

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

**Original Application No. 299/2016
(M. A. No. 535/2016)**

IN THE MATTER OF:

- 1. Diwan Singh**
R/o A-9,
Shaman Apartments,
Plot No. 9, Sector- 23,
Dwarka, New Delhi
- 2. Captain (Retd) S.S. Mann**
R/o B-405,
Himhit CGHS Plot No. -8,
Sector 22, Dwarka,
New Delhi

.....Applicants

Versus

- 1. Union of India**
Through its Secretary,
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhawan
Jor Bagh Road, New Delhi -110 003
- 2. Ministry of Water Resources, River Development and Ganga Rejuvenation,**
Through its Secretary
Shram Shakti Bhawan, Rafi Marg
Sansad Marg Area, New Delhi - 110001
- 3. Ministry of Urban Development,**
Through its Secretary
Maulana Azad Road
Rajpath Area, Central Secretariat
New Delhi- 11 0001
- 4. Government of NCT of Delhi**
Through its Chief Secretary
Delhi Secretariat, I.P. Estate
New Delhi - 110002

5. Delhi Development Authority

Through its Vice-Chairman
Vikas Sadan, Near INA Market
New Delhi

6. Central Ground Water Authority

Through its Member Secretary
West Block-2, Wing-3
Sectpr-1, R.K. Puram
New Delhi – 110066

7. Central Ground Water Board

Through its Chairman
Bhujal Bhawan
NH-IV, Faridabad
Haryana

8. Central Wetlands Regulatory Authority

Through its Chairman
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhavan
Jorbagh Road, New Delhi- 110003

...Respondents

Counsel for Applicant:

Mr. Rahul Choudhry, Mr. Saurabh Sharma, Ms. Meera Gopal, Advs

Counsel for Respondents:

Mr. Rahul Pratap, Advocate for Respondent Nos. 1 & 8.
Mr. B.V. Niren, Advocate for Respondent Nos. 2, 3, 6 & 7.
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar & Ms. Japnam Bindra, Advocates for Respondent Nos. 4.
Mr. Rajiv Bansal, Mr. Kush Sharma, Ms. Arpita, Mr. Siddhant Gupta & Ms. Sukriti Kashyap, Mr. Keshav Dutta Advocates for Respondent No. 5.

JUDGMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar, (Chairperson)

Hon'ble Mr. Justice Raghuvendra S. Rathore, (Judicial Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Hon'ble Mr. Ranjan Chatterjee, (Expert Member)

Reserved on: 7th September, 2016

Pronounced on: 1st November, 2016

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

Mr. Bikram Singh Sajwan, EM

The Present Application has been filed seeking restoration of water bodies in Dwarka, New Delhi, which are in need of restoration / revival and protection. The Applicants, namely, Diwan Singh, R/o A-9, Shaman Apartments, Plot No. 9, Sector – 23, Dwarka, New Delhi and Captain (Retd) S.S. Mann, R/o B-405, Himhit CGHS Plot No.-8, Sector 22, Dwarka, New Delhi are members of Dwarka Water Body Committee and claim to have been involved in activities relating to preservation of Yamuna flood plains and other environment related activities like preservation of Yamuna bio-diversity and tree plantations in and around Delhi.

The Application has been filed seeking the following reliefs:

“

- i. Direct for the revival and restoration of the 33 water bodies identified by the Members of Dwarka Water Body Committee constituted by the Lt. Governor as well as the CGWB as per the recommendations given at Paragraph No. 25 and Annexure 17.*
- ii. Direct for Constitution of an empowered Expert Committee to oversee the work of implementation of work of revival of the 33 water bodies as per the recommendation and directions of this Hon'ble Tribunal.*
- iii. Direct DDA to change land-use of the water bodies given under para-21 (g) (i) and also under para 21 (g)(ii) of the present Application to 'water body' and revive these in time bound manner.*
- iv. Direct for removal of encroachments, restoring the water bodies to their original dimensions of the water bodies listed under para 21 (g) (iii) and remove malba etc., from the water bodies listed in Annexure A-16. ”*

2. It is the case of the Applicants that the Central Ground Water Authority (for short “CGWA”) had notified South West District of NCT Delhi, of which Dwarka is a part, as notified area for control and regulation of ground water on 15th August, 2000. In terms of the guidelines issued subsequently on

