

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 128/2017(CZ) (THC)

Suvidha Seva Sansthan

Applicant(s)

Versus

State of Madhya Pradesh & Ors.

Respondent(s)

Date of hearing: 21.06.2021

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Satyendra Shah, Adv.

For Respondent(s)

Mr. Sheetal Tiwari, Adv.

ORDER

1. The issue raised in this application is encroachment on the pond of Majan Kala and Majan Khurd by making construction by the Respondent No. 3, Commissioner, Municipal Corporation, Singrauli without any authority causing the damage to the water bodies and illegally without permission of the State Government or Lawful Authority converting the nature of the land from pond to commercial activities. Initially, a Public Interest Litigation No. 7089 of 2015 was filed before Madhya Pradesh High Court at Jabalpur and Hon'ble the Court after considering the contents and reply and averments of the Municipal Corporation directed that State Government has to file an affidavit and indicate as to whether the assertions made by the Municipal Corporation and the proposed construction, as indicated in the return,

is permissible under law, and has the approval of the State Government and whether the contention of the Municipal Corporation that the pond in its original shape is being retained, and is not being adversely affected is correct or not. Further, vide order dated 05.02.2016 the Hon'ble High Court directed the Collector, Singrauli to remain personally present in court alongwith the original record pertaining to subject matter of this petition on 09.02.2016. Besides this, the Collector must file response to the petition as enough indulgence has been shown to the Collector for filing response.

2. Further the matter was taken up by the Hon'ble High Court in W.P. No. 7089/2015 on 09.02.2016, and the court was pleased to pass an order as follows :

“Shri Brijendra Kumar Vaishya, Advocate for the petitioner.

Shri Amit Seth, Government Advocate for the respondents/State.

Shri. R.N. Singh, Senior Advocate with Shri Sheetal Tiwari, Advocate for the respondent no. 3.

We have heard counsel for the State and Corporation.

We are not at all impressed with the explanation offered in the application for extension of time for filing reply-affidavit in spite of clear directions given by the Court as back as on 18.09.2015.

To say the least, the said application makes no attempt to offer any cause, much less, sufficient cause to justify such long delay, inaction and casual approach towards Court's order by the officials of the State Government – in this case, the Collector, in particular. The jso-called explanation offered in the response now filed is aggravating the situation. It virtually admits of the manifest illegality committed in permitting construction of land covered by water body. No suggestion is offered as to what is the corrective and remedial action that the State Government

proposes to take for the acts of commission and omission of the State Authorities and more so against the Corporation for having brazenly constructed a Mall on the area designated for water body. This is a matter, which must receive attention at the highest level in the State administration.

We call upon the Secretary of Revenue Department, Vallabh Bhavan, Bhopal to file his personal affidavit after making thorough inquiry into illegalities and mis-deeds including examining the possibility of criminal angle not only on account of encroachment on the reserved plot, but other matters.

The Chief Secretary must file affidavit before 14.03.2016.

We hope that the proposed affidavit will not only attempt to identify the reasons why the mischief has occurred, but also spell out the possible corrective and remedial measures that the State administration intends to take.

Depending on the explanation and response to be given by the State, we may examine the matter further and including the grievance of the petitioner, if required.

The Collector, Singrauli must remain personally present in Court on the next date alongwith relevant official record for perusal of this Court.

List on 16.03.2016”.

Again the matter was taken up on 16.03.2016 and relevant portion of the order is extracted below :

“In pursuance to the order passed on 09.02.2016, a detailed counter affidavit has been filed on behalf of the State Government sworn both the Chief Secretary and the Revenue Secretary of the State of Madhya Pradesh, the affidavit is taken on record. Counsel for the petitioner and counsel for respondent no. 3 may go through the counter affidavit filed and give their say within a period of three weeks. During the course of hearing various submissions were

made both by Shri. S. Ganguli and also by Shri N.S. Ruprah in support and contrary to the averments indicating in the affidavit, we shall look into the same at an appropriate stage after the pleadings are complete. For the present, parties are directed to complete the pleadings and thereafter issues raised in the petition and explain in the counter affidavit shall be considered.

List the matter on 05.04.2016 in view of the counter affidavit filed by the State Government. For the present, personal appearance of the Collector, Singrauli/respondent no. 2 is dispensed with.”

Again the matter was taken up on 06.09.2017, where the Hon’ble Court was pleased to order as follows :

“Grievance of the Petitioner is in respect of construction on the land for the water body situated in village Majan Khurd and Majan Kala Ward no. 30 (Old Ward No. 28 and 30 respectively) Municipal Corporation Singrauli.

The National Green Tribunal Act, 2010 contemplates that the subject matter relating to environment and water pollution as mentioned in Schedule – I, are to be dealt with by the National green Tribunal.

