

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

**Original Application No. 190 of 2016
(M. A. No. 353 of 2016)**

Sushil Raghav & Anr. Vs. Central Ground Water Authority & Ors.

CORAM:

**HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present: Applicant / Appellant :Mr.Rahul Choudhary, Mr.Saurabh SharmaAdvs.

MoEF : Mr. Taruna A. Prasad, Adv

Respondent No. 3,5,9 :Ms. Nida Khan, Adv.

Respondent No. 4 : Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv

Respondent No. 7,8 & 10 Mr. Raman Yadav, Adv

Ghaziabad Nagar Nigam : Ms. Priyanka Swami, Adv.

CGWA : Mr. A.K. Prasad, Mr. Jaydip Pati, Advs.

UPSIDC : Mr. Rajesh Raina, Mr. Irum Raina Adv.

Date and Remarks	Orders of the Tribunal
Item No. 11 April 13, 2017 jg	<p>This case is listed in pursuance to our order dated 09-02-2017 by which we had directed the respondent no.1-CGWA to file detailed statement about the number of industries, number of borewell each industry has, and whether permission has been granted for extraction of water to those industries, if not, what action has been taken till now, for which they were granted time of two weeks.</p> <p>Learned Counsel for the respondent no.1 submits, that in pursuance thereto a detailed affidavit has been filed on 07-03-2017 which is at page no. 202, sworn to Sh. V. Vijay Vardhan, Administrator, CGWA New Delhi.</p> <p>Drawing our attention to the substance of the</p>

submission in the affidavit, he contends that the order passed on 15-04-2015 has been fully complied with and tabularised statement is filed by respondent no.1 at annexure R-1, appendix to the affidavit.

He further referred to an attempt made by CGWA to ensure that such of the industries who have not obtained permission are now given an opportunity to apply to the authority to obtain required permission by way of regularizing of extraction of water.

He has referred to the public notices issued on 29-04-2016 and subsequently on 14-11-2015 and 29-04-2016 followed by publication in the regional paper.

None of the submission satisfy us as being in compliance to our direction dated 15-04-2015.

It is regrettably noticed that the officers manning the authority-CGWA seems to be under the impression that the order passed by this Tribunal referred to above only required the industries to who are extracting water to obtain permission by way of regularizing of their impermissible act of exploiting ground water illegally.

It is also disturbing to see that instead of enforcing the order which in clear terms directed the CGWA to ensure that extraction of ground water is in terms of the mandate of law after obtaining consent, if not, appropriate action be taken. CGWA has virtually become a nodal agency for all these agencies solicited and inviting applications to regularize their illegal acts and has extended the date for submitting of such applications.

We have no hesitation to record that the

notification by which the authority has been vested with ample power vide notification dated 16-11-2015, has been totally given a go by and it is in breach of mandate thereto.

In the given circumstances, we need to hear further in detail about the functioning of the authority itself and its inaction. Of course, we will appreciate, if they, file detailed statement as to what steps they had taken to prevent illegal ground water extraction from the date of creation of this authority by conferment of power vide the notification referred as above at least in the area in question (in the first instance).

For the present, we would like to proceed to ensure compliance to our directions date 15-04-2015 and in this regard, direct as follows:

1. CGWA shall forthwith seal all the borewells run by the existing and/ newly established industries and to be established from for extraction of ground water, which are not granted consent as on the date of the order passed by this Tribunal on 15-04-2015.
2. Extraction of water by such of the industries who have applied to CGWA for grant of permission and consent and whose applications are still pending, shall also be prevented from extraction of ground water from the borewells till their applications are objectively examined individually.
3. CGWA shall review the consents so far granted to the industries in the area in question and the

private individuals/ or any person till 15-04-2015 on merit of each case and take a final decision as to whether the consent so granted is valid in law or requires revocation. If that be so, all the licenses/consents shall be revoked. Of course, after granting opportunity to the recipients of such.

4. Apart from the industries who are brought into the mischief of our order, we further direct extraction of ground water by, private individuals, any person or builders without permission or having valid permission, shall face the same consequences and CGWA shall seal all their borewells.

5. CGWA shall ensure that no private water supplier through tankers is allowed extraction of water whether within or beyond the limits of the Municipal Corporation with authorization of CGWA.

6. The CGWA shall list out such of the water suppliers who are supplying water for any purpose and ascertain the sources of acquiring of water by the suppliers. If the same is being done after obtaining consent then ascertain the quantity of water so far extracted.

7. The District Magistrate who is described as the authorized officer under the notification referred to above, shall ensure that any direction issued by CGWA in this regard, is enforced.

8. The CGWA is directed to pass appropriate orders

and get it executed through the authorised officer named in the notification. If need be obtain, necessary assistance from the local jurisdiction police for this purpose. The CGWA and District Magistrate to issue appropriate directions /instructions to the jurisdiction police for this purpose.

9. The report about compliance of this report shall be filed with regards the condition nos. 1 2 and 3 within one week after sealing of borewells. The report shall be filed within a period of one week from today after serving copy on the applicants counsel.

10. As regard the other directions are concerned the CGWA is granted three weeks time to file the report of compliance in the Registry after serving copy on the applicant counsel.

List the matter for further proceedings on 27th April, 2017.

.....,JM
(Dr. Jawad Rahim)

.....,EM
(Ranjan Chatterjee)