

Item No. 02

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 77/2020 (CZ)

Aarya Shrivastava

Applicant(s)

Versus

Union of India & Ors

Respondent(s)

Date of hearing: 15.07.2021

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Dharamveer Sharma, Adv.
Ms. Aarya Shrivastava, in person

For Respondent(s):

Mr. Sachin K. Verma, Adv
Ms. Parul Bhadoria, Adv
Ms. Gunjan Chowksey, Adv

ORDER

1. Proceedings in this matter are a follow up of the judgment of the Hon'ble Supreme Court dated 22.02.2017 in **Paryavaran Suraksha Samiti Vs. Union of India**¹, which mandates establishment and functioning of requisite ETPs/CETPs/STPs by 31.3.2018 and in default, to take coercive measures. This Tribunal has been mandated to monitor compliance. The pertinent directions therein are:

"7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up "common effluent treatment plants", according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

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10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to "public health, sanitation conservancy and solid waste management", we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating

¹ (2017) 5 SCC 326

finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.

*12. We are of the view that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously.** We, therefore, hereby direct that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.*

*13. We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional “primary effluent treatment plants”, and the setting up of functional “common effluent treatment plants” within the timelines, expressed above, shall be of the Member Secretaries of the Pollution Control Boards concerned. The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal. **(Emphasis Supplied)***

2. The matter of remedial action of polluted rivers, discharge of untreated effluent sewage, management of sewage treatment water, and monitoring compliance of Solid and Waste Management have been taken up by the Principle Bench of this Tribunal and several direction have

been issued. It is to be noted that in the various cases, the matter are being examined with regard to dumping of solid waste and no arrangement for collection and treatment of leachate is provided in these dumpsites, there is a high potential of contamination of surface and groundwater resources at these dumpsites.

3. Fresh waste is also reported to be dumped at the new dumpsites and Disposal of legacy waste is not under consideration by the Authorities. Bio-remediation in most of the dumpsites is not being taken in accordance with the CPCB Guidelines.

4. There are experts report of reverse boring and consequent contamination of ground water leading to wide spread diseases and even mortality in affected areas, the issue has not been dealt with the seriousness that it deserves. The State Pollution Control Board should ensure compulsory installation of Online Continuous Effluent Monitoring System (OCEMS) in all GPI's along with Pan-tilt Zoom Web Camera with open access to the department. Even after so much of emphasis the District Environment Plan (DEP) has not been finalized. In the Original Application No. 673/2018, the directions were issued for 100 percent treatment of sewage as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 at least to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. There was further direction that if this is not done, the local bodies and the concerned departments of the States will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of River Ganga i.e. Rs. 5 lakhs per month per drain, for default in in- situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of STP. The monitoring is expected with reference to ensuring that no pollution is

discharged in water bodies and any violation by local bodies or private persons are dealt with as per mandate of law as laid down in orders of the Hon'ble Supreme Court and this Tribunal without any deviation from timelines. The Higher Authorities must record failures in ACRs of responsible officer as already directed and recover compensation as per laid down scale. In every State, the official concern must ensure that at least one polluted river stretch in each category is restored so as to meet all water quality standards upto bathing level. This may serve as a model for restoring the remaining stretches.

5. By way of filing the present application, Conservation of Wet land of upper lake existing since 11th Century, and Central India is largest man-made water body situated in Bhopal has been raised. Bhoj Wet Land upper lake is an international acclaimed Wetland sites declared out of internationally agreement at Ramsar in Iran. Under rule (4) of the Wetlands (Conservation and Management) Rules, 2018 permanent nature of construction is restricted in wetlands But, in the instant case the illegal encroachments by constructing nature concrete structures, hutments, etc has reached at the banks of lake, i.e., Encroachment on Wetlands. There is grave injustice caused to the Southern part of Upper lake, properly known Bhadbhada Bridge Bhopal. The Bhopal Master Plan 2005 (still applicable) defines Lakes as sensitive Zone and should be kept open upto 50 meters from the edge of Upper Lake. Since, Competent Authority has failed to stop destruction of our lake by encroachment, humble petitioner has no option other than approaching the Tribunal in the interest of environment for present and future generation. Continuous Encroachment over wetland and Lake is substantial question relating to environment and wetland ecology falls well within the four corners and purview of this Tribunal.

