

Item No. 04

Court No. 2

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

Original Application No. 593/2017  
(W.P.(Civil) No. 375/2012)

Paryavaran Suraksha Samiti & Another

Applicants

Versus

Union of India & Others

Respondent(s)

Date of hearing: 20.12.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Ms. Garima Prashad, AAG with Ms. Priyanka Swami, Adv. for the State of  
Uttar Pradesh  
Mr. Amit Singh Chauhan, Adv. for CPCB (Through VC)

**ORDER**

1. The issue of running of industries which require consent to operate from concerned State Pollution Control Boards (hereinafter referred to as '**SPCBs**')/Pollution Control Committees (hereinafter referred to as '**PCCs**') unless functional Effluent Treatment Plants (hereinafter referred to as '**ETP**') are installed, was raised before Supreme Court in Writ Petition (Civil) No. 375/2012. The issue was considered by Supreme Court Pan India and responses and affidavits were filed by Union of India as well as various State Governments before it. Writ Petition was disposed of by Supreme Court vide order dated 22.02.2017 reported in (2017) 5 SCC 326. It held that all running industrial units which require Consent to Operate (hereinafter referred to as '**CTO**') from respective SPCBs must have a functional Primary Effluent Treatment Plant (hereinafter referred to as '**PETP**'). Supreme Court directed all concerned SPCBs to issue notices to all industrial units which require CTO, by way of a common advertisement,

requiring them to make their ETPs fully operational within three months from the date of order dated 22.02.2017. After expiry of three months, respective SPCBs were mandated to carryout inspections, verify whether or not each industrial unit requiring CTO has a functional ETP. The industries which fail to make their ETPs fully operational within the notice period, would be restrained from further industrial activity. Supreme Court said that restrain order shall be given effect to by requiring concerned Electricity Supply and Distribution Agency to disconnect electricity connection of defaulting industries. Supreme Court also said, where such a recommendation is made by SPCB, Electricity Supply Agency shall honour the same. Supreme Court also permitted restrained units, if they subsequently make ETP functional to the required capacity, they may seek a fresh CTO from respective SPCB and only after receipt of fresh CTO, industrial activities of disabled industry shall be permitted to be resumed. Obligation with regard to inspection on the part of SPCB was reiterated. Individuals and organizations were also given liberty to bring any complaint of default on the part of an industry to the notice of respective SPCB.

2. Supreme Court further said that after complying with above directions, next step would be to set up Common Effluent Treatment Plant (hereinafter referred to as '**CETP**'). Financial position was taken care by providing 50% assistance by Central Government, 25% from respective State/UT and 25% by taking loan from bank. Court said that setting up of CETP should be taken up as an urgent mission. With reference to CETP, Supreme Court directed to complete establishment thereof within three years from the date of order i.e. by 22.02.2020. With regard to running of CETP, Supreme Court, in paragraphs 10 and 11, said as under:

“10. Given the responsibility vested in Municipalities under Article 243W of the Constitution, as also, in item 6 of the 12th Schedule, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and solid waste management”, we are of the view, that the **onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies)**. Given the aforesaid responsibility, the concerned municipalities (and/or local bodies), cannot be permitted to shy away, from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243X and 243Y of the Constitution. **It will be open to the concerned municipalities (and/or local bodies), to evolve norms to recover funds, for the purpose of generating finances to install and run, all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove.** Needless to mention, that such norms as may be evolved for generating financial resources, may include all or any, of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the concerned State Government (Union Territory), through the Secretaries, Urban Development and Local Bodies respectively, (depending on the location of the respective common effluent treatment plant). **The norms for generating funds, for setting up and/or operating the 'common effluent treatment plant' shall be finalized, on or before 31.03.2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the concerned State Governments (or the Union Territories), shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dis-functional, from their own financial resources.**

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the **concerned State Governments (including, the concerned Union Territories) will prioritize such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.”**

3. With regard to Sewage Treatment Plants (hereinafter referred to as ‘STP’), in paragraph 12 of judgment, Court said that malady of sewer treatment shall also be dealt with simultaneously in the same manner as the directions were issued in respect of ETP and CETP. Paragraph 12 reads as under:

“12. We are of the view, that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously.** We therefore hereby direct, that **'sewage treatment plants' shall also be set up and made functional, within the time lines and the format, expressed hereinabove.”**

4. With regard to answerability/responsibility for implementation, Supreme Court said, in paragraph 13, as under:

*“13. We are of the view, that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We therefore hereby provide, that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment plants” within the time lines, expressed above, shall be of the Member Secretaries of the concerned Pollution Control Boards. The **Secretary of the Department of Environment, of the concerned State Government (and the concerned Union Territory), shall be answerable in case of default.** The concerned Secretaries to the Government shall be responsible of monitoring the progress, and issuing necessary directions to the concerned Pollution Control Board, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data, and shall furnish the same to the Bench of the jurisdictional National Green Tribunal.*

*14. **To supervise complaints of non-implementation of the instant directions, the concerned Benches of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units.** The above mentioned case files, will be listed periodically. The **concerned Pollution Control Board is also hereby directed, to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.**”*

5. Supreme Court also permitted private individuals and organizations to approach concerned Bench of jurisdiction of National Green Tribunal (hereinafter referred to as **NGT**) for appropriate orders by pointing out deficiencies in implementation of directions issued by order dated 22.02.2017.

6. With regard to timelines and its strict compliance, Supreme Court in paragraphs 16 and 17 said, as under:

*“16. It however needs to be clarified, that the instant directions and time lines, shall not in any way dilute any time lines and directions issued by Courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones expressed through the directions recorded above. It is clarified, that the **time lines, expressed hereinabove will be relevant, only***

***in situations where there are no prevalent time line(s), and also, where a longer period, has been provided for.***

*17. It would be in the interest of implementation of the objective sought to be achieved, to also require each concerned State (and each, concerned Union Territory) to make provision for “online, real time, continuous monitoring system” to display emission levels, in the public domain, on the portal of the concerned State Pollution Control Board. We are informed, that at least three State Governments have already adopted the aforesaid measures. Such measures shall be put in place by all the concerned State Governments (including, the concerned Union Territories), within six months from today.”*

7. Letter dated 06.03.2017 from Registrar of Supreme Court with Supreme Court’s order dated 22.02.2017 received by this Tribunal and matter was registered as Original Application No. 593/2017.

8. Matter was taken up by Tribunal on 25.05.2017 when notices were issued to all SPCBs, Ministry of Environment, Forest and Climate Change (hereinafter referred to as ‘**MoEF&CC**’) and Central Pollution Control Board (hereinafter referred to as ‘**CPCB**’). Status-cum-compliance report was required to be filed within four weeks.

9. By order dated 04.07.2017, States were granted time to file their respective replies in relation to compliance of Supreme Court’s order dated 22.02.2017. Simultaneously every SPCB was also directed to file statement of number of industrial units discharging trade effluent or causing emissions in State, how many are having their own STPs, ETPs and/or connected to CETP and whether such CETPs/STPs/ETPs are properly functioning and treating trade effluent to prescribed limit or not.

10. Matter was listed thereafter on 18.08.2017, 30.08.2017, 05.09.2017, 18.09.2017, 11.10.2017, 08.12.2017, 15.01.2018, 12.03.2018, 24.04.2018, 30.05.2018. On 03.08.2018 following directions were issued and application was disposed of:

*“6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today:*

- (i). We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon’ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.*
- (ii). A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two-officers-the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and appropriate directions issued. This process may be a continuous process.*
- (iii). It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.*
- (iv). There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon’ble Supreme Court.*
- (v). A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.*
- (vi). The **Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining, STPs, CETPs and ETPs. Central Pollution Control Board may also assess and recover compensation for damage to the environment** and the said fund be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the Central Pollution Control Board within three months from today.*

*(vii). A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at [filing.ngt@gmail.com](mailto:filing.ngt@gmail.com).*”

11. Tribunal while disposing of application also directed that report received from CPCB shall be placed for consideration of Tribunal on 03.02.2019.

12. CPCB filed reports dated 04.09.2018, 28.11.2018 and 12.12.2018 which were considered by Tribunal on 19.02.2019. After noticing findings of reports in respect of ETPs, CETPs and STPs to be installed by industries, Tribunal observed in para 9 that CPCB has intended to file a separate report for municipal solid waste and sewage which is under preparation. It was also noted that issue of remedial action to be taken for 351 critically polluted river stretches identified by CPCB was subject matter of consideration in OA 673/2018, *News item published in “The Hindu” authored by Shri Jacob Koshy titled “More river stretches are now critically polluted: CPCB*. Therein by orders dated 20.09.2018 and 19.12.2018, Tribunal directed concerned States to prepare action plans to bring water quality compliant to prescribed standards. It was observed that above directions implied taking of steps to set up ETPs/CETPs/STPs and to monitor their proper functioning.

13. In another matter, i.e., OA 606/2018 by order dated 16.01.2019, Tribunal had directed presence of Chief Secretaries of all States/UTs on different dates with a view to review progress in different States on vital issue affecting environment. Such vital issue specifically included:

- “a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.*
- c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in “The Hindu” authored*

*by Shri Jacob Koshy Titled “More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).*

- d. Status of functioning of Committees constituted in News Item Published in “The Times of India’ Authored by Shri Vishwa Mohan Titled “NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15” dated 08.10.2018*
- e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels” dated 13.12.2018.*
- f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.*
- g. Total amount collected from erring industries on the basis of ‘Polluter Pays’ principle, ‘Precautionary principle’ and details of utilization of funds collected.*
- h. Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State.”*

14. Tribunal observed that Chief Secretaries may specifically look into the subject of setting up and proper functional STPs, ETPs and CETPs in their respective jurisdictions.

