

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.10/2016/EZ
(I.A. No.12/2022/EZ)

JOYDEEP MUKHARJEE

Son of Late Sailendranath Mukherjee,
Residing at 291, Roybazar,
Post Office-Hooghly,
District-Hooghly,
West Bengal, PIN-712103,

.....Applicant(s)

Versus

- 1. UNION OF INDIA,**
Through the Secretary
Ministry of Environment, Forest & Climate Change
Government of India,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi-11003,
- 2. CENTRAL POLLUTION CONTROL BOARD,**
Through its member Secretary,
Government of India,
Office at Parivesh Bhawan,
CBD-cum-Office Complex,
East Arjun Nagar, Delhi-110032,
- 3. WEST BENGAL POLLUTION CONTROL BOARD,**
Through the Chairman
Paribesh Bhawan, 10A, Block LA,
Sector-III, Bihan Nagar,
Kolkata-700098,
- 4. SILIGURI MUNICIPAL CORPORATION,**
Through the Municipal Commissioner,
Silliguri, District-Darjeeling,
PIN-734004,
- 5. THE SECRETARY,**
Department of Municipal Affairs,
Government of West Bengal,
Writer's Building, B.B. Bagh,
Kolkata-700001,
- 6. SILIGURI JALPAIGURI DEVELOPMENT AUTHORITY,**
Through is Member Secretary,
Twnzing Norgey Road, Prashan Nagar,
Siliguri, District-Darjeeling,
West Bengal-734403,

7. THE PRINCIPAL SECRETARY,
The Irrigation Department,
Government of West Bengal

.....Respondent(s)

Date of completion of hearing and reserving of order: 28.03.2023

Date of uploading of order on the Website: 05.04.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s): Mr. Soumitra Mukherjee, Adv. for R-1, (in Virtual Mode)
Mr. Surendra Kumar, Advocate for R-2, (in Virtual Mode)
Mr. Dipanjan Ghosh, Advocate for R-3, (in Virtual Mode)
Ms. Paushali Banerjee, Advocate for R-5,
Mr. Probal Kumar Mukherjee, Sr. Advocate a/w
Ms. Arpita Chowdhury, Advocate for R-6, (in Virtual Mode)
Ms. Madhumita Bhattacharya, Adv. for R-7, (in Virtual Mode)

ORDER

1. Case called out. No one is present on behalf of the Applicant.
2. It is urged in the Original Application that the Siliguri Jalpaiguri Development Authority and the Siliguri Municipal Corporation are not taking any steps to remove the pollutants or action against persons who are throwing pollutants in the river Mahananda, Jorapani and Phuleswari flowing through the district of Darjeeling and Siliguri Sub-division of the said district. It is alleged that local people are throwing plastics and garbage in the said rivers and thereby causing serious water pollution which is in violation of Section 24 of Water (Prevention & Control of Pollution) Act, 1974.
3. The respondents were directed to file Status Report.
4. The Respondent No.6, Siliguri Jalpaiguri Development Authority, has filed affidavit dated 30.04.2016. Paragraph-3 & 4 are extracted herein below and read as under: -

"3. I say that several schemes have been taken by the respondent No. 6 to prevent the abatement of pollution of river Mahananda, Jorapani and Fuleswari streams at Siliguri and

for River point Development at Siliguri Town and Interception and Diversion (I & D) for the conservation of Jorapani & Fuleswari River. I further say that Administrative Approval and Expenditure sanction for the amount i.e. 3736.80 lakhs, 302.19 lakhs and 1449.24 lakhs have been given on 70:30 cost sharing basis between the Central Govt. and the State Govt. for effective implementation of the aforesaid schemes taken for prevention of abatement of pollution of river Mahananda, Jorapani and Fuleswari streams at Siliguri and River point Development at Siliguri town and Interception and Diversion (I & D) for the conservation of Jorapani & Fuleswari rivers, respectively. The state share have been borne by SJDA.

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4. That for effective implementation of the scheme the aforesaid allotted fund have been utilized for consultation with the experts, for taking effective steps with regard to the interception and diversion channel bank of rivers Jorapani, Fuleswari and Mahismuri rivers, land acquisition, Laying of Trunk sewer line, outfall drain, installation of sewage Treatment Plant (STP), Restoration of road for placing sewer line, installation of pumping Station.”

5. Since the information provided was found to be vague, the Municipality was directed to file a better affidavit.
6. The Central Pollution Control Board has filed affidavit dated 27.04.2016 bringing on record Water Analysis Report of River Mahananda as Annexure-I, which reveals that the water quality of the River far exceeds the prescribed Standards of Primary Water Quality Criteria for Bathing Water as per Notification at Sl. No.93 under the Environment (Protection) Rules, 1986 with respect to BOD at Mahananda Siliguri (3.5 mg/l) and Mahananda D/S Ramghat (16.8 mg/l). With respect to Fecal Coliform, the observations at two locations of Mahananda at Siliguri are 9000

MPN/ml and Mahananda D/S Ramghat are 11000 MPN/ml vide Total Coliform also far exceeds the Prescribed Criteria at Mahananda Siliguri being 33000 MPN/ml and Mahananda D/S Ramghat being 260000 MPN/ml.

7. The Ministry of Environment, Forests and Climate Change has also filed affidavit dated 13.07.2016 highlighting the Solid Waste Management Rules, 2016 and Plastic Waste Management Rules, 2016.
8. The Siliguri Municipal Corporation has filed affidavit dated 06.10.2016 stating therein that Notice of Demolition against illegal constructions has been issued directing the encroachers to demolish the illegal constructions from the river bed. The said notices have been issued to the following persons: -
 - I. Mukesh Sharma;
 - II. Ram Prasad Rai;
 - III. Sankar Sah;
 - IV. Baban Sen;
 - V. Nand Kishre Yadav;
 - VI. Ashok Yadav;
 - VII. Uttam Rai;
 - VIII. Manoj Kr. Prasad;
 - IX. Lal Babu Rai and
 - X. Naresh Rai
9. The Commissioner, Siliguri Municipal Corporation, has also issued letter dated 23.11.2015 to Executive Engineer, Irrigation and Waterways Department, to take necessary steps for removing of law sheds from Mahananda River bed.

10. The SDO, Siliguri Sub-Division, Siliguri vide his letter dated 02.12.2015 has requested Executive Engineer for Joint Inspection of the River bed prior to removal of illegal encroachments.
11. The Commissioner, Siliguri Municipal Corporation, has issued letter dated 08.12.2015 requesting the Deputy Director Animal Resource and Parisad Office, Siliguri, to take steps for removal of pigs. It is also stated that some people residing under Siliguri Municipal Corporation dispose of their waste materials (flowers and dead body of animals etc.) in the Mahananda River which renders it unsafe for human beings and therefore, action has been taken from time to time to penalize the culprits and to clean the River bed. Major high drains are connected to the Mahananda River. Siliguri Jalpaiguri Development Authority has already undertaken Mahananda Action Plan to restore untreated water. Necessary proposals are being prepared for setting up STP, pumps to clean the waste water. Environment Department, Govt. of West Bengal, has issued Notification dated 24.11.2015 regarding banning of polythene and plastic carry bags which has been duly circulated by the Siliguri Municipal Corporation and about 15 tonnes of such banned plastic carry bags have been issued by the Siliguri Municipal Corporation. It is further stated that five workers from the Environment Department and one Supervisor has been entrusted in each of the Rivers Mahananda, Jorapani and Phuleswari to keep constant vigil and check throwing of plastic and garbage into the rivers. It is also stated that Sewage Treatment Plant (STP) and Mahananda Action Plan is under control of the Siliguri Jalpaiguri Development Authority. Misuse of funds has been categorically denied.

12. The Siliguri Jalpaiguri Development Authority has filed affidavit dated 22.11.2016 along with its annexures, showing the works done and expenditure incurred.
13. The Siliguri Municipal Corporation has filed further affidavit dated 06.01.2017 stating that fresh notices have been issued for removal of khatalas, piggeries and illegal structures on the Mahananda River bed and eleven khatalas, piggeries and illegal structures have been demolished on 23.12.2016 through JCB crane.
14. Affidavit dated 07.01.2017 has been filed by Siliguri Jalpaiguri Development Authority, stating that a Report showing the tender numbers, works, estimated cost and the agency who got the tender and actual expenditure incurred.
15. The Urban Development & Municipal Affairs, Govt. of West Bengal, has filed affidavit dated 09.02.2017, stating therein that for preventing abatement of pollution of River Mahananda, Jorapani and Fuleswari streams at Siliguri and for river point development at Siliguri Town and Interception and Diversion (I & D) for conservation of Jorapani and Fuleswari River, several schemes have been taken by the Siliguri Jalpaiguri Development Authority (SJDA) incurring expenditure amounting to Rs.3736.80 lakhs, Rs.302.19 lakhs and Rs.1449.24 lakhs received from the National River Conservation Directorate, Ministry of Environment, Forests and Climate Change, Govt. of India, on 70:30 cost sharing basis between Central Government and State Government. It is also stated that the State share has been borne by the Siliguri Jalpaiguri Development Authority.
16. Affidavit dated 10.03.2017 has been filed by Siliguri Municipal Corporation, stating that under the Mahananda Action Plan, three

STPs have been proposed, STP-I and STP-II will be on either side of Mahananda River and STP-III has been proposed for treatment of intercepted and diverted waste water presently polluting river Fuleswari and Jorapani.

17. Siliguri Jalpaiguri Development Authority has also filed affidavit dated 16.03.2017, bringing on record, drawings of all sewer lines with survey drawing of existing STP, Pipelines with a list of description of drawings sheets and list of chambers, Temporary Bench Mark of the sewer system and location of the sewer system. It is stated that there are three STPs out of which expenditure towards two STPs at Sl. No.39 and 40 is Rs.4,78,02,037/- (Rupees Four crore seventy-eight lakhs two thousand and thirty-seven only) and Rs.3,39,85,947/- (Rupees Three crore thirty-nine lakhs eight-five thousand nine hundred forty-seven only) respectively.
18. The Superintendent of Police, Jalpaiguri, has filed affidavit dated 30.03.2017, stating that the three Rivers Mahananda, Jorapani and Fuleswari do not flow within the jurisdiction of Jalpaiguri District but flow under the jurisdiction of Police Commissionerate, Siliguri but if any Municipality/Panchayat/Civic Body requires any lawful assistance in removal of any type of encroachment from river bank, the Jalpaiguri District Police Administration would comply any directions in this regard.
19. The District Magistrate, Jalpaiguri, has filed affidavit dated 12.05.2017, stating that in response to his letter dated 16.03.2017 for providing details where removal of encroachment operation is to be taken, the Commissioner, Siliguri Municipal Corporation, has forwarded letter dated 10.04.2017 with sketch map for removal of encroachments/khatals, piggeries etc. in the River bed of

Mahananda and it is stated that in Ward No.3 in District Darjeeling they have removed khatal/piggeries and illegal construction and the other wards of District Jalpaiguri would be covered later.

20. The Siliguri Jalpaiguri Development Authority has filed affidavit dated 16.05.2017 with regard to the direction of the Tribunal dated 07.03.2017 to make the STPs operational within a period not less than six months. Letter dated 10.03.2017 was written to the Special Superintendent of Police (North), CID West Bengal.
21. Affidavit dated 17.07.2017 has been filed by Siliguri Jalpaiguri Development Authority bringing on record the Status Report of Mahananda River Conservation Plan.
22. The Siliguri Municipal Corporation has filed affidavit dated 22.07.2017 wherein it is stated that for want of adequate police force, the work of removal of encroachment could not be undertaken.
23. The Central Public Works Department (CPWD) has filed affidavit dated 26.07.2017 stating that they have written reminder letters to the Respondent No.6 to provide certain documents which were not provided till that date.
24. The Special Superintendent of Police (North), CID West Bengal, has filed affidavit dated 09.09.2017, stating that:
 - (i) Pradhan Nagar PS Case No.319/13 dated 16.05.2013;
 - (ii) PS Case No.433/13 dated 09.07.2013;
 - (iii) PS Case No.434/13 dated 09.07.2013 under Sections 120B, 409, 467, 468, 471, 477A, 420 IPC read with Section 13 (2)/Section 13 (1) (c) (d) of Prevention of Corruption Act, 1988 were initiated as per written complaint lodged by the then CEO, Siliguri Jalpaiguri Development Authority and Superintending Engineer, SJDA.