6. Madhya Pradesh Pollution Control Board has filed a reply. Allegation in this application is encroachment by constructing permanent concrete structure, hutments etc. at the bank of southern part of Upper Lake near Bhadbhada Bridge, Bhopal which is also known as Bhoj Wetland.

7. An inspection of the site was carried out by the officials of Regional Office, MPPCB, Bhopal with the officials of Municipal Corporation, Bhopal. During the inspection it was found that, there is a slum area within 50 meters of the current water level of upper lake having kaccha as well as pacca houses. The domestic sewage from the slum area flows towards the lake.

8. In addition to the above, few structures were found to be within 50 meters from the current water level near the new bridge i.e. pump house, old mosque (wherein the construction is going on at first floor), temple (having kaccha construction with shed), one old mosque (under renovation) and one old temple are present in the adjoining slum area.

9. The matter was taken up by this Tribunal on **10th June, 2021** and it was ordered that:

“The Article 39 E, 47 and 48 A of the Constitution of India cast a duty on the State to secure the health of the people, improve public health and protect and improve the environment. It was by reasoned of the lack of effort on the part of the enforcement agencies, notwithstanding adequate laws being in placed, there are air pollution, water pollution and noise pollution in the city. One of the basic principle underlying environmental law is that of sustainable development. This principle requires such development to take place which is ecologically sustainable and the essential features of sustainable

development are:- the Precautionary Principle (ii) the Polluter Pays Principle and the authorities are duty bound to take necessary action on the point.

For the negligence of those to whom public duties have been entrusted and can never be allowed to cause public mischief.

We deem it just and proper to call a report on the matter in issue in present application, from a Joint Committee consisting of:-

a. The Collector, Bhopal, (M.P.)

b. Municipal Commissioner, Bhopal, (M.P.)

c. Madhya Pradesh Pollution Control Board, Bhopal (M.P.)

The Committee is directed to visit the place and submit the action taken report within four weeks. The State PCB will be the nodal agency for coordination and logistic support.

The Collector is directed to constitute a committee consisting one officer from the Revenue, one officer from the Municipal Corporation and one officer from the Wetland Authority and to direct them to demarcate the Wetland/Southern Part of the upper lake where there is allegation that there is encroachment on the basis of the records available in the Revenue Department or the Municipal Corporation especially entry of the record in the year, 1951 and take necessary legal action for removing the encroachment according to law. It is made clear that encroachment on the public land is not the right of anyone. The Statutory Authorities, Collector concerned is duty bound to implement the rule of law and execute the rule and legal provisions in accordance with law and ensure that there should not be any encroachment on public property. In case encroachment is found, the same may be removed immediately according to law. Further report be filed within fortnight."

10. In compliance thereof, a Joint Committee consisting of

representative of Collector, Bhopal, Bhopal Municipal Corporation (BMC), and Madhya Pradesh Pollution Control Board submitted a status report which is as follows:

“As per directions received, Shri Manoj Upadhyay, SDM Bairagarh, Bhopal, Shri Santosh Gupta, Superintending Engineer, Lake Conservation Cell, Municipal Corporation Bhopal and Shri A.K. Risen, Executive Engineer, M.P.P.C.B. jointly inspected the site on dated 12.07.2021. The status is submitted hereby as follows:-

I. In compliance of the order, notices were issued by the Municipal Corporation Bhopal to the residents of the slum located near Bhadbhada Bridge, Bhopal lying in 50m distance from the lake to clear their illegal encroachments.

II. Total of 11 of such encroachments have been removed by Municipal Corporation Bhopal till date. Due to the arrival of monsoon season the process of encroachment removal has been delayed and shall be continued at the earliest.

