

Item No. 01 & 02

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.639/2022  
(I.A. No. 293/2023)

Pritpal Sharma

...Applicant

Versus

Government of NCT of Delhi & Ors.

...Respondents

With

M.A. No. 24/2023  
In  
O.A. No. 33/2022  
( I.A. No. 02/2024 )

Ganesh Prasad

...Applicant

Versus

Government of NCT of Delhi & Ors.

...Respondents

Date of last hearing:- 18.04.2024.

Date of order:- 28.08.2024.

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

Applicants: None for the applicants.

Respondents: Ms. Jyoti Mendiratta and Ms. Ananya Basudha,  
Advocates for GNCTD and DM (South West),  
Delhi.  
Ms.Atika Singh and Ms. Udipti Chopra, Proxy Counsel

for Ms. Richa Kapoor, Advocate for DJB.  
Ms. Sakshi Popli, Advocate for DPCC (through VC).  
Ms. Srishti Dabas, Project Associate (Legal), Forest  
Department.

**Application under Section 14, 15 read with Section 18 (1) of  
the National Green Tribunal Act, 2010.**

**Order**

1. We all know that 'Water', one of the five elements, is creator and saviour of life and life wholly depends on it yet unmindful of the consequences we are indulging in questionable acts due to which surface water bodies, lakes, etc. are drying up, ground water is contaminated and fast depleting and rivers are not only highly polluted but also shrinking and dying in our Country.

2. No doubt, treated sewage/industrial effluent may be reused for industrial, horticultural and agricultural purposes but prospect of recycling sewage/industrial effluent for use as drinking water seems to be wholly unacceptable to all of us and we have to save quality and quantity of water to save our own existence and have to urgently take all remedial steps before any irreversible damage is caused to the environment.

3. Both these cases-**O.A. No. 639/2022 Pritipal Sharma Vs. GNCTD & Ors.** and **M.A. No. 24/2023 in O.A. No. 33/2022 Ganesh Prasad Vs. GNCTD & Ors.**, which required taking of prompt remedial action by the concerned Statutory and Administrative Authorities, are illustrative of the numerous fact situations where the concerned Statutory and Administrative Authorities are miserably failing in prompt discharge of their statutory duties to protect and improve the environment.

4. Both these cases also raise a difficult question for this Tribunal to answer as to how to enforce environmental laws/norms if the Statutory and Administrative Authorities, which are not only statutorily empowered but also mandated by the constitution to protect and improve environment, culpably neglect to discharge the duties assigned to them and fail to take requisite action due to some vested interests, for extraneous considerations and with ulterior motives.

5. We also find it extremely difficult to answer this question in the complex factual matrix woven by case after case coming up before this Tribunal showing complete insensitivity and inaction on the part of the concerned Statutory and Administrative Authorities which also endlessly indulge in blaming and shifting accountability to others.

6. Since the question raised is common, both these cases have been taken up together and this common order is passed in both the cases.

7. A brief resume of the facts of both these cases, which speak for countless fact situations, is spelled out hereunder to unfold the dilemma and search for solution animating this Tribunal.

**OA No. 639/2022 Pritpal Sharma Vs. Government of NCT of Delhi & Ors.**

**The grievance of the applicant**

8. The applicant, claiming respondent no. 5 to be owner of the plot adjoining House No. GI-2035, Aya Nagar, Delhi and the plot on the opposite side of the street in front of House No. GI-2038, Aya Nagar, Delhi filed the subject original application complaining that respondent no.5 has installed borewells in the above said plots without

permission from DJB and he is extracting groundwater for commercial purposes without obtaining No Objection Certificate from CGWA and is supplying the same to residents of Aya Nagar and beyond through water tankers in violation of environmental laws/norms.

**Proceedings on 15.09.2022**

9. This Tribunal constituted a Joint Committee comprising of representative of Central Ground Water Authority (CGWA), Delhi Jal Board (DJB), Delhi Pollution Control Committee (DPCC) and Deputy Commissioner, (South) Delhi and directed the same to verify the factual position and submit its report within one month.

**Proceedings on 06.12.2022**

10. In report filed vide email dated 15.11.2022, the Joint Committee submitted that no illegal borewell/submersible was found in the plot adjoining House No. GI-2035, Aya Nagar, Delhi but the plot opposite to House No. GI-2038, Aya Nagar, Delhi was found locked and **the Joint Committee submitted that no action was required to be taken on the basis of the Joint Inspection.**

11. This Tribunal vide order dated 06.12.2022 directed further verification of the factual position regarding the plot opposite to House No. GI-2038, Aya Nagar, Delhi. Personal appearance of officers duly authorized by DJB, DPCC and District Magistrate (DM) (South) Delhi was ordered.

**Proceedings on 20.03.2023**

12. In report filed vide email dated 10.03.2023 **the Joint Committee mentioned that on inspection on 13.04.2023, illegal**

**borewell was found to be situated in the plot opposite to House No. GI-2038, Aya Nagar, Delhi.**

13. Mr. Amjad Khan JEE appeared for DPCC but no officer authorized by DJB and DM (South) Delhi appeared. Personal appearance of the CEO, DJB and DM (South), Delhi was ordered.

**Proceedings on 20.04.2023**

14. CEO, DJB was exempted from personal appearance vide order dated 19.04.2024 passed on his application and Mr. B C Patel, Additional Chief Engineer, Delhi appeared for him but DM (South) Delhi did not appear and **on being joined by teleconferencing he sought time on the ground that order was not served on him.**

**Proceedings on 21.04.2023**

15. Mr. Mekala Chaitanya Prasad, District Magistrate (South), Delhi appeared and assured to evolve mechanism and take appropriate remedial action regarding illegal borewells operating in the area and **sought time to file action taken report in this regard.**

**Proceedings on 24.07.2023**

16. Mr. Shashi Pal, SDM, Mehrauli and Mr. Radhey Sham, SDM Saket appeared before this Tribunal. The applicant submitted that there are tanker mafias which are extracting groundwater and through RO Plants, they are doing commercial activities and the authorities concerned are not taking any action against these tanker mafias.

17. Respondents/SDMs present during the hearing were directed to take necessary action and develop effective mechanism for preventing

extraction of groundwater by unauthorized operators and tanker mafias and take prompt coercive measures and file action taken report within three weeks.

**Proceedings on 19.10.2023**

18. In compliance of order dated 24.07.2023 reports were filed by SDM, Mehrauli vide emails dated 25.08.2023 and 07.09.2023, by the District Magistrate (South) Delhi vide email dated 14.09.2023 and by the DPCC vide email dated 17.10.2023.

19. Reports filed by the concerned authorities showed complete lack of coordination between them. In his report District Magistrate, (South) Delhi mentioned that the matter of assessment of environmental damage compensation is pending with DPCC for very long period mentioned therein. In its report DPCC referred to proceedings taken for imposition of environmental compensation for illegal borewell in the present case but stated that it did not have the information regarding owner of the plot and it issued notice to alleged project proponent **Mr. Rinku, who said that he is neither the owner nor tenant in the premises in question. Information regarding ownership of the plot was not available even with the SDM, Vivek Vihar who was present before this Tribunal.** This Tribunal observed that the concerned authorities, which are under statutory and constitutional obligation to protect and improve the environment, could not be allowed to neglect or delay taking of appropriate remedial action for protection and improvement of environment on such frivolous grounds/lame excuses. This Tribunal accordingly directed the authorities to resolve all such bottlenecks in the implementation of the statutory provisions/environmental norms by seeking the relevant information

from the concerned authorities and also avoiding unnecessary delay in taking of such action. Action taken reports were ordered to be filed by email within three months.

**Proceedings on 07.02.2024**

20. Report was filed by the DPCC vide email dated 06.02.2024. **This Tribunal observed that status report filed by DPCC has been prepared casually without taking into consideration the observations made by this Tribunal in its orders passed in the case.** In the status report there is no mention regarding 15 cases referred to in the report filed vide email dated 14.09.2023 by the District Magistrate (South), Delhi where in orders regarding imposition of environmental compensation are awaited from the DPCC. The DPCC was directed to file additional status report within one month giving information, as on 31.01.2024, in tabular format with respect to the following aspects **(i) particulars of cases in which environmental compensation has been imposed; (ii) particulars of cases in which environmental compensation has been realized; (iii) particulars of cases (including 15 cases mentioned above) in which matter of imposition of environmental compensation is pending; (iv) particulars of cases in which environmental compensation realized has been utilized; and (v) particulars regarding activities carried out by utilization of amount of environmental compensation.**

21. **No report was filed by DJB and SDM, Mehrauli** and they were given one more opportunity to file additional action taken reports within one month. **SDM, Mehrauli was directed to mention in his affidavit as to who is the owner of the plot in question where the illegal borewell was being operated and in case the information is**

**not available with his office, what steps have been taken to procure the same.** In view of the facts and circumstances conditional attachment of the plot in question for realization of the amount of environmental compensation imposed was ordered. Warrant of attachment of the plot in question was ordered to be issued and to be sent to the District Magistrate (South), Delhi for execution and submission of report regarding compliance of the order by way of his affidavit within one month. Personal appearance of concerned Chief Engineer, DJB, DM (South), Delhi and SDM, Mehrauli was ordered.

#### **Proceedings on 18.03.2024**

22. In compliance of order dated 07.02.2024 reports were filed by DJB vide email dated 07.03.2024; by SDM, Mehrauli vide email dated 16.03.2024 and by DPCC vide email dated 16.03.2024 and Mr. Mekala Chaitanya, DM (South), Delhi, Ms. Mahima Madan, SDM (Mehrauli) and Mr. Gajender Tomar, Chief Engineer (South), DJB appeared physically before this Tribunal.

23. In its report DJB mentioned that DJB had provided requisite details in respect of the 15 borewells in question. **In her report Ms. Mahima Madan, SDM, Mehrauli submitted that the land where borewell was sealed falls in Khasra No. 1978, Village Aya Nagar and ownership of the land is in the name of Forest Department. However, SDM, Mehrauli had not given any information to the DPCC and DCF (South), Delhi and did not obtain any response from DCF (South), Delhi.**

24. In view of said report this Tribunal impleaded DCF (South), Delhi as respondent no. 10 and issued notice requiring him to file his



response. It was clarified that in case of failure to appear or file response heavy costs may be imposed on DCF (South), Delhi.

25. This Tribunal observed serious deficiencies in the working of the governmental agencies who have been assigned the task of taking remedial action on complaints received regarding operation of illegal borewells in NCT of Delhi. This Tribunal referred to order **dated 15.05.2020** passed in **O.A. No. 685/2019** titled as **Rakesh Kumar vs. Govt. of NCT of Delhi & Ors.** whereby the Chief Secretary, Delhi was directed to take a meeting within one month and oversee preparation of an appropriate SOP for preventing extraction of ground water by way of unauthorized borewells with further direction that wherever such illegality was found, prompt coercive measures be taken. In compliance thereof meeting was taken by the Chief Secretary, Delhi on 12.06.2020 and SOP was finalized and brought into effect. During hearing of the above said O.A. it was brought to the notice of the Tribunal that **DJB had identified 19661 illegal borewells on which action was being taken and 7248 units had already been closed by the district authorities and the remaining units were to be closed.**

26. In view thereof this Tribunal directed DJB to file status report with reference to all illegal borewells identified by it in the NCT of Delhi including illegal borewells remaining to be closed out of above mentioned 19661 illegal borewells on or before 15.04.2024 giving the complete information regarding the same.

27. This Tribunal noticed that in compliance of order dated 07.02.2024 DPCC had filed additional status report vide email dated 16.03.2024 and had enclosed therewith requisite information in

tabular format regarding environmental compensation as Annexure 1 and utilization by DPCC of the amount received as environmental compensation as Annexure 2. DPCC also mentioned therein that with reference to 15 sites regarding which information was received from SDMs of Hauz Khas, Saket and Mehrauli, DPCC issued show cause notices dated 08.03.2024 to all 15 units for levying Environmental Compensation of Rs. 30,000/- (each unit) on account of illegal/unauthorized extraction of ground for domestic purpose and enclosed copies of the show cause notices dated 08.03.2024 as Annexure 3. In additional status report DPCC also mentioned that, DPCC sent letters dated 06.10.2023 and 08.11.2023 to SDM (Mehrauli) to know the real owner of the illegal borewell so that EC may be levied on the right person but no response was received from SDM (Mehrauli) and notice addressed to "The Proprietor" of the unit was got pasted on the door of the unit's premises.

28. Vide order dated 18.03.2024 remedial directions were given by this Tribunal which may be summarized as under:

- (i) The Chief Secretary, GNCT of Delhi was directed to convene a meeting with the CEO, DJB, the Member Secretary, DPCC and all concerned officers of GNCTD (including the District Magistrates in Delhi), DJB and MCD for taking remedial measures for proper implementation of the directions issued by Hon'ble Supreme Court, this Tribunal, provisions contained in Delhi Jal Board Act, 1998, directions issued with the approval of Lt. Governor, Delhi on 18.05.2010 and 10.01.2014, Minutes of Meeting held by the Chief Secretary, Delhi on 12.06.2020 and SOP finalized regarding the same.

(ii) DPCC was directed to file additional status report giving the complete information with respect to all relevant aspects including the total amount of EDC imposed and the total amount of EDC which has been recovered.

(iii) Respondent no. 1-GNCTD was directed to file its response as to why in view of the delay on the part of its officers in realization of amount of environmental compensation imposed on the violators, GNCTD be not directed to pay the amount of environmental compensation for remediation of the environmental damage caused with liberty to recover the same from the violators through the proceedings initiated on references received from DPCC as remediation of environment cannot be deferred.

(iv) All the District Magistrates in NCT of Delhi were directed to upload on the respective website of the District Administration latest by 15.04.2024 the information regarding (i) complaints received regarding illegal borewells and action taken on the same, Minutes of the Meeting and recommendations of the District Advisory Committee regarding the same, (ii) references received for realization of environmental compensation and action taken for realization of the same and (iii) remedial measures taken for remediating environmental damage caused.

(v) The Chief Secretary, NCT of Delhi was directed to issue appropriate instructions for requisite compliance while specifically mentioning that in case of inaction/negligence on the part of the concerned administrative officers strict disciplinary

action will be taken against them.

(vi) The Chief Secretary, NCT of Delhi was also directed to look into the matter of recovery of Environmental Damage Compensation (EDC) in the remaining cases and issue appropriate instructions for expediting the recovery thereof.

(vii) Personal appearance of the officers duly authorised by the Chief Secretary, NCT of Delhi, CEO, Delhi Jal Board and the Member Secretary, DPCC (**physically**) before this Tribunal was ordered.

#### **Proceedings on 18.04.2024**

29. Supplementary report was filed by the Chief Engineer South DJB vide email dated 15.04.2024 and the same will be referred to in later part of this order.