During investigation only, case related documents/files were seized from the office of the Siliguri Jalpaiguri Development Authority, no other material was seized from the place where the projects were to be installed. No material was supplied at the spot as per work order but payments against the so-called supply (Electrical Equipments) were released by the Siliguri Jalpaiguri Development Authority. However, the case has not yet been charge-sheeted due to pendency of the sanction order.

25. The Commissioner of Police, Siliguri, has filed affidavit dated 11.09.2017, stating that necessary police arrangements were provided to the Siliguri Municipal Corporation to undertake the eviction drive and the said authority has also carried out the eviction drive. The entire eviction, however, is not yet complete.
26. Several affidavits have been filed by the various parties.
27. A Report has also been filed by the Siliguri Jalpaiguri Development Authority, showing preparation of modified DPR including Planning, Surveying, Designing, Drawing, estimation to complete the existing incomplete Main Pumping Stations MPS-II and MPS-III for making operational of STP-II and STP-III of capacity 15 MLD and 32 MLD respectively.
28. The Siliguri Jalpaiguri Development Authority has also filed affidavit dated 31.12.2020 stating therein that a modified DPR with respect to Planning, Surveying, Designing, Drawing for MPS-II and MPS-III for making operational of STP-II and STP-III of capacity 15 MLD and 32 MLD has been resubmitted.
29. Affidavit dated 10.07.2021 has been filed by the Siliguri Jalpaiguri Development Authority stating that out of 15 civil estimates, which is a part of the DPR of STP, only 5 estimates were vetted for

Rs.4,67,13,639/- (Rupees Four crore sixty-seven lakhs thirteen thousand six hundred thirty-nine only) and forwarded to the Kolkata Municipal Corporation. Balance civil estimate was vetted for Rs.52,23,04,495/- (Rupees Fifty-two crore twenty-three lakhs four thousand four hundred ninety-five only) was sent to the Kolkata Municipal Corporation on 25.01.2021. Tender for STP Project of Rs.60,16,27,610/- (Rupees Sixty crore sixteen lakhs twenty-seven thousand six hundred ten only) was prepared and sent to the Joint Secretary (IT), Department of Urban Development and Municipal Affairs for advertisement in the newspaper. The requisite advertisement in the newspaper for STP Projects was proposed on 14.02.2021 in the 'Time of India' 'Bartaman' and 'Uttar Banga Sambad' newspapers. No bidder participated in the first call. Thereafter, Abridged Tender Notification for NIT (2nd Call) was prepared and sent to the Joint Secretary (IT), Urban Development and Municipal Affairs for advertisement. Tenders were opened on 24.05.2021.

30. Affidavit dated 15.02.2021 was filed by Chief Secretary, Govt. of West Bengal, stating that the Irrigation and Waterways Department has already completed bank protection work for a length of 2.68 kms and administrative approval for a further 3.00 kms of bank protection works is being processed. A DPR for the balance 5.32 kms has also been prepared.
31. The Siliguri Municipal Corporation has filed affidavit dated 13.08.2021 and it is stated that there are about 88 plots/encroachments which are required to be removed/demolished and those structures are mainly kuccha structures with few pucca structures and it is also stated that there

are two temples at the site. The Commissioner who was present before us informed that notices have been given to the encroachers on 10.08.2021 giving them thirty days to remove their illegal encroachments.

32. In paragraph 8 of the affidavit apprehension has been expressed that even after removal of the encroachments there may be re-encroachments and its resultant problems and if help is provided by the Civil Administration, the Siliguri Municipal Corporation will be able to remove the encroachments with the help of men and machinery subject to availability of Police Force.

33. Accordingly, the Tribunal, directing the Commissioner of Police, Siliguri Metropolitan Commissionerate, District Magistrate, Darjeeling and District Magistrate, Jalpaiguri to provide all assistance to the Commissioner, Siliguri Municipal Corporation, in the matter of removal of illegal encroachments as and when request would be made in this regard.

34. So far as the construction of STP-I, STP-II and STP-III are concerned an affidavit dated 11.08.2021 page No. 1182 of the paper-book has been filed by the Urban Development & Municipal Affairs Department, Government of West Bengal and in paragraph 3 thereof it is stated that the Urban Development & Municipal Affairs Department, Government of West Bengal after processing the project cost amounting to Rs. 62,18,27,777/- (Rupees Sixty Two Crores Eighteen lakhs Twenty Seven Thousand Seven Hundred and Seventy Seven only) has forwarded the proposal to the Finance Department, Government of West Bengal for necessary approval and the matter is pending with the Finance Department but the date when this proposal was sent has not been mentioned. It is

also stated that the Detailed Project Report (DPR) was prepared and approved around 12.02.2021.

35. Accordingly, Additional Chief Secretary, Department of Finance, Government of West Bengal, was directed to take a decision with regard to the financial matter expeditiously within one month.

36. Ms. Arpita Chowdhury, learned Counsel appearing on behalf of the Siliguri Jalpaiguri Development Authority has presented the technical summary of STP-II and STP-III only but with regard to STP-I she has referred to the affidavit dated 09.07.2020 page No. 530 of the paper-book and submits that the matter is delayed as acquisition of site for STP-I has not been finalized. So far as STP-II and STP-III are concerned the DPR has already been vetted and financial sanction is awaited. However, it is not clear whether the land for construction of STP-I has been acquired or not or what is the problem in acquisition of land for construction of STP-I.

37. The Tribunal on 20.09.2021 observed as under: -

“14. As earlier mentioned, contamination of water sources is a punishable offence under the Water (Prevention and Control of Pollution) Act, 1974 for the last 47 years. Under Section 25 of the Act, untreated discharge of sewage in any drain is prohibited and is criminal offence under Sections 42 (2) and 44. Section 48 of the Act makes the Head of the Department liable for being punished for such offence. As per directions of the Hon’ble Supreme Court in Paryavaran Suraksha case,¹ an outer limit of 31.03.2018 is fixed for completing the work of all STPs in the Country. The Court laid down the sources of budget and issued direction to initiate prosecution for continued failure with direction to the Tribunal to take steps for enforcement of the said direction. Accordingly, the Tribunal has passed several orders, including the order for recovery of compensation and entries in ACRs, after calling the Chief Secretaries of all States before the Tribunal in

¹ (2017) 5 SCC 326

person. Specific directions of the Hon'ble Supreme Court and this Tribunal on the subject are reproduced below:

Extracts from the judgement of the Hon'ble Supreme Court in Paryavaran Suraksha Samiti Vs. Union of India, supra

“7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

X.....X.....X.....

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, 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 municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, 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 State Government (Union Territory) concerned, 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 finalised, on or before 31-3-2017, 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 State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

- 11.** *Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.***
- 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 timelines and the format, expressed hereinabove.*
- 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 timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. **The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing***

necessary directions to the Pollution Control Board concerned, 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 Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. **The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.**

X.....X.....X.....

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.”**

(emphasis supplied)

Extracts from orders of this Tribunal in OA 593/2017:

Order dated 21.05.2020

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."**

Order dated 21.09.2020

"11. The Tribunal has already issued directions vide orders dated 28.08.2019 and 21.05.2020 for ensuring that no untreated sewage/effluent is discharged into any water body and for any violation compensation is to be assessed and recovered by the CPCB so that the same can be utilized for restoration of the environment, complying with the principle of 'Polluter Pays' which has been held to be part of 'Sustainable Development' and part of right to life. Control of such pollution is crucial for environment, aquatic life, food safety and also human health. ..."

From OA 673/2018

Order dated 6.12.19:

6. The Hon'ble Supreme Court noticed the level of degradation of rivers in India and apathy of the authorities as follows:

“58. Rivers in India are drying up, groundwater is being rapidly depleted, and canals are polluted. Yamuna in Delhi looks like a black drain. Several perennial rivers like Ganga and Brahmaputra are rapidly becoming seasonal. Rivers are dying or declining, and aquifers are getting over pumped. Industries, hotels, etc. are pumping out groundwater at an alarming rate, causing sharp decline in the groundwater levels. Farmers are having a hard time finding groundwater for their crops e.g. in Punjab. In many places there are serpentine queues of exhausted housewives waiting for hours to fill their buckets of water. In this connection John Briscoe has authored a detailed World Bank Report, in which he has mentioned that despite this alarming situation there is widespread complacency on the part of the authorities in India.²

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. Sewage is also being directly put in rivers contributing to the river water pollution. We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, sewage, garbage, waste and air pollution, including the water management. We

² State of Orissa v. Govt. of India, (2009) 5 SCC 492

club the ending case of water management with this matter.³

xxx.....xxx.....xxx

11. In spite of above, in flagrant violation of law of the land, polluted water in the form of sewage, industrial effluents or otherwise has continued to be discharged in the water bodies including the rivers or the canals meeting the rivers. Violation of law is not only by private citizens but also statutory bodies including the local bodies and also failure of the regulatory authorities in taking adequate steps. There is no corresponding coercive action posing danger to rule of law when large scale violation of law is not being remedied. This leads to lawlessness.

12. It will be appropriate to note the crisis situation in the country on the subject of availability of potable water. The matter has been considered in the report of Niti Aayog on Composite Water Management Index (CWMI).⁴ Following further information also needs to be noted:

(i) India is suffering from the worst water crisis in its history and millions of lives and livelihoods are under threat. Currently, 600 million Indians face high to extreme water stress and about two lakh people die every year due to inadequate access to safe water⁵. The crisis is only going to get worse. By 2030, the country's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual ~6% loss in the country's GDP⁶. As per the report of National Commission for Integrated Water Resource Development of MoWR, the water requirement by 2050 in high use scenario is likely to be a milder 1,180 BCM, whereas the present-day availability is 695BCM. The total availability of water possible in country is still lower than this projected demand, at 1,137BCM. Thus, there is an imminent need to deepen our understanding of our water resources and usage and put in place interventions that make our water use efficient and sustainable.

(ii) India is undergoing the worst water crisis in its history. Already, more than 600 million people⁷ are facing acute water shortages. Critical groundwater resources – which account for 40% of

³ M.C. Mehta Vs Union of India- W.P. (Civil) No. 13029/1985 dated 25.11.2019

⁴ Niti Ayog on "Composite Water Management Index", June 2018, https://niti.gov.in/writereaddata/files/document_publication/2018-05-18-Water-Index-Report_vS8-compressed.pdf.

⁵Source: WRI Aqueduct; WHO Global Health Observatory

⁶Source: McKinsey & WRG, 'Charting our water future', 2009; World Bank; Times of India

⁷ Source: World Resource Institute

our water supply – are being depleted at unsustainable rates.⁸

(iii) Most states have achieved less than 50% of the total score in the augmentation of groundwater resources, highlighting the growing national crisis—54% of India’s groundwater wells are declining, and 21 major cities are expected to run out of groundwater as soon as 2020, affecting ~100 million people⁹.

(iv) With nearly 70% of water being contaminated, India is placed at 120th amongst 122 countries in the water quality index.

