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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7594/2018 & CM APPL. 30022/2018

COURT ON ITS OWN MOTION

..... Petitioner

Through:

versus

UNION OF INDIA & ORS

..... Respondents

Through:

Mr.Ripu Daman Bhardwaj, CGSC with Mr.Kushagra Kumar and Mr.K.Manaswini, Advocates for UOI. Mr.Anuj Aggarwal, ASC with Ms.Arshya Singh, Mr. Siddhant Dutt and Mr.Yash Upadhyay, Advocates for GNCTD.

Ms.Puja Kalra, Standing Counsel for MCD.

Ms.Rashmi Chopra, Advocate for DDA.

Mr. Tushar Sannoo, ASC for NDMC.

+ W.P.(C) 9617/2022

COURT ON ITS OWN MOTION

..... Petitioner

Through:

versus

GOVT. OF NCT OF DELHI AND ORS

..... Respondents

Through:

Mr.Anuj Aggarwal, ASC with Ms.Arshya Singh, Mr. Siddhant Dutt and Mr.Yash Upadhyay, Advocates for GNCTD.



Mr.Kirtiman Singh, CGSC with Mr.Waize Ali Noor, Ms.Shreya V.Mehra and Mr.Kartik Baijal, Advocates for UOI.

Mr.Tushar Sannoo, ASC for NDMC. Ms.Malvi Balyan, Advocate with Ms.Aarushi Behl, Advocate for Ms.Sangeeta Bharti, Standing Counsel for DJB.

Ms.Rashmi Chopra, Advocate for DDA.

Mr.Sanjeev Sabharwal, Standing Counsel for MCD.

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Date of Decision: 08th April, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Delhi has been facing the fury of river Yamuna in spate year after year with last year (2023) being particularly bad. Waterlogging, flooding and related collapse of civic services have become perennial issues.

2. We have heard the Chief Secretary, Government of NCT of Delhi (“GNCTD”) at length on the previous dates of hearings, perused the presentation dated 26th February, 2024 and 15th March 2024 on the measures taken by the authorities to prevent water logging and improving water quality.

3. Clearly, the efforts have not yielded much result despite decades of judicial pronouncements and half-baked attempts by city administration to



address endemic issues. There is an absolute lack of coordination between different agencies / departments. A mechanism to address the same with a unified command at an appropriate level of seniority, that can ensure inter-departmental / agency and inter-government coordination seamlessly, is the need of the hour.

(A) Integrated Drainage Management Plans (DMPs)

4. It is observed from the presentation dated 26th February, 2024 that neither any action has been taken on integrated drainage management system since the year 1995, nor any major modeling / remodeling / extension of drains has been done post 1995, even as the population of the Capital trebled during this period. It is seen from this presentation that a Drainage Master Plan prepared by IIT-Delhi over six years in 2018, was not acted upon by GNCTD till date.

5. This Court was informed that the PWD has awarded the consultancy work for preparation of Drainage Master Plan for Najafgarh Basin consisting of 63.06% of drainage area of Delhi on 10th June, 2023. It was stated that consultancy work for Barapullah Basin [having 24.28% of drainage area of Delhi] and for Trans-Yamuna Basin [having 12.66% drainage area of Delhi] is likely to be awarded shortly. It was informed that timelines for submission of Detailed Project Report (DPR) for the Drainage Management Plan (DMPs) by consultant for Najafgarh Basin is one year and for Barapullah Basin & Trans Yamuna Basin is six months after award of consultancy work.

6. The urgency for implementation of DMP cannot be emphasized enough; however, the apathy of the administration is evident in the



