

Item No. 05

Court No. 2

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

**(BY HYBRID MODE)**

Original Application No. 861/2022

Kuldeep Singh Khaira & Ors.

Applicant(s)

Versus

State of Punjab & Ors.

Respondent(s)

Date of hearing: 20.02.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant : Mr. Kuldeep Singh Khaira, Applicant in Person

Respondent(s): Mr. Nadinder Benipal Adv. With Ms. Harithi Kambiri, Adv. For  
Department of Municipal Corporation, Ludhiana

**ORDER**

1. This Original Application was filed raising a grievance that there is a Canal i.e., Sidhwan Canal passing through Ludhiana and that is highly polluted due to dumping of the plastic bags, polyester cloths waste, other non-biodegradable material etc. and there is huge encroachment also in its side but neither Irrigation Department of Punjab nor other responsible authorities have taken any action.

2. Tribunal vide order dated 25.11.2022 constituted a Joint Committee comprising Irrigation Department, Punjab, Punjab State PCB, District Magistrate, Ludhiana and Executive Engineer, Canal Officer, Sidhwan Canal Division, Sirhind Canal Complex, Urban Estate, Dugri, Ludhiana to submit a factual report within two months.

3. Pursuant to the said order, Joint Committee has submitted a report dated 03.02.2023. The Committee has found that primary pollutants in the canal are worship material, beddings, clothes, plastic bags and other items which are thrown into canal by public. However, there is also a secondary solid waste collection point of Municipal Corporation Ludhiana on right side of downstream of Gill Bridge at RD 59075, where from garbage has fallen into the canal water. The report also said that Municipal Corporation has now taken steps for removing garbage from the bed of Sidhwan Canal with assistance of Department of Water Resources, Sidhwan Canal Division and also installing a chain fencing along the banks of canal by Municipal Corporation, Ludhiana in order to prevent public from throwing garbage.

4. The cleaning work by Municipal Corporation, Ludhiana started on 04.01.2023 and Joint Committee when visited on 20.01.2023 found that work of cleaning was going on and more than 60% work was complete. Joint Committee has also recommended certain solutions including shifting of secondary solid waste collection point of Municipal Corporation, Ludhiana to some other place and installation of information boards by Department of Water Resources by Sidhwan Canal Division at bridge locations mentioning about punishment/fine which will be imposed if anyone found guilty of throwing garbage into the canal.

5. The finds, solutions, observations and action taken against defaulters, as contained in the report, are as under:

*“The Committee members jointly visited the Sidhwan Branch Canal on 18.01.2023 and observed that primary pollutant in the sidwan canal was worship material, beddings, clothes, plastic bags and other items which are thrown into canal by public. Also one Secondary solid waste collection point of Municipal corporation Ludhiana on right side of downstream of Gill Bridge at RD 59075, it was informed by Municipal Corporation, Ludhiana that this is only secondary collection point, from where. garbage is lifted on daily*

basis and sent to dumpsite in Jamalpur and no garbage is thrown into canal.

During visit, work regarding removal of Solid waste from Sidhwan Canal internal was found under process at site. The officers of Department of Water Resources, Sidhwan Canal Division and Municipal Corporation, Ludhiana informed that work of cleaning was started from 04/01/2023 during canal closure. Joint committee again visited the site on 20/01/2023 and found that work of cleaning was going on and more than 60% work has been completed at the site. The photographs of the site are attached herewith as **Annexure-R1**. The officers of Ludhiana Canal and Ground Water Division informed that earlier the scheduled closure of Sidhwan Canal was determined from 01/01/2023 to 21/01/2023. Now, due to rainfall and no compelling demand of water for irrigation, the cleaning work of Sidhwan Canal is being carried out as per the closure of canal.

#### **4.0 Proposal for shifting of secondary solid waste collection point**

The officers of Municipal Corporation, Ludhiana informed that there is a proposal for shifting of above secondary solid waste collection point to the vacant land of Punjab Mandi Board. The Municipal Corporation, Ludhiana vide its letter no. 7820/MoM/B dated 30.01.2023 has informed that the matter in this regard has been taken up with Punjab Mandi Board. The copy of the Municipal Corporation, Ludhiana letter is attached as **Annexure-R2**.

