

Anumula Revanth Reddy vs Ministry Of Environment Forest And ... on 31 January, 2023

Author: Satyagopal Korlapati

Bench: Satyagopal Korlapati

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Original Application No. 189 of 2020 (SZ)
(Through Video Conference)

IN THE MATTER OF
Anumula Revanth Reddy,
Member of Parliament,
R/o Plot No. 854-P, Road No. 44,
Jubilee Hills, Hyderabad,
Telangana- 500033.

...Applicant(s)

Versus

1. Union of India
Rep by its Secretary,
The Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhavan,
Jorbagh, New Delhi- 110003.
2. State Environment Impact Assessment Authority,
Rep by its Member Secretary,
A-3, Paryavaran Bhavan,
Sanath Nagar Industrial Estate,
Sanat Nagar, Hyderabad- 500018.
3. State of Telangana,
Rep by its Principal Secretary, Irrigation,
Secretariat, Hyderabad- 500022.
4. Telangana State Pollution Control Board,
Rep by its Member Secretary,
A-3, Paryavaran Bhavan,
Sanath Nagar Industrial Estate,
Sanat Nagar, Hyderabad- 500018.
5. Greater Hyderabad Municipal Corporation,
Rep by its Commissioner,
CC Complex, Lower Tank Bund,
Hyderabad- 500063.
6. Hyderabad Metropolitan Water Supply & Sewerage Board,
Rep by its Managing Director,
Kairatabad, Hyderabad- 500004.

7. District Collector of Rangareddy District,
Collectorate Complex, Lakidikapool,
Khairatabad, Hyderabad.
8. Hyderabad Lakes and Water Bodies Management Circle,
Rep by its Superintendent Engineer,
Irrigation Department, Ranga Reddy District,
Hyderabad, Telangana State.
9. M/s DLF Home Developers Ltd,
Rep by its General Manager,
DLF Buildig, 8th Floor, Block 3,
Gachibowli Hyderabad, Telangana.
10. M/s. My Home Avatar & My Home Construcitons Pvt. Ltd.,
Rep by its Managaing Director,
8th Floor, Block 3, My Home Hub,
Madhapur, Hyderabad- 500081.

1

...Respondent(s)

For Applicant(s):	Mr. Mohit K Jakhar for Mr. Sravan Kumar.
For Respondent(s):	Ms. J. Dayana for Mr. T. Sai Krishnan for R4. Mrs. Renukadevi for Mrs. H. Yasmeen Ali for R2, R3, R6 to R8. Ms. G. Keerthana for Mr. D. Srinivasan for R5. Mr. Rahul Balaji for R10.

Judgment Reserved on: 18th January, 2023.
Judgment Pronounced on: 31st January, 2023.

CORAM:

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGMENT

Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member

1. The applicant who is a Member of Parliament and a resident of Hyderabad has filed above application alleging illegal encroachment of water body by respondent nos. 9 and 10 due to which there is water logging in the project site.

2. The 9th respondent, who is the DLF Home Developers Ltd., is coming up with a residential complex in Sy Nos. 217(P), 218-225 of Narsingi Village, Sy. Nos. 263-267 of Puppalagud Village of Rajendra Nagar Mandal, Rangareddy District and the built up area is 6, 05,719.24 sqm consisting of 10 residential blocks of 30 floors.

3. According to the applicant:

(i) The G.O. Ms. No.111 dated 08.03.1996 which was issued to protect the catchment areas of Himayatsagar and Osman Sagar Lakes was violated by the project proponent.

(ii) The Andhra Pradesh Building Rule, 2012 and the rules of the Irrigations Department also are violated.

(iii) The MoEF&CC notification dated 14.11.2018 is also said to be violated.

4. The applicant stated that complaints have been given to the MoEF&CC, SEIAA and Pollution Control Board. As there is no action taken by the authorities the above Original Application has been filed. Hence, the applicant has sought for a declaration that the construction in natural water body by the 9th and 10th respondent as illegal and violative of G.O MS. No. 111 dated 08.03.1996 and direct the regulatory bodies to take action against the respondents and finally to restore the nala which is damaged by the respondent nos. 9 and 10 at Puppalaguda of Rajendranagar Mandal.

5. The 1st respondent, namely, the MoEF&CC has filed its counter stating that the applicant had made a representation on 22.05.2020 alleging that the Environmental Clearance was obtained by the project proponents for construction activity which is carried out by the 10 th respondent without obtaining any name change or amendment from the competent authorities, namely, SEIAA/SEAC, HMDA, DTCP along with the approved plans by violating the environmental norms. It is stated that already this Tribunal had appointed a Joint Committee on 30.09.2020 which is also filed.