15. Thereafter, a detailed order was passed on 28.08.2019, wherein various reports were considered and following directions were issued:

*“21. We may now sum up our directions:*

- (i) The **Environmental compensation regime fixed for industrial units, GRAP, solid waste, sewage and ground water in the report dated 30.05.2019 is accepted and the same may be acted upon as an interim measure.***
- (ii) **SPCBs/PCCs may ensure remedial action against noncompliant CETPs or individual industries in terms of not having ETPs/fully compliant ETPs or operating without consent or in violation of consent conditions.** This may be overseen by the CPCB. CPCB may continue to compile information on this subject and furnish quarterly reports to this Tribunal which may also be uploaded on its website.*
- (iii) **All the Local Bodies and or the concerned departments of the State Government have to ensure 100%***



**treatment of the generated sewage and in default to pay compensation which is to be recovered by the States/UTs, with effect from 01.04.2020. In default of such collection, the States/UTs are liable to pay such compensation. The CPCB is to collect the same and utilize for restoration of the environment.**

- (iv) **The CPCB needs to collate the available data base with regard to ETPs, CETPs, STPs, MSW facilities, Legacy Waste sites and prepare a river basin-wise macro picture in terms of gaps and needed interventions.**
- (v) *The Chief Secretaries of all the States/UTs may furnish their respective compliance reports on this subject also in O.A. No. 606/2018.”*

16. Again, the matter was considered in detail on 21.05.2020. After having a complete retrospect of proceedings commencing from Supreme Court order dated 22.02.2017 and all subsequent orders of Tribunal, action including various reports, Tribunal recorded its summary of directions in para 26, as under:

“26. *Summary of directions:*

- i. **All States/UTs through their concerned departments such as Urban/Rural Development, Irrigation & Public Health, Local Bodies, Environment, etc. may ensure formulation and execution of plans for sewage treatment and utilization of treated sewage effluent with respect to each city, town and village, adhering to the timeline as directed by Hon'ble Supreme Court. STPs must meet the prescribed standards, including faecal coliform.**

*CPCB may further continue efforts on compilation of River Basin-wise data. Action plans be firmed up with Budgets/Financial tie up. Such plans be overseen by Chief Secretary and forwarded to CPCB before 30.6.2020. CPCB may consolidate all action plans and file a report accordingly.*

*Ministry of Jal Shakti and Ministry of Housing and Urban Affairs may facilitate States/UTs for ensuring that water quality of rivers, lakes, water bodies and ground water is maintained.*

*As observed in para 13 above, **100% treatment of sewage/effluent must be ensured and strict coercive action taken for any violation to enforce rule of law.** Any party is free to move the Hon'ble Supreme Court for continued violation of its order after the deadline of 31.3.2018. This order is without prejudice to the said*

remedy as direction of the Hon'ble Supreme Court cannot be diluted or relaxed by this Tribunal in the course of execution. **PCBs/PCCs are free to realise compensation for violations but from 1.7.2020, such compensation must be realised as per direction of this Tribunal failing which the erring State PCBs/PCCs will be accountable.**

- ii. *The CPCB may study and analyse the extent of reduction of industrial and sewage pollution load on the environment, including industrial areas and rivers and other water bodies and submit its detailed report to the Tribunal.*
- iii. *During the lockdown period there are reports that the water quality of river has improved, the reasons for the same may be got studied and analysed by the CPCB and report submitted to this Tribunal. If the activities reopen, the compliance to standards must be maintained by ensuring full compliance of law by authorities statutorily responsible for the same.*
- iv. *Accordingly, we direct that **States which have not addressed all the action points with regard to the utilisation of sewage treated water may do so promptly latest before 30.06.2020, reducing the time lines in the action plans.** The timelines must coincide with the timelines for setting up of STPs since both the issues are interconnected. The CPCB may compile further information on the subject accordingly.*
- v. *Needless to say that **since the issue of sources of funding has already been dealt with in the orders of the Hon'ble Supreme Court, the States may not put up any excuse on this pretext in violation of the judgment of the Hon'ble Supreme Court.***

17. Next detailed order is dated 21.09.2020 wherein CPCB's compliance report dated 16.09.2020 was considered. In respect of Uttar Pradesh, a separate report was received on 18.09.2020 from Oversight Committee which was also examined wherein it was found that most of the directions were not complied with. It was also observed that simultaneously Tribunal was considering overlapping issues in other matters which were mentioned in para 3, as under:

- **O.A. 673/2018:** remedial action for 351 identified polluted river stretches. This matter now is, and will henceforth be, reviewed together with the present matter.

- **O.A. 829/2019:** issue of coastal pollution on account of discharge of untreated effluents/sewage. **This matter** now is reviewed together with the present matter, and **will stand disposed of in terms of directions herein.**
- **O.A. 148/2016:** management of sewage treated water is involved. **This matter** now is reviewed together with the present matter, and **will stand disposed of in terms of directions herein.**
- **O.A. 1038/2018:** 100 identified polluted industrial clusters, in which the water pollution is caused mainly by discharge of untreated sewage/effluents.
- **O.A. 606/2018:** monitoring compliance of Solid and Liquid Waste Management, including river pollution. The Tribunal interacted with Chief Secretaries of all the States/UTs, who appeared, in person, with progress reports on significant environmental issues. They were directed to personally monitor ongoing compliance at least monthly through dedicated cells.

18. Various reports and orders passed in these matters were also referred. Tribunal under heading 'Going Forward', disposed of OA 148/2016 and proceeded with present OA as well as OA 673/2018 and issued following directions:

*"36. Accordingly, we issue following directions:*

- i. **All the States/UTs may address gaps in generation and treatment of sewage/effluents by ensuring setting up of requisite number of functional ETPs, CETPs and STPs, as directed by the Hon'ble Supreme Court in (2017) 5 SCC 326.***
- ii. The timeline for commissioning of all STPs fixed by the Hon'ble Supreme Court, i.e., 31.03.2018, has long passed. The Hon'ble Supreme Court directed that the State PCBs must initiate prosecution of the erring Secretaries to the Governments, which has also not happened. This Tribunal was directed to monitor compliance and in the course thereof, we direct that compensation may be recovered in the manner already directed in earlier orders (See, **Paras 5 and 6** herein), which may be deposited with the CPCB for restoration of the environment.*
- iii. The unutilized capacity of the existing STPs may be utilized expeditiously.*

- iv. *The States/ UTs may ensure that the CETP, ETPs and STPs meet the laid down norms and remedial action be taken wherever norms are not met.*
- v. ***It must be ensured that no untreated sewage/effluent is discharged into any water body.*** *Prompt remedial action may be taken by the State PCBs/PCCs against non-compliant ETPs/CETPs by closing down or restricting the effluents generating activity, recovering compensation and taking other coercive measures following due process of law.*
- vi. *Directions outlined in **Paras 24-26** herein may be implemented by the States/ UTs, and their compliance monitored by the Chief Secretaries at the State level, and the CMC at the National level.*
- vii. *Wherever action plans have not yet been finalized in respect of polluted river stretches or polluted coastal stretches, the same may be completed within one month from today. The execution of action plans may be overseen in the manner already directed in OA 673/2018 by River Rejuvenation Committees (RCCs). In the coastal areas, the said Committees may be known as 'River/Coastal Rejuvenation Committees'. The action plans must have provision for budgetary support in the manner laid down by the Hon'ble Supreme Court or otherwise which aspect may also be monitored by the CMC.*
- viii. *Directions outlined in **Para 29** herein may be implemented by the concerned coastal States/ UTs, and their compliance monitored by the Chief Secretaries at the State level, and the CMC at the National level. OA No. 829/2019 stands disposed of and further monitoring of the issue will henceforth be in OA 593/2017 and OA 673/2018.*
- ix. *Directions outlined in **Para 34 and 35** herein may be implemented by the States/ UTs, and their compliance monitored by the Chief Secretaries at the State level, and the CMC at the National level. OA No. 148/2016 stands disposed of and further monitoring of the issue will henceforth be in OA 593/2017 and OA 673/2018.*
- x. *CMC may consider development of an appropriate App to enable easy filing and redressal of grievances with regard to illegal discharge of sewage/effluents.*
- xi. *The monitoring by the CMC may have the target of reduction of pollution loads and improvement of water quality of rivers and coastal areas.*
- xii. *The CMC may also monitor the setting up of the bio-diversity parks, constructed wetlands and other alternative measures to reduce pollution load.*
- xiii. ***The CMC may also monitor demarcation of flood plain zones.***
- xiv. *The treated sewage water may be duly utilized for secondary purposes by preparing appropriate action plans and reports in this regard be filed with the CPCB periodically.*
- xv. *CMC may submit its consolidated update report incorporating all the above, before the next date. Each*

*action point mentioned in Para 26 may be individually covered, and summarized in a tabular format.”*

19. An application, i.e., IA No. 375/2020 filed by State of Maharashtra requesting for deferring order dated 28.08.2019 wherein direction for payment of compensation for delay in commencing and implementation of projects for treatment of water pollution were issued, was filed and it was requested that time to take steps be extended for some projects upto December 2024 and for other upto September 2024. Observing that water pollution is a criminal offence and there is a binding direction of Supreme Court requiring prosecution for such violation by SPCBs, to be overseen by Environment Secretaries, Tribunal has no jurisdiction to give any extension. If any such permission is granted, it will amount to committing criminal offence on the part of Tribunal. It was also directed that amount of compensation shall be deposited with Ministry of Jal Shakti and if not deposited, it shall take coercive measures to give effect to the mandate of judgment of Supreme Court in **Paryavaran Suraksha Samiti vs. Union of India & Others (supra)**. IA was rejected.

