

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

ORIGINAL APPLICATION NO. 492/2022

IN THE MATTER OF:

GREEN WOOD CITY VILLA JAN WELFARE SOCIETY

Green Wood City, Behind Godwin Hotel,
Baghpat Chauraha,
By-Pass Road, Meerut.
Registration No-531/61057- M/2015-2016
Through its President Shri Ravindra Singh
Villa No-60, Green Wood City

AND

GREEN WOOD CITY RESIDENTS WELFARE ASSOCIATION

No-R/MEE/02131/2021-2022
NH-58, Baghpat Chauraha, By-pass Meerut.
Through its Secretary Shri Deepak Raj Premi
3BHK No- 155, Green Wood City

...Applicant(s)

Verses

1. GODWIN CONSTRUCTION COMPANY PVT. LTD. MEERUT

Through its Directors-

- (i) Shri Jitendra Singh and
- (ii) Shri Bhupendra Singh,
Office at Green Wood City
Near Godwin Hotel, Baghpat
By-Pass Road, Meerut

2. MEERUT DEVELOPMENT AUTHORITY

Through its Vice Chairman,
Near Civil Court and
Opposite Police Lines, Meerut

3. UTTAR PRADESH POLLUTION CONTROL BOARD

Through its Secretary,
Building No. TC-12V,
Vibhuti Khand, Gomti Nagar,
Lucknow, Uttar Pradesh-226010

4. POLLUTION BOARD'S LOCAL UNIT

Through Regional Officer,
Meerut, Pocket T.,
C.- 3/2 Pallavpuram, Meerut,
Uttar Pradesh-250110

5. COMMISSIONER

Municipal Corporation, Meerut
Near Ghanta Ghar, Kaiser Ganj Road,
Additional Municipal Commissioner Nagar Nigam,
Uttar Pradesh

6. DISTRICT MAGISTRATE, MEERUT

Lalkurti Bazaar,
Police Lines, Meerut

7. STATE OF UTTAR PRADESH

Through Chief Secretary,
Government of Uttar Pradesh
101, Lok Bhawan, U.P., Civil Secretariate,
Vidhan Sabha Marg, Lucknow
UP-226001

8. NATIONAL HIGHWAY OF AUTHORITY (NHAI)

Through its Chairman,
G 5 & 6, Sector-10, Dwarka,
New Delhi-110075

...Respondent(s)

COUNSELS FOR APPLICANT:

Mr. Deepak Raj Premi, Advocate for Applicant (through VC)

COUNSELS FOR RESPONDENT(S):

Mr. Shariq Zaidi and Mr. Kapil Dev, Advocates for respondent no. 1

Mr. Rachit Mittal, Advocate for respondent no. 2 - Meerut Development
Authority (through VC)

Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for respondent nos.

3 and 4 (through VC)

Mr. Vibhav Mishra, Advocate for respondent no. 5

Mr. Ankit Verma, Advocate for respondent nos. 6 and 7

Ms. Sapna Sharma, Advocate for respondent no. 8

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: AUGUST 09, 2024
PRONOUNCED ON: MARCH 04, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. Green Wood City Villa Jan Welfare Society through its President Ravindra Singh and Green Wood City Residents Welfare Association through its Secretary Deepak Raj Premi have instituted these proceedings by filing *Original Application No.* (hereinafter referred to as '**OA**') 492/2022, raising a complaint of improper handling, management and disposal of sewage and solid waste etc. in the area developed by M/s. Godwin Construction Company Pvt. Ltd., Meerut (hereinafter referred to as '**respondent 1 or project proponent**') creating unhygienic conditions causing damage to environment.

2. The facts stated in brief, in OA, are that Meerut Development Authority (hereinafter referred to as '**MDA**') passed Construction Plan Map No. 28/06 in respect of core area of 1,64,285 m². Respondent 1 was permitted to carry out internal development within 03 years and hand over colony to Municipal Corporation, Meerut vide order dated 22.09.2007 (annexure-1 at page 6 to the paper book). Project proponent

entered into an agreement with MDA on 25.09.2007 wherein it was obliged to complete entire “internal work” within one year from the date of permission and hand over colony to local body, the entire land including roads and parks free of cost. Respondent 1 constructed about 1200 units of multi 10 storied, duplex, 2 BHK, 3 BHK and about 87 villas. MDA demanded Rs.2,61,84,771/- towards external development charges and issued recovery order dated 19.07.2008 whereagainst respondent 1 preferred ***Writ Petition No. 7787/2008 (MB), M/s Godwin Construction Pvt. Ltd. Vs. State of UP & Ors.*** before Lucknow Bench of Allahabad High Court. Writ Petition was ultimately dismissed by Division Bench of High Court vide judgment dated 07.08.2020 (annexure-4 at page 21 to the paper book). Respondent 1 has neither completed internal development work nor obtained Completion Certificate as per the conditions of construction permitted vide Construction Plan Map Order dated 22.09.2007 and agreement dated 25.09.2007. MDA has laid sewage pipeline near the area developed by respondent 1 but proponent has not connected sewer line of colony with the pipeline laid down by MDA. Sewage is being collected in pond and disposed of in open nallah. Pits/main holes of sewer line of Green Wood City are over-flowing. No drainage has been constructed in entire colony. Roads are not being maintained properly and there is water logging at several places as also on the roads. Solid waste is being dumped in open space in Green Wood City Colony which is stinking and creating unhygienic conditions polluting environment. No Sewage Treatment Plant (hereinafter referred to as ‘STP’) has been installed nor drainage system is planned. Applicants approached MDA and Uttar Pradesh Pollution Control Board (hereinafter referred to as ‘UPPCB’) but no meaningful or effective action

has been taken by the said authorities.

3. **Tribunal's Order dated 08.07.2022:** Tribunal took cognizance of the complaint on 08.07.2022 and found it appropriate to obtain a factual Report, hence constituted a Joint Committee comprising Vice Chairman, MDA; Commissioner, Municipal Corporation, Meerut; UPPCB and District Magistrate, Meerut. The Committee was required to submit its report within 02 months.

Joint Committee Report dated 23.11.2022 filed by Regional Officer, Meerut, UPPCB:

4. Pursuant to Tribunal's order dated 08.07.2022, Joint Committee through Regional Officer, UPPCB, Meerut submitted its Report vide letter dated 23.11.2022 and the observations of Joint Committee are as under:

"The Joint committee inspected the alleged Township site on dated 08-08-2022. The observations of joint committee is as below:-

1. *The **work of sewer line and manhole has been done.** It was informed by the representatives of the developer and the residents of the colony at the site that **earlier the disposal of sewerage was being done in a pit near the plot number P-15 located under the approved plan map and was being done in a drain outside the colony** which has not been closed by plugging and **at present sewer was found collected in the pit.** While the service plan presented at the time of approval of the map shows the disposal of sewerage by constructing two common septic tanks. **At present, the disposal of sewerage is being done by connecting to the trunk sewer line built by the authority through a pressure pipe of 4 inch dia, which does not seem to be technically suitable, due to which the sewer line and main hole were found full.***
2. ***Construction/development work of drain and drainage system has not been done.***
3. ***The internal roads at the site are damaged,** out of which repair/patchwork work has been done on some of the roads.*
4. ***The solid waste/waste is being collected at the site, which is covered with tin shed.** Collection of Garbage of Private*

Colony is not being done by Municipal Corporation. Due to non-regular collection of garbage of private colonies, it is not possible for the Municipal Corporation to pick up the garbage regularly.

5. *In the sanctioned map, the approach road for the colony has been shown from two sides, in which one main 24 m wide approach road is shown from 76m wide bypass road and the other 18 m wide approach road is shown from 76m wide Baghpat road. The 18 m wide approach road from Baghpat Road at the site is closed by gate. This gate is situated at back side of Godwin Hotel.*

As per record submitted by MDA, Meerut that Talpat Map No.- 28/06 dated 26.09.2007 of Green Wood City Colony by the developer Godwin Construction Company Pvt. in which 91770.00 square meters for residential use and 7608.00 square meters for commercial and 3500.00 square meters for educational use, the remaining area for roads / parks and open areas are approved.

According to the terms of map approval, the developer was to complete all the internal development work of the colony within three years and after obtaining the completion certificate from the authority, the colony was to be transferred to the Municipal Corporation, Meerut, until the colony was transferred by the developer to the Municipal Corporation, Meerut. is not done, Till then, the responsibility of the internal development works/maintenance of the infrastructure facilities has been mentioned on the condition of the developer himself (photocopy attached, Annexure-1) and the agreement has also been executed by the developer with the authority regarding the above. (Photocopy attached, Annexure-2).

But till now the developer Completion certificate has not been obtained from the Authority after completing all the internal development work of the colony, nor has the colony been transferred to Municipal Corporation, Meerut."

5. **Tribunal's Order dated 02.12.2022:** Report was considered by Tribunal on 02.12.2022. Tribunal found it appropriate to obtain response from respondents 1 to 3. However, it also found it appropriate to implead Commissioner, Municipal Corporation and District Magistrate, Meerut as respondents 5 and 6 and passed order accordingly. Notices were issued to respondents to file responses.

Reply dated 03.01.2023 filed by respondent 1:

6. Raising a preliminary objection that OA has not been filed with clean hand and, therefore, it should be dismissed, on merits, it is said that it was agreed between MDA and respondent 1 that STP shall be installed and maintained by MDA and respondent 1 is discharging sewerage accordingly. MDA has provided sewer line connected to its STP with a pressure line of 6 inches though respondent 1 has connected pressure line of 4 inches as it cannot technically connect the pressure line of more than 4 inches to 6 inches. Sewage system provided by respondent 1 functions with a specially designed automatic pump which operates automatically when pollution load arrives at the sewerage point. There is no point of over-flowing of sewage at any point of time. Construction/development work of the drain has been done completely and entire society is well-connected with sewerage line/drainage system; all the internal roads have been constructed completely; every year and whenever needed, repair work is carried out by respondent 1, it is also maintaining greenery on both sides of the internal road and providing a quality of life to the residents. With regard to solid waste management, it is said that private sweepers collect garbage door to door from every house and then it is collected at a cornered site in a scientific manner, covered with a tin shed, wherefrom collection vehicles of Municipal Corporation collect the garbage on daily basis. With regard to handing over the colony to Municipal Corporation, Meerut, it is said that respondent 1 has approached Corporation repeatedly making request to take over the colony but it is neither responding nor taking over the colony for the reasons best known to them.

