

Item No. 02

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 360/2018  
(arising from SLP (Civil) No. 2959/2014)

(With report dated 02.07.2021)

Shree Nath Sharma

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 05.07.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Mukesh Kumar, Advocate with Ms. Youthika Puri, Scientist-D  
for CPCB  
Mr. Pradeep Misra, Advocate and Mr. Daleep Dhyani, Advocate for  
UPPCB

**ORDER**

**The Background and the Issue**

1. This matter was originally filed before the Rajasthan High Court for direction to check pollution of Sujanganga River at Bharatpur. The High Court directed taking of remedial measures - removing encroachment, preventing dumping of waste and fixing accountability of the concerned officers for failing to protect the environment. On 26.09.2013, the High Court directed that the matter be transferred to this Tribunal which order was affirmed by the Hon'ble Supreme Court on 19.03.2018.

2. The Tribunal directed taking of remedial measures vide order dated 31.07.2018 and on such measures having been taken, the issue initially

raised closed vide order dated 26.09.2019. However, it was observed that one time action to remedy pollution was not enough. There was need for an effective and functional mechanism for continuous planning and monitoring in terms of mandate of the Constitution inter alia under Articles 243 G, 243 W, 243 ZD, read with 11<sup>th</sup> and 12<sup>th</sup> Schedules. The Constitution envisages plans for environment conservation and protection at the level of Panchayats and other local bodies, which are to be consolidated in the form of a District Plan. Accordingly, following an earlier order dated 15.7.2019 in OA 710/2017, direction for preparation of District Environment Plans for all Districts on which basis State and National Environmental Plans could be prepared and executed was reiterated. The Tribunal made a particular mention of certain specific thematic areas, required to be covered in such plans. It was further mentioned that the plans must contain current status on these issues, desirable level of compliance to be achieved, identified gaps in current status and desired levels, methodology and means to address such gaps and persons responsible for compliance. It will be appropriate to reproduce relevant part of the said order which is as follows:

“ 6. *This Tribunal in O.A. No. 606/2018, while dealing with the compliance of Municipal Solid Waste Management Rules, 2016 also flagged other issues and required monitoring at the level of the Chief Secretaries and the District Magistrates. **The Chief Secretaries of all the States/UTs have appeared before this Tribunal, including the Chief Secretary of State of Rajasthan and directions have been issued for continuous monitoring and filing of further reports.***

7. *Vide order dated 12.09.2019, while fixing a schedule for further appearance of the Chief Secretaries of all the States/UTs, direction has been issued to compile information with reference to the following specific thematic areas viz.:*

- *Compliance to Solid Waste Rules including Legacy Waste.*
- *Compliance to Bio-medical Waste Rules.*
- *Compliance to Construction & Demolition Waste. Compliance to Hazardous Waste Rules.*

- Compliance to E-waste Rules.
  - 351 Polluter Stretches in the country.
  - 122 Non-attainment cities.
  - 100 industrial clusters.
  - Status of STPs and re-use of treated water.
  - Status of CETPs/ETPs including performance.
  - Ground water extraction/contamination and re-charge.
  - Air pollution including noise pollution.
  - Illegal sand mining.
  - Rejuvenation of water bodies.
8. Such information is to be furnished to the CPCB by the Chief Secretaries of all the States/UTs indicating:
- Current status
  - Desirable level of compliance in terms of statutes.
  - Gap between current status and desired levels.
  - Proposal of attending the gap with time lines.
  - Name and designation of designated officer for ensuring Compliance to provisions under statute.
9. Since CPCB is to file updated report by 15.11.2019, the Chief Secretaries of all the States/UTs may furnish such information by 31.10.2019.
10. We may also refer to order dated 15.07.2019 in O.A. No. 710/2017, Shailesh Singh vs. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors. directing as follows:
- “We find it necessary to add that in view of Constitutional provisions under Articles 243 G, 243 W, 243 ZD read with Schedules 11 and 12 and Rule 15 of the Solid Waste Management Rules, 2016, it is necessary to have a District Environment Plan to be operated by a District Committee (as a part of District Planning Committee under Article 243 ZD) with representatives from Panchayats, Local Bodies, Regional Officers, State PCB and a suitable officer representing the administration, which may in turn be chaired and monitored by the District Magistrate. Such District Environment Plans and Constitution of District Committee may be placed on the website of Districts concerned. The monthly report of monitoring by the District Magistrate may be furnished to the Chief Secretary and may be placed on the website of the District and kept on such websites for a period of one year. This may be made operative from 1.08.2019. Compliance of this direction may also be seen by the Chief Secretaries of the States/UTs. This may not only comply with mandate of law but provide an institutional mechanism for effective monitoring of environment norms.”*
11. To facilitate preparation of such District Environment Plan, **it will be appropriate that CPCB prepares a Model/Models and places the same on its website which may be adopted with**

***suitable changes as per local requirements for all Districts in the country and monitored by the Chief Secretaries with reports to the Tribunal in O.A. No. 606/2018.***

- 12. The Department of Environment of all States and Union Territories may collect such District Environment Plans of their respective States and finalize the 'State Environment Plan' covering the specific thematic areas referred in Para-7 including information as contained in Para-8 and template of Model/Models District Environment Plan provided by the CPCB. The action for preparation of State's Environment Plan shall be monitored by the respective Chief Secretaries of States and Administration of UTs. Let this action be completed by 15.12.2019 and compliance be reported to the Tribunal by 31.12.2019.***
- 13. Based on States and UTs Environment Plans, MoEF&CC and CPCB shall prepare country's Environment Plan accordingly. Let the Secretary, MoEF&CC and Chairman, CPCB steer the preparation of country's Environment Plan. Let their action be completed by 31.01.2020 and compliance be reported to the Tribunal by 15.02.2020."***

### **1<sup>st</sup> Review of Compliance**

3. The matter was thereafter considered on 19.03.2020 in the light of report of the CPCB dated 14.02.2020 mentioning the steps taken and giving information in a tabular form about the status of such plans. After noting the said information, the Tribunal gave further directions and sought a further report. The relevant part of the order is reproduced below:

***"5. While we note the steps taken, completion of environmental plans in terms of order of this Tribunal cannot be unduly delayed having regard to implications of such steps for protection of environment and public health. Some of the handicaps pointed out can be overcome by pro-active role of CPCB in ensuring preparation of at least one model District Environment Plan in every State in the first instance which can thereafter be replicated for all the Districts in the States/UTs and so on. For this purpose, State PCB and concerned District Magistrate may assist the CPCB. This step may be completed by simultaneous initiative in all the States within three months. In the last nine months, some work may have already been done in the States/UTs. Thus, it should be possible to finalize a model action plan at least for one District each in all States/UTs in the next three months. Thereafter, the exercise may be replicated with regard to all the Districts followed by State Environmental Plan and then a National Environmental Plan in further three months. CPCB is at liberty***

**to utilize compensation funds and involve any individuals/organizations in the process.** This exercise will be without prejudice to monitoring mechanism in terms of earlier directions. Wherever exercise has been completed and found to be satisfactory, further steps for execution may be taken accordingly. Status report of progress in this regard may be furnished before the next date by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).”

## **2<sup>nd</sup> Review of Compliance**

4. The matter was thereafter reviewed on 29.01.2021 in the light of further report filed by the CPCB dated 28.01.2021 which also gave updated status of compliance. Having regard to significance of the issue and inadequacy in compliance, the Tribunal issued directions and sought a further report in the matter. The operative part of the order is reproduced below:

“5. xxx.....xxx.....xxx

**(iii.) As per the assessment made by CPCB, it is observed that District / UT Environment Plan prepared by Chandigarh, UT Environment Department is satisfactory, as it covers all thematic areas including action plan along with timelines for respective implementing agencies. Further, the State Environmental Plan (SEP) prepared by West Bengal State is also satisfactory, wherein the district level plans and action points are comprehensively addressed.**

### **5. Proposed Follow-up Action**

**(i) Since State have already prepared 220 DEPs, it is submitted that, these plans may be implemented by respective States after verification to ensure all the thematic points are adequately covered as per data templates and time-bound action plans are identified with respective agencies at District and State level. These Plans also need to be integrated with State Environment Plans. State may also take help of any expert agency or institution to streamline all DEPs. Adequate budgetary provision may be made by States for preparation of DEPs and SEPs.**

**(ii) 5 selected DEPs for 5 Districts namely Baharaich, UP; Bokaro, Jharkhand; Pune,**

**Maharashtra; Chamrajnagar, Karnataka; and Panchkula, Haryana to be verified and improved by CPCB in 03 months and the same may be shared with every State and UT as model DEPs for information and reference of other Districts.**

**(iii) States namely Andaman and Nicobar Islands, Telangana, Uttarakhand, Arunachal, Mizoram and Sikkim, including the other States who have not yet completed DEPs all Districts may complete the same in time bound manner.”**

6. We have perused the report filed by the Oversight Committee for the State of UP, giving the compliance status in UP, which is on same lines as the report of the CPCB.