13. As per statistics mentioned before the Lok Sabha on April 6, 2018, waterborne diseases such as cholera, acute diarrhoeal diseases, typhoid and viral hepatitis continue to be prevalent in India and have caused 10,738 deaths, over the last five years since 2017. Of this, acute diarrhoeal diseases caused maximum deaths followed by viral hepatitis, typhoid and cholera.¹⁰

14. As per ‘National Health Profile’ published by Central Bureau of Health Investigation, Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, a total of 1535 Deaths due to Acute Diarrhoeal Diseases was reported during the year 2013¹¹

Main Causes of Pollution of Rivers

15. As already noted, well known causes of pollution of rivers are dumping of untreated sewage and industrial waste, garbage, plastic waste, e-waste, bio-medical waste, municipal solid waste, diversion of river waters for various purposes affecting e-flow, encroachment of catchment areas and floodplains, over drawl of groundwater, river bank erosion on account of illegal sand mining. In spite of directions to install Effluent Treatment Plants (ETPs), Common Effluent Treatment Plants (CETPs), Sewage Treatment Plants (STPs), and adopting other anti-pollution measures, satisfactory situation has not been achieved. As per CPCB’s report 2016¹², it has been estimated that 61,948 million liters per day (mld) sewage is generated from the urban areas of which treatment capacity of 23,277 mld is currently existent in India. Thereby the deficit in capacity of waste treatment is of 62%. There is no

⁸ Source: World Resource Institute

⁹ Source: UN Water, ‘Managing water under uncertainty and risk’, 2010; World Bank (Hindustan Times, The Hindu).

¹⁰ <https://www.indiaspend.com/diarrhoea-took-more-lives-than-any-other-water-borne-disease-in-india-58143/>

¹¹ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=106612>

¹² http://www.sulabhenvi.nic.in/Database/STST_wastewater_2090.aspx July 16, updated on December 6, 2016

data available with regard to generation of sewage in the rural areas.

xxx.....xxx.....xxx

33. We may note the observations of the Hon'ble Supreme Court:

“26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.¹³

xxx.....xxx.....xxx

“61. If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total

¹³ INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION Vs. UNION OF INDIA AND OTHERS (1996) 5 SCC 281

lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. Such blatant misuse of properties at large-scale cannot take place without connivance of the officers concerned. It is also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.”¹⁴

xxx.....xxx.....xxx

35. Vide order dated 22.08.2019 in Original Application 200/2014, dealing with the pollution of river Ganga, the Tribunal issued directions and laid down coercive measures to be taken for discharge of untreated sewage in river Ganga:-

“16. xxx.....xxx.....xxx

17. **Wherever the work has not commenced, it is necessary that no untreated sewage is discharged into the River Ganga. Bioremediation and/or phytoremediation or any other remediation measures may start as an interim measure positively from 01.11.2019, failing which the State may be liable to pay compensation of Rs. 5 Lakhs per month per drain to be deposited with the CPCB. This however, is not to be taken as an excuse to delay the installation of STPs. For delay of the work, the Chief Secretary must identify the officers responsible and assign specific responsibilities. Wherever there are violations, adverse entries in the ACRs must be made in respect of such identified officers. For delay in setting up of STPs and sewerage network beyond prescribed timelines, State may be liable to pay Rs. 10 Lakhs per month per STP and its network. It will be open to the State to recover the said amount from the erring officers/contractors.**

36. Vide order dated 28.08.2019, the Tribunal held:-

“15.xxx.....xxx.....xxx

“16.xxx.....xxx.....xxx

17. As already noted, prevention of pollution of water is directly linked to access to potable water as well as food safety. Restoration of pristine glory of rivers is also of cultural and ecological significance. This necessitates effective steps to ensure that no pollution is discharged in water bodies. Doing so is a

¹⁴ M.C. Mehta v. Union of India, (2006) 3 SCC 399 – Public functionaries

criminal offence under the Water Act and is harmful to the environment and public health. 'Precautionary' principle of environmental law is to be enforced. Thus, the mandate of law is that there must be 100% treatment of sewage as well as trade effluents. This Tribunal has already directed in the case of river Ganga that timelines laid down therein be adhered to for setting up of STPs and till then, interim measures be taken for treatment of sewage. There is no reason why this direction be not followed, so as to control pollution of all the river stretches in the country. The issue of ETPs/CETPs is being dealt with by an appropriate action against polluting industries. Setting up of STPs and MSW facilities is the responsibility of Local Bodies and in case of their default, of the States. Their failure on the subject has to be adequately monitored. Recovery of compensation on 'Polluter Pays' principle is a part of enforcement strategy but not a substitute for compliance. It is thus necessary to issue directions to all the States/UTs to enforce the compensation regime, latest with effect from 01.04.2020. We may not be taken to be condoning any past violations. The States/UTs have to enforce recovery of compensation from 01.04.2020 from the defaulting local bodies. On failure of the States/UTs, the States/UTs themselves have to pay the requisite amount of compensation to be deposited with the CPCB for restoration of environment. The Chief Secretaries of all the States may furnish their respective compliance reports as per directions already issued in O.A. No. 606/2018."

15. We note that the Chief Secretary of West Bengal appeared in person twice before this Tribunal in O.A. No. 606/2018 dealing with the issue of Solid Waste Management and other environmental issues. The Tribunal directed remedial measures to comply with the law to be monitored at the level of the Chief Secretary by constituting a special cell, directly attached to the office of the Chief Secretary. On directions of the Hon'ble Supreme Court in Paryavaran Suraksha case, supra, the Tribunal has been monitoring the directions to ensure that all pollution control devices to prevent water pollution are in place within the outer limit of 31.03.2018 and for failure to do so, accountability under the Civil and Criminal Law is fixed. The Tribunal has also laid down the scale of compensation @ Rs. 10

lakhs per month for delay in setting of STP and Rs. 5 lakhs per month for delay in providing interim remediation measures in the manner mentioned in the orders quoted above, without prejudice to the statutory liability. There is also direction to record adverse entries in the ACRs of the Officers who are responsible for the delay. Unfortunately, in the present case, the orders delaying the remedial action include higher officers but no adverse entries in the ACRs are made nor prosecution initiated, as per direction of the Hon'ble Supreme Court, by the West Bengal State PCB. This is dangerous trend to violate the law and to disrespect the rule of law which calls for stringent action if rule of law is to prevail. Continuing violations of orders of this Tribunal is further offence under Sections 26 and 28 of the NGT Act.

16. In view of above, the stand of the Authorities of West Bengal in just giving convenient dates for future action without accountability for the offences already committed and which will continue till proposed action is taken is untenable in law and shows lack of sensitivity to public duties and respect for binding law and orders of the Hon'ble Supreme Court and this Tribunal, to the prejudice of right of the citizens to clean environment with potential for deaths and diseases. Water pollution is also resulting in depriving living creatures of source of drinking water. No data has been furnished about water quality of the river at relevant point, output results of functioning STP or arrangement to prevent pollution till proposed action is completed on a future date. No comprehensive plan is shown to ensure that entire sewage is received at the STP with sewage utilization scheme so that no sewage enters into the river. There is nothing to show steps taken to disinfect sewage, with all safety in terms of protecting aquatic life and impairment of water quality entering into the river, for removing faecal coliform. It may be noted that the stretch of river Mahananda is in the list of 351 polluted river stretches as per data compiled by the CPCB. In respect of the said polluted river stretches, this Tribunal in OA 673/2018, News item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are not critically polluted: CPCB" directed preparation of river rejuvenation plan by the River

Rejuvenation Committee constituted under the orders of this Tribunal. Such a plan has been prepared with timelines. The progress thereof has not been indicated.

17. In view of the above, we direct Chief Secretary, West Bengal to forthwith look into the matter personally and take remedial action against erring officers for continuously committing and enabling the violation of law and binding orders of the Hon'ble Supreme Court and this Tribunal. The Chief Secretary may also ensure that a copy of this order is kept in ACR Folders and Personal files of the concerned erring officers. This order is without prejudice to prosecution of the concerned Officers for past and for continuing violation of the statutory provisions and orders of the Hon'ble Supreme Court and this Tribunal.”

38. The Tribunal on 31.01.2022 observed as under: -

“8. The applicant in I.A. 12/2022 has pointed out that though there is an action plan for river Mahananda, duly approved by CPCB prior to 07.02.2020, the same remains on paper. The plan provides for demarcation and protection of flood plain zones but even that part remains un-complied. There is a fear of collapse of Mahananda bridge which may create a catastrophic situation for Siliguri Town. Mahananda Bachao Committee had taken up the matter with the authorities unsuccessfully. Report of the State PCB to the Chief Secretary, in pursuance of earlier order, is merely a paper work with no meaningful action. There is no assessment of damage caused to the flood plain and to the river. There is no effective measure to setup bio-diversity parks.

9. We have interacted with the Chief Secretary, present in person, and express our disappointment with the sorry state of affairs prevailing with practically no meaningful progress in the matter in the last six years of monitoring by this Tribunal. We hope that in the interest of public health, environment and Rule of Law stringent measures will be taken to remove encroachers, have a transparent and well defined policy in protecting eco-fragile areas, have monitorable action plan with responsibility, timeline, budget, authentic data and graphs showing progress in the

course of the time. Needless to say, protection of environment and providing clean environment is basic right of citizens under the Constitution of India and failure to ensure such minimum compliance of basic rights will be clear failure of rule of law.

10. We hope the State of West Bengal will realize its responsibility and take effective measures to prevent and remedy pollution of the river stretch in question, including steps for protecting the flood plain zone keeping it free from any future encroachment, removing the existing encroachment and also for scientific treatment of solid and other waste in terms of binding directions of the Hon'ble Supreme Court in *Paryavaran Suraksha* case, *supra* and *Almitra Patel & Anr. v. UOI & Ors.*¹⁵ The State must ensure beautification of river banks and create bio-diversity parks at appropriate locations. There is need to compile data of sewage generation, existing treatment capacity, gap in generation and treatment, utilization of treated sewage, performance of STPs particularly with reference to Fecal Coliform and the timelines, with budgetary support on the other activities as per the river action plan. The issues relating to bio-mining to remediate legacy waste may be dealt with expeditiously, which may include, setting up of waste processing plant commensurate with daily waste generation.


11. In view of long past failure, the compliance needs to be monitored not only at the level of District Administration on continuous basis but also at the level of Chief Secretary of the State at least once in a month in coordination with all concerned Departments. Monthly progress in the matter needs to be placed on the website of the State of West Bengal for information of all stake holders and general public.”

39. On 09.05.2022, the Tribunal with regard to compliance status observed as under: -

“2. The matter was last considered on 31.01.2022 in light of action taken report filed by the Chief Secretary, West Bengal

¹⁵ (2000) 2 SCC 679

on 14.01.2022. The Tribunal recorded disappointment with the sorry state of affairs prevailing despite of repeated orders in the last six years to the detriment of public health, environment and Rule of Law. The Tribunal accordingly directed further remedial action and monitoring at the level of District Administration and the Chief Secretary in coordination with the concerned Departments. The operative part of the order is reproduced below: -



“5. We have duly considered the matter. We find that the report is vague in absence of specific data and the timelines as well as accountability for the past failures. There is no mention of the damage to the environment in monetary terms on account of continuous failure to prevent pollution and violations. There is nothing to show demarcation of the floodplain zones, as required. Though one of the reasons for failure to remove encroachments is orally explained to be inability to provide any alternative place to ‘poor’ encroachers, policy of rehabilitation or of permitting encroachers to occupy eco sensitive public places till such rehabilitation is carried out has not been placed on record. It is difficult to understand how public places can be allowed to be occupied illegally without any accountability and to the detriment of public health and environment? How will rule of law be enforced by the State, if law is to be allowed to be violated on selective basis at the whims and fancies of individual authorities, in absence of any clear policy? While poor may be helped out of resources of the State, can it justify damage to public health and rare natural resources belonging to the people and not to the State as such of which the State is ‘trustee’ on behalf of the people. Further, there is no data of solid and liquid waste generation and scientific disposal. How deprivation of potable water is factored in with so called helping poor people to illegally occupy floodplains? The State has not explained balancing of damage to the environment as against helping poor people by allowing them to continue illegal encroachments. Coherent and transparent policy on vital environmental issues is not visible in the report of the Chief Secretary in absence of which it is difficult to appreciate the oral stand of the State, contrary to the mandate of the Constitution. If there are admitted violations, multipronged approach to remedy the same, backed by monitorable action plans with timelines and budgetary support are inevitable mandate of good governance. Humanitarian considerations pleaded for permitting law violations may be poor substitute for good governance at the cost of environment and public health. As already noted, stretch of River Mahananda from Siliguri to Binaguri is one of the polluted river stretches identified as such by CPCB. It falls in category of Priority II, having BOD range 6.5 – 25 mg/l. Further, there are two STPs of 15

and 24 MLD which needs to be upgraded apart from additional STP to enhance the treatment capacity. 11 drains are reported to be discharging sewage waste water into the river. The water quality of the river is poor as is evident from the report of the West Bengal State PCB. Fecal Coliform is to the extent of 1,74,000 MPN/100 ML.

