

Nizamuddin West Association vs Union Of India on 22 December, 2023

Item Nos. 9 & 11

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 06/2012
(I.A. No. 857/2023)

Nizamuddin West Association

Applicant

Versus

Union of India &Ors.

Respondent(s)

WITH

I.A. No. 537/2023

In

Original Application No. 06/2012

Nizamuddin West Association

Applicant

Versus

Union of India & Ors
(BLK-B (North) GK-1 RWA,
through its President: Applicant)

Respondent(s)

Date of hearing: 22.12.2023

CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. A.Q Zaidi, Adv. for Applicant in OA 06/2012

Respondent: Ms. Akansha Singh, Advs. for Applicant in I.A 537/2023
Ms. Jyoti Mendiratta, Adv. for Govt. of NCT of Delhi
Mr. Bhanwar Pal Singh Jadon, Mr. Navin Kumar & Mr. Hardik Saxena,
Advs. for the State of UP
Mr. Rahul Khurana, Adv. for the State of Haryana & HSPCB
Ms. Puja Kalra, Mr. Virendra Singh, Advs. for MCD with Mr. S.K. Meena,
EE & Mr. Rakesh Ahuja, EE, SZ

Mr. Kunal Anand, Adv. for DJB

Mr. Narender Pal Singh, Adv. for DPCC

Mr. Raj Kumar, Adv. for CPCB (Through VC)

Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)

Ms. Deeksha L. Kakar, Adv, Ms. Akansha Choudhary, Adv for DDA

P

ORDER

1. This I.A has been filed by the applicant Nizamuddin West Association (Regd.) through its President with the prayer to punish the respondent for deliberate, disobedience of the order of this Tribunal dated 13.01.2015 under Section 26 of the NGT Act. Learned counsel for the applicant seeks permission to withdraw this I.A with liberty to file a fresh I.A with a proper prayer. The prayer is allowed. The I.A is dismissed with liberty.

2. In this I.A, the residence of houses from B-159 to B-187 of GK-1, RWA have come up with the grievance that foul smell is emitting from the drain which is open near the backside of their houses. The Tribunal in the previous proceedings dated 22.11.2023 had noted the factual position as follows:

"3. The report of the DJB mentioned above the network of Barapulla drain of which Kushak drain is also a part as under:

"Barapulla drain, derives its name from a 12-arch bridge of the Mughal period. This storm water drain of Delhi outfalls into the river Yamuna across the ring road near Sarai Kale Khan Village and is emanating from the following smaller drains: -

i. Satpula (7 arched bridge) drain originating from the south ridge.

ii. Kushak drain (including Mehrauli drain) originating from the central ridge.

iii. Drains near AIIMS, INA Market and Lajpat Nagar, iv. Sunehri Nalla from Lodhi Garden area. The drains of South Delhi falls into the Barapulla Basin. The Kushak Nallah- Barapulla Nallah enters MCD area behind INA Market. After this a tributary, called Defence Colony Nallah joins the Kushak Nallah. There after Sunehri Nallah from New Delhi Areas joins it. From this point the Kushak Nallah is called Barapulla Nallah. In the upper reaches, the Defence Colony Nallah is named as Chirag Delhi Drain and Chirag Delhi drain is passing behind the B- Block G.K.-I which actually affects the Applicant's. This drain originates from three hilly Nallahs above Devli Bandh in Mehrauli.

4. As per the report of DJB there are three main causes of the emitting of foul smell from the open

area of drain which are:-

- i. The discharge of sewage from the unauthorized colonies Chirag Delhi, Chatterpur, Mehrauli, Saidullajab, Devli, Khanpur, Sangam Vihar, Tigri, Dakshinpuri Extn. etc. ii. Improper desilting of the drains due to covering of the drain and iii. Other factors which have caused stagnation of sewage and generation of foul gases.
5. The report filed by the MCD discloses that the total length of the drain in question is approximately 945 meters and out of this 645 meter is covered and 300 meters is open drain.
6. Report of the MCD discloses that some desilting operation has been done but as per the photographs which has been produced during the course of argument by the counsel for the applicant, the silt still exists in the open area and foul smell is still emitting and no improvement of the situation has been witness by the residents of that area.
7. The report of the DJB in paragraph 11 reveals that there are 11 points from where sewage is entering the storm water drain in question and out of those 11 location five sewage drain have been trapped and it is stated that remaining six will also be trapped by 31.03.2024 and only point i.e. sewage coming from Mehrauli will be trapped by 30.06.2025. Learned counsel appearing for DJB has submitted that once these points from which sewage is falling in the storm water drain, are trapped then the issue will be solved. Learned counsel for the applicant has disputed such solution and has sought time to file objection to the report filed by the MCD and DJB.
8. In the meanwhile till the action as proposed by the DJB is completed, the remedial measures are required to be taken to solve the immediate problem faced by the residents of the area concerned. In this regard learned counsel for the MCD has fairly accepted the proposal that the vents on the covered area of the drain can be increased so that the concentrated foul smell may not exist from the open drain near the residence of the applicant in the I.A.
9. The report filed by the MCD reveals that there are 10 vent shafts at the approximate interval of 30 meters in the entire covered area of 645 meters. The concerned officers of the MCD are directed to explore the feasibility and possibility of increasing number of vents in the covered area of drain and also to take appropriate action in this regard.
10. Meanwhile the concerned authorities are also directed to take action for regularly desilting the open area of the drain and also to take regular measures for adequate desilting of the covered area and disclose it in the next report the detail of the action taken in this regard.
11. It has been submitted before the Tribunal that the drain in question has four channels which are interconnected and on account of existence of four channels in the drain there is difficulty in cleaning it. Hence the learned counsel for the MCD is directed to produce the project report on the basis of which the four channels of drain were constructed and to point out the object and purpose of constructing four channels in the drain.