The Supreme Court has issued direction in the case of Bhopal gas Peedit Mahila Udyog Sangathan & Ors. Vs. Union of India & Ors. reported in (2012) 8 SCC 326, that all pending matters before the High Courts are to be transferred to the National Green Tribunal.

In view of the said fact, the present petition is transferred to National Green Tribunal, Bhopal Bench, Bhopal.

Parties are directed to appear before the National Green Tribunal on 21.09.2017”

3. In compliance of the above order, the matter was transferred to this Tribunal.

4. The Collector, Singruli has filed an affidavit, which is as follows:

“1. By filing instant writ petition in the nature of Public Interest Litigation it has been pointed out before this Hon'ble Court that the respondent No.3 i.e. Commissioner Municipal Corporation Singrauli is encroaching the pond of Majan Kala & Majan Khurd by making construction therein and accordingly, a direction to restore the pond after demolition of construction was sought in the instant petition. That the Municipal Corporation has already filed a reply in the aforesaid matter and has tried to demonstrate that certain encroachment were demarcated in the area in question. Thereafter, Municipal Corporation has removed the encroachment from the bank of pond and in general meeting of Municipal Corporation Singrauli on 01.10.2014 an agenda was passed for beautification of the pond. Accordingly, Municipal Corporation has planted green trees for the purpose of maintaining ecological balance and a shopping mall is also under construction in the area in question. That safety of the pond has also been taken into consideration. Based upon the aforesaid stand of the Municipal Corporation Singrauli this Hon'ble Court on 18.09.2015 has directed to file affidavit of an competent authority to indicate whether the assertion made by the Municipal Corporation and proposed construction work in the petition in accordance with the law and the same is approved by the State Government or not. This Hon'ble Court further observed that whether the contention of the Municipal Corporation that the pond in its original shape is being retained is also required to file alongwith response.

2. In pursuance to the aforesaid, at the very outset the answering respondents tendering their unconditional apology as the reply of Collector could have not been filed in time although, application for extension of time

was filed on behalf of Collector Singrauli but still a affidavit should have filed reply in time. To that extent it is relevant to mention that since issue pertains to land in which Municipal Corporation Singrauli is making construction, entire Revenue Record is required to be scrutinized hence some time took by the Revenue Authorities.

3. Upon the instruction of the Collector, Singrauli, concerned Tehsildar of Tehsil Mada, District Singrauli has verified the entire area viz-viz the Revenue Record in which it has been found that in Khasra No.989, 991,992, 993, 994 is registered in Revenue Record as Pond and during the spot inspection of the aforesaid pond, it was found that in only in Khasra No.992, Raqba 1 acre the pond exists and in rest of place in Khasra No.992 the work of beautification is carried out by the Municipal Corporation Singrauli (M.P).
4. In the entire area of aforesaid khasra the Municipal Corporation has constructed park and a concert track for walking purpose and in part of Khasra No.991 one shopping-mall is under construction. In part of Khasra No.994 and 992 certain shops were constructed for vegetable vender accordingly, a detailed report was prepared by the concerned Tehsildar on 06.02.2016 in this regard. Copies of relevant report dated 06.02.2016, Spot Panchnama, Revenue Records are cumulatively marked and filed herewith.
5. The aforesaid reply it is crystal clear that land in question is Revenue Land, as indicated in the report is being carried out by the Municipal Corporation. That from the construction made by the Municipal Corporation, Singrauli, it seems that huge amount of public exchequer has already been involved in the aforesaid construction and now the beautification of that particular area is being done by the Municipal Corporation, Singrauli. But it is relevant to mention that before doing said work, concerned Municipal Corporation has not taken any permission from the State Government or from the Office of Collector Singrauli, in these circumstances, the Municipal

Corporation on its own motion in general body meeting taken the decision. Hence the aforesaid factual status based upon the spot inspection and may kindly be taken on record.

6. Answering respondent at the cost of repetition again tenders his unconditional apology since the authorities were required to evaluate the entire matter viz-viz Revenue Record due to which the same Revenue Record has not been filed on earlier occasion for which answering respondent tenders his unconditional apology.”
5. The Chief Secretary has submitted the affidavit with the facts that the Municipal Corporation has not taken any permission for any construction on the area from the State Government or the District Administration. Accordingly, in view of the Chief Secretary, the construction or encroachment on the land which is recorded as pond area is without any authority of the State.
6. Learned counsel appearing for the Municipal Commissioner has submitted that a short time should be provided to file detailed status report with the action plan which are required to be taken for renovation and remedial measures. The learned counsel is directed to go through the records, call the action plan for the State Authorities, District Administrations and Municipal Authorities and file it, on affidavit of Municipal Commissioner.

List it on **12th July, 2021**.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

June 21st 2021
O.A. 128/2017(CZ)
PN