7. From the above, it is seen that out of 739 Districts, DEPs have been prepared in 220 Districts, out of which CPCB has data for 115 Districts. CPCB has selected five representative models having regard to social and geographical considerations.

8. In view of above, having regard to the significance of the issue and inadequate progress, **we direct the Chief Secretaries of all the States/UTs to oversee and monitor compliance by the concerned District Magistrates for preparing the requisite plans and execute the plans already prepared. Further steps for preparation and execution of State and National plans may also be taken in the interest of scientific and effective protection of environment and public health.**

9. Vide orders dated 22.01.2021 in OA 916/2018, *Sobha Singh & Ors. vs. State of Punjab & Ors.* and OA 496/2016, *Tribunal on its own motion vs. Govt. of NCT of Delhi & Ors.*, we have requested the Monitoring Committees, constituted by this Tribunal for certain environmental issues in Punjab and Delhi, to oversee compliance of preparation and execution of DEPs in Punjab and Delhi and furnish compliance status as on 31.3.2021.

10. We make similar request to the Monitoring Committee in UP, headed by Justice SVS Rathore, a former Judge of Allahabad High Court, the Oversight Committee for compliance of directions of this Tribunal for rejuvenation of river Ghaggar, headed by Justice Pritam Pal, former Judge of the Punjab and Haryana High Court to oversee compliance on this aspect for Haryana, the Committee headed by Justice Prakash Tatia, former Chief Justice of Jharkhand High Court, for compliance in Rajasthan, Justice B.C. Patel, former Chief Justice, Delhi High Court for compliance in Gujarat, Justice V.M. Kanade, former Judge, Bombay High Court, who has earlier monitored compliance of certain directions of this Tribunal relating to environmental issues, for compliance in Maharashtra. They may send status report as on 31.3.2021 by 15.4.2021. For all other States/UTs, the Chief Secretaries concerned may conduct such oversight and furnish the status of compliance as on 31.03.2021 to CPCB. CPCB may file a consolidated report before this Tribunal on or before

30.04.2021 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). State PCBs may also provide necessary assistance in coordination.”

### **3<sup>rd</sup> review of Compliance – today’s hearing**

5. In pursuance of above, CPCB has filed a further status report on 02.07.2021. Also, Monitoring Committees constituted by this Tribunal for Uttar Pradesh, Punjab and Haryana and some District Magistrates have also filed their reports. There are also reports from Hon’ble former judges assigned this work in Gujrat, Maharashtra and Rajasthan to which reference will be made in later part of this order. We may briefly refer to the said reports.

### **CPCB report of compliance status**

6. The CPCB in its report has mentioned the steps taken by it – preparation of data-template for model plan, indicative template for plan, shortlisting of one district in every States/UTs, meetings with the concerned officers and directions for implementation. CPCB further mentions the need for critical gap analysis and action plan with timelines and financial aspects for addressing such gaps. Status of compliance as given in the report is that out of 738 District, plans have been prepared for 471 districts. The status of compliance in a tabular form is as follows:

<b>S. No</b>	<b>Name of State</b>	<b>No. of District</b>	<b>No. of DEPs prepared</b>	<b>Name of District for which DEP is prepared</b>	<b>No. of Monitoring Committees constituted</b>
1.	Andaman & Nicobar	3	1	South Andaman	Information not available
2.	Assam	34	2	Dhemaji, Dhubri	1
3.	Andhra Pradesh	13	13	Anantapur, Chittoor, East Godavari, Guntur, Krishna, Kurnool, Prakasam, Srikakulam, Sri Potti Sriramulu, Vellore, Visakhapatnam, Vizianagaram, West Godavari, YSR District, Kadapa (Cuddapah)	13

4.	<i>Arunachal Pradesh</i>	25	<i>Not prepared</i>	-	<i>Information not available</i>
5.	<i>Bihar</i>	38	1	<i>Sheikhpura</i>	<i>Information not available</i>
6.	<i>Chandigarh</i>	1	1	<i>Chandigarh</i>	<i>Information not available</i>
7.	<i>Chhattisgarh</i>	28	27	<i>Balod, Baloda Bazar, Balrampur, Bastar, Bemetara, Bijapur, Bilaspur, Dantewada (South Bastar), Dhamtari, Durg, Gariyaband, Janjgir-Champa, Jashpur, Kabirdham, Kanker (North Bastar), Kondagaon, Korba Korea (Koriya), Mahasamund, Mungeli, Narayanpur, Raigarh, Raipur, Rajnandgaon, Sukma, Surajpur, Surguja</i>	<i>Information not available</i>
8.	<i>DD &amp; DNH</i>	3	1	<i>Daman</i>	<i>Information not available</i>
9.	<i>Delhi</i>	11	9	<i>Central Delhi, East Delhi, New Delhi, North Delhi, Shahdara, South Delhi, South East Delhi, South West Delhi, West Delhi</i>	2
10.	<i>Goa</i>	2	1	<i>South Goa</i>	1
11.	<i>Gujarat</i>	33	33	<i>Ahmedabad, Amreli, Anand, Aravalli, Banaskantha (Palanpur), Bharuch, Bhavnagar, Botad, Chhota Udepur, Dahod, Dangs (Ahwa), Devbhoomi Dwarka, Gandhinagar, Gir Somnath, Jamnagar, Junagadh, Kachchh, Kheda (Nadiad), Mahisagar, Mehsana, Morbi, Narmada (Rajpipla), Navsari Panchmahal (Godhra), Patan, Porbandar, Rajkot, Sabarkantha (Himmatnagar), Surat, Surendranagar, Tapi (Vyara), Vadodara, Valsad</i>	33
12.	<i>Haryana</i>	22	22	<i>Ambala, Bhiwani, Charkhi Dadri, Faridabad, Fatehabad, Gurugram, Hisar, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Mahendragarh, Nuh, Palwal, Panchkula, Panipat, Rewari, Rohtak, Sirsa, Sonapat, Yamunanagar</i>	22
13.	<i>Himachal Pradesh</i>	12	12	<i>Bilaspur, Chamba, Hamirpur, Kangra, Kinnaur, Kullu, Lahaul &amp; Spiti, Mandi, Shimla,, Sirmaur (Sirmour), Solan, Una</i>	12



14.	Jammu & Kashmir	20	3	Jammu, Bandipore, Doda, Ganderbal, Srinagar, Udhampur	1
15.	Jharkhand	24	3	Bokaro, Godda, East Singhbhum However, Only Bokaro DEP received by CPCB	3
16.	Karnataka	31	31	Bagalkot, Ballari (Bellary), Belagavi (Belgaum), Bengaluru (Bangalore), Rural Bengaluru (Bangalore), Urban Bidar, Bijapur, Chamarajanagar, Chikballapur, Chikkamagaluru (Chikmagalur), Chitradurga, Dakshina Kannada, , Davangere, Dharwad, Gadag, Hassan, Haveri, Kalaburagi (Gulbarga), Kodagu, Kolar, Koppal, Mandya, Mysuru (Mysore), Raichur, Ramanagara, Shivamogga (Shimoga), Tumakuru (Tumkur), Udupi, Uttara Kannada (Karwar), Vijayapura (Bijapur), Yadgir	31
17.	Kerala	14	1	Wayanad	Information not available
18.	Ladakh	2	Not prepared	Not prepared	Information not available
19.	Lakshadweep	1	1	Lakshadweep	1
20.	Madhya Pradesh	52	52	Agar Malwa, Alirajpur, Anuppur, Ashoknagar, Balaghat, Barwani, Betul, Bhind, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Dindori, Guna, Gwalior, Harda, Hoshangabad, Indore, Jabalpur, Jhabua, Katni, Khandwa, Kargone, Mandla, Mandsaur, Morena, Narsinghpur, Neemuch, Niwari, Panna, 36Raisen, Rajgarh, Ra1tlam, Rewa, Sagar, Satna, Sehore, Seoni, Shabdol, Shajapur, Sheopur, Shivpuri, Sidhi, Singrauli, Tikamgarh, Ujjain, Umaria, Vidisha	52
21.	Maharashtra	36	36	Ahmednagar, Akola, Amravati, Aurangabad, Beed, Bhandara, Buldhana, Chandrapur, Dhule, Gadchiroli, Gondia, Hingoli, Jalgaon, Jalna, Kolhapur, Latur, Mumbai City, Mumbai, Suburban, Nagpur,	36