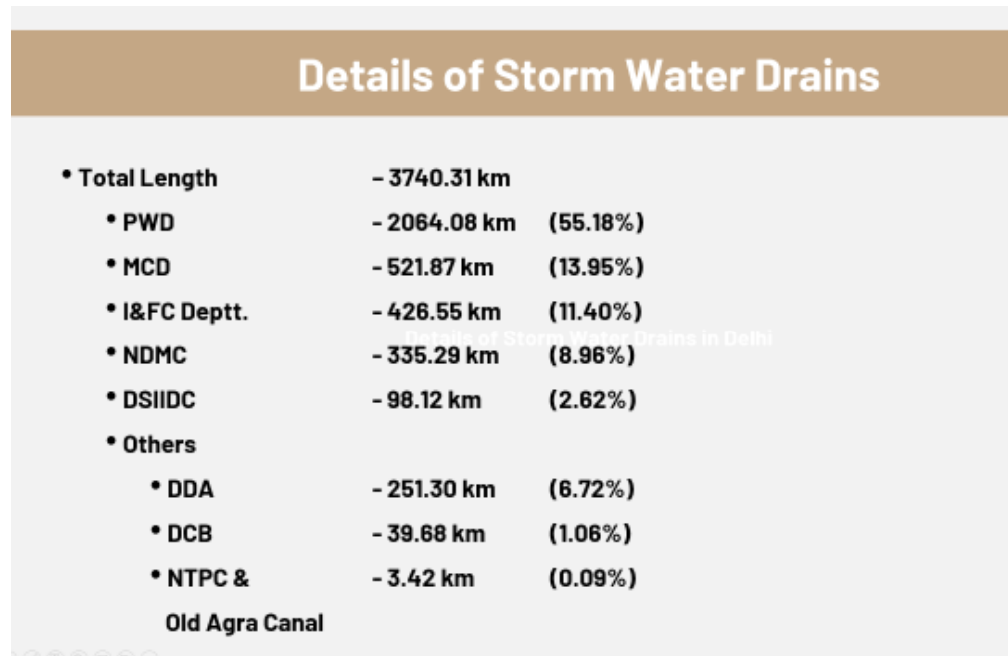
aforenoted facts and hence it has become imperative that time bound directions are issued to GNCTD.

7. Therefore, the GNCTD is hereby directed to:

- (i) ensure that DPRs of DMPs for all the basins are finalized by 15th September, 2024, and
- (ii) take administrative decisions on such DPRs by 30th November, 2024 for initiating implementation on or before 31st December, 2024.

B) Multiplicity of Authorities for Management of Drainage System

8. The Chief Secretary has provided the details of the major drains which areas under:



9. The aforesaid chart shows that the major storm water drains of about 3740.31 km in Delhi are managed by various agencies, under the



jurisdiction of various governments. While PWD¹ and I&FC² Department under GNCTD manage 2064.08 km and 426.55 km, respectively, the local body MCD³ manages 521.87 km, NDMC⁴ under Government of India (“GoI”) manages 335.29 km, DDA⁵ under GoI manages 251.30 km, DSIIDC⁶ a corporation under GNCTD manages 98.12 km and Delhi Cantonment Board under GoI manages 39.68 km and others manage 3.42 km. Further, there are twenty-two (22) open drains which are out-falling in river Yamuna. Not only this, even in case of such Drains, there are multiple agencies involved in the maintenance and operations of a single drain. For example, management of water regulators to stop backflow in case of increase of water in river Yamuna is managed by I&FC Dept. but pumping of sewage at such times is managed by MCD. Management of drain(s) by multiple agencies leads to blame game between agencies wherein one agency accuses others of shortfall in undertaking management activities. It also makes it difficult to fix responsibility on the erring officials and the brunt of the resultant chaos is borne by the State and its citizens due to the collapse of the infrastructure. There is no incentive for efficient management of the drainage system due to this administrative chaos. The city and its citizenry waits with apprehension when monsoons are approaching due to this mismanagement of drains while the administrative agencies have been adopting an Ostrich like approach wishing the flooding

¹ Public Works Department, GNCTD

² Irrigation and Flood Control Department, GNCTD

³ Municipal Corporation of Delhi

⁴ New Delhi Municipal Council

⁵ Delhi Development Authority

⁶ Delhi State Industrial and Infrastructure Development Corporation Ltd.



won't happen. There is a need for a vision by the administrators to manage the present needs and anticipate the future.

10. We may also take judicial notice of the flooding of the carriageway and bungalows in the High Court pool at Purana Quila Road and Mathura Road in the 2023 monsoon. In this area as informed by PWD the storm water drain from India Gate to Yamuna River (passing through Purana Quila Road) is sectioned in six jurisdictions of four distinct authorities in the following manner:

- (i) India gate to Priya Nursey to NSCI Club Gate: Jurisdiction NDMC
- (ii) Purana Quila Road (Priya Nursery) to NSCI Club Gate to Petrol Pump: Jurisdiction PWD
- (iii) The road ahead of Petrol Pump to Gate No. 5 of ITPO, where drain no. 14 starts: Jurisdiction MCD
- (iv) Gate No. 5 to Open Nallah: Jurisdiction PWD
- (v) Open Nallah to Control Gate at Ring Road: Jurisdiction MCD
- (vi) Control Gate Ring Road to Yamuna River: Jurisdiction Irrigation and Flood Control Department.

