

Item No. 03

(Court No.1)

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

(By Video Conferencing)

Original Application No. 750/2019

(With report dated 19.04.2021)

Dr. Sanjay Rao & Ors.

Applicant(s)

Versus

State of Karnataka

Respondent

Date of hearing: 10.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Darpan KM, Advocate for State of Karnataka

ORDER

1. The issue for consideration is the remedial action against pollution of Kithiganahalli lake situated behind Narayana Hrudayalaya Hospital, within remits of Bommasandra Pura Sabha, Anekal, Karnataka.

2. Vide order dated 25.09.2019, a factual and action taken report was sought from the Karnataka State Pollution Control Board ("State PCB"). The matter was thereafter considered on 19.06.2020 in the light of report dated 18.02.2020, acknowledging damage to the lake by discharge of untreated sewage and other waste. The Tribunal directed remedial action in the light of judgment of the Hon'ble Supreme Court in *Paryavaran Suraksha case*¹, and order of this Tribunal dated 20.02.2020 in O.A. No. 606 of 2018. The matter was last considered on 04.11.2020 in the light

¹ (2017) 5 SCC 326

of action taken report dated 29.10.2020 filed by the Additional Chief Secretary, Karnataka, seeking time for taking remedial measures. Accordingly, direction was issued for taking further action and filing compliance report.

3. In pursuance of above, an affidavit has been filed by the Additional Chief Secretary, Urban Development, Karnataka on 19.04.2021 as follows:-

- “4. *It is submitted that as per the above directions of Hon’ble NGT, State Government immediately took following steps in a time bound manner;*
- a. *In order to expedite the process of procurement & installation of STPs, a proposal was submitted to Finance Department, Govt. of Karnataka to obtain exemption from KTPP Act, 1999 under 4(g) clause to procure 3 nos. of 50 KLD modular STPs directly from M/s. WAPCOS ltd., without following the regular tender procedure which may lead to time delay in selection of the eligible supplier.*
 - b. *The Finance Department (FD) accorded 4(g) exemption to Town Municipal Council Bommasandra (TMC) vide its Notification No. FD 676 Exp-12/2020, dated 21-11-2020 to procure 3 nos. of 50 KLD modular STPs from M/s. WAPCOS ltd., at a total cost Rs. 210.56 lakhs and also gave its concurrence for UDD to release Rs. 140.36 lakhs for two units to TMC and for TMC to utilize Rs. 70.18 lakhs for one unit from its own funds, vide its UO Note No. FD 521 Exp-9/2020, dated: 27-11-2020. Copy of the FD Notification and UO Note are enclosed herewith and marked as Annexure-R1 & Annexure – R2.*
 - c. *Accordingly, State Government released Rs. 140.37 lakhs to TMC Bommasandra vide its Order No. UDD 300 CSS 2020, Dated 10-12-2020 out of Rs. 50 crores allocated in the State Budget for the year 2020-21 under the Head of Account 3604-00-191-1-00 for implementation of FSSM Projects in the selected ULBs of the State. Copy of the GO is enclosed herewith and marked as Annexure-R3.*
5. *It is submitted that, necessary instructions were issued to Directorate of Municipal Administration (DMA), District Urban Development Cell (DUDC), Town Municipal Council Bommasandra (TMC), Bommasandra Industries Association (BIA) through the Video Conferences (VCs) held on 20-11-2020 and 15-01-2021, to take all necessary steps to issue the Letter of Acceptance / Work Order at the earliest to M/s WAPCOS Ltd for all the 5 units of modular STPs including 2 units to be*

procured by BIA. Copy of the VC proceedings dated 20-11-2020 and 15-01-2021 are enclosed herewith and marked as Annexure-R4 & Annexure-R5.

