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has a direct impact and renders the judgment of the NGT dated 4th/7th May, 2016 ineffective. However, before we could direct initiation of contempt or other proceedings against the officers i.e the Commissioner and Joint Commissioner of the Palika, the Learned Counsel appearing for the Authorities, on instruction from the Joint Commissioner present in court, has tendered unconditional apology for writing such a letter and has further given an undertaking to the Tribunal that the said circular shall be withdrawn forthwith. It is also stated before the Tribunal that if a party has been given any benefit in furtherance to the circular dated 30th March, 2017, the same shall be withdrawn immediately and the party would be informed accordingly.

The undertaking given on behalf of Mr. Sarfaraz Khan, Joint Commissioner of the Palika is accepted by the Tribunal and it is on the basis of unconditional apology tendered and the undertaking given, not to give effect to the circular dated 30th March, 2017, that we direct that the Notice issued to this officer be dropped and no further action need to be taken in this matter, at this stage. But we make it clear that in the event of such default being brought to the notice of the Tribunal again, it would be compelled to take a serious view of the matter and deal with the defaulting officers, in accordance with law.

Next we are concerned with the legal opinion given by the Additional Secretary, Law, and in reference to which a letter has been issued by the Secretary, Urban Development Department on 16th February, 2017. This letter uses improper language against the Tribunal and Courts. Further, it comments upon the judgment in an

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unacceptable manner and in fact expresses opinion totally contra not only to the judgement of the Tribunal dated 04th May, 2016, but also to the established principles of the law. We do not expect an officer of the rank of the Additional Secretary, Law to use such language and express opinion which are contrary to the judgment, which is not acceptable. The attempt was primarily to frustrate the judgement of the Tribunal. However, before we could proceed to take action against the concerned officer, the Learned Counsel appearing for State of Karnataka has filed an affidavit tendering unconditional apology and also made statement before the Tribunal that the said opinion and letter dated 16th February, 2017 will not be given effect to, and shall be withdrawn. He further states that if any benefit has been given to any builder or body or person, on the basis of this letter, the same shall be withdrawn immediately. Undertaking of Mr. Mahendra Jain, Additional Chief Secretary, Urban Development Department has been accepted by the Tribunal. It is only on the basis of the acceptance of such undertaking that we drop the further proceedings against the officers concerned, but we do express a hope that such senior officers in the Government or in the local bodies would not in future try to undermine administration of justice and interfere in dispensation of justice by expressing such untenable opinion by using impertinent language, which cannot be accepted.

With the above directions, the M.A. No. 440 of 2017 stands disposed of.

Main Matter

Fire in lakes in city of Bangalore, particularly in

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relation to Bellandur Lake is nothing new or strange. The history shows that the lake has been on fire, in its difference sections, over a long period. The Bellandur Lake is spread in nearly 900 Acres of land and is surrounded by heavy development and even industries.

The judgment of the Tribunal dated 04th May, 2016 had issued various directions in relation to protection of the ecology and environment in the city of Bangalore, particularly with reference to water bodies and Rajakaluves. According to the Applicant the directions issued by the Tribunal have not been complied with by the Government, Local Bodies and other Stakeholders. However the same is disputed by the Learned Counsel appearing for the State and other authorities, except the Learned Counsel appearing for the Lake Development Authority and Karnataka Pollution Control Board.

At the threshold, we may also notice that the directions contained in the judgment of the Tribunal dated 04th May, 2016 have not been complied with in its entirety. On the one hand, while the two circulars/letters issued on 30th March, 2017 and 16th February, 2017 was a clear attempt to overreach the judgment of the Tribunal by giving incorrect interpretation to it and setting principles of laws which are not acceptable. We had in fact proposed to initiate proceedings for contempt as well as to take other punitive action against the officers who were instrumental in issuing these letters which intended to frustrate the impact and compliance of the judgment. However, since unconditional apology has been tendered and an undertaking given to withdraw this circulars as well as the benefit that might have accrued to the parties on their

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basis, we decided not to proceed further against the Government or any of its official. Thus we have noticed and place on record that the Government, Local Authorities and instrumentalities of the State have not responded appropriately to the directions contained in the judgment as well as miserably failed to take preventive and restorative measures for ensuring that the water bodies are not put to fire again and again.

The Additional Chief Secretary, Urban Development has stated that Bangalore has serious shortage of water and they in fact receive water from 150 Kms away from the city. This is the reason which should persuade the authorities concerned to protect the water bodies, rather than pollutes them to the extent that either they are put on fire or there is a fire in the lake by human acts or otherwise. It is not disputed, on behalf of the Government, that there are varied pollutants being discharged into the lake. According to the Applicant, it includes discharge of chemical pollutants by the industries, domestic discharge, sewage (treated and untreated), C&D waste and even municipal solid waste which is dumped into the lake. The lake from being a water body, has become a dumping ground causing irreparable damage to its bio-diversity, aquatic life and health, much less to say that the water could be used for human consumption. It is incapable of even being touched as it has huge quantity of froth, chemical, faecal coliform and other waste. It may be hazardous to the health of the people who are living around the lake.

