

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.65/2022/EZ

With

Original Application No.71/2022/EZ

Subhas Datta Applicant(s)

Versus

State of West Bengal & Ors. Respondent(s)

With

People United for Better Living in Calcutta (PUBLIC) Applicant(s)

Versus

West Bengal Housing Infrastructure Development Corporation Ltd.,& Ors. Respondent(s)

Date of hearing: 23.11.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Subhas Datta, in person

For Respondent(s) : Mr. Sudip Kr. Dutta, Adv. for R-1&5, (in Virtual Mode)
Ms. Paushali Banerjee, Advocate for R-2,
Mr. Ashok Kumar Banerjee, Sr. Adv. (in Virtual Mode) a/w
Mr. Sibojyoti Chakraborty, Advocate (in Virtual Mode) &
Mr. Prithwish Basu, Advocate for R-3,
Mr. Aritra Basu, Advocate (in Virtual Mode) a/w Mr. Ratul
Das, Advocate & Mr. Saaqib Siddiqui, Advocate for R-4,
Mr. Ashok Prasad, Advocate for R-6,
Mr. N. C. Bihani, Advocate (in Virtual Mode) a/w
Mr. Dipanjan Ghosh, Advocate for R-7,

(In Original Application No. 71/2022/EZ)

For Applicant(s) : None

For Respondent(s) : Mr. Aritra Basu, Advocate (in Virtual Mode) a/w Mr. Ratul
Das, Advocate & Mr. Saaqib Siddiqui, Advocate for R-1,
Mr. Sudip Kr. Dutta, Adv. for R-2&3, (in Virtual Mode)

ORDER

1. Mr. Subhas Datta, the Applicant is present is person.
2. Affidavit dated 21.11.2022 has been filed on behalf of the Respondent No.7, West Bengal Pollution Control Board; the same is taken on record.
3. Along with this affidavit, a Report of an inspection carried out on 15.07.2022, 17.08.2022 and 19.08.2022 by the Committee has been filed. The Observations and Recommendations of the Committee's Report read as under:-

“Substance of the Report

The Committee held two meetings on 10.06.2022 and 31.08.2022 and conducted inspection of the different stretches of Adi Ganga from Dai Ghat near Hastings (confluence with River Hooghly) to Ganga-Joara within Rajpur-Sonarpur Municipality area on 15.07.2022, 17.08.2022 and 19.08.2022. The Committee also examined the allegations made in the two Original Applications and examined the reports submitted by the concerned authorities. The observations of the Committee are detailed below:

Detailed Project Report (DPR) : *The Revised Draft DPR for “Pollution Abatement of Tolly’s Nullah”, has been submitted to WBSPMG and it has been submitted to NMCG by WBSPMG for approval. The DPR has been divided into two Tranches, Tranche-I and Tranche-II. The estimated cost for Tranche-I, comprising of three (3) new STPs (10 MLD, 11.6 MLD, 3.5 MLD), one (1) new MPS, augmentation and refurbishment of seventeen (17) Lifting Stations (LSs) and five (5) new mini Pumping Stations (PSs), is Rs.939 crore. The estimated cost for Tranche-II, comprising of rehabilitation of sewerage network, is Rs.220 crore.*

Removal of encroachments : *The KMC reported that all the lands for proposed Sewage Treatment Plants (STPs) and Sewerage Pumping Stations (SPSs) are encroachment free. As the networking has drastically changed in the revised scope of*

DPR for “Pollution Abatement of Tolly’s Nullah”, only eight (8) families need to be rehabilitated near Madan Pal Lane which will be well taken care by “Banglar Bari Project” at Shashi Shekar Bose Row in the same ward of KMC. The process for getting AA&FS is underway.

