

URGE

A prayer of river for protection

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Introduction:

Water is the very source of human life . It is the source of not only existence of human life but also the scarcity of the same may also cause a great embarrassment across the country. In India one of the worse is very famous that next time the next world war will be because of scarcity of water. Further the day is not far away from us when the dowry will be of rivers and the male concentric society will speak and demand only water. But why is it so. Before going to the very depth in situation of water and the very source river, there condition and measures to be taken let me first quote the very phrase “Pani re pani tera rang kaisa, Jisme mila ho jye waisa?”. This is not only a phrase of a song of Bollywood but it speaks a lot about the critical situation in the world and the day by day increasing water scarcity.

The main aim of writing this paper is not to criticize the policies or steps of government but to prove that yes there is need of the hour when we have to take certain steps in order to protect the very source of water in our country i.e. rivers.

The rivers that are more than a source of life for the people of our country, The Rivers have some special significance. This significance is related to the religion, the custom and tradition, the unity, the diversity of the nation India.

The constitution in the very line of the preamble says “We the people of.....” is it just a statement. Of course not it is more than that. It is a feeling, it is a substance and is a very aspect on which the whole constitution is based. So when we talk about ecology why we should not consider this. Hence in this situation also these are rivers which maintains the existence of the phrase and at large the interest of people of this nation.

INDIAN RIVERS: - GEOGRAPHICAL TOUCH

India is a country where the religion culture and diversity is at the footsteps. When we see our country from the Kashmir to kanyakumari and at all other ends we can easily find out the cultural diversity of the nation. In this religious and cultural diversity these rivers are a major role player. Actually in India scaling we cannot be concentric towards the river, but here as we are talking about the rivers hence we have to see and discuss about them.

We have a lot of rivers which specifically flows and ropes either in bay of Bengal or Indian ocean. Among these the largest one is river Ganga which is having a length of 2,525 km and flows from the Gomukh region of Uttarakhand in himalyan mountains and flows to the very bay of Bengal. In between it become Meghna in Bangladesh. According to a research the Gang is a source of water for crores of population of our country who lives around the very course of river Ganga.

After this the very famous river and the very part of the sangam is Yamuna which originates from Yamnotri River. Like this there are many rivers like Brahmaputra which is a bone of contention for the two nation ie china and India. Further there are many tributaries of Ganga and Yamuna like kosi and other rivers.

Now focusing on the next side of our country are the rivers which are west werdly flowers and which drops in Arabian Sea. Some of the examples are Godavari, Krishna, kawery etc.

In spite of having all these rivers and a lot of water channels inside our country across the nation itself, we are facing challenges and scarcity of water like we have faced in Latur region.

Is we can only question on the green house gases and increasing pollution or something else. Of course the time is there when we have to think about all this.

Further when in the Stockholm declaration we have focused and talked about the very aspect of sustainable development. Then there is a question that where is the sustainable development in this respect. The recent reports about whom we will discuss later clearly shows that the time is very less no we have to take certain major steps in this aspect.

Then only we will be able to cope up with this situation. Recently the National green tribunal has asked the Delhi govt. and central government to submit a status quo of river Ganga and

Yamuna and about their stand towards all this. Further the court is also asking the reports from the central governments about their progress in clean Ganga mission.

Pollution of river: - A major problem

Pollution of river is actually a major problem for our country.

The increase in population and the demand of water is increasing water day by day. The people of this country are very habitual in opening up a wrapper, using it and just throwing it off. Now you will ask that how it pollutes the rivers, actually my friends the garbage collectors collect and clean the garbage from the streets and just dumping them. According to the new Indian agency survey around 60 to 65% of the dumping grounds are made near the rivers or water sources only. Why they have made so is not the tea of my cup. My concern is when there is rainfall or wind flow this garbage they go directly to the main streams and settle beneath the surface. When the people use the water it affects their stomach and causes a lot of health hazardous effects.

Moreover the industrialization is also a major cause for this. The factories are producing the products and we with a lot of joy buy the same from the market and use it. We are never concerned about the pollution it created to the water channels. Yes this is a truth, these industries just discharge the effluents and industrial waste in the river streams. Here the judiciary is very keen; this is because time to time they issue guidelines to the industries and penalty procedures in this aspect. But who can do? The industries easily bribe the local officers and these local officers who are just local in the words and in actual sense are the guardian of our life, they in lieu of a sum of money allow them to do so. They even do so without thinking even a single minute about repercussions. If they would have done so the Bhopal people do not have to still think and cry for justice.

