

Item No. 01

Court No. 1

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

(By Video Conferencing)

Original Application No. 695/2019

(With report dated 07.08.2020)

Hardesh Kirar

Applicant

Versus

State of Madhya Pradesh

Respondent

Date of hearing: 06.10.2020

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

ORDER

1. Vide order dated 16.09.2019, a factual and action taken report was sought from Bhopal Municipal Corporation and State Pollution Control Board (SPCB) with reference to the allegation of violation of environmental norms by Raj Homes Colony by raising constructions on encroached government land and discharging untreated sewage at Village Kauluva, Bhopal.

2. The matter was last considered on 18.05.2020 in the light of the report of the joint Committee dated 31.10.2019, acknowledging the encroachment and diversion of the drain. The Tribunal directed the joint Committee to take further remedial action and furnish a report. The observations in the order are:-

“2. Accordingly, report dated 31.10.2019 has been filed by the State PCB on behalf of the joint Committee as follows:

- “1. A nala (public drain) is passing from 2 sides of complainant Shri Hradesh Kirar house / premise which has no boundary wall towards nala.
2. A boundary wall was constructed by M/s Raj Home Pvt. Ltd. around periphery of their land. The said nala was passing from outside of this boundary wall.
3. Before this monsoon season of year 2019 **complainant filled the nala stretch at back side of his house up to boundary wall of M/s Raj Home Pvt. Ltd. and laid down a 2 feet diameter hum pipe line for conveying sewage of nala.** But this pipe line is in adequate, so in monsoon season that area was submerged. So as an immediate measure an alternative earthen drain was dug out parallel to existing nala on other side of boundary wall by District Administration and Bhopal Municipal Corporation. Now sewage of this nala is flowing through this new earthen path. **Now complainant encroach the land of old nala path by filling it intermittently and said that he is the occupier of this encroached nala land.**

Site sketch and photographs showing field status are enclosed as Annexure I & 2.

Recommendation : -

As per site condition this is a clear case of nala encroachment made by complainant. Now complainant wants that channelization of newly dug out nala (parallel to old nala path) should be done by M/s Raj Homes Pvt. Ltd.”

3. The above report shows encroachment by the complainant himself and diversion of the drain for which remedial action may need to be taken.
4. Accordingly, let a joint Committee comprising representatives of the Bhopal Municipal Corporation, State PCB and the District Magistrate take further remedial action and furnish a compliance report before the next by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.
5. Since it is stated that the Municipal Corporation is not cooperating, let the Commissioner, Municipal Corporation take appropriate action against the person responsible for not complying with the directions of this Tribunal. Needless to say, order of this Tribunal is an executable and binding decree and violation thereof is a also a criminal offence, if the Municipal Corporation does not cooperate, the Commissioner, Municipal Corporation may be held personally accountable.

A copy of this order be sent to the Commissioner, Bhopal Municipal Corporation, State PCB and the District Magistrate by email for compliance.”

3. In view of the above, a further report has been filed by the State PCB on 07.08.2020 on behalf of the joint Committee as follows:-

- “1. *Since this is case of Nalla Encroachment so MPPCB directed vide letter dated 25.06.2020 & 13.07.2020 to District Administration & Nagar Nigam Bhopal to take necessary action in this case.*
2. *In compliance Additional commissioner Nagar Nigam Bhopal asked SDM Govindpura Bhopal vide letter no. 1224-1227 dated 29.07.2020 for demarcation report of said Nalla/Site' Annexure 2.*
3. *SDM/Tehsildar informed that demarcation of complaint site has been done already on 30/08/2019 and provided demarcation Report. Annexure 3.*
4. *SDM/Tehsildar Govindpura, Bhopal has directed Revenue inspector and Halka patwari of the region to undertake Marking of complaint site on 07/08/2020 based on demarcation Report dated 30.08.2019 and also under take demarcation of remaining portion of the site if required and submit the report at the earliest.*
5. ***After marking of said site necessary action will be taken by District Administration and Nagar Nigam Bhopal jointly.”***

4. Let further steps be completed by the District Administration and the Nagar Nigam and report filed by State PCB on behalf of the joint Committee, as done earlier 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.

A copy of this order be sent to the Commissioner, Bhopal Municipal Corporation, State PCB and the District Magistrate, Bhopal, by email for compliance.

List for further consideration on 19.01.2021.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

October 06, 2020
Original Application No. 695/2019
AK