6. Although an amount of Rs. 2,00,00,000/- (Rupees Two Crores only) has been paid by the Siliguri Jalpaiguri Development Authority (SJDA) to the District Magistrate, Darjeeling for restoration of water quality of the rivers in the District, no action plan for implementation of the same has been submitted along with the affidavit of the Chief Secretary, Govt. of West Bengal. This needs to be carried out urgently.

7. In I.A. No. 12/2022, there is a grievance of failure to execute action plan for rejuvenation of polluted river stretch of Mahananda River, non-eviction of illegal encroachments, failure to prevent dumping of waste on the bank of the River and attempt to permit encroachment and other commercial activities on the river bank in violations of environmental norms and orders of this Tribunal including orders dated 16.07.2021 and 20.09.2021 in O.A. No. 53/2021, Ms. Jyotsna Agarwal v. UOI & Ors. The operative part of the order dated 20.09.2021 in the matter is reproduced below: -

“1&2...xxx.....xxx.....xxx

3. The matter came up for consideration on 16.07.2021 and while issuing notice to the respondents which include the regulators and concerned authorities of the State of West Bengal, the Tribunal directed constitution of a Committee to assess the level of pollution, the number of pollution control devices required, the number of encroachers, extent of damage caused to the flood plain of the river and the remedial measures required. The Tribunal also directed the Committee to compute the cost of damage on ‘polluter pays’ principle. The directions are as follows: -

“11. In the meantime, we consider it appropriate to constitute a committee comprising the following Members: -

(i) Senior Scientist from Central Pollution Control Board, Regional Office, Kolkata.

(ii) Senior Scientist from West Bengal State Pollution Control Board.

(iii) District Magistrate, Darjeeling.

(iv) Scientist from the Integrated Regional Office of Ministry of Environment, Forest and Climate Change, Bhubaneswar/ Kolkata.

(v) Representative from River Rejuvenation Committee, West Bengal Environment Department. The West Bengal State Pollution Control Board shall be the Nodal Office for all logistic purposes.

12. This committee shall conduct an inspection of the area in question and submit its report on the following issues: -

(i) Assess the level of pollution in Mahananda river by carrying out water analysis test with reference to Potential of Hydrogen (pH), Total Suspended Solids (TSS), Biological Oxygen Demand (BOD), Chemical Oxygen Demand (COD), total coliform & faecal coliform. Samples may be taken from different stretches of the river for analysis of the above parameters.

(ii) Assess the number of Effluent Treatment Plants (ETPs) or Common Effluent Treatment Plants (CETPs) and Sewerage Treatment Plants (STPs) required to treat the untreated sewage and sullage flowing into the Mahananda river.

(iii) Assess the number of encroachers and area of encroachment in the banks of the Mahananda river and indicate a possible time line for their removal.

(iv) Assess the damage caused to the flood plain of the river on account of encroachment & dumping of solid waste and sewage.

(v) Assess the environmental compensation on account of the damage caused to the river and the flood plain.

(vi) Recommend remedial measures including creation of a bio-diversity park/tree planting on the banks of the river Mahananda to prevent further encroachment & pollution.

13. It is made clear that if the violation of environmental norms are found, the Committee shall compute the cost of environmental damage as well as the cost to be recovered from the polluter/polluters and the penalty and also whether criminal proceedings have been initiated against the alleged violators or not. The committee shall also look into the pollution of the flood plain zone of river Mahananda.

14. *The committee shall submit its report on affidavit at least one week before the next date fixed.”*

4. Unfortunately, the Committee has not given any report, as directed. No response has been filed by any of the authorities. This shows sheer insensitivity to the concerns for health of the citizens and constitutional obligation to protect environment.

5. We have considered the overlapping issue today in a separate matter - O.A. No. 10/2016/EZ, Joydeep Mukharjee v. UOI & Ors., relating to pollution of Mahananda river and issued directions requiring the Chief Secretary, West Bengal to take remedial measures and remain present in person via video conferencing with the compliance report on 17.01.2022.

6. In view of above, the West Bengal Pollution Control Board, who is the Nodal Office of the Committee constituted by the above order, may now give its report to the Chief Secretary, West Bengal, who may take further action in the light of prayers in the application, directions already issued in the last order quoted above as well as order passed today in O.A. No. 10/2016/EZ.”

8. The applicant in I.A. 12/2022 has pointed out that though there is an action plan for river Mahananda, duly approved by CPCB prior to 07.02.2020, the same remains on paper. The plan provides for demarcation and protection of flood plain zones but even that part remains un-complied. There is a fear of collapse of Mahananda bridge which may create a catastrophic situation for Siliguri Town. Mahananda Bachao Committee had taken up the matter with the authorities unsuccessfully. Report of the State PCB to the Chief Secretary, in pursuance of earlier order, is merely a paper work with no meaningful action. There is no assessment of damage caused to the flood plain and to the river. There is no effective measure to setup bio-diversity parks.

9. We have interacted with the Chief Secretary, present in person, and express our disappointment with the sorry state of affairs prevailing with practically no meaningful progress in the matter in the last six years of monitoring by this Tribunal. We hope that in the interest of public health, environment and Rule of Law stringent measures will be taken to remove encroachers, have a transparent and well defined policy in protecting eco-fragile areas, have monitorable action plan with responsibility, timeline, budget, authentic data and graphs showing progress in the course of the time.

Needless to say, protection of environment and providing clean environment is basic right of citizens under the Constitution of India and failure to ensure such minimum compliance of basic rights will be clear failure of rule of law.

10. **We hope the State of West Bengal will realize its responsibility and take effective measures to prevent and remedy pollution of the river stretch in question, including steps for protecting the flood plain zone keeping it free from any future encroachment, removing the existing encroachment and also for scientific treatment of solid and other waste in terms of binding directions of the Hon'ble Supreme Court in Paryavaran Suraksha case, supra and Almitra Patel & Anr. v. UOI & Ors.¹⁶ The State must ensure beautification of river banks and create bio-diversity parks at appropriate locations. There is need to compile data of sewage generation, existing treatment capacity, gap in generation and treatment, utilization of treated sewage, performance of STPs particularly with reference to Fecal Coliform and the timelines, with budgetary support on the other activities as per the river action plan. The issues relating to bio-mining to remediate legacy waste may be dealt with expeditiously, which may include, setting up of waste processing plant commensurate with daily waste generation.**

11. **In view of long past failure, the compliance needs to be monitored not only at the level of District Administration on continuous basis but also at the level of Chief Secretary of the State atleast once in a month in coordination with all concerned Departments. Monthly progress in the matter needs to be placed on the website of the State of West Bengal for information of all stake holders and general public.**

Let the status of compliance as on 30.04.2022 be placed on record before this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

Review of progress in compliance in the light of last order and further order today

3. *In pursuance of above, further report has been filed by the Chief Secretary, West Bengal on 06.05.2022 and an affidavit has also been filed by the State PCB on 06.05.2022. Relevant extracts from the report of the Chief Secretary are as follows:*

¹⁶(2000) 2 SCC 679

“5. That in compliance with the directions of this Tribunal vide Order dated 31.01.2022, the Deponent would like to submit before this Tribunal the various works undertaken in Mahanada till date which are enumerated as follows: -

A. STATUS OF ENCROACHMENT REMOVAL BY SMC ALONG WITH DISTRICT ADMINISTRATION OF DARJEELING

Total numbers of Encroachment identified	Encroachment removed up to last affidavit filed	Number of Encroachment removed from 31-01-2022 to 30-04-2022	Cumulative Encroachment removed as on 30-04-2022	Balance Encroachment to be removed
88	51	26	77	11

Siliguri Municipal Corporation (SMC) intends to remove the remaining encroachers in Phase - III which will be completed within the next 120 days.

B. Status of Liquid Waste Management (LWM)

I. Status of Faecal Sludge Treatment Plant (FSTP) at Siliguri

- i. One FSTP has been proposed to be built at Siliguri with a capacity of 30 KLD for treating the faecal sludge generated in Siliguri Municipal Corporation area. The design has been prepared by IIT, Kharagpur.
- ii. The land for the FSTP has been primarily selected at Material Recovery Facility Centre (MRF) under the Siliguri Municipal Corporation (SMC).
- iii. The site was inspected and verified by Superintendent Engineer, North Circle, Municipal Engineering Directorate (MED) along with other Municipal Engineers and, it was found that sufficient land is available for the proposed plant. A meeting in this regard was also held with the Hon 131e Mayor, Siliguri Municipal Corporation and Commissioner, Siliguri Municipal Corporation on 07th April, 2022, regarding the proposed plant. The School of Water Resources, IIT, Kharagpur, has finalised the plan and design and Municipal Engineering Directorate (MED) will prepare the Detailed Project Report (DPR) based on this plan and design, by 15th June, 2022.

II. Work on Major and Minor Drains discharging into River Mahananda

- (i) Municipal Engineering Directorate (MED) has undertaken a survey of drains discharging into River Mahanada:

(a) On the left bank of River Mahananda, thirty (30) major drains and forty-eight (48) minor drains have been identified.

(b) On the right bank of River Mahananda, seven (7) major drains and thirty-three (33) minor drains have been identified.

(ii) Grating works on drains by Siliguri Municipal Corporation (SMC):

SI No	Number of Drains draining into river	Number of Drains covered under Gratings	Target date of completion of Gratings on all the drains	Present Status
1	37 major Drains & 81 minor Drains	17 major drains	30.05.2022	Screens installed and cleared regularly. Work order issued for remaining drains, work to be started within 7 days.

(iii) Manner of cleaning of drains and disposal of the waste recovered from drains:

Siliguri Municipal Corporation has formed seven (7) Task Force Teams, Municipal borough-wise, for regular cleaning of the drains which discharge into Mahananda.

The teams are functioning borough-wise round the clock, with 1 (one) Toto vehicle per team as shown below: -

S1.No	Borough No	Ward No(s).	No. of Team(s)
1.	Borough -I	Ward no. - 1,2,3,4,5,45 and 46	3
2.	Borough -II	Ward No.10	1
3.	Borough -IV	Ward no.31 and 32	1
4.	Borough -V	Ward No.42,43 and 44	2

(iv) In-situ Treatment in the drains:

a) MED has completed the survey work of drains discharging directly into River Mahananda and has taken up 'In-Situ Bio-remediation Works' to treat the waste water of the drainage outfalls, to abate the pollution in Mahananda.

b) The West Bengal Pollution Control Board (WBPCB) has started collecting samples for testing of the waste water from 05th April, 2022 and the phase-wise results are being reviewed regularly.

c) On 27.04.2022 Superintendent Engineer, MED, North Circle along with other officials visited the Jalpaiguri Government Engineering College (JGEC) and discussed the matter of In-Situ Bio-remediation

process in details. Two techniques of treatment have been suggested by the College:

i. In-Situ Chemical Remediation Technique by Coagulation and Flocculation and

ii. In-Situ Treatment by Diffused Air Aeration Technique.

JGEC has been requested to submit their final report by 15th May, 2022 after which DPR will be prepared within four weeks.