But here we are not in a mood to criticize, as I have said in my preceding words that here I am writing to take out the cause and effect and make out the necessary steps which we can take to control the same.

The next reason for the same is the religion itself. Here in my paper I am not criticizing any sort of practices. But the concern is very serious. In Varanasi there are a lot of Ghats. Actually in the real words it is the religious capital of the nation. The place of Banaras famous in every

aspect for its culture, tradition, kothas and at last for poojas and archana ie worship of god.

Yes this is the center of education also but we have to accept it as a center of pollution also. Daily there is routine that the ashes of the cremated bodies are flowed in river Ganga. Further it is today also a place used as urinals for a lot of people. The very constituency from where the P.M has sworn in as prime minister has given the crown to p.m. with a hope that this person will do something but nothing changed.

Moreover the next reason for the same is the increasing no. of dams being built on the river. In this respect how we can forget the medha patekar movement on Narmada bachao andolan actually the reports suggested that these dams damage the river beds and course of river which took almost 400 years to get formed.

The next reason for the same is the increasing tourism in the nation. I as a person is very happy to see that across the globe the people are fond of our country's beauty. When when they came they go these places. Here visiting is not wrong but when they throw bottles and stuff wrappers here and there it created a lot of problems for the country like India because it is deteriorating our beauty.

Further the increased use of fertilizers is also a very cause of the pollution of rivers. As we know that our country is more or less an agrarian economy. Where 65% of population is in the villages and maximum of them practices farming as a source of livelihood for their survival. In the sessions of farming they use a very bad quality of and excessive fertilizers to protect the crops from weeding but when the water flows into the rivers through the grounds they not only pollute the rivers and contaminate them but to the ground water as well.

Further we the people are living in the modern era where we love beautification each and every thing; in this respect we put the glazing lights on the rivers for its beautification. But these lights are very harmful for the rivers because they emit very dangerous rays through them which toxify the rivers and also make it dangerous for human use. Further they also affect the aquatic life living inside these rivers. Hence by seeing and discussing all these points one thing is clear that human civilization has not left any area to safeguard the natural resources. Every nook and corner is now polluted and

EXTENT OF POLLUTION IN GANGA:- A FACT

Ganga is a perennial river which fulfills the needs of crores of people and is also the source of religion and spiritualism for many people across the nation. Ganga flows all the way from Gomukh and reach to the bay of Bengal. But have you ever focused on the fact that how the level of pollution increases in this religious and perennial river. When it flows from Gomukh it seems crystal clear but when it drains in the way of Bengal it become not less than a polluted stream.

The condition in the city 'Kanpur' is very critical followed by Varanasi and then the holy city Allahabad. The facts show here gives a very clear view on this aspect.

Here the facts which is given clearly shows that the level of pollution in haridwar and then the divesting difference in Kanpur. From the very 24% to 118% respectively in the month of January, A report given by the ministry of tourism, government of India reflects the very situation of the river Ganga. IT has said that the Ganga is mostly polluted in the times of summer season because of the increase in tourisms of the people and because of excessive temperature in plains the people migrate or go from the plains to the mountainous areas such as the haridwar area. The fact itself reflects that in the month of January it is somewhat less in the very origination area then to in the month of June, July and august when it is maximum.

Further let's see the next standard on which we can evaluate that is the water of Ganga is fit for use or not. According to the reports of CPCB study the level of coliform and dissolved oxygen is very important for the efficient use of the water in different purposes. According to the reports:-

Coliform >50% = drinking water

Coliform >500% = bathing

Coliform >5000% = agricultural use

According to the report the level of coliform and dissolved oxygen in the water of ganga at the very beginning in haridwar is 5500% which is very high on the scale. According to the rating the organization put the water in under a,b,c,d category. Sorry to say our Ganga that to Ganga mata is under the D category because of the immense increase in coliform in the water. The reports have analyzed that this much increase in water is due to the dispose of

human ashes in the water, increase in human and animal waste and other problems also as above mentioned.

Further again a study has been done by another department or can be said a leading department in India i.e. Environmental biology laboratory, department of Zoology, Patna university. According to their report showed the presence of Mercury in river Ganga in the holy city Varanasi. The cultural capital of the nation is at the disastrous footings. According to them the annual mean concentration of mercury in river water should be 0.00023ppm but unfortunately the level is devastatingly high in the very cultural capital i.e. 0.00191ppm.

Further another report from Indian toxicological research center, Lucknow shows the annual concentration of mercury in the river water in the city of Rishikesh, Allahabad, Dakshineswar is 0.081, 0.043, 0.012 ppb respectively.