Removal of Cow/Buffalo Sheds (Khatals) : *As per the affidavit submitted in connection with O.A. No. 12/2015/EZ, the Cattle Section, Lal Bazar, Kolkata Police, had assured that all the vacant cattle shed had been dismantled and no cattle is found as on date of Affidavit and they shall remain accountable for the revival of Khatals on the bank of Adi Ganga. The KMC reported that they have sent letters in this regard on 10.05.2022 and 20.07.2022 to the Joint Commissioner of Police, Kolkata Police. During physical inspection on 15.07.2022, the Committee observed that cattle sheds (Khatals) are operating near on Munshi Gunj Road, Hastings, Ward No. 75, Kolkata-700022. Photographic evidences are given below:*

Non-fencing of the Banks of the River :*During inspection of different stretches of the Adi Ganga, the Committee observed that the banks of Adi Ganga has not been fenced. However, fencing on Kalighat bridge and Kalitala Bridge (Bansdrani) over Adi-Ganga have been done to restrict throwing garbage and flowers. Photographic evidences are given below:*

The KMC reported that they are planning to put fencing on all the thirty three (33) nos. of bridges across Adi Ganga.

Responsibility of Metro and Others :*The Metro Railway authority had the responsibility of cleaning the base all Metro Stations over the Adi Ganga. The Department of Urban Development and Municipal Affairs, Govt. of West Bengal and KMC had meetings with Metro Railway authority in this regard. Metro Rail has demolished all its test piers for maintaining & ensuring a flow.*

Garbage Dumping : *The KMC reported that solid wastes are collected after arresting the floating garbage across Adi Ganga and are being taken care of by the Solid Waste Department of KMC on regular basis and has also taken a planning to install two (2) nos. portable bins at major Ghats of Adi Ganga. KMC*

has also planned to install more floating Garbage arrester on either sides of major Ghats and to fence the market area lying on the embankments of Adi Ganga where the space is available. The Committee observed that solid waste collection bins have been placed at Dai Ghat and Kalighat and hoardings are displayed to inform the general public not to throw flowers and other solid wastes. However, near Garia Bridge within KMC area and Garia Station area within RajpurSonarpur Municipality area, dumping of garbage on both the banks of Adi Ganga was observed. Photographic evidences are given below:

Programme taken by HIDCO :It was reported by the applicants in O.A. No. 65/2022/EZ and O.A. No.71/2022/EZ, that the HIDCO has taken up a programme to rejuvenation the river by concrete covering 1 km stretch from Alipur Bridge to Kalighat Bridge. The HIDCO has informed that they have taken up a development programme for beautification of Adi Ganga. The development proposal will not affect or change the flow canal hydrology in any manner. The proposal is mainly for beautification and landscape development on the side of the river bank (like installation of new points/hedges/flowering plants, grass lawn, gravel /wooden deck / earthen walkway, decorative lights, sitting arrangement etc.). HIDCO declared that concreting on canal bed wouldn't be done.

Pipe-lines by KMDA :The Committee observed that the Kolkata Metropolitan Development Authority (KMDA) has partly completed laying of pipe-lines for water supply to RajpurSonarpur Municipality area starting from chetla Boat Canal to Naktala. The pipe-line passes along the bank of the Adi Ganga as far as practicable and is not obstructing the natural flow of the river. At some areas, due to presence of RCC piers of Metro Rail along the River, the water supply pipe could not be laid along the same bank and in those cases, the pipe line has been taken along the opposite bank. In case the requisite space is not available in the bank, the pier/columns have been constructed on the slope keeping a suitable clearance to ensure natural drainage of surface run off. KMDA has obtained necessary permission from KMC, Kolkata Port Trust and Metro Railway in this respect. Part of the pipe-line also passed through underground of the right of way wherever adequate spaces

were available avoiding the Adi Ganga. Report submitted by KMDA is annexed. Photographic evidences are given below:

Low-height bridge at Kalighat : The Committee observed that the Irrigation and Waterways Department has constructed a foot bridge at Kalighat. The height of the foot bridge appears to be low due to non-availability of adequate space for access to the bridge. However, the natural flow of the Adi Ganga is not obstructed by the bridge. It was reported that during highest high tide and in extreme weather condition in one or two times in a year, the water flows above the foot bridge. No garbage accumulation could be observed due to the foot bridge. Documents submitted by Irrigation and Waterways Department is annexed which indicates that free space is available in the bridge during normal tide level. Photographic evidences are given below:

