

# Dr Lokesh Kumar vs State Of Haryana & Ors on 22 December, 2023

Item No. 05

Court No. 2

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 463/2023

Dr. Lokesh Kumar

Applicant

Versus

State of Haryana & Ors.

Respondents

Date of hearing: 22.12.2023

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.

Applicant: None for the applicant.

Respondents: Mr. Rahul Khurana, Advocate for Respondent  
No. 1 to 4  
  
Mr. Manjeet Singh, EE and Mr. Rajesh Kumar,  
SDO Irrigation and Water Department Haryana.  
  
Ms. Richa Kapoor, Mr. Kunal Anand and Ms.  
Esha Sharma, Advocates for respondent no. 5-  
Delhi Jal Board.  
  
Ms. Jyoti Mendiratta, Advocate for GNCTD.

Application is registered based on a letter petition received by Post

## ORDER

1. The grievances in the present letter petition sent by the applicant are that drain No. 6 and 8 flow parallel in Sonipat/Kundli. Drain No. 6, which is maintained by the Irrigation and Flood Control Department of Haryana is filled with trash, garbage, silt, litter and sludge. Drain No. 6 is not cleaned and dredged regularly. Being poorly maintained drain No. 6 is in a very critical degradation

condition. Water flowing in drain No. 8 is comparatively clean which merges into Yamuna river. Drain No. 6 overflows and leaches to drain No. 8 and pollutes the same. Due to O.A No. 463/2023 Dr. Lokesh Kumar Vs. State of Haryana & Ors. intrusion of highly polluted waste water from drain No. 6 water treatment plants in Delhi have to be closed. The applicant has prayed for issuance of directions for dredging and cleaning of drain No. 6.

2. Vide order dated 02.12.2023 this Tribunal impleaded respondents no. 1 to 5 and ordered issuance of notices to them and also constituted a Joint Committee comprising of Ministry of Environment, Forest and Climate Change (MoEF&CC), Central Pollution Control Board (CPCB), Haryana State Pollution Control Board (HSPCB) and Delhi Jal Board (DJB) verify the factual position and take appropriate remedial action within one month.

3. Report of the Joint Committee was filed by HSPCB vide email dated 06.11.2023. The relevant portion of the report reads as under:-

"Report in the matter of Original Application No. 463 of 2023: Dr. Lokesh Kumar Versus State of Haryana, in compliance with the Hon'ble National Green Tribunal Order dated 02/08/2023.

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## 2. Compliance of the Order:

In compliance with the above said order of Hon'ble NGT, a Joint Committee of the following members was constituted:

i) Sh. Suneel Dave, Director, Central Pollution Control Board, Regional Directorate, Chandigarh

ii) Sh. Vimal K. Hatwal, Additional Director, MoEF & CC, Regional Officer, Chandigarh.

III) Sh. Ravinder Kumar, SE(WW)-I, Delhi Jal Board, New Delhi

i) Sh. Pardeep Singh, Regional Officer, Haryana State Pollution Control Board, Sonipat.

## 2.1 Factual Position of the site:

The Joint Committee has undertaken a visit on 25.09.2023 of the site and travelled along the various stretches of the drains and recorded the following observations.

I. The drain no. 6 originates from Town Samalkha, Distt. Panipat, near Chulkana railway-crossing and then enters into the jurisdiction of Sonipat at village Garhi

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II. The drain is mainly carrying the treated and untreated effluents from various sources of district of Sonipat. It is pertinent to mention here that the whole stretch (approximately 7 km) of drain no. 6 along the drain no. 8 was not lined. III. Created is an inverted siphon for drain no. 6 near village Akbarpur Barota to have cross drainage network over drain no.

8. Thereafter, drain no 6 flows parallel to drain no. 8 and traveling a distance about 7 km to meet abandoned drain no. 6.

Further, abandoned drain No. 6 enters into the territory of Delhi at Narela Town while leaves Sonipat.

