

IN THE HIGH COURT OF DELHI AT NEW DELHI

CM No. 1716 of 2009
in
W.P.(C) No.3802 of 2000

IN THE MATTER OF:

Vinod Kumar Jain

... Petitioner

Versus

Govt. of NCT of Delhi

...Respondent

Reply on behalf of GNCTD

I, V.K. Babbar, working as a Chief Engineer, Delhi Jal Board, GNCTD having office at Varunalaya, Phase -II Karol Bagh, New Delhi, do hereby solemnly state and affirm as under:

1. That I am aware of the facts and circumstances of the above noted case from the records kept in the office in the ordinary course and am competent to swear this affidavit.



2. That vide order dated 31.3.09 this Hon'ble Court had directed the respondent/Govt. to:

- i) clarify the letter dated 18.11.08 issued by the Chief Engineer, PWD /M1 which purports to state that the Water Body Mayapuri, Naraina is not a Water Body, in view of the fact that in an annexure filed in Court by the

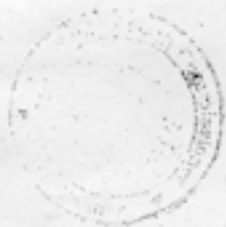
Govt. through PWD, the said area in Naraina is shown as a water body comprising 16.527 acres;

- ii) clarify how the order dated 31.7.08 was passed by the Chief Secretary, stating that the land of Jahangirpuri Marsh cannot be termed as water body and that the same shall be considered as per the land used MPD 2021.

3. That with respect to **Mayapuri area** a report was sought from the Dy. Commissioner (South-West). Her report is attached herewith as **Annexure I**. The states inter-alia:

"Report on the visit of Chief Secretary to PWD land at Mayapuri.

Kind reference is invited to the visit of the Chief Secretary to Mayapuri areas on 07/04/2009. The matter pertains to land measuring 75 Bighas of village Naraina which was acquired by the Revenue Department vide Award No. 1024 way back in the year 1960. As per the Award No. 1024 the said land was acquired for the construction of approaches to the road over bridge at the crossing of the Ring Road with the Delhi-Gurgaon Railway Line. After acquisition the land was handed



over to PWD Department and has been in the possession of PWD since then."

"As per Revenue record the said land is in the nature of cultivator land ' Rosli'. As per the Award No. 1024 dated 27/06/1960 the land was in possession of private individuals who were duly compensated before taking over the possession of the land by the Govt. As per Revenue records there was no water body on the said portion of the land."

"The said land was used for extraction of soil for construction of Railway Bridge on the Ring Road resulting in the creation of a depression which was subsequently filled with water. It is understood that the PWD in an affidavit to the Hon'ble High Court has submitted that the said land is a water-body which is not true as per the Revenue Records. PWD apparently construed the said land to be a water-body on the basis of a report submitted by the then SDM (Delhi Cantt.) Shri K.R. Mehndiratta in 2001. The report was only an on the site demarcation of the shallow water-body which has come to exist on a portion of this land.



As per Revenue Records the said land continues to be agricultural land. Development of a water-body over a period of time is only incidental."

"As informed by the PWD officials on the site, on the basis of the affidavit furnished by the PWD to the Hon'ble High Court stating the said land to be a water-body, a number of *jhuggies* that had come up on the said land were removed on the orders of the court."

"During his visit, Chief Secretary requested PWD Department to survey the land and submit a Report as to how the same can be developed and utilized in the best possible way."

4. That vide note dated 11.4.09 the Divisional Commissioner & Secretary (Revenue), has opined that to use the 75 bighas of land acquired by the Revenue Department for PWD the following could be done:

- i. wherever a water body has got developed naturally and bio-diversity has been created, it may continue as a water body.



ii. the remaining land may be utilized by the PWD for compensatory afforestation since they require land for this purpose from the Revenue Department, when they own a large stretch of land in Naraina which can be used for this purpose.

iii. Unauthorized construction and encroachment should be removed by PWD from its land so that the entire stretch is available for afforestation.