Report dated 05.01.2023 filed by Regional Officer, UPPCB, Meerut:

7. UPPCB vide letter dated 05.01.2023 has filed a Report after visiting the site on 05.01.2023 and observations in the Report are as under:

- "1- Godwin Construction company Pvt Ltd which has closed one gate at Bagpat Road, was found removing of obstruction/ Boundry wall, in order to making the entry gate functional for providing easy access to the colony. The approach road to the colony from Bagpat Road was found under construction. Photographs taken which are annexed as annexure-1.*
- 2- For disposal of sewage, sewage line has been connected to the trunk sewer line, built by authority/MDA through a pressure pipe of 4 inch dia. Photographs taken which are annexed as annexure-2.*
- 3- No sewage was observed to be collected in pond within the premises.*
- 4- Solid waste found to be collected at a site within the premises with proper fencing the area with tin sheets which is being further disposed by Municipal Corporation."*

Reply Affidavit dated 06.01.2023 filed by MDA:

8. Reply affidavit dated 06.01.2023 has been filed by MDA wherein the affidavit has been sworn by Vijay Singh, Town Planner, MDA. Respondent 2 after referring to Joint Committee Report has pleaded certain facts in para 7 stating that layout plan of Green Wood City Colony was approved by MDA vide Map No. 28/2006; as per the Layout Plan, area under residential use was sanctioned as 91770 m²; area under commercial use was sanctioned as 7608 m²; area under educational use was sanctioned as 3500 m² and rest area was used for roads/parks and open spaces; a sum of Rs.6,57,14,000/- was deposited on account of External Development Charges as per the term of Layout Plan; the developer deposited Rs.2,62,85,600/- with MDA and for balance amount of Rs.3,94,28,420/- sought indulgence for making payment in

installments; and the request was accepted by MDA and installments in the following manner were allowed:

<i>Date</i>	<i>Installment Amount (In Rs.)</i>
<i>25.01.2008</i>	<i>1,54,95,541/-</i>
<i>25.05.2008</i>	<i>1,62,66,826/-</i>
<i>25.09.2008</i>	<i>1,55,08,504/-</i>

9. Developer i.e., respondent 1 instead of depositing the amount in installments, preferred a ***Writ Petition No. 7787/2008 (supra)*** wherein an interim order was passed on 24.10.2008, as under:

“Shri Prashant Chandra, Senior Advocate assisted by Shri Ram Raj as submitted that the Meerut Development Authority has erected 33 KV Electric Sub-Station which has been energized and it is also doing all types of external development and as soon as the petitioner shall make internal developments, the sewer line will be connected.

...

In the meantime, petitioner shall deposit Rs. 50,00,000/- on or before 15th November, 2008 and another instalment of Rs. 50,00,000/- on or before 30th November, 2008. The deposits made by the petitioner shall be subject to further orders of the Court and the opposite parties shall not take any coercive action against the petitioner.”

10. The amount as directed by High Court was deposited by respondent 1 on 18.11.2008 and 10.12.2008 by depositing a sum of Rs.1,00,00,000/-. MDA vide letter dated 05.05.2008 requested the developer to deposit balance amount of Rs.2,94,28,420/- along with interest till 14.05.2018 but it failed to comply the said request. A reminder was also given by MDA on 27.08.2018 for deposit of the amount but developer again failed. MDA issued a letter dated 17.10.2018 directing the developer to carry out pending internal development works and apply for Completion Certificate and thereafter, hand over the colony to Municipal Corporation, Meerut. Vide letter dated 16.11.2018, MDA required developer to deposit defaulted sum of Rs.17,87,02,070/- (which included interest). ***Writ Petition No. 7787/2008 (supra)*** was dismissed

by High Court vide judgment dated 07.08.2020. After dismissal of Writ Petition, MDA issued letters dated 07.09.2020 and 19.09.2020 requiring the developer to deposit defaulted amount along with interest. Thereafter, for recovery of the amount, MDA sent letter dated 28.12.2021 to District Magistrate, Meerut. There was some mistake in the subject line of the letter dated 28.12.2021 which was rectified by letter dated 18.02.2022 and District Magistrate, Meerut was requested to recover a sum of Rs.27,39,25,261/- from the developer towards external development charges along with interest. MDA has further said that it is complying with all the orders and directions of Tribunal. As soon as developer fulfills all the requisite formalities, appropriate further action shall be taken without any further delay.

11. Tribunal's Order dated 09.01.2023: Tribunal considered the matter on 09.01.2023 and observed that in the present case, developer was to complete all internal development work/civic amenities of the colony within three years and after obtaining the Completion Certificate from the authority, colony was to be transferred to Municipal Corporation, Meerut. Project proponent has taken a stand that it was requesting Municipal Corporation, Meerut to take over the colony but it has not responded. Counsel for Municipal Corporation, Meerut, on the contrary, stated that since internal development was not completed by developer, and Completion Certificate was not obtained by Competent Authority, hence the colony has not been taken over by Municipal Corporation, Meerut. In this backdrop, Tribunal said that developer cannot be allowed to neglect/delay completion of work and make citizens to suffer. In para 12 and 13, Tribunal said as under:

"12. Questions arise as to whether a developer can be allowed to

neglect/delay indefinitely completion of internal developmental works/ civic amenities and thereby avoid handing over of the colony to the Local Urban Authorities and whether the residents of any such colony will be remediless in case of inaction/negligence/ inordinate delay on the part of Governmental agencies/instrumentalities of the State.

13. The citizens cannot be made to suffer at the cruel hands of profit oriented developers, who continue to neglect/fail to discharge their contractual/statutory obligations, due to inaction/negligence on the part of the concerned Governmental agencies/instrumentalities of the State. The concerned Governmental agencies have been conferred very wide powers to black-list the developer who fails to comply with the conditions imposed at the time of grant of sanction for the Project and also to impose penalties for non-compliance and recover the same as arrears of land revenue by attachment and sale of movable and immovable properties of the developer. The affected victims of environmental pollution cannot be said to be remediless in case of failure of Governmental agencies/instrumentalities of the State to take appropriate action against the defaulting developer and will be entitled to award of compensation even against the concerned Governmental agencies/instrumentalities of the State besides the defaulting developer. In such cases, the Tribunal can also direct the concerned Governmental agencies/instrumentalities of the State to complete the internal development works/civic amenities and take up the colony and recover the costs/expenses incurred from the defaulting developer. The Governmental agencies/instrumentalities of the State are under statutory obligation to ensure proper management and disposal of solid waste and also domestic sewage by the users/service providers and they cannot be allowed to ignore the same for the simple reason that the same may cause irreversible environmental pollution and in case of inaction/negligence by the Governmental agencies/ instrumentalities of the State, environmental compensation can be imposed even on the Governmental agencies/instrumentalities of the State besides the defaulters for remediation of the damage caused.”

12. However, instead of taking any stern view of the matter, Tribunal observed that since District Magistrate, Meerut has ample powers under environmental statutory provisions, hence, may play a crucial role in resolution of environmental disputes and he should convene a meeting to be attended by Vice Chairman, MDA, Regional Officer, UPPCB and representatives of the applicants and project proponent for resolving the

issues. In the meantime, MDA and Municipal Corporation, Meerut were also directed to ensure proper management and disposal of solid waste and domestic sewage generated in the colony in accordance with the environmental norms.

Report dated 04.02.2023 by District Magistrate, Meerut filed on 05.02.2023:

13. District Magistrate, Meerut in furtherance of the above order conveyed a meeting, got the site inspected on 30.01.2023 and thereafter, the findings recorded in the inspection report and other facts are placed before Tribunal vide letter dated 02.02.2023/04.02.2023 filed vide e-mail dated 05.02.2023. The relevant extract of the inspection report reads as under:

...समिति द्वारा मिनांक 30.01.2023 को स्थल मनरीक्षण मकया गया। मनरीक्षण आख्या मनम्रवि हैं:-

1	सीवर का मनस्तारण	ग्रीनवुड मसटी के अनुरोध पर सीवर मनस्तारण हि िरेठ मवकास प्रामधकरण द्वारा वाह्य मवकास मनमध के अन्तगगि सन्-2009 िेेे ग्रीनवुड मसटी के सीप से 200 एिएि डाय के (C.I D/F) पाइप लाइन मिछाकर विव्यासपुरी की त्क्क सीवर के िने होल िेेे जोडा गया ह।ैेे जोमक िानको के अनुरूप ह।ैेे ग्रीनवुड के पररसर की आन्तररक सीवर लाइन, सम्पवलै एवं पम्पिंग स्टेशन का मनिगण कर प्रामधकरण द्वारा मनमिगि सीवर लाइन िेेे जोडने का कायग मवकासकिग द्वारा कराया जाना था। समिमि द्वारा स्थल का मनरीक्षण मकया गया। मवकासकिग द्वारा पररसर के अन्दर सम्पवलै का मनिगण कर प्रामधकरण की 8 इन्च की पाइप लाइन िेेे फ्लचै के िाध्यि से 4 इन्च का पाइप से जोडा गया हैं एवं 25 हासग पावर का पम्प लगा कर सम्पवलै से सीवर मलफ्ट मकया जा रहा ह।ैेे पररसर िेेे भ्रिण के िौरान कही पर भी सीवर ओवरफ्लो होिंा नहीं पाया गया। वेदव्यासपुरी मे डिस्पोजल स्थल पर चोक्ि सीवर लाइन की सफाई करा दी गयी ह।ैेे
2	डेनजे/सीवर मसस्टि	कालोनी पररसर िेेे डेनजे मसस्टि का मनिगण/मवकास कायग मवकासकिग द्वारा कराया जाना था, परन्तु स्थल पर मनरीक्षण