30. Status report was filed by DPCC vide email dated 16.04.2024.

The relevant part of the Status report is reproduced below:-

***“Status Report on behalf of Delhi Pollution Control Committee in compliance to the order dated 18.03.2024.***

***X X X X***

*5. That in the instant case, in addition to Sh. Rinku, DPCC has imposed interim environmental compensation @ Rs. 30000/- each on 11 more violators and Rs. 60,000/- on two borewells of a violator as he/she had two borewells in the premises vide letters dated 09.4.2024. Further letter for confirmation of EDC for remaining two borewells is being issued.*

***6. That, out of total imposed EDC amount of Rs 70.65 crore, EDC recovered to date stands at ₹53,70,000/- (Rupees Fifty-Three Lakhs Seventy Thousand Only) from 121 violators.***

***7. Out of 53 lakhs EDC recovered on the issue of ground water, DPCC has utilized the same as***

**development of infrastructure for water quality surveillance in line with CPCB guidelines.**

8. That, in the meeting taken by Chief Secretary, Delhi on 12.04.2024, it was decided that the Environmental Damages Compensation collected in respect of illegal ground water extraction shall be utilized through the committee constituted by **Hon'ble High Court in WPC No. 7594/2018 in order dated 08.04.2024. The EC imposed on illegal bore wells will be used by the aforesaid district level committee for the rejuvenation of water bodies.**"

31. Status report was filed by Govt. of NCT of Delhi vide email dated 16.04.2024. The relevant part of the Status report is reproduced below:-

**"Status Report on behalf of Government of NCT of Delhi in compliance to the order dated 18.03.2024.**

**X X X X**  
2. That, in compliance with the aforesaid order of this Hon'ble Tribunal, the Chief Secretary, Government of NCT of Delhi convened a meeting of the officers from Delhi Jal Board (DJB), Municipal Corporation of Delhi (MCD), Delhi Pollution Control Committee (DPCC), Delhi Police, Urban Development Department, Revenue department and other concerned departments on 12.04.2024. Minutes of the meeting is enclosed herewith as Annexure-1.

3. That, DJB, District Magistrates and DPCC was directed to enforce the rules issued under Environment Protection Act, 1986 with respect to regulation of bore wells.

4. **That, the DJB/Revenue Department shall initiate action for taking actions on illegal bore wells particularly focusing in areas that are over exploited or where extraction of water is being used for profiteering. Further, they would accord permissions where water table is satisfactory and water is potable.**

5. **That, DPCC has been directed to effect recovery of EDC imposed, by following due process. Its engineers may be authorized for effecting recovery for proper accountability. DPCC along with DMs have been directed to focus their efforts where ground water is under stress.**

6. That, DJB was advised to improve the efficiency in water supply by preventing leakages in water/revenue.

7. **That, the utilization of EDC needs to be targeted at full scale remediation of environmental**

***damage caused by the illegal extraction of ground water; and hence it was decided that the Environmental Damages Compensation collected in respect of illegal ground water extraction shall be utilized through the committee constituted by Hon'ble High Court in WP (C) No. 7594/2018 in order dated 08.04.2024. The EC imposed on illegal bore wells will be used by the aforesaid district level committee for the rejuvenation of water bodies.***

***8. That, DPCC will develop an online portal for logging in the process of giving permission to bore wells, identification and action against bore wells and imposition and recovery of EC, which will be used by stakeholders as above."***

32. Short Affidavit was filed by DCF (South) Delhi vide email dated 25.07.2024. In the affidavit it has been submitted that the **land where the illegal bore well was sealed on 13.04.2023 falls in Khasra No. 1978, Village Aya Nagar and ownership of the land falls in the name of Forest Department regarding which information regarding the illegal bore well was given to DCF (South) Delhi in 2024. DCF (South) Delhi has taken steps for removal of the encroachment on forest land of Khasra no. 1978 in Village Aya Nagar vide notices dated 09.02.2024 and 16.04.2024. The Hon'ble High Court of Delhi vide order dated 29.02.2024 disposed of two matters titled as "Adarsh Enclave Residents Welfare Association (Regd.) versus GNCTD, W.P.(C) no. 3086/2024 and Devki Devi versus GNCTD & Ors., W.P (C) No. 3088/2024"** with a direction to the DCF (South) Delhi to decide the representation of the petitioners therein with respect to the petitioners' property within 6 weeks after receiving the said representation and not to take any coercive actions against the property in question until the representation of the petitioners therein is decided. On 05.04.2024, the DCF (South) Delhi had received a short representation by Adarsh Enclave Residents Welfare Association (Regd.) to which the DCF (South) Delhi directed the Adarsh Enclave

Residents Welfare Association (Regd.) to file a detailed representation, However, the same is not filed till date. DCF (South) Delhi has submitted that due to stay on Khasra no. 1978, he is unable to do anything with respect to Khasra no. 1978, Village Aya Nagar, Delhi.

**33. In the present case illegal borewell was sealed on 13.04.2023 after more than six months from passing of order dated 15.09.2022 for verification and remedial action and the violator has not been identified and penalized despite expiry of more than one and half years.**

34. The applicant has submitted in reply dated 12.04.2024 that borewell approx. 50 are unauthorizedly running in Aya Nagar, Delhi and supply the filtered RO water to the nearby residents on huge cost. The applicant submitted that it is not possible for him to provide addresses where the unauthorized bore will are running but he provided two snaps and made two complaints to the Executive Engineer DJB, Saket, New Delhi on 09.04.2024 vide Diary No.76 and and to the District Magistrate, M.B. Road, New Delhi on date 09.04.2024 vide diary no.12265.

**O.A. No. 33/2022 Ganesh Prasad Vs. Govt. of NCT of Delhi & Ors.**

**Grievances of the applicant**

35. O.A. No. 33 of 2022 was filed by Mr. Ganesh Prasad with the grievance that R.O. plant was being run unauthorizedly at Plot no. K-9, 25 Feet Road, Part II, Chankya Palace, New Delhi by Mr. Ashish.

36. Vide order dated 31.01.2022 this Tribunal constituted a Joint Committee comprising of Chairman, Delhi Jal Board, DPCC, District Magistrate, New Delhi and Chairman, State Ground Water Authority **to**

**look into the grievance and submit factual and action taken report within three months** before Ld. Registrar General, NGT, Delhi who was given liberty to put the matter before the Bench for necessary directions, if considered necessary and the application was disposed of accordingly.

37. **Report dated 14.12.2022 was filed by the DPCC that on inspection of the site on 29.07.2022 no RO Plant was found to exist at Plot no. 9, Block K, Part II, Chanakya Place but one RO plant was found working on nearby location i.e. Plot No. 7, Block K, Part II, Chanakya Place, Uttam Nagar in the name of Sh. Ajit Kumar and Sh. Ashish Kumar.** No NOC/permission had been obtained from DJB/ CGWA for running the RO plant/ extracting ground water and the waste water generated from the plant was being discharged directly to the drain. **A letter was written by DPCC on 03.08.2022, to Delhi Jal Board, DM (South West) and CGWA for taking necessary action at their end.** The response from CGWA received on 14.09.2022 indicated that the unit has to take permission from the DJB/ District Administration and that the tube well should be sealed by DM as DM is authorized officer for sealing of tube well and taking legal action. **The DJB vide letter dated 22.09.2022 informed that the unit could not be sealed as no one from the office of DM (South West), Delhi was present during the joint inspection. It also enclosed a letter written by DJB to SDM (Dwarka) for taking action against the illegal bore well observed during the joint inspection on 29.07.2022.** No Action Taken Report was received from DM (South West) Delhi. DPCC wrote letter dated 05.12.2022 to DM (South West) Delhi for taking necessary action. Under orders of Hon'ble Chairperson of this Tribunal, the matter was listed before the Bench for further



directions.

**Proceedings on 21.07.2023**

38. Vide order dated 21.07.2023, **the District Magistrate (South West) Delhi was directed to comply with the directions issued by the DPCC and submit further action taken report and the DPCC was directed to calculate environmental compensation and to realize the same in accordance with the rules and to submit report in this regard.**

**Proceedings on 02.11.2023**

39. **No reports were submitted by the District Magistrate (South West) Delhi and the DPCC in compliance of above mentioned order.** Mr. V.K. Mongia, SDM (Dwarka) appeared before this Tribunal through VC on 02.11.2023 and verbally submitted that **the R.O. plant had been sealed on 02.11.2023** and the report will be submitted in due course of time. The DPCC submitted that appropriate proceedings are being initiated for imposition and realization of environmental compensation from the project proponents.

40. This Tribunal observed that the case also showed insensitivity to environmental issues and inefficiency, inaction, gross negligence on the part of instrumentalities of the State, which are under Constitutional obligation to protect and improve the environment. Unauthorized R.O. plant is stated to have been sealed on 02.11.2023 despite the fact that order constituting the Joint Committee with direction to submit factual and action taken report within three months was passed on 31.01.2022 and was conveyed to the concerned authorities by email dated 07.02.2022 sent at the email IDs "Chairman, DPCC

chdpcc@nic.in, Member Secretary msdpcc@nic.in, Spl. Secretary Env. ssenv@delhi.gov.in, ceodelhi.djbceodelhi.djb@nic.in, UdaiBhan, secy.djb@nic.in, Dr. Monica Priyadarshinidcnd@nic.in, Central Ground Water Authority cgwa@nic.in, Ashok Kumar Pater mcgwa-cgwb@nic.in”, yet **the Joint Committee consisting of officials from Central Ground Water Authority, Delhi Jal Board and DPCC carried out an inspection of the site after more than five months on 29.07.2022 and submitted its report after about two months on 27.09.2022.** The DPCC wrote letters dated 03.08.2022 to DJB, District Magistrate (South West) Delhi and CGWA for taking necessary action. CGWA sent response dated 14.09.2022 to the DPCC that tubewell was to be sealed by the concerned District Magistrate. The DJB informed the DPCC vide letter dated 22.09.2022 that the unit could not be sealed as no one from the office of the District Magistrate (South West) Delhi was present during the inspection. **The DPCC wrote letter dated 05.12.022 to the District Magistrate (South West) Delhi for taking necessary action. The illegal borewell in question was sealed on 02.11.2023 after notice was issued on the miscellaneous application. The authorities allowed the illegal borewell to operate from 07.02.2022 (the date of communication of order passed by this Tribunal) till 02.11.2023 without any justification and have flouted the rule of law and illegitimately betrayed the trust of the people by neglecting to discharge the statutory duties entrusted to them.**

41. Show cause notices were issued to (i) the Member Secretary, DPCC, (ii) CEO, DJB, (iii) the District Magistrate (South West) Delhi and (iv) SDM Dwarka as to why environmental compensation be also not imposed on them. Notices were also issued to Ajit Kumar and

Ashish Kumar Plot no. 7, Block-K, Chanakya Palace II, Uttam Nagar.  
Personal appearance of (i) the Member Secretary, DPCC, (ii) CEO, DJB, (iii) the District Magistrate (South West) and (iv) SDM Dwarka (physically or through VC) was ordered.

**Proceedings on 09.11.2023**

42. **No replies/responses were filed before this Tribunal** but Mr. K. S. Jayachandran, Member Secretary, DPCC appeared through VC and Mr. Lakshay Singhal, District Magistrate (South West), Delhi and Mr. Vinay Kumar Mongia, SDM Dwarka, Delhi and Ajit Kumar and Ashish Kumar appeared physically before this Tribunal.

43. **In the course of hearing on 09.11.2023 the violators Ajit Kumar and Ashish Kumar stated that about 5 to 6 other illegal borewells were operating in the area and even Mr. Shashi Kant, Assistant Engineer stated that he had some information about 4 other illegal borewells operating in the area.**

44. Mr. Lakshay Singhal, District Magistrate (South West), Delhi and Mr. Vinay Kumar Mongia, SDM Dwarka, Delhi stated that they had joined recently. **They were directed to conduct appropriate fact finding enquiry and fix responsibility for not taking of prompt remedial action of sealing illegal borewell and delay in compliance with the orders passed by this Tribunal and take appropriate disciplinary action against defaulting officials and submit an interim/final action taken report.**

45. The Chief Secretary, GNCT of Delhi was also directed to obtain explanation of the concerned officers who were posted as District Magistrate, South West/SDM Dwarka during the relevant period for

ascertaining reasons of non-compliance with the orders passed by this Tribunal and to send the same to this Tribunal.

46. In view of cases coming up before this Tribunal showing that the concerned Statutory Authorities/Public Servants entrusted with the duties of enforcement of environmental norms were not taking prompt remedial action, this Tribunal considered their sensitization about environmental issues and constitutional obligation to protect and improve the environment by induction training at the time of recruitment and in service training by way of refresher courses to be essential and directed the Chief Secretary, GNCT of Delhi to take requisite steps within one month for sensitizing concerned administrative officers posted as District Magistrates/Sub Divisional Magistrates and officers posted in concerned statutory authorities like DJB by organising refresher courses at the weekends and inviting resource persons having expertise in the field of environmental law.

47. Despite order for appearance on 09.11.2023 CEO, DJB did not appear physically or through VC and did not make any request for exemption and appearance through any Senior Officer. On the other hand, Mr. Shashi Kant, Assistant Engineer appeared and stated that CEO, DJB had dual charge and was busy in some other work. All efforts made through DJB Officers/Officials and Registry of the Tribunal to join CEO, DJB through VC/mobile phone call remained unfruitful.

48. In the facts and circumstances of the case, considering the nature of illegalities involved, significance of the remedial measures and necessity of taking prompt action, this Tribunal considered examination of CEO, DJB with respect to the complaints filed

regarding illegal borewells, action taken regarding the same, monitoring mechanism evolved and action taken against defaulting officers/officials to be essential. Accordingly, summons were ordered to be issued against CEO, DJB to appear before this Tribunal on 04.12.2023.

**Proceedings on 04.12.2023**

49. In compliance of order dated 09.11.2023 Mr. A. Anbarasu, CEO, DJB appeared before this Tribunal alongwith other DJB officers and also filed reply affidavit vide email dated 02.12.2023 regarding action taken by DJB on receipt of a copy of order dated 31.01.2022.

50. In the reply affidavit it was mentioned that the concerned **JE (Civil) visited the premises in question on 26.02.2022** and it was discovered that **the illegal bore-well and unauthorised RO Plant was installed at K-7, Chanakaya Palace, Part II, New Delhi** and was owned by Mr. Ajit Singh. The concerned EE (M- 30) upon receipt of site inspection report from JE(Civil), promptly reported about the illegal extraction of water through unauthorized ground water bore-well existing at K-7, Chanakaya Place, Part II, New Delhi-59, to the Sub-Divisional Magistrate (Dwarka) **vide letter dated 28.02.2022 and requested the concerned SDM to take necessary action as per the provision illegal extraction of ground water.** In terms of the order dated 31.01.2022 passed in **O.A. No. 33 of 2022 Ganesh Prasad Vs. Government of NCT of Delhi & Ors.**, DPCC organized the inspection on 29.07.2022 of the site K-9, 25 feet Road, Part II, Chanakaya Palace, New Delhi. The officials of Delhi Jal Board (DJB), CGWA & DPCC attended the inspection at site on 29.07.2022. However, the bore-well in question could not be sealed on the date of inspection **as no officer**

**from the office of the concerned District Magistrate (South-West), Delhi was present during Joint Inspection.** Thereafter, the concerned EE(M), DJB had issued reminder letter dated 09.09.2022 to SDM (Dwarka) alongwith the copy of order dated 31.01.2022 of this Tribunal requesting immediate action and sealing of the bore-well in question. On 21.07.2023, M.A. No. 24 of 2023 in O.A. No. 33 of 2022 was taken up for hearing by this Tribunal wherein the grievance was made regarding running of unauthorized RO Plant at K-9, 25 feet Road, Part II, Chanakaya Palace, New Delhi.

