

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

O.A. No. 60/2015/EZ

**KALINGA NAGAR (K-8)  
RESIDENTS' WELFARE ASSOCIATION  
VS**

**Secretary, Ministry of Urban Development  
& Housing, Govt. of Odisha & Ors.**

CORAM: **Hon'ble Mr. Justice S.P.Wangdi, Judicial Member  
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member**

**PRESENT:**

<b>Applicant</b>	<b>: Mr. G.Pujari, Advocate</b>
<b>Respondent No. 1 &amp; 5</b>	<b>: Mr. Amit Pattanaik, Addl. Govt. Advocate</b>
<b>Respondent No. 2</b>	<b>: Mr. Buddhadev Tripathy, ALO, BDA</b>
<b>Respondent No. 3</b>	<b>: Md. Mojahid, ALO, BMC</b>
<b>Respondent No. 4</b>	<b>: Mrs. Papiya Banerjee Bihani, Advocate</b>
<b>Respondent No. 6</b>	<b>: Me. P.K.Bhunia, Advocate</b>

Date & Remarks	Orders of the Tribunal
Item No. 5 24 <sup>th</sup> August, 2017.	<p><b><u>Per Justice S.P.Wangdi, JM :</u></b></p> <p>Stated shortly, the case of the applicant in this OA is that a Housing Scheme known as "Plotted Development Scheme, 1991" introduced by the Bhubaneswar Development Authority (BDA), respondent No. 2 envisaged development of house sites of nearly 6000 plots with basic urban infrastructure like roads, water supply system, electricity and sewerage system in six villages of Naugoan, Malipara, Sankarpur, Paikrapur, Subudhipur and Sijupur with the active assistance of HUDCO. The Authority was also developing 3000 plots at Bharatpur</p>

and Ghatikia on behalf of GA Department of the Govt. of Odisha.

A part of the aforesaid scheme was known as Kalinga Nagar-8 (KN-8) falling within the jurisdiction of Bhubaneswar Municipal Corporation (BMC), respondent No. 3, where persons had constructed houses on the plots allotted to them. As it was assured that sewerage system with treatment unit would be provided, the residents connected their sewers to the pipes laid for the purpose by Bhubaneswar Development Authority (BDA), the respondent No. 2. It is alleged that the sewer pipes were neither connected to a treatment plant nor drained to any system resulting in over-flowing of the manholes thereby polluting the air and the ground water drawn by the residents for consumption. The residents of Kalinga Nagar-8 had been raising this issue since 2006 but there had been no response from the concerned authorities.

It is next alleged that the solid waste management of the respondent No. 3, i.e., BMC, was also inept as solid wastes are dumped in the open space in the residential area of KN-8 contributing further to the pollution of the environment.

The applicant thus prays for a direction upon the respondents to connect the sewerage lines of KN-8 to a treatment plant, for its proper maintenance and for

handling of the solid waste in accordance with law.

After taking cognizance of the case, as the questions raised in the OA involved substantial questions relating to environment, reply and status reports were directed to be filed by the respondents and upon the respondent No. 3 to take all steps and measures for protection of environment of the area in question. Direction was also issued for pumping out the waste water from the manholes and other open area regularly until the connectivity of the pipes was made to the Central Sewers System. The respondent No. 3 was further directed to remove all solid waste dumped in the open near the residential areas in accordance with then extant Municipal Solid Waste (Management & Handling) Rules, 2000. Status reports were called for from the respondents No. 1,3 and 4 on the action taken by them.

Report of the Odisha State Pollution Control Board i.e., the respondent No. 5, filed on 5.10.2015 on the inspection conducted by the Board on 4.9.2015, revealed that there was substance in the facts stated in the OA by the applicant. For the sake of convenience the inspection report of the PCB is reproduced below :-

**“ Remarks:**

. Most of the manholes of sewerage system is found to be broken/open for which wastewater

overflows on the road leading to nearby low land area.

- . Wastewater logging in 6 patches of low land inside the residential colony create unpleasant and unhygienic situation in the vicinity.
- . The allegation raised by KRWA is found to be genuine. Hence, the concerned authorities may be requested to take necessary action for redressal of the issue.”

Accordingly, by order dated 5.11.2015, the BMC was directed to take necessary action for remedying the inadequacies indicated in the report of the State PCB.

Since the presence of the Public Health Engineering Department (PHE) and Odisha Water Supply and Sewerage Board (OWSSB), was found to be necessary, they were directed to be added as parties as respondents No. 5 and 6 respectively, vide order dated 27.4.2016. The circumstance that led to the passing of the order was in consideration of the averments of the respondent No. 2 made in their affidavit to the effect that the work of maintenance of sewerage had since been handed over to the PHE department by a decision taken in its 129<sup>th</sup> meeting held on 22.6.2015.