As per the records of Bhopal Municipal Corporation, the report on points mentioned in the point 11 of the said order is presented in the table below:-

Sr No.	Information desired by Hon'ble NGT as per order point No.11	Committee report
1	The total no. of drains where untreated/sewage water is being discharged in the lake or river bodies in Bhopal	Out of 62 drains through which wastewater is being discharged in the lakes/water bodies a total of 21 no. of drains have been connected to sewage network system. 18 drains will be connected to the sewerage system under the AMRUT (Sewage) Scheme of the Central Government at the earliest. Remaining drains are proposed to be connected to the sewerage system under the Jal Jeevan Mission, the said work shall be commenced upon project approval.
2	Total number of STPs installed there	13 (including 05 nos. STP's commissioned under AMRUT Project)
3	Quantity of water being used	390 M.L.D. (Approx.)

	by the residents in the city of Bhopal	
4	Total capacity to treat the water	130 M.L.D. (Approx.) (Waste water)
5	The gap between the use and capacity to treat	180 M.L.D. (Approx.) (Wastewater)
6	Future planning of the municipality to meet out the gap and make proper arrangements for treatment of water	Under the Jal Jeevan Mission a sum of Rs.1600 Crores (approx.) has been proposed for the said work.
7	Action against the polluters who are discharging water, sewage and untreated water in to the river bodies and causing water pollution and contaminating the underground water	<ul style="list-style-type: none"> • Time to time fine is imposed on residents discharging sewage in to the lakes/water bodies by the I3MC. • To stop the discharge of polluted water in the lakes/waterbodies laying of sewage network, construction of sewage treatment plants and sewage pump houses is under process in the catchment of Upper Lake, Lower Lake, Siddiqui Hassan Lake, Bagh Munshi Hussain Lake and Kolar region under the AMRUT (Sewage) Scheme of the Central Govt.
8	It is directed that Municipal Authorities to ensure that no solid waste be thrown into the open space and there should be no discharge of untreated/sewage water into the water bodies or in the open space and anyone violating the norms and any violation of this order should be taken seriously in accordance with the order passed by the Principal Bench of this Tribunal in O.A. no. 148/2016; Mahesh Chandra Saxena v. South Delhi Municipal Corporation & Ors. Vide order dated 21.05.2020,	<ul style="list-style-type: none"> • Solid waste is being collected from door to door on a daily basis in the Bhopal city and is being disposed of in scientific manner at Adampur Chhawani, Bhopal. • Warning boards have been placed near lakes and water bodies to stop the citizens from throwing solid waste into the water bodies. • Spot fines are collected from people who dispose solid waste into the water bodies despite of the warnings. • Lakes are regularly cleaned and maintained with the help of harvestors available with BMC. • As per the previous orders of the Hon'ble NGT, kundas have been constructed nearby lakes to collect the worship offerings. Scientific disposal of the waste generated from these offerings is carried out. • To stop the solid waste from flowing into the lakes/water-bodies, grills have been installed on all the drains meeting lakes/water-bodies. • To stop the encroachment and to enhance the environment plantation has been carried out at the periphery of the lakes.

11. Bhopal Municipal Corporation has submitted reply and compliance report separately containing following facts:

“Accordingly in compliance with the said order of Hon’ble Tribunal, the aforesaid named Respondents had constituted a joint Committee and jointly inspected the site on 12.07.2021 and had also prepared a Report covering all the points mentioned hereinabove.

Further in compliance with the said order of the Hon'ble Tribunal with respect of demarcation of the wetland/southern part of the upper lake where the alleged encroachment has been made and the action taken by the concerned authority to remove the said encroachment, it is submitted before this Hon'ble Tribunal that a survey was already conducted by Housing for all Cell wherein a list of the encroachers/trespassers in the said area under question was prepared, the Report of which was generated as on 09.02.2021. However, due to the outbreak of second wave of Covid-19, entire process was obstructed as Respondent No.5 being the prime agency was involved in taken corrective measures and could only be taken up after the passage of second wave.

However, in accordance and compliance of the said order dated 10.06.2021, wherein the Hon'ble Tribunal had the District Collector to form a committee constituting of Municipal Corporation, Bhopal and State Wetland Authority and take appropriate steps to remove the alleged encroachments in the area under question, the Respondent No. 5 has immediately acted upon removing the alleged encroachments. The according the report dated 06.07.2021 generated by the said committee, the officials had visited the site as on 06.07.2021 and had removed in total 11 illegal constructions.