Firstly, it is evident from the record before us that the Bellandur Lake caught fire in the year 2015. A report

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was prepared, titled as “Expert Committee Report Rejuvenation of Bellandur Lake”. This was prepared under the Chairmanship of the Additional Chief Secretary. In this report, it was clearly stated that foam caught fire perhaps due to compounds with high flammability i.e. hydrocarbons and organic polymers that came from industries in the vicinity of Bellandur Lake. Discharge of untreated effluents (rich in hydrocarbon) with accidental fire (like throwing cigarettes, beedi) has lead to the fire in the lake on 16th May, 2015.

In this report it was noticed that there are heavy metals in the Bellandur Lake, frothing increased Green House Gases (GHG) contamination of ground water, fish mortality, spreading of water *hyacinth* and also stated the causes of the problem. A period of 2 years has gone by, but nothing seems to have improved. The health of the lake has gone down, from bad to worst.

Here we may also notice that in September, 2015 a report on action taken by Karnataka Pollution Control Board in BBMP area was also prepared. According to the Pollution Control Board, amongst others, the following patent deficiencies were pointed out and it was unambiguously stated that chemicals were present in the water from domestic sewage. In the Sewage Treatment Plant, there was no means to treat and remove Nitrate and Phosphate. The consent had been granted for discharge of the sewage on the land and not in the water bodies. The relevant part of the said report could be usefully reproduced at this stage:-

“(14) In spite of all these monitoring and persuasion by the KSPCB, it is observed that the concerned department viz., BBMP, BWSSB, BDA are not complying to the directions even after one year and

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hence, there is no co-ordination for proper implementation of the measures suggested in the directions stated above (7 points). Hence, the Board has ultimately decided to file criminal case under section 41/44/48 of water (prevention and control of pollution) Act, 1974 against the BWSSB in the jurisdictional magistrate of Court of Bangalore. The Board is further monitoring the issue in line with the directions issued on 20.03.2015.

(16) It is observed that the foam is formed mainly because of the chemicals present in the water from domestic sewage viz., surfactants like the soap solutions, shampoos, etc., which do contain following chemicals of foam forming chemicals.

Linear Alkylbenzene Sulfonic Acid (LAS acid)

Sodium Carbonate

Fatty acid (hysteric, Lauric, CocoNut Fatty Acid (CNFA))

Alkaline Silicate

Sodium Sulphate

Perfumes

3. KSPCB has issued consent for establishment for 278 apartments in around Varthur and Bellandur lakes with an estimated waste water generation around 40MLD. In view of KSPCB's insistence to provide STP to all the apartments covered under consent network about 28 MLD of treated waste water from 133 apartments is being reused/recycled thereby reducing burden to such extent on BWSSB.

5. The KSPCB has given the consent to BWSSB to use the treated sewage for on land for irrigation, whereas BWSSB is discharging the treated effluent to lakes & water bodies."

Furthermore in the rejuvenation plan, a specific stipulation was provided that there shall be one time cleaning of lake, specially for removal of accumulative silt which was to be completed by April, 2017. This was to be done by the Bangalore Development Authority. Certainly nothing has been done. However, according to the Learned Counsel appearing for the Government, they have taken some effective steps, the correctness thereof we would examine at the time of final hearing the matter.

When the lake was on fire on 17th February, 2017, it cannot be stated to be a minor one. It was a major fire and by no stretch of imagination it could be called an accident, capable of being overlooked either in terms of extent of fire

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or of heavy pollution that it caused, adversely effecting the environment and public health in relation to the people living around the lake and even at some distance. Photographs, Media reports and affidavits have been filed on record to show the extent of fire, the resultant pollution and the carelessness with which the issue was being dealt with by the concerned stakeholders.

According to the Learned Counsel appearing for the Lake development Authority, the lake is certainly in a very undesirable condition and re-occurrence of fire is a matter which ought not to be ignored. According to him, for the last 9 months they are trying to take some effective steps to prevent and control the pollution. According to the Learned Counsel appearing for Pollution Control Board, in their report they have referred in detail, the measures which are required to be taken but none of the Authorities have really taken the measures seriously. The Pollution Control Board served Notice upon people, the Local Authorities and even filed criminal case. In our considered opinion that is not a sufficient action to be taken by the statutory board which is responsible for prevention and control of pollution and is vested with wide powers including that of closure, disconnection of electricity and water and also to prosecute the defaulters. No documents has been placed by the Pollution Control Board which shows what directions, as contemplated under Section 5 of the Environmental Protection Act, 1986 and the order passed by the Tribunal, have been issued by the Board. The Board had, however, issued orders under Section 33A of Water (Prevention and Control of Pollution) Act, 1974 directing PWSSP, BBMP, Bangalore Lake Development