IV. The drain no. 8 originates from Gohana at Mahara Head Works and terminates into River Yamuna at Village Dahesra, Sonipat. The drain is reported to have a length about 68 km. This drain no. 8 is carrying fresh water due to escape to River Yamuna crossing through Sonipat. The information provided to the committee suggests that there is no discharge of any polluted water within the district Sonipat. The index map of the drain no. 6 and drain no. 8 is appended below:

V. The Committee was further informed that the dredging of the drain no 6 is periodically done by the Municipal Corporation, Sonipat in the municipal limits and by Irrigation & Water Resource Department outside the municipal limits. The last dredging was done in the month of June, 2023.

VI. The Committee however, noticed the deposition of silt in the flow path and on the bed of drain and thereby carrying capacity is estimated to have greatly reduced. It was also observed a very less flow of water in the drain no. 8 which is expected to have caused due to leakages from the sluice gates provided at the drain head.

VII. The effluent from Drain no 6 is mixed in to the Diversion Drain no. 8 due to following reasons:-

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1) It was observed that discharge from drain number 6 not being completely carried through inverted siphon and at the inlet of siphon the discharge found overflowing and mixing with the water in the drain no. 8, possibly due to partial clogging of the inlet of inverted siphon or under designed system.

This needs immediate attention of the authority concerned responsible for maintaining the drainage system and canal as well. In fact, this has defeated the very purpose of having provided cross drainage network associated with the objective of preventing the canal water from being mixed with waste water of the drain.

2) The common wall / bund, provided to maintain separates flow between water carrying by the canal (drain no. 8) and that of with waste water carrying by the drain no 6 was not only found of insufficient height but damaged at many points / stretches and resulted in mixing of waste water with canal water. The insufficient height and inadequate strength of bund wall needed to have been seen seriously by the authority in order to keep the canal water prevented from being contaminated. The failure of the concerned authority in maintaining the required strength and height of bund / wall has caused a huge environmental damage in terms of quality deterioration of both surface and ground water and therefore liable for an environmental compensation.

The photographs of the sites exhibiting damage of the common wall / bund of drains and mixing of the effluent are attached Annexure 2.

VIII. The water quality monitoring was undertaken for various parameters in order to have an assessment of water quality of canal (drain no. 8) and the impact that could have caused on its quality due to intermittently mixing of waste water from different stretches during the course of travelling the drain no. 6. The analytical results of the same are tabulated below:

Table:1 Location of Sample collection Sr Paramete Units Drain no. Drain no. 8, Drain no. 8, at Drain no. 8 at no. rs 6 at vill Near vill. Nathupur, G.T. Road, Pio-

			Akbarpur Barota, Sonipat.	Akbarpur Barota before mixing Drain No.6, Sonipat.	Village Crossing after mixing of effluent from drain no.6 .	Maniyari, Sonipat after mixing of effluent fro drain no.6 .
1	pH		7.7	7.58	7.92	7.86
2	Dissolved Oxygen	mg/l	BDL (DL=01)	3.4	4.2	6.5
3	BOD	mg/l	72	9.2	12	3.8

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6	d Solid (SS) Oil & Grease	mg/l	5	BDL (DL=2)	BDL (DL=2)	BDL (DL=2)
8	Ammonic al	mg/l	16.24	BDL (DL=0.05)	3.78	2.224

Nitrogen (as N)						
9	Ammonia mg/l (as NH <sub>3</sub> -N)	Not detected	Not detected	Not detected	Not detected	Not detected
10	Nitrate-N mg/l	0.58	BDL(DL=0.5)	0.82	BDL(DL=0.5)	BDL(DL=0.5)
11	Nitrite mg/l	BDL(DL=0.5)	BDL(DL=0.5)	BDL(DL=0.05)	BDL(DL=0.5)	BDL(DL=0.5)
12	Sulphide mg/l (as S)	Not detected	Not detected	Not detected	Not detected	Not detected
13	Sulphates mg/l	Not detected	Not detected	Not detected	Not detected	Not detected
14	Chlorides mg/l (as Cl)	299.9	539.83	599.81	549.82	
15	Phosphat e mg/l	4.62	Not detected	Not detected	3.81	
16	SAR	3.46	1.36	3.84	3.92	
17	Total Chromium mg/l	Not detected	Not detected	Not detected	Not detected	Not detected
18	Iron mg/l	Not detected	Not detected	Not detected	Not detected	Not detected
19	Zinc mg/l	Not detected	Not detected	Not detected	Not detected	Not detected
20	Nickel mg/l	Not detected	Not detected	Not detected	Not detected	Not detected
21	Boron mg/l	BDL(DL=0.5)	BDL(DL=0.5)	BDL(DL=0.5)	BDL(DL=0.5)	BDL(DL=0.5)