				Nanded, Nandurbar, Nashik, Osmanabad, Palghar, Parbhani, Pune, Raigad, Ratnagiri, Sangli, Satara, Sindhudurg, Solapur, Thane, Wardha, Washim, Yavatmal	
22.	Manipur	16	16	Bishnupur, Chandel, Churachandpur, Imphal East, Imphal West, Jiribam, Kakching, Kamjong, Kangpokpi, Noney, Pherzawl, Senapati, Tamenglong, Tengnoupal, Thoubal, Ukhrul	1
23.	Meghalaya	11	9	East Garo Hills, East Jaintia Hills, East Khasi Hills, Ri Bhoi, South Garo Hills, South West Khasi Hills, West Garo Hills, West Jaintia Hills, West Khasi Hills	2
24.	Mizoram	11	1	Aizawl	Information not available
25.	Nagaland	12	1	Kohima However, DEP not received by CPCB	1
26.	Odisha	30	30	Angul, Balangir, Balasore, Bargarh, Bhadrak, Boudh, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghapur, Jajpur, Jharsuguda, Kalahandi, Kandhamal, Kendrapara, Kendujhar (Keonjhar), Khordha, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Puri, Rayagada, Sambalpur, Sonapur, Sundargarh	30
27.	Puducherry	4	4	Karaikal, Mahe, Puducherry, Yanam	4
28.	Punjab	22	22	Amritsar, Barnala, Bathinda, Faridkot, Fatehgarh Sahib, Fazilka, Ferozepur, Gurdaspur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Moga, Muktsar, Nawanshahr (Shahid Bhagat Singh Nagar), Pathankot, Patiala, Rupnagar, Sahibzada Ajit Singh Nagar (Mohali), Sangrur, Tarn Taran	22
29.	Rajasthan	33	22	Ajmer, Banswara, Baran, Barmer, Bharatpur, Bhilwara, Bundi, Chhitorgarh, Dausa,	22

				Dungarpur, Jaisalmer, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Kota, Pali, Pratapgarh, Sawai Madhopur, Sirohi, Tonk, Udaipur	
30.	Sikkim	1	1	East Sikkim	Information not available
31.	Tamil Nadu	38	38	Ariyalur, Chengalpattu, Chennai, Coimbatore, Cuddalore, Dharmapuri, Dindigul, Erode, Kallakurichi, Kanchipuram, Kanyakumari, Karur, Krishnagiri, Madurai, Nagapattinam, Namakkal, Nilgiris, Perambalur, Pudukkottai, Ramanathapuram, Ranipet, Salem, Sivaganga, Tenkasi, Thanjavur, Theni, Thoothukudi (Tuticorin), Tiruchirappalli, Tirunelveli, Tirupathur, Tiruppur, Tiruvallur, Tiruvannamalai, Tiruvarur, Vellore, Viluppuram, Virudhunagar	Information not available
32.	Telangana	33	27	Adilabad, Bhadradi Kothagudem, Jagtail, Jangaon, Kamareddy, Jayashankar Bhoopalpally, Jogulamba Gadwal, Karimnagar, Khammam, Komaram Bheem Asifabad, Mahabubabad, Mahabubnagar, Mancherial, Medak, Medchal, Mulugu Nagarkurnool, Narayanapet, Nirmal, Nizamabad, Peddapalli Rajanna Sircilla, Rangareddy, Sangareddy, Siddipet, Warangal (Rural), Warangal (Urban)	27
33.	Tripura	8	1	Individual DEP prepared for West Tripura. However, SEP is prepared	8
34.	Uttarakhand	13	Not prepared	Not prepared	Information not available
35.	Uttar Pradesh	75	49	Agra, Aligarh, Allahabad, Ambedkar Nagar, Amethi (Chatrapati Sahuji Mahraj Nagar), Amroha (J.P. Nagar), Auraiya, Azamgarh, Baghpat, Bahraich, Barabanki, Bareilly, Bijnor, Budaun, Bulandshahr, Deoria, Etah, Etawah, Faizabad, Fatehpur, Gautam Buddha Nagar, Ghaziabad, Gonda,	75

				Gorakhpur, Hathras, Jalaun, Jhansi, Kanpur Dehat, Kanpur Nagar, Kanshiram Nagar (Kasganj), Kushinagar (Padrauna), Lakhimpur – Kheri, Lucknow, Mainpuri, Mathura, Mau, Meerut, Muzaffarnagar, Pilibhit, Pratapgarh, Saharanpur, Shahjanahnpur, Siddharth Nagar, Sitapur, Sonbhadra, Sultanpur, Unnao, Varanasi	
36.	West Bengal	23	Separate DEPs not yet prepared	Individual DEP is not prepared. However, SEP is prepared	23
	<b>Total</b>	<b>738</b>	<b>471</b>		<b>420</b>

**Monitoring Committee reports on compliance status:**

**Uttar Pradesh**

7. We may now refer to the reports of three Monitoring Committees referred to earlier. The report of the Monitoring Committee for Uttar Pradesh is dated 21.01.2021. The report shows that on most points the State authorities are non compliant. Progress is slow and unsatisfactory in qualitative terms. The status of compliance is mentioned as follows:

<b>S. No.</b>	<b>Directions by Hon'ble Tribunal</b>	<b>Concerned Department</b>	<b>Compliance status</b>
1.	Status of preparation of District Environment Plan in the State.	UPPCB	<b>Non-compliant</b> On 31.01.2020, UPPCB had directed all Divisional Forest Officers to prepare and submit the District Environment Management Plan of their respective Districts immediately to UPPCB. Letter was sent to Principal Secretary, Department of Environment, Forest and Climate Change, U.P. dated 16.09.2020 mentioning that all District Forest Officers are directed to prepare and submit District Environment Management Plan of their respective Districts as per the model template. Till date only Bahraich, Varanasi, Ghaziabad and Siddharth Nagar Districts have prepared and sent the District Environment Management Plan to UPPCB.

2.	Status of finalization of State Environment Plan covering the specific thematic areas referred in Para-7 including information as contained in Para-8.	UPPCB	<b>Non-compliant</b> On 31.01.2020, UPPCB had directed all Divisional Forest Officers to prepare and submit the District Environment Management Plan of their respective Districts immediately to UPPCB. UPPCB has sent letters to Principal Secretary, Department of Environment, Forest and Climate Change, U.P. dated 16.09.2020 mentioning that all District Forest Officers are directed to prepare and submit District Environment Management Plan of their respective Districts as per the model template.
3.	Status of preparation of template of Model District Environment Plan by CPCB.	CPCB	<b>Non-compliant</b> On 05.08.2020, CPCB has sent letter to Principal Secretary, Environment and Forest Department and Member Secretary of State Pollution Control Board regarding the preparation of District Environment Plan by all States. CPCB has also enclosed a template for preparation of District Environment Plan (DEP) by all the States.
4.	Status of finalization of model action plan at least for one District in the State.	UPPCB	<b>Non-compliant</b> Till date UPPCB has received District Environment Plan from Bahraich, Varanasi, Ghaziabad and Siddharth Nagar Districts only.