15th November, 2015, permission to abstract ground water from the notified areas was made permissible only for the purpose of drinking water, with certain conditions. In the light of the fact that this area faces grave water scarcity situation and in the light of the area having been declared as notified area, identification and protection of water bodies in the surrounding areas is the need of the hour. Despite this, however, the authorities have not shown any inclination or taken effective steps to tackle the situation. In this connection, the Applicant also refers to a letter dated 14th November, 2000 by which Chief Secretary of Delhi drew attention to the many ponds within the jurisdiction of NCT Delhi which have been reclaimed by different agencies and further directed that no ponds shall be filled up, reclaimed by any person, organization or land owning agencies and that it should invariably be the responsibility of the landowner/ bhoomidar of the pond, that the pond continues to be used for its earmarked purposes.

3. The Applicants have also drawn attention to the Master Plan 2001 of Delhi, prepared by the Delhi Development Authority, (for short "DDA") under which Zonal Development Plans have been prepared for each zone of Delhi. It is stated that Dwarka falls within Zone 'K' of DDA Zonal Development Plan wherein it is specifically stated that the existing natural gradient towards Najafgarh drain makes it economical and eminently sensible to use the natural slope of land for developing a proper drainage system. It further goes on to say that a few retention ponds have been proposed for Najafgarh drain which should receive the discharge from the outfall drain which in turn would help in raising the water table in surrounding areas. It is the case of the Applicants that Dwarka presents the best potential for revival of water bodies. It is a low lying area and it falls along the natural drainage basin extending from the Aravalli in the East and South East sloping towards

Dwarka where the soil is highly permeable and finally draining into Najafgarh drain. Despite a favourable topographic and geomorphic feature and the resulting large amount of storm water flow that is available, not a single water body can be termed as functional in Dwarka area. The large amount of storm water that passes through Dwarka remains untapped and outfalls into Najafgarh drain which otherwise would have percolated to the ground and helped ground water recharge. As a result thereof, the fresh water aquifers in most parts of Dwarka have depleted, requiring efforts to infuse fresh rainwater into these aquifers. It is the averment of Applicants that Applicant No. 1 had undertaken a survey of water bodies in 50 villages of South West Delhi, and noted that out of 183 water bodies, 93 were dry, untreated sewage was flowing into 63 of them, and 29 were such that they were not officially recorded as water bodies. Further, the Applicants have also made an estimate in collaboration with various Experts and came to the conclusion that almost 16 MCM, equivalent to 10 MGD in terms of the daily supply can be tapped if water bodies in Dwarka were revived. Armed with the study and the survey carried out, the Applicants led a delegation to the Hon'ble Lieutenant Governor of Delhi on 7th June, 2013 with the intention to seek his indulgence to revive and protect the water bodies. In the meeting taken by the Hon'ble Lieutenant Governor of Delhi with the various officers, where the Applicants were also present, the following directions were inter alia issued:

- “....(iii) Chief Engineer (Dwarka) will ensure that all storm-water drains are properly linked to water bodies for an assured water supply and utilization of rain water. Storm water drains will have also to be kept clean while all the ponds will have to be de-silted before monsoon.*
- (iv) DDA will also preserve the area around the water bodies as woodland. This area will be treated as a part of the water body and segregated by a boundary wall. Parks and other invasive land uses will not be permitted. Water bodies which are filled with sewage will be treated naturally by bio-remediation. All water bodies and depressions which are not entered in the revenue records will have to be identified within a month and work*

started on priority for their revival. Addl. Commissioner (Land Scape), DDA will oversee the restoration of water bodies.”

In pursuance of the Minutes of the Meeting taken by the Hon'ble Lieutenant Governor, which were issued on 24th June, 2013, the Dwarka Water Body Committee, headed by the Chief Engineer (Dwarka), DDA held the meeting of the Committee on 27th March, 2014. In the said meeting a list of 23 water bodies was identified with respect to their location, their present status and actions that needed to be taken for their revival/restoration.

4. The Applicants have alleged that they even approached the Ministry of Water Resources, River Development & Ganga Rejuvenation (for short “MoWR, RD & GR”) with a list of water bodies and requested the Ministry to direct DDA for revival of 33 water bodies which have been identified by the Committee constituted by the Lieutenant Governor. It is also the case of Applicants that on the direction of the MoWR and RD&GR, the Central Ground Water Board (for short “CGWB”) inspected and identified 33 water bodies on various dates, namely, 14th October, 2015 and 19th February, 2016 and submitted a detailed report inventorising all the water bodies, their present status along with a set of recommendations for their revival.