6. The 2nd respondent, who is State Environment Impact Assessment Authority (SEIAA), has stated that the M/s. DLF Home Developers Limited, which is the 9th respondent, had applied for Environmental Clearance on 15.07.2015 for construction of residential projects at Sy. Nos. 217(P), 218-225 of Narsingi Village, Sy. Nos. 263- 267 of Puppalagud Village of Rajendra Nagar Mandal, Rangareddy District in total plot area of 96,529.8 Sq.m and for a built up area of 6,05,719.24 Sq.m. It is stated that the proposal was examined and processed in accordance with EIA Notification, 2006 and its amendments thereof. The project is exempted from public hearing as it is a construction project. The Committee considered the project proposal and recommended for issuance of Environmental Clearance. Further, the recommendation of SEAC was examined and considering the recommendations of SEAC, prior Environmental Clearance to the project was given on 21.12.2015.

7. The representation sent by the applicant dated 22.05.2020 and 25.09.2020 were also forwarded to the respective authorities and the Sub-Committee of SEAC inspected the above project site on 17.11.2020 to verify the issues mentioned in the complaint. The Committee had found that 9th and 10th respondent had not encroached or obstructed or damaged the flow of natural water from Narsingi Lake, Muskin Cheruvu to Nagireddy Kunta. They are not located adjacent to the project site and there is no common water channel connecting these three water bodies.

8. The 3rd respondent, which is the Irrigation Department of State of Telengana has filed its report wherein it is specifically stated that rainfall with 100mm per hour with peak runoff is categorised as cloud bursts. The catchment area is worked out and based on the above, the discharge is arrived at

and correlated with the existing constructed storm water drain. The constructed storm water drain is sufficient to carry the water even in cloud bursts situation which will be more than 100mm. The report further states that the adequacy of the existing drainage structures to accommodate the discharges to be occurred due to the cloud bursts and also submit the readiness in case of cloud burst were also verified.

9. A natural storm water drain was constructed by the developer to dispose of the water received from the catchment area as already the Irrigation Department has taken prior steps for the storm water drain. After personal inspection by the Executive Engineer, I& CAD Department, Irrigation Sub Division No.4, Hyderabad, it is stated that the requirement of extra provisions or additional box type culverts in the said location to dispose of the rain water in the times of cloud bursts is not necessary and also furnished the design of the storm water drain and how the Manning's formula for calculating the size of the drain was arrived at.

10. The 4th respondent, who is Telengana State Pollution Control Board, has stated that the project of the 9th and 10th respondents are in Narsingi Village and Puppalagud Village on the survey numbers referred above, though falls within 10 km radius of Himayatsagar and Osman Sagar Lakes and the downstream of the lakes, the said villages are not listed in the list of 84 villages within 10km catchment area of the Himayatsagar and Osman Sagar Lakes as mentioned in G.O Ms. No. 111 dated 08.03.1996. The SEIAA had also granted Environmental Clearance on 21.12.2015 and „Consent to Establishment was issued on 11.07.2016 from the pollution point of view. The Pollution Control Board also had issued „Consent to Operate to the 9th respondent in a phased manner in Phase-I the project proponent had obtained „Consent to Operate for 05 residential blocks on 25.04.2019. In Phase-II „Consent to Operate was issued for 05 residential blocks on 24.02.2020. The 9th and 10th respondents also have taken necessary steps to construct the rain water harvesting structure and have provided 150 KWH solar power and 1500 kg/day of organic converter. Therefore, so far the Pollution Control Board is concerned the construction and obtaining approvals are all within the rules prescribed.

11. The 7th respondent, who is the District Collector, Rangareddy District has filed its reply after inspecting the Narsingi Lake falling within Sy. Nos. 272 to 274 of Puppalguda Village stating that the said Narsingi Lake is situated adjacent to Bulkapur Nala which is a disused nala and on northern side to Osman Sagar Lake water pipeline. The report states further that no water bodies existed in the location and recorded as patta lands. It is reported that from Google map from the year 2003, there is an impression of small water body in Sy. Nos. 272 to 274 of Puppalguda Village, Gandipet Mandal.

12. It is mentioned that the boundaries of the land in Sy. Nos. 217/p, 218 to 225 of Narsingi Village and Sy. Nos. 263 to 267/p of Puppalguda Village were demarcated duly verifying the revenue records. As per the Survey of India toposheet, 1st order stream is passing through the site and it is revealed that the stream is connected into storm water drain leading to Muskin Cheruvu along with radial road no.5. However, there is no stream existing as per the village map and revenue record. Secondly, there is one more stream passing through the South East boundaries of Sy. Nos. 218 and 219 of Puppalguda Village and it is existing in the village revenue map but it is found that the alleged

construction of the towers are located 16mts to 20 mts away and do not obstruct the said stream. SEIAA also has mentioned that the 9th respondent has not encroached/obstructed or damaged the natural flow of the Narsingi Lake- 2, Mushkin Cheruvu to Nagireddy Kunta as they are not located adjacent to the project site and there is no common water channel connecting these three water bodies. If the project site is bounded by any water body normally NOC has to be obtained from the Irrigation Department. In this case, NOC from the Irrigation Department is not required.