		िौरान पाया गया मक डवकासकर्ाद्वारा िर नेज का कायानही
		कराया गया है।
3	रोड	स्थल पर आन्तररक सड़कें क्षडर्गस्त है, मजनि से कुछ सडकों पर िरमि का कायग कराया गया है। मवकासकिग द्वारा अवगि कराया गया मक अनुकूल िौसि होने पर क्षमिग्रस्त सडकों पर िरमि का कायग करा मिया जायगो।
4	सोमलड वस्ते मडस्पोजल	मवकासकिग द्वारा कालोनी पररसर में एक कोने पर कूड़ा एकडिर् करने का स्थल रैयार डकया गया है। जहाँ से नगर मनगि द्वारा कूडे का मनस्तारि मकया जा रहा है।
5	िंगपि रोड से एन्ट्री गटे की म्स्थमि	स्वीकृि िनमचत्र िे कालोनी हि िो पहाँच िंगग िशागये गये है, मजसिं एक िुख्य िंगग 24 िी० पहाँच िंगग जोमक 76 िी० चौडे रुडकी िाईपास रोड से आवागिन हि सांचामलि है एवं िूसरा 18 िी० चौडा पहाँच िंगग 76 िी० चौडे िंगपि रोड पर िशागया गया है। स्थल मनरीक्षण के िौरान पाया गया मक मवकासकिग द्वारा उक्त पहाँच िंगग पर सडक मनिगण कायग प्रारम्भ कर मिया गया है। यहाँ यह भी अवगि कराना हैं मक स्थल पर 18 िी० चौडे पहाँच िंगग की चौडाई स्वीकृि िानमचत्र से कि पायी गयी है।

मवकासकिग गोडमवन कंस्क्शन कम्पनी प्रा०मल० द्वारा ग्रीनवुड मसटी कालोनी का िलिपट िानमचत्र सांख्या-28/06 िरेठ मवकास प्रामधकरण से मिनांक 26.09.2007 को स्वीकृि कराकर मवकमसि की गयी है। मवकासकिग द्वारा वाहय मवकास शुल्क के रूप िे प्रामधकरण िे जि कराये जाने वाली अवशषे धनरामश अघिन नहीं जि करायी गयी है, मजस हि प्रामधकरण द्वारा मिनांक 18.02.2022 को भू-राजस्व के िकाये के रूप िे वसूली हि मजलामधकारी िहोयि को पत्र प्रमेषि मकया गया है। िानमचत्र स्वीकृमि की शिों के अनुसार मवकासकिग को कालोनी के सिस्त आन्तररक मवकास कायग िीन का के अन्दर पूणाकर प्रामधकरण से पूणगिा प्रिण पत्र प्राप्त करि हए कालोनी नगर मनगि, िरेठ को हस्तांिरि की जानी थी, जि िक मवकासकिग द्वारा कालोनी नगर मनगि, िरेठ को हस्तांिरि नहीं की जांी, िि िक आन्तररक मवकास कायों/अवस्थापना सुमवधाओं के रख- रखाव का उत्तरिमयत्व स्वां मवकासकिग का होने की शिा अंमकि की गयी है िथा मवकासकिग द्वारा उक्त के सम्बन्ध िे प्रामधकरण से अनुन्ध भी मनषामि मकया गया है। मकन्तु अभी िक मवकासकिग द्वारा कालोनी के सिस्त आन्तररक मवकास कायग पूणा कर प्रामधकरण से पूणगिा प्रिण पत्र प्राप्त नहीं मकया गया है िथा न ही कालोनी नगर मनगि, िरेठ को हस्तांिरि की गयी है। ”

English Translation by Tribunal:

“...Site inspection was conducted by the committee on 30.01.2023. The inspection report is as follows:-

<i>1</i>	<i>Sewer disposal</i>	<i>As per request by Greenwood City, a 200 mm dia (C.I D/F) pipe line near Greenwood City laid by Meerut Development Authority for sewer disposal in 2009 under external development fund and connected it to the main hole of trunk sewer of Vedvyaspuri which is as per the standards.</i>
		<i>The developer was to construct the internal sewer line, sumpwell and pumping station of Greenwood premises and connect it to the sewer line constructed by the authority. The site was inspected by the committee. The developer has constructed a sumpwell inside the premises and connected it to the authority's 8-inch pipeline with a 4-inch pipe through a flap and the sewer is being lifted from the sumpwell by installing a 25 horse power pump. Sewer overflow was not found anywhere during the visit to the premises. The choked sewer line at the disposal site in Vedvyaspuri has been cleaned.</i>
<i>2</i>	<i>Drainage/Sewer system</i>	<i>The construction/development work of drainage system in the colony premises was to be done by the developer, but during on-site inspection it was found that the drainage work had not been done by the developer.</i>
<i>3</i>	<i>Road</i>	<i>The internal roads on the site are damaged, some of which have been repaired. The developer informed that the damaged roads will be repaired when the weather is favorable.</i>
<i>4</i>	<i>Solid Waste Disposal</i>	<i>The developer has prepared a garbage collection site at a corner of the colony premises where the garbage is being disposed of by the Municipal Corporation.</i>

5	<i>Status of Entry Gate from Baghpat Road</i>	<i>In the approved map, two access roads have been shown for the colony, in which one is the main 24 meter access road which is used for traffic from 76 meter wide Roorkee bypass road and the other 18 meter wide access road is shown on 76 meter wide Baghpat road. During the site inspection, it was found that the developer has started road construction work on the said access road. It is also to be informed here that the width of the 18 meter wide access road at the site was found to be less than the approved map.</i>
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The developer Godwin Construction Company Pvt. Ltd. has developed Greenwood City Colony by getting the layout map number-28/06 approved from Meerut Development Authority on 26.09.2007. The remaining amount to be deposited with the authority as external development fee by the developer has not been deposited till date, for which the authority has sent a letter to the District Magistrate on 18.02.2022 for recovery as arrears of land revenue. According to the conditions of map approval, the developer was to complete all the internal development work of the colony within three years and after obtaining the completion certificate from the authority, the colony was to be transferred to the Municipal Corporation, Meerut. Until the colony is not transferred to the Municipal Corporation, Meerut by the developer, the responsibility of maintenance of internal development works/infrastructure facilities has been mentioned as a condition of the developer himself and the developer has also executed an agreement with the authority in this regard. But till now the developer has not completed all the internal development work of the colony and has not obtained the completion certificate from the authority nor has the colony been transferred to the Municipal Corporation, Meerut."

14. In the letter dated 04.02.2023, District Magistrate, Meerut has said that developer has connected sewage line by 04 inches pipe to 8 inches sewer lines laid by MDA and sewage is disposed to STP of Vedvyaspuri. MDA has cleaned the choked sewer line as complaint by the applicants. Solid waste of colony is being picked and disposed of by Nagar Nigam, Meerut.

Supplementary Affidavit dated 06.02.2023 filed by respondent 1:

15. A supplementary affidavit dated 06.02.2023 has been filed by respondent 1 stating that Municipal Corporation, Meerut vide letter dated 28.01.2023 enquired about the details of the number of flats/houses/plots and their area and details of flats have been provided by respondent 1. As per agreement of respondent 1 with MDA, it has made proper sewer line and manholes in the society for disposal of waste since the year 2007. Respondent 1 has provided sewer line of 8 inches

which is connected to main sewer line of 08 inches of MDA. Sewer line installed by respondent 1 are equipped with 02 automatic sewer pumps, in which one is on standby and these pumps are regularly maintained by respondent 1. MDA in its reply dated 23.12.2022 to RTI enquiry has disclosed that out of 294 approved colonies of Meerut, MDA has issued/granted Completion Certificate to only 06 colonies commencing from 1974 till date. Colony developed by respondent 1 is also one of such colony where Completion Certificate has not been granted. Back gate of society which was earlier closed has not been opened and some little patch work which was to be done will be completed in next two months. Every other work has been completed by respondent 1. It is maintaining society without compromising with quality and needs of the residents. Now a further maintenance work is required to be done by respondent 1. It would have to charge from residents/Resident Welfare Association of the Society.

Replications by applicant submitted in Tribunal vide e-mail dated 07.02.2023:

16. Applicant has filed two replications vide e-mail dated 07.02.2023. In the replication to reply of respondent 1, applicant stated that it is already paying hefty amount of maintenance i.e., Rs.13,000 for villa, Rs.7,000/- for 3BHK, Rs.6,500/- for 2BHK and Rs.8,500/- for duplex annually. For multi-storey flats, it is paying about Rs.2,000/- to Rs.2,500/- per month. Respondent 1 however, is not issuing any receipt to the residents and also not rendering required services to the residents. The overhead tank constructed for supply of drinking water is not being cleaned regularly and society has not been handed over to Nagar Nigam, Meerut after obtaining Completion Certificate from MDA. Proper security

arrangement has not been made and quality of construction is very poor. On the visit made by Technical Committee constituted by District Magistrate, Meerut vide order dated 17.01.2023, the premises was inspected on 30.01.2023 and Technical Committee made following observations:

- “(i) The Godwin Construction co. Pvt. Ltd. respondent no. 1 has removed the boundary wall, which was constructed on the way of entrance towards baghpat road. Respondent no. 1 has fixed only iron gate towards baghpat road, which is not functional, as stated by environmental engineer UPPCB, Meerut, because culvert on nallah situated on side of baghpat road, has to be constructed by removing slab and iron grill put on the nallah.*
- (ii) The construction co. respondent no. 1 has not constructed road on this way. In these circumstances, it is wrong to say that the entry gate is functional to provide the easy access to colony.*
- (iii) This road must be 18 meters wide as per sanctioned layout plan of M.D.A Meerut. No access is possible through entry gate without removal of iron grill. moreso the slab put on nallah cannot bear the load of traffic entering the society.*
- (iv) The statement that trunk sewer line constructed by M.D.A Meerut is properly functional, it is strongly /vehemently rebutted and denied. The technical committee constituted by the D.M Meerut inspected the site on date 30- 01-2023 and found that the discharge of sewerage through pipeline laid by construction co. was very less, that is, 4 inch. dia, whereas, the M.D.A Meerut has laid pipeline of 8 inch. dia. The builder co. respondent no. 01 has not connected the whole sewer line to the big collection tank/ septic sewerage tank constructed by builder co respondent no.01.*
- (v) Builder co, respondent no. 1 is disposing of the 95% of sewage by pumping it from manhole situated near temple of society towards ghat road in open Rajbhaya of irrigation department. This fact is substantiated by the state of affairs that some manholes are overflowing in open land of plots and on roads. Perhaps some where **either sewer pipeline laid by respondent no. 1 const. co. is not functional or it is blocked.***
- (vi) The solid waste is being collected by the employees of*

respondent no. 1 and being dumped in open area enclosed on two side with tin sheets. There is no tin shades on roofs of the site. As per sanctioned plan, garbage is collected on the land of plots mentioned in the west corner of the layout plan/ premises of the society.