51. It was further submitted in the reply affidavit that in compliance of order dated 21.07.2023 DJB had been taking active steps to launch awareness programmes through various RWAs and Commercial and Industrial Associations to create awareness among the residents to encourage Rain Water Harvesting and warning the citizens not to engage in illegal activities such as erection, installation and use of borewell for residential, commercial and industrial use. Further, there **is also helpline no. 1916 activated by DJB for reporting any illegal** activities in respect of water and water connection including use of illegal borewells. DJB has vigilantly acted upon the three other complaints received in respect of illegal borewells installed in Chanakaya Place and its adjoining areas and has duly intimated the concerned office of SDM (Dwarka) through letters and telephonically to initiate sealing actions as per the SOP. Further, reminders have also been sent to the concerned SDM (Dwarka) and DM through letters dated 29.11.2023.

52. In the reply affidavit it was also mentioned that **about 19661 illegal bore-wells were identified as on 31.08.2021 and thereafter**

**DJB has continued to identify illegal bore-wells and prevent ground water** extraction. Order dated 21.07.2023, was not in the knowledge of DJB and its counsel or representative could not attend on 02.11.2023. In the reply affidavit CEO, DJB also mentioned that order dated 04.11.2023 was brought to his notice for the first time on 09.11.2023 and due to prescheduled engagements mentioned in the reply affidavit, he was unable to attend the hearing before this Tribunal and could not file exemption application.

53. This Tribunal noticed that in the above said case the procedure laid down in SOP was not followed by the concerned Authorities and action was not promptly taken despite detailed orders having been passed by this Tribunal.

54. The CEO, DJB was allowed to file status report giving requisite information in detail in tabular format with respect to following aspects:-

- (i) District wise number of illegal borewells identified;
- (ii) District wise number of illegal borewells which have been sealed/closed;
- (iii) District wise number of occupiers/proprietors of illegal borewells on whom penalty/EDC has been imposed;
- (iv) District wise number of occupiers/proprietors of illegal borewells from whom penalty/EDC has been recovered;
- (v) District wise number of occupiers/proprietors of illegal borewells from whom penalty/EDC is yet to be recovered;
- (vi) District wise number of illegal borewells which are yet to be sealed/closed; and
- (vii) District wise number of occupiers/proprietors of illegal borewells on whom penalty/EDC is yet to be imposed.

55. The DPCC was also directed to file status report in tabular format with respect to following aspects:-

- i. District wise number of cases in which show cause notices for imposition of EDC have been issued;
- ii. District wise number of cases in which orders for imposition of EDC have been issued;
- iii. District wise number of cases in which orders for imposition of EDC are yet to be issued;
- iv. District wise number of cases in which EDC has been recovered;
- v. District wise number of cases in which EDC is yet to be recovered;
- vi. District wise number of cases in which reference has been made to Deputy Commissioner (Revenue) for recovery of the EDC;
- vii. District wise number of cases in which reference is yet to be made to Deputy Commissioner (Revenue) for recovery of the EDC;
- viii. How much of EDC amount recovered from the violators has been utilised by DPCC/DJB with requisite details; and
- ix. How much of EDC amount recovered from the violators is yet to be utilised by DPCC/DJB with requisite details.

#### **Proceedings on 04.01.2024**

56. I.A. No. 02/2024 was filed on behalf of the DJB seeking extension of time of three weeks to file status report in compliance of order dated 04.12.2023. DPCC also sought time to submit its report.

#### **Proceedings on 05.02.2024**

57. DJB submitted that except for the District Magistrate, South West, the other District Magistrates had not supplied requisite information to the DJB for filing the report. Status report was filed by DJB in compliance to orders dated 04.12.2023 and 04.01.2024 on the



basis of available information disclosing the action taken for sealing the illegal bore-wells. DJB also disclosed the status of rain water harvesting systems in NCT of Delhi.

58. DJB and DPCC were granted further time of four weeks and two days respectively as prayed by their Counsels for filing of the reports.

**Proceedings on 18.04.2024**

59. DJB filed Supplementary status report vide email dated 13.04.2024 which will be referred to in the later part of this order.

60. Status report and additional status report were filed by DPCC vide emails dated 15.04.2024 which will be referred to in the later part of this order.

61. In **O.A. No. 33/2022** titled as **Ganesh Prasad vs. Government of NCT of Delhi & Ors. despite order passed by this Tribunal on 31.01.2022 for taking of remedial action, illegal borewell was sealed on 02.11.2023** after proceedings were initiated by listing of M.A. No. 24/2023 and **environmental compensation of Rs. 1 lakh imposed on violators Shri Ajit Kumar and Shri Ashish Kumar is yet to be recovered by SDM (Dwarka), Delhi** to whom reference for recovery has been made by DPCC vide letter dated 11.01.2024.

62. None appeared for the applicant-Ganesh Prasad in M.A. No. 24/2023.

63. We heard arguments addressed by the learned Counsel for the applicant-Pritipal Sharma and learned Counsel for the respondents in both the cases and reserved orders on 18.04.2024.

64. In their respective arguments learned Counsel for the applicant-Pritipal Sharma and learned Counsel for the respondents have reiterated their respective stands taken in the original application regarding unauthorized operation of illegal borewells by tanker mafia and replies/reports filed by the authorities documenting efforts made.

65. **While going through the material on record we found that relevant information material to adjudication of the questions involved in the present case has not been placed on record and relisting of the matter for further hearing/directions was necessary on which the matter has been relisted for further hearing/directions.**

66. **On due consideration of the submissions made and perusal of the material on record we are also of the considered view that in view of serious non-compliance with the environmental laws/norms regarding regulation and management of groundwater in NCT of Delhi, the scope of the present proceedings is required to be widened and intervention by this Tribunal by issuance of remedial directions and continuous monitoring of compliance is necessitated not only by serious non-compliance in the present cases but also serious non-compliance in other cases which came up/are pending before this Tribunal. The scope of these proceedings is widened accordingly.**

**The nature and magnitude of the problem of contamination and depletion of ground water**

67. Groundwater is the largest source of usable fresh water all over the world and in every part of the world where surface water supplies are not available, domestic, agricultural, and industrial water needs

are met by using the groundwater.

68. Long un-restricted and un-regulated excessive abstraction of ground water in our country has led to severe depletion of ground water resources. Such long un-restricted and un-regulated excessive abstraction of ground water has serious long term environmental implications as the same can result in drying up of ground water resources and may also affect quality as well as quantity of surface water.

#### **Directions by Hon'ble Supreme Court**

69. In **Civil writ Petition No 4677 of 1985** titled as **M.C Mehta Vs. Union of India and Others** on 20.03.1996 Hon'ble Supreme Court took cognizance of the news item under the caption **"Falling Groundwater Level Threatens City"**, appearing in the Indian Express of 18.03.1996 brought to its notice by Mr. M.C. Mehta, Advocate. Hon'ble Supreme Court issued notice to the Central Groundwater Board and the Delhi Pollution Control Committee. On 03.04.1996, Hon'ble Supreme Court issued notice to the Municipal Corporation of Delhi and the Delhi Waterworks and Sewerage Disposal Undertaking. Dr P.C. Chaturvedi, Scientist 'D' (Director), Central Groundwater Board, filed an affidavit mentioning that **during the years from 1962 onwards, the water levels in the country are declining. So much so, during the years 1971-83, the fall in water level was from 4 m to 8 m in the National Capital Territory. There was a further fall of water level from 4 m to more than 8 m during the period 1983-85.** One of the reasons for the decline of water level was the enhanced pumpage. Keeping in view the facts stated by Dr. Chaturvedi, Hon'ble Supreme Court issued notice to the Union of India through the

Secretary, Ministry of Water Resources and to the Government of NCT, Delhi, through its Chief Secretary. Various authorities filed affidavits indicating the factual position regarding the fall of water levels in the country. Hon'ble Supreme Court by order dated 04.09.1996 requested Dr. P. Khanna, Director, NEERI, to have the matter examined at the Institute level by experts in the field and to file a report giving suggestions and recommendations for checking further decline of underground water level. NEERI filed the examination report dated 23.09.1996 regarding **“Water Resources Management in India, Present Status and Solution Paradigm”**. Mr. Arun Kumar, Additional Secretary, Ministry of Water Resources, filed an affidavit dated 24.10.1996, commenting on the NEERI Report and also indicating an overall picture of the declining water levels in the country and also the various schemes and activities undertaken by various Departments of Government of India to monitor the groundwater. Hon'ble Supreme Court noticed the NEERI's holological approach to Water Resources Management and recommendations and vide **order dated 10.12.1996 reported as 1997 11 SSC 312** ordered and directed as under:-

*“9. The Central Government in the Ministry of Environment and Forest shall constitute the Central Groundwater Board as an Authority under Section 3(3) of the Act. The Authority so constituted shall exercise all the powers under the Act necessary for the purpose of regulation and control of groundwater management and development. The Central Government shall confer on the Authority the power to give directions under Section 5 of the Act and also powers to take such measures or pass any orders in respect of all the matters referred to in sub-section (2) of Section 3 of the Act.*

*10. We make it clear that the Board having been constituted an Authority under Section 3(3) of the Act, it can resort to the penal provisions contained in Sections 15 to 21 of the Act.*

*11. It has been stated by Dr P.C. Chaturvedi and Mr Arun Kumar in their respective affidavits that enhanced and unregulated pumpage of the water is primarily responsible for the decline in the water levels of the country.*

*12. The main object for the constitution of the Board as an Authority is the urgent need for regulating the indiscriminate boring and withdrawal of underground water in the country. We have no doubt that the Authority so constituted shall apply its mind to this urgent aspect of the matter and shall issue necessary regulatory directions with a view to preserve and protect the underground water. This aspect may be taken up by the Authority on an urgent basis.*

*13. The Central Government in the Ministry of Environment and Forest shall issue the necessary notification under Section 3(3) of the Act as directed by us before 15-1-1997.”*

### **Constitution of the Central Ground Water Authority**

70. In compliance with order dated 10.12.1996 passed by Hon'ble Supreme Court in **Civil writ Petition No 4677 of 1985** titled as **M.C Mehta Vs Union of India & Ors.**, the Central Government constituted the Central Ground Water Authority (referred herein as CGWA) vide **notification number S.O. 38 (E), dated the 14.01.1997** to exercise powers under Section 5 of the Environment (Protection) Act, 1986 for the purposes of regulation and control of Ground Water management and development.

71. The CGWA has been conferred with the following powers vide **notification number S.O. 38 (E) dated 14.01.1997**, as amended from time to time:

- i. Exercise of powers under section 5 of the Environment (Protection) Act, 1986 for issuing directions and taking such measures in respect of all the matters referred to in sub-section(2) of section 3 of the said Act.
- ii. To resort to penal provisions contained in sections 15 to 21 of the said Act.
- iii. To regulate and control, management and development of ground water in the country and to issue necessary regulatory directions

for the purpose.

- iv. Exercise of powers under section 4 of the Environment (Protection) Act, 1986 for the appointment of officers.

**States /Union Territories not regulated by CGWA**

72. However, CGWA is not regulating groundwater development and management in all States and Union Territories and in the following States / Union Territories regulation of groundwater development and management is being done through constitution of State Ground Water Authority or similar authority and through special provincial enactments and/or Government orders.

S.No	States / UTs Name	S.No	States / UTs Name
1	Andhra Pradesh	9	Telangana
2	Goa	10	West Bengal
3	Himachal Pradesh	11	Chandigarh (through bye-laws)
4	Jammu & Kashmir	12	Puducherry
5	Karnataka	13	Lakshadweep
6	Kerala	14	Punjab
7	NCT Delhi (through Govt. Orders)	15	Uttar Pradesh
8	Tamil Nadu (through Govt. Orders)	16	Haryana

73. CGWA has been regulating ground water development and management in other States and Union Territories, by way of issuing public notices, orders, guidelines etc. from time to time.

**Directions by this Tribunal**

74. This Tribunal **vide order dated 15.04.2015 in OA Nos.**

**204/205/206 of 2014** issued directions to CGWA to ensure that any person operating tube-well, or any means to extract ground water shall obtain permission from CGWA and shall operate the same subject to the law in force, even if such unit is existing unit or the unit is yet to be established.

75. This Tribunal **vide its order dated 09.07.2015 in OA Nos. 34 and 37 of 2014** directed all industrial units which are members of the Common Effluent Treatment Plants (CETPs) to approach CGWA through State Pollution Control Board for obtaining 'No Objection Certificate' in accordance with the law.

76. This Tribunal **vide order dated 13.07.2017 in O.A. No. 200/2014** directed that every industry should be directed to pay for extraction of such water, that too, subject to the conditions stated in the order permitting such extraction.

77. This Tribunal **vide order dated 28.08.2018 in O.A. Nos. 176/2015 and 59 of 2012** respectively directed the Ministry of Water Resources, River Development and Ganga Rejuvenation to forthwith review the existing mechanism so as to ensure effective steps for conserving the groundwater resources.

#### **CGWA guidelines for grant of 'No Objection Certificate'**

78. With a view to protect the ground water resources CGWA had , in pursuance of the directions of this Tribunal and in exercise of powers conferred by sub-section (3) of section 3 and section 5 of the Environment (Protection) Act, 1986, circulated the draft guidelines for grant of 'No Objection Certificate' on 11.10.2017 inviting comments and suggestions from all the stakeholders and after due consideration

of all objections and suggestions received in response to the said draft guideline by the Central Government, CGWA notified the guidelines to regulate groundwater over-exploitation and to conserve the groundwater resources in the country vide **notification number S.O. 6140 (E), dated 12.12.2018.**

79. This Tribunal vide **order dated 03.01.2019 in OA No. 176 of 2015** directed that the above mentioned notification dated 12.12. 2018 may not be given effect to as it is unsustainable if tested on **‘Precautionary Principle, Sustainable development as well as Inter-generational Equity Principles’** and **if implemented, will result in fast depletion of groundwater and damage to water bodies and will be destructive of the fundamental right to life under Article 21 of the Constitution of India.** This Tribunal vide **order dated 11.09.2019** constituted a committee to deliberate on steps for preventing depletion of groundwater, robust monitoring mechanism against un-authorised extractions and fulfillment of ‘No Objection Certificate’ conditions, environment compensation etc. with direction to submit its report. The Joint Committee submitted the report along-with draft guidelines to regulate groundwater extraction and groundwater conservation in this Tribunal on 16.03.2020. This Tribunal **vide order dated 20.07.2020** directed CGWA to comply with certain points for sustainable groundwater management while issuing ‘No Objection Certificates’ to commercial establishments. The Department of Water Resources, River Development & Ganga Rejuvenation, notified the guidelines to regulate and control groundwater extraction in the country vide **notification number S.O. 3289 (E) dated 24.09.2020** in supersession of **notification number S.O. 6140 (E) dated 12.12.2018.**



80. In **O.A. No. 69/2020** titled as **Sushil Bhatt Vs. Moon Beverages Ltd. & Ors.** and **O.A. No. 218/2020** converted into **Appeal No. 45/2020** titled as **Devidas Khatri Vs. Union of India & Ors** this Tribunal scrutinized the CGWA Guidelines 2020 and highlighted the deficiencies in the same.

