

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 18/2020
IN
E. A. No. 33/2019
IN
O. A. No. 572/2016

(With report dated 15.12.2020)

Smt. Kalpana Mallik Through Shri Dibakar
Bhoi Power of Attorney Holder

Applicant

Versus

Chief Secretary, Govt. of Odisha & Ors.

Respondent(s)

Date of hearing: 02.02.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Dibakar Bhoi, Applicant in person

ORDER

1. Grievance in this Execution Application is that the directions issued by this Tribunal vide order dated 16.12.2019 in Execution Application No. 33/2019 in O.A. No. 572/2016 to identify and demarcate flood plain zone of river Kapali at Nalanga, District Bhadrak, Odisha, ensuring that there is no construction in the flood plain zone and requisite preventive measures are taken against any adverse consequences on the flood plains of the river remain uncomplied.

2. Vide order dated 15.09.2020 an action taken report was sought from Secretary, Water Resources, Government of Odisha, District Magistrate, Bhadrak and State PCB. Accordingly, the State PCB has filed

its report dated 15.12.2020 on behalf of the joint Committee with the following observations:-

- “i. Required slope packing from the existing retaining wall located on the left side of the drain up to the compound wall has been completed by the Drainage Division.*
- ii. Protection measure from drain side compound wall upto existing ground level inside the court building premises has been completed by Executive Engineer (E&B) Division, Bhadrak.*
- iii. Debris accumulated/ dumped inside the drain due to the construction of National Highway bridge in front of the court building has been cleared by NHAI.”*

3. As against the above, the applicant has filed his objection dated 01.02.2021 that there is no identification of the flood plain and no removal of encroachment. The objection is as follows:-

“But respondents without complying order dated 15.09.2020 read with earlier order dated 16.12.2019 of this Hon’ble Tribunal and without identifying floodplain area to ensure that no construction are made in floodplain area of the river Kapali, submitted report dated 14.12.2020 to this Hon’ble Tribunal by treating the river Kapali as a drain which causing extreme damage to riverine ecology due to illegal constructions on floodplains of river Kapali.

Therefore, it is to point out that respondents in order to regularize and protect illegal constructions on flood plains now submitted report terming the river Kapali as a drain without mentioning anywhere in the report the very word ‘River’ by clever drafting of report dated 14.12.2020 with a view to circumvent the orders dated 15.09.2020 and 16.12.2019 of this Hon’ble Tribunal.”

4. We find that the objection of the applicant needs to be dealt with as the report filed does not show compliance of the direction to demarcate flood zone of the river, in terms of the orders of this Tribunal passed earlier. Accordingly, we direct the Secretary, Water Resources, Odisha, with the assistance of District Magistrate, Bhadrak or any other concerned authority, to ensure compliance and file his own affidavit in the matter. It is made clear that if there is still non-compliance, the Tribunal may have to take coercive measures after requiring the personal presence of the Secretary.

5. Let the compliance report be filed within one month 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.

List for further consideration on 09.04.2021.

A copy of this order be forwarded to the Secretary, Water Resources, Odisha and District Magistrate, Bhadrak by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

February 02, 2021
E.A. No. 18/2020 in EA No. 33/2019
In O. A. No. 572/2016
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