11. Not only was this storm water drain flooded during the monsoons but the newly built tunnel connecting to Bharat Mandapam on the Purana Quila Road, which is maintained by Larsen and Toubro under the supervision of PWD was also flooded and closed for traffic during the said period.



12. There is no dispute that multiplicity of authorities has resulted in mismanagement of drains. All such drains finally outfall in the river Yamuna, in the process, not only polluting it, but ultimately making the people of Delhi suffer.

13. The agencies have reported that due to control of multiple authorities, a consistent slope/level of the drain is not maintained. The report of the agencies leaves no manner of doubt that the flooding of water on the roads, tunnel and the bungalows is a clear consequence of multiple agencies being involved who are unable to harmonise the issue within themselves and find a resolution to the problem in question. Since the agencies admit that it is the multiplicity of authorities which has led to the problem at hand, it will only be in the fitness of things that only one authority/agency is placed in charge of operation, maintenance and control of the storm water drains in the City so that the problem at hand is resolved effectively.

14. Therefore, it is hereby directed that:

- (i) GNCTD shall assign the responsibility of management and operations of all twenty-two (22) open drains, which are out falling in river Yamuna, to one Department / Agency.
- (ii) The GNCTD shall identify such Department / Agency and orders be issued by 30th April, 2024.
- (iii) Such Department / Agency shall submit a report to this Court by 15th May, 2024, which shall, inter-alia, include assessment of quantity of silt in these twenty-two (22) drains; action plan for de-silting of such drains should be undertaken on a war footing and be completed by 31st



December 2024 in 21 drains excluding Najafgarh drain and de-silting of Najafgarh drain shall be completed by 30th June, 2025. Further, removal of encroachments from such drains should be completed simultaneously.

- (iv) The nominated department must ensure an operative plan for regular repair and maintenance of such drains, including embankment of such drains; prevention of dumping of solid waste in such drains including (a) dissuading public from disposing garbage in such drains and (b) penal actions against defaulters; and bio-fencing and afforestation alongside such drains.
- (v) The need for a unified and centralized command is imperative and is hereby directed.

C) Rejuvenation of Water Bodies

15. It was informed that there are 1,367 water bodies (1,045 listed water bodies and 322 other water bodies identified through satellite imagery) out of which ground truthing has been completed for 344 water bodies. It was also informed that 272 water bodies have been restored, restoration of seventy-two (72) is in progress. It was informed that several water bodies, out of 1045 listed water bodies, do not exist on ground as on date.

16. Accordingly, the GNCTD is hereby directed:

- (i) To complete the geo-tagging and geo-referencing for ground truthing of remaining 1023 water bodies by 15th May, 2024.



- (ii) The GNCTD shall ensure that estimates for rejuvenation of water bodies, after ground truthing, be prepared by 30th May, 2024.
- (iii) The tenders be floated once the Model Code of Conduct is over, and the works be awarded by 30th June, 2024.
- (iv) These works shall be completed by 31st December, 2024 after removing encroachments (if any).
- (v) Also, it is important to ensure that the rejuvenated water bodies are maintained properly and remain encroachment free. Therefore, the GNCTD shall take appropriate measures for making entries of waterbodies in revenue records, by assigning responsibilities of each of such water body to specific officer, who shall visit such water body every fortnight to ensure its upkeep.
- (vi) Also, public participation may be explored by the GNCTD in such operation and maintenance activities of water bodies.
- (vii) The following authorities shall be responsible for ground truthing and rejuvenation of these water bodies:
 - (A) *At District Level:* A committee consisting of District Magistrate, Revenue Deptt. GNCTD; Deputy Commissioner, MCD (in case of NDMC include Secretary NDMC; and in case of Delhi Cantonment Board include CEO Delhi Cantonment Board); Superintendent Engineer DDA, Superintendent Engineer DJB and Superintendent Engineer I&FC Deptt. shall be responsible for execution of projects at ground for each of 11 Districts.



(B) *At NCT of Delhi Level*: Integrated Drainage Management Cell (“IDMC”), which was constituted as per order of Hon’ble NGT dated 05th March, 2020 in OA No.06/2012 for remediation and management of drains, shall be responsible for execution of projects at ground.

D) Rain Water Harvesting (RWH)

17. The Unified Building Bye Laws 2016 for Delhi make it mandatory to provide for Rainwater Harvesting System (“RWH”) for new constructions above 105 sq. m. plot area for inclusive and sustainable green urban development. Further, this Court was informed about the incentivization given by the Delhi Jal Board (“DJB”) through subsidy and rebate in water bill to promote RWH systems. It was also informed that treated water from Sewage Treatment Plants (STPs) is used / planned to be used in such rejuvenated water bodies.