III. Status of Sewage Treatment Plants (STPs)

Sl No	Location	Installed Capacity	Present Status	Target date of completion
1	STP-I - Jalpaiguri Mouza: Dabgram JL No.: 02 Khatain No.: 01 Plot No.: 53 Total Area:3.7109 Acres	48 MLD	Tender invited and Technical Bid opening date is on 06-06-2022 NOC of land received from District Magistrate 86 Collector, Jalpaiguri on 26-04-2022	March 2025
2	STP-II - Near Noukaghat More, Siliguri	16 MLD Now augmented to 24 MLD	Modified DPR of STP-II prepared by KMDA for 24 MLD. The Technical Bid of the 2nd call opened on 20/04/2022 and only 01 (one) bidder participated. Financial Bid opened.	September 2024
3	STP-III - Near RAF 2nd battalion police camp near camp road, Siliguri	24MLD Now augmented to 32 MLD	Modified DPR of STP-III prepared by KMDA for 32 MLD. The Technical Bid of the 2nd call opened on 20/04/2022 and only 01(one) bidder participated. Financial Bid opened.	September 2023

C. SOLID WASTE MANAGEMENT

I. FRESH WASTE

Number of Municipal wards under SMC	Daily waste collected (TPD)		Daily waste processed (TPD)		Manner of transportation to the dumpsite and frequency of the same	Type wise disposal of wastes, manner with frequency
	Segregated	Nonsegregated	Dry	Wet		
47	26TPD Collected from 24 wards, rest 23 wards will be achieved by 30th June 2022.	333TPD	5 TPD	21 TPD	Daily collected through covered vehicle	As collected daily

II. CENTRAL PROCESSING UNIT (CPU) and PROPOSED INTERIM SHORT TERM FRESH WASTE PROCESSING PLAN FOR SILIGURI

- i. One Dry Waste processing plant of 5 TPD is proposed to be installed in collaboration with UNDP beside the garage at Zone-A of SMC dumping ground. Work Order has already been given.
- ii. There is a plan to augment the interim CPU to handle at least 30 TPD of wet waste and 20 TPD of dry waste at the dumping ground marked as Zone-C within 30.06.2022

Progress

- i. At present SMC has 1 TPD Automatic Organic Waste Composter (OWC) machine which mainly processes a portion of the market waste, and the same is being sold as manure in the nearby tea gardens.
- ii. Besides, an Interim Central Processing Unit has been constructed to handle approximately 12 TPD of Wet Waste and 8 TPD of Dry Waste.

III. FRESH WASTE PROCESSING PLAN FOR SILIGURI - (LONG TERM)

- i. The proposed plan with timelines for Fresh Waste Processing is placed below. The proposed time lines are subject to the dependent upon availability of land reclaimed out of the legacy dumpsite.

Sl. No.	Activity	Expected Timeline
1	Completion of civil infrastructural works for commissioning of processing plants (both dry and wet) including sanitary landfill site	31.12.2022
2	Procurement and Installation of electro-mechanical equipment necessary for the plants	31.03.2023
3	Date of commencement of processing of waste (both dry and wet)	01.04.2023

SMC is collecting daily fresh waste from all its 47 wards.

- ii. At present, waste processing in Siliguri is being done as follows: -
 - 60 numbers (8 bins each of 40 litre capacity) Paddle Tri Cycle Vans, 15 Battery-Operated

Tippers and 8 Fuel Operated Tipper are engaged for collection and transportation of waste from the wards to the dumpsite.

- *SMC has 24 Model Wards where Paddle Tri Cycle Vans are engaged for door-to-door waste collection in a segregated manner, and D.I Iron Boxes (blue and green) are used for secondary storage. The remaining 23 wards will be covered under door-to-door waste collection and segregation at source scheme by 30th June, 2022.*

IV. Legacy Waste Management by Kolkata Metropolitan Development Authority (KMDA)

Refuse Derived Fuel (RDF), Inert and Good Earth waste are being processed at the dumpsite located in Don Bosco Colony, Ward-42, Siliguri and the status is as follows:

- Quantity of legacy waste dumped: 3,79,382 MT (as per tender)*
- Quantity of legacy waste processed :1,23,902 MT (approx.)*
- Remaining to be processed: 2,55,480 MT (approx.)*
- Final disposal of the processed waste:*
 - RDF - 8,328.206 MT (approx.)*
 - Inert -35,908.586 MT (approx.)*
 - Good Earth-26,749.946 MT (approx.)*
 - Total-70,986.738 MT (approx.)*
- Target date for completion of Bio-remediation: December, 2022*
- Target date for reclamation of land: March, 2023*
- Present Status: Zone-III has already been reclaimed. Zone - II is being reclaimed and could be handed over by March, 2023. Zone - I is being used by SMC for their Plastic Waste Management (after reclamation by the agency).*
- Mechanism for real time monitoring: Site is under CCTV surveillance.*

KMDA has set up a Real Time Monitoring System for monitoring different treatment works going on at different locations of the solid waste management units of SMC by implementing Surveillance strategy. A separate work station has been opened for this purpose

at the office of KMDA, 1st Floor, DJ-11, Salt Lake, Kolkata-9 1.

D. IEC ACTIVITIES

- i. *Siliguri Municipal Corporation has done several IEC programmes to create awareness among citizens. It has installed Boards displaying awareness messages on the banks of Mahananda.*
- ii. *Notice has been issued to all cattle shed owners and households against releasing faecal sludge directly into municipal drain.*
- iii. *Regular miking is being done to make people aware about the different pollution abatement programme and also regarding the role and responsibilities of the citizen in this campaign.*
- iv. *SUDA has engaged "Nirmal Sathis" (Motivators for Conservancy Campaign) as a part of the public awareness programme.*

E. BEAUTIFICATION AND CLEANING OF CREMATORIUM BY SMC

SMC has taken up day-to-day cleaning of the crematorium and its surrounding areas.

F. SOLID AND LIQUID WASTE MANAGEMENT BY THE DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT

Regarding solid waste and liquid waste management, the Department of Panchayats and Rural Development Department has reported that out of the seven (7) Gram Panchayats (GPs) on the banks of Mahanada, one Solid Waste Management (SWM) unit is under construction at Matigara -II) and SWM units will be set up in all seven (7) GPs during 2022-2023. One (1) Plastic Waste Management Unit too will be set up in Matigara block. For liquid waste management, the number of platforms constructed is: 1,559. Number of soak pits constructed is 1,378. All 7 GPs will be covered by Liquid Waste Management by the end of 2022-23.

G. BIODIVERSITY PROGRAMME TAKEN UP BY THE DEPARTMENT OF FORESTS

Biodiversity River Bank Protection (Plantation) at Teesta Barrage Acquired Division over 100 Ha.

SI	Item of Work	District	Location	Range	Area (in Ha)
1	Biodiversity River Bank plantation	Jalpaiguri	Porajhar to Fulbari	Central	50.00
2		Darjeeling	Baropathuram to Northern boundary of Porajhar	Ghoshpukur	50.00
Total					100.00

H. BANK PROTECTION WORKS BY THE DEPARTMENT OF IRRIGATION & WATERWAYS

Bank protection works on River Mahananda's both banks (5.5 km each) from Champasari Road Bridge to Naukaghat Road Bridge have been undertaken by Department of Irrigation 86 Waterways, as follows:

Sl. No.	Phase	Activities	Cost Involved
1.	Phase-1	Work on both upstream and downstream of Hill Cart Road Bridge, for a stretch of 1.280 km was completed in the F.Y of 201819.	Rs.272.741akh
2.	Phase-II	Work on a stretch of 1.400 km, for both upstream and downstream of Champasari Road Bridge was completed in the F.Y of 2019-20	Rs.348.261akh
3.	Phase-III	Work on a length of 3.0 km along the both banks of Mahananda river downstream of Champasari Road Bridge, started in December, 2021. At present, bank protection work has been completed for 2.40 km. The balance work at 0.60 km will be taken up once the encroachment is removed by Siliguri Municipal Corporation with the help of district administration	Rs.709.151akh
4.	Phase-IV	Work on a length of 5.32 km on both banks of River Mahananda, at a total cost of Rs. 861.89 Lakh was tendered and the matter is pending with Finance Department for acceptance. Moreover, there is encroachment on the entire stretch, which is going to be removed by Siliguri Municipal Corporation with the help of district administration.	Rs.861.89 Lakh

I. WATER QUALITY REPORT OF MAHANANDA BY WBPCB

The water quality reports of WBPCB show a downward trend in Biological Oxygen Demand and Chemical Oxygen Demand and an upward rise in Dissolved Oxygen level at Mahananda River from January, 2022 to April, 2022. The

Report shows an all out sincere, and day and night efforts of the concerned Departments and Executing Agencies.

*The compiled Report of UD &, MA Department is annexed herewith and marked as **ANNEXURE R/ 1.***

4. We have heard learned Counsel for the appearing parties and considered the matter further in continuation of the proceedings.

5. The report of the Chief Secretary appears to be merely paper work and future projections without showing any tangible action on the ground or steps to fix responsibility of the erring authorities. Action proposed are yet to see the light of the day. There is nothing to show control of water pollution so as to meet laid down safety standards of water quality. The fact remains that huge pollution is still continuing to the detriment of environment, public health, Rule of Law and food safety for which no action is taken or proposed against violators. We regret to record such undesirable failure of the authorities and expect further meaningful prompt action in mission mode at all levels as per mandate of the Constitution and in the interest of safety of citizens. This needs to be monitored at the level of the District Administration and the Chief Secretary, in coordination with other authorities. Water Quality reports may be compiled and compared atleast on monthly basis. Accountability of the erring authorities may be fixed in form of adverse ACRs, recovering compensation and initiating prosecution.

6. A further action taken report with compliance status as on 31.08.2022 may be placed on record in the form of an affidavit of the Chief Secretary by 15.09.2022 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

40. Status Report in the form of affidavit dated 27.09.2022 has been filed by the Chief Secretary, Govt. of West Bengal, wherein the

various actions stated to be taken regarding pollution abatement in the Mahananda River has been outlined which reads as under: -

“A. STATUS OF ENCROACHMENT REMOVAL BY SILIGURI MUNICIPAL CORPORATION (SMC) ALONG WITH DISTRICT ADMINISTRATION OF DARJEELING:

Siliguri Municipal Corporation (SMC) has removed 88 encroachments identified in the stretch covering the 3rd phase of river bank protection work.

B. STATUS OF LIQUID WASTE MANAGEMENT (LWM):

Kolkata Metropolitan Development Authority (KMDA), Siliguri Jalpaiguri Development Authority (SJDA), Municipal Engineering Directorate (MED) and Siliguri Municipal Corporation have taken up the following steps as on 31.08.2022.

I. Work on major and minor drains discharging into river Mahananda:

a) Grating status on drains

As per the survey of drains, conducted by Municipal Engineering Directorate (MED), on the left bank there are 30 major drains and 48 minor drains and on the right bank there are 7 major drains and 33 minor drains are discharging into the river Mahananda. The Siliguri Municipal Corporation has grated all these drains.

b) Cleaning and disposal of the Waste recovered from these drains: -

Solid waste cleaning from the mouth of these drains is being done regularly in a time bound manner. For cleaning and disposal of the waste recovered from the drains, Siliguri Municipal Corporation, has formed borough-wise 15 (Fifteen) Task Force Teams. They are functioning borough-wise round the clock, with 1 (one) Toto vehicle per team.

II. Status of setting up of Sewage Treatment Plants:

To prevent discharge of untreated sewage into the river Mahananda, the process for setting up of three Sewage Treatment Plants (STPs) is going on as follows:

- i) STP-I: a 48 MLD Sewage Treatment Plant in 3.7109 acres land near Naukaghat More at JL No. 02, Mouza: Dabgram. At present financial evaluation of the Tender is under process. It will be commissioned by June, 2025.
- ii) STP-II: a 32 MLD STP near RAF 2nd Battalion Police Camp near Camp Road, Siliguri. Acceptance of the financial bid is under process. It will be commissioned by March, 2024.