By order dated 27.4.2016, the PHD, i.e., the respondent No. 5, was directed to inform as to whether :

- i) the estimate for repair and restoration of sewerage

network of Kalinga Nagar K-8 has been prepared as stated in the affidavit of respondent No. 1 affirmed on 25.1.2016.

- ii) the detailed project report for comprehensive sewerage system in the left out area of Bhubaneswar city and Kalinga Nagar K-8 has been completed, which was stated to be under process and be completed by 30.4.2016 in the affidavit of the Respondent No. 1.

Preceding this direction, on 25.1.2016, an affidavit had been filed on behalf of the Commissioner-cum-Secretary, Housing and Urban Development Deptt., Govt. of Odisha, Respondent No. 1 whereby it had been stated as follows :-

“That it is humbly submitted that in view of the kind orders of Hon’ble Tribunal the Engineer-in-Chief, Public Health, Odisha intimated the Housing & Urban Development Department that the un-commissioned sewerage system of Kalinga Nagar(K-8) area, Bhubaneswar which was developed by Bhubaneswar Development Authority (BDA) almost 20 years back is yet to be handed over along with the requisite engineering documents to the PH Division-III Bhubaneswar for the verification and assessment of existing status by BDA. Further it is intimated that the said un-commissioned sewerage system seems to have lot of unauthorized sewer connections and there is no disposal facility or even earmarked area for ensuring quick commissioning of the Sewerage system.

5. That it is humbly submitted that, in view of the aforesaid position and with due deference to the kind

orders of the Hon'ble Tribunal utmost efforts are being taken by the H&UD Department to take up the issue to attain its finality. Accordingly a meeting was held under the Chairmanship of the Deponent on 21.01.2016 regarding sewerage network in Kalinga Nagar (K-8) area. In the said meeting it was decided to take the following steps as detailed below-

**Short Term Measures**

- I) BDA, Bhubaneswar shall hand over to Public Health Engineering, Odisha (PHE(O) the physical sewerage network of Kalinga Nagar K-VIII on 21.01.2016.
- II) EIC, PHE(O), shall take over the sewerage network and also to give an undertaking on 21.01.2016 that by using cesspool emptier, the sewerage network of Kalinga Nagar-VIII will be maintained with regular cleaning.
- III) BDA, Bhubaneswar will deposit further cost of PHE(O) again in the month of July 2016 for another 6 months towards maintenance and cleaning of sewerage line of Kalinga Nagar K-VIII.
- IV) PHE(O) will prepare an estimate for repair and restoration of sewerage network of Kalinga Nagar K-III by 20.02.2016 and BDA, Bhubaneswar will deposit the required amount for this purpose to PHE(O) by 15<sup>th</sup> March 2016.

**Medium Term Measures**

- I) Sewage Board will prepare plan & estimate for

the transportation of sewerage and disposal/treatment on medium term basis in Division-IV where Kalinga Nagar (K-8) area comes. For the Sewerage Treatment Plant (STP) system (de-wats) BDA, Bhubaneswar will hand over the requirement land to sewerage Board.

- II) Join inspection will be made by BDA, Sewerage Board and PHE(O) for finalization of the site and land required by 28.02.2016.
- III) BDA, Bhubaneswar will provide required funds for preparation of plan and estimate and execution of De-wats system by 31.03.2016.

**Long Term Measures**

- I) Since Sewerage Board is already in the process of preparation of a Detailed Project Report (DPR) for comprehensive sewerage system in the left out area of Bhubaneswar city and Kalinga Nagar K-VIII is also coming under this comprehensive sewerage system, accordingly the same will be finalised by 30.04.2016.
- II) DPR will be made available by 30.04.2016 and implementation of the same will be done by Sewerage Board after approval of DPR and accordingly source of funds will be tied up.

Accordingly all concerned have already been intimated to take appropriate action at their end.

A copy of the minutes of said meeting is enclosed hereunder at **Annexure-A/1**.

6. That, it is relevant to mention here that as a part of action plan the sewerage system of Kaling Nagar (K-8 area has been handed over to the State PHEO by the BDA on 21.01.2016. further, an undertaking as per the decision of the meeting has also been furnished by the EIC, PH that the sewerage system of Kalinga Nagar (K-8) area will be properly maintained and cleaned by Cesspool. It is further submitted, the activity relating to cleaning and maintenance of sewerage will continue by Cesspool machine till completion of the Sewerage Treatment Plant.”

One of the contentious issues in the case was the necessity of suitable land for construction of Sewerage Treatment Plant (STP).