- 6. It is submitted that, TMC Bommasandra issued the Letter of Acceptance dated: 06-01-2021 to M/s WAPCOS Ltd., mentioning the commercial terms and conditions of the supply of said STPs. The Deputy Chief Engineer of M/s WAPCOS Ltd. sought few days of time to finalise the Memorandum of Understanding (MoU) to be signed with TMC Bommasandra. Copy of the LoA issued by TMC is enclosed herewith and marked as Annexure-R6.*
- 7. It is submitted that, the land measuring 1750 Sq.M belonging to Karnataka Industrial Areas Development Board (KIADB) where installation of 5 STPs are proposed, has been handed over by KIADB to TMC Bommasandra vide its letter dated: 07-01-2021. In addition to that, Consent for Establishment of 250 KLD modular STPs (5 Nos of each 50 KLD capacity) at designated KIADB area of Bommasandra has been obtained by KSPCB vide its letter dated: 15-01-2021. Copy of the KIADB land handover letter and KSPCB Consent Letter have been enclosed herewith and marked as Annexure-R7 & Annexure-R8.*
- 8. It is submitted that, the sub vendors of M/s WAPCOS Ltd. orally communicated to DUDC Office and TMC Bommasandra that, the WAPCOS management are demanding 50% mobilization advance and not agreeing for 5% mobilization advance as stipulated in the draft MoU as well as Letter of Acceptance issued by TMC Bommasandra. Immediately, a Meeting was convened by the Director, Directorate of Municipal Administration with sub vendors of M/s WAPCOS Ltd on 29-01-2021. During the telephonic conversation with Deputy Chief Engineer of M/s WAPCOS Ltd. and after explaining him the efforts taken by Urban Development Department, Directorate of Municipal Administration in getting the 4(g) exemption for WAPCOS, the Finance Department's rules & regulations (clause) regarding advance payment to suppliers, the payment schedules which provides almost 20-25% payments once they complete the initial milestones including preliminary civil works, shipment of modular STPs and its accessories to the site etc, if they take up the said project, the Deputy Chief Engineer of M/s WAPCOS Ltd., agreed to continue with the shipment of said STPs.*
- 9. It is submitted that, immediately after the said Meeting, one more letter was written to M/s WAPCOS Ltd on 30-01-2021 by TMC Bommasandra, reiterating the decisions taken in the Meeting regarding advance payment. But the Deputy Chief Engineer of M/s WAPCOS Ltd who had earlier agreed for 5% mobilization advance, reverted back from his decision and communicated vide their letter dated: 02-02-2021 that, until and unless 50% mobilization advance is paid, they will not take up the said work and expressed their inability to continue with the project. The TMC letter dated 30-01-2021 and WAPCOS*

letter dated 02-02-2021 are enclosed herewith and marked as Annexure-R9 & Annexure-R10.

10. *It is submitted that several attempts to contact Dr. R.P. Dubey, Senior Executive Director of M/s WAPCOS Ltd., over telephone were made by Additional Chief Secretary and other officials to talk to him and make him understand the gravity of situation in view of the Hon'ble NGT's mandate and timelines set, but he didn't pick up any one's call and intentionally avoided talking to State Officials.*
11. *It is submitted that, A meeting was convened by Director, Directorate of Municipal Administration with the DMA officials, DUDC of Bengaluru Urban dist, TMC Bommasandra and after detailed deliberations and discussions, it was decided to go for short term tender and instructions were issued to the concerned technical person to prepare a Detailed Project Report (DPR) and estimates, to establish 250 KLD modular STPs along with 5 years of O&M. The DPR prepared with a cost of Rs. 209.90 lakhs (with a cost sharing ratio of 60:40 between TMC and BIA respectively) along with detailed estimates is enclosed here with and Marked as Annexure-R11.*
12. *It is submitted that, The DPR along with detailed estimates were placed before the District Technical Committee headed by Deputy Commissioner of Bengaluru Urban District on 23-02-2021 for obtaining Administrative approval and Technical sanction and the same were accorded. Copies of Administrative approval and Technical sanction issued by the said District Committee have been enclosed herewith and marked as Annexure-R12 & Annexure-R13.*
13. *It is submitted that, Chief Officer of TMC Bommasandra invited the tender through e-Procurement Portal vide Notification dated: 24-02-2021 and addendum dated 06-03-2021. The last date for submission of proposals was 09-03-2021, date of opening of technical bids was 12-03-2021 and date of opening of financial bids was 15-03-2021. Copies of Tender Notification along with the Addendum are enclosed herewith and marked as Annexure-R14 & Annexure-R15.*
14. *It is submitted that, as per the tender schedule, technical bids were opened on 12-03-2021 (e-Procurement Portal), three bidders were participated in the tender and after evaluation of all the three Bidders' technical bids, only one Bidder namely M/s Ashwinibhai Khanjibai Vachhani (M/s Oasis Renewable and Water Treatment Ltd), Ahmedabad was found to be technically qualified and their financial bid was opened on 18-03-2021. After the negotiation, the cost was finalised at Rs. 210.41 lakhs. Letter of Acceptance was issued on dated: 20-03-2021 and subsequently Contract Agreement was signed and 'Notice to proceed with the Work' was issued on 29-03-2021. As per the Agreement, the Agency has to complete the installation and commissioning of 250 KLD modular STP within 3 months period i.e., before 30-06-2021. Copy of the Notice to proceed*