5. However, despite all this, the DDA was unwilling and uninterested in taking any worthwhile decision for revival of the water bodies and even stopped holding meetings of the Committee constituted by the Lieutenant Governor. Even after a lapse of 3 years, no tangible action has been taken by DDA except for only partial revival of 2 water bodies. Although, in the Meeting of 7th June, 2013, it was decided that regular meetings will be held by Chief Engineer (DDA), who is the Chairman of the Committee, no such meetings were held after November 2014 and that the untreated sewage water continues to flow at least into 10 water bodies out of 33 water bodies,

while malba/solid waste has been dumped into as many as 7 water bodies. Besides, no action has also been taken to map all the storm water drains and developing linkages of the drains with the water bodies. There are also violations of the decision taken in the Lieutenant Governor's meetings wherein it was decided that woodlands would be created around the water bodies so as to enhance water retention capacity of the water bodies, promote aquatic biodiversity and help purification of water through natural filtration process which woodlands are capable of providing. No action has also been taken to correct revenue records so that all the water bodies are recorded in the revenue records with a view to prevent change of land use of these water bodies in future for other developmental purposes. In fact, it is the case of the Applicants that a number of water bodies have already been brought under institutional infrastructure, commercial, residential use partly, thereby causing damage to the water holding capacity of the water bodies and catchment areas of such water bodies. In fact, the DDA has also ignored the direction given by Department of Environment, Government of NCT Delhi to identify and mark locations of water bodies and their catchment limits, so that the Revenue Department, could thereafter, update its record. The Applicants have, therefore, alleged that there is a total lack of action on the part of the DDA to identify, document water bodies, remove encroachments, prevent flow of sewage into the water bodies and take any long term action for the revival and restoration of water bodies which play a vital role in ground water recharge, maintenance of aquatic biodiversity, improving micro climate and, more importantly, play a socially relevant role.

6. The Respondent No. 1 (for short "MoEF & CC") in their reply affidavit have submitted that the NCT of Delhi has not yet constituted the State Wetland / Lake Authority and not yet submitted the list of lakes and wetlands

to be covered under the National Lake Conservation Plan (NLCP) and National Wetland Conservation Programme (NWCP), or National Plan for Conservation of Aquatic Eco-systems (NPCA) or notified under the Wetlands (Conservation and Management) Rules, 2010. Hence, the Rules could not be made applicable to these water bodies. Further, MoWR, RD & GR is implementing the scheme of repair, renovation and restoration (RRR) of water bodies and, therefore, the water bodies in Dwarka will fall in their jurisdiction. The MoEF & CC has in particular drawn attention to a letter dated 23rd December, 2013 by which the said Ministry wrote to all the State Governments asking them to identify wetlands, constitute wetlands authorities, develop Integrated Management Plan and strengthen legal / regulatory frame work for management of the wetlands.

7. The averments in the common reply affidavit filed on behalf of Respondent No. 2 (MoWR, RD & GR), Respondent No. 6 (CGWA) and Respondent No. 7 (CGWB) are that as per the record of CGWB, State Unit Office, New Delhi the ground water level recorded by the monitoring station in Dwarka Sector-16 in South West Delhi varies from 21.88 (November, 2015) to 22.18 (May, 2016) meters below ground level. The water level data related to the entire South West District of NCT Delhi has also been placed on record. It is further averred that the Chief Secretary of NCT Delhi had issued orders in his letter dated 14th November, 2000 directing the land owning agencies to protect the water bodies and carry out cleaning in consultation with the DJB. Drawing reference to the inspection report of the CGWB Dated 16th February, 2016, the Respondents have submitted that a set of recommendations have already been furnished in the inspection report of the CGWB which need to be followed up in order to help revival of the water bodies and recharge of the ground water. The water bodies require

periodic cleaning, excavation repair, desilting with proper connectivity and suitable engineering measures for prevention of back flow into the drains. It is, therefore, the DDA being a land owing agency, which has the primary responsibility for identification, documentation, prevention of encroachments, prevention of sewage and municipal waste going into the water body or its catchments and other measures for revival and restoration of the water bodies.