Further, as submitted by KMC it appears that they have prepared a scheme for construction of Barrage/Sluice gate with Pumping Station near confluence point of Adi Ganga and River Ganga (at Doi Ghat), to curb down the pollution of River Ganga due to tidal effect and to pump out the Storm Water Flow (SWF) during monsoon season. The over flooding of Adi Ganga at many vulnerable places such as Kalighat Temple area is expected to be controlled, once the proposed Barrage/Sluice gate and Pumping Station gets operational. The DPR for the same has been submitted to the UD&MA Department, GoWB vide memo no. TPDD/O/193/2022-23 dated 28.07.2022. The Irrigation & Waterways Dept., GoWB has already been communicated their observation regarding the project for inclusion and Water Resource Dept., Jadavpur University has also been engaged for the Hydraulic Model studies along with allied technical surveys.

De-silting/Dredging of Adi Ganga :The KMC reported that they are carrying out the de-silting/dredging of Adi Ganga to clean the river by maintaining the natural flow of the river. Photographic evidences are given below, Phase-I of the dredging work within the stretch from Chetla bridge to confluence point of river Ganga (4.7 Km.) includes cleaning rubbish, garbage and bushes on both banks of the river and the cost will be Rs.11.16

Crores. About 40% of work has been completed. The Phase-II work from Kudghat Metro Station to Chetla bridge including cleaning of silt, for a stretch of 5.37 Km., involving an expenditure of Rs.14.99 Crores, is under process for issuing work order after observing all usual norms as in vogue in KMC.

During inspection the Committee observed that dredging work is in progress in different parts of the river. WBHIDCO has allotted about 25 cottah land behind bungalow of District Magistrate, South 24 Parganas in favour of KMC for temporary disposal of dredged material

Solid waste management : The KMC reported that Organic Waste Composters are operating at different locations along the stretch of the River. The KMC has identified location for setting up an Organic Waste Composter near Kalighat Temple as well.

Recommendations of the Committee :-

1. The entire stretch of Adi Ganga is under I&W Dept., Govt. of West Bengal. Although, the I&W Dept. has given responsibility of maintenance of Adi Ganga to KMC, the principal authority lies with the I&W Dept. Therefore, any activities on or along Adi Ganga or river bank by any authority needs prior permission from I&W Dept.
2. NMCG should approve the revised proposal of Tolly Nullah rejuvenation and KMC should undertake the work on war footing to complete task within the scheduled period. WBSPMG and UD&MA Dept., Govt. of West Bengal will monitor this programme.
3. KMC and Rajpur Sonarpur Municipality should put up net above man-height on all the bridges across the Adi Ganga to stop disposal of garbage or plastics into the river.
4. KMC and Rajpur Sonarpur Municipality should put up net across the river to arrest floating of solid wastes and should ensure cleaning of floating solid wastes at regular intervals.
5. Kolkata Police should take action to remove all khatalas and piggeries from the banks of Adi Ganga at an earliest. Kolkata Police to take stringent measures to ensure that no further

encroachment takes place on the banks of Adi Ganga. Concerned police stations may be directed to undertake regular patrolling and maintain strict vigil to prevent such encroachments.

- 6. Metro Railway authority should ensure regular cleaning of Adi Ganga near Metro piers and Metro Railway Stations. The Metro Railways Authority should make provision for waste collection bins at Metro Stations.*
 - 7. Large waste bins to be placed by KMC on all the ghats surrounding Kalighat temple so that puja offerings are not dumped into the river.*
 - 8. KMC should make facility of Organic Waste Composter (OWC) near Kalighat temple, at the designated site identified by KMC during inspection, within one year.*
 - 9. There should not be any sewer line carrying untreated sewage into Adi Ganga.*
 - 10. All drainage channels need to be kept open as far as possible for better maintenance and upkeep.*
 - 11. HIDCO will have to give adequate space in the open land behind bungalow of District Magistrate, South 24 Parganas in favour of KMC for collecting silt from river before its transportation, to be done to the satisfaction of relevant department of KMC.*
 - 12. KMC and RajpurSonarpur Municipality to put up display boards near major market places and religious places informing general public not to throw or dispose garbage into the Adi Ganga.*
 - 13. IEC to be done in association with concerned Bazar Committees on a regular basis.”*
4. The recommendations of the Committee’s Report require several projects to be completed by the Metro Rail Authority, Kolkata Municipal Corporation, HIDCO, Kolkata Police and Rajpur Sonarpur Municipality. The West Bengal Pollution Control Board, being the Regulatory Authority, shall ensure implementation of the