8. The Committee has made the following recommendations by way of remedial steps to be taken:

#### **“7. RECOMMENDATIONS BY OVERSIGHT COMMITTEE**

*In view of the above, we recommend as follows:*

- i. **The progress of preparation of District Environment Plans is very slow.** After more than 6 months of close follow up, out of 75 Districts in the State only Bahraich, Ghaziabad, Varanasi and Siddharth Nagar Districts have prepared the District Environment Management Plan. UPPCB has not taken any actions against the Districts who have not submitted District Environment Management Plan yet. The Secretary, UPPCB may be directed to take stringent measures and direct all the Districts to prepare the District Environment Management Plan within a month and also fix the responsibility of inaction.
- ii. **The action plans submitted by four Districts represent blank templates without any monitorable targets.** Monitoring would mean breaking the goals into specific activities, setting quantified targets, posting monthly progress against those targets, identifying problem areas

and action taken report against each. The plans submitted just show broad activities rather than specifics. The Secretary, UPPCB may be directed to direct the concerned District authorities to prepare and submit the action plans with current details and proper monitorable targets. Moreover, instead of each District having its own template, UPPCB should standardize a model template to be followed in all Districts. This will ensure uniformity and result in ease of monitoring. UPPCB may also provide training to all the concerned officers in regard to the preparation of District Environment Management Plan.

- iii. **The District Environment Management Plan of Varanasi represents only gross numbers rather than complete information of the specific projects undertaken, their current status and future proposals. Such plans are difficult to monitor.** The Secretary, UPPCB may be directed to direct District Forest Officer, Varanasi to restructure the action plan in respect of current status and future proposals.
- iv. In the Uttar Pradesh Environmental compliance portal, the details of meeting conducted by District Environmental Committee at District level is provided. While no information regarding the meetings conducted at State Level by SPCB has been provided. The State PCB may be directed to upload the details of the meetings conducted in this regard
- v. The SPCB may be directed to implement a uniform timeline to the action plans for all thematic areas in the District Environment Management Plan for all the Districts.
- vi. The State PCB may be directed to expedite the process of finalization of the model action plan for at least one District in the State within two months
- vii. CPCB has prepared the template for model District Environment Plan for all the States and has sent the same to Principal Secretary, Environment and Forest Department and Member Secretary of State Pollution Control Boards. CPCB has not taken any further actions in this regard. CPCB may be directed to take necessary actions and expedite the process of preparation of National Environment Plan and also fix the responsibility of inaction.
- viii. The State PCBs may be directed to harness active participation of all stakeholders in planned environment conservation actions.
- ix. **While preparation of District Environment Management Plan, the District Level Authorities/SPCBs may be directed to assess, mitigate and monitor adverse impacts of various environmental pollution sources at district levels and also suggest steps that are required to address those issues.**
- x. The State PCBs/ UDDs may be directed to harness inter departmental coordination for implementation of action plans at District/ National Level.
- xi. **For proper implementation of action plans prepared by Districts, a micro-monitoring system may be developed at District level by UDD/State PCBs.**
- xii. **The Oversight Committee expresses its concern at the slow progress in regard to the preparation of DEMPs.**

***The Chief Secretary should review the progress of preparation of DEMPs in his monthly meetings to ensure timely and effective action in the Districts.”***

### **Punjab**

9. The report of Monitoring Committee for Punjab dated 01.07.2021 is almost on same pattern. The authorities in the State of Punjab have also not addressed the deficiencies in the plans - revising timelines and complying with the observations in the meetings particularly incorporating complete information. Relevant extracts from the report are reproduced below:

***“11. Timelines for completion of various activities as mentioned under 7 thematic areas***

*It was informed that as per the directions of the Hon'ble National Green Tribunal in OA No. 360 of 2018 in the matter of Shree Nath Sharma Vs Union of India and others, the following 7 thematic areas have been selected where the management of the waste is to be accomplished*

***i. Waste Management Plan:***

- Solid Waste Management***
- Plastic Waste Management***
- C&D Waste Management***
- Bio medical Waste Management***
- Hazardous Waste Management***
- E-Waste Management***

- ii. Water Quality Management***
- iii. Domestic Sewage Management***
- iv. Industrial Waste Management***
- v. Air Quality Management***
- vi. Mining Activity Management***
- vii. Noise Pollution Management***

***The Chairman of the Monitoring Committee observed and directed as under as under:***

- i. Fresh templates w.r.t preparation of District Environmental Plan and implementation thereof have been received from CPCB vide letter No. B31011/ BMW(42.55)2021/WMD-1 dated 24.5.2021 and the same has been addressed to the Principal Secretary, Department of Science, Technology & environment. These fresh templates provided by CPCB also need to be considered while finalizing the District Environmental Plans.***

- ii. **No timelines for completion of activities, as mentioned in the said waste management areas, have been mentioned and all the information, which is desired to be inserted in the plan need to be provided by the concerned departments so that complete and comprehensive District Environmental Plan of district Ludhiana may be prepared.**
- iii. **District Environmental Plan of district Ludhiana after incorporating the observations of the Monitoring Committee as mentioned above shall be submitted on 15.7.2021.**

**12. Other areas for management of liquid and solid waste:**

- i. **Nothing has been mentioned about management of carcasses in rural areas and treatment of leachate generated from legacy waste dump site. These points may be mentioned in the District Environmental Plan.**
- ii. **It has been desired that w.r.t all the activities as found mentioned in the guidelines/templates issued by CPCB, details regarding timelines, sources of funds (whether under center funded scheme/state funded/private funding system), responsible officers to execute the said works, may be mentioned in the District Environmental Plan.**
- iii. **The Monitoring Committee has observed that nothing has been mentioned about scientific disposal of RDF to be recovered from the processing of solid waste. The timelines for its scientific disposal may be mentioned in the District Environmental Plan.**

*It is further submitted that the Monitoring Committee has scheduled its next meeting with District level Officers of District Jalandhar on 2.7.2021 to finalize the District Environmental Plan of District Jalandhar and thereafter, the Monitoring Committee shall hold subsequent meetings with District level Officers of major Districts mainly Amritsar, Bathinda, Patiala, Ropar and Ferozepur to finalize their District Environmental Plans based on the observations of the Monitoring Committee raised in its 2nd meeting held on 30.3.2021 and fresh templates sent by Central Pollution Control Board vide letter No. B31011/BMW (42.55)/2021/WMD-I dated 24.5.2021.”*

**Other States**

10. The report of the Monitoring Committee for Haryana is dated 01.07.2021 to the effect that plans were prepared for 21 Districts but the same required to be revised. According to letter dated 02.07.2021 received from the Gujarat State PCB, District Environment Plans have been prepared for all the 33 Districts and implementation is being reviewed for



which time was required. According to letter dated 02.07.2021 received from Justice Prakash Tatia, former Chief Justice of Jharkhand who was requested to oversee preparation of such plans, nobody from the State has briefed in the matter. According to the letter from Justice VM Kanade dated 5.7.2021, work is in progress but could not be completed because of covid situation.

11. Since the report of CPCB covers the matter for the entire country, it is not necessary to refer to the reports received from some individual districts.

12. We proceed to consider the matter in above background with the material available.

### **Analysis and observations**

13. As already noted, it is the Constitutional obligation of the States/UTs to ensure compliance of the mandate under Articles 243 G, 243 W and 243 ZD read with 11<sup>th</sup> and 12<sup>th</sup> Schedules. Clean environment is part of right to life under Article 21 of the Constitution and also fundamental in governance under Articles 37 read with 47 and 48A. Environment is also a subject covered by the definition of disaster under Section 2(b) of the Disaster Management Act, 2005. Thus, effective administrative machinery equipped to deal with the matter is required at all levels. The existing machinery should be able to meet the challenge and should be revamped from time to time. As repeatedly observed by this Tribunal, degradation of air, water and soil cause large number of deaths and diseases, apart from loss of livelihood. Environment find prominent mention in the “Sustainable Development Goals” (SDGs) which are planned and coordinated at international levels also. Appreciable initiatives taken include Swachh Bharat Mission, Clean water, restoration

of water bodies - ponds, rivers, lakes, protection of eco-sensitive zones but success depends on vibrant monitoring. The reports discussed above are not re-assuring. There seems to be huge gap in responsibility entrusted to the authorities and action on the ground, as shown by the reports quoted earlier. Damage to the environment is a criminal offence under various statutes. Deaths and diseases attributable to non-compliance of environmental norms cannot be disputed but adequate remedial action remains to be seen. Effect of deaths and diseases due to pollution is no less than homicides or hurts to human beings. Major failure of State authorities in compliance of waste management norms, which management is vested in the State authorities but no accountability is fixed for such failures. Such unsatisfactory state of affairs needs to be checked by involvement of senior functionaries in the Government, committed to the welfare of citizens, the Constitution and the Rule of law. We hope the concerned authorities will not fail the citizens. Remedies need to be provided at grassroot level with as high priority as opening of primary health centres or police stations for protection of basic right to clean environment, health and hygiene. This requires identification of challenges at every level, starting from Panchayat level upto the national level. The identified issues need to be compiled and placed in public domain which may help in public participation which is a recognized strategy for protection of the environment.