81. CGWA notified amendments to the CGWA 2020 Guidelines vide **notification number S.O. 1509 (E) dated 29.03.2023.**

#### **Regulation and Management of Groundwater in NCT of Delhi**

82. So far as NCT of Delhi is concerned, clause (b) of sub-section (1) of section 9 of the Delhi Jal Board Act, 1998, which specifies functions of DJB, provides that DJB may **plan for regulate and manage the exploitation of ground water in Delhi in consultation with CGWA** and also give advice in this regard to the New Delhi Municipal Council, the Delhi Cantonment Board or any other local authority and clause (d) thereof provides that if so directed by the Government or the Central government, DJB may take over and carry out any functions relating to the management and regulation of sewerage **and ground water** or the drains of any area, hitherto being carried out by the Government, the Delhi Development Authority or any other agency.

83. CGWA issued **Public Notice no. 6 of 2000** on the subject **“Regulation on construction of tubewell/borewells in South and South-West Districts of NCT, Delhi”** relevant part of which reads as under:-

**“PUBLIC NOTICE NO. 6 OF 2000**

**SUB: REGULATION ON CONSTRUCTION OF TUBEWELL/  
BOREWELLS IN SOUTH & SOUTH-WEST DISTRICTS OF**

**NCT, DELHI**

*“Whereas the Central Ground Water Authority (hereinafter referred to as the "Authority"), has been constituted under sub-section (3) of the section 3 of the Environment (Protection) Act. 1986, vide notification no. S.O.38 (E) dated 14.01.97 for the purposes of regulation and control of ground water development and management.*

*Whereas Authority is in exercise of its powers and functions as provided in clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act. 1986, has declared **Najafgarh block, Mehrauli block and Vasant Vihar and Vasant Kunj** areas of NCT Delhi as 'Notified Area' on block/area wise basis vide public notice dated 1.4.98, 24.12.99 and 25.4.99 respectively in view of depletion in Ground water resources due to its over-development/incidence of upcoming of saline ground water.*

*However due to administrative exigencies, the notified areas have been re-organised on district basis. Now, there are in exercise of the aforesaid powers and in partial modification of the earlier notices, the Authority after considering the need for protecting the ground water resources and to ensure further development activities in consistent with protection and preservation of the ground water resources, hereby declares **whole of South and South-West districts of NCT Delhi** as 'Notified Areas' and imposes prohibition and restriction in these districts on the construction and installation of any new structure for extraction of ground water resources, to avoid further depletion and deterioration in water quality in the said districts.*

***Further, henceforth. no person/organization/agency (Govt. or Non-Govt.) shall undertake any scheme/project of ground water development and management in the above-said districts without prior permission of the Authority.** Any contravention of the above notice shall be dealt with in accordance with the provisions of Environment (Protection) Act. 1986” (emphasis added)*

84. CGWA issued **Public Notice no. 2 of 2006** on the **subject “Declaration of “Over-Exploited Areas” for registration of ground water abstraction structures”** relevant part of which reads as under:-

**“PUBLIC NOTICE NO. 2 OF 2006**

**DECLARATION OF “OVER-EXPLOITED AREAS” FOR REGISTRATION OF GROUND WATER ABSTRACTION STRUCTURES.**

*Whereas the Central Government constituted the Central Ground Water Board as an Authority (hereinafter to as the*

*Authority under sub-section (3) of the Environment (Protection) Act, 1986 (29 of 1986) (herein referred to as the said (Act) vide notification of the Government of India in the Ministry of Environment and Forests number S.O. 38 (E) dated the 14<sup>th</sup> January, 1997, as amended from time to time, for the purposes of regulation and control of ground water development and management in the whole of India;*

*And whereas the Central Government have authorized the Authority to issue directions under section 5 of the said Act. In writing, to any person, officer or any authority and such person, officer or authority shall be bound to comply with such direction;*

*And whereas, the Authority, based on ground water resources assessment undertaken by Central Ground Water Board in consultation with State Governments, have identified certain areas in the states of Andhra Pradesh, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, National Capital Territory certain draft proposals for the purpose of Delhi, and Tamil Nadu as “Over-exploited areas” where ground water abstraction is more than the average annual replenishment of ground water resources and the ground water level in these areas have also shown continuous decline over the areas;*

*And whereas, certain draft proposals for the purpose of issuing directions by the Authority to the State authorities or officers, in order to regulate the ground water abstraction, and requiring registration of all such abstraction structures including open-wells, tubewells, borewells in the areas specified in the said Schedule were published vide Public Notice No. 4/2005 dated 19/20.12.2005 as required under rule 4 of the Environment (Protection) Rules, 1986, for inviting objections and suggestions from the public likely to be affected thereby, till the expiry of a period of forty five days from the date of publication of the said public notice;*

*And whereas, the Authority has considered all objections and suggestions received by it in this regard.*

*Now, therefore, the Authority, in exercise of the powers conferred by Section (5) of the Environment (Protection) Act, 1986 (29 of 1986) read with paragraph 2 of the above said notification number S.O. 38 (E), hereby issues the following directions namely:-*

*1. The Chief Officer-in-Charge of Revenue district (whether called as Collector, Deputy Commissioner or by any other name) for areas notified in the State of Haryana, Karnataka, Madhya Pradesh and Maharashtra; in the State of Tamil Nadu, the Chief Engineer WRO/PWD, State Ground and Surface Water Resources Data Center, for the areas notified in the State of Tamil Nadu and **the Chief Executive Officer, Delhi Jal Board, for the areas notified in the National Capital Territory of Delhi** shall registered all the existing*

*groundwater abstraction structures including wells, tube-wells, borewells located in the areas so specified in the Schedule in the proforma given in the Annexure to this public notice within the period of nineteen days from the date of publication of this final notice;*

*In the State of Andhra Pradesh, the Andhra Pradesh state Water, Land and Trees Authority, constituted under Section 3 of the Andhra Pradesh, Land, Water and Trees Act, 2002 (Andhra Pradesh Act, 10 of 2002), for the areas to the State of Andhra Pradesh; in the State of Gujarat, the Gujarat State Ground Water Authority constituted vide notification No. GWR/1095/6/I-1/J-1 dated 19.9.2001, for the areas notified for the State of Gujarat; in the State of Kerala, the Kerala State Ground Water Authority constituted under section 3 of the Kerala Ground Water (Control and Regulation Act, 2002 for the areas notified in the State of Kerala; shall registered all the existing ground water abstraction, structures including wells, tube-wells, bore-wells located in the areas as specified in the said schedule in the proforma given in the Annexure to this public notice within a period of nineteen days from the date of publication of this final notice.*

*2. The Chief Officer-in-Charge of Revenue District or the concerned State Ground Water Authorities as the case may be, shall submit a copy each of the performa received by it to the Authority within a period of thirty days from the date of such registration.*

***3. Every owner of a ground water abstraction structures including wells, tube-wells, bore-wells located in the areas as specified in the said schedule shall register such structure with the concerned Chief Officer-in-Charge of Revenue district or the State Ground Water Authority, as the case may be in the proforma given in the Annexure and in the manner specified in direction1;***

***4. Nothing in these directions shall apply to any owner of non-energized dug-well or bore-well fitted with hand pump used solely for drinking and domestic purpose.***

SCHEDULE

<b>Serial Numb er</b>	<b>State</b>	<b>District/Mandal /Block/Municipal Corporation areas</b>	<b>District</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Andhra Pradesh	1. Armur Mandal	Nizamabad
		2. Husnabad Mandal	Karimnagar
		3.Bachannapet Mandal	Warangal
2.	Gujarat	1. Anjar	Kachchh

		2. Bhachau	Kachchh
		3. Mandvi	Kachchh
		4. Mangrol	Junagarh
		5. Porbandar	Porbandar
3.	Haryana	1. Mahendergarh	Mahendergarh
		2. Farukh Nagar	Gurgaon
4.	Karnataka	1. Anekal	Bangalore (Urban)
		2. Bangalore (North)	Bangalore (Urban)
		3. Bangalore (South)	Bangalore (Urban)
5.	Kerala	1. Kasaragod	Kasaragod
		2. Kodungallur	Trissur
6.	Madhya Pradesh	1. Sanwer	Indore
		2. Malhargarh	Mandsaur
7.	Maharashtra	1. Yawal	Jalgaon
		2. Raver	Jalgaon
8.	National Capital Territory of Delhi	1. East District	East District
		2. North Delhi District	North Delhi District
		3. North East District	North East District
		4. North West District	North West District
		5. West Delhi District	West Delhi District
9.	Tamil Nadu	1. Chengam	Tiruvannamalai
		2. Thuraiyur	Tiruchirappalli
		3. Thalaivasal	Salem
		4. Gangavalli	Salem

(emphasis added) ”

Report Dynamic Ground Water Resources of NCT, Delhi as on March 2023

85. Central ground Water Board and Department of Urban Development, Government of NCT, Delhi took up the task of estimating the dynamic ground water resources of NCT, Delhi annually based on GEC 2015 methodology. The re-estimation of ground water resources as on 2023 was carried out using the methodology recommended by

Ground Water Estimation Committee (GEC-2015) and the updated data which was provided by various State and Central Government agencies. The estimation was done considering each Tehsil (Revenue) Sub-division as assessment unit. The current status of ground water development is reflected in the category of various Tehsils, which are assigned taking into consideration both the stage of ground water development and the trend of ground water levels. In the **“Report Dynamic Ground Water Resources of NCT, Delhi as on March 2023”** published by Central Ground Water Board State Unit Office, Delhi Department of Water Resources, River Development & Ganga Rejuvenation, Ministry of Jal Shakti in October 2023 the information has been tabulated in the beginning as under:-

**“DYNAMIC GROUND WATER RESOURCES OF  
NCT OF DELHI  
As on March, 2023  
  
AT A GLANCE**

1	Total Annual Ground Water Recharge	38,152.55 (ham)
2	Annual Extractable Ground Water Resources	34,449.23 (ham)
3	Annual Ground Water Extraction	34,150.55 (ham)
4	Stage of Ground Water Extraction	99.13 %

**CATEGORISATION OF ASSESSMENT UNITS (TEHSILS)**

S. No.	Category	Assessment Units
1.	Safe	5 (14.7%)
2.	Semi Critical	4 (11.8%)
3.	Critical	12 (35.3%)
4.	Over Exploited	13 (38.2%)
	<b>Total</b>	<b>34</b>

86. In the above said report results of groundwater resources estimation 2023 are given as under:-

**“7.4. Results of Groundwater Resources Estimation 2023**

#### **7.4.1. Annual Groundwater Recharge**

*The annual groundwater recharge includes the components of rainfall recharge and recharge from other sources like canal/drain seepage, return flow from irrigation, seepage from domestic water supply and recharge from water conservation structure. The Annual Groundwater Recharge for NCT Delhi 2022 is estimated as 38152.55 ham. Assessment unit wise details of estimation are presented in Table 19 (column 4 to 8).*

#### **7.4.2. Annual Extractable Groundwater Recharge**

*The annual extractable groundwater recharge as defined in GEC 2015 methodology, involving component of monsoon & non-monsoon recharge and excluding component for natural discharge for the environment, following GEC 2015 norms has been estimated for NCT Delhi is 34449.23 ham. Assessment unit wise details of estimation are presented in Table 19 (column 10).*

#### **7.4.2. Annual Groundwater Extraction**

*During the year under report, almost all departments & Institutions of NCT Delhi have provided geo-referenced extraction data which has been further distributed over Tehsil layer by CGWB to find out tehsil wise extraction. The running hour and discharge have been averaging out as demand of Software. Industrial extraction data was not provided and have been considered on pro rata basis.*

*The total ground water extraction as defined in GEC 2015 methodology, involving component of domestic ground water extraction, irrigation extraction and industrial extraction has been estimated for NCT Delhi is 34 ham. Assessment unit wise details of ground water extraction is presented in Table 19 (Column 11 to 14).*

#### **7.5. Stage of Groundwater Extraction and Categorization of Assessment Units**

*The Stage of Ground Water Extraction as on 2023 in NCT Delhi varies from 61% in Rohini Tehshil in North West District to 153% in Vasant Vihar tehshil of New Delhi Distrct. The overall Stage of Groundwater Extraction in NCT Delhi as on 2023 is 99%. The information on Stage of Ground Water Extraction is given in table 19 (column 17).*

*As per recommendation of GEC 2015 methodology, the Dynamic Groundwater Resources (fresh quality) be planned for future ground water management. Out of 34 new assessment units of NCT Delhi, 5 are categorized as 'Safe', 4 as 'Semi Critical', 12 as 'Critical' and rest 13 as 'Over Exploited'. A summarized data on categorization all 34 assessment units of NCT Delhi is presented in Table 19 (column 18). A map showing categorization of assessment units (Tehsils of NCT Delhi) is presented in Figure 39.*

7.6. Annual Allocation for Domestic use and Net Ground Water Availability for future use

Annual Allocation for Domestic use for 2025 has been estimated as 27570.3 ham, for entire NCT Delhi. The Assessment unit wise Annual Allocation for Domestic Use as on 2025 is presented in Table 19, column 15. The Net Ground Water Availability for future use in NCT Delhi is 2870 ham (Table 19, column 16).”

87. The categorization of assessment units in NCT of Delhi given in **National Compilation on Dynamic Ground Water Resources of India, 2023** published by **Central Ground Water Board** is reproduced as under:-

DYNAMIC GROUND WATER RESOURCES OF INDIA, 2023												
DELHI												
S. No	Name of District	Total No. of Assessed Units	Safe		Semi Critical		Critical		Over Exploited		Saline	
			No.	%	No.	%	No.	%	No.	%	No.	%
1	North	3	-	-	1	33.33	1	33.33	1	33.33	-	-
2	South East	3	-	-	-	-	3	100	-	-	-	-
3	South West	3	1	33.33	-	-	1	33.33	1	33.33	-	-
4	East	3	-	-	-	-	3	100	-	-	-	-
5	Nazul Land	1	1	100	-	-	-	-	-	-	-	-
6	South	3	-	-	-	-	1	33.33	2	66.67	-	-
7	Central	3	1	33.33	-	-	1	33.33	1	33.33	-	-
8	New Delhi	3	-	-	-	-	-	-	3	100	-	-
9	North West	3	2	66.67	1	33.33	-	-	-	-	-	-
10	West	3	-	-	1	33.33	1	33.33	1	33.33	-	-
11	North East	3	-	-	1	33.33	-	-	2	66.67	-	-
12	Shahdara	3	-	-	-	-	1	33.33	2	66.67	-	-



	Total	34	5	14.71	4	11.76	12	35.29	13	38.24	-	-
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**Delegation of power under 5 of the Environment (Protection) Act, 1986 to Lieutenant Governor, NCT of Delhi vide notification number S.O. 667 (E) dated 10.09.1992**

88. The Central Government authorized the Lieutenant Governor, NCT of Delhi vide **notification number S.O. 667 (E) dated 10.09.1992** to exercise powers under section 5 of the Environment (Protection) Act, 1986 for NCT of Delhi and to issue directions thereunder, to any person, officer or any authority for the closure, prohibition or regulation of any operation or process or stoppage or regulation of the supply of electricity or water or any other services.