(vii) *The respondent no. 1 has not constructed any drainage system, there is water logging at 07-10 places in the colony Respondent no. 1 has closed one side of road of exit gate of society and converted it for parking of it's vehicles and for storage of other articles.*

(viii) *The respondent no. 1 construction co. has not constructed roads/ made internal development in the aforesaid area where garbage is being dumped. Old constructed roads are not being maintained, as it has potholes everywhere."*

17. A similar replication is in respect of reply of MDA and therein, also the Technical Committee's observations have been reiterated. It is also said that external development charges have still not been recovered from respondent 1 and Completion Certificate has also not been obtained from MDA Meerut.

18. **Tribunal's Order dated 09.02.2023:** Tribunal considered the above matter on 09.02.2023 and observed that the Committee of District Magistrate, Meerut has not looked into the aspects which were required to be taken into consideration like internal development works pertaining to disposal of solid waste and sewage as per the layout approved/site plan sanctioned by MDA. Respondent 1 was also directed to file an additional reply giving details of internal development works pertaining to disposal of solid waste and sewage already completed and internal development works pertaining to disposal of solid waste and sewage yet to be completed giving timeline for completion of such incomplete work.

Action taken Report dated 13.04.2023 filed by MDA vide e-mail dated 13.04.2023:

19. Consequently, an action taken report dated 13.04.2023 has been filed by MDA stating that a committee comprising Chief Town Planner, Executive Engineer and Town Planner was constituted by Vice Chairman, MDA for spot inspection and to ascertain whether Completion Certificate may be granted as per bye-laws of the authority. The said committee visited the site on 01.04.2023 and found following facts:

- “a. The construction of roads at the site has been completed, however, at the time of inspection by the Committee members it was found that, **some roads were in a dilapidated condition and some were found to be partially constructed.***
- b. It is found that, **construction of only few drains in front of Villa Houses has been carried out and since, construction of maximum number of drains is still pending, it has led to issue of water logging at the site.***
- c. Further, after the construction of internal sewer line, sump well and pumping station, the same was found to be connected with the sewer line constructed by the Authority.*

*At the request of Green wood city, the sewer of the colony was connected to the manhole of the Vedvyaspuri trunk sewer line constructed by the Meerut Development Authority by laying pipeline of 200 mm dia. near the Green wood city. It was informed by the residents that the said sewer line got damaged due to expansion of NH 58 and construction of flyover. The inspection of the same was also carried out and the **sewer line was found to be damaged, due to which the disposal of sewage of Greenwood colony was not found in trunk sewer line of Vedvyaspuri.** For sewer disposal line, again an estimate of Rs.36,27,118/- has been prepared, which is under tendering process. After tender, the disposal of sewer would be done in the said trunk line.*

Here it is to be clarified that the disposal of the sewer of Godwin Colony depends on the condition that the disposal of the sewer in sump well is through internal sewer line as per the design of the sewerage system.

- d. As per the layout plan, out of the 8 parks, the work of development of 3 parks is remaining.*
- e. The arrangements for solid waste management have been done.*
- f. The street lights have been installed.*
- g. The work for the planting of trees has been completed. h. The balance amount which was required to be deposited by the developer on account of External Development Charges has not been deposited in the treasury of the Authority despite the orders of the Hon'ble High Court.*
- i. The Baghpat Road has been joined with the internal road of the Colony, however, as per the sanctioned layout plan, 18.00 meters wide road was required to be constructed but only 9.00 meters wide road is found to be existing."*

20. It is said that since the work has not been completed, Completion Certificate will be issued after completion of the entire pending work. Reliance is place on Section 15(a) of Uttar Pradesh Urban Planning and Development Act, 1973 (hereinafter referred to as '**UPUPD Act, 1973**') which provides the procedure and conditions wherein Completion Certificate is required to be issued. It is said that notice in writing of completion of developmental work shall be given for obtaining Completion Certificate and not otherwise.

Report by District Magistrate, Meerut filed on 13.04.2023:

21. District Magistrate, Meerut vide e-mail dated 13.04.2023 sent its report which is virtually repetition of its earlier report dated 04.02.2023.

Replication dated 02.08.2023 filed by applicant:

22. The applicant has filed again a replication vide e-mail dated 02.08.2023 stating that there is a provision in the agreement dated 25.09.2007 executed with MDA which provides that if the entire work is not completed by the developer, security may be forfeited by the authority

but MDA has not taken action thereunder. Respondent 1 has not constructed drainage system in the campus which is causing inconvenience in the society since it is resulting in water logging at places in rainy seasons; manholes of sewer lines are over-flowing and internal development work has not been completed in all respects.

23. Tribunal's Order dated 18.09.2023: Tribunal in its order dated 18.09.2023 referred to the above replication of the applicants and observed that issue of collection, processing and disposal of solid waste as also proper treatment and discharge of sewage is integrally connected to the issuance of Completion Certificate by MDA and taking over of project by Municipal Corporation, Meerut. Tribunal, however, required MDA to give details of such projects where external/internal development works have not been completed and no Completion Certificates have been issued and Municipal Corporation, Meerut was directed to give list of the projects which have not taken by it after expiry of stipulated period since external/internal development work is yet to be completed.

Reply dated 22.11.2023 filed by MDA:

24. Reply has been given by MDA i.e., respondent 2 stating that total map sanctioned by respondent 2 are 258 out of which 29 projects have been granted Completion Certificate and in remaining 229 projects, developers have not applied for Completion Certificates in terms of building bye-laws. MDA has issued letters to developers who have not applied for Completion Certificates. Further for the projects for which Completion Certificates have been issued, MDA has sent letters to Municipal Corporation, Meerut to take over the projects from developer. With regard to trunk sewer line, respondent 2 has stated that at the

request of Green Wood City, sewer of colony was connected to manhole of Vedvyaspuri of trunk sewer line constructed by MDA by laying pipeline of 200 mm diameter near Green Wood City. The complaint was received that sewer line got damaged due to extension of NH-58 and construction of fly over. After verifying the fact about damage of sewer line, an estimate of Rs.36,27,118/- has been prepared and tender work has been completed. Due to damage of sewer line, disposal of sewage of Green Wood Colony was not found in trunk sewer line of Vedvyaspuri. For execution of the work for repair of the sewer line, No Objection Certificate (hereinafter referred to as 'NOC') is required from NHAI hence a letter has been written to it on 06.10.2023.

25. Tribunal's Order dated 23.11.2023: Tribunal considered the matter again on 23.11.2023 and found that though MDA submitted its response but Municipal Corporation, Meerut i.e., respondent 5 has not submitted any response with regard to the details of projects where handing over issue is pending. In this regard, in para 16 and 17, Tribunal observed as under:

"16. It is evident from the reply filed by respondent no.2-MDA that even the projects for which the completion certificates have been issued by respondent no.2-MDA have not been taken over by respondent no.5-MCM for maintenance. Even the number of projects in which the developers have not completed internal development works and have not applied for completion certificates in terms of the building by-laws being 229 is very high. Ensuring safe habitat to the human beings is the responsibility of the State and its instrumentalities and ensuring proper sanitation, hygiene and assured source of water supply is the responsibility of Municipal Corporation. The right to life guaranteed under Article 21 of the constitution of India includes all these aspects. The State and its instrumentalities are under constitutional obligation to enforce fundamental rights and to protect and improve the environment.

17. In view of these aspects we consider it to be appropriate to seek a response from the State of Uttar Pradesh as to why the projects

which have not been completed and for which the completion certificate have not been applied by the developers within the stipulated period, why for the purpose of maintaining safe human habitation ensuring proper sanitation and hygiene, which is a basic human right, the instrumentalities of the State should not take over the projects and complete the internal development works at the costs and expenses to be recovered from the developers as arrears of land revenue (by their arrest and detention and attachment and sale of their properties) so that the maintenance thereof can be taken over by the Municipal Corporation.”

26. With regard to damage of sewer line and obstruction in its repair due to want of NOC from NHAI, Tribunal found it appropriate to implead it as respondent 8 and State of UP through Chief Secretary was impleaded as respondent 7. Notices were issued to them to file their responses.

Short reply dated 29.03.2024 filed by respondent 8:

27. A short reply dated 29.03.2024 has been filed by respondent 8 through Project Director, PIU Meerut, NHAI stating that in respect of the proposal for laying of sewage pipeline underground 200 mm C.I. Ductile Iron Pipe from km. 58.110 (LHS) to km 58.429 (LHS) etc., NHAI has taken all steps necessary for furnishing requisite NOC to MDA. In this regard, details have been given in para 5 to 12 as under:

“5. That vide Letter dated 11.10.2023 bearing No. 23, the MDA proposed to lay the sewer pipeline as aforesaid and requested the answering Respondent to provide NOC in this regard. That in response to the letter of MDA as aforesaid, the answering Respondent promptly vide its letter dated 18.10.2023 bearing no. NHAI/PIU-MRT/11041/2023/D-28572 forwarded the proposal to the Team Leader M/S L.N. Malviya Infrastructure Private Limited to examine the same and submit the comments/recommendations in consonance with policy guidelines issued by the Ministry of Road Transport and Highways (hereinafter referred to as the MoRTH) vide OM no. RW/NH-33044/29/2015/S&R(R) dated 22.11.2016. That the said policy guidelines are binding upon the answering Respondent in the matters of “accommodation of Public and Industrial Utility Services along and across National Highways” including the proposed laying of Sewer Pipeline as aforesaid by

the MDA. That the copy of the said letter dated 11.10.2023 by MDA and the letter dated 18.10.2023 by the answering Respondent are annexed hereto as ANNEXURE-R8/1 & R8/2 respectively. That the copy of OM dated 22.11.2016 issued by MoRTH is annexed hereto as ANNEXURE-R8/3.