14. The 73<sup>rd</sup> and 74<sup>th</sup> amendments to the Constitution covering the requirement of having a plan for protection of environment upto Panchayat level, coming in force in the year 1993 which, consistent with the international conventions, including the Stockholm and Rio conferences, to which India is a party, seek to promote protection of environment at the grass root level. It is a matter of regret that the mandate of law remains

practically dead letter when even after 28 years, such plans are not in place at many places and where plans have been prepared, the same are incomplete. As found by the Oversight Committees in the reports quoted above, such plans must clearly identify the challenges in terms of gaps in current status of environment and desirable situation and compliance status to be achieved. Making of plans is only a first step which will not by itself be complete unless there are budgetary provisions, timelines and effective monitoring mechanism. There has to be flow of information from the lowest level upto the national level to enable making of appropriate policies and also flow of directions/guidelines from the national level upto the Panchayat level based to help tackling the complex issues and suitable -holding. It is only based on grass root level information and plans that an effective and meaningful State level plan and thereafter national level plan can be prepared. This is not merely a wish but the Constitutional mandate and situational imperative as shown by factual situation depicted in orders of this Tribunal dealing with the situation.

15. There is dire need for compiling information on vital environmental issues and planning to address the gaps in compliances. Current monitoring is inadequate. In OA No. 95/2018, *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors.*, vide order dated 05.02.2021, this Tribunal considered the status of performance of statutory regulators – State PCBs, based on consolidated report of the CPCB and found the situation far from satisfactory. The Tribunal also noted challenges posed by pollution due to violation of environmental norms. The Tribunal concluded:

**“10. We have given due consideration to the report, which shows startling state of affairs tested on the touchstone of ‘Sustainable Development’ principle, accepted in Stockholm conference and which has been held to be part of right to life under article 21 of the Constitution in *Vellore Citizens’ Welfare Forum v. Union of India*, (1996) 5 SCC 647.**

11. **Some of the significant observations include failure to fill up key positions, to acquire necessary equipment, to arrange continuous training, to prepare State Environment policy, to specify industries-siting criteria, making inventory of grossly polluting industries, not specifying standards of inlet to the CETPs and hazardous waste, inaction against identified polluters, taking steps for bridging gaps in law and enforcement with regard to liquid and solid waste (of different kinds), including non-functional and noncompliant ETPS, STPs and CETPs, inadequate monitoring of environmental compliance in Class II towns and coastal areas, failure to compile and analyse data and filing annual reports, inefficiency shown by inaction against serious violations of environmental norms. Needless to say that such sorry state of affairs is reflection of poor governance, making environmental rule of law far from reality.**

12. The environmental law principles, which this Tribunal is mandated to apply under sections 20 and 15 of the NGT Act, 2010, are – ‘sustainable development’, ‘precautionary’ and ‘polluter pays’. In *Hanuman Laxman*, (2019) 15 SCC 401, (paras 142-156), significance of environmental rule of law has been highlighted to achieve sustainable development goals for prosperity, health and well being. **This requires filling of gap between law and enforcement.** In *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606, at page 621, it was observed that the State has to

“forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Therefore, **hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment.** Environmental protection, therefore, has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is constitutional imperative on the Central Government, State Governments and bodies like municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve the man-made environment and natural environment.”

13. In *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718, at page 732, it was observed “..**Good governance is an accepted principle of international and domestic laws. ....It includes the need for the State to take the necessary “legislative, administrative and other actions” to implement the duty of prevention of environmental harm...**”. In *Techi Taga*

Tara, supra, the Hon'ble Supreme Court referred to several Committees on **need for revamping the regulatory bodies by appointing persons of outstanding ability and high reputation to the State PCBs and equipping them with laboratories and other equipment for performing statutory functions.** Apart from the Tribunal being approached under sections 14 and 15 by aggrieved parties, pointing out degradation of environment and inaction of the statutory regulators, the Hon'ble Supreme Court has required this Tribunal to monitor compliance of such statutory obligations for protecting environment. This is not possible unless the statutory regulators are effective. Significant issues so referred by the Hon'ble Supreme Court include a) liquid waste management, (2017) 5 SCC 326, Paryavaran Suraksha vs. Union of India & Ors. wherein it was directed that requisite STPs, ETPs, CETPs must be set up by 31.3.2018, failing which coercive measures may be taken against concerned authorities, to enforce statutory mandate of the Water (Prevention and Control of Pollution) Act enacted in 1974, prohibiting any water pollution, making it a criminal offence. b) compliance of solid waste management rules. Vide order dated 2.9.2014 in WP 888/1996, Almitra H. Patel Vs. Union of India & Ors. on the file of the Supreme Court, the issue has been referred to this Tribunal for monitoring compliance of Solid Waste Management Rules. c) In (2015) 12 SCC 764, MC Mehta v. UOI, issue of rejuvenation of Ganga stands referred to this Tribunal. d) Vide order dated 24.7.2017 in WP 725/1994, 'And quite flows Yamuna', rejuvenation of Yamuna stands referred to this Tribunal. It is not necessary to refer to several other orders. Finding that statutory regulators were not effective and serious damage was continuing, the Tribunal has appointed independent monitoring Committees<sup>1</sup> on several issues.

In substance, monitoring of the enacted environmental laws including the Water Act, Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and Rules framed thereunder needs to be reviewed and made effective in the interest of protection of environment and public health. This is not possible unless the regulatory bodies are duly manned and equipped and function efficiently. The report shows that it is not happening and there are huge gaps. With such gaps, it is only a dream to expect clean environment – fresh water or fresh air. Irreversible degradation of environment is bound to result in avoidable deaths and diseases and loss of scarce and good quality water, air and soil and biodiversity.

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<sup>1</sup> To monitor compliances with regard to:

- (i) River Ghaggar in OA No. 138/2016 (TNHRC), Stench Grips Mansa's Sacred Ghaggar River
- (ii) River Sutlej in OA 916/2018, Sobha Singh v. State of Punjab & Ors.
- (iii) River Yamuna in OA 06/2012, Manoj Mishra v. UOI & Ors.
- (iv) River Musi in OA 426/2018, Mohammed Nayeem Pasha & Anr. v. State of Telangana & Ors.
- (v) River Ganga in OA 200/2014, M.C. Mehta v. Union of India & Ors.
- (vi) River Jojari in OA 329/2015, Gram Panchayat Araba v. State of Rajasthan & Ors.
- (vii) CETP in Taloja District in OA 125/2018, Arvind Pundalik Mhatre v. Ministry of Environment, Forest and Climate Change & Ors.
- (viii) District Environment Plan in OA 360/2018 Shree Nath Sharma v. Union of India & Ors.
- (ix) 'Rat Hole' coal mining in OA 110(THC)/2012, Threat to Life Arising Out of Coal Mining in South Garo Hills District v. State of Meghalaya & Ors.
- (x) Solid waste management rules in OA 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues.

