we are primarily concerned with pollution of river Ganga which should be prevented and controlled while there should be rejuvenation of the river as well. For this, to have a prohibited and regulated area of the flood plain determined is absolutely essential. If every person would be permitted to carry on any activity or construction, even on the river bank it would be disastrous in all respects and definitely in terms of environment and ecology. There has to be reasonable restriction, the Principle of Sustainable Development has an inbuilt element of reasonableness or doctrine of balancing. The public authorities of the State are expected to show greater sensitivity and enforcement capabilities than it has exhibited in the past.

74. At this stage, we may also refer to the google images of 'google earth' that have been filed on record. It shows that yellow line in that photograph indicates the middle of the river, the red lines show the area of 200 meter that should be prohibited, yellow lines towards the hills show the area beyond which it should be a regulated activity. The Google image also shows the area of the hill which has been made flat for the purpose of construction of various buildings, offices and tourism activity. On these Google images, it has also been shown that the camping activity is being carried on right in the river bed itself. All the camping activities are on the sandy area of the river which in our considered view has to be declared as prohibited area. It is not only that some stray camps are existing, but they are in huge number and cover large spaces of flood plain. The Google images reflect undesirable encroachment into flood plain and impermissible activity being carried on there. This would certainly add to pollution of the river primarily as well as to the ecology and biodiversity of the river as well. Images also show that certain areas which were part of the flow of river have become occupied and vice-versa. This is not, what the intent of the law is and how the eco-sensitive areas of Uttarakhand deserve to be dealt with. Providing prohibitory or no-development zone and the regulatory zone is as essential as safety zone near the railway tracks. In fact the latter is of less priority and proprietary than the former. The need for delineation of prohibited and regulated flood plain is a necessity in terms of law, environment and ecology. It demands greater precautions to be taken in light of the general impacts of global warming and climate change on such eco-sensitive areas. If this aspect is not determinatively declared and effectively implemented, then it may be too late in the day to protect ecology, environment and particularly River Ganga. While fixing such limits we are ensuring that the State development activities are not unduly hampered. Sustainable development on the one hand, accepts some reasonable and tolerable damage to the nature and on the other hand imposes equally effective limitations on development activities. If this plan is lost either way, the result would be unfortunate. Thus, for this reason, we direct that 100 meters from the river bank would be prohibited flood plain zone while 300 meter from the river bank would be regulated zone. On the prohibitory zone, no activity of any kind temporary or permanent including camps would be permitted while beyond 100 meter and within 300 meters the State would frame its policy of

permissible and regulated activities, in light of the above Notification and Acts afore-referred.

It will be noticed at this stage that a writ petition (PIL) No. 25 of 2013 was filed before the Hon'ble High Court of Uttarakhand at Nainital titled "Sanjay Vyas vs. State of Uttarakhand" in relation to declaring prohibitory zone. The Hon'ble High Court of Uttarakhand noticed that in 1995 Hon'ble Supreme Court of India passed the judgment that no construction would be made within 100 meter on the river banks of flowing river. In the year 2000, Government of Uttar Pradesh of which Uttarakhand was a part issued an order directing that no construction would be made within 100 meter from the bank of River Ganga. The restriction in government order came to be diluted for a class of people, but not for class of construction. The Hon'ble High Court of Uttarakhand while admitting the writ petition vide its order dated 26th August, 2013, directed the State of Uttarakhand through its Chief Secretary to ensure that henceforth no construction of permanent nature is permitted within 200 meter from the bank of any flowing river in the State. This order remained in force for a considerable time. However, the writ petition came to be finally dismissed vide order of the Hon'ble High Court of Uttarakhand dated 28th May, 2015 on the ground that the petitioner had no locus-standi for the case to be classified as a Public Interest Litigation. However, the Hon'ble High Court of Uttarakhand specifically granted liberty to any aggrieved party to approach the Hon'ble High Court of Uttarakhand seeking the appropriate relief. In the entire judgment dated 28th May, 2015, there was no specific direction contrary to the order of the Hon'ble High Court of Uttarakhand dated 26th August, 2013. In its order dated 20th September, 2013, the Hon'ble High Court of Uttarakhand had taken note of and had also directed that the State Government must look into all flowing river, their geographical conditions and come up with a policy. We may notice that at that time, the Act of 2012 had already come into force and was nearly more than a year old.