III. In-situ Treatment in the Drains:

As a short term measure to reduce the pollution load in the outfalls, in-situ bio-remediation work on Pilot basis treatment in two major drains has been proposed at two places in consultation with Dr. Sumon Konar, Associate Prof. Jalpaiguri Engineering College. The proposed locations for in-situ treatment are at (i) Naukaghat (Option-I) with cascading and (ii) near Surya Sen Park (Option-II) with wheel paddle aerator. Construction work is going on and is expected to be completed by December 2022.

IV. STATUS OF FAECAL SLUDGE TREATMENT PLANT (FSTP) AT SILIGURI:

The Urban Development & Municipal Affairs Department has published the Faecal Sludge Treatment Policy of West Bengal. Accordingly, it was decided to set up a Faecal Sludge Treatment plant at Siliguri and Kharagpur IIT was entrusted to prepare the DPR for 30 KLD FSTP at Siliguri on a pilot basis. Necessary land for the project is identified. Kharagpur IIT has prepared the DPR keeping in touch with Circle & Division offices concerned of MED. A proposal to accord NOC to engage Kharagpur IIT as Technical Partner for FSTP project is under active consideration of the

Department of UD & MA. The DPR of FSTP will be submitted to accord AA & FS after finalization of above mentioned NOC in favor of Kharagpur IIT.

C) STATUS OF SOLID WASTE MANAGEMENT:

i) Treatment of Fresh Waste

a) 122 MTD Segregated waste is collected from 24 Wards and 225 MTD non-Segregated waste is collected from the rest 23 Wards on a daily basis. Daily 20 MTD dry waste and 30 MTD wet waste is processed, by the Siliguri Municipal Corporation.

b) Setting up of a Central Processing Unit (CPU) Plan and Proposed Interim Short Term Fresh Waste Processing Plan for Siliguri: At present Siliguri Municipal Corporation has a 1 TPD Automatic Organic Waste Composter (OWC) machine which mainly processes the market waste. Beside this, the Interim Central Processing Unit has been augmented to cater approximately to 30 TPD of wet waste and 20 TPD of dry waste. On receiving a proposal from United Nation Development Programme (UNDP), Urban Development & Municipal Affairs Department sanctioned setting up of a dry waste processing unit of 5 TPD capacity. As per the proposal received from UNDP, infrastructure was sanctioned by the State at a total cost of Rs.99.88 lakhs and SMC had targeted to complete execution of the infrastructure within 31.12.2022. The operation of the Material Recovery Facility (MRFO) was to be done by UNDP with all mechanical equipments to be supplied by them but presently they are not responding to operate the material recovery facility. The State Government is now looking for a suitable partner to set up the processing plant along with supply and installation of all machineries at the site after the infrastructural work get completed.

c) City Micro Plan for Fresh waste: -

At present Siliguri Municipal Corporation is practicing collection and transportation of both dry and wet waste in a segregated manner from 24 wards and transporting it to the dumping ground on a daily basis. Collection of both dry and wet waste

is being done from all the household, commercial centers and educational institutions and places of importance. In the remaining 23 wards, IEC and capacity building activities for different stakeholders have been initiated. Tender has been floated for procurement of primary and secondary vehicles for collection and transportation of segregated solid waste from these 23 wards. Initiative has been taken to engage manpower for collection and transportation (Nirmal Bandhu) supervision (Nirmal Sathi) of the works. The collection and transportation of segregated waste in these remaining 23 wards will be initiated within 31.12.2022.

As per requirement 286630 household bins (blue and green of 10 ltrs) and 1222 community bins (blue and green of 100 ltrs) have been supplied to SMC. The practice of door to door collection of waste is in place by SMC.

Further requirement of vehicles have been assessed by SMC for ensuring segregated collection and transportation of waste. Already 320 Tri Cycle Vans, 14 Battery-Operated Tippers and 23 Fuel-Operated Tippers have been delivered to SMC for primary and secondary collection/transportation.

Micro Planning Organization, Sigma Foundation has been engaged by SUDA for awareness generation and providing handholding support for full cycle solid waste management as per SWM Rules, 2016.

d) Fresh waste processing plan for Siliguri (LONG TERM)

- A Detailed Project Report regarding solid waste management has been prepared by UD&MA Department/ SUDA and is approved by State Level Task Force for SWM.
- Eastern Organic Fertilizers Ltd has been engaged for processing of fresh waste (both Dry and Wet waste) with 10 years operation and maintenance. The agency has already started initial activities before commissioning of plant in Zone III, the area reclaimed from legacy waste.

Sl. No.	Activities	Action Taken	Timeline for completion
1.	Completion of civil infrastructural works for commissioning of processing plants (both dry and wet) including sanitary landfill site	Design, Drawing for fresh waste Processing Plant at Zone-III is in progress. Land development works and internal drainage, road network and leachate management system are being done.	31.12.2022
2.	Procurement and Installation of electro-mechanical equipment necessary for the plants	Supply order for 40 Ton capacity weigh bridge has been placed and to be delivered within 30.09.2022. Trommel are being fabricated at site by the agency itself.	31.03.2023
3.	Date of commencement of processing of waste (both dry and wet)	-	01.04.2023

e) **Present status of Legacy Waste Management**

Refused Derived Fuel (RDF), Inert and Good Earth waste are being processed at the dumpsite located in Don Bosco Colony, Ward No. 42-Siliguri. The status is as follows:

- i. Quantity of legacy waste dumped: **3,79,382 MT**

ii. Quantity of legacy waste processed: **1,43,000 MT**

iii. Remaining legacy waste to be processed: **2,36,382 MT**

iv. Final disposal of the processed waste (type wise):

RDF - **7168 MT**

Inert - **37000 MT**

Good Earth - **81000 MT**

Total - **125,168 MT**

v. Target date for completion of Bio-remediation – December, 2022

vi. Target date for reclamation of land-March, 2023

vii. Present Status:

Zone III is completely reclaimed.

Zone II is being reclaimed & could be completed by March, 2023.

Zone I is being used by the SMC for their PWM after reclamation by the agency.

viii. Mechanism for Real time monitoring: Site under CCTV surveillance.

Kolkata Metropolitan Development Authority (KMDA) executing the bio-mining activity. As on 31.08.2022, 5.72 Acres of land has been cleared and reclaimed. CCTV, Weigh Bridge have been installed and Nodal Engineer has been assigned to monitor the work on real time basis.

E. Information Education Communication (IEC) Activities: -

i) Siliguri Municipal Corporation has done several IEC programmes to create awareness among citizens i.e. installation of boards displaying awareness messages on the banks of river Mahananda.

ii) Notices have been issued to all cattle shed owners and households against releasing faecal sludge directly into municipal drains.

iii) *Regular miking is being done to create awareness among people to avoid open defecation.*

F. STATUS OF BEAUTIFICATION AND CLEANING OF CREMATORIUM BY SMC

SMC is doing daily cleaning of the crematorium and its surrounding area and also has taken up a sustained Beautification Programme.

G. SOLID AND LIQUID WASTE MANAGEMENT BY THE DEPARTMENT OF PANCHAYATS AND RURAL DEVELOPMENT

The Department of Panchayats and Rural Development has reported that programmes have been taken up at two blocks named Matigara and Phansidewa, consisting of total seven (7) Gram Panchayats (GPs) viz. Matigara – I, Matigara – II, Champasari, Phansidewa B.K, Chathat, Jalash Nijamtara, Bidhannagar – 1. Individual House Hold Latrines (IHHL) and Community Sanitary Complexes have been constructed at each Gram Panchayats. IEC activities regarding Single Use Plastic & Plastic items has been taken up.

The Department of Panchayats & Rural Development (P&RD) has also initiated Solid Waste and Liquid Waste Management Programme in 7 (Seven) Gram Panchayats on the banks of Mahananda. 01 (One) Solid Waste Management Unit is under construction and the remaining 06 (Six) will be set up within the year 2022-23.

H. STATUS OF BIODIVERSITY PROGRAMME

Department of Forest, Government of West Bengal has taken up Biodiversity River Bank Protection (Plantation) at Teesta Barrage Acquired Land (Mahananda Division) over 100 Ha which includes 50 Ha of land from Porajhar to Fulbari in Jalpaiguri District and 50 Ha of land from Baropathuram to Northern boundary of Porajhar in Darjeeling District.

I. STATUS OF BANK PROTECTION WORKS BY THE DEPARTMENT OF IRRIGATION & WATERWAYS

Irrigation Department, Government of West Bengal has taken up Bank protection work of River Mahananda at both banks (5.5 km each) from Champasari Road Bridge to Naukaghat Road Bridge in four phases: -

- i) The 1st Phase work on both upstream and downstream of Hill Cart Road Bridge, for 1.280 km is completed in the F.Y of 2018-19 at the cost of Rs.**272.74** lakh.
- ii) The 2nd phase work for 1.400 km, for both upstream and downstream of Champasari Road Bridge is completed in the F.Y of 2019-20 at the cost of Rs.**348.26** lakh.
- iii) The 3rd Phase work for a cost of Rs.**763.83** Lakh protection of both bank of river Mahananda for 3.0 km at downstream of Champasari Road Bridge at Lakhmi Colony Area, SMC Area, Dist. Darjeeling has also been completed.
- iv) The Fourth Phase work of protection on both banks of river Mahananda for 5230 M in between Champasari Road Bridge and Noukaghat Bridge at Santoshinagar Ganganagar area in P.S Siliguri at Binoy Krishna Pally Kolabusty area in P.S Matigara District Darjeeling and at Natunpara Pradipnagar area in P.S Bhaktinagar District Jalpaiguri is under progress. Till date overall physical progress achieved is around 33%. Target date of completion is **31-03-2023**.

J. The District Magistrate, Darjeeling has submitted the status report vide letter no 34/ENV/NGT/2022 dated 22.08.2022 stating the schemes proposed for utilization of Rs 2 Crore deposited as environmental compensation.

K. Water Analysis Report of the West Bengal Pollution Control Board:

The Water Analysis Report of the West Bengal Pollution Control Board shows improvement in the water quality.”

The directions have been filed as Annexure to the affidavit.

41. A further Action Taken Report of the Urban Development & Municipal Affairs, Govt. of West Bengal, with regard to Mahananda River has been filed which has been placed under the letter of the Principal Secretary, Environment Department dated 29.03.2023 which is extracted herein below: -

“Action Taken Report for curbing Pollution in Mahananda River

This is a Comprehensive Report prepared and compiled on the basis of the Reports submitted by different Executing Agencies towards Pollution Abatement of River Mahananda

In Compliance with the directions of Hon’ble National Green Tribunal in its Order passed on 09-05-2022 under OA No.10/2016/EZ (Joydeep Mukherjee-Vs-Union of India & Ors.)