Coliform 00ml  
MPN

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24	Coliform 00ml Fecal MPN/1 1700 Streptoco 00ml cci	1500	1700	Absent
25	Conductiv uS/cm 1270 ity	3468	1898	1550
26	Turbidity NTU 7.28	2.44	5.78	1.87

The table reveals the following:

- a) Ammonical Nitrogen (as N) concentration from (2.24 to 16.24 mg/l) has been detected from all the samples collected during the visit, except the sample drain no. 8, near vill. Akbarpur Barota before mixing drain No.6, Sonipat.
- b) A large number of fecal coliform bacteria (over 400 MPN/100 milliliters (ml) of water sample) are found in all the samples collected during the visit, indicating various possible non-point sewage contaminations in the drain.
- c) It was observed during the visit that the drain 6 was carrying highly colored wastewater, an indicator of severe water pollution, which even persists at the confluence point of effluent from drain no.6 to drain no. 8 at G.T. Road, Pio-Maniyari, Sonipat.

The entire area along the drain was permeated with a foul smell.

- d) The above table is also suggesting that a detailed toxicology study required to be undertaken by an institute of repo to understand the impact that has caused on ecological systems of canal carrying river water deemed to be used for drinking purpose at downstream.

## 2.2 Point Sources discharging into the drain:

The major point sources of discharge into the drains are:

1. Discharge of 7 MLD STP Ganaur, Sonipat.
2. Discharge of 16 MLD CETP Industrial Area, Barhi, Sonipat.
3. Discharge of 25 MLD STP Kakroi Road, Sonipat.
4. Discharge of 30 MLD STP Rathdhana Road, Sonipat.

5. Discharge of 10 MLD CETP Industrial Area, Rai, Sonipat.

6. Discharge of 10 MLD CETP Industrial Area, Kundli, Sonipat.

The compliance status of the above STPs/CETPs is tabulated below.

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Table:2

Sr. No.	Name of STP/CETP	Date of monitoring	BOD	COD	TSS	pH	O&G	Compliance status
			Permissible limits ( mg/l except pH)					
			30	250	100	5.5-9.0	10	
			Results ( mg/l except pH)					
1	7 MLD STP Ganaur, Sonipat	28.08.2023	45	192	56	7.6	3.4	Non complying
2	16 MLD CETP Industrial Area, Barhi, Sonipat	29.09.2023	52	320	188	7.4	28.4	Non complying
3	25 MLD STP Kakroi Road, Sonipat	28.08.2023	7		44	15	8.4	BDL Complying
4	30 MLD STP Rathdhana Road, Sonipat	28.08.2023	5		36	13	8.3	BDL Complying
5	10 MLD CETP Industrial Area, Rai, Sonipat	30.09.2023	25	116	48	7.1	8.5	Complying
6	10 MLD CETP Industrial Area, Kundli, Sonipat	23.09.2023	26	144	43	7.3	3.5	Complying

In addition to the above sources of pollution into the drain, untreated discharge from the MC, Sonipat also takes place. It is estimated that about 31.48 MLD of untreated sewage is discharged from 27 no of untapped point where BOD was found ranging from 58 mg/l to 260 mg/l.

### 2.3 Action Taken against the non complying STPs and CETPs:

Sr. No	Name of STP/CETP	Compliance status	Action taken
1	7 MLD STP Ganaur, Sonipat	Non complying	Prosecution action has been initiated against the responsible officers of PHED under Water Act 1974. Environmental compensation of Rs. 1500000/- (Fifteen Lakhs) imposed on PHED.
2	16 MLD CETP Industrial	Non complying	Prosecution action has been initiated against the responsible officers of HSIIDC under Water Act 1974. Environmental compensation of Rs. 1500000/- (Fifteen Lakhs) imposed on HSIIDC.
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Area, Barhi,  
Sonipat

officers of HSIIDC under Water Act 1974.  
Environmental compensation of Rs. 1500000/- (Fifteen Lakhs) imposed on HSIIDC.

2.4 Action plan for the tapping of the untreated sources of discharge: The Action plan for the tapping of all the points of untreated discharge has already been prepared by MC, Sonipat and the updated status reports are submitted in OA No.6/2012 titled as Manoj Mishra v/s UOI & Ors. The copy of action plan as received by the Committee is attached as Annexure-3. All the members of the joint committee are agreed with the report and submitted their approval through Email attached as Annexure- 4. The report is submitted on the behalf of Joint Committee for kind consideration of the Hon'ble Tribunal."

4. Reply has been filed by Mr. Birender Singh, Engineer-in-Chief, Irrigation and Water Resource Department, Haryana on behalf of respondents no. 1 and 2. The relevant part of the reply reads as under:-

"Reply of Mr. Birender Singh, Engineer-in-Chief (EIC) Irrigation and Water Resources Department, Haryana on behalf of Respondents No.1 and 2.

XXXXXX



2. That the petitioner is raising an issue regarding New Drain No. 6 which was constructed in the year 2007-08 in inner section of right bank of Diversion Drain No. 8 (DD No. 8) from RD 53500 to 29400. The pictures annexed with the O.A. are of Abandoned Drain No.6 which offtakes at RD 29400 of DD No. 8/ right side. It has been alleged in the application that because of the intrusion of highly polluted wastewater from Drain No. 6, the Water Treatment Plants (WTPs) in Delhi have to be closed and become non-functional. The allegation of WTPs becoming non-functional is wrong and denied. It is humbly submitted that supply of water to WTPs at Delhi is being done through separate dedicated canals as detailed in succeeding paragraphs. The map annexed with the report of joint committee is annexed herewith as Annexure R/1 denoting specific locations with the help of alphabets.

3. That Drain No. 6 (I to J) is a separate drain with an outfall into Drain No. 8 at RD 53500/left (Point J) wherein it has been tapped and its flow is siphoned into New Drain No. 6. Thus, New Drain No. 6 (K to L) off takes from outfall of Drain No. 6. New Drain No. 6 and was constructed in the year 2007-08 as at that time water was released into Drain No. 8 from the escape of Carrier Lined Channel (CLC) RD 256000 (F to G) for maintaining pond level of Wazirabad in terms of order dated 29 February 1996 of the Hon'ble Supreme Court of India and because flow of Drain No. 6 (I to J) could pollute this fresh water. To separate these flows, New Drain No. 6 (K to L) was carved out to take the O.A No. 463/2023 Dr. Lokesh Kumar Vs. State of Haryana & Ors.

discharge of Drain No. 6 directly to Abandoned Drain No. 6 (M to L to P) or in other words New Drain No. 6 (K to L) was constructed as a link between outfall of Drain No. 6 (I to J) to the offtake of Abandoned Drain No. 6 (M to L to P), to avoid flow of polluted water into Drain No. 8.

4. That in December 2014, CLC (F to G to H) was made fully functional upto RD 334336 tail, i.e., Haiderpur WTP. Subsequent to December, 2014 no water is released into DD No. 8 from escape of CLC and entire drinking water share of Delhi as well as additional water required to be delivered for compliance of the Hon'ble Supreme Court of India order dated 29 February 1996 is now delivered entirely through canal system comprising of two canals namely Carrier Lined Channel (CLC) (F to G to H) and Delhi Branch/Delhi Sub Branch (D to E to H).

Thus, there is no question of mixing of polluted water with fresh water supply to WTPs of Delhi and contention raised by the Applicant/Citizen is not correct with respect to actual facts and ground conditions.

5. That it is further submitted that New Drain No. 6 has been designed with submerged design as in case of low discharge in DD No. 8, the flow into New Drain No. 6 and D.D. No. 8 would flow separately but whenever there is high flow in DD No. 8, then flow of DD No. 8 and New Drain No. 6 would mix up as New Drain No. 6

having very low discharge as compared to full supply discharge of DD No. 8. This project was consented to by the Jal Board (DJB) and the project was also funded by DJB itself.