said recommendations by the various authorities which shall be monitored by the Board and a Progress Report in this regard shall be submitted by the Board before the next date of listing.

5. The Respondent No.6, National Mission for Clean Ganga (NMCG) has also filed affidavit dated 21.11.2022; the same is taken on record.
6. In this affidavit of the NMCG, it is stated that a Detailed Project Report (DPR) for Tolly Nallah Project was first submitted on 31.08.2022 and again re-submitted after bifurcating into two stages of implementation on 16.09.2022. The DPR proposal includes construction of 22.655 kilometers long new sewer network besides desilting and lining of 26.468 kilometers existing sewer network, penstock gates and three new Sewerage Treatment Plants (STPs) of total treatment capacity of 25.10 MLD (10 MLD, 11.6 MLD and 3.5 MLD capacity) which will be getting sewage from 23 Dry Weather Flow Pumping Stations. It is also stated that the said DPR is under appraisal with the IIT, Roorkee and NMCG.
7. We, therefore, direct the Respondent No.6, NMCG, for file its affidavit brining on record the final Detailed Project Report before the next date of listing.
8. The Action Taken Report and response of the Respondent No.3, Kolkata Municipal Corporation, is mentioned in para 3 of its affidavit dated 05.09.2022 which reads as under:-

“3. That, in compliance of the order dated 21.07.2022, the Respondent No.3 herein states the Action Taken Report in reply to the specific allegations made there in the averments of the Original Application No.65/2022/EZ. The following are the details of the Action Taken Report.

Sl. No.	Observations by Hon'ble NGT	Response from KMC
I)	<p>DETAILED PROJECT REPORT (DPR)</p> <p><i>In order to arrest discharges of sewage water to the river, STP was to be constructed after laying pipe-lines through the banks. For this work the D.P.R. has not yet been finalized.</i></p>	<p><i>The Revised Draft DPR for "Pollution Abatement of Tolly's Nullah", has been submitted to WBSPMG on 12.08.2022 and further it has been submitted to NMCG on 23.08.2022 by WBSPMG.</i></p>
II)	<p>REMOVAL OF ENCROACHMENTS</p> <p><i>The direction was to remove all encroachments (both temporary as well as permanent) within 6 months. The temporary encroachers were removed initially but they have again come back and the permanent encroachers are still there.</i></p>	<p><i>All the lands for proposed STPs and SPSs are encroachment free.</i></p> <p><i>As the networking has drastically changed in the revised scope of "pollution abatement of Tolly's Nullah", only 08 (Eight) families needs to be rehabilitated near Madan Pal lane which will be well taken care by "Banglar Bari Project" at Shashi Shekar Bose Row in the same ward of KMC. The process for getting AA&FS is underway.</i></p>
III)	<p>REMOVAL OF COW/BUFFALO SHEDS (KHATALS)</p> <p><i>Initially such Khatalas were removed but again they have come back to the original position.</i></p>	<p><i>As Per The Affidavit Submitted To The Hon'ble NGT Against OA-12/2015 For The Case To Be Heard On 27th Jan 2017, The Cattle Section, Lal Bazar, Kolkata Police, had assured that all the vacant cattle shed had been dismantled and no any cattle is found as on date of Affidavit and they shall remain accountable for the revival</i></p>

