

Item No. 6

Court No. 1

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

(By Video Conferencing)

Original Application No. 41/2019

Sevamrutha Aradhya

Applicant(s)

Versus

State of Karnataka

Respondent(s)

Date of hearing: 01.07.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE Dr. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

Respondent(s): Mr. Mukesh Verma, Advocate for Karnataka State PCB
Mr. Darpan K.M., Advocate for State of Karnataka

ORDER

1. The issue for consideration is the remedial action against illegal constructions in the buffer zone of Kudlu Chikka Kere Lake in Bangalore South, Karnataka and maintenance of the lake by controlling polluting activities.

2. Vide order dated 16.01.2019, a report was sought jointly from the District Magistrate, Bangalore South and the Karnataka State Pollution Control Board (KSPCB). The matter was considered further on 02.07.2019 in the light of the report dated 29.06.2019 acknowledging illegal constructions and discharge of sewage. Accordingly, the Tribunal directed taking of remedial action and furnishing a further action taken report.

3. The matter was thereafter considered on 11.12.2019 in the light of the further report dated 09.12.2019 about the status of compliance and it was observed:-

“4. Report filed on 09.12.2019 gives the status of the action taken which include issuance of notice to the inhabitants against dumping of garbage and discharge of waste water. 28 constructions have been identified in the buffer zone.

5. Let further status report be filed about the removal of illegal constructions/encroachments and preventing garbage and sewage which may also include analysis of the water quality of the lake at different locations. The report may be filed before 28.02.2020 by email at judicial-ngt@gov.in.”

4. Accordingly, report dated 28.02.2020 has been filed by the State PCB *inter-alia* stating as follows:-

“1. Kudlu Chikkakere Lake is located in the Kudlu village (Sy. No.70) limits of Sarjapura Hobli , Anekal Taluk and presently it comes under ward No. 191 of BBMP limits. The extent of the kudlu lake is 13Acres and 05 guntas as per the information furnished by the BBMP.

2. The lake is filled with water and the lake was developed and maintained by BBMP Lake division. It was observed that there is a decrease in the water level collected in the lake as observed during the previous inspection on 17.12.2020.

3. The BBMP authorities have stopped the entry of sewage into the lake by blocking the sewage channels/ storm water drains joining the lake and at present there is no entry of sewage into the lake.

4. The BBMP authorities have diverted the sewage from the lake to newly constructed Sewage Treatment Plant of capacity 500 KLD which located adjacent to North West corner of the lake to treat the sewage and it is under commission stage.

5. At present there is no dumping of garbage into the lake. BBMP has provided wire mesh barricade to the periphery of the lake and constructed walking path along the periphery of the lake.

6. Samples of the lake water was collected on Eastern, Western, Northern and Southern side of the lake and handed over to Central Laboratory for the analysis and the analysis report is awaiting.

7. The garbage which has been dumped earlier in the lake was completely removed.

8. The BBMP has furnished the list of projects and houses constructed in the buffer zone of the Kudlu Chikkakere lake. There are 29

Buildings/Vacant sites falls in the Buffer zone of the lake as per BBMP list submitted. Out of which only 3 projects comes under the purview of the Board (Consent mechanism), as the built up area of the apartment are more than 20 flats or 2,000 sqmtrs builtup area and remaining are individual houses.

9. *The name & address of the three projects as per the BBMP list comes in the buffer zone was identified and the details are as below:-*

1. *Aban esence Apartment Owners Association, Sy No.60, Kudlu Village, V.G.P Layout, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.*
2. *M/s AXR Properties, Sy No.59/1 & 59/3, Kudlu Village, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.*
3. *M/s N.D.Developers, Sy No.87/ 1, 87/2 & 88/2, Kudlu Village, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.*

10. All the above mentioned three projects were inspected and the detailed inspection reports were forwarded to RSEO, Bengaluru South with a recommendation to issue Notice of Proposed Directions. Accordingly, the RSEO, Bengaluru South issued Notice of Proposed Directions to M/s Aban Essence and M/s AXR Properties, since they are operating without valid consent of the Board. Replies are awaited from the said project further action will be initiated after the receipt of the replies
M/s N.D. Developers is still under construction and hence, the notice was being issued for the violations of the provisions of the Water (Prevention & control of pollution) Act, 1974.

11. *The remaining buildings located in the Buffer zone does not comes under the purview of the Board, since the built up area is less than 2,000 Sqmtrs. **BBMP has to initiate action from their end.***

12. *However, a letter was addressed to Joint Commissioner BBMP Bommanahalli Zone, to take action on the illegal construction as per the law in the buffer zone of the Kudlu Chikkakere lake.*

*The regional officer has taken action in complying with the NGT Orders. **Notice of Proposed Direction has been issued to two projects located in the buffer zone and also a notice had been addressed to the Joint Commissioner, BBMP- Bommanahalli Zone to action on the illegal construction as per the law in the buffer zone of Kudlu Chikkakere lake.***

Kudlu Chikkakere lake water samples has been collected and analyzed. As per the previous analysis report collected in the year 2016, the lake water is conformed to Class D (Class D — Propagation of Wild life & Fisheries,). The analysis report of the sample collected during inspection is awaited. The previous analysis report is herewith enclosed for kind reference.

The action taken report as on 28.02.2020 is submitted for placing it before the Hon'ble NGT, Principal Bench, New Delhi for necessary action.”

