

Item No.5 & 6

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

O.A.No.61 of 2015 (SZ)

O.A.No.62 of 2016 (SZ)

IN THE MATTER OF:

Human Rights & Consumer Protection Cell Trust .. Applicant

Vs.

The State of Telangana ... Respondent(s)

Date of hearing: 28.1.2020

**CORAM:**

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

O.A.61 of 2015

For applicant : Mr. Jagdish Yadav

For Respondent(s) : Mrs. Yasmeen Ali for R1 & R5 to R8

Mr. T. Saikrishnan

Mr. B. Laksminarasimhan for R2 & R3

Mr. Ramesh Ganapathy for R4

O.A.62 of 2016

For applicant : Mr. Jagdish Yadav

For Respondent(s) : Mrs. Yasmeen Ali for R1, R2, R4 & R5

Mr. T. Saikrishnan

Mr. B. Laksminarasimhan for R3

Mr. M.V. Durga Prasad

Mr. T. Rathnakar for R10 & R15 to R20

Mr.D. Kingston

Mr. G. Elangovan for R21

Mr. Sanjay Upadhyay

Mr. S. Sai sathyajith – proposed respondent

M.A.89 of 2017

M/s. Aparna Constructions & Estates & ors .. Applicant

Vs

Human Rights & Consumer Protection Cell Trust .. Respondent

M.A.2 of 2020

M/s. Crescent Spaces Pvt. Ltd, .. Applicant

Vs

Human Rights & Consumer Protection Cell Trust .. Respondent

ORDER

M.A.No.89 of 2017 and I.A.No.2 of 2020

These two applications were filed by some of the alleged affected parties who are likely to be affected by the orders if any, already passed that there are encroachers in the buffer zone of the lake in question. According to the petitioners in M.A.89 of 2017 they are having land on the upstream of Chelikunta tank on the eastern side and there was some mention made by the committee in the report that their land also will be required for the purpose of protecting the lake and acquisition will have to be made for that purpose.

2. As far as petitioner in I.A.No.2 of 2020 is concerned, they are having land touching FTL of the buffer zone of the lake in question and they want to come on record to show that they

obtained necessary clearance for the purpose of their project. Their construction will not affect the lake as such or cause any adverse impact on environment as claimed by the petitioner.

3. However, this Tribunal is not at present going into this aspect whether they are encroachers or not or whether their lands will be falling either within the buffer zone or restricted area. We are at present only concerned with the identification of the buffer zone and locate the illegal encroachers and construction if any, made in the buffer zone of the lake. Only thereafter we will have to pass necessary directions as to how remedial measures will have to be taken.

4. However, considering the fact that the presence of these petitioners may help this Tribunal in deciding the issue, we feel it appropriate to implead them as additional respondents. The petitioners in M.A.No.89 of 2017 are impleaded as additional respondents 17 to 22 and applicant in I.A.No.2 of 2020 is impleaded as additional respondent no.23. The Registry is directed to carry out the amendment. Their right is restricted only to help the Tribunal in deciding the legal issue of fixing the FTL and buffer zone etc., and not to produce voluminous documents and pleadings and extracts from report to protract the proceedings, as this Tribunal is not going into the question of their right to make any construction in the properties. They are at liberty to help the court in assessing the matter and come to the right conclusion as to the direction that will have to be given in such case and help by placing legal precedents on both sides, as officers of court and help in the environmental issue.

5. At the time of hearing today, learned counsel appearing for State of Telangana wanted some more time to file their response, as directed by this Tribunal and handed over the letter received from the District Collector, Sangareddy District stating that some steps are being taken for identifying the position of FTL and buffer zone of the lake in question and prays further time for filing detailed report regarding the status of the lake, fixing of FTL and buffer zone and action plan if any, prepared by them for protection of

the waterbody, as directed by the Hon'ble Supreme Court in several decisions and what is the nature of steps taken to remove the encroachment and restore the same and the time line within which they propose to do this act etc., in accordance with law after conducting proper survey and what is the nature of things that now exists in that area. The above details must be explicitly mentioned in the reply to be filed before this Tribunal as directed by this Tribunal in the order dated 15.11.2019. It must also be mentioned that as per the records if any permission or NOC that has been given against the regulation, then what is the action taken by them against those officials who have given such permission and against the persons who have committed the violation also.

6. Considering the importance of the matter and time required, we feel it appropriate to give three months to the authorities to come with a proper report so as to help this Tribunal to pass appropriate direction to protect the environment as well as the water body. The committee shall file the report sufficiently early by providing copies to the other parties so that they can also file their objections to the same which can be considered by this Tribunal.

7. In the mean time, there is a prayer for additional remuneration to be paid to the committee that has been appointed by this Tribunal. Earlier it appears that a sum of Rs.One Lakh each has been paid. Considering the circumstances, we feel it appropriate to pay an additional remuneration of Rs.One Lakh each and this amount will have to be paid by HMDA within a period of two months and also apart from the remuneration they are also entitled to get Rs.50,000/- as clerical and office expenses.

8. The committee member submitted that some of the observations made in para 21 appears to be personal. When this was pointed out, learned counsel appearing for respondents 17 to 22 made an endorsement that para 21 is not being pressed without prejudice to other objections raised regarding the committee's report and it is suffice to meet the grievance of the committee members.

For consideration of report post on 18.5.2020

.....J.M.

(Justice K. Ramakrishnan)

.....E.M.

(Saibal Dasgupta)

O.A.61 of 2015

O.A.62 of 2016

Dt: 28.1.2020

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