#### **5.0 Problem of garbage and solution**

The officer of Department of Water Resources, Sidhwan Canal Division Ludhiana informed that as Sidhwan Branch passes through the middle of Ludhiana City, public throws garbage into the canal which accumulates at the bed of Sidhwan Branch.

#### **Solutions**

- a) Municipal Corporation, Ludhiana will shift secondary solid waste collection point in near future.
- b) Municipal Corporation, Ludhiana is currently removing garbage from bed of Sidhwan Canal with the assistance of Department of Water Resources, Sidhwan Canal Division.
- c) In addition to this, chain fencing is being installed along the banks of canal by Municipal Corporation, Ludhiana in order to prevent public from throwing garbage. The photographs of chain fencing are attached herewith as Annexure-R3.
- d) Information boards are being installed by Department of Water Resources, Sidhwan Canal Division at bridge locations mentioning about punishment/fine which will be imposed if anyone found guilty of throwing garbage into the canal.

#### **6.0 Action taken against the defaulters**

Recently, 3 people were caught on spot throwing garbage into the canal against whom three FIR's have been registered under section 70 of Northern canal and Drainage Act no. 8 of 1873. The copies of the FIR's are attached as **Annexure-R4**. Municipal Corporation, Ludhiana has imposed fine on 58 violators as per Solid Waste Management Rules, 2016.

#### **7.0 Observations of the Joint Committee**

- a) No Municipal Solid waste was found lying on the banks of Sidhwan Branch within the Ludhiana City, except a secondary

*solid waste collection point on downstream of Gill Bridge near to the right bank of Sidhwan Branch at RD 59075, however this waste goes to the dumpsite in Jamalpur. Further Municipal Corporation, Ludhiana informed that there is a proposal for shifting of above secondary solid waste collection point to the vacant land of Punjab Mandi Board. The Municipal Corporation, Ludhiana vide its letter no. 7820/MoM/B dated 30.01.2023 has informed that the matter in this regard has been taken up with Punjab Mandi Board. A Green Belt will be developed in this stretch of Sidhwan Branch.*

- b) No encroachment was observed by any private entity on the banks of Sidhwan Branch in city limits. As, a road has been constructed by PWD (B&R) and NHAI on left bank of Sidhwan Canal and Green Belt is developed/being developed by Municipal Corporation, Ludhiana on its Right bank.*
- c) Further, regarding no activity zone it is submitted that according to sub section 11 of section 70 of Northern Canal & Drainage Act (no 8 of 1873) trespassing is an offence and the contents of the section are reproduced below  
"Whoever, without proper authority and voluntarily, does any of the acts following, that is to say:-  
(11) passes, or causes animals or vehicles to pass, on or across any of the work's banks or channels of a canal or drainage work contrary to rules made under this Act after he has been desired to desist there from"*

*Shall be liable on conviction before a Magistrate of such class as the (State) Government directs in this behalf, to a fine not exceeding (one hundred) rupees, or to imprisonment not exceeding one month, or to both. The concerned department has been directed to follow the same and to ensure that no approval be granted without taking huge permissions from concerned departments."*

6. We find that solid waste collection of municipal corporation is also one of the reason of dumping of garbage of the solid waste into canal water and this is evident from the report that Municipal Corporation is taking steps for removal of garbage from bed of Sidhwan Canal. This may not call for any action against Municipal Corporation for future but for the past default and violations we find that Municipal Corporation, Ludhiana cannot evade responsibility of payment of environmental compensation on the application of principal of Polluters Pay.

7. Ms. Harithi Kambiri, Adv, appear for Municipal Corporation, Ludhiana states that she may be allowed 3 weeks time to file her

response on the report as well as on the question of Municipality's responsibility about environment compensation in respect of past default.

8. The time as prayed is granted.

9. Municipal Corporation shall also mention specifically in its reply as to what time it will take in completion of the work of removal of garbage from the bed of Sidhwan canal and also for shifting of the said waste collection site to another place for preventing disposal of waste into canal and regulate encroachment if any on both sides of the canal. The Irrigation and Flood Canal Department may demarcate and notify 'No Development Zone' on both sides of the canal.

10. Municipal Corporation shall also show as to why it cannot take steps for effective setting up and operation of waste processing facility in accordance with the rules, instead of just dumping it at one or the other place.

11. List this matter on 15.03.2023.

12. Copy of this order may also be forwarded to Irrigation and Flood Canal Department, State of Punjab for necessary direction as directed above.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

February 20, 2023

N