18. This Court was also informed that RWH system is yet to be installed at 1,362 Government buildings, where it is feasible to have RWH systems. The Chief Secretary acknowledged that there is a need to create appropriate Rain Water Harvesting Structures (RWHS) to catch the rain, where and when it falls, for drives to make check-dams, water harvesting pits, rooftop RWHS, etc.; removal of encroachments in and de-silting of water bodies to increase their storage capacity; removal of obstructions in the channels, which bring water to them from the catchment areas, etc.; using defunct and unused water bodies so as to put water back etc. with the active participation of the people.



19. Therefore, the appropriate Government is hereby directed:
- (i) To ensure that RWH systems be provided at such 1362 remaining buildings by 30th September 2024.
 - (ii) All statutory authorities/municipal authorities/land owning agencies shall check the existence and functionality of RWH Systems before granting Occupation Certificate as per law.
 - (iii) Further, the GNCTD shall explore creating RWH systems / pits in low lying areas to capture the rainwater during the forthcoming monsoon session and ensure public participation to make it a mass movement. A report in this regard shall be placed before this Court within four weeks, which shall be executed within a period of three months.

E) Restoration and rejuvenation of Yamuna River Flood Plains

20. DDA in coordination with all concerned agencies is hereby directed to ensure removal of encroachments from Yamuna River Flood Plains. Delhi Police shall provide necessary force to the DDA as and when requested, to maintain law and order during such encroachment removal drives to remove encroachment from Yamuna Flood Plains.

21. Further, DDA shall submit an action taken report on development of ten bio-diversity parks / wetland areas in Yamuna River Flood Plain including an action plan with timelines for completion of pending projects. Cities and Towns around India, which have been developed along rivers, are doing horticulture and green development of river fronts for their citizens as symbols of urban pride.

22. DDA shall explore green horticultural development of river fronts and recreational zones with public amenities to increase public participation



and awareness about rejuvenation of River Yamuna in accordance with extant guidelines.

23. It is necessary to do green development of the banks of the Yamuna as wetlands and public spaces, parks for open green spaces, access to civic amenities, zones of entertainment or playgrounds for the children. This will lead to buy-in by the common citizen, a sense of ownership and consequent pressures on the authorities to ensure maintenance. All this will go hand in hand with ecological restoration, maintenance, and protection of the flood plains.

24. A large number of religious devotees pray at different locations, discharging solid waste in the river water, adding to an already serious problem. Recognising this need of the residents of the State, DDA should construct select number of ghats or platforms on stilts along the riverbank, for such purposes to ensure that the devotees get space and the authorities are able to deal with the challenge of waste scientifically.

25. With respect to forty-four (44) number of court cases pertaining to encroachment in Yamuna River Flood Plain (a list of which is handed over by the Chief Secretary, GNCTD, in Court) pending before various Benches of this Court, let the Registry club all such cases and list all Division Bench cases before a Division Bench presided over by Hon'ble Ms. Justice Rekha Palli and all Single Bench cases before the Bench of Hon'ble Mr. Justice Dharmesh Sharma for early disposal in accordance with law.

F) Rejuvenation of River Yamuna

26. DDA, being the designated owner of the Yamuna Flood plains, is also hereby directed to ensure removal of construction waste / debris from



the Yamuna river accumulated during constructions of bridges, rail lines, metro lines, regional rail network, etc. and for this purpose the DDA may call upon the concerned agencies like DMRC, PWD, NCRTC, MCD, etc. to remove such debris by 30th June, 2024 failing which DDA shall take up works for cleaning of such construction waste / debris at the cost of defaulters.

27. DDA shall also declare nodal officers for each stretch of the flood plain who would be responsible for sustained upkeep of their jurisdictional area free from encroachment and free of construction & demolition (“C & D”) waste.

28. MCD shall also develop a large facility of requisite capacity to convert 100% C & D waste generated in this city into aggregate (Rodi)/ tiles/paver blocks etc. for use in public infrastructure.

29. Bio-gas plants shall also be installed near all the nine authorised dairies in Delhi for creation of dry manure and biogas fuel / Compressed Biogas (CBG) production, for which an action plan along with timelines shall be prepared within a period of four weeks of passing of this order.