20. Central Monitoring Committee (hereinafter referred to as '**CMC**') submitted a report dated 12.02.2021 and Oversight Committee submitted report dated 13.02.2021 which were considered by Tribunal on 22.02.2021 after having a retrospect of earlier proceedings, orders and reports. Tribunal refers to observations of CMC report stating that in 31 States/UTs generation of sewage from urban settlements is to the extent of 48004 MLD where against STPs of 30001 MLD capacities were existing which is about 62% of sewage generation. Moreover, against existing capacity only 56% is being utilized for treatment of municipal sewage leaving a gap of 17027 MLD in treatment capacity. A chart of various States/UTs giving details of existing sewage infrastructure was given in para 12 of the order, as under:

**“Table-1: Details of Existing Sewage Infrastructure in the 31 States/ UTs**

<b>No.</b>	<b>State</b>	<b>Sewage Generation (in MLD)</b>	<b>Existing STP (capacity in MLD and No.)</b>	<b>Capacity Utilization (In MLD)</b>	<b>Gap in Treatment at present (in MLD)</b>
1	<b>Andhra Pradesh</b>	1463.20	515.85 (43 STPs)	473.77 (91%)	947.35
2	<b>Assam</b>	435.53	0	0	435.53
3	<b>Bihar</b>	651.5	230 (6 STPs)	100 (44%)	421.5
4	<b>Chhattisgarh</b>	600	73.1 (3 STPs)	6 (8%)	526.9
5	<b>Daman, Diu And Dadra Nagar Haveli</b>	21.2	17.21 (2 STPs)	6.1 (35%)	3.9
6	<b>Delhi</b>	3273	2715 (35 STPs)	2432 (90%)	558
7	<b>Goa</b>	112.53	78.35 (9 STPs)	29 (37%)	34.18
8	<b>Gujarat</b>	4003	3485 (73 STPs)	2739 (78%)	518
9	<b>Haryana</b>	1267	1892 (155 STPs)	1189 (62%)	-
10	<b>Himachal Pradesh</b>	163.5	120.5 (65 STPs)	76.8 (64%)	43
11	<b>Jammu &amp; Kashmir</b>	523	139 (15 STPs)	82.9 (60%)	383.08
12	<b>Jharkhand</b>	452	108 (14 STPs)	83%	343.8
13	<b>Karnataka</b>	3356.5	2242 (125 STPs)	1513.5 (67%)	1114
14	<b>Kerala</b>	317	124.15 (13 STPs)	91.12 (73%)	192
15	<b>Madhya Pradesh</b>	2183.65	618.23 (23 STPs)	472.6 (76%)	1565.4
16	<b>Maharashtra</b>	9758	7747 (142 STPs)	4207 (54%)	2011
17	<b>Manipur</b>	115	27 (1 STP)	9 (33%)	88
18	<b>Meghalaya</b>	75	1.85 (8 STPs)	1.82 (98%)	73
19	<b>Mizoram</b>	68	10 (1 STP)	0	58
20	<b>Nagaland</b>	44.3	25.4 (1 STP)	0	18.9
21	<b>Odisha</b>	367	91 (5 STPs)	70 (76%)	276
22	<b>Puducherry</b>	88	56 (5 STPs)	35 (62%)	32
23	<b>Punjab</b>	2111	1628.5 (116 STP)	80%	482.5
24	<b>Rajasthan</b>	1551	999 (80 STPs)	694.5 (69%)	552

25	<b>Sikkim</b>	47.68	19.5 (7 STPs)	60%	28
26	<b>Tamil Nadu</b>	3673.3	1616 (66 STPs)	919 (56%)	1320
27	<b>Telangana</b>	2613	888 (31 STPs)	735.8 (82%)	1724.45
28	<b>Tripura</b>	82.5	8 (1 STP)	3 (37%)	74.5
29	<b>Uttarakhand</b>	329.3	379 (63 STPs)	232.9 (61%)	-
30	<b>Uttar Pradesh</b>	5500	3370 (106 STPs)	2630.6 (78%)	2130
31	<b>West Bengal</b>	2758	776.32 (47 STPs) + 910 MLD addl treatment through EKW	289.89 (37%)	1071.68
<b>Total</b>		<b>48,003.69</b>	<b>30,000.96 (1261 STPs)</b>	<b>55.9%</b>	<b>17,026.58</b>

21. The details of ongoing projects etc., projects under tendering, projects awaiting sanctioning of DPR and at proposal stage were also mentioned in para 13 of the order as under:

**“Table 3: Details of on-going projects**

No.	State	Completion By			
		January 2021- March 2021	April 2021- December 2021	January 2022- June 2022	Beyond June 2022
1	<b>Andhra Pradesh</b>	2 STPs of 7 MLD	29 STPs of 328.4 MLD	1 STP of 123 MLD	15 MLD STP
2	<b>Bihar</b>	12 projects of 355.5 MLD. Revised timeline to be provided			
3	<b>Chhattisgarh</b>	-	6 STPs of 238 MLD	-	-
4	<b>Daman, Diu And Dadra Nagar Haveli</b>	-	-	-	-
5	<b>Delhi</b>	-	1 STP of 318 MLD (new)	-	STPs of 950.8 MLD (Rehabilitation)
6	<b>Goa</b>		5 STPs of 35.5 MLD including sewer networks		3 STPs of 43 MLD – work not started due to issues by locals.
7	<b>Gujarat</b>	23 STPs of 426.72 MLD	44 STPs of 571.68 MLD	4 STPs of 116.6 MLD	10 STPs of 125.4 MLD

8	<b>Haryana</b>	15 STPs of 59.45 MLD	19 STPs of 168.75 MLD	2 STPs of 45 MLD	2 STPs of 180 MLD
9	<b>Himachal Pradesh</b>	5 STPs of 26 MLD	10 STPs of 7.9 MLD	6 STPs of 6.1 MLD	5 STPs of 8.26 MLD
10	<b>Jammu &amp; Kashmir</b>	2 STPs of 61.2 MLD	4 STPs of 17.6 MLD	4 STPs of 13.21 MLD	-
11	<b>Jharkhand</b>	-	3 STPs of 89 MLD	-	-
12	<b>Karnataka</b>	21 STPs of 427.17 MLD	9 STPs of 197.3 MLD	21 STPs of 115.67 MLD	4 STPs of 16.07 MLD
13	<b>Kerala</b>	STP/ETP/FSTP of 0.331 MLD	STP of 0.01 MLD		
14	<b>Madhya Pradesh</b>	15 STPs of 212 MLD	2 STPs of 22.25 MLD	19 STPs of 212.5 MLD	
15	<b>Maharashtra</b>	10 STPs of 141.5 MLD	5 STPs of 110.26 MLD	2 STPs of 13 MLD	-
16	<b>Manipur</b>	-	-	2 STPs of 17 MLD	-
17	<b>Meghalaya</b>	115 KLD Septage Treatment Plant			
18	<b>Mizoram</b>	Sewer connections in	-	-	-
19	<b>Nagaland</b>		sewer connections in progress	-	-
20	<b>Odisha</b>	2 STPs of 56 MLD	48 MLD STP	-	-
22	<b>Punjab</b>	6 STPs of 27.5 MLD	12 STPs of 49.2 MLD	4 STPs of 67.5 MLD	8 STPs of 109 MLD
23	<b>Rajasthan</b>	29 STPs of 126 MLD	15 STPs of 113.5 MLD	4 STPs of 59.5 MLD	12 STPs of 141 MLD
24	<b>Sikkim</b>	2 STPs of 3 MLD	-	-	3.25 MLD STP
25	<b>Tamil Nadu</b>	18 STPs of 244 MLD	8 STPs of 203.46 MLD	6 STPs of 450.53 MLD	16.71 MLD STP
26	<b>Telangana</b>	2 STPs of 16.45 MLD	12 STPs of 73.96 MLD	3 STPs of 120 MLD	-
27	<b>Tripura</b>	-	-	8 MLD STP	-
28	<b>Uttarakhand</b>	3 STPs of 8.9 MLD	3 STPs of 23.7 MLD	1 STP of 28 MLD	
29	<b>Uttar Pradesh</b>	6 STPs of 122.01 MLD	21 STPs of 523.55 MLD	7 STPs of 161.5 MLD	3 STPs of 80 MLD
30	<b>West Bengal</b>	1 STP of 24 MLD	4 STPs of 47.75 MLD	6 STPs of 271.5 MLD	-
	<b>Total (except Bihar)</b>	<b>163 STPs of 1989.211 MLD</b>	<b>214 STPs of 3187.77 MLD</b>	<b>93 STPs of 1828.61 MLD</b>	<b>1688.49 MLD</b>

