

Item No.3

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

Original Application No. 77/2020(CZ)
(I.A.No.73/2021)

Aarya Shrivastava

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: **09.11.2022**

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

For Applicant (s):

Mr. Dharamvir Sharma, Adv.

For Respondent(s):

Mr. Sachin K.Verma,Adv.
Ms. Parul Bhadoria, Adv.
Ms. Shreya Jadhav, Adv.

ORDER

1. The grievance in this application is encroachment on the upper lake, an internationally acclaimed *Ramsar* site. The matter was taken on 16.02.2022 and it was hold as follows :

“As informed by the Learned Counsel for the Municipal Corporation more than 227 encroachments are there and some of them are in nature of permanent constructions, in addition to that there are temporary and semi permanent constructions. This Tribunal after taking cognizance of them directed the authorities to take remedial actions but during the course of hearing the authorities/Learned Counsels are shifting the responsibility from one authority to another authority, though all the organs of administration are expected to protect the State property as well as environment for the good of people. They are being paid to do their legal duties and to protect the interest of the State. Negligence of those to whom

public duties have been entrusted can never be allowed to cause public mischief.”

2. The matter was taken up by a larger Bench on 28.02.2022 and it was found as follows :

“7. Vide order dated 10.06.2021, on further consideration of the matter in the light of the earlier proceedings and the pleadings, the Tribunal constituted a joint Committee comprising of the Collector, Bhopal, (M.P.), Municipal Commissioner, Bhopal, (M.P.) and MP State PCB to visit the site and file an action taken report on the following points:-

- i. *The total number of drains where untreated/sewage water is being discharged in the lake or river bodies in Bhopal.*
- ii. *Total number of STPs installed there.*
- iii. *Quantity of water being used by the residents in the city of Bhopal.*
- iv. *Total capacity to treat the water.*
- v. *The gap between the use and capacity to treat.*
- vi. *Future planning of the municipality to meet out the gap and make proper arrangements for treatment of the water.*
- vii. *Action taken against the polluters who are discharging the water, sewage and untreated water into the river bodies and causing water pollution and contaminating the underground water.*
- viii. *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.”*

8. The Tribunal also referred to earlier orders on the subject in the light of which remedial action was directed to be taken as follows:-

“1 to 11...xxx.....xxx.....xxx

12. *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.”*

In para 12 it was observed as follows :

12. In pursuance of above, action taken reports have been filed by the State PCB, State of MP, Bhopal Municipal Corporation and Collector, Bhopal. Reports are as follows:-

O.A. No. 07/2018 (CZ)

13. The report filed by the State PCB is that compensation has been assessed against 8 hospitals as follows:-

| S. No. | Hospital Name | Environmental Compensation (Rs. In Lakh) |
|---------------|---|---|
| 1. | Nishat Hospital, 42, Opp. Motia Talab, Tajul Masjid, Bhopal | 92500/- |
| 2. | Unique Hospital, 77, Opp. Motia Talab, Tajul Masjid, Bhopal | 92500/- |
| 3. | Balaji Children Hospital, 75, Motia Talab, Tajul Masjid, Bhopal | 38250/- |
| 4. | ABM Hospital, Opp. Motia Talab, Tajul Masjid, Bhopal | 138750/- |
| 5. | City Care Centre, 77, Opp. Motia Talab, Tajul Masjid, Bhopal | 138750/- |
| 6. | . Sanjeevani Day Care Centre, Opp. Motia Talab, Tajul Masjid, Bhopal | 34687/- |
| 7. | . L.B.S. Hospital 73, Opp. Motia Talab, Tajul Masjid, Bhopal | 462500/- |
| 8. | Central Hospital & Research Centre 77, Opp. Motia Talab, Tajul Masjid, Bhopal | 138750/- |

14. Report further mentions that the environmental compensation has also been assessed against the Municipal Corporation for discharging untreated sewage as follows:-

| Non Compliance | | | | | | | | | |
|-----------------------|-----------------|-----------------------------------|--------------------------------------|---|---------------------------------|-----------------------------------|---|--------------------------------------|----------------------------|
| ULB Name | District | Rule 22 of SWM Rules, 2016 | | Legacy Waste disposal compensation (Rs. In lakh) | Bioremediation of drains | | Commencement of STP installation | | Total (Rs. In Lakh) |
| | | <i>S. No. of Non compliance</i> | <i>Compensation in (Rs. In Lakh)</i> | | <i>No. of drains</i> | <i>Compensation (Rs. in Lakh)</i> | <i>No. of STPs</i> | <i>Compensation in (Rs. In Lakh)</i> | |
| Bhopal | Bhopal | 9 | 60 | 0 | 66 | 1980 | 18 | 540 | 2580 |

