

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

**Original Application No. 16/2014
(M.A. No. 102/2014)**

Shri Hazi Arif & Ors. V/s. State of UP & Ors.

**CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present: Applicant / Appellant : Mr. R. Venkataraman and Mr. Adesh
Kumar, Advs.
Respondent No. 1,2&6 : Ms. Savitri Pandey, Adv.
Respondent No. 3 : Ms. Sushma Singh, Adv.
Respondent No. 4 : Mr. Daleep Kr. Dhayani, Adv. for Mr. Pradeep
Misra, Adv.
Respondent No. 5 : Mr. Reena Singh, AAG, Ms. Bhakti Pasrija Sethi
and Mr. Devesh Kumar, Advs.**

Date and Remarks	Orders of the Tribunal
<p>Item No. 2 March 3, 2014</p> <p>DV</p>	<p>We have heard learned Counsel appearing for the Applicant as well as learned Counsel appearing for the Respondents.</p> <p>Learned Counsel appearing for the Applicant has produced a newspaper cutting wherein a report dated 01.03.2014 shows that the earlier order dated 05.02.2014 passed by us has been disobeyed and the disobedience continues. According to him, the drainage have been not only covered by the private parties but also constructions are attempted to be put up on the same and that will be a disaster to the maintenance of proper drainage system in Ghaziabad especially in Zone-5, Vaishali and the water drainage from Sahibabad Drain No. 1 to its natural original position.</p> <p>On the other hand, Mr. Misra, learned Counsel appearing for the UP Pollution Control Board (UPPCB) would fairly submit that while the entire area belongs to the Municipal Corporation of Ghaziabad, it will be their discretion to permit anyone to put up such coverage, but if extent of that coverage crosses 20,000 sq. meters it requires Environmental Clearance as per the</p>

Notification of 2006 issued by the Ministry of Environment & Forests (MoEF). He would also submit that State Pollution Control Board is taking survey of the same, even though it has no control over the properties as such. From the submissions made by the learned Counsel, it is clear that it is the Municipal Corporation of Ghaziabad as well as the Ghaziabad Development Authority (GDA) who have not taken any precautionary steps before permitting such private parties to put up slabs above the drainage.

The GDA cannot escape from its responsibilities saying that it is only the Municipal Corporation of Ghaziabad which has got the duty of maintaining the drainage system. Therefore, *prima facie*, we are satisfied that all is not well with the Municipal Corporation of Ghaziabad as well as GDA. In such cases of serious issues, the public authorities should have in co-ordination, decided the future development of the places before giving any permission, even if such power is within their limit.

On the face of the record, we find that no authorities have applied their mind on the environmental issue relating to the drainage system. In such view of the matter, we are of the view that an Expert Committee headed by Ms. Parul Gupta, learned advocate of this Tribunal, with other scientific experts is to be appointed to make a thorough study about the physical features of the place in question, so as to enable us to pass appropriate orders.

Accordingly, we appoint a Committee of Experts consisting of the following members:

1. Ms. Parul Gupta, learned Advocate.
2. Mr. N.K. Gupta, Sr. Environmental Engineer, CPCB.
3. Regional Officer of UPPCB, Ghaziabad.
4. One of the Forest Experts to be nominated by the MoEF, Government of India.

The above said Committee shall inspect the Green Belt at Zone No. 5, Vaishali and the water drainage from Sahibabad Drain No. 1 to its natural original position including the discharge of untreated industrial waste into the drainage and file its report before this Tribunal by the next date of hearing.

The following shall be the terms of reference:

1. The Committee shall visit the entire area of Zone-5 in so far as it relates to the maintenance of drainage system by the Municipal Corporation of Ghaziabad and find out the real physical position including the slabs, whether they are put up permanently or are removable, etc.
2. The Committee shall also find out the extent of the drainage in the area, which are covered and proposed to be covered and shall also indicate the places where constructions are made and also used as parking area, including encroachments.
3. The Committee shall also in its report state as to whether untreated waste, either from the industry or otherwise, are discharged into the drainage system.
4. The Committee shall also find out the green belt area in the Zone-5, Vaishali and whether they are preserved or being destroyed by the Municipal Corporation of Ghaziabad and shall furnish proposal for preservation of the green belt area.
5. We make it clear that the MoEF, Government of India shall nominate the Forest Expert as its representative, within a period of one week from today. The learned Advocate who is heading the Committee shall be paid an initial remuneration of Rs. 20,000/- by the Municipal Corporation of Ghaziabad.

6. The Municipal Corporation as well as GDA shall extend all assistance to the Committee Members so as to enable them to complete their work and file their report.

7. It will be open to the Applicant as also the Respondents to be present and express their views to the Committee at the time of inspection.

We make it clear that Senior Superintendent of Police, Ghaziabad shall provide necessary assistance to the Committee. Ms. Savitri Pandey, learned Counsel representing UP Government undertakes to instruct to provide necessary police assistance to the Committee so as to complete their work.

We expect that the Committee shall submit its detailed report before the Tribunal by the next date of hearing.

Interim order already passed shall continue to be in operation till the next date of hearing.

Learned Counsel appearing for the Applicant as well as Respondents are directed to give copies of entire papers to Ms. Parul Gupta, learned Advocate who is heading the Committee by today itself.

A copy of this order shall be served on the MoEF today itself.

Copy of Dasti order allowed.

Stand over to 31st March, 2014.

....., JM
(Dr. P. Jyothimani)

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

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

....., EM
(Prof. (Dr.) P.C. Mishra)

....., EM
(Ranjan Chatterjee)