		<p>of Khatala on the bank of Adi-Ganga.</p> <p>Subsequently the order was passed by Hon'ble NGT on 27th Jan 2017, stating that “we find substance in the submission of Mr. Dutta and accordingly direct the Commissioner of Kolkata Police to take Stringent measures to ensure that no Encroachment takes place on the bank of Adi-Ganga in the Area in question by any person including prevent khatala and piggeries from being set up. As one of such measures, the concerned police stations may be directed to undertake regular patrolling and maintain strict vigil to prevent such encroachment.”</p> <p>In this regard letters have been sent to Joint CP, Kolkata Police on 10.05.2022 & 20.07.2022.</p>
<p>IV)</p>	<p>NON-FENCING OF THE BANKS OF THE RIVER</p> <p>The direction to fence both the banks has remained unattended.</p>	<p>Fencing on Kalighat Bridge over Adi-Ganga has been done and it is observed that the habit of throwing flowers by the pilgrims has been arrested. Some portions adjacent to Kalighat Bridge, along both</p>

		<p><i>the banks are also fenced.</i></p> <p><i>We are planning to put fencing on all the 33 nos. of bridges across Tolly's Nullah and have started the same from Kali Bari Bridge (Bansdroni).</i></p>
V)	<p>GARBAGE DUMPING</p> <p><i>Huge Quantity of wastes has been dumped at different points of the banks.</i></p>	<p><i>These wastes are collected after arresting the floating garbage across Tolly's Nullah and are being taken care of by the Solid Waste Department of KMC on regular basis and the Dept. has also taken a planning to install 02 nos. portable bins at major Ghats of Tolly's Nullah. It is also planned to install more floating Garbage arrester on either sides of Major Ghats and to fence the market area lying on the embankments of Tolly's Nullah where the space is available.</i></p>

We are also carrying out De-silting/Dredging of Tolly's Nullah (Adi-Ganga) as an interim measure to curb/minimize the pollution by maintaining the natural flow, as follows :

- 1) ***"Dredging of Tolly's Nullah including cleaning rubbish, garbage and bushes on both banks of Tolly's Nullah from Chetla Bridge to confluence point of river Ganga, Phase-1", for a stretch of 4.7 KMs out of State funding for an approved cost of Rs.11.16 Crs., the Physical progress of work till date has been achieved as 40% (approx.)***
- 2) *"Dredging of Tolly's Nullah including cleaning rubbish, garbage and bushes on both banks of Tolly's Nullah from Kudghat metro*

station to Chetla Bridge including cleaning of silt and dismantling of concrete of test piles up to bed level of Nullah under five metro stations (Ph-II), **for a stretch of 5.37 KMs out of State funding for an approved cost of Rs.14.99 Crs., has been tendered and processed for getting clearance of Departmental Tendering Committee, GoWB.**

Based on the observations of the Second meeting after joint site inspection of the Committee constituted by Hon'ble NGT in its order dated 20.05.2022 in connection with OA No.65/2022 related to rejuvenation of Adi-Ganga the following details are furnished for its perusal:

1) As per the direction of the Concerned authority a scheme for the construction of Barrage/Sluice gate with pumping Station has been prepared near Confluence point of River Ganga (Doi Ghat), to curb down the pollution of River Ganga due to tidal effect and to pump out the SWF during Monsoon Season. The over flooding of Tolly's Nullah at many vulnerable Places such as Kalighat Temple Area is expected to be controlled, once the proposed Barrage/Sluice gate and Pumping Station gets Operational. The DPR for the same has been submitted to UD&MA Dept. GoWB vide memo no. TPDD/O/193/2022-23 dated 28/07/2022. The Irrigation & Waterways Dept., GoWB has already been communicated their observation regarding the project for inclusion and Water Resource Dept., Jadavpur University has also been engaged for the Hydraulic Model studies alongwith allied technical surveyings."

9. The concerned Respondents who are required to implement the various directions mentioned in this Action Taken Report shall also incorporate the action taken by them in their respective affidavits.

10. **List both the matters on 09.01.2023.**

.....
B. Amit Sthalekar, JM

.....
Prof. A. Senthil Vel, EM

November 23, 2022
Original Application No.65/2022/EZ
With
Original Application No.71/2022/EZ
AK