

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

**Application No. 89 of 2013**

**Akash Vashishtha & Anr. Vs. Union of India & Ors.**

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER  
HON'BLE DR. G. K. PANDEY, EXPERT MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

**Present:**      **Applicant:**                      Mr. Amit Khemka, Advocate along with Ms. Sanorita D. Bharali, Advocate with Mr. Akash Vashishtha, Applicant in Person

**Respondent No. 1:** Ms. Neelam Rathore, Advocate  
**Respondent No. 2&3:**                      Mr. Ardhendumauli Kumar Prasad, Advocate  
**Respondent No. 5:**                        Mr. D. Rajeshwar Rao, Advocate  
**Respondent No. 6:**                        Mr. Manjit Singh, Addl. AG  
**Respondent No. 8&11:**                      Mr. Pankaj Pandey, Advocate  
**Respondent No. 9&12:**                      Ms. Reena Singh, Advocate with Mr. Arjun Singh, Advocate  
**Respondent No. 10:**                        Ms. Sushma Singh, Advocate  
**Respondent No. 13:**                        Mr. Rajesh Chhabra, Advocate

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 2 May 20, 2013</b>	<p>All Respondents have been served.</p> <p>The service on all Respondents is complete.</p> <p>Learned counsel appearing for the respective Respondents pray for time to file Reply. Let Replies be filed within four weeks from today with advance copy to the learned counsel appearing for the Applicant who may file Rejoinder within one week thereafter.</p> <p>We make it clear that no further time would be allowed to complete the pleadings.</p> <p>It is conceded before us by all learned counsel appearing for respective Authorities, Corporations, NCT of Delhi, State of Uttar Pradesh and State of Haryana that there are unauthorized and illegal constructions raised on the flood plain of river Yamuna. These constructions have been raised without permission of any competent authority.</p> <p>On the contrary, these Authorities including the Irrigation Department of State of Uttar Pradesh and other Authorities claim to have issued Notices to the persons who have raised unauthorized and illegal constructions upon the flood plain of river Yamuna, but rarely of any effect.</p> <p>It is an admitted position in law that construction upon flood plain area is prohibited. It not only affect the natural flow of the river but even causes environment</p>

problems besides raising risk to human life and property.

Learned counsel appearing for the Applicant has brought to our notice the Notification dated 16<sup>th</sup> March, 2010 issued by the Chief Secretary of Uttar Pradesh to all the Authorities including the Police in the State of Uttar Pradesh to ensure that no constructions whatsoever is raised on the flood plain zone and whichever constructions have been raised should be removed. The relevant extract of the said notification state as under:-

“It is coming to the knowledge of government that illegal constructions / encroachments are increasing in the flood plain zones and they are not being controlled. While on one hand complexities due to obstruction of natural flow of water during floods may arise from such illegal constructions, on the other hand, there is danger of loss of life and property to the residents. In this connection, orders have been given in the past from time to time and orders have also been given by Housing Division-I, UP through its government Order No. 1773/9-A-1-1995, dated 18 May, 1995 and also GO No. 2432/9-A-1 Encroachment/2003(AB), dated 04 April 2003 but these government orders have not been followed strictly, which is leading to a rise in the number of such illegal constructions / encroachments. Hence, upon a careful deliberation, the government has taken the following decisions :

1. Clear depiction of flood plain zones along rivers as flood affected areas in the Master Plans and to prevent any constructions in these areas, these areas should be reserved as Green. It should be ensured to ban all kinds of constructions in flood plain zones under the Zoning Regulations of the concerned cities.
2. No NOC will be granted, under the RBO Act, UP Urban Planning & Development Act 1973 and Industrial Development Act 1973, to any kind of construction inside the flood plain zone and nor will be the lay-out plans of such constructions be approved. To stop such kind of illegal constructions, effective action would be taken under the provisions of the above acts.
3. Action to be taken by Irrigation Department to remove illegal constructions and notify the areas along canals under Section 55 of the India Canal & Drainage Act.
4. Effective use of Up Flood Emergency Powers Act by all District Magistrates.
5. Concerned officials of Irrigation Department must caution all those carrying out illegal constructions in flood plain areas of rivers to remove them off immediately and also make it clear to them

that no compensation would be done by the government for any loss arising out of damages due to floods and flood safety/relief measures will not be undertaken and the cost of damage will be recovered by those carrying out/having illegal constructions.

People should remove off illegal constriction at their own will. Effective action would be taken against illegal constructors by the concerned development authorities/industrial development authorities and Nagar Palika Parishads under applicable provisions of the acts.

6. Effective action would be ensured by SSP/SPs of all districts through the Police Station Officers to check illegal constructions inside flood plain areas.

7. Strict compliance should be made for removing illegal constructions as soon they are done in flood plain areas that belong to Irrigation Department.

8. Strict, punitive action should be taken against officers/staff workers of concerned departments, after fixing their accountability, if they fail to take the expected action in the case of illegal constructions”.

Despite the above Notification and the stand taken by the Authorities, NCT of Delhi and the State of Haryana, there has been mushrooming of unauthorized and illegal constructions on the flood plain zone. It is high time that these Authorities should discharge their statutory obligations in accordance with law and with greater sense of responsibility.

Despite the said Notification and specific directions issued to all the Authorities much less constructions have been stopped or/and demolished. On the contrary there has been rapid mushrooming of unauthorized and illegal constructions on the flood plain of river Yamuna.

In view of the above circumstances, we hereby issue *ad interim* injunction restraining any illegal and unauthorized construction, be it temporary or permanent, on the flood plain zone of river Yamuna in the NCT of Delhi, State of Haryana and State of Uttar Pradesh. All Authorities of the respective States including the Police, Irrigation Department, Environment Department and PWD and all the public Authorities and Corporations shall ensure that no illegal and unauthorized construction is raised upon the flood plain zone of river Yamuna. Wherever unauthorized

and illegal constructions have been raised steps should be taken to demolish the same in accordance with law.

We hereby direct the NCT of Delhi, State of Uttar Pradesh and State of Haryana to specifically file Plans/Maps showing extent of one in 25 years flood plain zones. Furthermore, they shall also state, if any of the Government Department had issued No Objection Certificate for such construction on flood plain of river Yamuna.

Complete details should be furnished along with the Reply to be filed the by respective Departments / Corporations and Authorities and by the Ministry of Water Resources.

We make it clear that the responsibility of carrying out the said directions shall be of Vice Chairman, Commissioners, Secretaries of the concerned Department and Deputy Commissioner of Police of those areas.

At the oral request of the learned counsel appearing for the parties, the Delhi Development Authority and East Municipal Corporation of Delhi are impleaded as Respondent No. 14 and 15 respectively.

The learned counsel appearing for the Applicant shall serve Dasti Notice to the said Authority and Corporation.

Similar order and injunction shall operate in regard to river Hindon as well.

List on 10<sup>th</sup> July, 2013.

.....,CP  
(Swatanter Kumar)

.....,JM  
(U.D. Salvi)

.....,EM  
(Dr. D. K. Agrawal)

.....,EM  
(Dr. G.K. Pandey)

.....,EM  
(Prof. A. R. Yousuf)