5. Further report dated 12.06.2020 has also been filed after inspection on 09.06.2020. Observations and recommendations as follows:-

“Observations

1. Kudlu Chikkakere Lake is located in the Kudlu village (Sy. No.70) limits of Sarjapura Hobli , Anekal Taluk and presently it comes under ward No. 191 of BBMP limits. The extent of the kudlu lake is about 13Acres and 05 guntas as per the information furnished by the BBMP authorities.
2. The lake is filled with water and the lake was developed and maintained by BBMP Lake division. It was observed that there is an increase in water collection in the lake as observed during the previous inspection on 04.02.2020.
3. The BBMP authorities have stopped entry of sewage into the lake by providing barrier to the sewage channels/ storm water drains joining the lake at three points, but at one entry point small quantity of sewage is entering into the lake due to the damage caused to the barrier provided.
4. The BBMP authorities have diverted the sewage from the lake to newly constructed Sewage Treatment Plant of capacity 500 KLD which is located adjacent to lake on North West corner of the lake to treat the sewage diverted from the lake. The STP was working at the time of inspection. The treated sewage is being discharged into the lake.
5. At present there is no dumping of garbage into the lake. BBMP has provided wire mesh barricade to the periphery of the lake and constructed walking path along the periphery of the lake.
6. Lot of weeds are grown in the lake, which may be due to the entry of sewage at one point and requires/immediate action from the BBMP authorities to mitigate the problem.
7. Samples of the lake water was collected on Eastern, Western, Northern and Southern side on 04.02.2020 reveals that the lake water is conforming to CLASS "D" copies of the analysis report is enclosed for kind reference.
8. The garbage which has been dumped earlier in the lake was completely removed by BBMP authorities.
9. The BBMP has furnished the list of projects and houses constructed in the buffer zone of the Kudlu Chikkakere lake. There are 29 Buildings/ Vacant sites fall is, in the Buffer zone of the lake as per BBMP list submitted. Out of which only 3 projects comes under the purview of the Board (Consent mechanism), as the built up area of the apartment are more than 20 flats or 2,000 sq. mtrs and remaining are individual houses.
10. The name & address of the three projects as per the BBMP list falls in the buffer zone was identified and the details are as below:-

- a. Aban essence Apartment Owners Association, Sy No.60, Kudlu Village, V.G.P Layout, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.
- b. M/s AXR Properties, Sy No.59/ 1 & 59/3, Kudlu Village, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.
- c. M/s N.D.Developers, Sy No.87/ 1, 87/2 & 88/2, Kudlu Village, Sarjapura Hobli, Anekal Tq, Bengaluru Urban District.

11. All the above mentioned three projects were inspected and the detailed inspection reports were forwarded to RSEO, Bengaluru South with a recommendation to issue Notice of Proposed Directions. Accordingly, the RSEO, Bengaluru South issued Notice of Proposed Directions to M/s Aban Essence and M/s AXR Properties, since they are operating without valid consent of the Board. They have not submitted the replies for the said notice. However, the said project authorities were called for personal hearing at Board Office on 04.06.2020 and the Project Authorities have not attended the personal hearing. M/s N.D. Developers is still under construction and hence, the notice was issued for the violations under the provisions of the Water (Prevention & control of pollution) Act, 1974. Replies are awaited from the concerned. The said units have also been inspected at the time inspection.

12. The remaining buildings located in the Buffer zone does not come under the purview of the Board, since the built up area is less than 2,000 Sqmtrs. BBMP has to initiate action from their end.

This office has already taken action against the 3 No's of projects comes in the buffer zone of the Kudlu Chikkakere lake as per the BBMP list by issuing NPDs to M/s. Aban essence Development & AXR properties Pvt. Ltd., and Show Cause Notice to M/s. N D Developer. Further, the following points are brought to the kind note:

1. Earlier the lake was monitored by the Regional Office, Bommanahalli up to May 2019. As per the earlier analysis report the lake water is conformed to class '13' and 'E'.
2. The BBMP has to take action against the illegal structural constructions constructed in the buffer area of the lake as per the survey done by BBMP and Tahasildar, Anekal. The compliance report submitted by the District Administration in respect of directions issued by the Hon'ble NGT on 02.07.2019 is enclosed for kind reference. Further action has to be taken by the BBMP as per the order issued by the Hon'ble NGT on 11.12.2019.
3. However, a letter was addressed to the joint commissioner, BBMP Bommanahalli Zone, to take action on the illegal construction as per the law in the buffer zone of the Kudlu Chikkakere lake (copy enclosed for kind reference).

RECOMMENDATIONS:

This office has already taken action to comply with the Hon'ble NGT Order dated 11.12.2019. **Hence It is recommended to give suitable directions from the Board office to the**

Commissioner, BBMP to take action against from their end for the illegal constructions taken in the buffer area of Kudlu Chikkakere lake as per the provisions of the relevant Acts & Rules and Necessary directions shall be issued from the Board Office to BBMP to stop the entry of sewage into the lake by providing permanent barricade/barrier at all the entry points into the lake and also requested to call BBMP and the above mentioned project authorities for personal hearing once again as a last chance to take further course of action in this matter.”

6. In view of the above, necessary action may be taken by the Commissioner, Bruhat Bengaluru Mahanagara Palike (BBMP) for further action as per law. The same may be overseen by the Additional Chief Secretary, Urban Development. Apart from remedial action of removing illegal constructions, compensation may also be assessed and recovered as per norms, following due procedure.

An action taken report be filed before the next date 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 by the BBMP and the State PCB. If further necessary action as legally required is not taken, the Tribunal will have to fix accountability of the Commissioner BBMP for continued failure to check violation of law.

List for further consideration on 04.12.2020.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Satyawan Singh Garbyal, EM

July 1, 2020
Original Application No. 41/2019
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