- 6. That in furtherance of the proceedings, the answering Respondent received letter dated 08.11.2023 from the Independent Engineer after conducting the site inspection and furnishing the joint site inspection report. That thereafter, the answering Respondent vide letter dated 20.11.2023 bearing no. NHAI/PIU- MRT/11041/2023/D-28742 intimated the Regional Officer, Delhi about the same and requested to process the said proposal of the MDA. That the copy of the said letter dated 08.11.2023 issued by the Independent Engineer along with copy of Joint Site inspection Report is annexed hereto as ANNEXURE-R8/4 (Colly). That the copy of the aforesaid letter dated 20.11.2023 issued by the answering Respondent is annexed hereto as ANNEXURE-R8/5.*
- 7. That further, vide its letter dated 05.12.2023 bearing no. NHAI/PIU-MRT/11041/2023/D-28832, the answering Respondent asked the MDA to submit the KMZ file for the subjected proposal which was duly shared by the MDA on the email ID of the answering Respondent and the MDA intimated the same to the answering Respondent vide its letter dated 11.12.2023. That the copy of the aforesaid letter dated 05.12.2023 issued by the answering Respondent is annexed hereto as ANNEXURE- R8/6. That the copy of the aforesaid letter dated 11.12.2023 issued by the MDA is annexed hereto as ANNEXURE-R8/7.*
- 8. That vide the letter dated 18.12.2023, the answering Respondent sought clarification from the MDA with respect to the utility lines being reflected inside drainage structure in the check-list and sought corrected check-list. That in response to the same, the MDA submitted the revised check-list and intimated the same vide letter dated 26.12.2023. That the copy of the aforesaid letter dated 18.12.2023 issued by the answering Respondent is annexed hereto as ANNEXURE-R8/8. That the copy of the aforesaid letter dated 26.12.2023 issued by the MDA is annexed hereto as ANNEXURE-R8/9.*
- 9. That in terms of the policy guidelines vide O.M. dated 22.11.2016, the answering Respondent vide its letter dated 29.01.2024, bearing Reference No. NHAI/PIU-MRT/11041/2024/D-29221, public comments were invited*

upon the said proposal by putting the application in public domain for 30 days seeking claims/objections, if any. That a copy of the aforesaid letter dated 29.01.2024 was uploaded on NHAI website and was also sent to the office of the Executive Engineer, MDA. That the copy of the said letter dated 29.01.2024 is annexed hereto as ANNEXURE-R8/10.

- 10. That further, in response to the letter issued from the office of MDA bearing no. 131 dated 11.10.2023, the answering Respondent issued letter dated 23.02.2024, bearing Reference No. NHAI/PIU- MRT/11041/2024/D-29465 addressed to the Executive Engineer, MDA. That vide the said letter dated 23.02.2024, the answering Respondent requested the MDA to deposit a license fee of Rs. 1,36,914/- (Rupees One Lakh Thirty Six Nine Hundred Fourteen Only) for five years in Bharatkosh Portal as well as the Bank Guarantee of Rs. 36,800/- (Rupees Thirty Six Thousand Eight Hundred Only) with a validity of one year towards completion of subjected work in terms of the policy guidelines vide aforesaid OM dated 22.11.2016. That the copy of the aforesaid letter dated 23.02.2024 is annexed hereto as ANNEXURE-R8/11.*
- 11. That in furtherance of the proceedings towards the furnishing of NOC, the answering Respondent received the letter no. 268 dated 14.03.2024 from the MDA regarding furnishing the Bank Guarantee of Rs. 36,800/- (Rupees Thirty Six Thousand Eight Hundred Only) as stipulated in terms of policy guidelines vide BG No. 0607524IPG000004 dated 12.03.2024 in favour of the answering Respondent. That in order to confirm the issuance and genuineness of the same, the answering Respondent has sought SFMS confirmation from the Canara Bank, Sector 10, Dwarka, New Delhi vide its letter dated 14.03.2024 bearing Reference No. NHAI/PIU-MRT/11041/2024/D-29649. It is pertinent to mention here that the License Fee to the tune of Rs. 1,36,914/- (Rupees One Lakh Thirty Six Nine Hundred Fourteen Only) has also been paid by the MDA. That the copy of the said letter dated 14.03.2024 is annexed hereto as ANNEXURE-R8/12.*
- 12. It is submitted that the answering Respondent shall furnish the NOC in terms of the order dated 23.11.2023 of the Hon'ble Tribunal upon the satisfactory furnishing bank guarantee by the MDA in compliance of the policy guidelines dated 22.11.2016 issued by the MoRTH in this regard. That the answering Respondent undertakes to execute a License Agreement with MDA in this regard upon confirmation of issuance and genuineness of the Bank Guarantee to grant license in favour of the MDA to execute the requisite work."*

Replication dated 08.04.2024 filed on 11.04.2024 by applicant:

28. Applicants have filed again a replication dated 08.04.2024 and their submissions contained in para 1 to 8 read as under:

"1. The municipal corporation Meerut is picking up and disposing solid waste of the society, collected by employees of respondent no. 1, regularly on daily basis. Respondent no. 5 Municipal corporation Meerut has not taken over our society as per direction given by Hon'ble tribunal vide order dated 23-11-2023.

2. The MDA Meerut has detected damaged sewer line laid by it outside the society, which is, situated near flyover constructed on the Baghpat bypass road. But it is not replacing the damaged sewer line on pretext one or the other. The tender for completing work has been floated without replacing damaged sewer line, the sewerage of the society cannot be disposed of by respondent no. 1, in sewer line laid by the MDA Meerut. The M.D.A Meerut has appraised us that NHAI has not accorded permission to complete work through Delhi-Haridwar bypass road Meerut.

3. Hon'ble High court of judicature at Allahabad has dismissed writ petition (M/B) no. 7787 of 2008 by vide order dated 07-08-2020, Which was instituted by respondent no. 1 and hence const. co. has to pay the external development charges to M.D.A respondent No. 2. The MDA has issued R.C for recovery of external development charges as per R.C to the District Magistrate Meerut which is pending for execution.

*4. The respondent no. 2 has pointed out that development charges amounting 17,87,02,070/- including interest was due against const. co. on 16-11-2018 Respondent no. 2 has also mentioned that a request letter dated 28-12-2021 and reminder dated 18-02-2022 were sent to the D.M Meerut to recover the outstanding amount of external development charges from Respondent no. 1, (The developer const. co). **The DM Meerut is not executing the R.C issued by M.D.A Meerut.***

5. The external development charges have still not recovered from respondent no. 1, which is clear from the contention of respondent no. 2. Therefore Respondent no. 1 has not obtained completion certificate from Respondent no. 2 M.D.A Meerut.

6. The technical committee constituted by the D.M Meerut had inspected the site on date 30-01-2023. The respondent no. 1 construction co. has not completed internal developments which were found deficient by the technical committee. The respondent no. 1 has

not completed internal development which has been mentioned as incomplete in reports submitted by the technical committee in violation order dated 23-11-2023 passed by hon'ble tribunal. The state of affairs is the same no internal development has been made by respondent no. 1 within period of 3 months granted by hon'ble tribunal. Respondent no. 1 has not constructed drainage system and maintenance of roads are very poor. The residents of society are residing in pitiable conditions.

7. NHAI is not according permission to the M.D.A Meerut for replacing damaged sewer line laid by it The Builder co. respondent no. 1 is disposing of the 95% of sewage by pumping it from manhole situated near temple of society towards ghat road in open Rajbhaya of irrigation department. This fact is substantiated by the state of affairs that sum manhole are overflowing in open land of plots and on roads. Perhaps, somewhere, either sewer pipeline laid by respondent no. 1 const. co. is not functional or it is blocked.

8. The M.D.A respondent no. 2 is not issuing completion certificate to construction co. respondent no. 1, because respondent no.1 has not completed internal development and it is not depositing external development charges, which are outstanding against it as per R.C issued by M.D.A.

Likewise for paucity of completion certificate the maintenance of our society is not being transferred to the municipal corporation Meerut. Therefore respondent no. 5 Municipal corporation is not taking our maintenance of our society.

It is therefore humbly submitted that the respondent no. 1, neither completed the external development, nor internal development and has not handed over the society to Nagar Nigam Meerut on pretext one or the other. The respondent no.1/OP No.1 builder co., The respondent no. 2 M.D.A Meerut and respondent no. 6 Nagar Nigam Meerut, are Shifting their responsibilities on each other."

Additional documents submitted by respondent 8 vide e-mail dated 13.04.2024:

29. Respondent 8 i.e., NHAI vide e-mail dated 13.04.2024 has placed on record copy of letter dated 12.04.2024 sent to Executive Engineer, MDA forwarding a set of agreement duly signed by NHAI in the light of Ministry of Road Transport and Highways Guidelines dated 22.11.2016; and copy of the license for use of National Highway land dated 06.04.2024 signed

by Executive Engineer, MDA and Project Director, NHAI, PIU.

Report dated 29.04.2024 filed by District Magistrate, Meerut:

30. With regard to recovery of the external development charges of Rs.27,39,25,261/-. District Magistrate, Meerut has placed on record a copy of the letter dated 29.04.2024 stating that recovery proceedings could not be executed and demand notice has been returned to MDA since no property was found in the name of Mr. Jitendra Singh Bajwa, Director of M/s. Godwin Company Pvt. Ltd.

31. **Tribunal's Order dated 30.04.2024:** When the matter was taken up on 30.04.2024, Learned Counsel appearing for respondent 2 i.e., MDA sought time to file report regarding execution of trunk sewer line work, which was granted.