15. The status of sewage management in Bhopal is mentioned as follows :-

“3. Official of MPPCB and Bhopal Municipal Corporation, Bhopal further inspected the site on dated 27.01.2022. Under the AMRUT Project in Bhopal city, 35 drains have been fully intercepted and diverted for treatment to STPs. 15 nos. of drains have been connected to sewage network system which

will be treated in STPs to be commissioned by March, 2022. No discharge was observed in 07 drains and they were found dry. About 18 drains will be connected sewage system under AMRUT (sewage) 2.0 Scheme of the Central Government at the earliest by the Bhopal Municipal Corporation.”

4. In Bhopal city, total 13 nos. of STPs are operational including 05 STPs set up under AMRUT project and 05 additional STPs are under-construction under AMRUT project.”

16. The report filed by the Municipal Corporation gives the list of 41 hospitals and mentions that notices have been issued by the Municipal Corporation to the said 41 hospitals for the violations. The list is as follows:-

| S. No. | Name |
|---------------|--|
| 1. | Kilkari Children Hospital |
| 2. | Sardar Patel Polyclinic and framesets |
| 3. | Nature Hospital and trauma center |
| 4. | Aram Clinic |
| 5. | Dr. Jayant |
| 6. | Care and Smile Dental Care Yadav |
| 7. | Astha Orthopedic Day Care Centre |
| 8. | Nobal Diagnostic |
| 9. | Samdhan Pathology and Diagnostic and Digital X-Ray |
| 10. | Dr. Richa Diagnostic centre |
| 11. | Air Horizon Travels |
| 12. | Dr. Anil Balecha Skin Expert |
| 13. | High -tech care and laser center |
| 14. | Smile maker dental clinic |
| 15. | Indian Bank |
| 16. | Shilpa Dodani |
| 17. | Hamidia Multi Care Hospital |
| 18. | Banwari Laborites |
| 19. | Shubham Hospital |
| 20. | Bhopal Care Hospital |
| 21. | ABM Multi Specialties Hospital |
| 22. | Silver Line Hospital |
| 23. | Dr. Paith Lab |
| 24. | Central Hospital |
| 25. | City care Hospital |
| 26. | Sanjivni D-care |

| | |
|-----|------------------------------|
| 27. | Manas Blook Bank |
| 28. | Unik Hospital |
| 29. | Arthroped lab and clinic |
| 30. | Balaji Children Hospital |
| 31. | Parak Pathology Lab |
| 32. | Ishkripa Endoscopy |
| 33. | LBS Heart Hospital |
| 34. | LBS Emergency Hospital |
| 35. | Richa Diagnostic |
| 36. | Ashirwaad Medical Shop |
| 37. | Yashoda Hospital |
| 38. | Dr. Tankwal Nose Neck Center |
| 39. | Paith Care Diagnostic |
| 40. | Dr. Lal Paith Lab |
| 41. | Paras Hospital |

3. Finally the Chief Secretary was directed to take necessary actions as follows :

“The Chief Secretary, Madhya Pradesh may file a consolidated action taken report mentioning the steps taken by various authorities within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The report inter-alia may include the status of:-

- (i) *Sewage treatment and utilization, including in-situ remediation.*
- (ii) *Interception and diversion of sewage/sullage drains to STP and returning completely treated water for recharging of water bodies to maintain water levels, maintaining water quality.*
- (iii) *Maintaining flood plain level of lakes free from any further encroachments and removing existing encroachments, as per directions given above, to enforce the law of the land.*
- (iv) *Regular Monitoring mechanism to oversee progress of execution in tandem with State Level Wetland Authority*
- (v) *Steps for mass awareness, involving citizens in conservation programme.”*

4. The Learned Counsel appearing and representing the Bhopal Municipal Corporation sought a short time to submit the further action taken

report. We direct that necessary action for removal of encroachment must be taken and initiated within a time frame Remedial action for discharge of untreated water into the water body must be initiated. State Pollution Control Board is directed to take necessary actions for realisation of Environmental Compensation against the encroachment under the relevant rules and calculate the environmental compensation as prescribed by the Principle Bench of this Tribunal. Further action taken report be filed on or before the next date of listing.

5. List it on **18th November, 2022.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

9th November, 2022
O.A. No. 77/2020 (CZ)
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