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Authority, KUWSSB that there should be stoppage of throwing waste; the sewage should not be discharged into the lake; to undertake cleaning of water bodies to take preventive measures to prevent the entry of any new outlet and not to discharge untreated or polluted matters into the lake. This was issued on 20th March, 2014, that is, prior to the fire of 2015 and also 2016. There is definite failure on the part of the authorities to comply with the directions contained under section 33A of the Water Act. The criminal prosecution related to both the Notices issued prior or after fire in question has been initiated by the Board. The apathy in the action of the State Government and its instrumentalities is evident. The polluters are not being put to inconvenience, much less, required to face the legal consequences of their polluting acts. None has bothered to invoke 'Polluter Pays' Principle' till date. Developments are being sanctioned at an increasing rate with the passage of time without ensuring any preventive, restorative and controlling measures to be taken either by the concerned State Agencies or by the private stakeholders who are polluters in terms of environmental jurisprudence.

In light of the above, we have to issue certain interim orders, after hearing the Learned Counsel appearing for the parties, Government officers and stakeholders. Thus we issue the following directions:-

1. All the industries which are located in the catchment area of the Bellandur Lake and are discharging their effluent (treated or untreated) into the water body are hereby directed to be closed forthwith. No industry shall be permitted to operate unless they have been subjected to an inspection by the joint

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inspection team and their analysis of the effluent are found to be within the permissible limit. The Pollution Control Board shall ensure that these industries are shut down immediately and if any industry or person is found to be violating these instructions or directions, the same shall be sealed by the Pollution Control Board and the Government would provide all assistance and help, including the police aid, to the Pollution Control Board.

2. No waste of any kind including municipal solid waste or C&D or domestic waste shall be dumped into the lake or on the buffer zone of the lake which we have already fixed in terms of our judgment dated 04th May, 2016. If anybody is found to be dumping waste of any kind either in the lake or in its buffer zone, shall be liable to pay environmental compensation of Rs. 5 Lakh per event. The CEOs and the Senior most Officers of the Lake Development Authority, Pollution Control Board and the Bangalore Development Authority, shall be personally responsible for compliance of this order, without default and delay.

3. The Committee consisting of the Karnataka Pollution Control Board, Lake Development Authority and Bangaluru Development Authority, which will nominate their officers not below the rank of an Additional Secretary to the Government of Karnataka or equivalent rank, is constituted. This Committee shall be presided over by the Additional Chief Secretary, Urban Development, State of Karnataka. The Committee shall undertake one time cleaning of

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the entire Bellandur Lake. This would include de-silting, removal of municipal solid waste and C&D waste from the lake and the surface cleaning of the lake, including chemicals which are stated to be stored in the lake. This process shall be completed within one month from today. The work shall be executed by a specialized agency which the Government of Karnataka may appoint. But the Committee constituted under this direction shall be personally responsible and submit a compliance report to the Tribunal.

4. All local authorities shall ensure that no untreated sewage water is permitted to enter into Bellandur Lake. All such outlets shall be intercepted forthwith. Untreated sewage shall be transported so as to dump it on a site or land and not to be released into any water body. The State of Karnataka shall plan establishment of STPs to ensure that such collected waste or untreated sewage can be transported to that plant for treatment. The waste water so generated should be used for discharge on land or agriculture purposes or gardening or for power sector for cooling purposes.

5. Any Society or group of builders or residents who are discharging their sewage into the Rajakaluves, leading to the lake or directly into the lake shall stop doing so forthwith. They shall ensure that from the outlet point, all their effluent or sewage should be collected by suction trucks and transported to the site as notified by the State Government, within one month and which should be at an appropriate

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distance from the residential colonies.

6. The State of Karnataka would be entitled to invoke 'Polluter Pays Principle' and require the builders and developers to bear their corporate social responsibility and ensure that the sewage is carried and transported at their own cost to the destination notified by the State Government.

7. We hereby direct the State Government and all other authorities and stakeholders to place before the Tribunal, within two weeks from today, their action plan to completely prevent and control of pollution of Bellandur Lake in future as well as for its restoration and rejuvenation in all respect.

8. Karnataka State Pollution Control Board shall submit details of the industries and their pollution status, in catchment area of the lake specifically pointing out whether any surfactant or polymer chemical industries are in operation. Karnataka State Pollution Control Board shall also give details of sewage generation in the catchment area of lake, its treatment, existing STP capacity, actual treatment done (operational capacity) over a period of last six months and the quality of treated sewage.

We will pass further directions once such plan is placed before the Tribunal.

With the above directions we order that the matter be listed for further arguments and reporting compliance, on 18th May, 2017.

.....,CP
(Swatanter Kumar)

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