8. The NCT of Delhi (Respondent No. 4) have filed an affidavit stating that out of 33 water bodies mentioned by Applicants, 20 water bodies had already been identified and recorded as Johar / Ponds in the revenue records. Further, the DDA has been directed to prepare a brief document of these ponds/ johar so that proposal could be forwarded to the Central Wetland Regulatory Authority, MoEF & CC for declaration as wetlands in terms of Wetland (Conservation & Management) Rules 2010.

9. The DDA did not file its reply and during the hearings none of the documents placed on record by the Applicants as well as Respondents were disputed by the DDA. The Learned Counsel for the DDA, during the course of hearing, also submitted that they will abide by the orders that may be passed by the Tribunal in the Original Application No. 299/2016.

10. We have heard the counsels for the parties and perused the documents placed on record as well as the submission made during the hearing. The primary contention of the Applicants is that the topographic and geomorphological features of the Aravallis present on the Eastern and South Eastern side of Dwarka, provide natural drainage of water during the monsoons towards Palam and, thereafter, towards Dwarka which is eventually leading to Najafgarh drain. This fact has not been disputed by

any of the Respondents in their replies, neither has this been controverted by the documents placed on record. Perusal of the inspection report of 16th February, 2016 prepared by the CGWB clearly brings out that, there are in all 33 water bodies, which the CGWB had surveyed and submitted a report. During the survey carried out by CGWB, the Applicants were also present. The report points out that out of the 33 water bodies, 2 water bodies have already been surveyed on 14th October, 2015 and report has been submitted and in respect of the remaining 31 water bodies, the new report has been prepared. It is further stated that entire Dwarka area is characterised by unconsolidated alluvial deposits which consist of alternate layers of silt, clay, concrete and the depth of ground water level in the area varies between 20 m to 30 m below the ground water level. The report makes the following observations and recommendations:

“Observations:

- 1. Dwarka Water Body Committee has identified 33 water bodies at Dwarka. Two of these have been surveyed earlier and report submitted.*
- 2. Most of the Water bodies are having catchment area around 2 to 5 acres.*
- 3. It is observed during inspection that most of the water bodies are almost dry and the entire run off to the water bodies have been partly recharged into the sub-surface, thereby recharging to ground water and partly evaporated.*
- 4. As regards to the water bodies located at Bagdola village, Sec-8, Barthal Village, Sec-26 and Dhaulsirias village presence of sewage water could be observed. Committee demand for treatment of sewage water.*
- 5. Water body located at Mansa Devi is being used as a dumping site. Garbage also found in some other water bodies.*
- 6. Storm water drains are blocked / choked, thereby reducing flows of water to the water bodies.*
- 7. Some lean flow of contaminated water was found flowing through the catchment drains.*
- 8. These water bodies can help in recharging ground water after rejuvenation.”*

“Recommendations:

- 1. These water bodies are suitable for recharge to ground water. So before onset of monsoon silt/waste material should be excavated and water body kept clean.*
- 2. Necessary repair of the drains needs to be carried out wherever required.*

3. *All the storm water drains are to be cleaned prior to monsoon.*
4. *Necessary peripheral drains may be constructed to divert the runoff to the water bodies.*
5. *No contaminated water to be diverted into the water bodies which is to be addressed for avoiding any contamination of ground water due to recharge.*
6. *Diversion of storm water form Trunk Drain-2 flowing from Airport may be considered.*
7. *Flood water form Najafgarh drain may also be diverted to the water bodies if feasible.*
8. *Necessary remedial measures to be taken to treat the sewage water stored in some water bodies.*
9. *Monitoring mechanism adjacent to the water bodies must be provided to observe the change in ground water regime due to recharge.*
10. *Observation wells (Dedicated monitoring well – 4 dia. And 40 to 50 m deep) may be installed at upstream side and downstream side for monthly monitoring of ground water levels and water level data to be submitted to this office positively.*
11. *Ground water quality must be monitored both during pre-monsoon and post-monsoon so as to have a quality surveillance of ground water after implementation of recharge facility.*
12. *Action on the above to be taken by DDA.”*

A perusal of the observations and recommendations by the CGWB clearly brings out the presence of 33 water bodies, most of which vary in size from 2 to 5 Acres, are subjected to illegal dumping, flow of sewage water, blockage of drainage channel leading to the water bodies being adversely affected and there is a complete absence of any maintenance like desilting, dredging. These are also the submissions made by the Applicants. The report also recognises the need for maintenance of storm water drains leading to the water bodies and construction of peripheral drains to divert surface run off to the water bodies including monitoring of ground water quality both pre and post monsoon by creating observation wells in the area. Consequently, we find no dispute in the contention raised by the Applicants that the water bodies in Dwarka have an important role in improving the ground water recharge and that they have been suffering for want of proper care and maintenance.