14. The findings in the report showing gaps resulting in large scale non-compliances in enforcement of environmental laws are supported by observations of this Tribunal, which include the following:

- (I) OA 593/2017, *Paryavaran Suraksha Samiti & Anr. vs. Union of India & Ors.*<sup>2</sup>, involves monitoring of liquid waste management in terms of orders of the Hon'ble Supreme Court in (2017) 5 SCC 326. We have found that as a result of continuing failure of the statutory authorities to ensure compliance, industrial as well as municipal liquid waste is being discharged **resulting in pollution of groundwater as well as surface water, including water bodies, drains, streams, rivers and coastal areas. The Tribunal has noted that as per data compiled by the CPCB, 351 river stretches are declared polluted. Comprehensive Environment Pollution Index (CEPI) prepared by the CPCB shows that 100 industrial clusters are polluted.** The Tribunal is also dealing with the remedial action for restoration of the 351 stretches in OA 673/2018<sup>3</sup>, *In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB"* for which the Tribunal has directed **preparation and execution of action plans for each of such stretches by constituting River Rejuvenation Committees (RRCs) for all States/UTs headed by Environment Secretaries which action needs to be overseen by the Chief Secretaries at the State level and by a Central Monitoring Committee (CMC) headed by Secretary, Jal Shakti alongwith NMCG and CPCB at the national level.** OA 829/2019<sup>4</sup>, *Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors.* deals with the remedying of **coastal pollution for which directions have been issued on the same pattern for preparation and execution of action plans by the RRCs to be overseen by the Chief Secretaries at the State level and by the CMC at the national level.** The same order also deals with utilisation of treated water, being OA 148/2016, *Mahesh Chandra Saxena vs South Delhi Municipal Corporation & Ors.* and OA 325/2015<sup>5</sup>, *Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors.*, dealing with the issue of restoration of water bodies by removing encroachments and preventing pollution has been dealt with by this Tribunal. OA 176/2015, *Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors.*<sup>6</sup>, the Tribunal has directed monitoring of groundwater extraction to give effect to the mandate in Hon'ble Supreme Court judgment in *M.C. Mehta v. Union of India & Ors.* (1997) 11 SCC 312.
- (II) Apart from water pollution, air pollution the issue air pollution has been dealt with by this Tribunal by separate

<sup>2</sup> Vide order dated 21.09.2020

<sup>3</sup> Vide order dated 21.09.2020

<sup>4</sup> Vide order dated 21.09.2020

<sup>5</sup> Vide order dated 18.11.2020

<sup>6</sup> Vide order dated 20.07.2020

order in OA 681/2018<sup>7</sup>, News item published in "The Times of India" Authored by Shri Vishwa Mohan titled "**NCAP with multiple timelines to clean air in 102 cities to be released around August 15**" requiring constituted **Air Quality Monitoring Committees in all States/UTs to prepare and execute action plans for control of air pollution in 122 non-attainment cities (where air quality is normally beyond the prescribed norms).**

- (III) The issue of solid waste management has been dealt with by this Tribunal in OA 606/2018 in pursuance of directions of the Hon'ble Supreme Court in Writ Petition No. 888/1996, Almitra H. Patel & Anr. v. Union of India & Ors. In the said matter, the Chief Secretaries of all States/UTs were required to remain present before this Tribunal<sup>8</sup> and after interaction with them, separate orders for all States/UTs referring to the individual issues in such States/UTs,<sup>9</sup> particularly **issue of legacy waste dump sites and remediation of current waste on scientific basis were dealt with and the Chief Secretaries were directed to monitor compliance every month by creating a monitoring cell, directly under them, in terms of directions of the Hon'ble Supreme Court and the District Magistrates monitoring such compliances every fortnight. It has been found that there are more than 3000 dump sites where legacy waste has accumulated over the years but the remedial action has not been taken except at very few places. This is resulting in water and air pollution and soil degradation on continuous basis, to the detriment of the environment and the public health.** The statutory timelines have come to an end. Reference is made in this regard also to order dated 29.01.2021 in OA No. 519/2019, In re: News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes" and order dated 28.02.2020 in OA No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016. It was directed, vide order dated 10.01.2020, that compensation will be payable for failure to comply with the requirement of taking steps mentioned in Rule 22 of the SWM Rules, 2016 at scales mentioned therein, depending on the size of local bodies, from 01.04.2020 till compliance. Compensation was also directed to be recovered at the laid down scale for delay in commencing and completing the legacy waste remediation measures.
- (IV) With regard to **bio-medical waste**, the matter has been dealt with in OA 710/2017, Shailesh Singh, v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.<sup>10</sup>, with regard to **hazardous waste**, matter has been dealt with in OA 804/2017, Rajiv Narayan v. Union of India & Ors.<sup>11</sup>,

<sup>7</sup> Vide order dated 21.08.2020

<sup>8</sup> Vide order dated 16.01.2019

<sup>9</sup> Vide order dated 18.07.2019 (last such order is in respect of Jammu & Kashmir)

<sup>10</sup> Vide order dated 18.01.2021

<sup>11</sup> Vide order dated 29.01.2021

with regard to **e-waste**, matter has been dealt with in OA 512/2017, *Shailesh Singh v. State of UP*<sup>12</sup>, with regard to **plastic waste**, matter has been dealt with in EA 13/2019 in OA 247/2017, *Central Pollution Control Board v. State of Andaman & Nicobar & Ors.*<sup>13</sup> for laying down liability to pay compensation for non-compliance.

15. The failure of monitoring has been found to have direct nexus to atleast 10 industrial accidents <sup>14</sup> which have taken place in the recent past which have been dealt with by this Tribunal.

16. Vide order dated 03.02.2021 in OA No. 85/2020, **Yashyashvi Rasayan Pvt. Ltd.**, the Expert Committee, appointed to suggest means to prevent disasters, recommended strengthening the monitoring mechanism by making appointments against all vacant posts to ensure that onsite and offsite emergency plans are in place and mock drills take place, to prevent any such incidents and medical facilities are available at the nearest point in case such incident takes place to save lives of the victims. This aspect has also been dealt with vide order dated 01.02.2021 in OA No. 837/2018, *Sandeep Mittal v. Ministry of Environment, Forests & Climate Change & Ors.* on the subject of monitoring the EC conditions.

17. As earlier observed, damage to environment is directly linked to the public health and neglecting compliance of environmental norms results in deaths and injuries. Violation of environmental norms needs to be taken as seriously as preventing crimes of homicides and assaults. It is more serious as the victims may be wide spread and unidentified. The consequences may even affect future generations. **The compliance status is directly linked to effectiveness of monitoring which requires that the key office bearers of statutory regulators and oversight bodies are qualified, competent and reputed and exclusively dedicated to such work, instead of devoting part time, while simultaneously holding other positions. ....Adequate and well-equipped laboratories and effective machinery for implementation of "Polluter Pays" principle for assessment and collection of compensation is another important aspect of environmental governance.**

18. It is seen that several State PCBs do not even have constraint of funds. Still, the requisite manpower and the equipment are not being arranged. **Moreover, due application of "Polluter Pays" principle, in exercise of regulatory powers under the Air, Water and EP Acts to compensate the environment, enables them to have requisite funds for hiring experts, installing monitoring equipment and taking other remediation and restoration measures, including restoration of contaminated sites.** The quality and quantity of key manpower cannot be compromised, if environmental governance is to improve to achieve the sustainable

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<sup>12</sup> Vide order dated 15.01.2021

<sup>13</sup> Vide order dated 08.01.2021

<sup>14</sup>



development goals. It is well known that most of the key environmental laws have been enacted in the wake of Stockholm Conference (1972) under Entry 13 of List-I read with Article 253 of the Constitution, with a view to achieve 'sustainable development' of which the 'Precautionary' principle, "Polluter Pays" principle, Intergenerational Equity and Public Trust Doctrine principles are integral part. **Sad part is that even after 47 years of Water Act and 40 years of Air Act, water and air pollution is rampant, without serious adverse action. Though there are criminal offences with minimum prescribed sentence, hardly any punishment is handed down. Hardly any compensation is recovered from the violators. Victims continue to suffer and so does the environment. This requires attention of all concerned at higher levels in governance.**

19. In view of above, the recommendations in the CPCB report need to be urgently implemented by all concerned for revamping and upgrading the regulatory bodies and their equipment which needs to be a continuous exercise. **The Chief Secretaries of all States/UTs, in coordination with the Secretary Environment and Chairman State PCB/PCCs in their respective jurisdiction, need to forthwith study and address the issues emerging from the report, prepare and execute their respective action plans.** This will include filling up all vacant posts by competent persons and procuring the requisite equipment. The CPCB may assist and monitor all the States for compliance of these directions. It will be open to the CPCB to prepare a format which may contain qualifications, minimum eligibility criteria, required experience for the key positions and the specifications of equipment. It is suggested that if some of the State PCBs find it difficult to select/recruit suitable candidates, a designated Committee of the MoEF&CC and CPCB, in consultation with such State PCBs, may explore possibility of the central selection mechanism so that the talent pool so selected can be made available for posting at appropriate locations, where recruitment is found to be otherwise difficult. We have noted the observations in the report that at some places administrative manpower is more than technical manpower which may not be a desirable situation. Such situation may be reviewed and remedied by the concerned States. The observations that the work of regulators should be exclusive for the incumbents appointed applies to all key positions, including Chairman/Member Secretary, Regional Officers, Engineers and Scientists of PCBs/PCCs.