In the affidavit filed on behalf of the Commissioner-cum-Secretary, it was stated that the BDA (respondent No. 2) had deposited a sum of Rs. 67,07,000.00 on 14.3.2016 as a part of an action plan for repair and restoration of sewerage network in KN-8 area and that, on a joint inspection conducted on 27.2.2016, a plot of land had been earmarked for construction of STP. It was reported that cleaning work and maintenance of sewer was continuing and would continue by deploying Cesspool Emptyer for the purpose until completion of the STP. In their affidavit filed on 26.4.2016, the BDA reiterated the stand taken by the Housing and Urban Development Department



and further went on to submit that the scheme relating to sewerage system in connection with KN-8 Plotted Development Scheme, Bhubaneswar, had been handed over to the State Public Health Engineering Division –III on 21.1.2016.

The second report filed by the State PCB on 17.5.2016 indicated that the temporary measures pertaining to cleaning of sewer and collection and disposal of municipal solid waste were found to be satisfactory.

The Commissioner-cum-Secretary, Housing & Urban Development Deptt., Govt. of Odisha, in his affidavit filed on 17.5.2016, while re-emphasising payment of Rs. 67,07,000.00 by the BDA, further reiterated that the Detailed Project Report (DPR) for comprehensive sewer system in the left out areas of Bhubaneswar city and KN-8 was in the process of its preparation through M/s TTI Consulting Engineers (India) Pvt. Ltd. and would be submitted by July 2016 as per information received by them from the OWSSB. Similar affidavits were filed on behalf of the PHE, respondent No. 5 and OWSSB, respondent No. 6 on 17.5.2017. It was also submitted that it would take at least one year to complete the construction work of the STP and to make it functional.

However, in the affidavit of the respondent No. 6,

i.e., OWSSB, it was stated that the process of handing over of the identified land to the BDA upon which the STP was to be constructed, had not yet been finalised.

Eventually, on 1.9.2016, Engineer-in-Chief, PHE, Govt. of Odisha, filed an affidavit stating that the “land identified for the purpose of setting up of Sewerage Treatment Plant in respect of Kalinga Nagar-8 area has been received by the Bhubaneswar Development Authority and has thereafter been handed over to PHE. The same was taken over by the Orissa Water Supply and sewerage Board from the PHE Deptt. on 17.8.2016. The said land will be used by the said Board for construction of Sewerage Treatment Plant in respect of KN-8 area”.

Without entering into further details, it would be sufficient to note that by an affidavit filed by the Chief Secretary, Govt. of Odisha, on 3.10.2016 it was inter alia informed that the DPR for construction of STP had been prepared by the OWSSB.

In his affidavit filed on 1.9.2016, the Engineer-in-Chief, PHE, also addressed on the issue with regard to the manholes which were said to be either damaged or missing as would appear from the following averments contained therein :-

“..... out of 353 existing manholes chambers, 226

nos. of chambers were fully or partially damaged and required repair work. Till 22.08.2016, 143 nos. of manholes have already been constructed/repared and repairing work is continuing for other identified manhole chambers. However those identified manhole chambers where repair work is undergoing, have also been covered. It is further submitted as has been ascertained from the contractor who has been engaged to execute the said work, the repair work in respect of remaining 83 nos. of manhole chambers which is continuing will be completed by 30.09.2016.”

Further affidavit was filed by the Engineer-in-Chief, PHE, respondent No. 5, on 15.05.2017 that contained the following categorical averments in paragraph 3 which we may reproduce below :-

“3. That it is respectfully submitted, steps have been taken to cover all those manholes which are found to be either open and/or partially damaged through a contractor engaged for the said purpose. As on date total number of 286 manholes have been constructed/repared. In course of executing the repairing/restoration work of the manholes and the sewerage lines, 44 new manholes were constructed and work for the same has been completed. The entire sewerage collection lines for Kalinga Nagar K-8 has been repaired/constructed and completed. It is respectfully submitted, the allegation that the PHE(O) has not prepared the estimate for repair and restoration of sewerage collection network is without any basis and

contrary to the affidavits filed earlier wherein it has already been stated that the amount of Rs. 67.07 lakhs was received from BDA for the said purpose and money from an amount has been utilized for repair and restoration work.”