**Directions issued vide notification no. F8(348)/EA/Env/09/1041-1061 dated 18.05.2010**

89. In exercise of power conferred by section 5 of the Environment (Protection) Act. 1986 read with the Ministry of Home Affairs, Government of India Notification number S.O. 667 (E) bearing F.No. U-11030/J/ 91- UTL dated 10.09.1992 and in supersession of directions issued vide Order Nos. F8(348)/ EA/Env/09/14433-14451 and F8(348)/EA/Env/09/14452-14470 dated 30.03.2009 as well as Order Nos. F8(348)/EA/Env/09/555-582 and F8(348)/EA/Env/09/583-610 dated 30.04.2009, the Lt. Governor of NCT of Delhi vide **notification number. F8(348)/EA/Env/09/1041-1061 dated 18.05.2010** issued the following directions:-

***“(1) In the whole of the National Capital Territory of Delhi, no person, group, authority, association or institution shall draw ground water through bore-well or tube-well (both new as well as existing and drawing ground water without permission of Central Ground Water Authority) for domestic, commercial, agricultural***

**and or industrial uses without the prior permission of the "Competent Authority" that is to say, the Delhi Jal Board or the New Delhi Municipal Council as the case may be.**

**2. The issue of grant of permission for borewell/tubewell shall be dealt by Competent Authority through the Deputy Commissioner (Revenue) of each revenue area, GNCTD, who is hereby appointed as "Authorized Officer" for the purpose of regulation of ground water development and management in the respective revenue areas under the jurisdiction.**

**3. The Deputy Commissioner (Revenue) of each revenue area, GNCTD, who is the Authorized Officer, are further delegated with the power of dealing with other issues such as checking violation and sealing illegal wells, launching of prosecution against offenders etc. including grievance redressal related to ground water, based on the recommendations of the Advisory Committee.**

**4. An Advisory Committee in each nine revenue areas of the National Capital Territory of Delhi is hereby constituted under the Chairmanship of the Deputy Commissioner of each revenue area comprising of the following members:**

- 1. Deputy Commissioner (Revenue), of concerned revenue area : Chairman;**
- 2. Director (Panchayat): Member;**
- 3. Chief Engineer nominated by Delhi Jal Board: Member;**
- 4. Representative of Central Ground Water Board, New Delhi : Member;**
- 5. Representatives of local bodies having jurisdiction over the area: Member;**
- 6. Representative of Department of Environment, GNCTD/DPCC : Member**
- 7. Representative of reputed NGO in the field of Groundwater Management nominated by the Deputy Commissioner concerned: Member;**

**(5) The Advisory Committee shall meet atleast once in every month to take up various issues related to ground water regulation and management in the concerned revenue area and give recommendations to the Deputy Commissioner for further consideration and enforcement. Only the recommended groundwater boring cases shall be forwarded to Competent Authority for grant of permission.**

**(6) In emergent violation cases such as illegal groundwater drawl, the Authorized Officer, subject to his satisfaction, shall ensure the discontinuation of the same by the seizure of drilling rig, sealing of tubewell/borewell if so constructed and also disconnection of electricity supply to the energized tubewell even if it is through DG sets, without waiting for recommendation of Advisory Committee. However the details of such action shall be placed by the Authorized Officer in the next Advisory Committee meeting.**

**(7) If any person, group, authority, association or institution, intends to draw ground water through borewell or tube-well(both new as well as existing and drawing ground water without permission of Central Ground Water Authority), he shall take prior permission from Competent Authority. Such permission shall be obtained through submission of an application to Zonal Offices of the Competent Authority, in the form specified by the Competent Authority.**

*(8) The Executive Engineer of the Competent Authority, incharge of the concerned area shall recommend the case, based on the facts on the ground, to the concerned Deputy Commissioner (Revenue) of the revenue area who shall issue orders in the light of the recommendations of Executive Engineer of the Competent Authority and the Advisory Committee.*

*(9) If the plot size of the building is more than 200 sq. meters, the permission to draw ground water through borewell or tubewell (both new as well as existing and drawing groundwater without permission of Central Ground Water Authority) shall be subject to the condition that the occupier or owner of the said plot or building shall install rain water harvesting system in such building.*

*(10) The permission to draw ground water through borewell or tubewell (both new as well as existing and drawing ground water without permission of Central Ground Water Authority) for commercial and or industrial use shall be subject to the condition that the concerned person or authority shall install the rain water harvesting structure, and shall ensure reuse of the water in horticulture or cooling or toilet flushing, etc after proper treatment of waste water or any other suggestions given by the concerned Advisory Committee.*

*(11) Each of the Advisory Committee in addition to their above mentioned statutory duties, will inform Delhi Pollution Control Committee about any water pollution occurring, due to extraction of water from tube-well or bore-well so that necessary action may be initiated under the provision of the Water (Prevention and Control of Pollution) Act, 1974.*

*(12) The permission of borewell installation for agricultural*

*purpose may be granted to genuine agriculturists by the Advisory Committee under concerned Deputy Commissioner (Revenue) based on the recommendation of Block Development Officer and Agriculture Department / Irrigation & Flood Control Department, Govt of NCT of Delhi. Agriculture activity may be verified from Khasra Girdawari documents and also based on actual evaluation.*

**(13) Any violation of the above directions shall be punishable under section 15 of the Environment (Protection) Act, 1986 (29 of 1986)."**

90. We have gone through notification no. F8(348)/EA/Env/09/1041-1061 dated 18.05.2010 and we find that the issue of grant of permission for borewell/tubewell is to be dealt with by Competent Authority through the Deputy Commissioner (Revenue) of each revenue area in GNCTD. It may also be added here that as per the above said notification application for grant of permission for borewell/tubewell is to be submitted in the Zonal Offices of the Competent Authority in the form specified by the Competent Authority. It may also be added here that the Executive Engineer of the Competent Authority in-charge of the concerned area is required to recommend the case based on the facts to the concerned Deputy Commissioner (Revenue) of each revenue area, GNCTD who is to issue the orders in the light of the recommendation of the Executive Engineer of the Competent Authority and the Advisory Committee.

91. Even though, in the above said notification the term Competent Authority is not defined but in view of Section 9 (1) (b) of the Delhi Jal Board Act, 1998. DJB is and has to be considered to be the Competent Authority for the purpose of regulation and management of the groundwater in the NCT of Delhi. In SoP titled as **"Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/tubewells"** also DJB is mentioned to be

the Competent Authority in the entire NCT of Delhi except areas under New Delhi Municipal Committee and Delhi Cantonment Board. However, we are of the considered view that it will be appropriate, if the above said notification is appropriately amended to define the expression Competent Authority to remove any confusion in this regard.

92. Further on a reading of para 3 and 6 of the above said notification there appears to be some confusion as by para 3 the Deputy Commissioner (Revenue) of each revenue area, GNCTD is delegated with the power of *inter alia* sealing illegal wells based on the recommendations of the Advisory Committee but as per para 6 in emergent violation cases the Deputy Commissioner (Revenue) of each revenue area in GNCTD is required to ensure discontinuation of the illegal ground water drawl by seizure of drilling rig, sealing of tubewell/borewell if so constructed and discontinuation of electricity supply to the energized tubewell even if it is through DG sets, without waiting for recommendation of Advisory Committee. In our considered view illegal drawl of ground water requires immediate action of sealing of the borewell by the Deputy Commissioner (Revenue) of revenue area in question without waiting for recommendation of the Advisory Committee in this regard and the desirability of making appropriate amendment in para 3 of the above said notification is also required to be considered.

93. We, accordingly, request Hon'ble Lieutenant Governor of Delhi to look into the matter for such action as may be considered appropriate.

**Directions in OA no. 685/2019, Rakesh Kumar Vs. Government of NCT of Delhi & Ors.**

94. In **OA no. 685/2019, Rakesh Kumar Vs. Government of NCT of Delhi & Ors.** this Tribunal took suo-moto cognizance on a letter petition complaining that certain persons are running water plants by illegally extracting the same in different places namely Kashmiri Gate, Tilak Bazar, Sadar Bazar, Azad market, Chandni chowk etc. This Tribunal constituted a Joint Committee comprising DJB and NDMC which submitted action taken report that out of 12 addresses given in the said report, 9 were found extracting ground water illegally, one premises was found locked, and in 3 premises no bore well was found. Another report dated 03.04.2020 was submitted by DJB about 11 locations out of which at 4 places no bore-well was found and in 7 locations, bore-wells were either sealed or running illegally. Both the reports were considered by this Tribunal on 15.05.2020 and noticing that bore-wells were illegally existing and operating and no remedial action was taken by Statutory Regulators, this Tribunal deprecated the inaction on the part of Statutory Regulators and passed a detailed order referring to directions issued in earlier matters dealing with similar violations. Operative part of the order in para 8 reads as under:

*“8. In view of the above, we reiterate our directions for devising suitable effective mechanism for preventing extraction of ground water by way of unauthorized tube - wells and wherever such illegalities found, prompt coercive measures must be taken. Illegal extraction of ground water is a criminal offence under the EP Act. Compensation must be recovered on the formula already laid down. It will be appropriate that Chief Secretary, Delhi calls a meeting of all concerned within one month from today and oversees preparation of an appropriate SOP for fixing responsibility on the subject. Ministry of Jal Shakti may also take necessary steps in the matter.*

*A copy of the order be forwarded to the Chief Secretary, Delhi, Secretary, Ministry of Jal Shakti, Govt. of India, DJB, CPCB, DPCC, Commissioners of all Municipal Corporation of Delhi, all the District Magistrates in Delhi and Justice S.P. Garg, former Judge of Delhi High Court.”*

95. Pursuant to above referred order status report dated 11.07.2020 was filed by DPCC. In status report dated 11.07.2020 DPCC submitted that in compliance of order of Tribunal, a meeting was taken by the Chief Secretary, Delhi on 12.06.2020 through video conferencing; the meeting was attended by Municipal authorities, DJB, DPCC and District Magistrates of Delhi; SOP has since been finalized and has been brought into effect; in SOP clear responsibilities have been assigned to various agencies as DJB/local bodies and block development officers for identification of illegal borewells depending on the nature of use; Deputy Commissioners (Revenue) of the districts have been assigned role of supervision of checking the violation and closure of illegal borewells and inter departmental advisory committee was constituted for each district to assist Deputy Commissioners. It has been observed that often drilling machines/rigs are used to dig illegal borewells, the mechanism for their regulation including registration and prior permission for movement and deployment has also been incorporated in the SOP.

**SOP titled as “Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/tubewells”**

96. The relevant part of the SOP titled as **“Regulation of extraction of ground water, closure, prohibition of illegal activities relating to use of borewells/tubewells”**, which was also reproduced by this Tribunal in its order dated 13.07.2020 passed in above mentioned case, reads as under:-

*“1. Standard Operating Procedure (SOP): 1. Drawing ground water through borewell or tubewell for domestic, commercial, agricultural or industrial uses without the prior permission of the "Competent Authority" will be considered illegal and without authority of law. **The Competent Authority is Delhi Jal Board in the entire NCT of Delhi except areas under the***

***New Delhi Municipal Council (NDMC) and Delhi Cantonment Board (DCB). For borewells/tubewells for agricultural uses, the information*** on illegal extraction of ground water will be provided by the BDO to the Advisory Committee.

2. *The Deputy Commissioner (Revenue) of each district, who is the Authorised Officer under the direction dated 18.05.2010 is required to supervise checking violation i.e. detection of illegal wells and closure thereof through the SDMs.*

3. *An Advisory Committee in each of the revenue districts with representatives from DJB, CGWB, 'ULBs, DPCC, reputed NGO has been constituted to assist the DC in detecting illegal borewells for taking action. Accordingly, the advisory committee will prepare a list of such illegal borewells every month by taking information from all available sources including Revenue Officers, representatives of Delhi Jal Board, ULBs, DPCC, NGOs and other relevant sources. Proactive action needs to be taken by the above representatives in detection of illegal extraction of ground water and furnishing the same to the Advisory Committee promptly. Superintending Engineer (SE), DJB is the Member Secretary of Advisory Committee, and he is required to ensure timely conduct of the meeting and also to record the proceedings.*

4. ***The Delhi Jal Board has already identified 19661 such illegal borewells on which action is being taken and 7248 units have already been closed down by the district authorities. The remaining units to be closed down on priority as these have been already identified and the process to be completed within a period of three months. A weekly progress report district wise will be submitted to the Divisional Commissioner for monitoring.*** *The illegal borewells/tubewells other than the list provided by DJB will be taken up for closure thereafter. Further, in the first phase, action against borewells/tubewells engaged in commercial exploitation of ground water will be taken.*

5. *In case the illegal borewell/tubewell is already constructed/ operating, the same will be closed and the electricity supply to the energized tubewell will be disconnected even if it is through DG sets. In case of the illegal borewell/tubewell is under construction, then the drilling rig will also be sealed.*

6. *For the purpose of closure of illegal borewells/tubewells, joint action teams under the supervision of the concerned SDM will be formed for ensuring effective coordination. The joint team will comprise field functionaries from DJB, DISCOMs and Local Police.*

7. ***The Deputy Commissioner who is the chairperson of the Advisory Committee will forward the details of illegal borewells to the DPCC for levying Environmental Compensation (EC) for illegal extraction of ground water.***



**8. The DPCC will assess EC as per the methodology devised by CPCB in its report dated 26.06.2019. After assessment of the EC, demand will be raised and in cases of non-recovery, SDM to recover EC as arrears of land revenue.**

9. All the drilling machines/rigs utilized for boring purposes in Delhi are required to obtain registration from the offices of Deputy Commissioners of the concerned districts. The movement of drilling machines/rigs will be allowed for authorised drilling to the identified location and for specified duration by the concerned Deputy Commissioner.

10. The Delhi Police and Transport Department of Govt. of NCT of Delhi will allow movement of the drilling machines/rigs having the prior permission for such movement from the concerned Deputy Commissioner. The concerned Deputy Commissioner (Revenue), Deputy Commissioner of Police and Deputy Commissioner, Enforcement of Transport Department will be responsible for strict compliance of the guidelines regarding movement of drilling machines/rigs.

11. As provided in the direction dated 18.05.2010 issued under Section 5 of the Environment (Protection) Act, 1986 the Deputy Commissioner of each district will launch prosecution against the offenders related to ground water extraction on the recommendations of the Advisory Committee.

12. The concerned Advisory Committee of each district is responsible to ensure that there is no illegal extraction of ground water in the district.”