Action taken Report dated 22.07.2024 filed by MDA:

32. An action taken Report dated 22.07.2024 has been filed by MDA stating that after receiving NOC dated 12.04.2024 from NHAI, the work of sewer line has been completed and now disposal of sewage of Green Wood City is being done in the trunk sewer line. The relevant extract of the report as contained in para 4 and 5 is reproduced as under:

"4. On the request of Green wood city, the sewer of the colony was connected to the manhole of the Vedvyaspuri trunk sewer line constructed by the Meerut Development Authority by laying pipeline of 200 mm dia. near the Green wood city. It was informed by the residents that the said sewer line got damaged due to expansion of NH 58 and construction of flyover. The inspection of the same was also carried out and the sewer line was found to be damaged, due to which the disposal of sewage of Greenwood colony was not found in trunk sewer line of Vedvyaspuri. For sewer disposal line, an estimate of Rs. 36,27,118/- was prepared. and tendering work was done. For executing the said work, an NOC from NHAI was required and on request of the Respondent No. 02, the said NOC was granted

by NHAI vide letter dated 12.04.2024. True copy of the letter dated 12.04.2024 issued by NHAI are annexed and marked as "ANNEXURE-1".

5. *It is submitted that pursuant to the said NOC, the work of the sewer line has been completed and now the disposal of the sewage of the Green wood City is being done in the trunk sewer line."*

33. Tribunal's Order dated 26.07.2024: When the matter was heard by Tribunal on 26.07.2024 during the course of the hearing, Tribunal found that the relevant information with regard to compliance of environmental laws with regard to Environmental Clearance under Environment Impact Assessment Notification dated 14.09.2006 framed under Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**'), Consent under Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as '**Water Act, 1974**') and Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as '**Air Act, 1981**') were not placed and there was no fact disclosed to show whether project proponent has ever obtained the said Statutory Clearance/Consents from Competent Authorities or not. Hence, when a query was made from Learned Counsel appearing for respondent 1 on this aspect, he requested that he may be allowed some time to look into the matter and file additional reply and the time was allowed to file the same by Tribunal.

Reply by way of Counter Affidavit dated 08.08.2024 filed by NHAI:

34. Interestingly, reply by way of counter affidavit dated 08.08.2024 has been filed by respondent 8 i.e., NHAI wherein the allegations of damage caused to the sewer line by NHAI or its contractor has been denied. We may reproduce the relevant extract from the reply contained from para 4 to 10 as under:

- “4. That vide order dated 23.11.2023, the Hon’ble Tribunal was pleased to implead the answering Respondent as the Respondent No. 8 in the present case to furnish the requisite NOC to the Respondent No. 2 herein, Meerut Development Authority (hereinafter referred to as the MDA) to execute the work pertaining to the sewer line concerned which was allegedly damaged in the course of development of NH-58 upon such submissions by the MDA.
5. That in this regard it is being stated that the bare perusal of the contents of para no. 6 (c) of the Action Taken Report filed by the MDA appearing on page no. 236 of the paper book, reflects that it was merely “informed by the residents” that the sewer line got damaged due to expansion of the NH 58 and construction of flyover and no cogent proof whatsoever has been placed on record by the MDA in this regard. That no liability may be attached to the answering Respondent merely on the basis of vague and unsubstantiated averments as referred hereinabove.
6. That further, the entire correspondence between the MDA and the answering Respondent herein in relation to NOC for execution of work pertaining to concerned sewer line is a matter of record and no part of such correspondence from the MDA alleges that the sewer pipeline got damaged owing to the act(s) of the answering Respondent. It is clarified hereby that the answering Respondent herein furnished the requisite NOC to the MDA in terms of the order dated 23.11.2023 of the Hon’ble Tribunal for the purpose of the laying of the proposed sewer line as the same was falling within the ROW of the answering Respondent without admitting to the averment or allegation in respect of causation of damage of the sewer line.
7. That the widening work of the NH-58 in the concerned area was carried out by/at the behest of answering Respondent back in the year 2010. In view of the order(s) dated 23.11.2023 and 26.07.2024, the answering Respondent sought response pertaining to the alleged damage of sewer line, from M/s Western UP Tollway Private Limited, the contractor/concessionaire company which undertook the construction work of NH-58 in 2010.
8. That M/s Western UP Tollway Private Limited vide its letter dated 05.08.2024 bearing reference no. WUPTL/ 20240805/ NHAI/ 2024/ 2150 informed that the concerned sewer line existed 200 meters away from NH-58 and therefore, ruling out any possibility of damaging of sewer line during the widening work of NH-58. That the picture taken from google earth/map depicting the

location of NH-58 and the concerned sewer line as existed in November 2010 has also been enclosed with the letter. That moreover, SOP envisages that shifting of existing utility services to an appropriate location in accordance with the standard and specifications of concerned Utility Owning Department is part of the scope of work of contractor/concessionaire and in this case no record(s) of any kind of correspondence in respect of the concerned sewer line falling in the way of construction could be found by the contractor/concessionaire. Therefore, the claims/averment made by the MDA pertaining to the damage were found to be factually incorrect and hence are being denied. That the copy of the above- said letter dated 05.08.2024 bearing reference no. WUPTL/20240805/NHAI/2024/2150 along with the picture of the location taken from google earth/map is annexed hereto as ANNEXURE-R8/1."

9. *That in this regard, request was also made by the answering Respondent M/s LN Malviya Infra Projects Private Limited which provided Independent Engineering Services to the answering Respondent to inspect the site and examine the details of the construction work. Vide its letter dated 05.08.2024 having reference no. TL/LNM/NH-58/O&M/NHAI/2023-24/233, the non existence of sewer line in the way of construction was confirmed as there was no record of correspondence in relation to shifting of the sewer line which fall within the scope of work of the contractor/concessionaire and upon the site visit, it was also confirmed that the sewer line has been laid by MDA and the issue has been resolved. That the copy of the said letter dated 05.08.2024 having no. reference TL/LNM/NH-58/O&M/NHAI/2023-24/233 is annexed hereto as ANNEXURE-R8/2.*
10. *That as such, no damage has been caused to the concerned sewer line, as alleged, by or at the behest of answering Respondent which amounts to violation of environmental laws has been committed therefore the liability to pay environmental compensation is strongly denied."*

35. Pursuant to order dated 26.07.2024, no additional reply has been filed by respondent 1 and when the matter was taken up on the next date i.e., 09.08.2024, Counsel for respondent 1 admitted that he has not filed any additional reply and also, he does not propose to file any additional reply and said that whatever is on record, Tribunal may consider the same and pass appropriate order.

ARGUMENTS:

36. Learned Counsel for applicant has argued that the internal development of the project in question has not been completed by project proponent i.e., respondent 1 in as much as it has not constructed any STP but has adopted a bye-pass method by connecting sewer line of the project with Vedvyaspuri trunk sewer line constructed by MDA by laying down pipeline of 200 mm diameter, internal roads are damaged causing air pollution, solid waste is not being properly handled and managed in accordance with the provisions of Solid Waste Management Rules, 2016 and thereby, the conditions of EC have been violated, environment is being damaged and there is utter violation of the provisions of Water Act, 1974 and EP Act, 1986.

37. Learned Counsel appearing for respondent 1 i.e., project proponent per-contra submitted that STP was not to be constructed by proponent in as much as MDA has permitted it to connect the sewer line of the project for discharge of sewage directly` in Vedvyaspuri trunk sewer line of MDA and discharged sewage was to be treated through STP installed by MDA. He refers to the site inspection conducted on 30.01.2023 pursuant to District Magistrate, Meerut's order which was placed before Tribunal vide letter dated 02.02.2023 filed vide e-mail dated 05.04.2023, stating that solid waste is being collected and discharged by Nagar Nigam. With regard to internal roads, it is said that the construction work of the approach road was started, which is also mentioned in the above inspection Report and repairs have also been carried out, hence, it cannot be said that any violation of environmental laws has been committed by respondent 1.

38. Learned Counsel for respondent 2 i.e., MDA has referred to its action taken Report dated 13.04.2023 stating that Committee was constituted by Vice Chairman of MDA for spot inspection who visited the site on 01.04.2023 and found that the construction of road at the site had been completed though some roads were in dilapidated condition and some were partially constructed. Water logging was found at the site since only a few drains in front of villa houses were carried out and construction of maximum number of drains was pending. Internal sewer line was constructed and through sump well and pumping station, it was connected with sewer line of MDA and main sewer line of MDA is discharging the sewage in accordance with law. Sewer line was found to be damaged due to extension of NH-58. Repair/re-construction work is in the process. He also admitted that out of 08 parks sanctioned in the layout plan, 03 parks were yet to be developed but arrangement for solid waste management was made by proponent and plantation was also carried out. He stated that MDA shall abide by the order of Tribunal in the light of the facts placed by MDA before Tribunal which may be considered from its reports and pleadings.

39. UPPCB has not filed any independent or separate pleadings or reply and it refers to only Joint Committee Report dated 23.11.2022.

40. Other Learned Counsels appearing for various authorities said that Tribunal may consider the matter in the light of documents available on record and pass order which shall be complied by them in words and spirit.

ISSUES:

41. From the arguments advanced by the respective Counsels, following

substantial questions relating to environment have arisen in the matter, which require adjudication in this matter:

- (I) Whether in the project in question, respondent 1 has violated and/or still violating the provisions of EP Act, 1986 and Water Act, 1974 and Air Act, 1981 and various Rules framed thereunder and thereby, causing damage to environment?
- (II) Whether Statutory Regulators and other authorities, in the present matter, discharged their functions for protection of environment or there is negligence on their part also in compliance of environmental laws and thereby, environment is being damaged?
- (III) What appropriate order is required to be passed/what relief is to be granted to the applicant, if any, in case question I is answered against project proponent?

ISSUE I:

42. This issue may be considered in the light of various factual averments which have come on record with respect of state of affairs on the site formed by various authorities in different site inspections which are part of record.

43. First aspect relates to disposal of sewage developed/generated in the project area. It is evident from record that the project in question was developed at a very big site. Area of site as per the approved lay out plan which has been placed on record at page 68 along with Joint Committee Report dated 23.11.2022 is 193660 m². Thereagainst, the area under Master Plan Road Widening was 3375 m² and area under Master Plan

Green Wedge was 26000 m². The total project layout area of respondent 1, therefore, is 164285 m² comprising the area under residential use i.e., Group housing and plots/duplex houses. The area under residential use is 91770.74 m² comprising 7345.24 m² for group housing and 83325.50 m² for plots/duplex houses. The area under parks/open spaces is 25073.07 m²; for commercial use 7608 m² and for educational use 3500 m². The built-up area, therefore, in any case obviously is much more than 20000 m². Despite opportunity, respondent 1 has chosen not to disclose the entire facts relating to exact-built up area, by filing relevant documents before us.