75. The Hon'ble Allahabad High Court in PIL No. 4003 of 2006 "Re: Ganga Pollution vs. State of Uttar Pradesh & Ors." by a detailed order and after noticing the various attendant judgments and circumstances had directed as follows:

"We thus direct that no construction shall be undertaken by the Allahabad Development Authority or by any private builders within 500

meters of highest flood level of river Ganges in city of Allahabad as well as part of river Yamuna adjoining the river Ganges (Sangam). The Allahabad Development Authority and the district administration shall ensure that no construction be made in the aforesaid area. We, however, give liberty to any aggrieved person to make appropriate application in this petition with regard to above restrictions, if he feels so aggrieved.”

“A. The State of Uttarakhand shall prepare and submit to the MoEF, Tourism-cum-Plain map, Flood Plain map and zoning of flood plain shall be in accordance with the Notification dated 18th December, 2012 issued by the Ministry and the Act of 2012 afore-referred positively within 3 months from the date of pronouncement of this judgment. Upon submission, MoEF shall approve such plans with amendments or otherwise within 1 month thereafter and then it shall be notified and brought in the public domain.

B. Keeping in view the Notification of the MoEF, intent of the Act of 2012, orders passed by the Tribunal in other matters, High Courts and the Hon’ble Supreme Court in various cases, we would order and direct that as an interim measure at least 100m from middle of the river would be treated and dealt with as ‘Eco sensitive and prohibited zone’. No activity whether permanent or temporary in nature will be permitted to be carried on in this zone including camping. The only exception would be the points for picking up and dropping the guests who are doing rafting in river Ganga.

The area beyond 100 meters and less than 300 meters would be treated as regulatory zone in the hilly terrain, for which the State will comply with the above directions. The area upto 200 meters shall be the prohibited area in the plain terrain and more than 200 meters and less than 500 meters would be treated as regulatory zone.

Area/river bank/flood plain 2 kms. upstream to Rishikesh and till Border of the State of Uttarakhand towards Uttar Pradesh in river Ganges would be treated as plain terrain while upstream the above hilly terrain.

The State Government while complying with its obligations under the Act of 2012 and this judgment in this regard would keep in mind 1 in 25 years flood

to be the criteria for declaring flood plain and the regulated activities which would be permitted in that area. This is the guiding factor which has complete scientific and documented studies to impose such limitations.

C. Strict supervision in that regard shall be enforced by the State agencies responsible for that purpose, primarily by the Secretary of Irrigation Department, State of Uttarakhand and the Chief Conservator of Forests, Uttarakhand. The policy so framed, with the restrictions as contemplated in the Notification of the MoEF and the Act of 2012 formulated by Government of Uttarakhand shall be placed before the Tribunal after expiry of the above stated period.

D. Any activity or construction in the regulated area aforesaid where the gradient is beyond 350 should be further checked and preferably no activity should be permitted, to prevent ecological damage and land sliding in that area. All precautionary steps should be taken in that behalf.

E. In this prohibited area, no public authority or State department, including the panchayat would grant permission for any activity whatsoever, including ecotourism except to the extent of points for pick up and dropping for river rafting.”

26. Besides the above position of law, we may now consider in general the benefits and positive impacts of healthy riparian zone and proper river bank management. If managed, in consonance with the settled norms and guidelines then it becomes obvious that the primary benefits of effective riverbank (or stream bank) stabilisation planning is to: help protect the civilization, assets such as open space, infrastructure and riparian zone on or near the riverbank and provide a clearly defined decision making process that will identify a strategy to carry out riverbank stabilization works along sections of the river and major tributaries. The benefits of healthy riparian zone should reduce erosion of river banks and



farm land, improve water quality, create quality habitat for plants, animals and fish, provide shelter and shade for stock and the stream. On the other hand, if we permit degradation of riverbank, then it has serious adverse impacts like property loss from undermining structures, sedimentation of in-stream structures. Besides these adverse societal impacts, it also has adverse environmental impacts like fine sediment loading, water quality impacts from fine sediment and attached nutrients, aquatic habitat fouling and eutrophication Channel Widening, as banks widen, sediment transport capacity decreases, aggradations may occur potentially smothering aquatic habitat and riparian habitat can also be damaged.