**Table 4: Projects under Tendering and works to be awarded**

No.	State	STPs in Tendering
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<b>1</b>	<b>Andhra Pradesh</b>	6 STPs of 52.4 MLD
<b>2</b>	<b>Bihar</b>	7 projects of 149.5 MLD
<b>3</b>	<b>Chhattisgarh</b>	5 STPs of 40.5 MLD
<b>4</b>	<b>Daman, Diu And Dadra Nagar Haveli</b>	1 STP of 7 MLD
<b>5</b>	<b>Gujarat</b>	59 STPs of 445 MLD
<b>6</b>	<b>Himachal Pradesh</b>	8 STPs of 33.31 MLD
<b>7</b>	<b>Jharkhand</b>	15 MLD STP - Sanctioned
<b>8</b>	<b>Karnataka</b>	14 STP, 1 UGD for STP, 144 MLD 15 STP, 57.366 MLD (work order given)
<b>9</b>	<b>Kerala</b>	Projects for treatment of 55.8 MLD effluent
<b>10</b>	<b>Madhya Pradesh</b>	STPs of 53.4 MLD
<b>11</b>	<b>Puducherry</b>	2 STPs of 6 MLD
<b>12</b>	<b>Punjab</b>	43 STPs of 388 MLD
<b>13</b>	<b>Telangana</b>	17 STPs of 376.5 MLD
<b>14</b>	<b>Uttar Pradesh</b>	24 STPs of 568.1
<b>15</b>	<b>West Bengal</b>	9 STPs of 122.36 MLD
	<b>Total</b>	<b>Projects of 2514.236 MLD</b>

**Table 5: Projects awaiting sanctioning of the DPR**

<b>No.</b>	<b>State</b>	<b>STPs awaiting sanctioning of DPR</b>
<b>1</b>	<b>Assam</b>	2 STPs of 4 MLD
<b>2</b>	<b>Bihar</b>	4 projects
<b>3</b>	<b>Chhattisgarh</b>	1 STP of 35 MLD
<b>4</b>	<b>Delhi</b>	14 STPs in Najafgarh zone (of which 7 STPs sanctioned and work to be started)
<b>5</b>	<b>Himachal Pradesh</b>	2 STPs of 4 MLD
<b>6</b>	<b>Jammu &amp; Kashmir</b>	STPs of 59.9 MLD
<b>7</b>	<b>Jharkhand</b>	STPs of 184 MLD
<b>8</b>	<b>Karnataka</b>	29 STP of 134.846 MLD
<b>9</b>	<b>Kerala</b>	Treatment Plants of 0.71 MLD

<b>10</b>	<b>Manipur</b>	<i>STP of 49 MLD</i>
<b>11</b>	<b>Telangana</b>	<i>31 STPs of 1098.17 MLD</i>
<b>12</b>	<b>Sikkim</b>	<i>0.72 MLD STP</i>
<b>13</b>	<b>Uttarakhand</b>	<i>STPs of 67 MLD</i>

**Table 6: Projects in Proposal stage (DPR to be prepared)**

<b>No.</b>	<b>State</b>	<b>STPs in proposal stage</b>
<b>1</b>	<b>Andhra Pradesh</b>	<i>STPs of 1215 MLD in proposal stage</i>
<b>2</b>	<b>Assam</b>	<i>17 STPs of 163 MLD</i>
<b>3</b>	<b>Bihar</b>	<i>20 Projects of which 5 DPR prepared</i>
<b>4</b>	<b>Daman, Diu And Dadra Nagar Haveli</b>	<i>1 STP of 16 MLD</i>
<b>5</b>	<b>Delhi</b>	<i>42 decentralized STPs and Mori Gate STP</i>
<b>6</b>	<b>Gujarat</b>	<i>19 STPs of 472.3 MLD</i>
<b>7</b>	<b>Haryana</b>	<i>8 STPs of 64 MLD (for future)</i>
<b>8</b>	<b>Himachal Pradesh</b>	<i>22 STPs of 32 MLD</i>
<b>9</b>	<b>Jammu &amp; Kashmir</b>	<i>STPs of 47.9 MLD</i>
<b>10</b>	<b>Jharkhand</b>	<i>STP of 43 MLD</i>
<b>11</b>	<b>Karnataka</b>	<i>23 STP of 72.136 MLD;3 FSSM, 4.5 cum</i>
<b>12</b>	<b>Kerala</b>	<i>STP/ETP/FSTP of 2.776 MLD</i>
<b>13</b>	<b>Madhya Pradesh</b>	<i>1 scheme at DPR Stage</i>
<b>14</b>	<b>Maharashtra</b>	<i>58 STPs of 3569.82 MLD - Proposed</i>
<b>15</b>	<b>Meghalaya</b>	<i>STP of 0.105 MLD</i>
<b>16</b>	<b>Punjab</b>	<i>53 STPs of 183.5 MLD</i>
<b>17</b>	<b>Sikkim</b>	<i>6 STPs of 10.61 MLD</i>
<b>18</b>	<b>Tamil Nadu</b>	<i>DPRs prepared and are being prepared on cluster basis</i>
<b>19</b>	<b>Telangana</b>	<i>13 STPs of 99.85 MLD</i>
<b>20</b>	<b>Uttarakhand</b>	<i>STPs of 39.25 MLD</i>
<b>21</b>	<b>West Bengal</b>	<i>12 STPs of 228.89 MLD</i>

22. With regard to report of Oversight Committee constituted in State of UP, Tribunal also referred to its two reports dated 12.02.2021 and 13.02.2021. The inferences drawn from the reports were noticed by Tribunal in paragraphs 24 to 26, as under:

*“24. We have given careful consideration to the data furnished by way of above reports and found that the **progress achieved is insubstantial**. We note discrepancy in the data in the current report compared to the data in the last report dated 15.09.2020. In the last report, the data of sewage generation was mentioned to be 53,396.84 MLD while in the current report it is mentioned as 48,000 MLD. Explanation in the report is that the earlier information was incomplete and the current report gives the correct figure. **It is seen that huge gap in generation and treatment of sewage continues. Capacity is said to be only 62% but the entire capacity is not utilised. Utilised capacity is only 44% as per data furnished by the CPCB in OA 95/2018, Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors, to be referred later. As per last report, 1831 industries were working without any ETP in violation of law. 1123 ETPs were non functional. 62 CETPs and 530 STPs were non-compliant. Several projects are still at tender/DPR stage with no interim remediation arrangement. This statistic relates to the urban areas of the entire country, including the towns on the banks of rivers in question. No statistics have been given about the gap in generation and treatment of the sewage in rural areas.** While the report mentions that the National FSSM Policy has been introduced in 2017 and some States have also issued their State Level Policies, the FSTPs operational are said to be only about 30 and in the offing about 400 which are hardly sufficient to address the huge gap. Credible database needs to be compiled in this regard and comprehensive action plan prepared to ensure that there is no gap in the waste generation and treatment. Execution of the action plan has to be planned having in mind the requirements of the urban and rural areas separately. The policy must include utilization of biosolids for using as composting need to be duly ensured. The observations and recommendations in the report on issues not expressly dealt with need to be duly followed.*

*To address the huge gap in generation and treatment of waste, requisite number of treatment plants need to be in place at the earliest, including modular STPs wherever necessary. The plants already set up need to be functional and compliant. The ongoing projects have to be completed within the stipulated timelines. Pending such treatment interim measures for phyto/bio-remediation needs to be taken to ensure compliance of the provisions of the Water Act prohibiting discharge of any contaminant in water bodies.*

**Thus, huge water pollution is taking place as per official data with no effective adverse action against polluters, though it is crime under the law of land in the same way as homicide and assault. Pollution is resulting in deaths and diseases but with no punishment and no protection to the**

**victims posing serious threat to rule of law requiring protection of innocent and punishment of guilty by the State. Emergent and stringent measures are necessary for discharge of Constitutional duties by the States concerned otherwise it is tolerating and ignoring lawlessness. Repeated directions to shorten tendering/DPR procedures have remained uncomplied as also fixing accountability of officers responsible for the situation.**

25. Thus, further action is required in mission-mode at all levels to discharge constitutional obligation of providing pollution free environment and also to protect public health. Scarce sources of drinking water and irrigation are required to be maintained free from contamination. This is basic constitutional obligation of the authorities under the Constitution being linked to 'Right to Life'. Without this being done in a meaningful manner, there can be no sustainable development. **There is need for stringent enforcement by way of adverse measures, including recovery of compensation for continuing violation and adverse entries in the record of defaulting officers. Accountability for those who are entrusted the responsibility to comply with these directions must be fixed on the principle of good governance to enforce rule of law to protect rights of citizens.**

26. We find that the river water quality has been analyzed without taking into account one of the major components of river pollution i.e. fecal coliform. **The river water quality is declared 'fit for bathing' only with reference to BOD, without concern of the fecal coliform, which does not represent true picture and such course is thus against the law.** This may be duly remedied. There is need for compiling an annual progress report in terms of improvement of water quality by reducing pollution load. The progress should be evaluated depending on extent of reduction of pollution load, in comparison to the earlier period. Such annual progress report must be put in public domain and appropriate action taken for inadequate progress after finding out the persons responsible for such failure and other causes, if any. Adequate number of monitoring stations need to be installed in a timebound manner for the purpose of monitoring water quality."