97. In status report dated 11.07.2020 filed by DPCC it was also mentioned that during meeting held on 12.06.2020 by Chief Secretary, Government of NCT of Delhi, it was informed that **DJB has already identified 19661 illegal borewells against whom action is being taken and 7248 units were already closed by the district authorities. Report said that remaining units would be closed down on priority as they were already identified and process would be completed within a period of three months.**

98. This Tribunal considered the report on 13.07.2020 and found that action was not taken as per the provisions of SOP. This Tribunal directed that further action be taken which may be overseen by the

DPCC and compliance status as on 31.12.2020 be brought on record by 15.01.2021. In pursuance of order dated 13.07.2020, an action taken report dated 03.09.2021 was filed by DPCC relevant part of which reads as under:

- “2. the Chief Secretary, Delhi decided that Delhi Jal Board will prepare the list of illegal borewells, Revenue Department will supervise the closure action of the illegal borewell and DPCC was assigned the task to impose EDC on the violators as per the list provided by DJB.*
- 3. That Revenue Authorities provided the details of action taken by them, which is as follows:*

<b>District</b>	<b>ATR (Borewell sealed till 31.08.2021)</b>		
	<i>No. of illegal borewells identified in the district</i>	<i>Action taken on illegal borewells till 31.08.2021</i>	<i>No. of illegal borewells to be sealed</i>
<i>North</i>	<i>761</i>	<i>748</i>	<i>13</i>
<i>East</i>	<i>116</i>	<i>116</i>	<i>0</i>
<i>South West</i>	<i>6681</i>	<i>1410</i>	<i>5271</i>
<i>South East</i>	<i>297</i>	<i>231</i>	<i>66</i>
<i>North West</i>	<i>8299</i>	<i>5814</i>	<i>2485</i>
<i>Shahdara</i>	<i>552</i>	<i>552</i>	<i>0</i>
<i>New Delhi</i>	<i>75</i>	<i>75</i>	<i>0</i>
<i>Central</i>	<i>611</i>	<i>412</i>	<i>199</i>
<i>West</i>	<i>2185</i>	<i>1793</i>	<i>392</i>
<i>North East</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>South</i>	<i>84</i>	<i>84</i>	<i>0</i>
<b>Total</b>	<b>19661</b>	<b>11235</b>	<b>8426</b>

*4. DPCC on its part has taken following action to assess the Environmental Compensation to be imposed on the basis of information received from DJB and Revenue Authorities:*

- (i) Show cause notices for imposition of EDC issued : 18315*
- (ii) EDC amount proposed in above mentioned SCNs: 70,65,80,000/-*
- (iii) EDC amount imposed: 70,65,80,000/-*
- (iv) EDC amount received: Rs. 23,80,000/-*
- (v) EDC amount yet to be recovered: 70,42,00,000/-*

*Due to continuing pandemic, the process of recovery is very slow and Revenue authorities are not able to spare their manpower for taking action.*

*5. That many units had mentioned their inability or delay*

*in depositing the EDC due to Covid-19 Pandemic and low economic activity during last few months since March 2020. They have also mentioned that unprecedented health crises and emergency coupled with steep downfall in the revenue earning due to lockdown which has brought down the economic activities to the lowest level. In case of remaining units, recovery certificates was issued to the concerned District Magistrate/SDMs, to recover the amount as arrears of land revenue from the remaining units which have not deposited Environmental Damages Compensation (EDC).”*

99. In the above mentioned OA this Tribunal considered the report on 25.02.2022 and observed that **huge environmental compensation of more than Rs. 70 Crores was computed but a negligible amount of Rs. 23.8 lakhs was recovered. No action for prosecution was taken against violators. Further, out of 19661 illegal bore wells, identified in various Districts of Delhi, only 11235 were sealed and 8420 remained to be sealed.** No reason was given as to why all illegally running bore wells were not sealed. An additional action taken report dated 02.11.2021 was filed without much improvement as out of 19661 illegal bore wells identified by DJB, action was taken by Revenue Authorities against 11364 bore wells only till that date. This **Tribunal considered the situation to be disgusting/disappointing due to snail pace level of activities on the part of statutory regulators which clearly indicated dereliction of duties.** Vide order dated 25.02.2022 this Tribunal disposed of above mentioned OA **while directing the authorities to take appropriate remedial action against all the illegally running bore wells identified by DJB and submit a complete compliance report after six months and a copy of the order was ordered to be forwarded to DJB, DPCC and NDMC by e-mail for compliance.**

100. **As per written report submitted by the Registry no such**

**report was filed by DJB, DPCC and NDMC in compliance of order dated 25.02.2022 passed in O.A. No. 685/2019 titled as Rakesh Kumar Vs. Government of NCT of Delhi & Ors.**

**Non Implementation of legal regime/environmental laws/norms.**

101. This Tribunal noticed non-compliance and non-implementation of the legal regime and in view thereof vide order dated 04.12.2023 required the CEO, DJB to file status report giving requisite information in detail in tabular format with respect to the following aspects:-

- i. District wise number of illegal borewells identified;
- ii. District wise number of illegal borewells which have been sealed/closed;
- iii. District wise number of occupiers/proprietors of illegal borewells on whom penalty/EDC has been imposed;
- iv. District wise number of occupiers/proprietors of illegal borewells from whom penalty/EDC has been recovered;
- v. District wise number of occupiers/proprietors of illegal borewells from whom penalty/EDC is yet to be recovered;
- vi. District wise number of illegal borewells which are yet to be sealed/closed; and
- vii. District wise number of occupiers/proprietors of illegal borewells on whom penalty/EDC is yet to be imposed.

102. DJB filed Supplementary status report in **M.A. No. 24/2023 in O.A. No. 33/2022 Ganesh Prasad Vs. Government of NCT of Delhi & Ors.** vide email dated 13.04.2024 which reads as under:-

**“SUPPLEMENTARY STATUS REPORT ON BEHALF OF DJB  
IN FURTHERANCE TO REPORT DATED 03.02.2023 AND IN  
COMPLIANCE OF ORDER DATED 05.02.2024**

X

X

X

*10. In continuation to the earlier status report dated 03.02.2024 and in compliance of the order dated 05.02.2024, DJB is submitting the requisite information of the illegal borewells as received from the Concerned DMs for facility of reference in the tabular form below :-*

<i>DMs</i>	<i>District Wise Number of Illegal Borewells Identified (As per previous data submitted , referred by Hon'ble NGT vide Order against hearing dated 4.1.24)</i>	<i>District Wise number of illegal borewells which have been Sealed /closed</i>	<i>District wise number of occupier/ Proprietor of illegal borewells on whom penalty/ EDC has been imposed</i>	<i>District wise number of occupier/ Proprietor of illegal borewells from whom penalty/ EDC has been recovered</i>	<i>District wise number of occupier/ Proprietor of illegal borewells from whom penalty/ EDC is yet to be recovered</i>	<i>District wise number of illegal borewells which are yet to be sealed/ closed</i>	<i>District wise / Proprietor s of illegal borewells on whom penalty/ EDC is yet to be imposed</i>	<i>Remarks</i>
<b>COL.1.</b>	<b>COL.2</b>	<b>COL.3</b>	<b>COL.4</b>	<b>COL.5</b>	<b>COL.6</b>	<b>COL.7</b>	<b>COL.8</b>	<b>COL.9</b>
<i>North</i>	728	233	NIL	NIL	NIL	119	15	As per report submitted, a total of 376 borewells contains duplicate entries. non-traceable.
<i>East</i>	116	110	110	87	23	6	6	
<i>South West</i>	6681	2434	NIL	NIL	NIL	4247	NIL	
<i>South East</i>	297	183	NIL	NIL	NIL	57 ( 03 nos. of borewells show DJB permission )	130	30 Borewells not identified physically
<i>North West</i>	9128	5901	Information not available	Information not available	Information not available	3227	Information not available	Report is compiled on the basis of reports received from Kanjhawala, Rohini and Saraswati Vihar sub divisions, after reconciliation with concerned Executive Engineer of DJB. Details of penalty/ EDC regarding illegal borewells already sealed by DJB is not available
<i>Shahdara</i>	552	358	NIL	NIL	NIL	NIL	NIL	SDM(Vivek Vihar)Total Borewell = 178 Borewell Sealed = 117 Blank = 2 Water Tank Supply = 3 Permission CGWA = 5 Not visited =1 Not operational = 1 No Borewell = 29 Locked = 4 Already cut off = 16 SDM(Seemapuri) Total Borewell = 374 Borewell Sealed = 241 Duplicated Entries = 22 Incomplete Address/Non traceable =20 DJB connection found in place of borewell = 61 Borewell not found = 30 SDM(Shahdara) No Address pertains to Sub- list Division (Shahdara) as per the list of addresses provided by the Delhi Jal Board. Hence, report may be treated as Nil.
<i>New Delhi</i>	75	75	Report not Received from DM	Report not Received from DM	Report not Received from DM	NIL	Report not Received from DM	Report not received from DM (earlier data)

<b>Central</b>	<b>676</b>	<b>246</b>	<b>Not pertains to DM</b>	<b>Not pertains to DM</b>	<b>Not pertains to DM</b>	<b>161</b>	<b>Not pertains to DM</b>	<b>Civil line- Nil Kotwali- 1)Court stay on 160 borewells 2) 85 borewells not identified/ found removed physically 3)02 properties were found sealed 4)01 matter has been sent to DJB for clarification Karol Bagh- 1)21 borewells not identified/ found removed physically 2)46 borewells balanced to be seal 02 no of borewells does not fall under the jurisdiction District Central Hence total comes to 676+2=678</b>
<b>West</b>	<b>2185</b>	<b>1573</b>	<b>Data to be provided by DPCC to DJB</b>	<b>Data to be provided by DPCC to DJB</b>	<b>Data to be provided by DPCC to DJB</b>	<b>361</b>	<b>Data to be provided by DPCC to DJB</b>	<b>SDM(Punjabi Bagh) 65 Duplicate + 18 not found =83 SDM(Rajouri Garden) 119 Not found SDM(Patel Nagar) -33 Not found + 16 Not pertain to Patel Nagar sub division=49 Total=251</b>
<b>North East</b>	<b>Nil</b>	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>Not Applicable</b>	<b>There are no illegal borewells in identified list of DJB for sealing in District North East.</b>
<b>South</b>	<b>84</b>	<b>84</b>	<b>EDC report pertains to DPCC</b>	<b>EDC report pertains to DPCC</b>	<b>EDC report pertains to DPCC</b>	<b>NIL</b>	<b>EDC report pertains to DPCC</b>	<b>In addition to original survey of 84 borewells, 16 additional borewells have been sealed. Out of 15, EDC has been imposed on 14 borewells and for 02, DPCC has informed that imposing of EDC is under process.</b>
<b>Total</b>	<b>20522</b>	<b>11197</b>				<b>8178</b>		

103. Vide order dated 04.12.2023 this Tribunal directed the DPCC to file status report in tabular format with respect to the following aspects:-

- District wise number of cases in which show cause notices for imposition of EDC have been issued;
- District wise number of cases in which orders for imposition of EDC have been issued;
- District wise number of cases in which orders for imposition of EDC are yet to be issued;
- District wise number of cases in which EDC has been recovered;
- District wise number of cases in which EDC is yet to be recovered;

- vi. District wise number of cases in which reference has been made to Deputy Commissioner (Revenue) for recovery of the EDC;
- vii. District wise number of cases in which reference is yet to be made to Deputy Commissioner (Revenue) for recovery of the EDC;
- viii. How much of EDC amount recovered from the violators has been utilised by DPCC/DJB with requisite details; and
- ix. How much of EDC amount recovered from the violators is yet to be utilised by DPCC/DJB with requisite details.

104. Status report was filed by DPCC in **M.A. No. 24/2023 in O.A. No. 33/2022 Ganesh Prasad Vs. Government of NCT of Delhi & Ors.**

vide email dated 15.04.2024 which reads as under:-

**“STATUS REPORT ON BEHALF OF DELHI POLLUTON CONTROL COMMITTEE WITH RESPECT TO THE ORDER DATED 09.11.2023 , 04.12.2023 and 04.01.2024.**

X X X X

5. That, DPCC has no specific account for Environmental Damage Compensation received for illegal ground water extraction from borewells and DPCC is maintaining Environmental Compensation (EC) fund in a common dedicated account meant for use in the following 10 sub-heads , namely:

1. Installation and running of (O&M) CA.AQM Monitoring Stations,
2. Research & study projects
3. Procurement of instruments & Rent for air Lab €.
- Installation of paper recycling unit in govt. School
5. Monitoring of air pollution at various locations of Delhi
6. Honorariums for oversight cotninittee/Technical consultants
7. Installation of Noise Monitoring station at Delhi
8. Seminars and Conferences
9. IT Expenses (Purchase and Salary IT Resources)
- 10, Advertising charges.

6. That, status report with respect to order dated 04.12.2023 in tabular format is enclosed herewith as Annexure-1. A statement showing the utilisation by DPCC from the amount received as Environmental Compensation (EC) in tabular format is attached herewith as ANNEXURE72. **DPCC spent Rs. 145.23 Lakhs out of the fund recovered as Environmental Compensation.**

7. That with the prior approval of Chief Secretary, Delhi a letter was issued to Divisional Commissioner-Delhi on 08.12.2023 to obtain explanation of the concerned officers who were posted as District Magistrate -(South West) / SDM Dwarka during the relevant period. Copy of the letter dated 08.12.2023 is enclosed herewith as Annexure-3.
8. Thai: further, with the prior approval of Chief Secretary, Delhi a letter was issued to Director, Directorate of Training (UTCS).on 08.12.2023 with a request to develop a training module for 2/3 days period to the officers posted as District Magistrate/ SDM urgently. Copy of the letter dated 08.12.2023 is enclosed herewith as Annexure-4.
9. That, for calculating Environmental Compensation, DPCC asked the details of borwell from- Delhi jai Board with a copy to CO WA .on 25:09.2023 to calculate the- EC as per CPCB formula. In absence of requisite details, a show cause notice.for imposing interim EC in terns of the. office order dated 09.07.2020 was issued on 16.11.2023, whereby granting 07 days time to submit the reply. Show cause notice was also pasted on the gate of property in addition to sent via speed post. No reply was received with respect :to show cause- notice: therefore, direction for imposition of interim EC. was issued on 08.12.2023. As interim EC wasnot deposited, so recovery certificate was issued to SDM (Dwarka) on 11.01.2024. SDM (Dwarka) issued a letter to Sh. Anil Kumar and Sh. Ashish Kumar for depositing EC on 30.01.2024. Copies of the letter dated 11.01.2024 issued by DPCC and 30.01.2024 issued by SDM are collectively enclosed herewith as Annexure-5(Collv)

Status Report w.r.t. Illegal Borewells											
Information											
S. No.	District	District wise number of cases in which show cause notices for imposition of EDC have been issued;	District wise number of cases in which orders for imposition of EDC have been issued;	District wise number of cases in which orders for imposition of EDC are yet to be issued;	District wise number of cases in which EDC is yet to be recovered;	District wise number of cases in which EDC is yet to be recovered;	District wise number of cases in which reference is yet to be made to Deputy Commissioner (Revenue) for recovery of the EDC;	District wise number of cases in which reference is yet to be made to Deputy Commissioner (Revenue) for recovery of the EDC;	How much of EDC amount recovered from the violator s has been utilized by DPCC with requisite details and	How much of EDC amount recovered from the violator s is yet to be utilized by DPCC with requisite details (*)	Remarks
1	North	768	768	Nil	4	764	764	0	-	120000	