with the Work dated 29-03-2021 is enclosed herewith and marked as Annexure-R16.

15. *It is submitted that, substantial progress has been achieved in lake rejuvenation work by Bommasandra Industries Association (BIA) and following activities have been completed,*
- ✓ Excavation, segregation and safe disposal of legacy waste.*
 - ✓ Removal of silt from Lake Bed to increase the water storage.*
 - ✓ Peripheral bund formation.*
 - ✓ Shaping of existing island including stone pitching.*
 - ✓ Installation of 4 nos. of inlet pipeline along with 4 silts traps.*
 - ✓ Construction of 2 nos. of sedimentation tanks and 1 no. of bio-tank.*
 - ✓ Stone pitching throughout the Lake bund and existing island.*
 - ✓ Place provision is made for Miyawaki Forest and three ornamental gardens.*
 - ✓ Road Formation is done.*
 - ✓ Outlet pipe and Waste weir for the lake.*
 - ✓ Water holding capacity of the lake has increased*
 - ✓ Laying of grass on external side of bund to avoid soil erosion (ongoing).*
 - ✓ Proper embankment is created.*

The photographs showing the completed and ongoing lake rejuvenation works are attached herewith and marked as Annexure-R17.

16. *It is submitted that, the State Govt. in association with BIA is taking all the necessary steps in completing the lake rejuvenation works including installation and commissioning of STP as per the Hon'ble NGT's directions. Because of M/s WAPCOS Ltd. unexpected exit from the installation of STP at the last minute, the completion of installation and commissioning of STP units has been delayed, but the State Govt and TMC Bommasandra have taken all sincere efforts to select the different Supplier viz., M/s OASIS Renewables and Water Treatment Limited, Ahmedabad through tender process. The said Company has already completed geo-technical feasibility investigations and submitted the report. In order to assist the TMC, a Project Management Consultant has also been appointed. A VC was held on 06-03-2021 under the Chairmanship of Additional Chief Secretary to Government, Urban Development Department with officials / members of Directorate of Municipal Administration, Karnataka State Pollution Control Board, District Urban Development Cell of Bengaluru Urban District, TMC Bommasandra, Bommasandra Industries Association to review the progress achieved so far and to take necessary steps to expedite the lake rejuvenation works including installation and commissioning of STP. Hence it is humbly requested to kindly extend the timeline set for installation and commissioning of STPs by another 3 months, it is also ensured that all necessary steps will be taken to*

complete it well before the completion of lake rejuvenation works. It is also ensured that no untreated sewage or effluents are let into the Lake under any circumstances. Copy of the VC proceedings dated 06-03-2021 is attached herewith and marked as Annexure-R18.”

4. Learned Counsel for the State of Karnataka says that substantial work has been completed but on account of pandemic, some work still remains to be executed which will be completed soon.

5. Let the remaining work be completed expeditiously and positively within three months.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Karnataka by email for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 10, 2021
Original Application No. 750/2019
AVT