

**ART OF LIVING'S WORLD CULTURAL FESTIVAL 2016:  
AN ECOLOGICAL DISASTER**

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## **INTRODUCTION**

A gargantuan fiesta came up on the Yamuna floodplains in Delhi, over a few days, which was unheeded by the Union Government. Impermanent bridges developed by the army for the big festival and bulldozer running over the crops attracted the attention of National Green Tribunal which brought the Art of Living Foundation's World Cultural Festival, which began on 11th March, under controversy. The festival, which according to the organizers will welcome 35 lakh visitors, is reckoned to create a great impact on the fragile Yamuna ecosystem. This damage was ignored by the Delhi Development Authority, and the Delhi Pollution Control Committee was unaware about the construction debris and waste which would be the leftovers of the congregation. The Water Resources Ministry which is obliged to protect the Yamuna had no say whereas the environment and forest department told NGT that the big event, which was actually an ecological disaster, was not at all harmful to the environment and needed no attention. All the agencies and the Art of Living were rightly accused by NGT but later it was permitted by the tribunal on the condition that the organizers would pay an initial fine of Rs. 5 crore and they should rectify the harm caused with by the construction of a biodiversity park at the venue. The main question to be answered is that where is the "art" in living like this?

## **WHERE IS THE 'ART' IN LIVING LIKE THIS?**

Many of the farmers have been told to shift and their crops have been destroyed by moving them down with bulldozers. The farmers even say that the land will take months to be available for cultivation. The organizers have also forced the army to build five bridges to ingress the festival site instead they needed just two. The event has attracted sharp criticism from environmental activists and organizations because of the depreciation it might cause to the Yamuna Floodplains. Several tents, bridges are being built and debris and waste is accumulated. Vegetation is destroyed and entire

floodplain is made unavailable for cultivation. The four member committee of the NGT led by Shashi Shekhar has found these problems with the event. This is expected to pose long term damage to river Yamuna by blocking it. The floodplains would be destroyed to a great extent and the natural life in that eco-system will perish or move out.

According to Sri Sri Ravi Shankar “everything is fine, but not the fine” and he is ready to go to the jail. The question which arises here is why Art of Living’s birth anniversary is considered to be a national event. Is this the purpose of Art of Living as it claims for a “Holistic Vision” wherein they aim to transform societies for good? The irony here is that the society instead of being transformed for good is harmed and the source of livelihood for the farmers on the Yamuna Floodplains is being devastated.

It is the consistent view of the Experts and is sufficiently evident from the documents placed on record that the flood plains have been drastically tampered with while destroying the natural flow of the river, reeds, grasses, natural vegetation on the river bed. It has further disturbed the aquatic life of the river and destroyed water bodies and wet lands on the flood plains, which were in existence, as noticed in the case of Manoj Misra vs. Union of India and Ors.<sup>1</sup> They had also constructed ramps, roads, compaction of earth, pontoon bridges and other Semi permanent or temporary structures etc even without the permission of the concerned authorities including Ministry of Water Resources.

For the damage caused to the environment, ecology, biodiversity and aquatic life of the river, the Foundation should be held liable for its restoration in all respects. In that regard and in exercise of powers under Sections 15 and 17 of the NGT Act, 2010 which talk about the Relief, compensation and restitution and Liability to pay compensation, respectively with an Environmental Compensation, initially of Rs. 5 crores.

This amount would be paid by the Foundation prior to the commencement of the event and would be adjusted towards the final compensation determined to be paid by the Foundation for restoration work. Source of water, collection and disposal of the Municipal Solid Waste and sewerage generated during the event and no further environmental degradation or adverse impact on public health source of water and source of power and its utilization thereof are the issues that would be

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<sup>1</sup> OA No.6 of 2012.

treated as directions issued under Section 33A of the Water Act and Section 6 of the Environmental (Protection) Act, 1986 and would be binding upon the Foundation and all public authorities involved in the case.

Cultural activity could be recreational but the entire construction of ramps, roads, accumulation of debris, alteration of the natural topography and removal of natural vegetation from the flood plains, cannot be said to be recreational.

“The Yamuna floodplain is a highly sensitive ecological zone. To organize its culture festival, the AOL Foundation has illegally cleared the entire stretch of wetland and marshy area. Its total devastation and we fail to understand how the person (Sri Sri Ravi Shankar), an apostle of nonviolence and spiritualism can allow it”, said Manoj Kumar Misra the convener of Yamuna Jiye Abhiyan, an NGO working for the restoration of river Yamuna.