20. Further, **for improving monitoring and planning, authentic data needs to be compiled at all levels. Initiative will have to be taken consistent with Digital India initiatives by the MoEF/MoJS/MoUD/CPCB and based on such policy decisions, the Environment departments of all States/UTs will have to compile data in their respective jurisdiction, preferably Districtwise. On that basis District Environment Data Grid (DEDG), State Environment Data Grid (SEDG) and National Environment Data Grid (NEDG) can be set up and continuously updated. The Grid can be connected to online monitoring systems. Comprehensive Environment Pollution Index (CEPI) is being prepared limited to the Industrial Area but the Grid can cover larger areas and aspects and can be source of research**

**and planning. It can also facilitate monitoring of and be in sync with other government initiatives such as National Mission for Clean Ganga, Swachh Bharat and Jalshakti Abhiyan etc. Based on such data, it may also be easier to study 'carrying capacity' of different areas to plan siting policy for various activities.**

21. Further, there is need to study the extent of environmental loss and the contributors to the same. Though environment is priceless, normative parameters are now available to determine the compensation for the loss caused for failure to observe laid down rules and regulations such as not clearing legacy waste as per Solid Waste Management Rules, causing air/water pollution. Environment is wealth which needs protection from being plundered by law violators, for their monetary interests, by adequate monitoring and stringent vigilance. Its scientific management, including enforcement of polluter pays principle, requires study of level of pollution and contributors thereto and cost of restoration to be recovered by an efficient machinery. Such steps will advance the environmental rule of law and lead to sustainable development.

22. The directions on the subject are summed up as follows:

- i. The Chief Secretaries of all States/UTs, in coordination with their respective Secretary Environment and Chairman State PCB/PCCs, need to forthwith study and address the issues emerging from the CPCB report, prepare and execute their respective action plans which will include filling up all vacant posts by competent persons and procuring the requisite equipment, including commissioning and upgradation of all laboratories and recognition under the EP Act, 1986. The CPCB may assist and monitor all the States for compliance of these directions. The steps in this regard be initiated and completed as far as possible within six months. In view of Section 33 of the NGT Act, 2010, whereunder the NGT Act has overriding powers over other statutes, any restriction placed by any administrative order will not stand in the way of carrying out this direction.**
- ii. We direct the CPCB to prepare a format which may contain qualifications, minimum eligibility criteria, required experience for the key positions and the specifications of equipment. All States/UTs may act accordingly.
- iii. MoEF&CC and CPCB may design a mechanism for annual performance audit of all the State PCBs/PCCs.
- iv. It is suggested that if some of the State PCBs find it difficult to select/recruit suitable candidates, a designated Committee of the MoEF&CC and CPCB, in consultation with such State PCBs, may explore possibility of the central selection mechanism so that the

*talent pool so selected can be made available for posting at appropriate locations, where requirement is found to be otherwise difficult. A plan be prepared for continuous training of the incumbents at regional levels periodically.*

- v. In view of the findings in the report that at some places administrative manpower is more than technical manpower, such situation may be reviewed and remedied by the concerned States.*
- vi. The observations that the work of regulators should be fulltime for the incumbents appointed applies to all key positions, including Chairman/Member Secretary and Regional Officers, Engineers, Scientists of PCBs/PCCs. Such incumbents may not be given any other additional charge. Only exception can be in States where there are no significant environmental issues so as to provide the incumbents fulltime work. Such States may seek exemption in respect of this direction from CPCB, giving relevant information justifying such exemption.*
- vii. CPCB and State PCBs/PCCs, as directed earlier, may utilise EC funds on laboratory set up/upgradation, and on the mentioned areas in the report as well as on approved District Environment Plans. No approval of Central/State Government will be necessary in this regard in view of section 33 of the NGT Act, supra.*
- viii. Consistent with Digital India initiatives, MoEF&CC/MoJS/CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) DEDGs and further linked to available portals like online air/water quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to initiatives like NMCG/Swachh Bharat/Jal Jeevan Mission.*
- ix. To assess the extent of monetary loss caused to the environment on account of violation of environmental norms by failure to scientifically manage waste, violating Water/Air/EP/Forest (Conservation) Acts and other specified Acts for fixing accountability, for improving efficiency and better enforcement of 'Polluter Pays' principle.*
- x. To monitor the extent of carrying capacity for particular activities at different locations for planning suitability of siting of particular activities for giving effect to 'Precautionary' and 'Sustainable Development' principles"*

16. On various thematic areas mentioned above, which are expected to be the components of District Environment Plans such as waste management, air pollution, water pollution, protection of eco sensitive areas, protection of rivers, water bodies, conservation of groundwater, use of treated water, rainwater harvesting, preventing dust pollution, noise pollution etc, this Tribunal has dealt with the issues and finding huge gaps in compliances, issued directions, which include following:

I. **Waste Management:**

- **Bio-medical waste:** O.A. No. 710/2017, *Shailesh Singh v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.*, Order dated 18.01.2021.
- **Legacy waste:** O. A. No. 519/2019, *News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes"*, Order dated 29.01.2021.
- **Hazardous waste:** O.A. No. 804/2017, *Rajiv Narayan & Anr. v. UOI & Ors.*, Order dated 29.01.2021.
- **Solid Waste Management:** O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues*, Orders dated 22.07.2019, 28.02.2020 and 14.12.2020.
- **E-waste:** O.A. No. 512/2018, *Shailesh Singh v. State of UP & Ors.*, Order dated 15.01.2021.
- **Plastic waste:** EA No. 13/2019, *Central Pollution Control Board v. State of Andaman & Nicobar & Ors.*, Order dated 08.01.2021.

II. **Rainwater harvesting:** O.A. No. 496/2016, *Tribunal on its own motion v. GNCD & Ors.*, Order dated 22.01.2021.

III. **Water bodies restoration:** O.A. No. 325/2015, *Lt. Col. Sarvadaman Singh Oberoi v. UOI & Ors.*, Order dated 18.11.2020.

IV. **Management of Carcasses:** O.A. No. 465/2019, *Kulwinder Singh Sandhu & Ors. v. Ram Murti & Ors.*, Order dated 15.04.2021.

- V. **Management of Dairies:** Original Application No. 46/2018, *Nuggehalli Jayasimha v. Government of NCT of Delhi*, Order dated 08.10.2020.
- VI. **Environmental compliance - Brick kilns:** Original Application No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.*, Order dated 17.02.2021.
- VII. **Sustainable Mining:** O.A. No. 360/2015, *National Green Tribunal Bar Association v. Virender Singh (State of Gujarat)*, Order dated 26.02.2021.
- VIII. **Management of Railway siding:** O.A No. 141/2014, *Saloni Singh & Anr. v. UOI & Ors.*, Order dated 16.03.2021.
- IX. **Categorisation for effective monitoring - Red, Orange, Green:** OA 639/2018, *Shailesh Singh v. State of Haryana & Ors.*, Order dated 23.03.2021.
- X. **Air pollution control in Non-Attainment Cities:** OA 681/2018, *In Re: News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15"*, Order dated 08.04.2021.
- XI. **Water Pollution control by preventing discharge of untreated sewage/effluents:** OA 593/2017, *Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors.* and OA 148/2016, *Mahesh Chandra Saxena v. South Delhi Municipal Corporation & Ors.*, Orders dated 21.09.2020 and 22.02.2021.
- XII. **Ground Water Regulation:** OA No. 176/2015, *Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors.*, Order dated 20.07.2020.
- XIII. **Remedying Polluted Industrial Clusters:** OA No. 1038/2018, *News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels"*, Order dated 14.11.2019.
- XIV. **Restoring Pollution of River Stretches:** OA No. 673/2018, *In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB"*, Orders dated 21.09.2020 and 22.02.2021.