30. Further, during the recent flooding of river Yamuna, it has been observed that the 22 km stretch of Yamuna flowing through Delhi is no longer navigable. The riverbed is so high and the river so shallow that it can no longer support any aquatic life. Because of the high riverbed, every monsoon sees an overflow of the river water, many a times causing floods. We have been informed that the river has been consistently becoming shallow and hence lacks the capacity to carry excess water during the monsoon or maintain life during the rest of the year. Hence, we see the



Yamuna becoming a veritable putrid drain, especially during the summer months.

31. DDA shall take up the matter with concerned authorities, such as Irrigation and Flood Control, National Ganga Mission etc., for carrying out controlled and scientific dredging for removal of silt both upstream and downstream and for creation of series of small ponds adjoining the river to improve the carrying capacity of the river Yamuna. This becomes more so important after the floods seen during the year 2023. This exercise shall be done on a war footing and be completed by 30th June, 2025. DDA, being an agency under GoI and the other concerned departments being under the jurisdiction of GoI as well as GNCTD, a mechanism for seamless coordination should be put in place within a period of four weeks of passing of this order.

32. Further, GNCTD is hereby directed to submit an action taken report to this Court to increase the existing capacity of STPs from 667 MGD to 964.5 MGD within a period of four weeks of passing of this order and to ensure that treated water from these STPs shall meet the prescribed norms viz., pH (5.5-9.0), BOD (10 mg/l), TSS (20 mg/l), COD (50 mg/l), N-Total (10 mg/l), Phosphorus Total (1 mg/l), NH₄-N (5 mg/l) and Fecal Coliform (<230 MPN/100 ml), the existing capacity of STPs shall be increased from 667 MGD to 964.5 MGD by 31st March, 2025. It is not out of context to mention that such parameters were recommended by the Expert Committee and accepted by the National Green Tribunal ("NGT") vide its judgment dated 30th April, 2019 in OA No. 1069/2018 titled '*Nitin Shankar Deshpande vs. Union of India*'; and such decision of NGT was upheld by



the Hon'ble Supreme Court vide its order dated 17th May, 2019 in Civil Appeal No. 5036 of 2019 titled '*Municipal Corporation of Greater Mumbai vs. Nitin Shankar Deshpande*'. This is required so that no untreated sewage is dumped into river Yamuna beyond 31st March, 2025 at any cost.

33. GNCTD is directed to undertake requisite work for capturing sewage in the unauthorised colonies and Jhuggi Jhopri (JJ) clusters as per its existing policy so as to ensure that 100% sewage can be captured and untreated sewage is not dumped into river Yamuna, but rather diverted to *in situ* waste treatment plants and only treated water is released into Yamuna.

G) Interconnection of storm water drains with sewerage network and vice versa

34. It is directed that GNCTD shall submit an action plan with timelines with regard to 121 points where storm water is still entering into sewerage drains, and 191 points where sewage is entering into storm water drains. All such interconnection points shall be tapped by 30th June, 2024.

H) Industrial Discharges

35. It was informed that treated water from all 13 CETPs⁷ is meeting the prescribed standards and that two CETPs at Narela and Bawana are under upgradation by DSIIDC. It is however, observed that several unauthorized polluting industries are operating from residential areas in NCT of Delhi.

Therefore, the GNCTD is hereby directed:

- (i) To submit an action taken report and an action plan on such polluting industries, within a period of four weeks of passing of this order.

⁷ Common Effluent Treatment Plants



(ii) Surprise inspections shall be conducted on regular basis by cross functional teams belonging to MCD/ Revenue Dept. / Delhi Police/ DPCC/ DISCOMS etc. to identify such unauthorized polluting industries and submit a report, so that concerned officers who fail to stop such unauthorized polluting industries are held accountable.

(iii) It is to be ensured by the GNCTD that no industrial unit discharges its untreated effluent into open drains, and if any industrial unit fails to do so, the same shall be shut down and electricity & water connection of such industrial unit shall be disconnected.

36. It is emphasized here that efforts of rejuvenation of the Yamuna can be successful, if undertaken with sincerity and seamless coordination, sans a blame game, between all stakeholders, that includes the GoI, State Government, Municipal Bodies and others. The court has noted, as per the submission made by the Chief Secretary that BOD levels went down by 40% in Shahdara Drain and by 31% at ISBT in Yamuna in May, 2023 compared to May, 2022. Similarly, BOD levels went down by 37% in Najafgarh Drain during the same period.

37. On a month-on-month basis from January, 2023 to May, 2023, significantly noticeable and consistent improvements were noticed in the BOD levels in the water of the Drain and the River in comparison to the same months in the year 2022.