13. In the Sy. Nos. 271 to 274 as observed by the Superintending Engineer, HL & WBM Circle, Hyderabad there is an indication of existence of water body in the said land and the same might be due to the diversion of the water into the said site from the Bulkapur Nala which is a disused canal, whose continuity was disturbed at the time of construction of ORR and service road without connecting the Bulkapur Nala, owing to which water is stagnating in the site. However, it is seen that the Sy. Nos. 271 to 274 are not connected to the project proponent.

14. The 10th respondent, who is implementing the project on behalf of the 9th respondent, has filed its reply. It is stated by the 10th respondent that the 9th respondent had made an application on 06.04.2016 before the competent authority and the Revenue Divisional Officer (RDO) for conversion of agriculture land to non-agriculture land in respect of the lands involved in the project. The RDO had accorded permission for conversion of agriculture land to non- agriculture purpose in favour of the 9th respondent on 19.05.2016. Thereafter, the Environmental Clearance was obtained and „Consent for Establishment was granted on 11.07.2016 followed by the NoC issued by the Hyderabad Metropolitan Water Supply & Sewerage Board (HMWSSB) on 31.07.2018. The Hyderabad Metropolitan Development Authority (HMDA) also had issued the Occupancy Certificate on 24.07.2020. The construction was commenced and completed only after obtaining the necessary permissions, approvals and the occupancy certificate.

15. The allegation that the project is encroached on the water body is stoutly denied by the 10th respondent as they are the patta lands and there were no water bodies in the said lands as claimed by the applicant. It is further submitted that there are no defined feeder water channels passing through the project site which are connecting Narsingi-2 Lake, Mushkin Cheruvu or Nagireddy Kunta. Further, the allegation of violation of Andhra Pradesh Building Rules, 2012 and violation of Irrigation Rules are also denied. The building permission for the project was issued only after physical inspection of the site of construction. As stated earlier as there is no defined channel and the land being the patta lands and not the water bodies, the question of obtaining NOC from the Irrigation Department does not arise. Hence, there is no violation of the Irrigation Rules.

16. Finally, the Joint Committee was constituted by this Tribunal comprising of District Collector, a Senior Scientist from MoEF&CC, Executive Engineer of Lake Protection Committee and Director of HMDA. An inspection was conducted on 07.10.2020 and it was reported that (i) there is no encroachment of Narsingi Lake 2 and Mushkin Cheruvu by the 10th respondent, (ii) as per Google 2003 image an agricultural outlet channel from Sy. Nos. 272 and 273 passes feeding the agricultural fields. However, in Google 2008 image there appears a drastic change in land use pattern and the water drain coming from Sy. Nos. 272 and 273 is not seen. Therefore, there is no water body in the Sy. Nos. 272 and 273. In Sy. Nos. 263, 264, 265, 266 and 267(P) of Puppalguda Village which is far

away from river Musi. As per the map, there is raw water channel from Osmansagar to Asifnagar passing on the northern boundary of the project site and 30 meters is left which includes green belt, shoulders, carriage way, footpath and buffer zone. Since, lay out along the conduit should have a minimum of 09 meters wide road plus green belt to a maximum of 100 feet to act as a buffer, the project proponent has developed 4.5 meters green belt, 01 meter shoulder, 10 meters drive way, 2.5 meters footpath and left 12 meters as buffer zone. As per the report, there are no water bodies present in the proposed project.

17. As per the NoC issued by HMWSSB, the project proponent shall maintain a maximum width of 100 ft from the conduit as buffer zone and the same shall be treated as part of mandatory open space. Upon inspection of the project, the project proponent complied with the conditions of HMWSSB NoC and other statutory permissions while developing the project. In the present case, as the project site is not bounded by any water body, NoC from Irrigation Department is not required.

18. After the filing of the above report, it was pointed out that the prior to the construction of the project no flood occurred in that area and it is after the construction made by the 9th and 10th respondent, during the monsoon period of 2020 heavy flood occurred in that area which resulted in inundation of large extent of area affecting the life of the people in that area. This aspect has not been considered by the Joint Committee, hence, yet another report was called for.

