

ITEM NO.10

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).10582/2017

ULHASNAGAR MUNICIPAL CORPORATION

Appellant(s)

VERSUS

VANASHAKTI PUBLIC TRUST & ORS.

Respondent(s)

(WITH IA No.66013/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.66011/2017-PERMISSION TO BRING ON RECORD ADDITIONAL FACTS AND DOCUMENTS and IA No.66012/2017-STAY APPLICATION and IA No.66789/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.19576/2018-EXEMPTION FROM FILING O.T.)

WITH C.A. No. 10794/2017 (XVII)

C.A. No. 10795/2017 (XVII)

C.A. No. 10796/2017 (XVII)

Date : 05-02-2020 These appeals were called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE AJAY RASTOGI

For Appellant(s)

Mr. Subrat Birla, Adv.
Mr. S. C. Birla, AOR

Mr. Anjuman Tripathy, Adv.
Mr. Aman Varma, AOR

Mr. Ninad Laud, Adv.
Mr. Aditya Pratap Swain, Adv.
Ms. Priyashree Sharma, Adv.
Ms. Aditi Agarwal, Adv.
Ms. Purnima Subba, Adv.
Mr. Kush Chaturvedi, AOR

For Respondent(s)

Ms. Suhasini Sen, Adv.
Ms. Nivedita Nair, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Shekhar Naphade, Sr. Adv.
Mr. Guruprasad Pal, Adv.
Mr. Shyamali Gadre, Adv.
Mr. Soumik Ghosal, AOR
Mr. Gaurav Singh, Adv.
Mr. Aishwarya Dash, Adv.

Ms. Lakshmi Iyer, Adv.

Mr. Zaman Ali, Adv.
Mr. Satya Mitra, AOR

Mr. Kavin Gulati, Sr. Adv.
Mr. Mukesh Verma, Adv.
Mr. Pawan Kumar Shukla, Adv.
Mr. Sanjeet Paliwal, Adv.
Mr. Yash Pal Dhingra, AOR

Mr. Arun R. Pedneker, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. Sachin Patil, Adv.

Mr. Saurabh Mishra, AOR
Mr. Abhishek Singh, Adv.
Samridhi Pal, Adv.
Ms. Aashnaa Bhatia, Adv.
Mr. Rakesh Chandra, Adv.

Mr. S. C. Birla, AOR

UPON hearing the counsel the Court made the following
O R D E R

In pursuance of the previous order of this Court dated 31 July 2019, a status report has been filed on affidavit by the Principal Secretary in the Environment Department of the Government of Maharashtra. Affidavits have also been filed by:

- A. Ulhasnagar Municipal Corporation;
- B. Kalyan Dombivli Municipal Corporation¹;
- C. Ambarnath Municipal Council; and
- D. Kulgaon Badlapur Municipal Council

Maharashtra Industrial Development Corporation² has also filed an affidavit.

We will deal with each of the local bodies seriatim.

1 "KDMC"

2 "MIDC"

A. Ulhasnagar Municipal Corporation

- (i) Construction of Shantinagar Sewage Treatment Plant³ (31.26 Million Litres Per Day⁴) is 95% complete and it is expected to be fully commissioned by June 2020;
- (ii) Work of the Vadol STP (20.72 MLD) has been completed and after the conclusion of the test runs, the STP will be commissioned by the end of February 2020;
- (iii) Construction of the STP to treat Khemani nallah (15 MLD) is 90% complete and test runs are expected to begin by the end of April 2020. The STP will be commissioned by July 2020;
- (iv) For the Khadegolavali STP, a sole financial bid was received, which has been forwarded to the State Level Technical Committee⁵ of the State of Maharashtra for its approval. In the meantime, an interim arrangement is proposed whereby the sewage at Khadegolavali would be diverted to the STP of Kalyan Dombivli Municipal Corporation⁶ for treatment. This would result in the treatment of 8 MLD. The

3 "STP"

4 "MLD"

5 "SLTC"

6 "KDMC"

work of diversion is to be carried out for which a fresh tender is to be issued;

- (v) Following the recommendation made by the National Environmental Engineering Research Institute⁷ for cleaning of the Ambikanagar nallah, a work order is to be issued separately.

We direct the Ulhasnagar Municipal Corporation to take all necessary steps to comply with the time schedule which has been indicated to the Court. The SLTC shall take a final decision on the proposal which has been submitted in respect of the Khadegolavali STP within a period of two weeks from today.

We also direct that the tender for diversion of sewage at Khadegolavali be issued within a period of two weeks from today. Similarly, the process of awarding the tender be concluded on or before 15 March 2020. We also direct that necessary steps be taken to award the work for the cleaning of Ambikanagar nallah by the end of March 2020.

B. Kalyan Dombivli Municipal Corporation

The progress of KDMC is thoroughly unsatisfactory. Out of a sewage treatment of 216 MLD, 66 MLD is being

⁷ “NEERI”

treated at five locations. The deadlines which were undertaken to be observed before this Court have not been complied with. The Maharashtra Pollution Control Board⁸ has issued a notice on 19 October 2019 to KDMC to show cause as to why legal action be not initiated for breach of the timelines. We are categorically of the view that there has been a breach of the orders of this Court and the progress which has been achieved so far is unsatisfactory.