Judicial development regarding Ganga pollution

Judiciary has been very much efficient towards the safety and security of the citizen of the country and people of the globe. That is why it is also regarded as the guardian. Here I am talking about the role of judiciary not only in reference to the constitution of India but also in all the very walks of life. Now in respect of pollution it is to focus that water is very source of living for human being and right to life is the very fundamental right guaranteed under "Article 21- Right to life and personal liberty". Further in the different landmark cases and judgments the Supreme Court has given not only the guidelines but also the very view that yes right to life also includes right to healthy environment. Further when we analyze the very right to healthy environment then it also has a lot of dimensions.

Hence here it proved that whatever judicial decision given by the Supreme Court is in favor of the view of right to life and liberty.

Judgment of the National Green Tribunal in the matter of

M.C. Mehta Versus Union of India & Others dated 13/07/2017

Regarding Ganga river pollution. NGT notes that GAP I and GAP II has failed to yield the required results and on the contrary there has been tremendous increase in the industrial and sewage pollution load in river Ganga and its tributaries. That at Haridwar, Uttarakhand the natural flow of river Ganga is 31,000 cusecs, after which gets reduced to 4000 cusecs when

it reaches Kanpur and from certain STPs/CETPs, even the effluents directly enter river Ganga and its tributaries either because of overflow or the bypass created by such plants due to low capacity of the plant.

Some of the directions passed by NGT are the following:

1. All the 86 drains as well as other major drains and sewerage line connecting thereto shall be dredged, cleaned of sludge and waste removed.
2. Till the demarcation of the floodplains and identification of permissible and non-permissible activities by the State Government of this judgment, NGT directs that 100 meters from the edge of the river would be treated as no development/construction zone in Segment-B of Phase-I (Haridwar to Unnao, Kanpur).
3. There shall be a complete prohibition on disposing of MSW, E-waste or bio-medical waste on the floodplain or into river Ganga or its tributaries falling in Segment B of Phase-I. 2.
4. There shall be no dumping or landfill sites for any kind of waste irrespective of any technology for waste processing, within 500 meters from the edge of the river Ganga and/or its tributaries.
5. While carrying out precautionary dredging of the river, no in stream mechanical mining is permitted and even the mining on the flood plain should be semi mechanical and preferably more manual.
6. Any Government Agency, Public Authority, Industry or person who violates any of the directions contained in this judgment and more particularly in relation to storage, transportation of spent chrome liquor, dumping of any kind of waste in river Ganga and its tributaries or on the banks of the same and discharges effluents from outlet, including the STP/CETP in violation to the prescribed norms or is found to be discharging spent chrome liquor or any effluent containing chrome or otherwise, shall be liable to pay environmental compensation of Rs. 50,000/- for each breach or default.

Judgment of the National Green Tribunal in the matter of Shailesh Singh Vs State of Uttar Pradesh & Others dated 27/04/2017

Regarding distilleries causing pollution to water bodies by extracting groundwater and simultaneously discharging large quantity of effluent/waste water without treatment into river Ganga through river Rapti and Ghaghara, Uttar Pradesh.

NGT directs the distilleries to pay environmental compensation of Rs.5 lakh each, for polluting the environment, committing breach of terms and conditions of consent orders, failing to install appropriate anti-pollution devices in the past and for causing environmental pollution particularly of river Rapti and river Ghaghra, groundwater and also for extracting groundwater without obtaining NOC/permission from CGWA for all these years.

M/S Manakpur Chini Mills (Tehsil Mankapur, District Gonda) is further liable to pay an additional sum of Rs.5 lakh as environmental compensation and damages, for causing death of animals and birds by release of ammonia gas and polluting the environment.

M.C. Mehta v. Union of India (Kanpur Tanneries)¹

Due to discharge of untreated effluents in the Ganga River, the water of the river was rendered unsafe for drinking, fishing and bathing purposes, essentially creating a public nuisance.

In M.C. Mehta v. Union of India & ors,² the Court had held the city municipality, Kanpur Nagar Mahapalika (Mahapalika), responsible for water pollution. The Mahapalika had a statutory duty to protect the environment and maintain public cleanliness. The duties and powers of the Mahapalika and its authorities are set out in Chapter V of the Uttar Pradesh Nagar Mahapalika Adhiniyam (the Act), Chapter 114, Clauses (iii), (vii) and (viii), which also Moreover, Central and State Boards appointed under the Water (Prevention and Control of Pollution) Act,

1974 (Water Act) were responsible for the prevention and control of water pollution. The Central Board supervised the State boards and advised the Central Government. The State Boards were responsible for the actual water pollution management and control programs, and it had the power to take emergency measures, including applying to a Magistrate to restrain an entity who is causing pollution.

