

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

Application No. 06 of 2012

Manoj Mishra Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER
HON'BLE DR. G. K. PANDEY, EXPERT MEMBER
HON'BLE Prof. A.R. YOUSUF, EXPERT MEMBER

Present: **Appellant:** None appeared
Respondent No. 1: Ms. Neelam Rathore, Advocate
Respondent No. 2: Mr. Vivek Kumar Tandon, Advocate
Respondent No. 3: Mr. Sangram Patnaik Advocate
Respondent No. 4: Mr. Narender Pal Singh, Advocate
Respondent No. 5: Mr. Vivek Kumar Tandon, Advocate
Respondent Nos. 6 & 7: Mr. Ardhendumauli Kumar Prasad, Advocate
Respondent No. 8: Ms. Mansi Gupta, Advocate

Date and Remarks	Orders of the Tribunal
Item No. 4 January 31, 2013	<p>Heard the parties at great length.</p> <p>This Tribunal had passed an order on 19th December, 2012 issuing certain interim directions. This order was assailed by State of Uttar Pradesh preferring a Civil Appeal before the Hon'ble Supreme Court of India which was dismissed in <i>limine</i> vide order dated 18th January, 2013. Copy of the order has been placed on record.</p> <p>Learned counsel appearing for various Authorities are <i>ad idem</i> that huge debris are lying on the river bank of Yamuna as well as near water bodies adjacent to river Yamuna. The debris are so huge that they are bound to affect the course of the river Yamuna and in any case shall lead to serious pollution of river Yamuna particularly during the raining seasons. In terms of the previous order the State of Uttar Pradesh contended that it is difficult for the State of Uttar Pradesh to find out the site where the debris should be dumped by transportation and that the throwing of debris on the rivers is primarily attributable to DDA or other person.</p> <p>On the contrary the learned counsel appearing for DDA and Government of Delhi submits that they are not throwing debris at the site in question on the contrary are making efforts to remove the debris. However, nothing has been placed on record, which would show that some effective and constructive steps have been taken by these</p>

public authorities to remove the debris from the site in question.

It is matter of common knowledge and in fact is hardly disputed before us that debris are being thrown on the river bank and it is a serious threat to the change of course as well as water pollution of river Yamuna.

In these circumstance, we are of the considered view that certain directions need to be issued forthwith in order to ensure that pollution of Yamuna is prevented and the debris from the site are removed. Another aspect that we may notice here is that even municipal solid wastes are being thrown on the river bank of Yamuna and its water course. This also requires immediate preventive and precautionary directions.

Thus, we order and issue the following directions:

1. The State of Uttar Pradesh, DDA, Government of NCT Delhi and East Delhi Municipal Corporation shall forthwith start removing debris from the river bank of Yamuna and the water body mentioned in the Petition.
2. It is stated that the above Corporation has already issued a notification (at page 19 of the Reply filed by the Respondent Nos. 2 and 5) where various dumping sites have been identified. One such site is stated to be at Gazipur which is exclusively meant for dumping of municipal solid wastes. Thus, for the present these authority shall ensure that municipal solid wastes are removed from the river bank and said water bodies and dumped at the above site.
3. The construction and other materials shall be removed to other identified sites.
4. In the event no sites have been identified by any authority we hereby direct all the Corporations and the DDA, State of Uttar Pradesh and the NCT of Delhi to notify within two weeks from today the sites for dumping of debris.
5. In the event of no site being available, as temporary measure all the above public Authorities/ Corporations and State of Uttar Pradesh shall start removing debris and bring them to the end of 'highest flood level' of river Yamuna. The stored debris shall be

converted into a wall at that end point. In our considered opinion it would prevent unauthorized entry, flood and prevent pollution of river Yamuna.

6. The lifting of debris shall start forthwith and all these authorities shall cooperate and work in tandem with each other to achieve the above object and ensure compliance of these directions.
7. We hereby direct the Vice Chairman of DDA to hold a meeting within one week from today inviting the Commissioner of the Corporation, Secretary of Department of Environment, NCT Delhi, Secretary of Department of Irrigation, State of Uttar Pradesh and Chief Engineer, Mr. Gupta and ensure the complete implementation of the above directions. This Committee shall frame one time guidelines for ensuring the implementation of the above order.
8. Since it is an admitted position that even private parties are throwing debris on the river bank, on the basis of the principle of 'Polluter Pays' it would be in the interest of justice that these authorities are directed to recover amounts spent for removal of debris which are thrown by the private persons, from them. "Persons" will include a company, partnership, sole proprietorship and individuals. All these authorities should exercise their statutory powers and not only preventing all persons throwing debris on the river bank but even require them to pay for the purposes of removal of debris which are thrown by them. This shall be in the discretion of the authorities and would be implemented upon compliance with the principle of natural justice.
9. The petitioner have also pointed out that the debris can safely be removed and taken to reprocessing of construction material and manufacturing of tiles which have been established by the DDA at Bawana. Let the debris be also transported and removed to such factory at Bawana and utilized for a better purpose rather than polluting river Yamuna.
10. Further we hereby issue an injunction restraining anybody, any person, authority from throwing any

debris of any kind including solid wastes on the river bank of Yamuna or the water body near river Yamuna.

11. This order shall be duly communicated by all the Authorities present before us to all persons primarily the builders who are involved in huge construction in and around NCT of Delhi, if the parties so choose they can even give a public Notice.

12. We make it clear that the above order and directions issued by the Tribunal should be carried out by all concerned in its true spirit and substance. Any disobedience of these directions shall be viewed seriously by the Tribunal. The person disobeying these directions shall be liable to be proceeded against in terms of Section 19 (4) read with Section 26 of the National Green Tribunal Act, 2010 read with Section 151 of Code of Civil Procedure.

We hereby appoint the following Lawyers present in Court, as Local Commissioners. They shall visit the site(s) without notice to anybody between office working hours. They shall report to the Tribunal if work of removal of debris was going on and/or anybody was throwing debris on the river bank. Our appreciation of these Advocates who have agreed to be appointed a Local Commissioners without any remuneration and in public interest.

1. Mr. Tandon
2. Mr. Satyabrata Panda
3. Mr. Anirudh Deshmukh
4. Mr. Abhimanue Shrestha
5. Mr. Amer Mushtaq.

These Commissioners shall submit a report before the Tribunal before the next of date of hearing.

Copy of the order be given Dasti to all the learned counsel appearing in this case as well as to the Local Commissioner who are present in Court.

Stand over for 28th February, 2013,

.....,CP

(Swatanter Kumar)

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

.....,EM
(Dr. D. K. Agrawal)

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

.....,EM
(Prof. A.R. Yousuf)