A. Status of Encroachment Removal by SMC along with District Administration of Darjeeling

<i>Total encroachment identified in the stretch covering phase 3 of river bank protection work</i>	<i>Cumulative encroachment removed as on date</i>	<i>Balance Encroachment</i>
88	88	NIL

*As on date, all the encroachments have been removed as per Report received from **Siliguri Municipal Corporation (SMC)***

B. Status of Liquid Waste Management (LWM):-

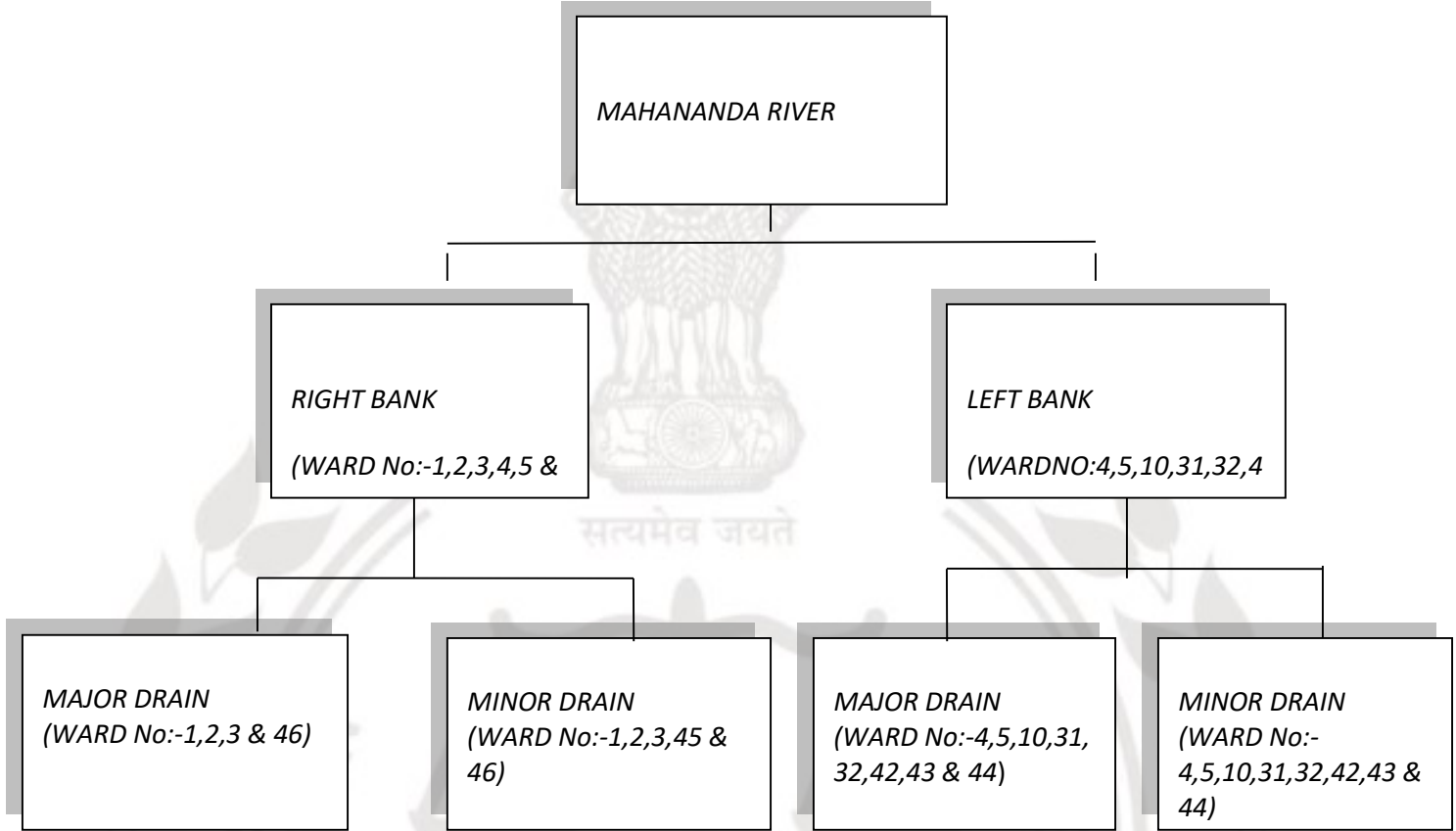
Executing Agencies: *Kolkata Metropolitan Development Authority (KMDA), Siliguri Jalpaiguri Development Authority (SJDA), Municipal Engineering Directorate (MED) and Siliguri Municipal Corporation.*

I. Number of Major and Minor Drains discharging into River Mahananda and Status of the Grating done in the Drains

Report on survey of the Drains conducted by MED

Drains		Number
Left Bank	<i>Major Drains</i>	<i>30 numbers</i>
	<i>Major Drains</i>	<i>48 numbers</i>
Right Bank	<i>Major Drains</i>	<i>7 numbers</i>
	<i>Major Drains</i>	<i>33 numbers</i>

Ward Wise breakup of Drains



II. Grating on drains done by Siliguri Municipal Corporation (SMC)

Sl. No.	Number of Drains draining into river	Present status of Drains covered under Grating (as on date)	Balance
1	37 major Drains 31 minor Drains	37 major Drains 31 minor Drains	NIL

All the drains both major and minor have been granted. Cleaning of solid waste from the mouth of these drains is being done regularly and in a time bound manner.

I. Manner of Drain cleaning and the manner of disposal of the Waste recovered from the Drains.

Siliguri Municipal Corporation has formed 15 (Fifteen) Task Force Team, Borough –wise for regular cleaning of drains having their discharge in Mahananda.

The team is functioning borough wise round the clock with 1 (one) Tota vehicle per Team as below:-

Sl No.	Borough	Ward Number	Number of Teams
1	Borough-I	1,2,3,4,5,45,46 and 47	5
2	Borough-II	6,7,8,9,10,11,12,13,14 and 15	2

3	Borough-III	16,17,18,19,20,21,22,23,24 and 28	2
4	Borough-IV	25,26,27,29,30,21,32,33,34 and 35	2
5	Borough-V	36,37,38,39,40,41,42,43 and 44	4

III. Status of STPs

Sl. No.	Location	Modified Capacity	Present Status	Target date of completion
1	STP-I Land has been identified by Siliguri Municipal Corporation for STP-I at the land (Area-4.18 Acre. Plot No.01 (LR), JL No.02, Mouja, Dabfram, Sheet No.184, Khatian No.01 (LR) Block Rajganj, Dist-Jalpaiguri near the confluence of Mahananda and Balasan River. They have requested to the Department of Irrigation and Waterways, Govt. of West Bengal for NOC vide letter no.294/UPE/SMC/22-23 dated 24.03.2023.	48 MLD	Revised DPR is under preparation. Earlier Tender was cancelled due to high rate (14% above) and also there were some technical issues.	June 2025
2	STP-II- Near Naukaghat More, Siliguri	24 MLD	Work Order issued. Work in progress	June 2025
3	STP-III-Near RAF 2 nd battalion police camp near camp road, Siliguri	32 MLD	Work Order issued. Work in progress	June 2024

Note 1: Time of commissioning of STP-II will be overrun by 3 months because of the following reasons:

Delay in finalization of Tenders-

- First call did not mature
- Second call matured and work order issued

Note 2: Time of commissioning of STP-III will be overrun by 3 months because of the following reasons:

Delay in finalization of Tenders-

- First call did not mature
- Second call did not mature
- Third call matured and work order issued

IV. In-situ Treatment in the Drains.

In-Situ Treatment in Two locations one at Naukaghat (Option-I) with Cascading and another near Surya Sen. Park (Option-II) with Wheel Paddle Aerator have been Completed.

C. Solid Waste Management

I. Fresh Waste

Ward No.	Daily waste collected		Daily waste Processed			Manner of transportation to the dumpsite and frequency of the same	Type wise disposal of wastes, manner with frequency	Mechanism for Real time monitoring	Remarks
	Segregated (26 Wards)	Non-Segregated (21 Wards)	Dry	Wet	Bio Medical				
1-47	253 MTD as provided	94 MTD as provided	20 MTD	30 MTD	Not measured	Daily, As collected through covered vehicle like PTC and FOT	As collected. Daily	Physically work monitored by Conservancy Department	Segregated waste collection in 26 Wards out of 47 wards

Siliguri Municipal Corporation, gateway of North East India has 47 wards with total population of 513264 as per census 2011. At present the municipal fresh waste generation is 347 MT per day in Siliguri Municipal Corporation. Out of that 208 MT is wet waste and 139 MT dry waste.

1. Proposed plan for Fresh waste processing in Siliguri with timelines (LONG TERM):

- Action Plan already initiated by UD&MA Department/SUDA- A Detailed Project Report regarding solid waste management has been prepared by UD7MA Department/SUDA and already approved by State Level Task Force for SWM. In the said DPR quantitative and qualitative assessment has been done which depicts total waste generation per capita per day in grams (gpcd) is 550 grams in the year 2020 (considering population 630923).
- Eastern Organic Fertilizers Ltd. has been engaged for processing of fresh waste (both Dry and Wet waste) with 10 years O&M. The agency has already started initial activities before commissioning of plant in Zone III, the area which has been reclaimed from legacy waste (4,635 acre)

Sl. No.	Activities	Action Taken	Timeline for completion
1.	Completion of civil infrastructural work for commissioning of processing	Design, Drawing for fresh waste Processing Plant	

	<i>plants (both dry and wet) including sanitary landfill site</i>	<i>at Zone-III has been done by Agency. Land development work has been completed. Soil testing has been done by Agency.</i>	
2	<i>Procurement and Installation of electro-mechanical equipment necessary for the plants</i>	<i>Trommel and weigh bmmel has been fabricated at site by the agency itself. (Photograph are enclosed)</i>	
3	<i>Date of commencement of processing of waste (both dry and wet)</i>	-	<i>After the receipt of Design layout from SUDA the Fresh Waste process will be start from June'2023</i>

2. CPU Plan and proposed interim short term fresh waste processing plan for Siliguri (SHORT TERM)

- *At present Siliguri Municipal Corporation has a 1 TPD Automatic Organic Waste Composter (OWC) machine which mainly processes a portion of the market waste. Beside this, the Interim Central Processing Unit has been augmented to cater approximately to 30 TPD of wet waste and 20 TPD of dry waste.*
- *On receiving a proposal from UNDP, UD&MA Department sanctioned for setting up of a dry waste processing unit of 5 TPD capacity. As per the proposal received from UNDP infrastructure was sanctioned by the State at a total cost of Rs.99.88 lakhs and Siliguri MC may complete execution of the infrastructure within 30.06.2023. The operation of the MRF was to be done by UNDP with all mechanical equipments to be supplied by them but presently they are not responding to operate the material recovery facility without any official intimation. State is now looking for a suitable partner to set up the processing plant along with supply and installation of all machineries at the site after the infrastructural work get completed.*

3. City Micro Plan for Fresh waste

- *At present Siliguri Municipal Corporation is practicing collection and transportation of both dry and wet waste in segregated manner from 26 wards and transporting the same to the dumping ground on daily basis. Collection of both dry and wet waste is being practiced from all households, commercial centers and educational institutions and places of importance. In remaining 21 wards, IEC and capacity building activities for different stakeholders have been initiated. Tender has been floated for procurement of primary and secondary vehicles for collection and transportation of*
- *segregated solid waste from these remaining 21 wards. Initiative has been taken to engage manpower for collection, transportation (Nirmal Bandhu) and supervision (Nirmal Sathi) of the works for these remaining 21 wards. The collection and transportation of*

segregated waste in these remaining 21 wards will be initiated within 30.06.2023.

- As per requirement 286630 household bins (blue and green of 10 ltrs) and 1222 community bins (blue and green of 100ltrs) have been supplied to SMC.
- The practice of door to door collection of waste is in place by SMC. Further requirement of vehicles have been assessed by SMC for ensuring segregated collection and transportation of waste. Already 320 tricycle vans, 14 battery operated tippers and 32 fuel operated tippers have been delivered to SMC for primary and secondary collection/transportation.
- Micro Planning Organization, Sigma Foundation has already been engaged by SUDA for awareness generation and providing handholding support for full cycle solid waste management as per SWM Rules, 2016.

II. Legacy Waste Management by KMDA

Sl no.	Location of the dumpsite	Quantity of legacy waste dumped	Quantity processed	Remaining to be processed	Type of processed waste	Final disposal of the processed waste (type wise)	Target date of completion of Bio remediation	Target date of reclamation of land	Present Status of land reclamation	Mechanism for Real time monitoring
1	Don Basco More, Ward No.42-Salugara site under SMC Jurisdictions	379382 MT	216214 MT	163168 MT	Legacy Waste	Good Earth-95020 MT Inert-54000 MT RDF- 9312 MT (rest qty remains at site for Disposal Process)	31.12.2023	31.12.2023	<ul style="list-style-type: none"> • 5 Acres land reclaimed from June 2023 • Additional zone is reclaimed is 100% • In Zone II, 2 Acres land is reclaimed. Work is going on for reclamation of zone II cleared 	CCTV Weigh Bridge and Nodal Engineer

Online Continuous Monitoring of Solid Waste Management

KMDA has set up a Real time Monitoring System for different treatments and activities going on at different locations in Solid Waste Management processing Units of SMC by implementing Surveillance strategy. A Work Station for this purpose has already been opened at the Office of KMDA (Unnayan Bhawan, 1st Floor, DJ-11, Salt Lake, Kokata-91). Real Time Monitoring is now being done by the Competent Authority.