2	Nort h – west	9015	9005	Nil	56	8959	8959	0	-	2170 000	In respo nse to SCNs issue d EC amo unt has been depo sited by 10 violat ors
3	Cent ral	616	616	Nil	1	615	615	0	-	1000 00	
4	West	768	768	Nil	6	762	762	0	-	1800 00	
5	Sout h – west	6595	6593	Nil	19	6576	6576	0	-	1270 000	In respo nse to SCNs issue d EC amo unt has been depo sited by 2 violat ors
6	Sout h – East	0	0	Nil	0	0	0	0	-	0	
7	Sout h	0	0	Nil	0	0	0	0	-	0	
8	New Delhi	179	179	Nil	34	145	145	0	-	1500 000	
9	East	161	161	Nil	0	161	161	0	-	0	
10	Nort h East	0	0	Nil	0	0	0	0	-	0	
11	Shah dara	391	391	Nil	1	390	390	0	-	3000 0	
Total		18493	18481	Nil	121	18372	18372	0	-	537000 0	
<p>(*) Delhi Pollution Control Committee has no specific account of Environmental Damage Compensation received for illegal ground water from Borewells and DPCC is maintaining Environmental Compensation (EC) fund in a common dedicated account meant for use in the following 10 sub-heads and an amount of Rs. 145.23 lakhs has been utilized during 2022-2023:-</p> <div><div>(i)</div><div>Installation and Running (Operational and Maintenance CAAQMS,</div><div>(ii)</div><div>Research and Study Project,</div><div>(iii)</div><div>Procurement of instrument and Rent for Air Lab,</div><div>(iv)</div><div>Installation of Recycle unit in Govt. School,</div><div>(v)</div><div>Monitoring of Air Pollution at various locations of Delhi,</div><div>(vi)</div><div>Honorarium of Oversight Committee/Technical Consultants,</div><div>(vii)</div><div>Installation of Noise Monitoring Station at Delhi,</div><div>(viii)</div><div>Seminar and conference,</div><div>(ix)</div><div>IT Expenses (Purchase and Salary IT Resources) and</div><div>(x)</div><div>Advertising Charge/Printing Charges/ Others.</div></div>											

105. Additional status report has been filed by DPCC vide email dated

15.04.2024. The relevant part of the Additional status report is reproduced below:-

***“ADDITIONAL STATUS REPORT ON BEHALF OF DELHI POLLUTON CONTROL COMMITTEE WITH RESPECT.***

X X X X

5. That, in addition to the report dated 07.02.2024, it is most respectfully submitted that, DPCC issued recovery letter dated 11.01.2024 to SDM (Dwarka) for recovery of Environmental Compensation (EC) of Rs. 1,00,000/- (One Lakh only) from Sh. Ajit Kumar & Sh. Ashish Kumar, which was levied by DPCC. SDM (Dwarka) issued notice to Sh. Ajit Kumar & Sh. Ashish Kumar to deposit the same to DPCC account. DPCC has not received EC amount so far. DPCC has sent an email on 12.04.2024 to SDM(Dwarka) requesting the present status of recovery of Environmental Compensation (EC). Reply is awaited from the SDM(Dwarka).

6. That, on the issue of training, a letter was sent to UTCS regarding training to the administrative officers of Revenue Dept & officers of statutory authorities like DJB etc. on 08.12.2023. Email was also sent to UTCS regarding this on 04.04.2024. UTCS vide email dated 05.04.2024 informed that they are planning to conduct a Training on the given topic i.e. "Environmental issues".

106. A perusal of Annexure 1 showed that show cause notices for imposition of EDC were issued in 18493 cases but orders for imposition of EDC were passed in 18481 cases. EDC has been recovered only in 121 cases and recovery of EDC is pending in 18372 cases. The DPCC has not mentioned the total amount of EDC imposed and the total amount of EDC which has been recovered. In Annexure A it has been mentioned that amount of Rs. 53,70,000/- is yet to be utilized by DPCC.

107. In Annexure 2 DPCC has given information regarding expenditure incurred from Environmental Damage Charge w.e.f. 2015-16 to 2023-24 (up to 29.02.2024) and total expenditure incurred up to 29.02.2024 is mentioned to be Rs.19,04,96,464/-. However, the statement shows that

amount of EDC has been spent only on the following:

- 1. Installation and Running (Operational and Maintenance) CAAQMS,**
- 2. Research and Study Project,**
- 3. Procurement of instrument and Rent for Air Lab,**
- 4. Installation of Recycle unit in Govt. School,**
- 5. Monitoring of Air Pollution at various locations of Delhi,**
- 6. Honorarium of Oversight Committee/Technical Consultants,**
- 7. Installation of Noise Monitoring Station at Delhi,**
- 8. Seminar and conference,**
- 9. IT Expenses (Purchase and Salary IT Resources) and**
- 10. Advertising Charge/Printing Charges/Others.**

108. It is evident therefrom that no amount has been spent on conservation/recharge of ground water and creation/rejuvenation of any water body or rain water harvesting facility.

109. This Tribunal observed in order dated 18.03.2024 that not only the report of DPCC is materially deficient but also the remedial measures taken by DPCC by utilization of EDC are grossly inadequate; definitely, something more is required to be done by DPCC for remediation of environmental damage caused and appropriate remedial measures need to be catalogued and implemented. Amount of environmental compensation recovered for illegal abstraction of groundwater ought to be spent on conservation/recharge of ground water and/or creation/rejuvenation of water bodies/rain water harvesting facilities.

110. In compliance with order dated 18.03.2024 passed by this Tribunal, the Chief Secretary, Government of NCT of Delhi convened a meeting of the officers from Delhi Jal Board (DJB), Municipal

Corporation of Delhi (MCD), Delhi Pollution Control Committee (DPCC), Delhi Police, Urban Development Department, Revenue department and other concerned departments on 12.04.2024. **It was decided that the Environmental Damages Compensation collected in respect of illegal ground water extraction shall be utilized through the committee constituted by Hon'ble High Court of Delhi vide order dated 08.04.2024 passed in WP ( C ) No. 7594/2018 and the EC imposed on illegal bore wells will be used by the aforesaid district level committee for the rejuvenation of water bodies.**

**Duty of the Government Officers to comply with the orders of this Tribunal and directions for Prosecution of the defaulting officers**

111. The Central Zonal Bench of this Tribunal disposed of **Miscellaneous Application No. 04 of 2023 (CZ) in Original Application No. 72 of 2021 (CZ), vide order dated 21.08.2023**, holding that the officers of the Chhattisgarh Environment Conservation Board (CECB) had failed to comply with its order dated 03.02.2023 and had, thereby, committed an offence under Section 26 of the National Green Tribunal Act, 2010. The Central Zonal Bench of this Tribunal accordingly directed the Secretary, MOEF&CC to lodge a criminal complaint before the competent Magistrate's Court against Subrat Sahoo, Chairman, CECB, and P. Arun Prasad, Member Secretary, CECB. Aggrieved thereby, both the officers filed Civil Appeal No. 6707 of 2023 and Civil Appeal No. 6920 of 2023 before Hon'ble Supreme Court which were allowed vide order dated 12.08.2024. **Hon'ble Supreme Court observed in its order dated 12.08.2024 that Section 26 rightly provides for penal action being taken against anyone who fails to comply with an order, award and decision of the NGT but this power has to be exercised with care and caution.** In the case on

hand, the delay on the part of the CECB in the given facts does not amount to willful negligence or an abject dereliction of duty on its part in abiding by such directions. Substantial compliance having been achieved, the CECB only sought some more time to make its website more user friendly. As the CECB had achieved full compliance with the directions of the National Green Tribunal, Central Zonal Bench, Bhopal, in its order dated 03.02.2023 in Original Application No. 72 of 2021 (CZ), impugned order dated 21.08.2023 was accordingly set aside. While disposing of the above said appeals Hon'ble Supreme Court observed as under:

***“...we hasten to make it abundantly clear that every State organ and, in particular, the wings of the Government associated with environment protection, such as the CECB, must be all the more diligent in ensuring timely compliance with the directions of the NGT. Needless to state, such directions are aimed at protection and preservation of the ecology and environment and must take highest priority.”***

#### **Serious violations of orders passed by this Tribunal**

112. It may be observed here that the material on record shows serious violations by the concerned Authorities themselves. In status report dated 11.07.2020 filed by DPCC in **OA no. 685/2019, Rakesh Kumar Vs. Government of NCT of Delhi & Ors.** it was submitted that in compliance of order of Tribunal, a meeting was taken by the Chief Secretary, Delhi on 12.06.2020 through video conferencing and during meeting, it was informed that DJB has already identified 19661 illegal borewells against whom action is being taken and 7248 units were already closed by the district authorities and that the remaining units would be closed down on priority as they were already identified and process would be completed within a period of three months. This Tribunal considered the situation to be disgusting/disappointing due to

snail pace level of activities on the part of statutory regulators which clearly indicated dereliction of duties. Vide order dated 25.02.2022 this Tribunal directed the authorities to take appropriate remedial action against all the illegally running bore wells identified by DJB and submit a complete compliance report after six months and a copy of the order was ordered to be forwarded to DJB, DPCC and NDMC by e-mail for compliance. As per written report submitted by the Registry no such report was filed by DJB, DPCC and NDMC in compliance of order dated 25.02.2022. As per Supplementary Status Report filed by DJB vide email dated 13.04.2024 out of 20522 illegal borewells identified only 11197 have been closed/sealed and 8178 illegal bore wells are still operating in violation of notifications, SOP and orders passed by this Tribunal. As per annexure 1 enclosed with status report dated 07.02.2024 filed by DPCC vide email dated 15.04.2024 environmental compensation imposed on 18372 violators is yet to be recovered. In **O.A. No. 639/2022 titled as Pritipal Sharma Vs. Government of NCT of Delhi & Ors. illegal borewell was sealed on 13.04.2023 in compliance of order passed by this Tribunal on 15.09.2022 and 06.12.2022** for factual verification and taking of remedial action. **However, the violator has not been yet identified and environmental compensation is yet to be imposed on and recovered from the violator.** In O.A. No. 33/2022 titled as Ganesh Prasad vs. Government of NCT of Delhi & Ors. **despite order passed by this Tribunal on 31.01.2022 for taking of remedial action, illegal borewell was sealed on 02.11.2023** after proceedings were initiated by listing of M.A. No. 24/2023 and **environmental compensation of Rs. 1 lakh imposed on violators Shri Ajit Kumar and Shri Ashish Kumar is yet to be recovered by SDM (Dwarka), Delhi** to whom reference for

recovery has been made by DPCC vide letter dated 11.01.2024.

113. In view of the violations the Chairman and Members of DPCC, Chief Executive Officer of DJB and concerned Officers and concerned Deputy Commissioner (Revenue)/DM, SDM and other officers/officials are also liable (i) to pay appropriate environmental compensation as abettors of environmental damage caused by the violators due to negligence/inaction on their part in taking of prompt action against the violators (ii) to prosecution under Section 26 of the NGT Act 2010 and (iii) to arrest and detention in Civil Prison under Section 25 of the NGT Act 2010 for execution of orders passed by this Tribunal yet in view of observations made by Hon'ble Supreme Court in its **order dated 12.08.2024 passed in Civil Appeal No. 6787 of 2023 titled as P. Arun Prasad & Anr. Vs. Union of India & Ors.**, we consider it appropriate to give them opportunity to make requisite compliance and the matter will be considered further and decided in the context of compliance by them with the environmental laws/norms and orders of this Tribunal.

114. It may be observed here that this Tribunal had vide para no. 21 of its **order dated 18.03.2024 passed in O.A. No. 639/2022** titled as **Pritipal Sharma Vs. Government of NCT of Delhi & Ors.** given the following directions to all the District Magistrates in NCT of Delhi:-

*“21. In view of such deficiencies and for ensuring proper transparency and accountability all the District Magistrates in NCT of Delhi are directed to upload on the respective website of the District Administration latest by 15.04.2024 the information regarding (i) complaints received regarding illegal borewells and action taken on the same, Minutes of the Meeting and recommendations of the District Advisory Committee regarding the same, (ii) references received for realization of environmental compensation and action taken for realization of the same and (iii) remedial measures taken for remediating environmental damage caused.”*

115. After the orders were reserved we made an effort to obtain the relevant information from the web-site of the District Magistrates in NCT of Delhi and observed that the information so uploaded in compliance with above quoted order dated 18.03.2024 was not accessible as the access links were not prominently displayed on the web-site.

116. In the course of hearing today learned Counsel for Government of NCT of Delhi and District Magistrate (South West), Delhi has submitted that as per information available with her some of the District Magistrates have uploaded the relevant information on their websites and referred to the links of the information uploaded by some of the District Magistrates. However, learned Counsel for Government of NCT of Delhi and District Magistrate (South West), Delhi has submitted that some of the District Magistrates have not provided any information regarding uploading of the information as directed by this Tribunal on their websites.

117. On referring to the links provided by learned Counsel for Government of NCT of Delhi and District Magistrate (South West), Delhi we find that even in some of the website, on which information has been uploaded by the District Magistrates, the link for accessing the same has not been prominently displayed on main page of the websites. Uploading the information on the websites without prominently displaying the links for accessing the same on the main page of the websites does not serve any useful purpose and any such compliance made in clandestine manner cannot be said to be proper compliance with the order passed by this Tribunal.



118. Further, it may also be observed that no information is provided on the website of the DJB and all the District Magistrates/Deputy Commissioners (Revenue) in the NCT of Delhi about the number of registered users, number of NoCs granted, application for new registration and NoCs pending, complaints made regarding illegal abstraction of ground water and action taken on the same (although in compliance to order dated 18.03.2024 some of the District Magistrates have uploaded the information as thereby directed.

119. On its website CGWA has made provision for submission of online application for NoC; track your application; know your groundwater charges; know your penalty and other charges; know your environmental compensation; how to apply with advance charges and also for user assistance. Guidelines and steps for filling application form for NoC have also been uploaded on the website. The application form has provision for new user registration and submission for application for NoC for industry, infrastructure and mining purposes. CGWA has also made provision enabling users to lodge a complaint for illegal abstraction of groundwater to concerned authorised officer (DC/DM/Revenue officer) of the state directly through the link given <https://cgwa.mowr.gov.in> and has also made provision for tracking of the complaint. CGWA has also mentioned the helpline number 011-23383561 on its website. However, it may be observed that the helpline is not working properly and even calls made on the number go un-responded. No information is provided by CGWA on its website about the number of registered users, number of NoCs granted, application for new registration and NoCs pending, complaints made regarding illegal abstraction of ground water and action taken on the same. CGWA is

directed to look into the aspect of functionality of the complaint making and tracking portal and helpline and take all requisite steps to make the same fully functional and provide the requisite information on its website as observed in this order.