23. Thereafter, Tribunal observed that for continuance of monitoring, several steps are necessary which were mentioned in detail and present OA along with OA 673/2018 were disposed of with following directions given in para 39 which reads as under:

"39. Our directions are summed up as follows:

- (i) In the light of observations in Para 38 above, MoJS may devise an appropriate mechanism for more effective monitoring of steps for control of pollution and rejuvenation of all polluted river stretches in the country. The said mechanism may be called "National River

- Rejuvenation Mechanism” (NRRM) or given any other suitable name. NRRM may also consider the observations with regard to setting up of National/State/District Environment Data Grid at appropriate levels as an effective monitoring strategy.*
- (ii) *Chief Secretaries of all States/UTs and PCBs/PCCs must work in mission mode for strict compliance of timelines for commencing new projects, completing ongoing projects and adopting interim phyto/bio-remediation measures, **failing which compensation in terms of earlier orders be deposited with the MoJS**, to be utilised in the respective States as per action plan to be approved by the NRRM. Other steps in terms of action plans for abatement of pollution and rejuvenation of rivers, including preventing discharge or dumping of liquid and solid waste, maintaining eflow, protecting floodplains, using treated sewage for secondary purposes, developing bio-diversity parks, protecting water bodies, regulating ground water extraction, water conservation, maintaining water quality etc. be taken effectively. The process of rejuvenation of rivers need not be confined to only 351 stretches but may be applicable to all small, medium and big polluted rivers, including those dried up.*
  - (iii) *The Chief Secretaries of all States/UTs may personally monitor progress at least once every month and the NRRM every quarter.*
  - (iv) ***Directions of this Tribunal in earlier order, the last being dated 21.9.2020 are reiterated.***
  - (v) *The NRRM and the Chief Secretaries of all the States/UTs may take into account the observations in Paras 24 to 38 above.*
  - (vi) *In view of discussion in para 38 above, it is made clear that **accountability for failure to comply with the direction for payment of compensation will be of the concerned Chief Secretaries under Sections 25, 26, 28 and 30 of the NGT Act, 2010. The MoJS or any other aggrieved person will be free to take remedies by way of initiating prosecution or execution.***

*The applications are disposed of in above terms.”*

24. Thereafter, MA No. 356/2023 was filed by State of UP in Writ Petition (Civil) No. 375/2012, *Paryavaran Suraksha Samiti (supra)* before Supreme Court. The above MA was disposed of by Supreme Court vide order dated 20.03.2023 which reads as under:

“1. *The judgment of this Court in Paryavaran Suraksha Samiti and Another vs Union of India and Others*<sup>1</sup> laid down mandatory time lines for the setting up of Common Effluent Treatment Plants<sup>2</sup> and Sewage

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<sup>1</sup> (2017) 5 SCC 326

<sup>2</sup> “CETPs”

Treatment Plants<sup>3</sup>. The judgment which was pronounced on 22 February 2017 envisages that CETPs and STPs shall be set up within a period of three years. Paragraph 16 of the order indicates thus:

*“It however needs to be clarified that the instant directions and time lines shall not in any way dilute any time lines and directions issued by courts or Benches of the National Green Tribunal, hitherto before, wherein the postulated time lines would expire before the ones expressed through the directions recorded above. It is clarified that the time lines expressed hereinabove will be relevant, only in situations where there are no prevalent time line(s), and also, where a longer period has been provided for.”*

2. The State of Uttar Pradesh has instituted the present miscellaneous application seeking the following directions:

*“Allow the present Application and allow the State more time to install and operationalise 100% STP coverage in the State of U.P. in terms of directions in para 12 of final order dt. 22.02.2117.”*

3. The State of Uttar Pradesh has in support of its application purported to submit that the time lines which were provided in the judgment of this Court dated 22 February 2017 “are impractical and artificial and impossible to implement in the time frame, given present funding and institutional capacities and other competitive priorities of the State”. The State has also averred that “STPs are typically set up by the government and hence the typical time-consuming procurement process of tendering needs to be followed”. Moreover, it has been submitted that the judgment of this Court does not take into account aspects such as the steps required in the preconstruction phase and the post-construction phase.

4. It has been stated in the application that the State of Uttar Pradesh has one of the highest population densities in the country of 828 per square kilometer whereas the national average is 464 per square kilometer. Hence, the laying of sewerage networks and acquisition of land poses a challenging task. The State has further submitted that the Million Litres per Day<sup>4</sup> of waste generation of Uttar Pradesh is much higher than other States requiring a larger installation of STPs. The State has also referred to the implementation of various other administrative schemes, the impact of the Covid-19 pandemic and the budgetary requirements for 100 per cent treatment of sewage discharge.

5. Another reason for moving the miscellaneous application, it is stated, is that the National Green Tribunal has imposed penalties on diverse States which have not complied with the time lines imposed by this Court and that this may delay the projects.

6. Mr Maninder Singh, senior counsel appearing on behalf of the applicants with Ms Garima Prashad, Additional Advocate General for the State of Uttar Pradesh and Ms Ruchira Goyal, Standing Counsel

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<sup>3</sup> “STPs”

<sup>4</sup> “MLD”

has tendered a note on Sewage Management in the State of Uttar Pradesh. The present status which has been indicated in the note tendered before this Court is in the following terms:

#### **“Brief Note on Sewage Management**

- Total Sewage Generated in the State is 5500 MLD.
- 122 STPs with treatment capacity of 3860 MLD are operational. **List of 122 STPs is annexed as Annexure no-1**

#### **Time line for the Way Ahead**

- There are 52 STPs with treatment capacity 1004 MLD under construction to be commissioned by Dec, 2024. **(Annexure 2)**
- 15 STPs with treatment capacity 854 MLD are under tendering process, and shall be commissioned by June 2025. (Annexure 3).
- **State shall have treatment capacity of 5718 MLD by June 2025 and gap shall be zero in between Sewage generation and treatment.**

#### **Future plan**

- 317 STPs with treatment capacity of 1593 MLD are proposed to be installed by Dec.2025. **List of 317 STPs is annexed as Annexure 4.**
- State shall have a total treatment capacity of 7311 MLD by Dec.2025.
- **100% treatment of sewage by June 2025.**
- **Projects to meet the MLD Gap have already been grounded.**
- **Funds have been tied up for the same in the respective project accounts”**

7. The above statement indicates that the **total sewage generated in Uttar Pradesh is 5500 MLD. 122 STPs with a treatment capacity of 3860 MLD are stated to be operational.** 52 STPs with a treatment capacity of 1004 MLD are under construction and are to be commissioned by December 2024. 15 STPs with a treatment capacity of 854 MLD are under ‘tendering’ and are proposed to be commissioned by June 2025. Moreover, it has been submitted that 317 STPs with a treatment capacity of 1593 MLD would be installed by December 2025. In sum and substance, it has been submitted that 100 per cent treatment of sewage would be envisaged by June 2025.

8. The **above statement which has been tendered before this Court would require factual verification.** Moreover, this Court had categorically set up time lines in its judgment for the setting up of CETPs and STPs as the case may be. **Whether there has been bona**

***bona fide compliance with the judgment of this Court is also a matter which warrants consideration.***

9. *Apart from the above, the mere setting up of STPs is not enough. The **maintenance of the STPs and their performance and capacity to deal with sewage which is generated is another matter which has to be duly scrutinized and monitored.** The treatment of sewage which is generated in the villages, towns and cities is a matter of utmost concern. Untreated sewage waste is discharged into rivers and naalas polluting the very sources of water upon which the survival of the population and bio diversity depends.*

10. *While this Court had in its judgment laid down time lines for the construction of STPs and CETPs, of equal importance is the need to ensure that:*

- (i) The CETPs with the requisite technology and capacity are duly commissioned;*
- (ii) After the commissioning of the CETPs/STPs, they continue to remain operational;*
- (iii) The CETPs/STPs are duly maintained and upgraded as the need may arise;*
- (iv) There is due monitoring at the administrative level on a real time basis of the performance of the CETPs, the deficiencies which may arise in the course of functioning and work of repair and maintenance; and*
- (v) Entrustment to an authority which would be accountable for the due performance of the CETPs.*

11. *The **above aspects are necessary to be borne in mind to supplement the directions of this Court. It is only if all other consequential steps are taken as adverted to above that the object and purpose of the order of this Court would be duly met.***

12. *We accordingly permit the applicant to move the National Green Tribunal with an application in that regard. The National Green Tribunal shall duly monitor compliance with the directions including the time-lines which have been spelt out in the order of this Court. **It would be open to the applicant to place on the record of the Tribunal all material to indicate the bona fide steps which were taken to comply with the order of this Court and, if there were any genuine hindrances in doing so, the nature of the hindrances. The Tribunal would be at liberty in the exercise of its discretion to consider any request for a further extension of time.***

13. *The **National Green Tribunal is authorized in terms of the present order to suitably extend time should it be satisfied that all necessary steps have been pursued with a sufficient degree of alacrity. The Tribunal shall also take stock of the issues which have been set out above in relation to due monitoring of the performance of the STPs and steps for ensuring up-gradation and maintenance.** The Tribunal shall also ensure that an accountable mechanism is set up in the State of Uttar Pradesh to take stock of the performance of the STPs, providing for adequate funds for up-gradation and maintenance as required and for attending to all other administrative issues and problems.*



14. *The Miscellaneous Application shall stand disposed of in the above terms.”*

25. Pursuant to Supreme Court’s order dated 20.03.2023, present OA along with OA 62/2023 in OA 670/2018 was considered on 17.08.2023. Tribunal on the question of ensuring accountability mechanism in State of UP to take stock of performance of STPs, for providing adequate funds for upgradation and maintenance and for attending all administrative issues and problems, granted time to learned Additional Advocate General to file its report and fixed 31.10.2023 on which date on the request of learned Counsel appearing for State of UP it was adjourned to 10.11.2023. When the matter came up on 10.11.2023 again we found that there was no compliance on the part of State of UP to order dated 17.08.2023. However, as a last opportunity two weeks further time was granted to file compliance report, failing which Chief Secretary, UP was directed to remain present by virtual mode.