19. The 2nd report of the Joint Committee dated 11.04.2022 stated that prior to development by 9th and 10th respondents the lands were open lands. During the period 2005-2020, several developments have taken place like construction of outer ring road, laying of radial road and several projects including the project in question. Before these developments all these lands were open lands and rain water was passing through the land covered by the radial road no.5 and merged with the downstream of mushkin Cheruvu and Bulkapur Nala. The R & B Department while laying radial road no.5 constructed a box drain canal along the radial road no.5 for free flow of rain water. The drain was designed on the basis of annual rainfall of the region and water flow expected when 30 minutes excess rainfall occurs. There was no flooding before 2020 and in the year 2020, there was unusual rainfall due to which majority of areas in and around Hyderabad was affected. In the area in dispute, the flooding happened only because of heavy rainfall and blockage of Bulkapur Nala on the other side by the encroachers. The Irrigation Department had inspected these areas and removed the obstructions and ensured free flow of excess water. There is no obstruction to free flow of water due to the construction by the 9th and 10th respondents. Apart from this, there was another drain canal has been constructed by the 9th and 10th respondents along with other developers in these lands parallel to radial road no. 5 drain, from which excess water will join in downstream of Mushkin Cheruvu and flow towards Musi River.

20. Regarding the Sy. Nos. 272 and 273, an agricultural outlet channel is passing through the same to the agricultural lands but the ORR has come into existence and most of the lands are covered by buildings and radial road no. 5 and the excess rain water is passing through the box drain towards downstream of Mushkin Cheruvu. To be noted is that SY. Nos. 272 and 273 are not in the project site. The Joint Committee further has stated that the developers have constructed a box channel to drain out the excess drain water during the rainy season along with radial road no.

5. Apart from this, a box channel has been constructed parallel to Mushkin Cheruvu bund by the Developers together to drain out the treated water to avoid inconvenience and hardship to the residents. In addition the 9th and 10th respondents have constructed storm water drain all over the project boundary to let the free flow of rain water to the box drain constructed adjacent to the site and rain water harvesting pits in the site premises which helps in recharging of ground water.

21. The 3rd report of the Joint Committee also has stated that neither the physical inspection nor the revenue records or Google and NRSC satellite maps yielded any evidence of any water body by name Narsingi Lake-2 or any Nala leading to such water body. However, the box drain constructed adjacent to the project site and drain canal constructed by the project developers connecting downstream Mushkin Cheruvu are taking care of draining excess rain water into the Mushkin Cheruvu and no major flooding has been reported in this area during this monsoon season.

22. The applicant has sought for a declaration only to restore the nala or natural water body alleged to have been damaged by 9th and 10th respondents at Puppalaguda Village. The above reports of the respondents and also the Joint Committee report which was filed for three times after inspection also reveal that there is no such water body which had been obliterated by the 9th and 10th respondents as alleged.

23. In this regard, it is worthwhile to advert to the No Objection Certificate issued by the HMWSSB dated 31.07.2018, The NoC specifically states as follows:

"while approving the layouts along the conduit a minimum of 09 mtrs wide road plus green belt to a maximum width of 100 ft should be insisted to act as a buffer on either side of conduit and the green belt shall be accounted as part of mandatory open space to be left in the layout and draft notification vide Govt Memo No. 261/11/2006 dated 16.07.2007 in annexure-III special measure recommended by the Committee (Copy Enclosed) and with the following conditions:

The applicant has to construct the retaining wall slab culverts as per the IRC standards as per the drawings enclosed for crossing CRS masonry Raw water conduit at Ch No. 167.00 near ORR service road and Ch No. 178.00.

The applicant has to follow the provisions of G.O. MS. No. 111 for protection of the Osman Sagar Raw Water Conduit while undertaking developments/constructions in their site on southern side of existing raw water conduit.

No blasting activity should be carried out during the construction work which causes damages to the raw water conduit.

Heavy vehicles should not move across the raw water conduit. The tentative cost of Rs. 35.00 lakhs for shifting of 80mm dia RCC (six MGD fine) pipeline at two (2) locations i.e. Ch. NO. 167.00 and Ch No. 178.00 are to be borne by the applicant for development of Radial Road No. 5 as consented by them in their letter addressed to the undersigned."

24. From the reports of the Joint Committee also, it is clear that the above conditions have already been complied with. Therefore the apprehension of the applicant that water logging next to the project site is only because of the construction is not sustainable and sufficient safeguards have been made for rain water and storm water to drain as per the instructions given by the various authorities at various stages. According to the same, we feel that there are no further directions necessary in this regard excepting to direct the project proponent to strictly follow the directions that were given by each of the authority as the non- compliance of any of the conditions given by any of the authorities will be at the risk of the project proponent.

25. In view of the above, the Original Application is disposed of.

.....J.M. (Smt. Justice Pushpa Sathyanarayana)
.....E.M. (Dr. Satyagopal Korlapati) Internet - Yes/No All India NGT Reporter -
Yes/No O.A. No.189/2020(SZ) 31st January, 2023. (AM) Before the National Green Tribunal
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