6. That now a days due to continuous flow, sometimes there are mishaps in New Drain No. 6, causing spillage of its flow and the same is controlled immediately by the Division Office of Irrigation Department, Haryana at Delhi. However, this spillage does not affect drinking water supply of Delhi, as Haryana is supplying water through canal system only as explained above and DD No. 8 has hardly any flow during non monsoon season.

Even if we consider this spillage, which is not more than few cusecs in any case, its quantum of water cannot pollute river flow.

7. Thus, there is no such pollution issue causing harm to WTPs at Delhi. However, to avoid any remote possibility of any adverse impact of new drain no.6 running parallel to drain no.8, an agenda/scheme for Construction of closed conduit pipeline for disposal of untreated effluent of drain no. 6 in the bed of Diversion Drain No. 8 from RD 53500 to RD 29400 (K to L) is under consideration of the Govt. of Haryana. After approval of the Govt., atleast two years will be required to complete this work."

5. We have gone through the reply filed by Mr. Birender Singh, Engineer-in-Chief (EIC) Irrigation and Water Resources Department, Haryana on behalf of Respondents No.1 and 2 and we find that before O.A No. 463/2023 Dr. Lokesh Kumar Vs. State of Haryana & Ors. filing the reply he has not even gone through the report of the Joint Committee what to speak of taking of any remedial measure in accordance with the observations and recommendations made in the same. Further, in the reply filed Mr. Birender Singh, Engineer-in-Chief (EIC) Irrigation and Water Resources Department, Haryana on behalf of Respondents No.1 and 2 has gone to the extreme of mentioning that " ...Even if we consider this spillage, which is not more than few cusecs in any case, its quantum of water cannot pollute river flow...". The reply, which has been prepared very casually without any sincerity and commitment to the cause of abatement of environmental pollution, also reflects that he is totally ignorant of the constitutional obligation of the State of Haryana and all its instrumentalities to protect and improve the environment and also of the statutory provisions embodied by Sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974. Section 43 prescribed the penalty for contravention of provisions of Section 24 and Section 44 prescribed the penalty for contravention of Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 while Section 48 thereof provides that where an offence under the Water (Prevention and Control of Pollution) Act, 1974 has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

6. We consider personal appearance of Mr. Birender Singh, Engineer- in-Chief (EIC) Irrigation and Water Resources Department, Haryana before this Tribunal physically on the next date of hearing as fixed hereinafter to be necessary to show cause as to why he be not ordered to be prosecuted for

past violations and accordingly he is directed to remain present before this Tribunal on the date fixed hereinafter. O.A No. 463/2023 Dr. Lokesh Kumar Vs. State of Haryana & Ors.

7. The Engineer-in-Chief (EIC) Irrigation and Water Resources Department, Haryana is also directed to take remedial measures in view of the observations and recommendations made by the Joint Committee and to file Action Taken Report within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

8. In view of the facts and circumstances of the case we also consider presence of Government of NCT of Delhi to be essential for just and proper adjudication of the questions involved in the case. Accordingly Government of NCT of Delhi through its Chief Secretary is impleaded as respondent no. 6. The Registry is directed to amend memo of parties and issue notice to the respondent no. 6 requiring it to file its reply/response to the averments made in the application and observations and recommendations made in the report of the Joint Committee within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

9. Learned Counsel for respondents no. 1 to 4 seeks time to file reply on behalf of respondents no. 3 and 4.

10. Learned Counsel for respondent no. 5 also seek time to file reply on behalf of respondent no. 5.

11. Reply/response on behalf of respondents no. 3 and 4 and respondent no. 5 be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

12. List for further consideration on 06.03.2024. O.A No. 463/2023 Dr. Lokesh Kumar Vs. State of Haryana & Ors.

13. A copy of this order be sent to the respondents no. 1 to 5 and also personally to Mr. Birender Singh, Engineer-in-Chief (EIC) Irrigation and Water Resources Department, Haryana by email for requisite compliance.

Arun Kumar Tyagi, JM Dr. Afroz Ahmad, EM December 22nd 2023 AG