44. We may refer at this stage our order dated 26.07.2024 wherein when a question was raised with Learned Counsel for respondent 1 as to whether there was compliance with the provisions relating to statutory consent, clearance and NOC and conditions thereof, Learned Counsel for respondent 1 sought time to place on record the relevant documents but thereafter has not filed any document before us.

45. Construction activities proceeded after enforcement of Environment Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as '**EIA 2006**') issued under provisions of EP Act, 1986 in as much as the documents on record show that for approval of layout plan no. 28 of 2006, MDA issued a letter dated 22.09.2007; completion of all formalities and agreement was executed between project proponent and MDA for development of colony on 25.09.2007 as is evident from annexure-2 at page 8 which is part of application itself. It is evident from record that developer i.e., respondent 1 has not obtained EC under the provisions of EIA 2006 in respect of the project in question. We also do not find that

any Consent to Establish (hereinafter referred to as 'CTE') or Consent to Operate (hereinafter referred to as 'CTO') was obtained from UPPCB under the provisions of Water Act, 1974 and Air Act, 1981 as no material has been placed by respondent 1 before Tribunal despite opportunity granted vide order dated 26.07.2024. The cost of project has not been placed on record but annexure-1 at page 6 of the application shows that project proponent was to deposit Bank Guarantee against Rs.2,29,73,296/- for internal development work and Rs.6,57,14,000/- towards external development work.

46. Respondent 2 in its reply dated 06.01.2023 has stated that against the amount required to be deposited towards external development charges, project proponent/developer deposited Rs.2,62,85,600/- with MDA and rest amount of Rs. One Crore in two installments on 18.11.2008 and 10.12.2008 pursuant to the order passed by High Court on 24.10.2002 in *Writ Petition No.7787/2008 (M/B)*.

47. Developer has constructed, as per the facts stated in OA, 1200 units of multi 10 stories buildings comprising 2 BHK, 3 BHK accommodations and 87 villas.

48. The violation of environmental laws by not obtaining EC and Consent therefore, is evident and apparent.

49. However, we are not confining our findings only to this aspect and proceed to consider other aspects on which specific complaint has been made by the applicants.

50. The first complaint is with regard to sewer. The applicants have said that the sewage is being collected in a pond and disposed of in open

nallah; pits/main holes of sewer lines are over-flowing and no drainage has been constructed in entire colony.

51. Joint Committee Report shows that the work of sewer line and main holes was done; earlier disposal of sewerage was done in a pit near plot number P-15 and therefrom it was being done in a drain outside the colony which was not closed by plugging and Joint Committee found sewer collected at that time in the pit. Disposal of sewage, later on, sought to be executed by connecting to trunk sewer line built by MDA through pipeline connected with pressure of 4-inch diameter which was not found technically suitable to transmit the entire sewerage generated in the project area as a result, whereof, sewer line and main holes were found full. Drains and drainage system were also not found completely developed by the developer.

52. Discharge of untreated effluent on land, stream, river, drain etc. is prohibited under Section 24 of Water Act, 1974, if it does not meet the standards prescribed and for the purpose of meeting the standards. It was incumbent upon the developer to make provision for STP in the project but admittedly, no such provision was made.

53. Respondent 1 in its reply, in para 2.1, has stated that there was an agreement between the proponent and MDA that STP shall be installed and maintained by MDA and discharge of sewerage of the project shall be allowed in the sewer line of MDA which is connected to another STP.

54. It is however, admitted that pipeline of the project has been connected with another sewer line of MDA with pressure pipe of 4 inches only and the explanation of respondent 1 is that it has requested MDA to

replace pressure line by 6 to 10 inches but no action was taken by MDA. It shows that respondent 1 was aware of the fact that 4 inches pipeline was not sufficient to transmit the entire sewerage generated in the project area to common sewer line of MDA. Respondent 1 has stated that it has installed specially designed automatic pumps but when the connecting line is not of sufficient capacity and Joint Committee has clearly found the collection of sewerage in the project area which fact has neither been disputed by respondent 1 nor shown to be incorrect, it clearly shows that there is/was violation of Section 24 of Water Act, 1974 on the part of respondent 1.

55. Moreover, connection with the trunk line of MDA and treatment of sewer by STP provided by MDA is part of outside development of the project area and responsibility for providing appropriate sewage treatment by installing STP inside the project is that of 'Developer'. The internal development was the responsibility of Developer. Admittedly, this condition has not been complied with and there is apparent violations on the part of Developer in this regard.

56. We accordingly answer issue I in favour of the applicants and against respondents 1 and 2 and in particular respondent 1.

ISSUE II:

57. Coming to issue II, we find that besides flagrant violations of environmental laws as discussed above on the part of proponent, no appropriate action has been taken by UPPCB. Even MDA has allowed illegal indulgence by granting concessions to the Developer regarding discharge of untreated sewage into Trunk line of MDA, without taking care of environmental laws and without realising that in such a large colony

having huge built up area, quantity of sewage is also high and in view of Section 24 of Water Act, 1974, no polluting material could have been allowed to be discharged by the Developer on the land, stream, river, drain, etc.

58. It was incumbent upon Developer, as a part of internal development, to make provision for treatment of sewage by installing appropriate capacity STP but it was not installed and ignoring this aspect, MDA allowed Developer to discharge untreated sewage in main trunk line of MDA outside the project, illegally, and thus, encouraged and abated violation of environmental laws on the part of Developer. Unfortunately, UPPCB has also not discharged its duty by making a periodical inspection at the site and taking action for violation of environmental laws against the violators. These lapses on the part of MDA and UPPCB are condemnable. **We accordingly answer issue II against Statutory Regulators and authorities i.e., respondents 2 and 3.**

ISSUE III:

59. Now the question is what appropriate order is required to be passed in the present case. Section 20 of NGT Act, 2010 requires this Tribunal to decide the matters considering the principle of 'Polluter Pays', 'Precautionary Principle' and 'Sustainable Development'. Development of the area, per se, may not be objectionable or against any Statutory provisions, but the manner in which, it is required to be developed, must follow rigorously the provisions of the law and in particular, the environmental laws.

60. In the present case, there is flagrant violation of environmental laws, not only on the part of the agency which initiated the process of

development i.e., MDA, but also the Developer i.e., respondent 1. Since construction activities include accommodation, villas etc. have already been completed, and, as evident from record, 1200 units of 2 and 3 BHK accommodation and 87 villas are already there, any direction for closure of this project at this stage, may not be in public interest. Yet we have to take care of protection of environment and particularly the proper handling, management and disposal of liquid and solid waste generated in the project area. Further, for violation of environmental laws, by application of principle of 'Polluter Pays', the violator must be saddled with the responsibility of payment of environmental compensation which may be utilized for remediation and rejuvenation of the damage environment.

61. In the context of violation of environmental laws and causing pollution, Supreme Court has repeatedly held that the violator must be held responsible for payment of environmental compensation for remediation and rejuvenation of damaged environment by application of principles of 'Polluter Pays'.

62. Tribunal has repeatedly held that assessment/computation of environmental compensation for restoration of the damaged environment should take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of being punitive. The idea is not only for restoration/remediation or to mitigate damage/loss to environment, but also to discourage people/proponents from indulging in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment. The imposition of environmental compensation is in furtherance of the application of principle of 'Polluter Pays'. In the context

of this Tribunal, NGT Act, 2010 vide Section 20 itself recognizes application of the said principle but for the Statutory Authorities who have power to issue statutory directions for enforcement of environmental laws, principle of 'Polluter Pays' is available being integral part of environmental jurisprudence. The power of Statutory Authorities to levy Environmental Compensation by application of 'Polluter Pays' principle is available in the provisions of environmental laws containing provisions to issue direction like Section 33A of Water act, 1974, Section 5 of EP Act, 1986, etc.

63. When environment is damaged on account of act of someone's illegal activity in violation of environmental laws and norms, such violator is liable to share the cost which may be incurred for remediation and rejuvenation of damaged environment. This has been recognized as principle of 'Polluter Pays'.

64. This Principle was recognized as part of environmental law in India in ***Indian Council for Enviro-Legal Action vs. Union of India, (1996) 3 SCC 212***. Certain industries producing assets were dumping their waste. Even untreated waste water was allowed to flow freely polluting atmosphere and sub-terrain supply of water which ultimately caused darkening and dirtiness of wells and the streams water rendering it unfit for human consumption. Certain environmentalists' organizations broadly alleging severe damage to villager's health, filed a Writ petition as PIL in 1989 before Supreme Court. By that time, some of the units were already closed. Referring to Article 48-A in Directive Principles of State Policy and 51-A in the Fundamental duties of citizens, Supreme Court observed that said provisions say that State shall endeavour to protect and improve environment and to safeguard the forest and wildlife of the country. One

of the fundamental duties of citizens is to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creature. Where a **Proponent has established its commercial unit and operate contrary to law flouting norms provided by law, Statutory Regulator is bound to act and if it fails, a judicial forum can direct it to act in accordance with law.**

65. Referring to Oleum Gas leak case, i.e., *M.C. Mehta vs. Union of India, (1987) 1 SCC 395*, Court observed in para 58 that the constitution bench held that **enterprise must be held strictly liable for causing such harm as a part of social cost of carrying on the hazardous or inherently dangerous activity.** Hazardous or inherently harmful activities for private profits can be tolerated only on the condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of carrying on of such hazardous or inherently dangerous activity, regardless of whether it is carried on carefully or not.