27. The studies have shown that we can improve the riverbanks by managing the existing vegetation at a level that provides protection for fish and bird life but also allows natural flooding to occur without causing great damage, improve live stock management to reduce over-stocking along waterways. Stock water can be provided away from the waterway so livestock does not wander into the river, quality fencing will keep stock away from vulnerable areas and will allow vegetation to regenerate and encourage riverbank planting.

28. All rivers interact laterally with adjacent lands (flood plains), that are periodically flooded by the river with varying frequency and amplitude. The riparian zone and the flood plain play significant roles in the ecology of the river environment. The riparian zone has

many important functions like helping to maintain good stream habitat for fish, helping to maintain cool water temperatures through provision of shade and creation of a cool and humid microclimate over the stream, providing food resources for the aquatic ecosystem in the form of leaves, branches, and terrestrial insects, stabilizing banks through provision of root cohesion on banks and floodplains, filtering sediment from upslope sources, supplying large wood to the channel which maintains channel form and improves in-stream habitat complexity, helps to maintain channel form and in-stream habitat through the restriction of sediment input or slowing of sediment moving through the system and moderating downstream flood peaks through temporary upstream storage of water.

29. There are several orders passed by the Hon'ble Supreme Court of India in different PILs relating to the problems involving rivers and lakes where the Courts have ordered against the activities that harm the ecology and environment of the water bodies. In the case of '*A.P. Pollution Control Board vs. Prof. MV Nayudu & others*' (Civil Appeals 1999), the Hon'ble Supreme Court of India held as under:

“The basic insight of ecology is that all living things exist in interrelated systems; nothing exists in isolation. The world system is weblike; to pluck one strand is to cause all to vibrate; whatever happens to one part has ramifications for all the rest. Our actions are not individual but social; they reverberate throughout the whole ecosystem.”

In the case of '*M.C. Mehta vs. Union of India 1996*', the Hon'ble Supreme Court of India observed as under:

“The functioning of ecosystems and the status of environment cannot be the same in the country. Preventive measures have to be taken keeping in view the carrying capacity of the eco-systems operating in the environment surroundings under consideration.”

30. The above enunciated principles have more often than not been reiterated by the Hon'ble Supreme Court of India as well as the Hon'ble High Courts. The Courts have ordered that the Precautionary Principle makes it mandatory for the State Government to anticipate, prevent and attack the causes of environmental degradation. Therefore, it is necessary to limit the construction activity in close vicinity of lakes or water bodies. The riparian zones are buffers which are important for good water quality, vegetation, nutrients for stream communities, stabilizing banks, filter sediments, filter chemicals and nutrients and also helping in maintaining environmental and ecological balance.

We have noticed above that river rafting is not an activity which per se has any adverse impacts and may not directly cause pollution. But it still has certain negative effects or impacts such as vegetation loss, habitat loss, disturbances, man wildlife conflicts, increase in traffic and tourists which puts excess pressure on the river. It also has some positive impacts like employment and source of enjoyment but this is not so very true about camping sites. The camping activity thus has direct impacts in relation to construction on forest or beaches, generation of waste, pollution of water, impacts on vegetation and forest areas, etc. Mr. Jeffrey L. Marion Unit, Professor of Virginia Tech/Department of Forestry Patuxent

Wildlife Research Center, U.S. has spelt out the resource impacts caused by hiking, boating and camping activities in a tabular form as follows:

| <b>Vegetation Changes</b>  | <b>Soil Changes</b>   | <b>Additional Concerns</b>  |
|--|---|---|
| <ul style="list-style-type: none"> <li>• Loss of vegetation cover.</li> <li>• Alteration of composition.</li> <li>• Loss of Species.</li> <li>• Damage to Trees.</li> <li>• Exposure of Tree Roots.</li> </ul> | <ul style="list-style-type: none"> <li>• Loss of Organic Matter.</li> <li>• Erosion.</li> <li>• Compaction.</li> <li>• Reduction in Soil Moisture.</li> <li>• Impacts to Soil Fauna.</li> </ul> | <ul style="list-style-type: none"> <li>• Littering.</li> <li>• Threats to Water Quality.</li> <li>• Threats to human health.</li> <li>• Threats to cultural resources.</li> <li>• Threats to wildlife.</li> </ul> |

The obvious conclusion that would follow is that not only the camping activity has adverse impacts but even boating i.e. rafting also does have some limited impacts in any event the adverse impacts of camping activity are much more significant and cannot be ignored while balancing the eco-tourism activity with protection of nature.

