

Item No.4:

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 237/2017 (SZ)

IN THE MATTER OF

Manakunnam Village,

Padashekara Samrakshana Samithy

...Applicant(s)

With

Thiripunithura Municipality,

Kerala and others.

...Respondent(s)

Date of hearing: 26.05.2020.

CORM:

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

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s) : Mr. Stanly Hebzon Singh

For Respondent(s): Mr. Hariharan represented M/s. S. Sree Kumar Associates represented by Jawahar Basha here for R. 2, 3, 4, and 6.

Sri. M.K. Kumaresan, G. Prabhu & T. Johnson Alexander represented R 7, 14 & 16,

Srimathi Rema Smrithi V.K. and Niveditha S. Menon represented R11,

C.G. Bindhu represented Respondent No.5

ORDER

1. As per order dated 24.01.2020 after considering the pleadings in this case, we have passed the following order:

. It is seen from the statements filed by some of the respondents that it is admitted that construction of the bridges at least in some areas are not as per the standard for maintaining the flow of river. It is also seen from the statements submitted by the local bodies that though they admit their responsibility to maintain the waterbody and maintain free flow of water in the river and make it pollution free, they are expressing their inability to maintain the same due to want of funds and want of coordinating of all stakeholders. It may be mentioned here that as per the direction of the Apex Court in several decisions and also as per the provisions of the Panchayat Raj Act and Municipalities Act, maintenance of water bodies are with local bodies viz., Grama Panchyat, Municipality and Corporation and it is for them to make necessary steps to protect the same. There is a responsibility on the local bodies to prevent discharge of untreated effluents into the river and pollute the water, affect flow of water by dumping garbage either solid waste or construction waste or other waste. If the local bodies have implemented the provisions of Solid Waste Management Rules, 2016, Bio Medical Waste (Management) Rules, 2016, E-waste Management Rules, 2016 and Construction and Demolition Management Rules, 2016 in its true spirit, then most of the problems that are alleged can be curtailed or remedied. But most of the local bodies are shirking their responsibility in implementing the Rules, as expected from them. They are expressing their inability to implement the same either on the ground of non availability of infrastructure or want of staff or necessary funds for implementing the same. This being a welfare measure to protect environment, they should not shirk their responsibility. This has been repeatedly expressed by the Apex Court that paucity of funds or infrastructure or man power is not a ground in not discharging their responsibility, as expected by the statute. It is for the State Government as well as local bodies to find out their own method by which these things can be solved by preparing proper action plan to meet the situation. They forget the fact that protection of environment is the primary responsibility of the State and its machineries under Article 48A of the Constitution of India. Further, importance of river is well known. Rivers carry water and nutrients. They play a very important part in the water cycle, acting as drainage channels for surface water. Rivers drain nearly 75% of earth's land surface. They provide excellent habitat and food for many of the earth's organisms. So it is the duty of the State machinery to protect the same, as part of right to life and it is the responsibility of the State as enshrined under

Article 21 of the Constitution of India. It is true that there is a duty cast on the people also to protect environment as contemplated under Article 51A(g), as fundamental duty, under the Constitution of India. But if authority wants to penalise the general public for not following the Rules, the authorities must discharge their responsibility in the manner in which they have to function under the Rules.

It is in a way admitted by all respondents that there is an imminent necessity to rejuvenate Konothupuzha and make it pollution free with free flow of water and a joint effort will have to be taken by all stakeholders which the localbodies alone cannot undertake and the State Machineries will have to be involved for proper preparation of action plan and effective coordination of various departments, whose expertise is required for generating common fund and expertise to effectively execute the same.

. So, under these circumstances, we feel it appropriate to appoint a joint committee comprising of (1) District Collector, Ernakulam (2) State Pollution Control Board (3) Public Works Department (Irrigation, Bridge and Roads) (4) Secretary, District Panchayat, Ernakulam (5) Commissioners of the respective Municipalities and Executive Officers of the respective Grama Panchayat, Secretary of the Municipalities and Grama Panchayats through which the river passes and is being polluted to look into the matter and come with a proper action plan with specific time line to abate the pollution in the Konothupuzha river. If this will have to be extended to some other river stretch also, then they will have to connect those things as well for the purpose of preparing a holistic action plan. Chief Secretary of the State Government as well as the Principal Secretary of Urban Development Department and P.W.D. as well as Social Welfare Department and Environment Secretary and Water Resources are directed to coordinate with the respective authorities to prepare the action plan and submit the same before this Tribunal within a period of three months. The Chief Secretary of Kerala State Government shall over see the same and if necessary guidelines will have to be framed to implement the direction of this Tribunal, the same be provided by the Chief Secretary of the State Government of Kerala. District Collector, Ernakulam will be nodal agency for this purpose, including logistic support.

The Registry is directed to communicate this order to the concerned authorities immediately by e-mail so as to enable them to comply with the direction and submit the report to this Tribunal within the time mentioned through e-mail @ ngtszfiling@gmail.com

2. The case was posted to 13.05.2020 for consideration of report. On

13.05.2020 it was adjourned by notification to today.
Standing counsel for Kerala State Pollution Control Board has filed a memo dated 04.05.2020 through e-mail requesting two months time to file the report.

3. When the matter came up for hearing through Video Conference. Sri. Stanley Hebzon Singh entered appearance for the applicant. Sri. Hariharan represented M/s. S. Sree Kumar Associates who was represented by S.A. Jawahar Basha here for Respondent No. 2, 3,4, and 6, Sri. M.K. Kumaresan, G. Prabhu and T. Johnson Alexander represented Respondents No. 7, 14 and 16, Srimathi Rema Smrithi V.K. and Niveditha Menon represented R11, Srimathi C.G. Bindhu represented Respondent No.5. All of the Respondents wanted time to submit a report as inspections could not be completed due to present pandemic situation in the State due to impact of Corona Virus and lock down declared.
4. Considering the circumstances, we also feel it appropriate to grant two more months time to the committee to file the report.
5. The committee is directed to file the report on or before 10.08.2020 through e-mail or e-filing to this Tribunal at ngtszfilling@gmail.com.
6. The Registry is directed to communicate this order to the members of the committee as well as Chairman, Kerala State Level Monitoring Committee through e-mail immediately, so as to enable them to comply with the direction of this Tribunal.
7. For consideration of report post on 10.08.2020.

.....J.M.
(Justice K. Ramakrishnan)

O.A. No.72/2017(SZ)26th May 2020.
Sr.

.....E.M.
(Shri. SaibalDasgupta)