

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.123/2022/EZ

Srikanta Kumar Pakal & Anr.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 09.01.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Advocate (in Virtual Mode)

For Respondent(s) : Ms. Saswata Patnaik, AGA for R-1,2,3,6,8,9&10 (in Virtual Mode),
Mr. Rajib Ray, Advocate for R-4,
Mr. Dipanjan Ghosh, Advocate for R-7,
Mr. Dayananda Mohapatra, Advocate for R-5 (in Virtual Mode),
Ms. Ishita Thakur, Advocate and
Mr. Matrugupta Mishra, Advocate for R-12 (in Virtual Mode)

ORDER

1. Mr. Sankar Prasad Pani, learned Counsel is present (in Virtual Mode) for the Applicants.
2. No one is present on behalf of the Respondent No.11. The Applicant shall file affidavit of service within one week.
3. Affidavit dated 19.11.2022 has been filed by the Respondent No.4, Bhubaneswar Municipal Corporation; the same is taken on record.
4. Affidavit dated 22.11.2022 has been filed by the Respondent No.1, Deputy Director of Estate, General Administration & Public Grievance Department, Bhubaneswar; the same is taken on record.
5. Mr. Rajib Ray, learned Counsel appearing for the Respondent No.4, shall serve e-copy/soft copy of the affidavit dated 19.11.2022 upon Ms. Ishita Thakur today itself.

6. Ms. Ishita Thakur, learned Counsel appearing (in Virtual Mode) for the Respondent No.12, prays for and is granted three weeks for filing counter-affidavit.
7. Mr. Sailza Nandan Das, learned Additional Standing Counsel appearing (in Virtual Mode) for the Respondent No.13, Orissa Water Supply and Sewage Board, prays for and is granted three weeks time for filing counter-affidavit.
8. The Respondent No.5, Bhubaneswar Development Authority, has not filed its affidavit.
9. Mr. Dayananda Mohapatra, learned Counsel appearing (in Virtual Mode) for the Respondent No.5, states that he has filed the affidavit. Office report dated 06.01.2023 shows that the same is defective.
10. Mr. Mohapatra shall remove the defect and file the affidavit. Let the said affidavit be filed within 24 hours.
11. Affidavit dated 05.01.2023 has been filed by the Respondent No.7, Odisha State Pollution Control Board; the same is taken on record. Along with this affidavit an Inspection Report has been filed of an inspection carried out on 19.12.2022. The Inspection Report reads as under: -

***“INSPECTION REPORT IN CONNECTION WITH OA NO.123/2022/EZ- SRIKANT KUMAR PAKAL VRS. STATE OF ODISHA & OTHERS IN COMPLIANCE TO ORDER DTD. 21.11.2022 OF THE HON’BLE TRIBUNAL.*”**

In this case, earlier an inspection has been carried out on 10.10.2022 and the said inspection report has already been submitted before the Hon’ble Tribunal in the affidavit dtd. 15.10.2022 by the Board. The Hon’ble Tribunal has also taken note of the inspection report in their order dtd. 19.10.2022. Further, in the order dtd. 21.11.2022, the

Hon'ble Tribunal directed the Board to file a fresh affidavit showing the present status of the recommendations made in the earlier inspection report dtd. 10.10.2022. In order to verify the compliance status of the recommendation, a field visit was undertaken by the undersigned on dtd. 19.12.2022 and the following observations are made.

1. No progress has been made so far as recommendation at a) to g) are concerned.

a) The illegal construction/encroachment along the drainage system to be demolished by the concerned Authority.

b) Concreted garbage dustbin should set up all along the drainage system at different close locations to check the unorganized/haphazard mode of disposal of daily household etc., garbages by the nearby inhabitants.

c) The height and depth of drainage system to be raise so as to provide clear flow of rain as well as sewage water in the system leading finally into Unit-9 Lake. The system to be developed by the drainage Division, BBSR to check the spillage of waste water to the nearby areas during heavy rainfall.

d) The mouth part of drainage disposal point should be free from garbage etc., leading to lake area.

e) Time to time the sludge within the drain should be cleaned 3-4 times within a year by the people of concerned authority.

f) The entire drainage system area to be provided with iron mesh with cemented pillar at to sides so as to check the dumping of garbage by local people.

g) The Unit-9 Lake to be de-silted to receiver the passage huge quantity of rain and sewage water during rainfall.

2. As regards the recommendation at h) is concerned i.e.

h) The STP system of M/s. Hotel Presidency, Nayapalli, BBSR to be provided with facility for collection of treated waste water by the official of State Pollution Control Board, Odisha, Bhubaneswar within the campus as an when required and another parking

space to be provided so that the other vehicle movement will not face any difficulties for all time to come.