31. River Ganga originates from the Himalayas. There is urgent need of protecting the rivers and the Himalayan regions to ensure that there is no degradation of this region and the waters remain un-polluted. The Himalayan region is comprised of approximately 39% grasslands, 20% forests, 15% shrub lands, and 5% agricultural land. The Hindu Kush Himalaya (for short, “HKH”) region is the ‘Water Tower of Asia’. The Himalayas alone have nearly 4000 cu.km of snow and ice, truly constituting a ‘third pole’ of the earth and a formidable global ecological buffer. Ten major rivers flow from this region and they are the eco-system which provides services and directly forms a basis of livelihood of a huge population.

32. We may also usefully refer to the Notification issued by the MoEF&CC, Department of Environment, Forest and Wildlife on 6<sup>th</sup> January, 2011 in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1996 , in relation to protection of communities and areas falling in the Coastal Zone to conserve and protect coastal stretches, its unique environment and its marine area and to promote development in a sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas and sea level rise due to global warming. By this Notification, the Government of India declared the area as 'Coastal Regulation Zone' (for short, "CRZ") and imposed from the date of the Notification, restrictions on setting up and expansion of industries, operations or processes and the like in that area. Vide this Notification, the CRZ shall apply to the land area from High Tide Line (hereinafter referred to as HTL) to 500 meters on the landward side along the sea front and also to the land area between HTL to 100 meters or width of the creek whichever is less, on the landward side along the tidal influenced water bodies that are connected to the sea. In terms of Clause 3 of the Notification, there were certain activities which were declared to be prohibited activities within CRZ, which among others included dumping of city or town wastes including construction debris, industrial solid waste and the like. Similarly, while Clause 4 of the Notification relates to the regulation of permissible activities in CRZ area that among others include housing scheme in CRZ, and so on. This Notification

clearly demonstrates that in the interest of environment and ecology certain activities may have to be prohibited while certain other activities may have to be regulated falling under different classes of zones of that area. The purpose of the Notification is loud and clear that eco-sensitive areas, CRZ and flood plains cannot be subjected to activities of all kind. There has to be a strict regulation in the interest of protection of nature, environment and ecology. The Principle of Sustainable Development admits such exceptions by virtue of its basic concepts. A person has a right to carry on a business or activity in terms of Article 19 of the Constitution of India but such right is subject to reasonable restrictions imposed by law. Such right cannot be extended to the dimensions where it would have a direct impact or activity would be directly in conflict with the essence of Article 21 of the Constitution of India. The Precautionary Principle would demand that certain areas of the flood plains must be protected and only the regulatory activities that would not cause adverse impacts on environment and ecology should be permitted. If the activities are permitted to be carried on, on the bank of the river or on the river itself on a regular basis, then the degradation of environment and ecology would be inevitable.

33. The 22 sites which are partially within as well as partially outside 100 meters restriction, if permitted to be exploited in their entirety for beach camping would lead to serious consequences. The adverse impacts would not only be restricted to those caused by human activity but even in relation to providing of requisite

infrastructure and other requirements of necessity. We have already discussed in some detail that the camping activity does result in environmental pollution, of course its extent would always depend upon the implementation and adherence to regulatory and supervisory regime. But once there is relaxation or slackness in enforcement of such regime, the results thereof are prejudicial to environment and ecology. The appropriate way out from such stagnation is that the portion of the identified beaches which majorly fall outside the restriction of 100 meters should alone be used for effective camping activity i.e. putting up of tents, providing of toilets and such other requirements of necessity. While the remaining part of the beach, should not be permitted to be used for any effective activity except a casual use for the purpose of walking and such activity which is not dependent upon requirement of any other permanent or temporary infrastructure. In other words, on the remnant part of the beach that falls within 100 meters any activity involving tenting, toilets and other incidental requirements should remain prohibited in that area. The part of the beach that falls within 100 meters would remain restricted or prohibited area for any effective camping activity. While the area beyond 100 meters would fall within the category of regulated activity, restricted in compliance of the Management Plan, Guidelines and the Rapid Assessment Report, where 70% area falls beyond 100 meters and 30% area or so falls within 100 meters, the camping activity could be carried on in light of the above directions without, in any manner, impacting adversely the area falling under 30% of the

entire area. While on the other hand, if 70% area falls within 100 meters and only 30% area falls within outside 100 meters then the effective camping activity with its related infrastructure requirements could be carried on only in 30% of the beach area while leaving the entire 70% area free from such interference.