Even otherwise, the Respondent No. 5 has been actively engaged in removing the encroachments if any, made by public all over the city of Bhopal on regular basis. That the Respondent No. 5 on regular basis sent numerous notices to various organizations and encroachers/ trespassers for removal of the encroachment created by them near water bodies including in Bhadbada region.

Moreover, as stated hereinabove, the Respondent No.5 has been actively engaged in removing the encroachments from time to time within the city and has also acted in doing, the same near Upper Lake as well. The same can be evidenced by the list containing the name of over 11 places within the city limits where removal of encroachments was initiated and that the same was within 06 months period before filing of the said application.

However, due to the sudden and widespread outbreak of Covid-19 pandemic in late 2019 and early 2020 which has /had devastating effects all over the world, nation, entire state and

cities therein and for the reason of Respondent No.5 being the premier agency of the city of Bhopal, Respondent No.5 was obliged and actively engaged and involved in taking appropriate actions and corrective measures for curbing the spread of Covid-19 pandemic and imposition of strict measures like lockdown, janta curfew, etc., the process of removal of encroachments in the city of Bhopal got stalled and could be re-initiated only after the passage of second wave of Covid-19 pandemic.

Moreover, with respect to allegations of encroachments by constructing permanent structures, it is humbly submitted before this Hon'ble Tribunal that Respondent No.5 had already initiated works for rehabilitation and redevelopment for providing houses to slum dwellers under Pradhan Mantri Awas Yojna (PMAY) Housing for all (Urban) Mission. That the same is a matter of policy and the District administration and Respondent No.3 has already acted on it and therefore, the same shall be finalized as per the policy decision.

However, with respect to allegations regarding pollution of water/lakes, it is submitted that under the 'Amrut Yojna' of the Government of India, two schemes have been approved for stoppage of sewage water in the Upper Lake, lower Lake and Shahppura lake of city of Bhopal and one scheme has been approved for the treatment of sewage in Kolar, Misrod, Jatkhari and Salaiah area.

Accordingly, the contractor M/s Ankita Construction has been issued work orders dated 05.08.2018 for construction of Sewage Treatment Plans (STPs), Sewage pump houses and laying of sewage pipe lines in the catchment area of upper lake, lower lake and shahpura lake and sewage network and sewage treatment of renovation of existing sewerage system (Bhoj wet land, ADB and CPA). Further, M/s Ankita Construction- Navkar-Sarjit has been issued Work Order dated 15.08.2018 for construction of STPs, Sewage pump houses and laying of sewage pipe lines in Kolar, Misrod, Jatkhari and Salaiah area that all the three projects are ongoing and under process.

According to the said plan, in total 18 STPs were to be installed at various places in the city of Bhopal. Although, out of said 18 STPs, 13 are already completed, ready and functional.

Also, it is pertinent to mention here that the aforesaid works were to be completed within a period of two years but due to unfortunate and force majeure events, the said projects could not be completed. Although, after the completion of said projects, the sewage water could be substantially prevented from entering the said wetlands. Further, under the said contracts entered with the contractor, after construction they shall also be obligatory to operate and maintain the said STPs for a period of next 10 years. So far about 72 % work has been completed by above named contractors under three projects and the remaining work is under process.

Further, steps have been taken by Respondent No.5 for treatment of solid waste management (SWM) and drainage management. The same can be evidenced by the from various parts of the city of Bhopal wherein the Respondent No.5 has ensured that the solid waste separator/nets are appropriately placed.

Further, to meet the treatment gap between the treated and untreated sewage in the city of Bhopal, there is requirement of estimated fund of Rs. 1600 crores. The Respondent No.5 is unable to generate such a huge amount of funds thereby is dependent on central as well as state government. Although, the Proposal for the same has been prepared and is awaiting approval.

That in view of the aforesaid facts and circumstances and in order to comply with the orders of the Hon'ble Tribunal, Respondent No.5 seeks to submit that it has taken appropriate steps in a timely manner in order to remove encroachments within the limits of the city and to conserve the wetlands in the city of Bhopal. That further, Respondent no.5 is making continuous efforts to conserve the wetlands by undertaking various steps like rehabilitation of slums dwellers, separation of solid waste, timely removed of encroachers, installation of STPs, sewage pump houses and pipelines among others.

However, it is pertinent to mention here that the works related to STPs is still under process and whatever delay which has been caused is solely for the reason of the ongoing pandemic which has obstructed the general flow of business. Moreover, since

past more than one and a half year, as the complete focus of Respondent No.5 is in taking appropriate actions to curb the spread of Covid-19 pandemic and successfully implementing vaccination drive all over the city, the implementation of the other works as described in aforesaid paragraph has affected. However, it is submitted before this Hon'ble Tribunal that the Respondent No.5 shall complete the remaining works related to STPs, sewage pump houses and pipelines until December, 2021.

12. Committee consisting one representative from Revenue Department, one representative from the Municipal Corporation, Bhopal and one representative from Environment Department had submitted a report that encroachment of 11 persons from the lake has been removed.

13. The matter of control on the discharge of the untreated water into the water body and remedial action with provision of imposing Environmental Compensation was taken up by this Tribunal in Original Application No. 593 of 2017, and it was directed as follows:

Directions in order dated 06.12.2019:

"XII. Directions:

47. We now sum up our directions as follows:

i. 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 53 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.

ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. Rs. 10 lakhs per month per STP.

iii. We further direct that an institutional mechanism be

evolved for ensuring compliance of above directions. For this purpose, monitoring may be done by the Chief Secretaries of all the States/UTs at State level and at National level by the Secretary, Ministry of Jal Shakti with the assistance of NMCG and CPCB.

iv. For above purpose, a meeting at central level must be held with the Chief Secretaries of all the States/UTs atleast once in a month (option of video conferencing facility is open) to take stock of the progress and to plan further action. NMCG will be the nodal agency for compliance who may take assistance of CPCB and may give its quarterly report to this Tribunal commencing 01.04.2020.”

14. The learned counsel for the Municipal Corporation has submitted that due to Covid-19, the ongoing works have been severely affected and impact was on mobilization of skilled and unskilled man power as well as supply of materials besides site work. Site works often reportedly get affected due to lockdown kind of situation whenever the same is under enforcement. The project completion timeline, therefore, are getting impacted due to these factors also.

15. Learned counsel for the Municipal Corporation has also reported about financial difficulties being faced by them on account of resource crunch due to Covid-19 situation. The State is trying to arrange funding for priority projects and will be apprising the status on subsequent dates. It is further submitted that the process of sanctioning of projects being dependent on funding, is getting affected due to pandemic situation. Considering financial limitations, States may take up STP projects on Hybrid Annuity Model, which, as a business model, enables the Urban Local Body/ State Government to fund the development and operation of sewage treatment infrastructure taking into account the future flow of revenue. It will help ULBs to tap the external market funding for development & operation of sewage infrastructure, apart from quality treatment services.

16. In the above cited case, the consideration of One City-One Operator concepts offer integrating the rehabilitation and Operation &

Maintenance of the existing treatment infrastructure along with development & operation of new STPs. This concept can be integrated with the HAM model, as is being done in many projects under Namami Gange.

17. In most of the district headquarters having facility of STP, do not have online system of monitoring the functioning of STPs, both in respect of quantity of sewage being treated and whether the treatment conforms to the environmental norms for STP outlet standards. The responsible officers are required to ensure that created capacity is optimally utilized by carrying out condition assessment of existing STPs/ sewage infrastructure in a fixed time frame, say another a time bound manner six months or twelve months, but also putting in plans to upgrade STPs requiring up-gradation so as to make them functional. In addition, it is also equally important that Department must develop a modern technology based online monitoring system, preferably IoT enabled platform for monitoring the performance of sewage infrastructure with flexibility of integrating STPs under implementation and planning alike and which are likely to be commissioned in future. The status of in-situ bioremediation/ phyto-remediation in Polluted River Stretches being undertaken by the authorities should also be monitored.

18. The cleaning and maintenance of ghats by organizing local people, NGOs and professional agencies, construction of crematoria in villages handled by Panchayati Raj Department, necessary direction to concerned department for creation of artificial ponds for immersion of idols, step for ground water recharge by digging of ponds and establishing drain network to tap excess runoff during rainfall, in order to restrict and regulate waste into rivers and water bodies, use of floating barriers, are also required to be taken care of by the authorities.