5. That in May 2009 the entire area was been surveyed by the PWD. Copy of the Survey Maps are attached herewith as

Annexure-2. They show the distribution and utilization of land as under :

" AREA DETAIL:

1.0 – Total Plot area	=16.527 acres
2.0 – Handed over to DSIIIDC for S.T.P.	= 4.50 acres
3.0 Remaining Area	= 12.027 acres
4.0	= 7.73 acres
4.1 Wet area with stagnated sewage/rain water	= 4.33 acres
4.2 Area of Marshy land	= 3.40 acres
5.0 Dry Area (high land)	= 4.297 acres
6.0 Approximate depth of wet area	=2.00 to 3 meters"

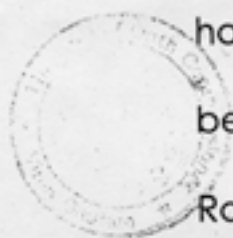
6. The exact depth of the wet areas could not be measured.

However, efforts to gauge the depth at the few locations



where it was possible, the approximate depth was found to be between 2 to 3 meters.

7. Topographical survey shows that the Ring Road, running on the eastern side of the land concerned is at a higher level, ranging between 1 to 5 meters as compared to the so called 'marshy land'. The wet area is actually stagnated sewage. Some rain water collects from a very small catchment area. The wet area of 4.33 acres is filled by raw sewage draining into the shallow area now erroneously referred to as a water body. It cannot be termed as water body by geographical or revenue definition.
8. It is submitted that water body is either a geographical formation or an artificial creation. In this case, as stated above, the earth from some part of the area concerned was dug up for construction of the nearby fly-over on Ring Road. Thereafter some sewage from the neighbouring *jhuggies* collected in the ditches / shallow depression that had been dug up. Over the years this erroneously came to be referred as a 'water body'. The depression filled with Raw Sewage is neither supported by nor refreshed by any fresh water. It can at best be called 'bounded raw sewage'.



Should the drainage of sewage into depression be stopped the wetness of the area when soon evaporate and they would be no water body of any sort whatsoever. Water body necessarily means an excavation or depression on the surface of the earth holding water and being regularly replenished either i) through rain water through large catchments area or ii) natural spring or iii) river water. In the present instance there is no such natural replenishment.

9. The topographical survey of the land also shows that the area around the so called Mayapuri Marshes is not or cannot be called a catchments areas because the depression is bounded by high natural boundaries/barriers which prevent the drainage of rain water into the low shallow /depressed area. The depth of the area varies from 1 foot to 10 ft due to the uneven removal of mud from the land construction of road and flyover.

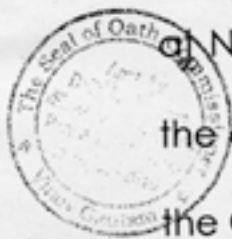
10. From the aforesaid averments it is evident that the revenue record does not record the land as a water body. The geographical and topographical survey shows the impossibility of it being a water body. It was never a man made lake pond or water body. Simply because some earth



was dug up which later got filled up with raw sewage, the liquid thus collected cannot be called a water body. The liquid tested in governments laboratories show the collection of liquid to be pure raw sewage. Therefore the land cannot be termed as a water body.

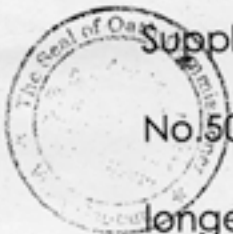
11. That de hors the fact that the land is not a water body, the respondent is open to developing the area as a water park / sports club and such other beneficial projects for the public. This however being a matter of policy, the land owning authority would take a decision.

12. It is noteworthy, that out of 16.527 acres of government land 4.5 acres has been allotted and handed over for construction of a Common Effluent Treatment Plant (CETP), at Naraina. This CEPT at Naraina is schedules to be commissioned by 15th Aug, 2009. It has a capacity of 21.61 MLD and is based on physico-chemiccl process to treat Industrial Effluent being generated by the Industries situated at Naraina Industrial Area. The industrial area is located on the other side of the Ring Road. A note and map regarding the CEPT is attached herewith as **Annexure 3.**



II. REGARDING DHIPUR

1. It is submitted that vide order dated 1.11.2006 this Hon'ble Court had directed 'Commissioner (Revenue)' to give his report un-influenced by the report of either the police or the patwari with regard to the Marshes ... in Jahangirpuri.' The requisite report was filed on 6th Dec, 2006 by the Dy. Commissioner concerned and same is part of court record (starting at page 890 of the court file). The report concludes that for almost 99 years the said areas has been recorded as Banjar Kadim i.e. un-cultivable land since a long time. The up dating of land record in 1954 also does not record it as Johar or Gair Mumkin Johar or in form of water body. Consolidation Report of the Office of the SDM, Model Town along with a copy of the Revenue Record is attached herewith as **Annexure -3A**. Report of the Chief Engineer (Zone II) Flood and Irrigation Department, GNCTD is also attached as **Annexure-3B**. It states that after construction of the Right Marginal Embankment on River Yamuna and after construction of embankment along Supplementary Drain which is presently known as Road No.50, after the floods in 1978 and 1983, the area is no longer a flood plain



2. That the water/liquid in the small portion of the area Dheerpur area comprises spill-over of sewage from nearby Wazirpur Drain. The embankment on either side of the Wazirpur Drain needs to be raised suitably and re-constructed properly to avoid flooding/spill-over of sewage /drain water into the depression in the area contiguous with it.