**Duties of CGWA for regulation and management of groundwater in NCT of Delhi and of DJB, DPCC and all the District Magistrates to act in coordination and in consultation with CGWA.**

120. The Central Government authorized the Lieutenant Governor, NCT of Delhi vide **notification number S.O. 667 (E) dated 10.09.1992** to exercise powers under section 5 of the Environment (Protection) Act, 1986 for NCT of Delhi and to issue directions thereunder, to any person, officer or any authority for the closure, prohibition or regulation of any operation or process or stoppage or regulation of the supply of electricity or water or any other services. In exercise of power conferred by section 5 of the Environment (Protection) Act. 1986 read with the Ministry of Home Affairs, Government of India Notification number S.O. 667 (E) bearing F.No. U-11030/J/ 91- UTL dated 10.09.1992 and in supersession of directions issued vide Order Nos. F8(348)/EA/Env/09/14433-14451 and F8(348)/EA/Env/09/14452-14470 dated 30.03.2009 as well as Order Nos. F8(348)/EA/Env/09/555-582 and F8(348)/EA/Env/09/583-610 dated 30.04.2009, the Lt. Governor of NCT of Delhi issued directions vide **notification number. F8(348)/EA/Env/09/1041-1061 dated 18.05.2010**. However, we are of the considered view that both these notifications are not inconsistent with and do not in any manner conflict with, obstruct, curtail or restrict **Notification number S.O. 38 (E) dated 14.01.1997** constituting CGWA and conferring powers on CGWA empowering it to exercise powers under section 5 of the Environment (Protection) Act, 1986 for

issuing directions and taking such measures in respect of all the matters referred to in sub-section(2) of section 3 of the said Act; to resort to penal provisions contained in sections 15 to 21 of the said Act and to regulate and control, management and development of ground water in the Country and also NCT of Delhi and to issue necessary regulatory directions for the purpose. Section 9 of the Delhi Jal Board Act, 1998 which empowers DJB to **plan for regulate and manage the exploitation of ground water in Delhi mandates it to do so in consultation with CGWA.**

121. This Tribunal in its Judgment dated 25.02.2022 passed in **O.A. No. 69/2022 titled as Sushil Bhatt Vs. Moon Beverages Ltd. & Ors.** observed as under:-

“X X X X  
117. Thus, we are clearly of the view that on the subject of regulation of ground water, provisions of EP Act 1986, the orders issued by Central Government under Section 3(3), and by CGWA under section 5 and/or section 3(2) of EP Act 1986 shall hold field and on this subject Provincial legislation cannot be brought in to impede, obstruct or deny or deprive CGWA, in its function for protection, perseveration and sustenance of ground water in the country....

X X X X  
237. CGWA is a Statutory Authority and has statutory powers to issue directions or take such measures as are necessary for protecting environment. These directions are referable to EP Act 1986, enacted vide Entry 13 List 1 of Constitution and therefore even Provincial legislations would have no competence to touch on this subject. Undoubtedly water is in List II Entry 17 but to the extent, the subject of ground water is part of pollution and governed by EP Act, 1986, for the reasons already discussed above, Provincial legislature would lack competence and it cannot make laws in respect of subject of water, covered by EP Act 1986 or orders, directions, rules, etc. made thereunder.

X X X X  
244. CGWA, while giving directions or laying down guidelines, had to take into consideration, and is under an obligation, to appreciate the mandate of Supreme Court and cannot abrogate or surrender to Provincial legislations on the ground that in some States there are Provincial legislations with regard to ground water and, therefore, Authorities under those enactments will deal with the issues relating to ground water

*and CGWA has no concern particularly when on some aspects Provincial legislations are not consistent with directions of CGWA. It also cannot stay satisfied by issuing guidelines giving easy access to extract ground water in OCS areas to almost all commercial proponents. This is a failure on the part of CGWA in discharge of its statutory duties which neither can be justified nor appreciated.”*

122. In that case this Tribunal observed in unambiguous terms that CGWA is bound to comply with and cannot override the orders passed by this Tribunal. The relevant para of the order is reproduced as under:-

*“238. CGWA, however, even if prevails over Provincial legislations, cannot confer upon itself a jurisdiction so as to sit over the orders of Tribunal. In fact, power of CGWA, which it can exercise under Section 5 and Section 3(2), is subject to the mandate and scheme of EP Act 1986 and if it travels beyond it or infringes the mandate of law contained in EP Act 1986, such direction or order of CGWA would not be valid. NGT Act 2010 is a subsequent enactment and has jurisdiction in respect of environmental matters and its orders have over-riding effect over any other law. Its orders are also binding on the Authorities. Therefore, CGWA is bound by the directions and orders of Tribunal. When exercising powers of issuing directions etc., under Section 3(2) and 5 of EP Act, 1986. CGWA cannot issue orders and direction contrary to the orders of Tribunal.”*

123. It may be observed here that vide Public Notice no. 6 of 2000 CGWA declared South and South West Districts of NCT of Delhi as “Notified Areas” and vide Public Notice no. 2 of 2006 CGWA notified East, New Delhi, North-East, North-West and West Districts of Delhi as ‘over-exploited’ areas needing regulation. Even through, vide Public Notice no. 6/2000 CGWA prohibited and restricted abstraction of groundwater without prior permission from CGWA no such prohibition and restriction was imposed vide Public Notice no. 2 of 2006 whereby registration of groundwater structures in the notified Districts was made compulsory. However, in view of the orders passed by this Tribunal the prohibition and restriction on abstraction of groundwater

without prior permission from CGWA/DJB will apply to all the Districts in NCT of Delhi and CGWA/DJB have to regulate drawal of groundwater on that basis.

**Directions by the Tribunal**

124. In the facts and circumstances of the case following directions are issued:-

- (i) CGWA is directed to own the responsibility of assessing status of groundwater in terms of quality, quantity, availability for abstraction and recharge and aid and advise DJB in regulating drawal of ground water assessment unit wise in NCT of Delhi by carrying out requisite scientific studies and issuing appropriate directions/making appropriate recommendations to DJB and the concerned **Deputy Commissioner (Revenue), who also has the designation and powers of District Magistrate in NCT of Delhi and is referred to in this order at some places as District Magistrate and hereafter as Deputy Commissioner (Revenue)**, of each revenue area in GNCTD and submit action taken report within three months.
- (ii) All functional borewells in NCT of Delhi, which do not have NOC from CGWA/DJB (issued by concerned Deputy Commissioner (Revenue) of each revenue area in GNCTD) being illegal, are ordered to be closed/sealed with immediate effect.
- (iii) Concerned Deputy Commissioner (Revenue) of each revenue area in GNCTD are directed to take action for closing/sealing of illegal borewells already identified and also initiate proceedings for the prosecution of the violators within three months.

- (iv) The concerned Project Proponents of new or existing borewells sealed by the Deputy Commissioner (Revenue) of each revenue area in GNCTD may submit application for grant of NOC to DJB and such applications for grant of NOC be decided expeditiously preferably within three months from the date of submission.
- (v) DJB through Deputy Commissioner (Revenue) of the revenue area in question is directed to take requisite action for grant of permission for borewells in accordance with recommendations of the concerned Executive Engineer and Advisory Committee in accordance with groundwater level notifications, environmental norms/guidelines and directions issued by Hon'ble Supreme Court and this Tribunal, recover appropriate charges for drawal of ground water and impose appropriate conditions for recharge of ground water and ensure actual implementation thereof on the ground with geo-tagging for monitoring purpose.
- (vi) DJB is directed to conduct survey from time to time for further identification of illegal borewells and take requisite action in respect of illegal borewells identified by further survey in accordance with environmental laws/SOP/directions issued by Hon'ble Supreme Court/this Tribunal.
- (vii) DPCC is directed to finalize the proceedings already initiated for imposition of environmental compensation by issuance of show cause notices or initiate proceedings for imposition of environmental compensation on all the violators already identified and pass appropriate orders for imposition of

environmental compensation on them and make references for recovery of environmental compensation from all the violators on whom environmental compensation has already been imposed in accordance with law within three months.

(viii) Government of NCT of Delhi is directed to transfer to DPCC within three months amount of Rs. 70 crores (equal to the amount of environmental compensation imposed by DPCC for which recovery proceedings are pending with the officers of the Government of NCT of Delhi for more than three years) for utilization by DPCC for revival/restoration/rejuvenation /creation of water bodies, rain water harvesting pits etc. and for conservation and recharge of ground water as remediation of environmental damage caused by illegal drawal of ground water cannot be deferred for long periods of time to be taken by the authorities in effecting the recovery and Government of NCT of Delhi may thereafter recover the amount from the violators in accordance with law or waive the recovery as considered appropriate.

(ix) DPCC is directed to prepare and implement Action Plan, in consultation with DJB, concerned Deputy Commissioner (Revenue)/DM and District Advisory Committee for utilization of (i) amount equal to the amount of Environment Compensation imposed on and to be recovered from the violators by drawing the same from the amount of environment compensation lying deposited with it and (ii) amount transferred by Government of NCT of Delhi in lieu of the amount of environmental compensation to be recovered by its

officers from the violators, for remediation of environmental damage caused immediately as such remediation ought not to be deferred for long periods of time likely to be taken in recovering the amount of environmental compensation from the violators and the amount so drawn or transferred may be reimbursed on recovery of the amount from the violators.

- (x) DJB is directed to upload with link on the main page of its website preferably under heading 'Groundwater Management' entire information regarding number of applications for grant of NoC, number of such applications filed/pending for decision, number of such applications allowed and NoCs granted, number of applications rejected, number of borewells which have been granted NOC, illegal borewells which have been closed/sealed and illegal borewells which are yet to be closed/sealed, procedure for processing of the application for grant of NoC for abstraction of ground water, the charges to be levied for abstraction of ground water, the penal provisions for punishing illegal abstraction of groundwater and liability to pay environmental compensation for illegal abstraction of ground water on its web site by 30.09.2024 and to update the same within 7 days at the end of each month.

- (xi) DPCC is directed to upload with link on the main page of its website preferably under heading 'Groundwater Management' entire information regarding (i) proceedings initiated for imposition of environmental compensation on the violators (ii) proceedings finalized for imposition of environmental compensation on the violators; (iii) references made for



recovery of environmental compensation from the violators; (iv) amount of environmental compensation recovered; (v) amount of environmental compensation to be recovered; (vi) amount of environmental compensation utilized; (vii) amount of environmental compensation to be utilized; (viii) activities carried out for utilization of the amount of environmental compensation and (ix) activities proposed to be carried out for utilization of the amount of environmental compensation on its web site by 30.09.2024 and to update the same within 7 days at the end of each month thereafter.

- (xii) All the Deputy Commissioner (Revenue) of each revenue area in GNCTD are directed to upload with link on the main page of their respective websites under heading 'Groundwater Management' complete information regarding (i) complaints received regarding illegal borewells and action taken on the same, Minutes of the Meeting and recommendations of the District Advisory Committee regarding the same, (ii) references received for realization of environmental compensation and action taken for realization of the same and (iii) remedial measures taken for remediating environmental damage caused on the respective website of the District Administration by 30.09.2024 and to update the same within 7 days at the end of each quarter thereafter.

- (xiii) CGWA is directed to upload with link on the main page of its website the information regarding the status of groundwater, the necessity for regulation and management of groundwater abstraction, the copies of public notices issued by CGWA and

measures taken for regulation, management, conservation and recharge of groundwater.

(xiv) In **O.A. No. 639/2022 Pritipal Sharma Vs. Government of NCT of Delhi & Ors.** DCF (South), Delhi is directed to file report as to the person who is alleged to have encroached upon the forest land on which the borewell in question was found by the Joint Committee to be operational.

(xv) In **M.A. No. 24/2023 in O.A. No. 33/2022 Ganesh Prasad Vs. Government of NCT of Delhi & Ors.** SDM (Dwarka), Delhi is directed to file status report regarding recovery of environmental compensation from the violators.

125. Our answer to the question posed in the beginning of this order is that hands of law, as is proverbial, are very strong and no violator whether a person or authority, can escape its hold and fold and survive and thrive without compliance with it.

126. It is, accordingly, clarified (i) that in case of failure to take requisite action as mandated by the Environmental Laws/Norms/Notification/SOP, the Chairman and Members of DPCC, Chief Executive Officer of DJB and concerned Officers and concerned Deputy Commissioner (Revenue)/DM, SDM and officers/officials will be liable (i) to pay appropriate environmental compensation as abettors of environmental damage caused by the violators due to negligence/inaction on their part in taking of prompt action against the violators; (ii) to prosecution under Section 26 of the NGT Act 2010 and (iii) arrest and detention in Civil Prison under Section 25 of the NGT Act 2010 for execution of the orders passed by this Tribunal.

127. It may be observed here that in **O.A. No. 89/2021** titled as **Varun Vs. Government of NCT of Delhi & Ors.** this Tribunal while disposing of the application vide order dated 08.04.2021 observed as under:-

*“1. This application seeks injunction against illegal withdrawal of ground water by 536 hotels operating in Paharganj area of Delhi of which list has been filed. The applicant has relied upon judgment of this Tribunal dated 20.07.2020 in O.A. No. 176/2015, Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors. to the effect that ground water extraction has to be regulated as per orders of the Hon’ble Supreme Court in MC Mehta vs UOI, 1997 11 SCC 312. Regulation requires that such extraction is allowed ensuring replenishment and that ground water table does not get depleted. The Tribunal having already adjudicated upon the question of law, the matter is only of execution which issue needs to be looked into by the concerned statutory authorities, in accordance with law.*  
*2. Since the present application on multiple causes of action is not permissible as per statutory procedural rules, we permit the applicant to move the concerned SDMs or other authorities and the Chief Secretary, Delhi, who have to enforce/oversee the compliance of norms on the subject.*

*The application is disposed of.”*

128. **E.A. No. 11/2023** has been filed in **O.A. No. 89/2021** titled as **Varun Vs. Government of NCT of Delhi & Ors.** for execution of order dated 08.04.2021 in respect of illegal withdrawal of groundwater by 536 hotels operating in Paharganj area of Delhi. In the above mentioned EA, this Tribunal is considering the questions as to the authority responsible for regulating the ground water extraction in Delhi and validity of voluntary disclosure scheme and permissibility of extraction of groundwater under the same. The above said case is now fixed for hearing on 03.09.2024.

129. It may be added here that by this order we do not purport to consider and determine the issues involved in above mentioned case and we are considering issuance of the directions on the basis of

statutory provisions and directions under Section 5 of the Environment (Protection) Act, 1986 having statutory force, SOP prepared, directions already issued by the Chief Secretary, Government of NCT of Delhi and directions issued by this Tribunal.

130. However, it is clarified that the directions issued by this Tribunal by this order passed in both the cases **O.A. No. 639/2022** titled as **Pritipal Sharma Vs. Government of NCT of Delhi & Ors.** and **M.A. No. 24/2023** in **O.A. No. 33/2022 Ganesh Prasad Vs. GNCTD & Ors.**, regarding closing of the borewells, prosecution of the concerned Project Proponents and imposition of the environment compensation will not apply to 536 hotels regarding which **E.A. No. 11/2023 in O.A. No. 89/2021** titled as **Varun Vs. Government of NCT of Delhi & Ors.** is pending before this Tribunal and is fixed for hearing on 03.09.2024.

131. Action taken reports with respect to other illegal borewells be filed by the the Member Secretary CGWA; the Chief Executive Officer DJB; the Member Secretary, DPCC, all the Deputy Commissioners (Revenue)/District Magistrates in NCT of Delhi, DCF (South), Delhi and SDM (Dwarka), Delhi as directed above at least one week before the date of hearing hereby fixed.

132. I.A. No. 293/2023 in O.A. 639/2022 was filed for exemption of personal appearance of Chief Executive Officer, DJB which was allowed vide order dated 19.04.2023. I.A. No. 02/2023 in O.A. No. 33/2022 was filed by DJB for extension of three weeks time for submission of the report which was allowed vide order dated 04.01.2024 but pendency of the same has been shown in the cause list and disposal of the same be recorded/uploaded as per the orders already passed.

133. List on 06.01.2025 for further consideration.

134. A copy of this order be sent by email to the Chief Secretary, Government of NCT of Delhi; the Member Secretary CGWA; the Chief Executive Officer DJB; the Member Secretary, DPCC and all the Deputy Commissioner (Revenue)/District Magistrates in NCT of Delhi, DCF (South), Delhi and SDM (Dwarka), Delhi for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 28<sup>th</sup>, 2024  
AG