11. The Applicants' prayer is not only for protection and revival of the 33 water bodies but also for direction to the DDA, to identify more water bodies

in Dwarka area and take necessary steps for their protection and revival. The DDA, however, based on the documents placed on record, has referred to only 23 water bodies in Dwarka, of which 2 water bodies in Sector 20 and 23 were created at the behest of the Applicants, although these water bodies were not recorded in revenue record as such. The DDA has disputed the presence of 33 water bodies and vide their letter dated 28th December, 2015 pointed out that all the water bodies in Dwarka sub-city have been revived and submitted that due to creation of infrastructure of roads, building and water supply, it will require relocating services and disturbing the existing infrastructure, if water is to be brought in to all the water bodies through drains.

12. We may at this stage refer to the averment of the Applicants that entire South West District of Delhi including Dwarka area had been declared as a notified area, suggesting that the ground water situation was critical and any extraction of the ground water is to be permitted only for the purpose of drinking water. It is also not in dispute that the topography of Dwarka is such that the natural flow of storm run-off is from South East and East towards Palam and Dwarka eventually leading to Najafgarh drain and if adequate measures to tap the surface run off into water bodies are taken, it would promote ground water recharge, thereby improving the ground water situation in Dwarka. Applicants have also referred to a study done with the help of Delhi University, whereby due to revival of 2 water bodies in Sector 20, 23, the water table was noticed to have improved by 8 feet at a distance of 50 meters from the water body at Sector 23 with a 50 % reduction in TDS. We have, therefore, no reason to differ with the contention of the Applicants that a number of measures outlined in the meeting taken by the Lieutenant Governor on 7th September, 2013 and the recommendations given by the

CGWB in its inspection report of 2016, will help revival of the water bodies. We are not going into the question of whether there are 23 water bodies as pointed out by DDA in its letter dated 28th December, 2015 or 33 water bodies as per the averments of the Applicants and the report of CGWB of 16th February, 2016. However, what is not in dispute is that the water bodies have faced encroachments both from public authorities as well as others, continue to receive sewage and have only suffered neglect at the hands of the land owning agencies.

13. Adverting to the land use in Dwarka as per the Master Plan for Delhi 2001, the Applicants have submitted that except for recreational areas that are largely parks and water bodies, most of the area in Dwarka is either built up or open with concrete surfaces such as roads, parking, shops etc.; the recreational area constituting only about 17 % of the total land area in Dwarka. Therefore, on a conservative assumption, almost 60 % of the Dwarka area is either built up, paved or is covered with the residential / commercial uses including public utilities. Taking the standard run off coefficient of 0.90 for paved areas and 0.20 for unpaved areas / parks, the total run off available within Dwarka has been estimated to be of the order of 21.7 MCM. Additionally, Dwarka gets surface run off of about 6000 acres from Palam Airport areas. Assuming that 50 % of the rain water is available as a storm water run-off, the total run off available is of the order of 28 MCMs both from within Dwarka as well as the Airport, all of which due to the topographical configuration of the area drains into the Najafgarh drain. This is a large volume of about 28 MCM (equivalent to about 10 MGD) surface run off which the Applicants are seeking to channelize into the water bodies that have been identified by the CGWB as well as the Applicants. There is merit in the submissions of the Applicants that the substantial portion of the

surface run off so arrived at by the Applicant, based on standard parameters of rain off coefficient of various surfaces, can if harvested properly be channelized into the identified water bodies and, thereby, help revival of the wet lands as well as improve the water table in the area.