38. Carried out by the DPCC as per standard protocol of testing water samples at different locations, the BOD levels in the Najafgarh Drain that stood at 80 mg/l in January, 2022, came down to 53 mg/l in January, 2023.



The figure for May, 2022 stood at 76 mg/l that came down to 48 mg/l in May, 2023.

39. In case of Yamuna, at ISBT, after the Najafgarh Drain meets the river, BOD levels that stood at 42 mg/l in January, 2022, came down to 38 mg/l in January, 2023. The figure for May, 2022 stood at 55 mg/l that came down to 38 mg/l in May, 2023.

40. Similarly, in the Yamuna at the site after the Shahdara Drain meets the river, BOD levels that stood at 60 mg/l in January, 2022, came down to 56 mg/l in January, 2023. The figure for May, 2022 stood at 80 mg/l and came down to 48 mg/l in May, 2023.

41. Even during the intervening months of February, March and April, the figures for the year 2023 showed consistent decrease from the figures of corresponding months in 2022.

42. This underlines that efforts if undertaken seriously can yield results.

I) Water-logging points within the City

43. In its presentation the GNCTD has submitted details of the water logging points, as under:

Status of Water Logging

- Year-wise water-logging locations as per Delhi Traffic Police:
 - 2020 - 136
 - 2021 - 195
 - 2022 - 207
 - 2023 - 200
- W.r.t. 207 locations of the year 2022, PWD completed Short Term measures at 47 locations, and Long Term Measures at 55 locations. Long Term measures are in progress at 49 locations. 56 locations pertain to other Deptts. from which action taken report is being taken.
- 7 critical water-logging locations (viz. Minto Bridge, Pul Prahladpur Underpass, Ring Road opposite WHO, Jhangirpuri Metro Station Road, Under Zakhira Flyover, Loni Road Golchakkar, and Karala Kanjhawla) work completed on first 4 locations and will be completed by 31.05.2024 on remaining 3 locations



- (i) GNCTD is hereby directed to submit an action taken report and an action plan on 105 remaining water logging locations reported by the Delhi Traffic Police in 2022 where action is yet to be taken, as well as action taken report and an action plan on 200 water logging locations reported by the Delhi Traffic Police in 2023. Such action taken reports and action plans be submitted within a period of four (4) weeks of passing of this order.
- (ii) An action taken report be also submitted for the remaining three major water-logging point (viz. Under Zakhira Flyover, Loni Road Golchakkar, and Karala Kanjhawla) within a period of four weeks of passing of this order.

44. Here again, it is underlined that Delhi Police, being under the GoI shall assist during implementation of such plans to ensure delivery of a well-managed City as opposed to vision of a City submerged in monsoons.

J) Usage of Technology for monitoring

45. It is observed that parameters of water in river Yamuna at several points are to be kept under monitoring to verify the outcome of efforts made for rejuvenation of River Yamuna. For this purpose, it is hereby directed:

- (i) The parameter of sewage of twenty-two (22) drains out falling in river Yamuna (before they fall in river Yamuna) along with parameters of treated water of every STP / DSTPs/ CETPs be monitored on real time basis.
- (ii) These parameters be checked on a real-time basis and data be available in public domain. Also, a centralized Command and



Control Centre would be required for real-time monitoring for these parameters and to decide interventions, so required.

- (iii) Accordingly, GNCTD shall take appropriate action for setting up of a robust parameters monitoring system by 30th June, 2024 for monitoring of such data on a real time basis and submit an action taken report to this Court within a period of four weeks of passing of this order.

K) Third Party Audit

46. To verify the actions taken by the concerned Agencies on ground, it is must to undertake third party Audits of all above mentioned works from independent agencies. This would ensure that the work done are realized at ground instead of being done on paper only. Therefore, necessary action shall be taken by the GNCTD, DDA and all other concerned agencies to undertake third party audit by Central Government or State Government or their PSUs / Agencies of all the works carried out in compliance of above-mentioned directions. First of such report of third party(s)audit shall be made available in the public domain by 30th June, 2024.

L) Action Taken Report

47. An action taken report be submitted by the IDMC for compliance of above mentioned directions, before this Court on last working day of every month. IDMC shall be jointly and severally responsible for implementation of above stated directions of this Court and is liable for any delay in implementation such directions. In case any difficulty in implementation of



above mentioned directions are faced by the IDMC, then the IDMC shall approach this Court accordingly.

48. List the matter before Court on 20th May 2024.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 8, 2024

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