12. The DJB will also disclose the capacity of Okhla sewage treatment plant, the extent of sewage which is diverted to the Okhla sewage treatment plant from different sources and also if the capacity of the Okhla sewage treatment plant is sufficient to treat the sewage which is under process of being diverted from the 11 points which are disclosed by DJB in paragraph 11 of the report."

3. Submission of Ld. counsel for the MCD is that the feasibility of increasing number of vents in the covered area of the drain has been examined and the MCD has decided to have 40 more vent shafts in the covered area of 645 meter in addition to the 10 vent shafts which are already existing there. It has been submitted by learned counsel for the MCD that the work order for erecting 40 additional vent shelves will be issued within a period of 2-3 days and the work will be completed within the period of one and a half months.

4. The stand of the MCD in the Action Taken Report dated 21.12.2023 is that desilting of the drain does not have any effect on the foul gases / smell emitting from the open part.

Learned counsel for the MCD has submitted that the MCD has carried out the work of desilting of the drain in question but, the stand of the counsel of the applicant is that the said desilting work has been done only 3-4 days back when the matter was to be listed before Tribunal and that too in the open area of the drain. Counsel for the applicant has submitted that the problem has not been remediated till now and the foul smell with the same intensity is emitting from the open area.

5. Learned counsel appearing from the Delhi Jal Board (DJB) has submitted that out of 11 drains flowing from unauthorized colonies to the storm water drain in question, five were already tapped when the previous order was passed and thereafter one more drain namely R&S Block Nallah from Outer ring road to S-363 to B-272 GK-1, near corner DDA Park, Krishi Vihar has been tapped. He has submitted that the remaining five drains will also be positively tapped by 31st March, 2024. He has also stated that expansion work the Okhla STP will also be completed by 31st March, 2024 and the expended Okhla STP will start functioning by 31st March, 2024. Hence, he is directed to file the affidavit of CEO, Delhi Jal Board disclosing the time schedule leading to the completion of tapping of all the 11 drains and Mahrauli drain as also completion and functioning of the expanded Okhla STP. In a meanwhile the MCD will regularly carry out the work of desilting of open portion of the drain as also the covered part thereof.

6. It has been pointed out that since four concrete chambers have been created in the drain therefore, cleaning of the drain is difficult. The Tribunal in its previous order had directed the MCD to produce the project report on the basis of which the four channels in the drain were constructed and to point out the object and purpose of constructing four channels. Though along with the report of the MCD a project report of the construction has been filed but the learned counsel appearing for MCD is not in a position to point out as to why the four channels were constructed in the drain and what was the object and purpose of the construction of those four channels. She has submitted that Sh. Sanjeev Kumar Mudgil, EE, Project, Central Zone was to assist her in the matter but he has not reached the Tribunal till now to assist her. We are surprised to note the lapse on the part of the officer of the MCD in not reaching the Tribunal on time to assist the counsel as a result of which the counsel is not in a position to put forth the case and assist the Tribunal, which has unnecessarily

wasted the Tribunal's time.

7. In the aforesaid background we call for the fresh report from the MCD and Delhi Jal Board as also the affidavit of the CEO, Delhi Jal Board on above terms within a period of two weeks from today.

8. In compliance of order dated 17.10.2023, reports have been filed by Govt. of NCT of Delhi on 20.12.2023, by Environment, Forest and Climate Change, Govt. of UP and reports dated 04.12.2023 and 06.12.2023 are filed by Govt. of Haryana and CPCB respectively. These reports are taken on record.

9. List on 09.01.2024.

Prakash Shrivastava, CP Sudhir Agarwal, JM Dr. A. Senthil Vel, EM December 22, 2023 Original Application No. 06/2012 (I.A. No. 857/2023) PU.