19. The Respondent/M.P. State Wetland Authority has submitted the

reply which is as follows:

“2. The Madhya Pradesh State Wetland Authority was constituted as per Rule 5 (1) of Wetland (Conservation & Management Rules) 2017 vide letter dated 02.01.2018.

3. The Madhya Pradesh State Wetland Authority is a regulatory body whose powers & functions are provided under Rule 5(4) of Wetland (Conservation & Management) Rules 2017 and the authority has accordingly been performing its functions under the Rules.

4. The State Wetland Authority strategizes conservation and wise use of wetlands within their jurisdiction by incorporating sustainable uses as being compatible with conservation & ensuring ecological values are maintained or enhanced. It also recommends promotional activities which ensures maintenance of ecological character.

5. It is stated that, the M. P. State Wetland Authority has regularly written letters to the Collector Bhopal and Commissioner, Bhopal Municipal Corporation to ensure the compliance of Wetland Rules, 2017 in its letter and spirit.

6. In compliance of the directions passed by the Hon'ble Tribunal vide its order dated 10.06.2021 the State Wetland Authority has nominated an officer in the committee constituted by the Collector, Bhopal.

7. It is most humbly stated that, the answering respondent has been performing its duties and functions as per the Wetland Rules, 2017. In the instant case also, neither any specific allegation has been raised by the applicant against the answering respondent nor has any relief been sought there from.”

20. The Respondent No. 4 has also filed Annexure 1 /Letter dated 02.01.2018 with regard to the constitution of Committee of the Wetland Authority and also the powers and duties of the authority. Ministry of Environment, Forests & Climate Change (MoEF&CC) vide notification dated 26.09.2017, has issued the notification to save the wetland on the various complaints that many wetlands are threatened by reclamation and degradation through drainage and landfill pollution (discharge of domestic and industrial effluent, disposal of solid waste) ideological alteration water withdrawal and changes inflow and outflow, over exploitation of their natural resource resulting in loss of Bio-diversity and destruction in eco-system, services provided by Wetland. Learned Counsel appearing for the applicant has submitted that, there are 227

encroachments out of which Municipal Corporation has removed only eleven encroachments and the applicant has also filed some recent photographs, where there are encroachments on the water body and there is a report of new construction which is going on up to first floor within the area of the water body.

21. Learned Counsel appearing for the Municipal Corporation has submitted that the Corporation is taking action against the violators of law and they have identified the structures which are 227 in number but out of these structures some are permanent in nature, some are temporary and some are Kachha construction. So far as the temporary construction are concerned they have been removed and for the removal of the Pakka constructions, it requires policy decision and respondents has already initiated works for rehabilitation and redevelopment for providing houses to somewhere else under Pradhan Mantri Awas Yojna Housing for All mission. It is a matter of policy and the District Administration and Respondent No.3 has already acted on it and are in process of finalization of policy decision. To control the discharge of untreated water into the water bodies, the authorities are taking help of Amrut Yojna, Govt. of India and two schemes of the corporation have been approved for the stoppage of sewage water in to the upper lake, lower lake and Shahpura Lake of city of Bhopal and one scheme has been approved for the treatment of sewage in Kolar, Misrod, Jatkhedi, and Saliya Area. It is further argued on behalf of the Learned Counsel for the Bhopal Municipal Corporation that work order for the construction of Sewage Treatment Plant (STP), Sewage Pump House and laying of Sewage Pipe Lines in the catchment area of upper lake have been issued to the authorities concerned and the work is under process. It is further submitted that 72% of the work has been completed and rest of the work shall be completed within a time frame, but due to certain requirement of estimated fund and non availability of the workers during the Covid-19

period, the completion of work has been delayed. For removal of encroachments some logistic support and policy decisions are to be taken by the Competent Authority and the Municipal Corporation has approached to the Competent Authority for taking logistic support and also finalization of policy decisions for rehabilitation and removal of permanent structures.

22. Accordingly, we direct the Respondents / Bhopal Municipal Corporation to finalise the matter and hold a meeting with the Officers responsible for taking decision and make a policy mechanism and submit Factual and Action Taken Report before the next date of listing.

List it on 16th September, 2021.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

July 15th, 2021
O.A. 77/2020(CZ)
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