M/s. Hotel Presidency situated at IRC Village, Nayapalli, Bhubaneswar was directed vide letter dtd. 15.10.2022 to provide the facility to collect the final outlet sample of STP system. Copy of the said letter has already annexed as Annexure-R7/2 in the affidavit dtd. 15.10.2022 filed by this Board. Thereafter an inspection was carried out on 1.11.2022 in respect of the said hotel and the waste water sample was collected from the system developed within the premises nearby to the STP area before discharged to nearby Municipal drain. Copy of the said analysis report has also been communicated to the Managing Director of M/s. Hotel Presidency vide letter dtd. 25.11.2022 with a direction to take adequate facilities so as to meet the prescribed standard with respect to BOD and Coliform parameters. Copy of letter dtd. 25.11.2022 along with the test report received from the Central Laboratory is enclosed as Annexure-1.

In response to the direction at Annexure-1, the hotel unit has submitted a reply requesting the Board to allow another 15 days more time for stabilization of STP. A copy of the reply letter dtd. 27.12.2022 of the hotel unit is enclosed as Annexure-2. After receipt of compliance report from the hotel unit, further inspection will be made by the Board officials to verify the operational status of the STP and also for collection of sample for analysis in order to verify the compliance of the prescribed standard of the Board by the hotel unit.

In the order dtd. 19.10.2022 the Hon'ble Tribunal directed to enlighten about the status of R.No.12 i.e. Ramky Enviro Engineers Ltd. During enquiry, it was found that R.No.12 was a contractor engaged by Bhubaneswar Municipal Corporation, Bhubaneswar for

lifting of daily garbages from various locations in the Bhubaneswar Municipal Area and it is ascertained from the general public of that area that some other private organization has been engaged for the said purpose. The detail information about the present status can be provided by the Bhubaneswar Municipal Corporation.”

12. Along with the affidavit of the Odisha State Pollution Control Board, test report of water samples of M/s Hotel Presidency, Nayapalli, Bhubaneswar, have been filed. These test reports show high level of Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS) as well as Faecal Coliform (FC).
13. These two test reports do not give the standards/regulatory limits. We are surprised as to how the Authorized Signatory and the Board Analyst has signed these reports.
14. We, therefore, direct the Member Secretary, Odisha State Pollution Control Board, to take appropriate action against the Authorized Signatory and the Board Analyst who have signed these Water Analysis Reports by way of stern warnings not to prepare test reports in a caused manner in future.
15. The affidavit of the Odisha State Pollution Control Board also contains a letter dated 25.11.2022 mentioning that BOD and Faecal Coliform levels are high and beyond the criterial parameters, question is what action has been taken against the concerned hotel. It is not mentioned as to what action has been taken by the Odisha State Pollution Control Board, as a regulatory authority, against the concerned hotel for failure to maintain requisite water quality standards.

16. The Report of the Bhubaneswar Development Authority, Vice-Chairman-cum-Commissioner dated 25.07.2018, copy filed as Anneuxre-2, page no.34 of the Original Application, clearly mentions that the Hotel Presidency is discharging its water and sewage into the storm water drain and that the State Pollution Control Board shall verify whether STP of Hotel Presidency is functional and to take appropriate action in this matter. More than four years have passed and the current report of the State Pollution Control Board also shows that the concerned hotel is in violation of Environmental norms.
17. We wonder whether the Member Secretary, Odisha State Pollution Control Board, has read this report of the Bhubaneswar Development Authority/Bhubaneswar Municipal Corporation before filing his affidavit.
18. In paragraph-6 of the affidavit dated 15.10.2022, it is mentioned that during inspection the STP was found to have been established by the hotel for treatment of waste water. Question is whether the STP was 'functional' particularly in view of the Water Analysis Report.
19. Let the said affidavit be filed within two weeks.
20. So far as the observations made by this court in paragraph-7 of the order dated 19.10.2022, nothing has been stated in the affidavit of the Bhubaneswar Municipal Corporation dated 19.11.2022. This shows the absolute callous manner in which the affidavit has been filed by the Commissioner, Bhubaneswar Municipal Corporation.
21. In paragraph-6 (a) of the affidavit dated 19.11.2022, certain drain work is reported to being completed. No timelines have been given.

This shows clear of callousness and negligence on the part of the Commissioner in disclosing detailed facts in his affidavit.

22. We, therefore, direct the Bhubaneswar Municipal Corporation to file a fresh affidavit within two weeks.
23. **List on 02.02.2023.**
24. We make it clear that the Respondents as well as the Applicant shall exchange the affidavits among themselves and confirm receipt of the same from the concerned party before the next date fixed, so that the precious time of the court is not wasted, otherwise the court will be constrained to impose cost upon the Applicant or the Respondent who does not provide copy of his affidavit to the other contesting parties.

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

January 09, 2023
Original Application No.123/2022/EZ
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