66. Court also referred to its earlier decision in *Indian Council for Enviro Legal action vs. Union of India, (1995) 3 SCC 77*, wherein concerned Pollution Control Board identified about 22 industries responsible for causing pollution by discharge of their effluent and a direction was issued by Court observing that they were responsible to compensate the farmers. It was the duty of State Government to ensure that this amount was recovered from the industries and paid to the farmers. In para 67 of the judgment, Court said that the **question of liability of respondent units to defray the costs of remedial measures can also be looked into from another angle which has now come to be**

accepted universally as a sound principle, for example, ‘Polluter Pays’ principle. On this aspect, Court further observed as under:

*“67. ...The **Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution.** Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The ‘Polluter Pays’ principle was promoted by the Organization for Economic Co-operation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialized society. Since then, there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed.*

*Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ([1987] OJC 328/1) makes it clear that **the cost of preventing and eliminating nuisances must in principle be borne by the polluter**’, and the polluter pays principle has now been incorporated into the European Community Treaty as part of the new Articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the Community, and that action is to be based on three principles: the need for preventative action; the need for environmental damage to be rectified at source; and that the polluter should pay.”*

67. Court further said that **according to the above principle of ‘Polluter Pays’, responsibility for repairing the damage is that of the offending industry.** Sections 3 and 5 of EP Act, 1986 empower Central Government to give directions and take measures for giving effect to this principle. Court further said:

“...In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment [Protection] Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit.”

68. The above principle has been followed in ***Vellore Citizen Welfare Forum vs. Union of India, 1996 (5) SCC 647***. In para 25, direction no. 2 reads as under:

2. The authority so constituted by the Central Government shall implement the “precautionary principle” and the “polluter pays” principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

69. In ***Bittu Sehgal and Another vs Union of India & Others, (2001) 9 SCC 181***, referring the earlier judgments, Supreme Court has said that ‘Precautionary Principle’ and ‘Polluter Pays Principle’ have been accepted as part of the law of the land.

70. In ***Research Foundation for Science vs. Union of India & Ors., (2005) 13 SCC 186***, in para 26 and 29, Court, on ‘Polluter Pays’ Principle, has said as under:

“26. The liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter-pays principle. These principles are part of the environmental law of India. There is constitutional mandate to

protect and improve the environment. In order to fulfill the constitutional mandate various legislations have been enacted with attempt to solve the problem of environmental degradation.

29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case."

71. In ***Karnataka Industrial Areas Development Board vs. C. Kenchappa & Others, (2006) 6 SCC 371***, principle of 'Polluter Pays' has been explained in detail referring to the earlier judgments in ***Indian Council for Enviro-Legal Action vs. Union of India (supra)*** and ***Vellore Citizen Welfare Forum (supra)***.

72. Further the Developer is also liable to complete the development activities including construction of STP so as to prevent any further pollution causing damage to environment and for this purpose we find that necessary directions are required to be issued by this Tribunal to the concerned parties applying 'Precautionary Principle' as also the steps for protection of environment and restoration of damaged environment in the appropriate manner.

73. Coming to the question of quantum of environmental compensation by application of principle of 'Polluter Pays', we find that issue I has already been answered by us holding that there is violation of environmental laws causing damage to environment on the part of the Developer, i.e., project proponent and therefore, is liable to pay environmental compensation

following principle of 'Polluter Pays'. With regard to question of determination of environmental compensation, we find that in respect of the construction companies where environmental laws are violated, the criteria for computation of environmental compensation has been laid down by Supreme Court in the case of ***Goel Ganga Developers vs. Union of India and Others, (2018) 18 SCC 257***. Therein environmental compensation was imposed since construction project was executed without EC. Supreme Court made it **Rs.100 Crores or 10% of project cost whichever is higher**. Supreme Court also upheld Rs.5 Crores imposed by Tribunal vide order dated 27.09.2016. Thus, total amount exceeded even 10% of project cost. In para 64 of the judgment, Supreme Court observed as under:

*"64. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. This Court has in a number of **cases awarded 5% of the project cost as damages. This is the general law.** However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has maneuvered and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone upto 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area etc. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs.100 crores or 10% of the project cost whichever is more. We also make it clear that while calculating the project cost the entire cost of the land based on the circle rate of the area in the year 2014 shall be added. The cost of construction shall be calculated on the basis of the schedule of rates approved by the Public Works Department (PWD) of the State of Maharashtra for the year 2014. In case the PWD of Maharashtra has not approved any such rates then the Central Public Works Department rates for similar construction shall be applicable. We have fixed the base year as 2014 since the original EC expired in 2014 and most of the illegal construction took*

*place after 2014. In addition thereto, if the project proponent has taken advantage of Transfer of Development Rights (for short 'TDR') with reference to this project or is entitled to any TDR, the benefit of the same shall be forfeited and if he has already taken the benefit then the same shall either be recovered from him or be adjusted against its future projects. **The project proponent shall also pay a sum of Rs. 5 crores as damages, in addition to the above for contravening mandatory provisions of environmental laws.***

(Emphasis added)

74. Supreme Court further said that though general rule is to award 5% of the project cost as damages but in a case where special circumstances exit, higher compensation should be awarded. Court observed that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent.

75. In ***Mantri Techzone Private Limited vs. Forward Foundation & Others, (2019) 18 SCC 494***, Supreme Court affirmed imposition of environmental compensation by Tribunal, considering cost of the project, where there was violation regarding EC/consent and proponent proceeded with construction activities violating provisions relating to EC/Consent. Tribunal determined environmental compensation at 5% and 3% of project cost of two builders. 5% of project cost was imposed where project proponent had raised illegal constructions while 3% was imposed where actual construction activity was not undertaken by project proponent and only preparatory steps were taken including excavation and deposition of huge earth by creating a hillock. Besides, Tribunal also directed for demolition and removal of debris from natural drain at the cost of project proponent.

76. In the present case, since the project cost has not been disclosed by respondents 1 and 2 but development charges which have been already

paid by respondent 1 and further recoverable are more than Rs.30 Crores, and normally development charges are less than 10% of the project cost, the project cost must have been more than Rs.300 Crores and 5% thereof would be Rs.15 Crores. However, we are not indulging in any guess work and as an interim measure, direct respondent 1 to pay environmental compensation of Rs.10 Crores which shall be deposited with respondent 3 within 03 months.

77. Respondent 3 is further directed to collect relevant information including project cost from respondents 1 and 2 and thereafter, compute final environmental compensation in the light of the law laid down by Supreme Court in ***Goel Ganga Developers vs Union of India and Others (supra)*** and after adjusting the amount of interim compensation as imposed as above, shall take steps for recovery of the remaining of environmental compensation from respondent 1 in accordance with law.

78. In case of failure on the part of respondent 1 in complying any part of directions given above, appropriate coercive action including criminal and other action, as are permitted in law, shall be taken by UPPCB so as to seek compliance of directions given above.

79. MDA, in the meantime, shall take necessary steps to ensure that sewage is not collected in the project area in violation of Section 24 of Water Act, 1974 and if connecting pipeline is to be replaced with a higher capacity line, the necessary steps shall be taken by MDA since it is also responsible to encourage violation of environmental laws on the part of respondent 1 by permitting it to discharge untreated sewage in the common drainage system of MDA. This action shall be taken by MDA within 02 months.

80. Amount of environmental compensation realized from respondent 1 shall be utilized for remediation, rejuvenation of the already damaged environment in the area concerned in accordance with the environment development plan which shall be prepared by Joint Committee comprising UPPCB and District Magistrate, Meerut wherein District Magistrate shall be the nodal agency. This plan shall be prepared within 02 months and executed in the next 04 months.

81. We also direct respondent 1 to make the provisions for treatment of sewage generated in the project area by constructing STP of requisite capacity and make it operational within 06 months from the date of this judgment.

82. For disposal of solid waste in scientific manner and in compliance of Solid Waste Management Rules, 2016, due steps shall be taken by Resident Welfare Association of the project in question. Residents Welfare Association or Villa Jan Welfare Society shall take appropriate steps in consultation with UPPCB within 03 months and UPPCB shall ensure thereafter compliance of environmental laws and norms in respect to handling, management and disposal of solid waste in accordance with environmental laws and norms and if there is any violation, appropriate action shall be taken against the violators.

83. In view of the above, we dispose of this OA with the following directions:

- (I) We direct respondent 1 to make the provisions for treatment of sewage generated in the project area by constructing STP of requisite capacity and make it operational within 06 months from the date of this judgment.

- (II) For disposal of solid waste in scientific manner and in compliance of Solid Waste Management Rules, 2016, due steps shall be taken by Resident Welfare Association of the project in question. Residents Welfare Association or Villa Jan Welfare Society shall take appropriate steps in consultation with UPPCB within 03 months and UPPCB shall ensure thereafter compliance of environmental laws and norms in respect to handling, management and disposal of solid waste in accordance with environmental laws and norms and if there is any violation, appropriate action shall be taken against the violators.
- (III) We direct respondent 1 (project proponent), as an interim measure, to pay environmental compensation of Rs.10 Crores and deposit the same within three months with respondent 3 i.e., UPPCB.
- (IV) Respondent 3 is directed to collect relevant information including project cost from respondents 1 and 2 and thereafter, compute final environmental compensation in the light of the law laid down by Supreme Court in ***Goel Ganga Developers vs Union of India and Others (supra)*** and after adjusting the amount of interim compensation as imposed as above, shall take steps for recovery of the remaining of environmental compensation from respondent 1, in accordance with law.
- (V) Amount of environmental compensation realized from respondent 1 shall be utilized for remediation and rejuvenation of the already damaged environment in the area concerned in accordance with the Environment Development Plan which shall be prepared by Joint Committee comprising UPPCB and District Magistrate,

Meerut wherein District Magistrate shall be the nodal agency.
This plan shall be prepared within 02 months and executed in the next 04 months.

- (VI) In case of failure on the part of respondent 1 in complying any part of directions given above, appropriate coercive action including criminal and other action, as are permitted in law, shall be taken by respondent 3 so as to seek compliance of directions given above.
- (VII) MDA, in the meantime, shall take necessary steps to ensure that sewage is not collected in the project area in violation of Section 24 of Water Act, 1974 and if connecting pipeline is to be replaced with a higher capacity line, necessary steps shall be taken by MDA. This action shall be taken by MDA within 02 months.

84. A Compliance Report shall be submitted in respect of all the above directions by UPPCB before Registrar General of this Tribunal by 15.08.2025.

85. Copy of this judgment be forwarded to UPPCB; MDA; Commissioner Municipal Corporation, Meerut; and District Magistrate, Meerut by e-mail for information and compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

March 04, 2025
Original Application No.492/2022
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