3. That a chemical analysis of the liquid collected in the area referred to as Dheerpur Marshes reveals that the liquid is sewage water. It is not a collection of natural water, with through rain harvesting or being fed by a river or natural spring. It cannot be classified as a natural water body by a collection of raw sewer due to spillage from the nearby drain. A report of the water/liquid analysis done by Delhi Jal Board is attached herewith as **Annexure 4**. Copy of the report of Chief Engineer PWD in this regard is attached herewith as **Annexure-5**.

4. It is noteworthy that 60 acres of the land in this area has been allotted to Delhi Police for construction of houses for approximately 5000 Police personnel. There is acute shortage of housing for police personnel in Delhi. It is submitted that less than 90% of the police force have houses



provided by the Govt. The number of police personnel is likely to increase further bringing down the percentage of housing available to them. In the prevailing scenario of increased threat from terrorism and other subversive activities against the security and integrity of the country there is a far greater need for accommodation and infrastructure for the police force. Therefore, the land allotted to them is required to be urgently developed as housing projects. A summary of the current housing available to Delhi Police alongwith a visual study of the site for housing project is attached herewith as **Annexure-6** **colly**. It is further submitted that as per the development of this housing project, about 20 acres out of 60 acres would be developed as a water body. It is noteworthy that of the 40 acres available to Delhi Police only 22 acres would have constructed structures. The remaining 18 acres would have to be left upon as green area according to the applicable Building Bye-laws.

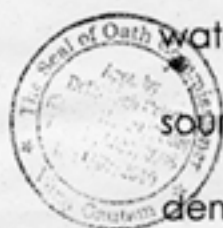


4. In the adjoining land owned by Delhi Jal Board only 50% of construction coverage will be there. Therefore, the remaining 50 % would be open for green cover and water body. Accordingly, another 40 acres of contiguous area,

would also be open to development as a water body/green area.

5. That a comprehensive plan of action has been prepared by the Chief Secretary Delhi to address the 'Climate Change Agenda for Delhi 2009-2012'. It shows that the action proposed to be taken and projects currently under way for cleaning the Yamuna River through Interceptor Sewers, treatment of sewage and industrial waste and a list of water bodies. A copy of the same is attached herewith as **Annexure-7**.

6. The projected water supply demand for the year 2011 as 1140MGD and for the year 2021 as 1380MGD. The additional water supply shall be met after the construction of upstream storages at Renuka, Keshua and Lakhwar - Vyasi is completed. Delhi is expected to get around 275 MGD of water on completion of Renuka Dam. There is no other source of raw water available to augment the desired demand except to the above mentioned storages. Since the water will be available through the Yamuna river and all the water treatment facilities are to be constructed upstream of the Wazirabad Barrage, this being the only land



available with the department for construction of water treatment plants for augmentation of the water supply of the City in the scenario of 2011 and 2021.

7. It is most respectfully submitted that the order of 31.7.09 passed by the Chief Secretary was based on the information supplied to him and as verified from the official records.

8. In view of the above, it is most respectfully prayed that the stay on the order of the Chief Secretary dated 31.7.08 may kindly be vacated, so that the much needed housing project for Delhi Police and project relating to water /sewage treatment is initiated at the earliest.

Identify & Sign
Shoaib Haider

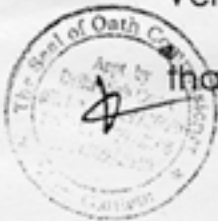
I IDENTIFY THE DEPENDENT WHO HAS SIGNED IN MY PRESENCE

[Signature]
DEPONENT

VERIFICATION:

10 AUG 2009

Verified at New Delhi on this the ___ day of _____ 2009



that the averments made above are true.

I, DEPENDENT
V.K. Bobbar (Arya)
Deli Jal Board
Shoaib Haider

10 AUG 2009

[Signature]
DEPONENT

[Signature]
Oath Commissioner, Delhi