Dealing with the matter pertaining to the DPR for the sewer network and construction of STPs, in the Bhubaneswar city the following categorical statements appear in the affidavit filed by the OWSSB on 15.5.2016

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“4. That in respect of para-4 & 5 of the affidavit of the applicant, it is submitted here that, it is a fact that this Respondent has undertaken the work of Medium term measure for preparing a DPR for collect and treatment of waste water for K8 area. In fact, said area has been surveyed by OWSSB. It was observed during the survey that, a ridge line is passing through the K-8 area dividing it into two grounds-i) containing about 303 plots and ii) containing about 845 plots if the said area. The group containing 845 plots was found to come under sewerage District-III of Bhubaneswar City, as Bhubaneswar City has been divided into six sewerage districts for implementation of the Project. Out of the said six sewerage districts, each districts shall have one STP to treat the waste water. Accordingly, the group containing 845 plots is coming under Kochilaput STP and the tender for such STP is under process, after the order by the Hon’ble High Court dated 4.4.2016 in WP (C) No.20465/15. But, in case of other group containing

about 303 plots, the said group comes under District-IV of Bhubaneswar City, for which the DPR is under finalization as a long term measure of the work. In this aspect, for an interim measure, the estimate has been prepared and has also been approved under AMRUT for about Rs. 1.70 crores and for that, the land to the extent of Ac 0.918 decs. Has also been provided by GA. Department of the State Govt. for providing a localized treatment till the waste water coming from about 303 plots of the group is finally treated in a centralized sewage treatment system to be established in district IV of the City. In this aspect, the tender for establishment of local treatment for these group containing 303 plots has also been finalized and better of acceptance of tender has been issued to the contractor for execution of the work vide letter of the Project Director, PMC, OWSSB, Bhubaneswar dated 05.05.2017. In this process, the OWSSB is making every effort to comply the requirement of this Hon'ble Tribunal. The copy of the letter of the Project Director, PMC, OWSSB, Bhubaneswar dated 05.05.2017 relating to acceptance of tender and the copy of the letter of the Member Secretary, OWSSB, Bhubaneswar dated 18.11.2016 relating to approval of the Price Bid of the work "Construction of Sewerage System of District-III" are filed herewith as Annexure-1 & 2 to this counter affidavit for reference. "

We find that the Engineer-in-Chief, PHE, respondent No. 5, also unambiguously has stated in his affidavit that repair and restoration work of the manholes and sewer lines in KN-8 area was being

carried out through a contractor and many of those had been repaired and the missing links connected and that there was no obstruction to the sewage flow in KN-8 area in respect of plots referred to by the applicant.

We have perused the pleadings contained in the OA and have carefully examined the affidavits filed by various respondents. We have also heard the learned counsel for the parties.

The principal complaints of the applicant were (i) that the sewerage line in Kalinga Nagar (K-8) had not been connected to the STP and the STP itself had not been constructed in that area which according to the applicant, has caused over-flowing of sewage from the manholes causing air pollution as well pollution of ground water drawn by the residents of the area and, (ii) there was lack of management of municipal solid waste in accordance with the rules.

As already dealt with in detail above, the State respondents appear to have taken short-term, mid-term and long-term measures until the common STP was finally installed and made functional. We find the State respondents consistently maintaining that cleaning and maintenance of the sewer lines was continuing and would continue by Cesspool Emptier till completion of the STP which was anticipated to take one year. The damaged manholes and sewer lines had

been repaired and were functional. Municipal wastes were being collected and disposed of at the designated site in KN-8 area.

These facts have not been controverted by the applicant except to point out certain inadequacies in sewer lines which we find have been answered by the OWSSB.

Construction of STP at KN-8 is admittedly a part of a larger master plan for which DPR forms the basis. Undeniably, reasonable time would be necessary to complete the project. It would be unfair to prescribe an unreasonable time frame considering the magnitude of the work.

Considering all the aspects, we would prefer to adopt a balanced and pragmatic approach and part with the matter by directing the BDA, PHE, OSWSB, respondents No. 2, 5 and 6 respectively, to complete the construction of STP within the projected period of one year. In the interregnum, the temporary short term and mid-term measures adopted by the Respondents shall be continued to be undertaken for the benefit of the general public.

The applicant has suggested that the BMC, respondent No. 2, should consider recycling of the solid waste for generation of energy. As we find the

suggestion to be of substance, reasonable and practicable, we direct the BMC to explore the possibility of installing solid waste-to-energy plant and composting plant for domestic bio-degradable waste. This would relieve the BMC from the enormous task of waste disposal by adopting landfill method. Setting up of waste-to-energy plant would also relieve the State to some extent of the burden of energy generation from other sources.

With the optimism that the State will act on the above, the OA stands disposed off.

However, the respondents shall file progress report on the works being executed on the STP every quarterly until the project is finally completed and is made functional.

**With the above directions, the OA stands disposed of.**

**No order as to costs.**

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Justice S.P.Wangdi, JM  
24.8.2017

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Prof. (Dr.) P. C. Mishra, EM  
24.8.2017



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