34. We are not oblivious of the fact that it may cause some inconvenience to the stakeholders particularly the operators of the camping activity in commercial terms. But this limited commercial interest must give way in favour of larger environmental interests. It is only when we are able to protect nature that we would be in a position to exploit the natural assets in a beneficial manner otherwise there could be disastrous results both for human beings and their properties. Undue man and nature conflict for the sake of adventure is not in consonance with the concept of Sustainable Eco Tourism. Back to nature is an idea which operates on the premise that the primary interest would be to protect the nature so that the human beings can have the benefit of being closer to nature and enjoy what it has to offer.

35. The parties besides making their submissions during the course of arguments also submitted their written submissions. Most of the points raised in these submissions have already been considered by us (supra). However, some of the contentions, we would still proceed to discuss in some further detail.

As far as the applicant is concerned, it has supported the report filed by the WII and State of Uttarakhand. In addition



thereto, the submission is that there should be more beaches added in the 'not recommended' category because of vulnerability of those beaches. Further, the applicant had supported the restriction of 100 meters with reference to the judgment of the Tribunal in the case of *M.C. Mehta vs. Union of India* (supra). These submissions do not require any further deliberation. We may notice that the applicant has provided no reasoning or data before us to show that any greater number of beaches needed to be added to the category of 'not recommended' besides once recommended in the reports that we have afore referred. Camping and river rafting are part of eco-tourism and this activity can be encouraged but subject to strict regulation and supervision by the concerned authorities in accordance with the laws in force. The IAPRO has submitted that their model of eco-tourism is low impact even at the cost of low revenue. According to them, the Tribunal should ensure the beach camping activity continues without using modern luxuries at the beach camps and for it to involve only pegging temporary canvas tents on the river beaches, so that such activity is in harmony with nature. According to them, the new Regulatory Regime is neither necessary nor practical. It is submitted that the violations which have been noticed in the report or otherwise from the material placed on record, relate to the beaches on the private land and it is also contended that the exclusion of beach camps on the left bank particularly in relation to beach no. 26 and beach no. 44 is arbitrary.

36. Major parts of the contentions raised in these submissions have already been dealt with in the judgment passed by us. To add thereto, we may take up the matter with regard to exclusion of camp no. 26 and 44 from the list of 56 camping sites that were subjected to the Rapid Assessment Report carried out by WII and filed by the Uttarakhand Environment Protection & Pollution Control Board. These two camps fall on the other side of the river. They have no direct approach. It is an admitted case that the tourists can be taken to these two camp sites only by ferry/raft. It is on record in the report that both these sites are located in the forest area of Rajaji National Park and the land adjacent thereto. The report, on the basis of high vulnerability and obstruction to wildlife particularly them being a Tiger Habitat has declared their exclusion from the list of recommended sites. We see no reason to differ with the same and therefore, find no merit in the contentions of the applicant that they ought not to be excluded. In the judgment dated 10<sup>th</sup> December, 2015 definite evidence was placed on record to show that there was concrete construction, there were wires and people at large even entered into the rivers. There were islands between the two banks which had the river flowing on either side and even they were used for camping activity which is neither permissible nor can be allowed, whatever be the economic and revenue interest of the stakeholders. Photographs with evidence have been placed on record. The submissions to the contrary are, therefore, ill-founded. The fact that the IAPRO was not a party to the main case is of no consequence. Even now, they have moved an application for

impleadment which they could have filed at any stage of the case. It is not only the judgment dated 10<sup>th</sup> December, 2015 which discusses various aspects of rafting and camping activity in great detail but there were also reports, complaints, revenue records and pleading of the parties on the basis of which the judgement had been pronounced and directions for implementation by the concerned departments and stakeholders were passed. 100 meter restriction was interim in the case of *M.C. Mehta* (supra) but in Original Application No. 87 of 2015 the restriction was final and we do not see any reason to vary the said condition even now. Such orders had been passed even by the Hon'ble High Court which have attained finality and, therefore, the trend of law is in favour of imposition of such restriction.