### **NGT takes a stand and *Fait Accompli***

The biggest mistake of Yamuna Jiye Abhiyan, who raised a petition against these practices, was that they were very late and since the extravaganza was about to start, the NGT said that already a substantial amount of damage has already been caused and it is very severe and simply stopping the festival may not be fruitful. Few questions need to be answered are:

It is appalling that Art of Living claims about its “accountability” and “sustainability model” for its projects and here both of them are being periled.

Why has the media woken up so late?

Why is the Environment Minister not being questioned?

Neglecting the aforementioned negative impact on the ecosystem, the NGT gave approval to the three-day World Cultural Festival and a fine of Rs. 5 crore was imposed on AOL and the formation of a biodiversity park in that area was recommended. Justice Swatantar Kumar has said that AOL has the time to pay and if not complied by the punishment, law would take its action. The High Court bench comprising of Justice Badar Durrez Ahmed and Justice Sanjeev Sachdeva commented that the fine imposed on Art of Living was insignificant. The bench had remarked, that such constructions on the Yamuna Floodplains are an “ecological disaster”.

The National Green Tribunal after giving the permission to continue with the event also gave the title of 'fait accompli' i.e. something that cannot be prevented from occurring at a later stage. According to NGT, the event had reached such a position from where it could not be taken aback. The only remedy was to impose a fine and ask the organizers to restore the place to its previous condition. Such an argument has entitled several events to take place in the past which could have an adverse effect on environment. For several years, many industries have used this argument of NGT in their favour to seek approval and environmental clearances even though they are at the peak of violation of law. It endangers to cause irrevocable damage to the ecologically weak and sensitive Yamuna Floodplain. The river which holds a symbolic position in the Hindu mythology has been so openly disregarded by the organizers and they have brutally played with its health. There has already been a fine of Rs. 120 crore on the organizers and they have hardly abided by the rules.

As quoted from the judgment:

***“For the reason of delay on the part of the applicant in approaching the Tribunal and for the reason of fait accompli capable of restoration and restitution, we are unable to grant the prayer of prohibitory order and a mandatory direction for removal of construction and restoration of the area in question to the applicant at this stage.”***

It was observed in the paragraph 158 of the judgment of S.P. Muthuraman v. Union of India,<sup>2</sup>“The Precautionary Principle may lose its material relevancy where the projects have been completed and even irreversible damage to the environment and ecology has been caused. The situation may be different when invoking this principle in cases of partially completed projects; it would become necessary to take remedial steps for protection of environment without any further delay. At this stage, it may be possible to take steps while any further delay would render it absolutely impracticable. Precautionary Principle is a proactive method of dealing with the likely environmental damage. The purpose always should be to avert major environmental problem before the most serious consequences and side effects would become obvious. It is a tool for making better health and environmental decisions. It aims to prevent at the outset rather than manage it after the fact. In some cases, this principle may have to be applied with greater rigors particularly when the faults or acts of omission, commission are attributable to the Project Proponent.” This precautionary principle has

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<sup>2</sup> (2015) ALL (I) NGT Reporter (2)(Delhi) 170



been given in under Section 20 of the National Green Tribunal Act, 2010 and section 4A of the Environment Protection Act, 1986.

As far as damage that has already been caused to the environment and ecology by the illegal and unauthorized action of the Project Proponents, the parties are required to pay compensation for its restoration and restitution in terms of Section 15 of Act of 2010.

As observed in *Manoj Misra vs. Union of India and Ors.*, pertaining to clean drainage system in rejuvenated Yamuna River Delhi known as “Mailyse Nirmal Yamuna” Revitalization Plan 2017.

The tribunal said that as per documents placed on record, it is evident that the flood plains have been drastically tampered with and ramps, roads, compaction of earth, pontoon bridges and other semi-permanent or temporary structures were constructed without the requisite permission of the concerned authorities including Ministry of Water Resources. The tribunal also constituted a committee of the representatives of Delhi Pollution Control Committee (DPCC), Ministry of Environment and Forests (MoEF) and Central Pollution Control Board (CPCB) and said it shall immediately inspect the site which shall issue directions with regard to the source of water, collection and disposal of the municipal solid waste and sewerage generated during the event and also issue directions to ensure that there is no further environmental degradation.

### **ENVIRONMENTAL PROTECTION ACT, 1986 AND ROLE OF DPCC**

The same issue arose in *S.P. Muthuraman v. Union of India and Ors* where they had not only started construction but, in fact, had practically completed the project without even applying for any permission required by them in law and in any case before obtaining the Environmental Clearance under the provisions of the Environment Protection Act, 1986 (for short ‘Act of 1986’), Environment (Protection) Rules, 1986 (for short ‘Rules of 1986’) and Environmental Clearance Regulations of 2006 (for short ‘Notification of 2006’). Delhi Pollution Control Committee (DPCC) has also failed to comply with its statutory obligation as they have contended that it was not obligatory upon them to grant or refuse the permission to the Foundation for this kind of construction and the manner in which they should dispose of the waste and the source of water supply for such a large gathering. But it was expected of the Board to guide the Foundation by appropriate law and issue directions under Section

25 r/w Section 33A of the Water (Prevention and Control of Pollution) Act 1974. Because of its failure to act diligently NGT has imposed a fine of Rs. 1 Lakh on DPCC.