- XV. **Controlling Coastal Pollution:** OA No. 829/2019, *Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors.*, Orders dated 21.09.2020 and 22.02.2021.
- XVI. **Regulating Pollution by restaurants/hotels/motels/banquets:** OA No. 400/2017, *Westend Green Farms Society v. Union of India & Ors.*, Order dated 04.02.2021.
- XVII. **Preventing Industrial Accidents by safety norms and providing relief to victims:** (i) OA No. 85/2020, *Aryavart Foundation through its President vs. Yashyashvi Rasayan Pvt. Ltd. & Anr.*, Order dated 03.02.2021 (ii) OA No. 60/2021, *In re: News item published in The Hindu dated 23.02.2021 titled "Two dead, 5 missing in fire at UPL Plant"*, Order dated 11.06.2021 (iii) OA No. 134/2021, *In re: News item published in The Hindustan Times dated 17.06.2021, titled "Blast in firecracker unit in Maharashtra's Palghar, at least 10 injured"*, Order dated 25.06.2021.

17. We may mention that several issues have been directed to be monitored by this Tribunal by the Hon'ble Supreme Court such as ensuring installation of requisite treatment equipments – STPs, ETPs, CETPs, to prevent discharge of untreated sewage/trade effluents in water bodies<sup>15</sup>, solid waste management<sup>16</sup>, remedying the pollution of river Yamuna<sup>17</sup> and river Ganga<sup>18</sup>. There are also various other issues which are being dealt with by this Tribunal to give effect to the directions of the Hon'ble Supreme Court. Tackling of challenges presented by these issues requires action plans and monitoring of execution at every level. DEPs, taking cognizance of all such issues, should result in holistic steps to address the problem in the interest of health of citizens. We may mention by way of illustration particulars of some of the orders relevant for the purpose (can be accessed on the NGT website):

<sup>15</sup> Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors. - (2017) 5 SCC 326

<sup>16</sup> Order dated 02.09.2014, in W.P. No. 888/1996, Almitra H. Patel vs. Union of India & Ors.

<sup>17</sup> O.A. No. 06/2012, Manoj Mishra v. UOI & Ors.

<sup>18</sup> O.A. No. 200/2014, M.C. Mehta v. UOI & Ors.

<b>Sl. No.</b>	<b>Date of Order</b>	<b>OA/EA/Appeal No. and Party Name</b>	<b>Issue dealt</b>
1.	18.01.2021	O.A. No. 710/2017, <i>Shailesh Singh v. Sheela Hospital &amp; Trauma Centre, Shahjahanpur &amp; Ors.</i>	<b>Bio-medical waste</b>
2.	29.01.2021	O.A. No. 804/2017, <i>Rajiv Narayan &amp; Anr. v. UOI &amp; Ors.</i>	<b>Hazardous waste</b>
3.	22.07.2019, 28.02.2020 and 14.12.2020	O.A. No. 606/2018, <i>Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues,</i>	<b>Solid Waste Management</b>
4.	15.01.2021	O.A. No. 512/2018, <i>Shailesh Singh v. State of UP &amp; Ors.</i>	<b>E-waste</b>
5.	08.01.2021	EA No. 13/2019, <i>Central Pollution Control Board v. State of Andaman &amp; Nicobar &amp; Ors.</i>	<b>Plastic waste</b>
6.	18.11.2020	O.A. No. 325/2015, <i>Lt. Col. Sarvadaman Singh Oberoi v. UOI &amp; Ors.</i>	<b>Water bodies restoration</b>
7.	26.02.2021	O.A. No. 360/2015, <i>National Green Tribunal Bar Association v. Virender Singh (State of Gujarat)</i>	<b>Sustainable Mining</b>
8.	08.04.2021	OA 681/2018, <i>In Re: News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15"</i>	<b>Air pollution control in Non-Attainment Cities</b>
9.	21.09.2020 and 22.02.2021	OA 593/2017, <i>Paryavaran Suraksha Samiti &amp; Anr. v. Union of India &amp; Ors.</i> and OA 148/2016, <i>Mahesh Chandra Saxena v. South Delhi Municipal Corporation &amp; Ors.</i>	<b>Water Pollution control by preventing discharge of untreated sewage /effluents</b>
10.	20.07.2020	OA No. 176/2015, <i>Shailesh Singh v. Hotel Holiday Regency, Moradabad &amp; Ors.</i>	<b>Ground Water Regulation</b>
11.	21.09.2020 and 22.02.2021	OA No. 673/2018, <i>In Re: News item published in "The Hindu" authored by Shri Jacob Koshy, titled "More river stretches are now critically polluted: CPCB"</i>	<b>Restoration of the Polluted River Stretches</b>
12.	11.06.2021	OA No. 60/2021, <i>In re: News item published in The Hindu dated 23.02.2021 titled "Two dead, 5 missing in fire at UPL Plant"</i>	<b>Preventing Industrial Accidents by safety norms and providing relief to victims</b>
13.	25.06.2021	OA No. 134/2021, <i>In re: News item published in The Hindustan Times dated 17.06.2021, titled "Blast in firecracker unit in Maharashtra's Palghar, at least 10 injured"</i>	

18. We may also note that this Tribunal discussed the above aspects with 35 Chief Secretaries of all States/UTs, in their personal presence and issued directions to handle serious violations of law and failure of the administrative authorities, requiring continuous monitoring by District Magistrates at District level and by Chief Secretaries at State level, with

the assistance of fulltime environment cells, to assist in coordination with different departments and to provide technical inputs to address the gaps and governance deficits on the subject. It is not necessary to repeat the directions already issued except to say that satisfactory steps remain to be taken. Wherever DEPs have not been prepared, the same need to be expedited and wherever they have been prepared the same need to be continuously updated and compliance monitored.

19. Since the above is a continuous process, it is for the concerned Governments to take initiatives. However, having regard to the significance of the subject, we are of the opinion that further monitoring will be necessary by this Tribunal in the light of compliance status which may be provided on the next date.

20. We are unhappy to note that all the States/UTs have not taken the matter as seriously as the subject requires. We hope that the Chief Secretaries of all the States/UTs will provide due attention to the subject in the larger public interest and in the interest of health, safety of the citizens and rule of law to effectuate basis fundamental rights of the citizens.

21. Accordingly, in view of long-time failure to comply the mandate of the Constitution adversely affecting the public health and the environment and repeated failures to comply with the earlier directions on the subject, we direct

- a. Chief Secretaries of all the States/UTs may ensure completion of District Environment Plans (DEPs) for all the Districts, in the light of orders of this Tribunal dated 26.9.2019, 19.3.2020. 29.1.2021 and the observations in the present order and upload the same on their respective websites positively by 31.10.2021.



- b. The DEPs may contain data on each environmental issue covering each city, town and village. Data may show the extent of gap in compliance of laid down norms for
  - i. Waste Management - Municipal Solid, Plastic, Bio-Medical, Electric and Electronic, Hazardous and Construction and Demolition waste
  - ii. Sewage treatment and utilisation
  - iii. Water quality – Rivers, Water bodies, Ground Water, Coastal waters and Rain water harvesting,
  - iv. Industries Pollution Control including industrial clusters
  - v. Air Quality management includes pollution due to dust
  - vi. Regulating mining/ Sand mining
  - vii. Noise pollution
  - viii. Any other issues significant in the area
  - ix. The DEP must give timelines for accomplishment of tasks backed up with budgetary support and the officers entrusted with the job, with contact details of the nodal officer at various levels in the District
  - x. Scope for public participation on remedial measures like plantations
- c. DEPs may also contain mechanism for review at different levels.
- d. The District Magistrates may accordingly execute the action plans by reviewing the progress on various targets at least once in a month.
- e. All the States may accordingly consolidate the DEPs and prepare their respective State Environment Plans and upload the same on their respective websites.
- f. CPCB may consolidate the information and file a tabular statement by 30.11.2021 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).

List for further consideration on 08.12.2021.

A copy of this order be forwarded to MoEF&CC, CPCB and Chief Secretaries of all the States/UTs, all State PCBs/PCCs/all District Magistrates by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

July 5, 2021  
Original Application No. 360/2018  
(SLP (Civil) No. 2959/2014)  
DV