26. Today, a compliance report dated 15.12.2023 under signature of Shri Devendra Singh Chauhan, Under Secretary has been placed before us and Ms. Garima Prasad, learned Additional Advocate General appeared on behalf of State of UP.

27. It is admitted in para 3 of the report that timeline granted for setting up CETPs/ETPs/STPs was upto 31.03.2020 under order of Supreme Court dated 22.02.2017 passed in Writ Petition (Civil) No. 375/2012. Thereafter, reliance has placed on Supreme Court’s order dated 20.03.2023 to support a claim for extension of timeline. It is further said that Chief Secretary, State of UP appeared before Tribunal on 23.03.2023 in OA 606/2018 where the matter of compliance of Solid Waste Management Rules, 2016 and handling and treatment of liquid waste was being considered Pan

India. Chief Secretary placed a power point presentation before Tribunal on 23.03.2023. The above presentation included details of solid waste management and liquid waste management. In respect of solid waste management, details given are as under:

- Total generation – 14710 TPD
- Existing processing capacity – 10117 TPD
- Current gap – 4593 TPD
- Under construction plants – 7526 TPD (Timeline upto December 2023)
- Processing capacity which would be available by December 2023 – 1764 TPD.

28. Regarding legacy waste, it is said that earlier there was 91 lacs tonnes total legacy waste whereof 58 lacs tonnes was remediated and 33 lacs remained which is under remediation and would be completed by March 2024. The above figures apparently ignore the fact that 4593 tonnes per day which remain untreated, would become part of legacy waste every day and if take total quantum from 23.03.2023 upto 30.11.2023 is computed, total accumulation of legacy waste due to non-treatment of daily solid waste generation would be 1713189 MT (4593 tonnes x 373 days). It will continue to accumulate upto March 2024 at the rate of 137790 MT per month. Therefore, by March 2024, if 33 lacs MT is treated, there would be more than 22 lacs tonnes of legacy waste still available for treatment. The timeline stated by State of U.P. is apparently unachievable.

29. Now, coming to STPs, in para 5 of the report, it is mentioned that total sewage generation is 5500 MLD whereagainst installed treatment capacity is only 4110 MLD leaving a gap of 1390 MLD (5500 MLD – 4110 MLD). There is a chart in para 5 of the report which shows that against STP installed capacity of 4110 MLD, capacity utilization is only 3296 MLD and, thus, actual gap in treatment of sewage is not 1390 MLD but 2204 MLD. Total number of STPs installed are 133.

30. More than two years and 10 months back, when order dated 22.02.2021 was passed, the data in respect of State of UP made available to Tribunal at that time shows that total generation was 5500 MLD whereagainst 106 STPs of 3370 MLD capacities were installed but capacity utilization was only 2630.6 MLD leaving a gap of 2869.4 MLD. Gap in last two years and 10 months has reduced by 665.4 MLD i.e., from 2869.4 MLD to 2204 MLD. The number of STPs have increased, as per report filed on behalf of State of UP, from 106 to 133 and installed capacity has increased from 3370 MLD to 4110 MLD. An attempt has been made to some improvement in treatment capacity by keeping sewage generation constant. As per report, despite increase in population, sewage generation is unchanged. This is improbable and put shadow of doubt on the correctness of data provided to us. When this was pointed out to learned Counsel appearing for State of U.P., she could not reply.

31. Report further says that 64 STPs are in the stage of under construction or under tendering. Annexure 4 has been filed to the report giving details of 45 STPs claimed to be under construction but therefrom we find that there is zero percent progress in respect of STPs at Ghaziabad and Balia; 2%, 11% and 13% progress in respect of 3 STPs at Gorakhpur. 3 STPs at Gorakhpur and Jhansi are claimed to be completed by December 2023 and 2 STPs at Mirzapur, 1 at Ghazipur, 1 at Shuklaganj, 1 at Kairana, 1 at Azamgarh and 1 at Lucknow are claimed to be completed by January 2024. Learned Additional Advocate General admitted that STPs under construction, which are claimed to be completed by December 2023 or January 2024 cannot become functional since even trial run has not started. Hence, there is no question of their completion by December 2023 or January 2024. She said that after completion of construction, some more time may be taken for trial run and commissioning which may be six

months or more. Hence, it is evident that these STPs also would not be able to be functional by timeline mentioned in the chart filed as Annexure 4.

32. The chart also shows that 1 STP of 30 MLD capacity at Kanpur though shown as has already been commissioned but progress of construction is shown as 98% and when questioned this discrepancy, learned Additional Advocate General could not give any reply and sought time to seek instructions on this aspect.

33. Similarly, 19 STPs are claimed to be under tendering process and chart in this regard has been filed as Annexure A5, but we find that in respect of STP at Fatehpur even tender notice has not been issued so far. 4 STPs proposed at Shamli and in respect thereof technical bids were opened on 09.08.2023, more than four months have passed but bids are still under evaluation and there is no explanation as to why in the last more than four months, bids have not been finalized. At Prayagraj, 1 STP of 43 MLD capacity is proposed in respect whereof notice inviting tender was issued on 07.05.2023 and last date for submission of bid was 17.07.2023. Five months and more have passed but still financial bid is in the stage of evaluation. Similar is the position in respect of various other STPs which are claimed to be under tendering. Unexplained and undue long time is being taken in tendering process without any justification for so much delay. These 64 STPs in any case have a total proposed installed capacity of 1845 MLD. While considering actual utilization, we find that present gap is 2204 MLD. Hence, it cannot be said that as per claim of State of UP even upto March 2025/June 2025, 100% sewage treatment would be possible.

34. When questioned about maintenance of STPs and quality of treated water whether meeting standards prescribed under Water Act and rules framed thereunder, it is admitted in para 8 of the report that out of 133

already installed STPs which are/were functional in the year 2023, 34 STPs were found defaulting and not achieving norms. Details of such STPs are mentioned in Annexure 10 which mentioned following STPs:

<b>Sl. No.</b>	<b>Place of STP</b>	<b>Capacity</b>
1	<i>Indirapuram Ghaziabad</i>	<i>56 MLD</i>
2	<i>Vijay Nagar Ghaziabad</i>	<i>70 MLD</i>
3	<i>Chirtrakoot</i>	<i>3.42 MLD</i>
4	<i>Kanpur</i>	<i>130 MLD</i>
5	<i>Kanpur</i>	<i>210 MLD</i>
6	<i>Kanpur</i>	<i>43 MLD</i>
7	<i>Kanpur</i>	<i>5 MLD</i>
8	<i>Fatehgarh</i>	<i>2.7 MLD</i>
9	<i>Kannauj</i>	<i>13 MLD</i>
10	<i>Prayagraj</i>	<i>25 MLD</i>
11	<i>Prayagraj</i>	<i>10 MLD</i>
12	<i>Prayagraj</i>	<i>80 MLD</i>
13	<i>Meerut</i>	<i>7 MLD</i>
14	<i>Meerut</i>	<i>10 MLD</i>
15	<i>Meerut</i>	<i>15 MLD</i>
16	<i>Meerut</i>	<i>15 MLD</i>
17	<i>Meerut</i>	<i>6 MLD</i>
18	<i>Meerut</i>	<i>5 MLD</i>
19	<i>Agra</i>	<i>4.50 MLD</i>
20	<i>Agra</i>	<i>36 MLD</i>
21	<i>Firozabad</i>	<i>03 MLD</i>
22	<i>Firozabad</i>	<i>67 MLD</i>
23	<i>Etawah</i>	<i>1.65 MLD</i>
24	<i>Mainpuri</i>	<i>23 MLD</i>
25	<i>Anoopshahar</i>	<i>0.805 MLD</i>
26	<i>Anoopshahar</i>	<i>1.75 MLD</i>
27	<i>Anoopshahar</i>	<i>1.5 MLD</i>
28	<i>Anoopshahar</i>	<i>01 MLD</i>
29	<i>Etah</i>	<i>24 MLD</i>
30	<i>Aligarh</i>	<i>15 MLD</i>

31	<i>Lucknow</i>	<i>345 MLD</i>
32	<i>Lucknow</i>	<i>56 MLD</i>
33	<i>Lucknow</i>	<i>37.5 MLD</i>
34	<i>Lucknow</i>	<i>6.5 MLD</i>

35. The total treatment capacity of above 34 STPs is 1330.325 MLD. The total capacity utilization was shown as 3296 MLD against which 34 STPs with 1330.325 MLD capacity are not meeting parameters. It means, against 5500 MLD, less than 2000 MLD sewage is being treated by meeting standards/parameters. Rest untreated/partially treated sewage is ultimately being discharged in rivers polluting river water.