14. We may at this stage also refer to the complete lack of action on the part of the authorities to identify the ponds / johars located within the jurisdiction of the Government of NCT, Delhi, particularly, in the area that is subject matter of the present application, despite the orders of the Chief Secretary of Delhi dated 14th November, 2000. In fact, the minutes of the Dwarka Water Bodies Committee meeting held on 27th March, 2014, to which has been attached the list of the water bodies in Dwarka Zone, clearly bring out that the land owning agency, that is the DDA, could only identify 23 water bodies and even within these, the status was not well documented. In the absence of the water bodies being identified and recognised as a land use and recorded as such in revenue records, the conservation and protection of such water bodies have suffered neglect. It may not be an exaggeration to say that the water bodies in absence of being recognised in the land revenue records have been a victim of encroachment by public at large and have also been subjected to reclamation even by the public authorities without any regard to their role in maintaining the hydrological cycle and water balance. It is with this purpose that the Chief Secretary in his order of 14th November, 2000 had categorically directed for identifying and documenting such water body and preventing their diversion. We are, therefore, of the considered view that the water bodies need to be identified and brought on the revenue records by making suitable correction in the revenue record and, thereafter, the special plans need to be drawn up for their management, besides, providing them legal protection through the

regulatory framework under the Wetlands (Conservation and Management) Rules, 2010.

15. Water bodies and wetlands play an extremely crucial role in ground water recharge, maintenance of aquatic biodiversity, provide habitat for avifauna as well as aquatic life, help regulate temperature and humidity in the locality, and thereby ameliorate the severity of extreme temperature and also provide drinking water during critical months to the wild life. Besides, a water body receives the surplus run off, subsurface and base flow from the adjoining catchment area during the monsoons and helps in the recharge of aquifers, thereby providing a dynamic equilibrium with the catchment as well as the aquifers underneath. Protection of water bodies is, therefore, critical to the associated aquatic and terrestrial ecosystem of the area. However, the capacity of the water bodies can be severely impacted adversely in the absence of a proper vegetative cover, unregulated flow of domestic sewage and industrial effluent into the water body or dumping of municipal waste which some of the water bodies in the present Application have been a victim of. There are photographs and Google images placed on record to show that a water body which was existing in 2013 ceased to be a water body in 2015 and 2016 due to the dumping of municipal waste/construction debris. Even the document of DDA placed on record by the Applicants, do not dispute the fact that the water bodies have been either covered with municipal waste or malba or that sewage is actually freely flowing into these water bodies.

16. At this stage we may refer to the observation of the Hon'ble Apex Court that there is a constitutional mandate on the State and its machinery to protect the natural environment including forest, lakes, rivers and wildlife and

to have compassion for living creatures. In the matter of **M.C. Mehta vs. Union of India & Ors. [(2004) 12 SCC 118]** it was held that :

“..... By 42nd Constitutional Amendment, Article 48A was inserted in the Constitution in Part IV stipulating that the State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country. Article 51A, inter alia, provides that it shall be the duty of every citizen of India to protect and improve the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures. Article 47 which provides that it shall be the duty of the State to raise the level of nutrition and the standard of living and to improve public health is also relevant in this connection. The most vital necessities, namely, air, water and soil, having regard to right of life under Article 21 cannot be permitted to be misused and polluted so as to reduce the quality of life of others.”

17. The water bodies, which play a critical role in providing environmental services are a public resource attracting Public trust doctrine which has been laid out by the **Hon'ble Supreme Court in M.C Mehta Vs. Kamal Nath (1997) 1 SCC 388.**

“ Thus, the public trust is more than an affirmation of state power to use public property for public purposes. It is an affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands, surrendering that right of protection only in rare cases when the abandonment of that right is consistent with the purposes of the trust.....”

18. The Apex Court has held that the government is duty bound to clean and develop ponds which were drying up, so that ecological disaster may be prevented and better environment provided to people at large in the matter of **Hinch Lal Tiwari V. Kamala Devi [(2001) 6 SCC 496]**. Relevant portion is reproduced as follows :

“ It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc., are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e., Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large”

The emphasis of the above enunciated law is that all the concerned authorities should exercise their powers within the framework of law to

protect forests, lakes, rivers and wildlife. The failure on the part of the Authorities to do so causes a dual damage. Firstly, the loss of water bodies and secondly, unauthorised or impermissible development activity on the wetland. Both of them cumulatively have serious adverse impacts on environment and ecology.