Additionally, the Environment (Protection) Act, 1986 (EPA) provided that when pollution was caused by a government department the head of that government department would be

guilty of an offence and liable for punishment.

Legal personality to river Ganga: - A need of the hour

Legal personality is not the new term. Under the I.P.C the term person is defined under section 11. When we talk about the interpretation of the term person then it not only included the natural person born naturally but artificial person as well. It is from there when we have interpreted the same in legal context. But if we trace the history of the same then the one case which abruptly come in our mind is related to corporate jurisprudence ie “Soloman v. soloman & co.” This particular case has given a new dimension to the corporate jurisprudence and made the personality of the company and members entirely different or we can say separate. This was very important and indeded a very need. This development in corporate jurisprudence seems not to be usual but when we talk about rivers then of course it seems not less than an imagination. This imagination is rare not only for us but across the globe as well.

The first development regarding this was in New Zealand where the very river ‘Whanganui’ river. Where the government has given the legal personality to this river which is first time in the recent history.

Favouring the same the judiciary of the country has given the decision in the same respect granting the legal personality to river ganga and Yamuna. The division bench of uttarakhand high court has given the decision in the case of *Salim v. state of uttarkhand &ors.*

The bench opined that “there is utmost expediency to give legal status as a living person/legal entity to rivers Ganga and Yamuna r/w Articles 48-A and 51A (g) of the Constitution. “All the Hindus have deep Astha in rivers Ganga and Yamuna and they collectively connect with these rivers. Rivers Ganga and Yamuna are central to the existence of half of Indian population and their health and wellbeing. The rivers have provided both physical and spiritual sustenance to all of us from time immemorial. Rivers Ganga and Yamuna have spiritual and physical sustenance. They support and assist both the life and natural resources and health and well-being of the entire community. Rivers Ganga and Yamuna are breathing, living and sustaining the communities from mountains to sea.”

But later the Supreme Court has stayed the order of the division bench. Supreme Court has pronounced that Ganga and Yamuna rivers are not living entities. In a legal context wherein

Paris Agreement has been adopted by United Nations Framework Convention on Climate Change (UNFCCC) which is aimed at the protection of Mother Earth, a living person and a legal entity, it is eminently clear that any interpretation declaring rivers as non-living and non-legal entities cannot be defended and judicially sustained. This treaty has been ratified by India, Nepal and Bangladesh as well. The treaty notes the importance of ensuring the integrity of all ecosystems recognized as Mother Earth. In law, only legal wrongs against a legal entity can be protected.

But from my point of view it should be given legal personality. This is because presently the Ganga is going through a situation where it is on the verge of becoming totally polluted rivers. In spite of the decisions given by the Supreme Court and a lot of legislation the need is to take some important step. This step may make some change in the near future and whatever change we have seen in the corporate jurisprudence may also become visible with our Ganga as well.

Solutions which can protect Ganga:-

At last before conclusion of my paper it is a need that I being a writer of this paper must suggest some solutions in order to protect river Ganga. The solutions are as follows:-

The government should make new easy and implementable plans to save the rivers.

The laws should be made much more strict towards the same.

The children and youth must take new initiative towards this aspect as well.

The organization of seminars and conferences like this must be increased.

Ganga protection funds must be made directly accessible to a committee made under this.

The committee should be made by the district magistrate of the districts from where the Ganga flows.

The chief of the committee and the members must be made among the technically skilled people who have worked in this regard only.

The sample of Ganga must be tested every day and the reports must be submitted to the committee itself.

All the tanneries through which the waste or sewer water flows to Ganga must be changed by their routes and disposed of somewhere.

New technological methods must be made in order to properly dispose of the waste.

Conclusion:-

Concluding I would just like to quote the words of Jawaharlal Nehru:-

“The Ganga, especially, is the river of India, beloved of her people, round which are intertwined her memories, her hopes and fears, her songs of triumph, her victories and her defeats. She has been a symbol of India's age-long culture and civilization, ever changing, ever flowing, and yet ever the same Ganga”

The need is to just take steps in order to protect the wholly river Ganga.



Bibliography

1. 988 AIR 1115; 1988 SCR (2) 530; 1988 SCC (1) 471; JT 1988 (1) 69
2. 1987, 4 S.C.C. 463
3. Judgment of the National Green Tribunal in the matter of 13/07/2017