36. It is also admitted that for violation of section 24 of Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act**') by discharging untreated or partially treated sewage ultimately in rivers/streams, UPPCB had imposed environmental compensation of total Rs. 5,32,05,000 i.e. Rs. 53.205 crores but when questioned as to whether said amount has been deposited, no reply could be given by learned Counsel appearing for State of UP.

37. Report further said that there are 7 CETPs with cumulative treatment capacity of 58.55 MLD, 1 each at Hapur, Ghaziabad, Rooma Kanpur, Jajmau Kanpur, industrial area Mathura, Banthar Unnao and Site II Unnao. Out of 7 CETPs, only 6 CETPs are operational meeting norms and one at Site II Unnao is not operating. Even this information is not correct. A chart of 7 CETPs is given as Annexure 11 which shows that only 5 CETPs at Hapur, Rooma Kanpur, Jajmau Kanpur, Mathura and Banthar Unnao are achieving parameters, while CETP at Ghaziabad is not achieving effluent quality and CETP at Site II Unnao is non-operational. Meaning thereby information given in para 10 is not correct. Out of 7 CETPs, 1 is non-operational and 1 is not achieving prescribed standards. It is also

evident from record that sample from CETP at Banthar Unnao was collected by officials of CPCB on 31.08.2022 and in testing report it was not found meeting prescribed standards. Thus, computing 33 days of default environmental compensation of Rs. 9.9 lacs was imposed on CETP Banthar Unnao and further environmental compensation of Rs. 30,000/- per day was imposed till treated effluent meets standards.

38. With regard to industrial pollution, it is said that there are 1644 grossly polluting industries in State of UP out of which 410 are self-closed and 1234 have installed ETPs. However, in the inspection conducted during 2022-23 by UPPCB and other authorized authorities of CPCB, 220 grossly polluting industries were found non-compliant. Consequently, show cause notices were issued to 165 and closure orders were passed in respect of 55 industries. It is not clear whether 1234 grossly polluting industries are now complying. We also find no justification for not taking penal action against defaulting industries.

39. It is then explained that in State of UP an accountable Committee has been constituted by Office Memorandum dated 08.09.2023 but we are not informed that till date any one has been held accountable and for dereliction, appropriate action has been taken.

40. With regard to budgetary allocation, last six years figures are given as under in para 25 of the report:

<b>S. No.</b>	<b>Financial Year</b>	<b>Total Budget of Urban Development (In ₹ Cr.)</b>	<b>Total fund released under State Sector for Sewerage related works (In ₹ Cr.)</b>	<b>Total fund released under AMRUT Scheme (In ₹ Cr.)</b>	<b>Proportionate fund (65%) calculated under AMRUT scheme for Sewerage Projects (In ₹ Cr.) *</b>
1	2022-23	154,25.04	34.65	1,122.58	

2	2021-22	134,88.19	75.86	2,549.09	
3	2020-21	125,56.68	38.70	1,854.15	
4	2019-20	141,03.83	81.26	777.29	
5	2018-19	122,38.92	46.26	900.68	
6	2017-18	102,20.87	30.00	601.19	
<b>Total</b>		<b>780,33.53</b>	<b>306.73</b>	<b>7,804.98</b>	<b>5,073.24</b>

*\*65 % of the total AMRUT project cost is for Sewerage projects. Thus, it is assumed that 65% of the total fund released would be for sewerage sector, which may include interception & diversion / Sewerage Network or related projects.\**

41. The above details nowhere show actual requirement in respective years for sewerage projects and actual release of funds against such requirement.

42. Details of some further budgetary provisions under some State and Central Government programs for sewage network and related work are given in the form of chart as under:

<b>S. No</b>	<b>Program Name</b>	<b>Mission Validity</b>	<b>Proposed available funds for Sewerage Network and Treatment (In ₹ Crores) (Approximate)</b>
1	AMRUT	Till March'23	2,859 (7,932 Total allocation — 5,073 already spent)
2	AMRUT 2.0	Till Oct'26	13,230**
3	State Sector	Til 1 Oct'26	300
4	SBM2.0	Till Oct'26	<b>4,234</b>
5	Namami Gange (projected)	Till Oct'26	2,394 ***
<b>Total</b>			<b>23,017</b>

*\*\* Based on 41% of the mission proportion for AMRUT 2.0 for sewerage/septage management in AMRUT cities.*

*\*\*\* 32 No of DPRs/PFRs (₹ 6,285 Crores) have been sent to NMCG, New Delhi by Uttar Pradesh Jal Nigam (Rural) which includes*



*Capex and O&M for 15 years One third (1/3) cost has been considered as Capex for calculation purpose.”*

43. The chart shows only estimate and proposal and not actual ground level situation. Directions of Supreme Court on availability of funds are very clear but the same are being violated with audacity and impunity.

44. Regarding constraints for implementation of water treatment projects, para 28 of the report says as under:

*“A-Constraints related to Waste Water Treatment Project implementation:*

- a- It is submitted that STP (Sewerage Treatment Plant) is usually a **huge structure** (typically few MLDs — Million liters per day of discharge) and is established to treat the domestic sewage generated by masses. STPs are typically **set up by the Government** and hence the typical time-consuming procurement **process of tendering** needs to be followed. Further, since these structures are big and usually constructed on populated public land, additional factors such as **availability of land, environmental clearances and funds availability** need to be taken into consideration, which **usually takes 3-5 years' time to make it completely operational.***
- b- It is humbly submitted that the formulation of project and tying up the technical and financial requirement for the construction of STPs is a long-drawn-out process and it is **impractical to complete these projects for all the drains in a State like UP within the time frame prescribed.** The implementation of such projects on the large scale, from the **initial conception of the projects based on needs assessment and surveys, finalisation of DPR, Administrative and financial approval, project allocation, tendering & bid process management, work allocation is a tedious and process driven** which are as follows:*
  - i. **Pre-Construction Phase: Step-1 Conceiving the project***
    - *Project Approvals*
    - *DPR Preparation*
    - *Administrative & Financial Approval*
    - *Fund Allocation*
    - *Bid Process Management*
    - *Work Allocation*
  - ii. **Construction Phase: Step-2***
    - *The whole project **construction period is 24-36 Months.***

iii. **Post Construction: Step-3**

- **Testing & Commissioning** of the project to make it fully functional on designed capacity **takes minimum 3-6 Months.**
- c- There are constraints imposed by the **land availability on account of inadequacy, disputes, court cases and local resistance.** Detailed action needs to be taken step-by-step starting with developing the institutional capabilities at State and District/ ULB level, online submission of the project on the portal, State plan approval from the State, approval from GOI of State plan, identifying the suitable land (if available for acquisition then 2-4 months otherwise the process may take 6 months to 12 months), preparation of Detailed Project Report (DPR) (1-2 Months), technical and financial approval from SLTC and SHPSC (1-2 Months), Financial approval of the DPR through EFC/ PFAD/ issuing of G.O. (2-4 Months), Bidding Process (around 3 months), **Evaluation of Bids (up to 1 Month)**, Selection of Bidders / Approval from Bid committee (up to 1 month), Award of contract/ Agreement signing (up to 1 Month), Mobilization Period (2-3 Months), Start of the work and completion of work (20-24 Months). The above-mentioned timelines are represented in the form of Gantt Chart indicating both minimum and maximum time, which a project can be implemented successfully.

**B. Effect of Covid Pandemic:**

That after the order dated 22.02.2017, the covid pandemic hit the world in early 2020, resulting in projects being halted for long periods of time, as well as diversion of budget to coping with the pandemic. This limited the availability of financial resources required for initiation and completion of various projects related to STPs and MSW plants. There was a limitation of the availability of financial resources due to the emerging more competitive priorities related to social welfare, food and civil supplies and medical and health services etc on account of the pandemic which continues till date, particularly in light of other orders passed by this Hon'ble Court in relation to the pandemic and the state's financial liabilities related thereto.

**C. Budgetary requirement to achieve 100% treatment of sewage discharge**

That most importantly, it is submitted, that given the size and requirements of the state outlined above, the **budgetary requirements for 100% treatment of sewage discharge in the state were impossible** to meet within the timelines stipulated in the order dated 22.02.2017 of Hon'ble Supreme Court of India.”

45. For extension of timeline in terms of Supreme Court's order, it was incumbent upon State of UP to place all materials indicating bonafide steps which it had taken to comply Supreme Court's order dated 22.02.2017.