D. IEC Activities

- Awareness among citizens. Siliguri Municipal Corporation has installed awareness messages board by the side of Mahanada.
- Notices displayed indifferent location of Siliguri Municipal Corporation for not throwing sludge in directly in to municipal drains.
- Miking is being done regularly to widespread awareness to avoid open defecation

E. Status of Faecal Sludge Treatment Plant (FSTP) at Siliguri

Revised DPR for setting up a FSTP of capacity 30 KLD at Siliguri under supervision of Kharagpur IIT is under examination of AMRUT for sanctioning fund.

F. Solid Waste and Liquid Waste management by the Department of Panchayats & Rural Development (P &RD)

Sl. No.	River	Name of the Block	River Adjoining Panchayats	Action taken	Proposals
1	MAHANANDA	Matigara	Matigar-I	3586 no. of Individual House Hold Latrine (IHHL), 03 nos. Community Sanitary Complex constructed. IEC of single use plastic & Plastic items have been taken up	Plastic Waste management Unit for Matigara Block, [05 nos. Gram panchayats to be covered] included in 15 th FC (3023-24) and Soak Pt, Compost Pit, WSP is included in 15 th FC Plan of SMP (2023-24) under Swachh Bharat Mission. SWM unit is already operational in matigara I GP, Champasari GP and Matigara II GP. GWM work has been taken up in all GPs.
2			Matigara-II	(6673) No. IHHL 03 nos. Community Sanitary complex constructed 02 Nos. community Sanitary complex constructed matigara-II SWM Unit under construction. IEC of single use plastic & plastic items have been taken up.	
3			Champasari	6907 no. IHHL, 06 nos. (Community Sanitary complex constructed. IEC of single use plastic & plastic items have been taken up.	

4		Phansidewa	Phansidewa B.K	6714 nos. IHHL, 10 nos. Community Sanitary complex constructed. IEC of single use plastic & plastic items have been taken up.	
5			Chathat	6844 nos. IHHL, 03 nos. Community Sanitary complex constructed. IEC of single use plastic & plastic items have been taken up.	Plastic Waste Management unit for Phansidewa Block, [07 nos Gram Panchayats to be covered]
6			Jalash Nijamtar	9673 nos. IHHL, 05 nos. Community Sanitary complex constructed. IEC of single use plastic & plastic items have been taken up.	STP Plant for entire Siliguri Mahakuma Parishad area will be set up in Buraganj Gram Panchayat of Khoribari Block under 15 th F.C. (2022-23) and Soak Pit, Compost Pit, WSP are included in 15 th FC Plan of SMP (2022-23), under Swachh Bharat Mission. 716 IHHL under New emerging category has been constructed. Solid Waste Management unit for Jalash Nijam Tara & Bidhan Nagar-I are under construction. They are clubbed together with Phansidewa Bans Gaon & Ghoshpukur GP respectively.

7			Bidhannagar-1	6220 nos. IHHL, 10 nos Community Sanitary complex constructed. IEC of single use plastic & plastic items have been taken up.	
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G. Biodiversity programme taken up by the Department of Forest

Biodiversity River Bank Protection (Plantation) at Teesta Barrage Acquired Land (Mahananda Division) over 100 Ha.

SL.	Item of Work	District	Location	Range	Area
1	Biodiversity River Bank plantation (But due to non-availability of fund, maintenance work cannot be taken upto Feb'2023)	Jalpaiguri	Porajhar to Fulbari	Central	50.00
2		Darjeeling	Baropathuram to Northern boundary of Porajhar	Ghoshpukur	50.00
				Total	100.00

H. Bank Protection work by the Department of Irrigation & Waterways

Bank protection work of River Mahananda at both banks (total 10.91 km) from Champasari Road Bridge to Naukaghat Road Bridge

SL No.	In Phase	Activities	Cost Involved
1	Phase-I	Work for both upstream and downstream of Hill Cart Road Bridge, for a stretch of 1.280 Km was Completed in the F.Y. of 2018-19	Rs.272.74 Lakh
2	Phase-II	Work for a stretch of 1.400 km, for both upstream and downstream of Champasari road Bridge was completed in the F.Y of 2019-20	Rs. 348.26 Lakh
3	Phase-III	Protection to the eroding both bank of river Mahananda for a length of 3.0 km at Downstream of Champasari road Bridge at lakhmi colony Area, SMC	Rs.763.83 Lakh

		Area, Dist. Darjeeling is completed.	
4	Phase-IV	Protection on the both banks of river mahananda for a length of 5230 M in between Champasari Road Bridge and Noukaghat Bridge at Santoshi Nagar Ganganagar area in PS Siliguri at Binoy Krishna Pally Kolabusty area in PS matigara District Darjeeling and at natunpara pradipnagar area in PS Bhaktinagar district Jalpaiguri under Phase-IV in compliance of Hon'ble NGT Order is under progress (Overall physical progress is around 95%) Target date of completion is 31-03-2023.	Rs.887.5 Lakh

I. Water Quality Report of Mahananda River by the Department of WBPCB

Water Quality Report of Mahananda River as received from WBPCB is given below:-

	Champasari						Naukaghat					
	Sept, 22	Oct,22	Nov,22	Dec,22	Jan,23	Feb,23	Sept, 22	Oct,22	Nov,22	Dec,22	Jan,23	Feb,23
DO (Dissolved Oxygen) (mg/L)	6.1	6.5	6.3	8	6.9	6.1	6	6.3	5.7	5.1	4.7	5.7
BOD (Biochemical Oxygen Demand) (mg/L)	0.5	1.1	2.5	2.5	2.5	3	3.9	4.2	5	8	15	17
FC (Faecal Coliform) (MPN/100ml)	50000	50000	110000	30000	50000	14000	1700000	1300000	800000	1100000	1400000	110000

NOTES:

1. This Combined Report has been prepared on the basis of the data & information received from different Executing Agencies and Department.

2. *As per directions of Hon'ble NGT, Chief Secretary, West Bengal is regularly Chairing Review Meetings with the concerned Departments on the progress achieved.*

3. *Attached with this report:*

a) The Report received from different Executing Agencies.”

42. We accept the report. Needless to say, action for maintaining the River Mahananda, Jorapani and Phuleswari, in their pristine order ensuring that the quality of water is maintained within the limits prescribed i.e. Potential of Hydrogen (pH), Total Suspended Solids (TSS), Biological Oxygen Demand (BOD), Chemical Oxygen Demand (COD) and total coliform & faecal coliform, as prescribed by the Ministry of Environment, Forests and Climate Change (MoEF&CC), is duly monitored and protected by the State Respondents. Steps shall also be taken for removal of any encroachments in accordance with law expeditiously within a time frame not beyond June, 2023. Certain other works which have been outlined herein with timelines shall be completed within the said timelines.

43. The present case has been pending since 2016 and it will be almost eight years till the timeline given in the Action Taken Report is achieved. We, therefore, do not find any purpose of keeping the matter pending. Suffice to say that any person aggrieved by non-compliance of the actions proposed by the Respondents and the directions given by the Tribunal from time to time may approach the Tribunal with appropriate application.

44. With the aforesaid directions, the Original Application No.10/2016/EZ is accordingly disposed of.

45. In view of the above, the I.A. No.12/2022/EZ is also disposed of.

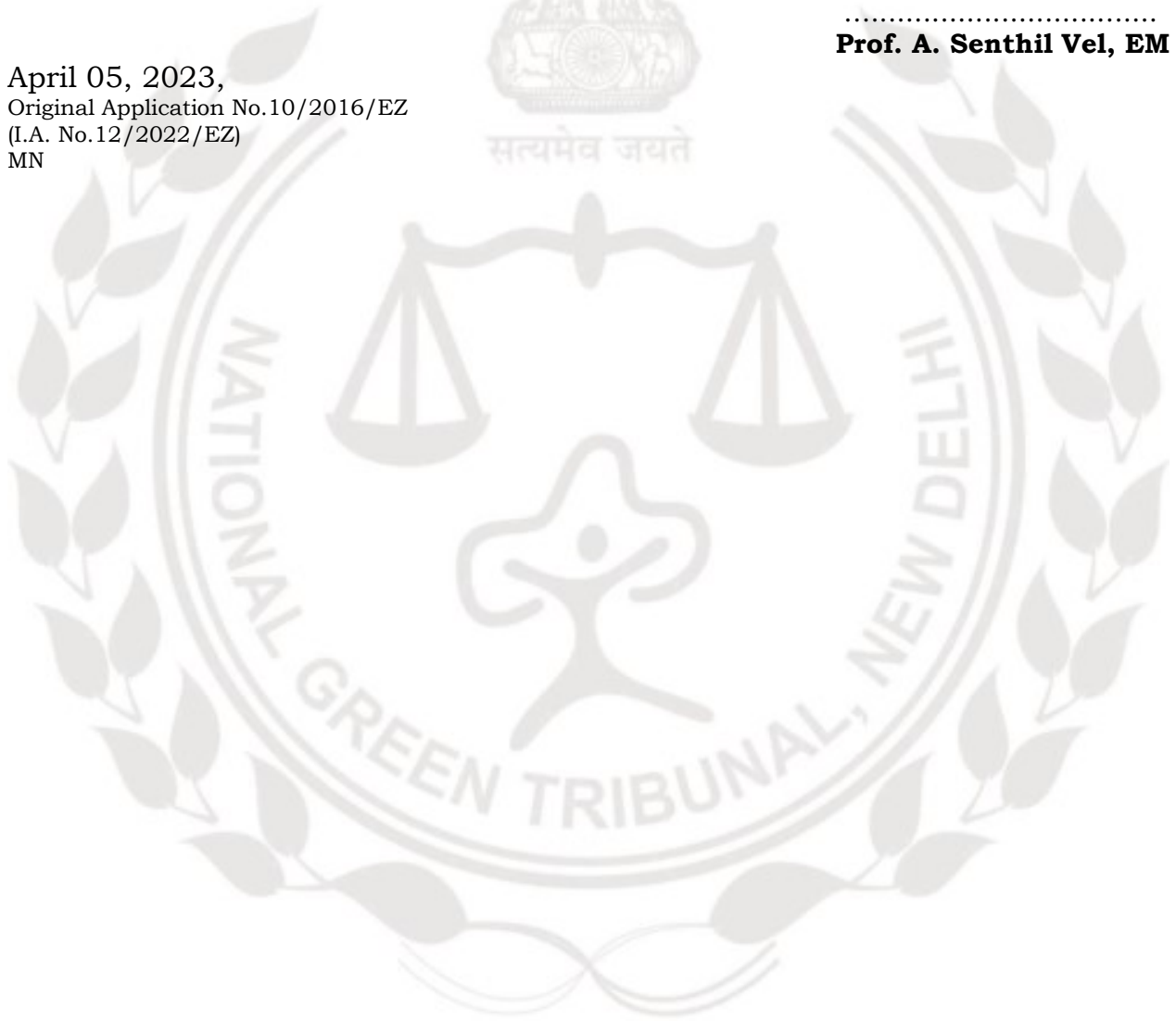
46. There shall be no order as to costs.



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B. Amit Sthalekar, JM

April 05, 2023,
Original Application No.10/2016/EZ
(I.A. No.12/2022/EZ)
MN

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Prof. A. Senthil Vel, EM



NGT