37. The Notification under CRZ, Eco Sensitive Zone and under such allied laws clearly shows the necessity of imposition and enforcement of such restriction to protect the nature, environment and ecology. This is the mandate not only of these statutory provisions but even that of the Constitution in terms of the Articles 21, 48A and 51A(g). Finally, we will advert to the concluding part of this judgment by issuing appropriate directions and orders. These orders and directions would permit carrying on of camping and rafting activity which we had injuncted *vide* our judgment dated 10<sup>th</sup> December, 2015 but subject to the strict implementation of the Regulatory or Supervisory Regime and the restriction imposed in this judgment. These directions and orders would not only provide for proper enforcement of the law but would even supply the gaps

which are necessary for protection of nature and permitting eco tourism activities while applying the Principle of Sustainable Development and Precautionary Principle.

### **ORDERS AND DIRECTIONS**

38. Thus, we pass the following orders and directions:

1. We hold and declare that the Management Plan and Regulatory Regime as submitted by the State of Uttarakhand and as approved by the MoEF&CC shall come into force forthwith. All licenses for carrying on of rafting activity and camping sites would henceforth be issued strictly in accordance with the Management Plan dated February 2016 and Regulatory Regime dated 25<sup>th</sup> July, 2016.

We expect that the State of Uttarakhand will encourage eco tourism activity in these two aspects while ensuring that the camping activity is carried on sustainably in an eco-friendly manner rather than on a purely commercial basis with modern luxuries.

2. We direct MoEF&CC to issue, already in principle agreed first Stage clearance to the State of Uttarakhand for conversion of 18.367 hectares and/or such other appropriately calculated hectares of forest land. Upon issuance thereof, State of Uttarakhand would take in principle approval with regard to Stage-II clearance from MoEF&CC and issue an order in terms of Section 2 of the Forest (Conservation) Act, 1980, without any further delay.

3. The State of Uttarakhand, all its authorities and departments concerned with granting of license for carrying on rafting and/or beach camping shall prescribe detailed terms and conditions including the directions of Regulatory Regime, Do's and Don'ts and best practices to be adopted in the interest of the environment, for compliance.
4. We further hold and declare that out of 33 recommended sites for beach camping, 8 sites for camping activities at serial nos. 3, 8, 11, 15, 16, 21, 27 & 49 which entirely fall within 100 meters from the middle of the river during lean season flow shall not be used for any activity whatsoever including beach camping activity. The remaining 25 sites shall be used wholly and/or partially for beach camping activity subject to the conditions contained in this order/judgment.
5. Out of these, 3 sites which fall entirely outside the 100 meters restriction can be utilised for beach camping activity in accordance with Management Plan, Regulatory Regime and the laws in force. The remaining 22 camping sites which are partially within and partially outside the 100 meters restriction would be used for effective beach camping activity only to the extent that falls beyond the 100 meters restriction. Though, the remaining part of the beach within 100 meters and where it forms integral and inseparable part of the beach would not be used for any effective beach camping activity by creating any infrastructure or providing necessary arrangements for that purpose in that area. They could only

be used for non-effective beach camp activity connected with beach camping.

6. All the concerned authorities shall maintain strict vigil and supervision over all the 25 beaches during the period for which license is granted for carrying on beach camping activity in those sites.
7. We direct the Principal Chief Conservator of Forests and the Secretary Revenue of the State of Uttarakhand to ensure that six monthly reports are submitted to them in relation to carrying on of rafting and beach camping activity on all these 25 sites and River Ganga.
8. Keeping in view the area covered under these 25 sites and the above directions, the State of Uttarakhand within a period of two weeks from the date of pronouncement shall provide the details of the land for afforestation, in accordance with the Management Plan.
9. The Forest Department would duly consider permitting the license for camping in the forest area, wherever the beach recommended for such activity has a larger portion thereof within the restriction of 100 meters during lean season flow, to benefit the license operator to have a little larger area for camping activity while ensuring that there shall be no damage or adverse impacts upon the area falling under the category of forest area. This relaxation shall only be provided when it is so jointly recommended by the Department of Tourism, Forest

Department and is approved by the Principal Chief Conservator of Forests of the State and not otherwise at all.

39. With the above directions, Application No. 87 of 2015 stands disposed of with no order as to costs.



**Swatanter Kumar**  
**Chairperson**

**Raghuvendra S. Rathore**  
**Judicial Member**

**Bikram Singh Sajwan**  
**Expert Member**

New Delhi  
2<sup>nd</sup> March, 2017

**NGT**