Supreme Court observed that mere setting up of STPs is not enough but their performance, capacity to deal with sewage etc. have to be examined and for the purpose of timeline of construction of STPs and CETPs important aspects which need to be ensured included the following:

- “(i) The CETPs with the requisite technology and capacity are duly commissioned;*
- (ii) After the commissioning of the CETPs/STPs, they continue to remain operational;*
- (iii) The CETPs/STPs are duly maintained and upgraded as the need may arise;*
- (iv) There is due monitoring at the administrative level on a real time basis of the performance of the CETPs, the deficiencies which may arise in the course of functioning and work of repair and maintenance; and*
- (v) Entrustment to an authority which would be accountable for the due performance of the CETPs.”*

46. Order was passed by Supreme Court in February 2017 but to meet the requirement of State of UP what steps were taken upto 2020, the outer time limit allowed by Supreme Court, we do not find any material on this aspect. It is also strange to notice that total sewage generation shown in CMC report dated 12.02.2021 mentioned in Tribunal’s order dated 22.02.2021 was 5500 MLD and after more than two years and ten months, total generation is same as disclosed in present report, i.e., 5500 MLD. Installed capacity of 106 STPs earlier was 3370 MLD which now has increased to 133 STP and 4110 MLD. But utilized capacity earlier was only 2630.6 MLD and now 3296 MLD leaving a huge gap between sewage generation and actual treatment. Reason for such underutilization has not been explained. Many of STPs are admittedly not complying with norms and, therefore, treatment of sewage at such SPTs is meaningless. Admittedly, treated and untreated sewage is being discharged ultimately in rivers. It is said that installation of STPs takes three to five years and by Supreme Court’s order dated 22.02.2017 they had been granted three years sufficient time. Still, why most STPs could not be completed is

beyond any apprehension. Even time being taken as shown in finalization of tendering stage is unusually very long and inaction for months together is unexplained.

47. A wholesale non-compliance is evident on the part of authorities of State of UP and various local bodies. Discharge of polluting matter on account of non-treatment of sewage by meeting prescribed norms is also evident. Section 24 of Water Act 1974 provides a mandate against discharge of polluting matter in streams, river, well or land. It reads as under:

**“24. Prohibition on use of stream or well for disposal of polluting matter, etc.-** (1) Subject to the provisions of this section, -

(a) **no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or**

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely: -

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream; (d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the

*Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.”*

48. It is also admitted that if any person or authority contravenes or breach the mandate of section 24 of Water Act 1974, it would be an offence punishable under section 43 of Water Act 1974 which reads as under:

**“43. Penalty for contravention of provisions of section 24.** - *Whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than 2 [one year and six months] but which may extend to six years and with fine.”*

49. Therefore, consequence of breach of section 24 is also provided by the Act. If offence is committed by a company or government department, care is taken by sections 47 and 48 which reads as under:

**47. Offences by companies.** - *(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

*Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*

*(2) Notwithstanding anything contained in sub-section (1), where, an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

*Explanation.* - *For the purposes of this section, -*

*(a) “company” means any body corporate, and includes a firm or other association of individuals; and*

*(b) “director” in relation to a firm means a partner in the firm.*

**48. Offences by Government Departments.** - *Where an offence under this Act has been committed by any Department of*

*Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

*Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.”*

50. These provisions have been considered by Supreme Court. It has been held that cognizance can be taken by Magistrate of offence without insisting for sanction under Section 197 Cr.P.C. Supreme Court in **V.C. Chinnappa Goudar vs. Karnataka State Pollution Control Board & Anr., (2015) 14 SCC 535** and **Noorulla Khan vs. Karnataka State Pollution Control Board & Anr., (2021) SCC OnLine SC 601** has held that Section 197 is not attracted for offences when prosecution is initiated under Water Act, 1974 against public servants with reference to Sections 47 and 48 of Water Act, 1974.

51. In **Noorulla Khan (supra)**, Supreme Court while referring to **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** said that in the context of Section 48 of Water Act, 1974, Commissioner of Municipal Corporation or Chief Officers of Municipal Councils may not strictly be called heads of the departments but such officials would still come under the provisions of Section 47 of Water Act, 1974. The law laid down in **Karnataka State Pollution Control Board vs. B. Heera Naik (supra)** was summarized in para 11 of judgment in **Noorulla Khan (supra)** as under:

**“11. What emerges from these decisions of this Court is:**

- i. If the violation of the provisions of the Water Act was at the hands of a Department, subject to the satisfaction of the requirements under Section 48 of the Water Act, “the Head of the Department” would be deemed to be guilty. This would of course be subject to the defences which are available to him to establish whether the offence in question was committed without his knowledge or that he had exercised*

*all due diligence to prevent the commission of such offence.*

- ii. By virtue of the decision of this Court in V.C. Chinnappa Goudar (Supra), because of deeming fiction under Section 48 of the Water Act, the protection under Section 197 of the Code would not be available and the matter ought to be considered de hors such protection.*
- iii. If the concerned public servant happens to be a Chief Officer or Commissioner of a Municipal Council or Town Panchayat, he cannot strictly be called “the Head of the Department of the Government”. Therefore, in terms of decision of this Court in B. Heera Naik (Supra), the matter would not come under Section 48 of the Water Act. But the matter would come directly under Section 47 of the Water Act. According to said decision, even in such cases, the deeming fiction available under Section 47 of the Water Act would dis-entitle the public servant from the protection under Section 197 of the Code.*
- iv. If the offenders are other than public servants or where the principal offenders are corporate entities in private sectors, the question of protection under Section 197 would not arise.”*

52. In view of above, it was incumbent upon Member Secretary, UPPCB or any other authority or officer authorized in this behalf under Section 49(1) of Water Act, 1974 to initiate prosecution for an offence under Section 43 read with Section 24 of Water Act, 1974.

53. Extension of timeline laid down by Supreme Court has been allowed to this Tribunal by subsequent order of Supreme Court dated 20.03.2023, but we are not satisfied that possible steps have been taken by State, local bodies concerned, and their authorities and delay is bonafide. Even existing STPs are not maintained properly and those are not meeting parameters, hence causing continuous pollution of rivers in the State.

54. We have also to consider a question that if a person or authority is committing a breach which amounts to an offence, can this Tribunal allow such person to continue to commit such offence for any further time whatsoever. It is argued that Supreme Court has granted time earlier and this timeline can be extended by Tribunal, but we also find that powers of Supreme Court are much wider particularly considering its power under

Article 142 of the Constitution but so far as Tribunal is concerned, it is governed by provisions of NGT Act, 2010 and may exercise its power within the framework of said statute.

55. We repeatedly asked learned Additional Advocate General to show any authority whereunder by granting some time to State authorities or local bodies or statutory bodies, etc., we can allow it to continue to commit breach/non-compliance of section 24 which is an offence and punishable under Section 43 of Water Act to which we did not get any reply. In fact, it is our duty to take care of rule of law and ensure compliance of law. That is the jurisdiction we have under sections 14 and 15 of NGT Act, 2010.

56. For the time being, Annexures 4 and 5 to the report show places/local bodies where STPs of required capacity are not available/non functional, and, therefore, untreated sewage is being discharged in contravention of section 24 of Water Act. We, therefore, find it appropriate to issue notices to Chief Executive Officers/Chief Municipal Officers/Municipal Commissioners or any other officer with any designation who is In-charge and responsible for functioning of such local bodies of following places, to show cause as to why direction be not issued to statutory regulator, i.e., UPPCB to initiate criminal prosecution by lodging a complaint as per procedure prescribed in section 49 of Water Act, 1974 by filing their response within one month:

<b>Sl. No.</b>	<b>PLACE</b>	<b>Sl. No.</b>	<b>PLACE</b>
1	Ayodhya	18	Kairana
2	Agra	19	Lucknow
3	Azamgarh	20	Moradabad
4	Budhana	21	Muzaffarnagar
5	Bareilly	22	Mirzapur
6	Balrampur	23	Meerut
7	Ballia	24	Mathura
8	Chhata, Distt Mathura	25	Prayagraj
9	Fatehgarh - Farrukhabad	26	Saharanpur
10	Fatehpur	27	Sultanpur



11	Gorakhpur	28	Shamli Town
12	Ghaziabad	29	Banat Town, Distt. Shamli
13	Ghazipur	30	Thanabhawan town, distt. Shamli
14	Hathras	31	Unnao
15	Hapur	32	Varanasi
16	Kanpur	33	Vrindavan
17	Kosi Kalan		

57. In the report, reference has also been made to order dated 23.03.2023 passed in OA 606/2018 wherein para 72(iv), Tribunal by order dated 23.03.2023 recorded statement of Chief Secretary, State of UP and directed for creation of a ring-fenced account of Rs. 5,000 crores or more, so that said amount could have been utilized for meeting expenses for payment of environmental compensation, other necessary functions required for compliance of Water Act 1974, excluding those which functions, duties and obligations are to be discharged under regular budget allocation by State Govt., local bodies and their authorities. When questioned, learned Additional Advocate General could not show as to whether any such ring-fenced account has been set apart. A personal affidavit shall be filed by Chief Secretary, UP within one month clearly stating whether above direction has been complied with and also whether any amount has been released from said ring-fenced account and purpose for which amount was released.

58. We also direct UPPCB to take steps in respect to all local bodies in the State of UP which are discharging untreated sewage or treated water in rivers by taking samples and verify whether effective treatment is being carried out at STPs already installed and same are meeting parameters prescribed under Water Act and rules framed thereunder. A cumulative report in this regard shall be filed by Member Secretary, UPPCB within three months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

59. List the matter on 29.04.2024.

Sudhir Agarwal, JM

December 20, 2023  
Original Application No. 593/2017  
(W.P.(Civil) No. 375/2012)  
DV

Dr. A. Senthil Vel, EM