The ambit and scope of the directions that can be issued under the Environment Protection Act 1986 can be of very wide magnitude including power to direct closure, prohibition or regulation of any industry, operation or process and stoppage or regulation of supply of electricity or water or any other services of such projects. The principle of sustainable development by necessary implication requires due compliance to the doctrine of balancing and precautionary principle. In the Environmental Protection Act 1986 precautionary principle has been mentioned under section 4A wherein it says, “where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.”

The ambit and scope of the directions that can be issued under the Act of 1986 can be of very wide magnitude including power to direct closure, prohibition or regulation of any industry, operation or process and stoppage or regulation of supply of electricity or water or any other services of such projects. The principle of sustainable development by necessary implication requires due compliance to the doctrine of balancing and precautionary principle. In appropriate cases, the Courts and Tribunals have to issue directions in light of the facts and circumstances of the case. The powers of the higher judiciary under Article 226 and 32 of the Constitution are very wide and distinct. The Tribunal has limited powers but there is no legislative or other impediment in exercise of power for issuance of appropriate directions by the Tribunal in the interest of justice. Most of the environmental legislations couched the authorities with power to formulate program and planning as well as to issue directions for protecting the environment and preventing its degradation. These directions would be case centric and not general in nature. Reference can be made to judgment of the Supreme Court in the case of M.C. Mehta and another vs Union of India and others,<sup>3</sup> Vineet Narain and Ors. Vs Union of India (UOI) and Anr.,<sup>4</sup> and University of Kerala vs Council, Principals', Colleges, Kerala and Ors.,<sup>5</sup>.

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<sup>3</sup> JT 1987 (1)SC 1

<sup>4</sup> JT 1997 (10)SC 247

<sup>5</sup> JT 2009 (14)SC 283

In light of the above, even if the structures of the Project Proponents are to be protected and no harsh directions are passed in that half, still the Tribunal would be required to pass appropriate directions to prevent further damage to the environment on the one hand and control the already caused degradation and destruction of the environment and ecology by these projects on the other hand.

Furthermore, they cannot escape the liability of having flouted the law by raising substantial construction without obtaining prior Environmental Clearance as well as by flouting the directions issued by the authorities from time to time. The penalties can be imposed for such disobedience or noncompliance. What requires immediate attention is the direction that the Tribunal should pass for justifying as well as preventing further harm.

## CONCLUSION

A mega cultural event organized by Sri Sri Ravi Shankar's Art of Living Foundation on the banks of the river Yamuna appeared to be on shaky ground and was brought under the scrutiny of the green court. Over 1,000 acres on the river banks have been converted into a makeshift village for Art of Living's three day World Cultural Festival that will feature yoga and meditation sessions, peace prayers and cultural performances. Environmentalists argue that the festival will do serious damage to the delicate ecosystem of the river Yamuna and cause irreversible damage to the flood plains. Hearing a petition against the festival, the green tribunal asked the Environment Ministry: "If somebody has to alter the flood plains, don't you think it requires your clearance? To protect the river is your prime responsibility, what steps did you take to prevent damage?" The tribunal also had tough questions for planning body Delhi Development Authority, which argued that "heavens won't fall" if the event is allowed, since "we are at the thresh-old of the ceremony." Sri Sri Ravi Shankar has claimed that there has been no damage to any tree and he himself has demanded for a Biodiversity Park. There are also questions about the number of people attending the event. Prime Minister Narendra Modi opened the festival and so far, his office has not said anything different. President Pranab Mukherjee had said that he would not be present in the festival.

Dr Rakesh Kumar, environmental scientist, and head of NEERI, issued the statement that the Yamuna Floodplain has not been damaged. But in a recent news the spiritual leader himself admitted that it would have cost him less if he had held the festival at some other location instead he held it at

Yamuna to attract more attention to the river floodplains and the pollution there. The Art of Living, in a statement said that a Delhi-based recycling start up named Pom Pom has joined as their recycling partner. But the question to be answered here is what about the farmers who have been displaced and Sri Sri Ravi Shankar should definitely according to his “Art of Living” concept look into the matter as the “Art of Living in a Healthy Environment” of the farmers and the aquatic life in floodplains has been snatched.

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