19. In the light of the documents on record and the Constitutional and statutory position enunciated in the various pronouncements by the Hon'ble Supreme Court, we allow the Original Application No. 299 of 2016 with the following directions:

- i. The DDA shall inventorize all the water bodies and prepare a comprehensive management plan for water bodies and their management and revival in Dwarka. The DDA being land owning agency, shall take all steps for removal of all the illegal encroachments on water bodies, their catchments, removal of unauthorisedly dumped municipal waste including construction and demolition waste / malba. This shall be done within a period of 3 months.
- ii. We constitute a team consisting the following to monitor the progress of identification, documentation, revival and monitoring of water bodies in Dwarka:
 - a) Chief Executive Officer of Parks and Garden Society, in-charge of water bodies in NCT Delhi;
 - b) An officer of the level of Chief Engineer of Delhi Jal Board;
 - c) Chief Engineer in-charge of Dwarka, Delhi Development Authority;
 - d) A Professor / Associate Professor nominated by the Director IIT, Delhi;

- e) A Senior Officer (of the rank of Director) of the Central Ground Water Board, New Delhi; and
 - f) Dr. A.B. Akolkar, Member Secretary, Central Pollution Control Board, New Delhi.
- iii. The Chief Executive Officer of Parks and Garden Society shall be nodal officer of the Committee. The Committee shall monitor the progress of implementation of the Plan prepared by DDA, besides monitoring the implementation of CGWB recommendations of 2016.
 - iv. The Revenue Department of Government of NCT, Delhi shall take steps to include water bodies, as already identified in the Report of the CGWB, in the revenue records. Each of the water bodies so identified, shall have zone of influence/catchments clearly stated/demarcated.
 - v. The Government of NCT Delhi shall take all steps within their power and in accordance with law and constitute the State Wetland Authority as expeditiously as possible and in any case not later than three (3) months from the date of pronouncement of this judgment.
 - vi. The Government of NCT Delhi should submit proposal for declaration of the water bodies / wet lands that have been already identified and recorded in the revenue records for their declaration as wetlands under the Wetlands (Conservation and Management) Rules, 2010. This exercise should be completed in respect of the already identified water bodies / wet lands within next 3 months.
 - vii. The MoEF & CC shall after receipt of proposal from the Government of NCT Delhi within 2 months thereafter notify the wetlands under the Wetlands (Conservation and Management) Rules, 2010. The Government of NCT Delhi and DDA should ensure that all the water bodies that have been already identified or will be identified in terms of

the directions contained herein above, no invasive land use, particularly, those related to construction, creation of infrastructure of roads, buildings within the wet land and the zone of influence / catchment in the future planning of Dwarka area shall be permitted. In other words, such area will be excluded from planning of residential / commercial infrastructure creation that may be planned in future so as to maintain the characteristics of the wet lands both in terms of their water holding capacity and their environmental role.

- viii. Management Plan shall also be prepared for greening of the area with local indigenous species through the Horticulture Department of DDA. The DDA shall make sufficient budgetary provision for survey, identification and restoration of the water bodies in their normal budgets.
- ix. The Committee constituted in terms of Direction at **sl.no. ii.** shall file a periodic report after every 6 months before the Tribunal on the progress achieved in implementation of the above directions. The Affidavit shall be filed by the Nodal officer of the Committee.
- x. The DDA shall also survey and map all the primary, secondary, tertiary drains leading to the water bodies and also make provision to divert flow from drains into the water bodies in case some of the drains do not have an outfall into the water body. While providing connectivity between the drains and the water bodies, as well as inter-connectivity between the water bodies, wherever feasible, due consideration shall be given to the watershed / catchment of each of the water bodies, arrived at on the basis of contour mapping of the area.
- xi. No domestic sewage / industrial effluent should be permitted to flow into the water bodies and any domestic sewage which is flowing into

the water bodies such domestic sewage should either be diverted into sewerage network in the area or trapped by constructing individual septic tanks by the house holds. This shall be enforced in consultation with the DJB.

xii. The Central/NCT Government and Authorities shall comply with the directions contained in this judgment. In the event of default, they shall be liable to be proceeded against personally in accordance with law.

20. With this the Original Application No. 299 of 2016 stands disposed of with no order as to costs. M.A No. 535 of 2016 also does not survive as the main Original Application No. 299 of 2016 itself has been disposed of.

....., CP
(Swatanter Kumar)

....., JM
(Raghuvendra S. Rathore)

....., EM
(Bikram Singh Sajwan)

....., EM
(Ranjan Chatterjee)

New Delhi

Dated: 1st November, 2016