We accordingly direct that the Principal Secretary in the Urban Development Department and the Principal Secretary in the Environment Department of the State of Maharashtra shall convene a meeting with the Commissioner, KDMC within a period of one week from today. All pending bottlenecks shall be duly addressed and a joint status report shall be filed before this Court by the aforesaid officials indicating the remedial steps which would be taken and to ensure time bound compliance.

We direct the State of Maharashtra to resolve pending bottlenecks so that the work can proceed to satisfactory completion. The timelines for this shall be indicated in the status report which shall be filed before this Court. The Principal Secretaries in the Urban Development Department and in the Environment Department shall

continue to monitor compliance with monthly meetings with the Commissioner and other officials of KDMC. All other departments of the State government shall cooperate. If necessary, the Secretaries noted above shall secure the presence of other departments at meetings. This exercise shall be completed within a period of four weeks from today. We accordingly direct that the proceedings be listed on 25 March 2020 specifically for considering the position of the KDMC in regard to compliance.

Having regard to the progress of the work in KDMC, we also hereby nominate NEERI to supervise the work. The meeting which is to be convened by the Principal Secretary of the Urban Development Department and the Principal Secretary of the Environment Department, together with the Commissioner, KDMC, shall also be attended by NEERI so that necessary directions can be given to NEERI to supervise the activities and to ensure that the work is carried out satisfactorily. The charges which are payable to NEERI shall be borne by the State of Maharashtra. NEERI shall also file a status report before this Court before the next date of hearing, indicating the progress which has been achieved.

On the next date of hearing, the Commissioner, KDMC shall personally remain present before this Court with all necessary files and papers to explain the steps which have been taken and which shall be taken hereafter,

failing which the Court will be constrained to adopt a coercive proceedings in accordance with law.

C. Ambarnath Municipal Council

The affidavit which has been filed by the City Engineer indicates that 22 MLD of sewage is presently being treated out of a total of 28 MLD, that is being generated. Physical progress on the work of upgradation of the sewage lines is 93% complete and the work is due to be completed by 31 March 2020. While we appreciate the work which is being carried out by the Ambarnath Municipal Council, we direct that the above timelines should be duly observed.

D. Kulgaon Badlapur Municipal Council

The total sewage generation is 26 MLD of which 21.5 MLD is being treated. Work orders have been issued on 20 September 2019 for the construction of two additional STPs with capacity of 10 MLD and 12 MLD and the work is expected to be completed by March 2021.

Insofar as Hendrepada nallah is concerned, there has been an exchange of correspondence with NEERI. The Municipal Council is directed to coordinate with NEERI so as to ensure that the work of treatment can be completed on or before 31 May 2020.

The Railway Department had granted its sanction for the way leave facility, subject to the payment of an amount of Rs 1.19 crores. The amount has been deposited. However, it appears that, subsequently by a letter dated 24 January 2020, the Divisional Railway Manager (Works) of the Central Railway has directed the Municipal Council to submit detailed estimates with supporting documents for the work within the Railway premises for calculating supervision and other charges.

The Court has been assured that the Municipal Council shall immediately take up the matter with the Railway authorities. We direct the Chief Officer of the Municipal Council to follow up the matter with the Divisional Railway Manager (Works) within one week. Both the officials shall resolve the pending issues within a period of one month from the date of receipt of a certified copy of this order.

Maharashtra Industrial Development Corporation

The affidavits filed by the Principal Secretary, Environment Department and by the Executive Engineer, MIDC indicate the factual position.

The Executive Engineer, MIDC has stated in his affidavit that the National Institute of Oceanography⁹, by its report dated 5 January 2016, identified the points

of disposal for Additional Ambernath, Ambernath and Badlapur industrial areas and Dombivali industrial area. We have taken note of the tabulated statement presented by MIDC on affidavit indicating the steps which were taken towards the initiation of the work. The position in regard to the work is as follows:

- (i) For Additional Ambernath, Ambernath and Badlapur industrial area, for the work of extending disposal lines to 17.5 kms, as suggested by NIO, a work order was issued on 27 February 2019 after tendering process was complete. The date of completion is 26 February 2022;
- (ii) For the work of laying of pipeline of 7.5 kms for the Dombivali industrial area to carry the effluent treated from CETP outlet deep into Ulhas Creek, the work order has been issued on 15 February 2019 to the successful bidder with the date of completion as 14 February 2020;
- (iii) On 12 September 2019, administrative approval has been received for setting up a 4 MLD STP for the residential zone of the Dombivli industrial area. Tenders were opened on 19 November 2019 and the lowest bid has been submitted to the competent authority on 21

November 2019 for approval.

We direct that a final decision on the award of the work be taken by the competent authority within a period of one month from the date of receipt of a certified copy of this order.

We direct MIDC to file quarterly progress reports before this Court.

We direct that all further affidavits to be filed before this Court by the Municipal Corporations and Municipal Councils shall be filed by the Commissioners of the Municipal Corporations or the Chief Executive Officers, as the case may be.

The Principal Secretary in the Environment Department of Government of Maharashtra shall continue to monitor the progress in terms of the previous orders of this Court.

Mr Kavin Gulati, learned senior counsel appearing on behalf of the Environment Department, has stated before this Court that on the next date of hearing he will file a tabulated chart, indicating a summary of the updated position.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER