

IN THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, KALAS MAHAL, CHENNAI
OA 113/ 2023 (SZ)

IN THE MATTER OF:

Vivek, Bangalore

... .. APPLICANT

VERSUS

The President, M/s. Gurudwara Sri
Guru Singh Sabha, Karnataka and
Ors

...RESPONDENTS

Previous D.o.H: 10.04.2024

Next D.o.H: 16.05.2024

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Place: NEW DELHI

Date: 13.05.2024

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**AFFIDAVIT ON STATUS REPORT ON
BEHALF OF THE RESPONDENT KSPCB**

I, Padmanabhan R , son of Late M.Ramanayaka, aged about 56 years, currently posted as Regional Officer I/C, Karnataka State Pollution Control Board (KSPCB), Nisargarga Bhavan", # Shivanahalli, Bangalore, Karnataka 560001, do hereby solemnly affirm and declare as under:-

1. That the deponent is working with Respondent KSPCB, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent KSPCB.
2. That the instant Affidavit on Status Report is being filed in compliance to the directions/ Order dated 29.11.2023



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passed by this Southern Zone Bench of this Hon'ble National Green Tribunal.

3. That on the factual background it is submitted that the Applicant Sri. Vivek, Secretary of the RWA-Shanthi Apartment, Gangadhara Chetty Road, Halasuru, Bangalore has filed the instant petition/application at Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi with regard to construction of a massive multistoried building within the buffer zone of primary storm water drain, beside Halasuru Lake, adjacent to Conrad Hotel, by Gurudwara on Kensington Road, Bengaluru, its alleged that the construction will damage Halasuru Lake as well as the storm water drain, though complaint have been made to the authority, they have not taken any action and hence the same has been admitted in Hon'ble NGT, Principal Bench in the name of Original Application No. 308/2022.
4. That the Hon'ble NGT, Principal Bench had passed an order dated 06.05.2022 with respect to the then Original Application NO. 308 of 2022 regarding massive multi-storeyed construction is being done within buffer zone of the primary storm water drain next to Halasuru Lake adjacent to Conrad Hotel, for the past few months in blatant violation of environmental norms by Gurudwara on Kensington road, opposite to Shanthi apartment. In the said order, Hon'ble NGT has appointed a Joint Committee comprising of Deputy Commissioner, Bangalore Urban District, Officer from State Wetland Authority, Commissioner, Bruhat Bengaluru Mahanagara Palike and Senior Environmental officer from KSPCB, Bangalore and



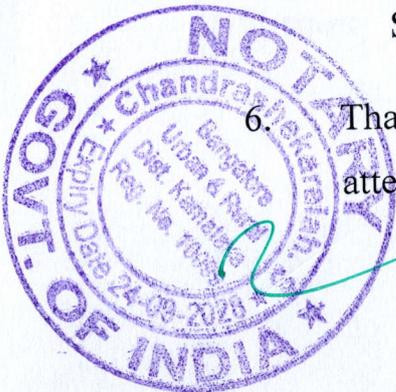
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directed the Joint Committee to inspect the area in question and to submit a factual as well as action taken report, if there is any violation found and also Karnataka State Pollution Control Board has been made as Nodal agency for co-ordination and for providing necessary logistics for this purpose.

5. That in compliance to the said Order dated 06.05.2022, a committee was constituted consisting of (1) State Wetland Authority, Department of Ecology and Environment, (2) Bruhat Bengaluru Mahanagara Palike, (3) Smt. Vijayalakshmi, Senior Environmental Officer, KSPCB, and (4) Sri. R. Padmanabhan, Environmental Officer, Regional Officer, Bengaluru City East, KSPCB. A preliminary Meeting was held on 23.06.2022 under Chairmanship of Deputy Commissioner (Bangalore Urban District), wherein following departments participated:

- 1) Special Commissioner, Projects, Bruhat Bengaluru Mahanagara Palike (BBMP)
- 2) Chief Engineer, Storm Water Drain, BBMP
- 3) Chief Engineer WWM, Bangalore Water Supply and Sewerage Board (BWSSB)
- 4) Chief Engineer, Minor Irrigation Department
- 5) State Wet Land Authority
- 6) Senior Environmental Officer, Bengaluru City, KSPCB
- 7) Assistant Director of Land Records, Department of Survey Settlement and Land Records

6. That the spot inspect was also carried out on 01.07.2022 as attended by the Applicant Sh Vivek, and the respondents,



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including Sh Kuldeep Singh, Secretary of the Gurudwara, which was followed by the Action Taken Report dated 05.07.2022, as per the Table given in the annexed Report dated 20.01.2023. The same was duly considered by the Hon'ble Principal Bench of this Hon'ble Tribunal vide Order dated 27.07.2022 in OA 308/2022(PB), while transferring the matter to this Southern Zone Bench of this Hon'ble NGT. Brief points of the ATR dated 5.7.2022 are hereunder:

(1) In a Writ Petition no. 52606/2015 (LB-BMP) filed by Sh Jasvinder Singh, the Hon'ble High Court of Karnataka in its Final Order dated 27.01.2016, directed the respondent BBMP to consider his representation for disposal within 3 months seeking removal of the encroachment on the storm water drain adjacent to the Gurudwara. It was followed by the Contempt Petition CCC (Civil) No. 632/2016 filed by Sh Jasvinder Singh against the then Commissioner and Ex-Commissioner, BBMP. However, the said representation of Sh Jasvinder Singh was rejected by BBMP reply dated 18.11.2016 submitted to the Hon'ble High Court, stating therein that

1) the said Gurudwara had a registered Gift Deed dated 17.10.1952 executed by the then corporation of the city of Bangalore in favour of Sri Guru Singh Sabha by gifting a property admeasuring 4522 sqft.



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- 2) The Corporation of Bangalore city had further executed a Registered Lease Deed dated 11.01.1980 in favour of Sri Guru Singh Sabha for the period of 50 years starting from 1.1.1981 on payment of ₹ 200/- per annum for the land measuring 8284 sqft over the municipal drain behind the existing building. The said lease deed permitted Gurudwara to use the schedule land for its own purpose only by covering the drain with RCC.
- 3) In a Resolution dated 13.07.1995 passed by then administrator of Bangalore Mahanagara Palike, the Gurudwara was permitted to cover the storm water drain as per the permission of the Government of Karnataka.
- 4) Thereafter the Government of Karnataka passed an order dated 29.05.1996 permitting Sri Guru Singh Sabha to cover the drain at its own cost with a condition that the free flow of drain water should not be affected and that the drain has to be cleaned regularly at the cost of Gurudwara. Accordingly, the then Executive Engineer sanctioned the plan on 06.06.1996 for covering the drain by erecting the slabs without affecting the flow of drain water.
- 5) The Special Commissioner (Projects), BBMP later confirmed in its letter that the Gurudwara Sri Guru Singh Sabha has not made any problem



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to the public and Gurudwara management covered the drain by erecting the slab as permitted for parking of their vehicles and to facilitate the devotees for easy movement during festival seasons.

- 6) The Gurudwara management is also running a public school therein for the grades 1st to 10th standards, particularly for the backward and downtrodden sections of the society and providing them free education with food.

Accordingly, the said Contempt Petition CCC 632/2016 was disposed by the Hon'ble High Court of Karnataka based on the BBMP reply dated 18.11.2016.

However, Sri Jasvinder Singh further filed another Writ Petition No. 64158/2016 (LB-BMP), seeking removal of the encroachment on the said SWD adjacent to the Gurudwara Sri Guru Singh Sabha, which was dismissed on 19.01.2022 by the Hon'ble High Court of Karnataka.

- (2) Regarding flow of drain water, it was stated in the letter dated 18.11.2016 issued by the Office of the Chief Engineer, Storm Water Drain, Bengaluru Mahanagara Palike that by covering of drain with concrete slab as already permitted earlier is not causing any blockage to the drain.



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(3) Regarding scope of entry of sewage into the Halasuru Lake from the Gurudwara, it was stated in the joint report that

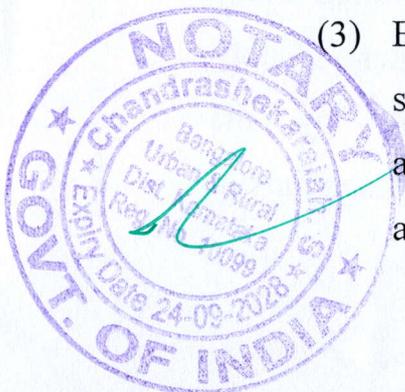
- 1) the Ulsoor Lake or Halasuru Lake covers an area of 41.5 Hectares (102.55 Acres) with a perimeter of about 3.1 km and it is maintained by Bruhut Bengaluru Mahanagara Palike (BBMP).
- 2) The storm water enters the lake from two primary drains and one secondary drain. The Lake has two outlets one on its Southern Corner (near Gurudwar) and other on its South Western Corner (In front R.B.N.A.M.S. College). These outlets facilitate excess/ overflow water flow to the Bellandur Lake through Challagatta primary storm water drain.
- 3) The Halasuru Lake is provided with earthen bunds on its Southern side, which serves as Main road called Murphy Road and connects the Murphy Town with Old Madras Road.
- 4) On Northern Side the Annaswamy Mudaliar Road connects the area of Shivan Chetty Garden & Kensington Road which is serving the Military Camp.
- 5) The water quality of lake is monitored every month under the National Water Quality Monitoring Programme (NWMP) by the answering respondent KSPCB at 03 locations of

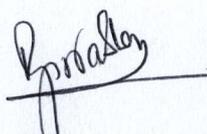


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the Halasuru Lake, namely near Temple, Fishing Centre and Kalyani respectively.

- 6) Halasuru Lake conforms to designated–best-use classification Class “D” i.e. water is fit for propagation of wildlife and fisheries and E-Irrigation, Industrial cooling, Controlled Waste Disposal.
- (4) Regarding clearances required from Government departments such as BBMP, KSPCB, BWSSB, Fire and Safety etc with respect to expansion activity, the answering respondent KSPCB inspected the Gurudwara on 14.06.2022 and issued notice to the Gurudwara authority informed to apply for Consent for Operation (CoP) for operation of Sewage Treatment Plant (STP).
7. That based on the above observations, the said Joint Committee recommended as under;
 - (1) The Gurudwara authority shall ensure frequent cleaning of accumulated floating debris /solid waste from the Storm Water Drain (SWD).
 - (2) The Gurudwara authority shall also provide or install Trash barrier to the entry point of storm water drain located at Gurudwara.
 - (3) BBMP/ SWD shall install an appropriately designed screen to arrest entry of floating debris into the drain at different locations before it enters the SWD located at Gurudwara.

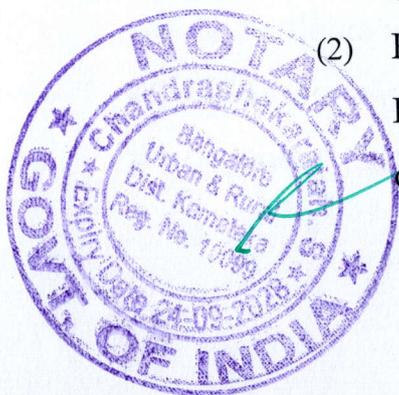


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- (4) BBMP & BWSSB jointly ensure stopping of sewage entering into the drain by identifying missing links of lateral sewer lines which are to be connected to the storm water drain.
- (5) The answering KSPCB shall regularly monitor the pollution level in the Halasuru Lake.
- (6) The answering KSPCB shall also ensure the implementation of notification No. FEE 316 EPC 2015, dated 19.01.2016 issued by Forest, Ecology and Environment Secretariat with respect to installation of Sewage Treatment Plant and reuse of treated sewage.

8. That the Principal Bench of this Hon'ble NGT in its Order dated 27.07.2022 considered the said report dated 5.7.2022 and impleaded other stakeholders namely, the Gurudwara Sri Guru Singh Sabha, State Wetland Authority (SWA), BBMP and BWSSB for filing their respective status reports. In response thereto, the response of the respective concerned authorities/ respondents were as under:

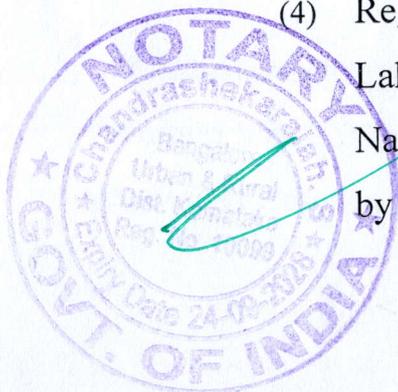
- (1) Regarding frequent cleaning of accumulated floating debris/ solid waste from the storm water drain, BBMP/ SWD had submitted a report dated 02.11.2022 along with the photographs confirming tehtein compliance of the recommendation of the Joint Committee. The debris and silt is being removed by Annual Maintenance Contract (AMC) of Storm Water Drain (SWD).
- (2) Regarding installation of Trash barrier at Gurudwara, the BBMP/SWD issued a letter dated 29.09.2022 and reminder on 19.10.2022 to the respondent Gurudwara. Thereafter,



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BBMP/SWD in its letter dated 02.11.2022 reported that a trash barrier has already been installed at Assaye road, Ganesha temple junction and the tender has also been invited to provide 08 no's of trash barriers/screen and 08 no's of silt as per the tender.

- (3) Regarding identifying missing links of lateral sewer lines,
- 1) The Central division of BWSSB inspected the upstream side of the Halasuru Lake and identified 14 number of lateral UGD works for linking to the existing sewer sub main. Presently, there was no flow of sewage into the drain in the jurisdiction of Central division.
 - 2) The Northern division of BWSSB inspected the upstream side of the Halasuru Lake and reported that 17 number of lateral UGD works have already been linked to the existing sewer sub-main to avoid flow of sewage into the drain. However, there is flow of sewage from 165 quarters at MRS palya. Therefore, a project for laying 300 mm dia DWC line from MRS playa to the existing sub mains at an estimate of ₹ 25 Lakhs is in the process for earliest completion.
 - 3) At the junction of JC Nagar main road, Munireddy Palya, it was observed that BBMP has laid a permanent concrete slab in order to inspect the flow of sewage (if any) and to take up the corrective measures in this particular stretch of the drain.
- (4) Regarding regular monitoring of pollution in Halasuru Lake, the water quality is monitored every month under the National Water Quality Monitoring Programme (NWMP) by the answering KSPCB at 3 locations, namely near



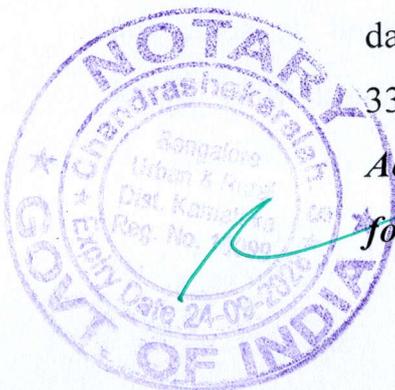
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Gurudwara, near Fishing Centre and near Kalyani. The analysis reports result shows that, the water quality of Halasuru Lake conforms to designated–best-use classification Class “D” i.e. water is fit for propagation of wildlife and fisheries and E-Irrigation, Industrial cooling, Controlled Waste Disposal.

(5) Regarding implementation of notification No. FEE 316 EPC 2015 dated 19.01.2016, the answering KSPCB again inspected the Gurudrawa on 04.08.2022 and found the construction activities going on. Therefore, after a gap of few days, the answering respondent KSPCB issued a Show Cause Notice dated 03.10.2022 for obtaining Consent to Operate, followed by the reminder letter dated 27.10.2022. In response thereto, the Gurudwara replied on 31.10.2022, stating therein:

- 1) The Gurudwara Sri Guru Singh Sabha is on total built up area less than 5000 sqmt.
- 2) Gurudwara being located at downstream of the Ulsoor lake, the water flow will not affect the flow of the lake in the storm water drain during rainy season.
- 3) The floating devotees come and pay respect for a short period and leave the premises. Only few staff to look after the premises stay, hence, STP is not required.

(6) In response to the Notice of Proposed Directions (NPD) dated 31.10.2022 issued by the answering KSPCB u/s 33(A) of the *Water (Prevention and Control of Pollution) Act, 1974* read with Rule 34 of the *Karnataka State Board for the Prevention and Control of Water Pollution*



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(Procedure for Transaction of Business) and the Water (Prevention and Control of Pollution) Rules, 1976, the respondent Gurudwara authorities have submitted their reply dated 02.11.2022, copy placed as ANNEXURE-XI, stating therein:

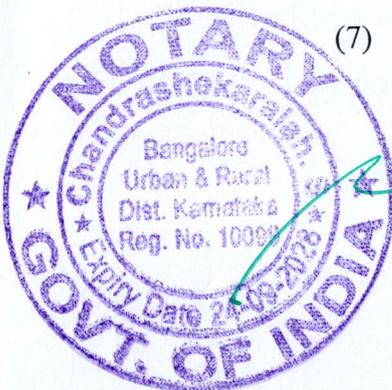
- 1) Gurudwara is registered under Sikh Gurudwara Act 1925 and also under registration of Society Act XXI of 1960 and this Guru Singh Sabha is existing since 1941 and is established for convenience of devotees and school students.
- 2) In terms of subsequent registered lease deed dated 11.01.1980 in favour of Guru Singh Sabha for land measuring 8284 Sq.ft over the municipal drain behind the existing building for a period of 50 years on lease of payment of Rs.200/- as lease amount/annum, the Gurudwara was permitted to use the scheduled land only for its purpose by covering the drain with RCC and the approval thereof was obtained on 08.04.1983.
- 3) BBMP Order dated 29.05.1996 granted approval to cover the storm water drain which is located adjacent to Gurudwara for the purpose of multi-level vehicle parking and to facilitate devotees to utilize the area during festivals and other functions.
- 4) The modification and expansion of the existing building was started for providing few rooms, kitchen and langar area for the pilgrims and as such, the expansion activity covered only about 4000 Sq.mt area.



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- 5) The Gurudwara has constructed a Guru Harikishan Public School for accommodating about 550 students belonging to the backwards and downtrodden sections of society and provide them free education with meals for the grades 01st to 10th standards. This school is constructed by extending the roof cover SWD at first floor level by making provision for free flow of water in the SWD.
- 6) The Gurudwara is built at the downstream of the Halasuru lake and the proposed expansion built-up area is less than 5000 sqm. **However, the building plan submitted by the Gurudwara is not approved by the competent authority i.e BBMP.**
- 7) In terms of notification vide No. FEE 316 EPC 2015 dated 19-01-2016, the institutions/ education institutions with or without hostel facility having built-up area of 5000 Sq.mt and above shall install Sewage Treatment Plant. Accordingly, the Gurudwara premises is exempt to have STP.
- 8) There is no STP in the premises as the Gurudwara location has full pledge over the underground sewage system provided by BWSSB, and as such the sewage generated in the Gurudwara will be treated by BWSSB terminal sewage treatment plant.

- (7) The State Wetland Authority (SWA) submitted its reply dated 08.11.2022, copy placed as **ANNEXURE-XII**, in response to the Joint Committee Report dated 10.10.2022, stating therein that the Joint Committee report can be



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accepted on the condition that the Gurudwara authorities should obtain statutory clearances from concerned Govt. departments as per Law and should commence operation only after getting Consent for Operation (CFO) for STP from State PCB and to treat sewage water before letting into the drains. The concerned Govt. departments and Gurudwara authorities should strictly carry out and monitor the activities prescribed in their long term remedial measures as recommended by the Joint Committee.

(8) In respect of encroachment of Storm Water Drain by the Gurudwara authority:

- 1) The Chief Engineer, SWD, East Division vide their letter dated 15.02.2021 has reported to the Joint Commissioner BBMP, East division that the Gurudwara Sri Guru Singh Sabha has encroached the Storm water drain and they have erected the unscientific RCC columns for the expansion activity and also they have erected the RCC slab by covering the storm water drain which is violation of Hon'ble NGT directions and in their letter, they have requested the Joint Commissioner, BBMP, East division to issue directions to the concerned chief engineer/s to take necessary action with respect to removal encroachment of storm water drain which is encroached by the Gurudwara.



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- 2) The Chief engineer, SWD has subsequently addressed another letter dated 20.06.2022 to the Technical Assistant to the Deputy Commissioner & Deputy Director, Surveyor regarding demarcation of boundary of storm water drain by Gurudwara.
 - 3) The Chief engineer, SWD, East division has further addressed a letter to the Revenue Officer, Bengaluru Metropolitan Task Force (BMTF) and requested to remove the encroachment of storm water drain by the Gurudwara.
 - 4) After boundary fixation by the surveyor the same may be referred to concerned regional engineer to remove the encroachment of storm water drain.
9. That the Hon'ble Principal Bench of this Hon'ble NGT considered the said Joint Committee Report dated 05.11.2022 and passed an Order dated 10.11.2022 directing thereby the respondent BBMP as well as the answering respondent KSPCB to take further remedial steps. Accordingly, further steps were taken as under:

- (1) The answering respondent KSPCB issued Show Cause Notice to the President of Gurudwara on 03.10.2022, followed by reminder dated 27.10.2022, but there was no response. Therefore, RO, Bengaluru City East, KSPCB has recommended the RSEO, Bengaluru city zone, KSPCB to issue Notice of Proposed Directions (NPD) under Section 33(A) of *Water (Prevention and Control of Pollution) Act, 1974*. Accordingly, Show Cause Notice dated 31.10.2022 was issued by RO, Bengaluru City East,

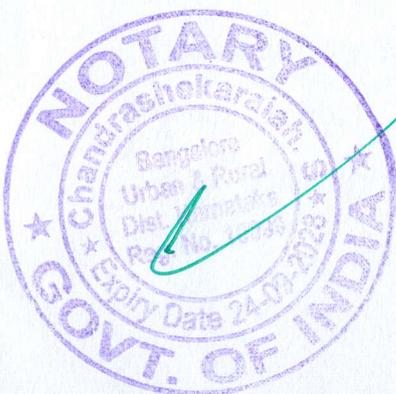


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KSPCB, RSEO, Bengaluru City zone to the Gurudwara Sri Guru Singh Sabha. In response thereto, the Gurudwara authority filed its reply with Building Plan and BUA of 4272 sq.mt (45991 sft). The said Bulding Plan was forwarded by KSPCB to the Joint Commissioner, BBMP, East Zone, Bengaluru, requesting them to verify the building plan with Built Up Area (BUA) and floorwise statement. There is no reply from BBMP till date.

- (2) BBMP called a meeting on 28.12.2022 under chairmanship of its Chief Commissioner to discuss about the protection of Ulsoor Lake and its surroundings. Subsequently, the answering respondent KSPCB had issued an Office Memorandum dated 29.12.2022 for checking if untreated effluent is entering the Ulsoor lake without treatment, and also directed to collect at least 4 samples from various points near the Ulsoor Lake and its surroundings. Accordingly, a Joint inspection was carried out with the officers of BBMP, SWD & BWSSB and inspected the Ulsoor Lake and its surrounding area on 02.01.2023, 09.01.2023, 16.01.2023 & 23.01.2023 and collected the samples from various points. Based on the observations made a detailed inspection report is prepared, copy thereof is placed as ANNEXURE-XIV.

- (3) During inspection on 15.02.2023, the officers of answering respondent KSPCB observed that the construction is almost completed and it looks like a temple and not look like a commercial establishment. Moreover, the religious temple is not classified under CPCB Re-Categorisation,



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2016. Therefore, religious places are beyond the purview of KSPCB.

(4) The Halasuru Lake water quality is monitored every month under the National Water Quality Monitoring Programme (NWMP) by the Karnataka State Pollution Control Board (KSPCB) at 03 locations namely

- 1) Location 01- Halasuru Lake – near Gurudwara Temple
- 2) Location 01- Halasuru Lake – near Fishing Centre.
- 3) Location 01- Halasuru Lake – near Kalyani.

The analysis reports result shows that, the water quality of Halasuru Lake conforms to designated–best-use classification Class “D” i.e. water is fit for propagation of wildlife and fisheries and E-Irrigation, Industrial cooling, Controlled Waste Disposal.

(5) Due to non-appearance, this Hon’ble NGT had issued a notice to the Chairman, State Wetland Authority (SWA), vide NGT Order dated 10.11.2022. In response thereto, the State Wetland Authority have directly filed their reply to this Hon’ble NGT.

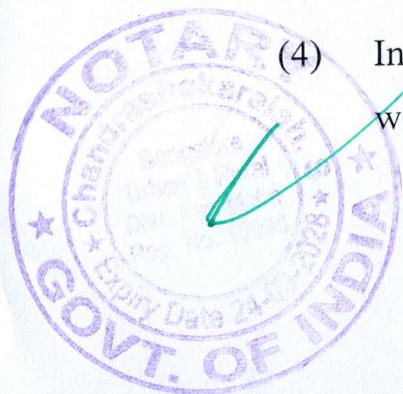
(6) In response to this Hon’ble NGT Order dated 10.11.2022, the reply of the respondent Gurudwara Sri Guru Singh Sabha was awaited as on 15.02.2023 when the officers of KSPCB inspected the Gurudwara.



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10. That the answering respondent again inspected the Gurudwara Sri Guru Singh Sabha on 12.07.2023, and observed as under:

- (1) The expansion of the Gurudwara consists with building configuration of Basement floor+ Ground floor + 03 upper floors with 4272 sq.mt, which is less than 5000 sq.mt.
- (2) The Gurudwara authorities have constructed the expansion part of the building on the buffer zone of the storm water drain, during inspection; it was observed that, there was no obstacle for flow of water. The functionality of storm water drain is not affected, has the Gurudwara erected the retaining wall to height of about 4.5 mts on both side and also they have made the gradient slope for easy flow of water. Hence, there is no chance of stagnating the water and restriction of water flow. Further, Corporation of Bangalore city had executed a Registered Lease Deed on 11.01.1980 in favour of Guru Singh Sabha for the land measuring 8284 sft over the municipal drain behind the existing building, Kensington Road, Halasuru, Bangalore for a period of 50 years from 01.01.1981 on lease on payment of Rs.200/- as lease amount per annum and permitted to use the schedule land only for its purpose by covering the drain with RCC.
- (3) In the expansion part, in the basement floor, they have established 55 KLD pre fabricated 55 KLD STP, DG set and parking space.
- (4) In the Ground floor there is an entry point to the Gurudwara and with office room.



Chandrashekhara Prasad

- (5) In First floor, there is a langar and in the Second & third floor, they have provided facility for devotees/ staff accommodation.
- (6) The 55 KLD Sewage Treatment plant (STP) is ready for operation. During the inspection, enquired about the reason for installation of STP, the person present informed that, there is sewer line issue in the catchment area and also due to scarcity of water for secondary purposes and to avoid the consumption of fresh water for secondary purposes, they have voluntarily decided to set up STP. Hence, they have provided 55 KLD pre fabricated STP and the treated water will be utilized for flushing, gardening and floor washing within the premises.
- (7) He also informed that, the complete sewage generation from existing and expansion will take into this 55 KLD STP for treatment.
- (8) The authorities have installed 200 KVA DG set x 01 no. at the basement floor of the building.
- (9) It was enquired other statutory clearance obtained from the competitive authority such as BBMP, BWSSB, Fire & safety etc with respect to expansion activity, but, they have failed to submit the same.
- (10) During inspection report, it is also observed that, Gurudwara authorities have not constructed any structure on drain, only drain has been covered with RCC Slab.



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11. That the KSPCB report was considered in OA 308/2022(PB) by the Hon'ble Principal Bench of this Hon'ble NGT on 17.07.2023 and thereafter transferred the matter to this Hon'ble Southern Zone of this Hon'ble NGT as OA 113/2023(SZ). The matter was heard on 27.09.2023 before this Southern Zone of this Hon'ble NGT. In response thereto, the answering respondent KSPCB filed its report dated 03.11.2023 with following observations:

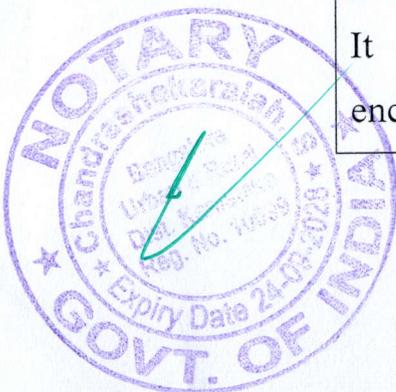
Order :

This is an application relates to the encroachments and the removal of the same on the Halasuru Lake

Reply:

The Joint Committee constituted by the Hon'ble NGT, Headed by Deputy Commissioner, Bengaluru Urban District and other Members of the Joint Committee, have inspected the Gurudwara, Halasuru Lake and its surroundings, on 01.07.2022, and has already submitted Action Taken Report to the Hon'ble NGT, Principal Bench, stating that there was no encroachment of Halasuru Lake. Further, it is submitted for the kind notice of the Hon'ble NGT that Gurudwara is located on the downstream of Halasuru lake and there is a public road (Kensington Road) separating the Halasuru Lake and Gurudwara which strengths that there is no encroachment of Halasuru Lake.

It is humbly submitted that the matters related to the encroachment comes under the working scope of BBMP



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Order :

The complaint is that, Gurudwara has been constructed by violating the norms on the buffer zone. Besides that, it appears that there are several other encroachments where the Storm Water Drain is covered and STP's are being constructed on the buffer zone of the Lake.

Reply:

Gurudwara has submitted certain documents as per which BBMP have permitted them to cover the storm water drain to some extent. The excerpts from the documents by Gurudwara, in this connection, are submitted for kind notice of the Hon'ble NGT:

1. Registered Gift deed dated 17.10.1952 executed by the then corporation of the city of Bangalore by gifting a property of measuring 4522 SFT situated in Kensington road, civil station, Bangalore in favour of **Sri. Guru Singh Sabha**.
2. And Corporation of Bangalore city has executed a Registered Lease Deed on 11.01.1980 in favour of **Guru Singh Sabha** for the land measuring 8284 SFT over the municipal drain **behind** the existing building, Kensington Road, Halasuru, Bangalore for a period of 50 years from 01.01.1981 on lease on payment of Rs.200/- as lease amount per annum and permitted to used the schedule land only for its purpose by covering the drain with RCC.
3. Sri Guru Singh Sabha further produced a resolution dated 18.07.1995 passed by then administrator of Bangalore Mahanagara Palike permitting to cover the storm water



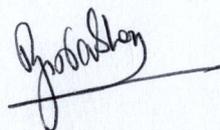
Probably

drain with permission of the Government of Karnataka.

4. Thereafter the Government of Karnataka passed an order dated 29.05.1996 and permitted Sri. Guru Singh Sabha to cover the drain at its own cost with a condition the free flow of water should not be affected and when it required to clean at the cost of Gurudwara it should be clear and on the basis of Government order the then Executive Engineer sanctioned the plan on 06.06.1996 for covering the drain by erecting slab there will not be any problem for flowing of the water.

In view of the above, its implied that BBMP themselves have given the permission to Gurudwara for covering of the adjacent storm water drain with RCC slab with taking all care w.r.t all issues and at the same time it is out of the purview of Karnataka State Pollution Control Board. It is also brought to the kind notice of Hon'ble NGT that the Buffer Zone for Storm Water Drain came into effect from 04.05.2016, based the Directions of the Hon'ble NGT in the matters relate to O A No 125 of 2017, and construction of Gurudwara Sri Guru Singh Sabha was much before 2016.

Also during inspection of the Halasuru Lake by KSPCB, Gurudwara and its surrounding areas on 26.10.2023, it has been observed and recorded in the Inspection Report that there was no obstacle to the water flow in storm water drain over which a slab is cast by Gurudwara. The functionality of storm water drain is not affected either and the Gurudwara authority has erected the retaining wall to height of about 4.5



mts on both sides. They have also created gradient slope in the storm water drain, throughout the length that passes through Gurudwara, to aid smooth flow of water in storm water drain. Hence there are no possibilities of water stagnating in the storm water drain. Also it is has observed and reported in the Inspection report of 26.10.2023 that Gurudwara has not constructed any structure on drain, but for covering the same with RCC Slab.

Order :

The report of the Karnataka State Pollution Control Board filed so far has not been exhaustive excepting stating that, they have taken action. The results of the show cause notices issued by them, also have not reached finality.

Reply:

As per Government of Karnataka Gazette Notification No FEE 316 EPC 2015, dated 19.01.2016, the following shall have to install STP:

- a. Housing projects with 20 units and above more or with BUA 2000 Sq.mtrs and more
- b. Commercial projects having BUA 2000 Sq.mtrs or more
- c. Education institutes having BUA 5000 Sq.mtrs or more
- d. Townships or area development projects 10 Acres and more

In the absence of Competent Authority approved Building Plan that should have been submitted by the Gurudwara to ascertain the actual BUA constructed by them, the KSPCB

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had issued several Notices to Gurudwara, as per the findings of the Joint Committee constituted by the Hon'ble NGT, informing them to apply for Consent from KSPCB to ensure the implementation of Government of Karnataka Gazette Notification No FEE 316 EPC 2015, dated 19.01.2016.

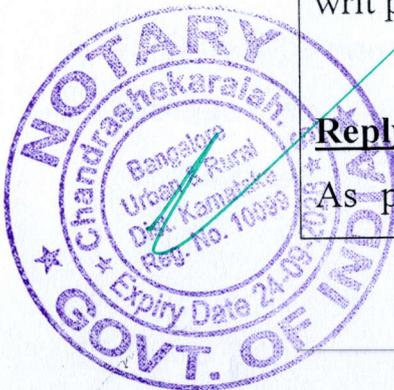
As response to the Notices issued by KSPCB, the Gurudwara Authority have submitted a reply along with building plan showing that the BUA of all the buildings is 4272 SMT (45991 SFT). Therefore, implementation of Government of Karnataka Gazette Notification No FEE 316 EPC 2015, dated 19.01.2016, does not arise and the Gurudwara is not required to obtain Consent of the Board. The Gurudwara is located in the core area of Bengaluru where BWS & SB has laid the UGD connected to a terminal STP and the sewer line of the Gurudwara is connected to UGD of BWS & SB. It has been ascertained during Inspection by KSPCB that the sewage generated in Gurudwara is discharged into the BWS & SB UGD. Moreover, it is submitted that the Gurudwara is located downstream of Halasuru Lake due to which no sewage can flow from Gurudwara to the Lake due to reverse gradient.

Order :

It appears that there are also few Writ petitions filed in this regard for removal of encroachments where directions were issued and based on the representations the further contempt writ petitions were closed.

Reply:

As per the details submitted by the Executive Engineer,

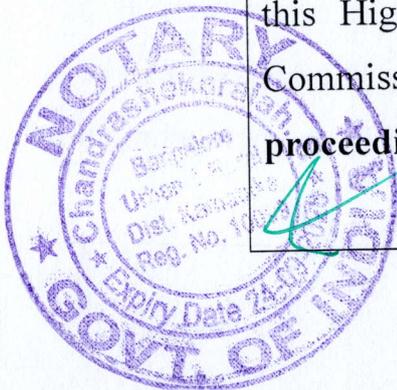


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BBMP, Storm Water drain (SWD), East Sri. Jasvinder Singh aged about 54 years and a resident of 46/2, 1st A Main, 6th E cross, Nanjappa Layout, Adugodi, Bengaluru has filed **Writ Petition No. WP 52606/2015 (LB-BMP)**, the petitioner has filed a representation requesting The Commissioner, BBMP, Bangalore to remove the encroachment on the storm water drain adjacent to the Gurudwara Sri Guru Singh Sabha , Halasuru, Bangalore. The Hon'ble High Court in their order dated 27.01.2016, directed the Commissioner; BBMP to consider the representation in accordance with law within a period of 03 months.

Further, Sri. Jasvinder Singh has filed a **Contempt Petition CCC (Civil) No. 632 of 2016** against Commissioner and Ex-Commissioner, BBMP , stated that they have disobeyed the Hon'ble High Court Order in writ petition No. WP No. 52606/2015 dated 27.01.2016 and requested to remove the encroachment on the storm water drain adjacent to the Gurudwara Sri Guru Singh Sabha ,Halasuru, Bangalore.

W.r.to the Writ Petition No. WP 52606/2015 (LB-BMP) has rejected and Contempt Petition CCC (Civil) No. 632 of 2016 the, Chief Engineer, Storm Water Drain, BBMP has submitted a letter to Hon'ble High Court dated 18.11.2016 with respect to Contempt Petition CCC 632/2016, based on this High Court of Karnataka informed that the BBMP, Commissioner has complied with the order “ **The proceedings are dropped , No cost.**”



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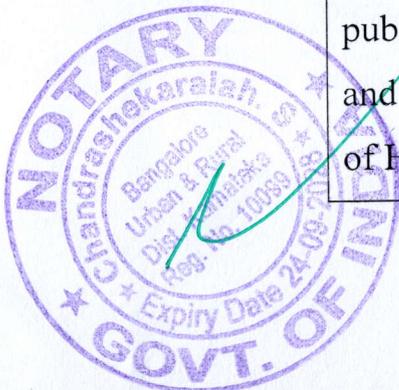
Also, Sri. Jasvinder Singh again filed Writ **Petition No. 64158 of 2016 (LB-BMP)** seeking to remove the encroachment on the SWD adjacent to the Gurudwara Sri. Guru Singh Sabha. The Hon'ble High Court of Karnataka dismissed the order on 19.01.2022 by ordering "**Writ Petition is dismissed**".

Order :

Let the BBMP now represented by the learned counsel Mr. T.V Sekar and the Karnataka State Pollution Control Board represented by the learned counsel Mr. Mukesh Kumar file a detailed and exhaustive report as to what area all the encroachments on the Halasuru Lake, how do they propose to deal with them in removal and what are the actions so far taken by the and what would be the timeline they required for restoring the Lake.

Reply:

The Joint Committee constituted by the Hon'ble NGT, Headed by Deputy Commissioner, Bengaluru Urban District and other Members of the Joint Committee, have inspected the Gurudwara, Halasuru Lake and its surroundings, on 01.07.2022, and has already submitted Action Taken Report to the Hon'ble NGT, Principal Bench, stating that there was no encroachment of Halasuru Lake. Further, it is submitted for the kind notice of the Hon'ble NGT that Gurudwara is located on the downstream of Halasuru lake and there is a public road (Kensington Road) separating the Halasuru Lake and Gurudwara which strengths that there is no encroachment of Halasuru Lake.



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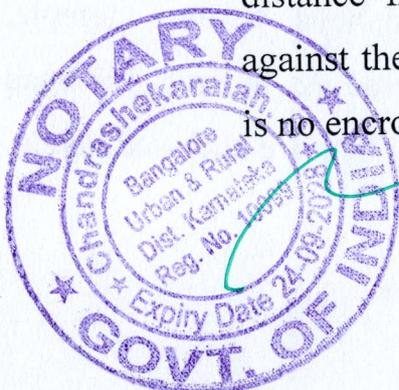
It is humbly submitted that the matters related to the encroachment, if any, comes under the working scope of BBMP.

12. That this Hon'ble Southern Bench of this Hon'ble NGT considered the said KSPCB report dated 03.11.2023 on 06.11.2023 and directed to file a comprehensive report for 29.11.2023. The KSPCB report subsequently filed before this Hon'ble NGT were returned on account of requisite affidavit. Hence, the present Affidavit is being filed.

13. That the present status of the Gurudwara Sri Guru Singh Sabha as per the KSPCB official inspection dated 13.12.2023 is as under:

1) Gurudwara is on the donated land, as per the Registered Gift Deed dated 17.10.1952, whereas 1st floor of the Gurudwara is constructed in the year 1971 and it was expanded unevenly as a Dharmashala later on by retaining the original structure and now redeveloped in the year 2023 on fund allocated by the Karnataka State Government.

2) Gurudwara is located near the Halasuru Lake which is outside the buffer zone of the existing Halasuru Lake. The distance from Gurudwara to Halasuru lake is 133.8 mts against the buffer zone distance of 30 mts. Therefore, there is no encroachment of Halasuru Lake.



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- 3) The existing Gurudwara has total built up area of 4272 sq.mt which is less than 5000 sq.mt. The daily footfall is around 200 to 300 devotees during weekdays and about 5000 devotees per day on weekends. Another nearest Gurudwara is at a distance of about 25 Kms. Therefore, the present Gurudwara is communally very sensitive structure and State Government allowed them to cover the adjoining nala.
- 4) Width of the Storm Water Drain passing through the Gurudwara is about 28.5 mts and width is not encroached by anyone, except the top of the drain covered by Gurudwara on the fund allocated by the State Government and permission is given by BBMP in the year 2016.
- 5) Gurudwara being a religious institution and religiously sensitive to the Sikh community, State Government may take appropriate steps as and when directed by this Hon'ble Tribunal in respect of the covering of Nalla since 2016.
- 6) The covering of Nala/Storm Water Drain on the top are done by the State and Central Government in other states for various purposes such as installation of Solar panels, city road ways etc without affecting the flow of the sewage drain. [Example: In the Gujarat State, New Delhi and in New Mysore Road, Gaali Anjaneya Swamy temple, Bengaluru. The drain are covered & utilized for road transports.] The supporting photographs are enclosed herein.



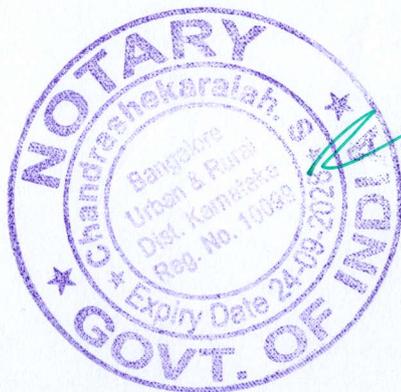
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- 14. That it is respectfully submitted that the answering respondent KSPCB will be oblige to provide any additional information if so required by this Hon'ble Tribunal and hereby submit this affidavit for kind consideration.
- 15. That I have read and understood the contents of the this Affidavit. The same has been drafted by my counsel under my instructions and the same are true and correct as per the official records made available to me and same has been understood by me.
- 16. That the contents of the accompanying Report dated 13.12.2023 is true copy of its original along with its ANNEXURES, which may be read as part and parcel of this affidavit and the same are not repeated herein for the sake of brevity.

[Signature]
 9/5/2024
DEPONENT

VERIFICATION:

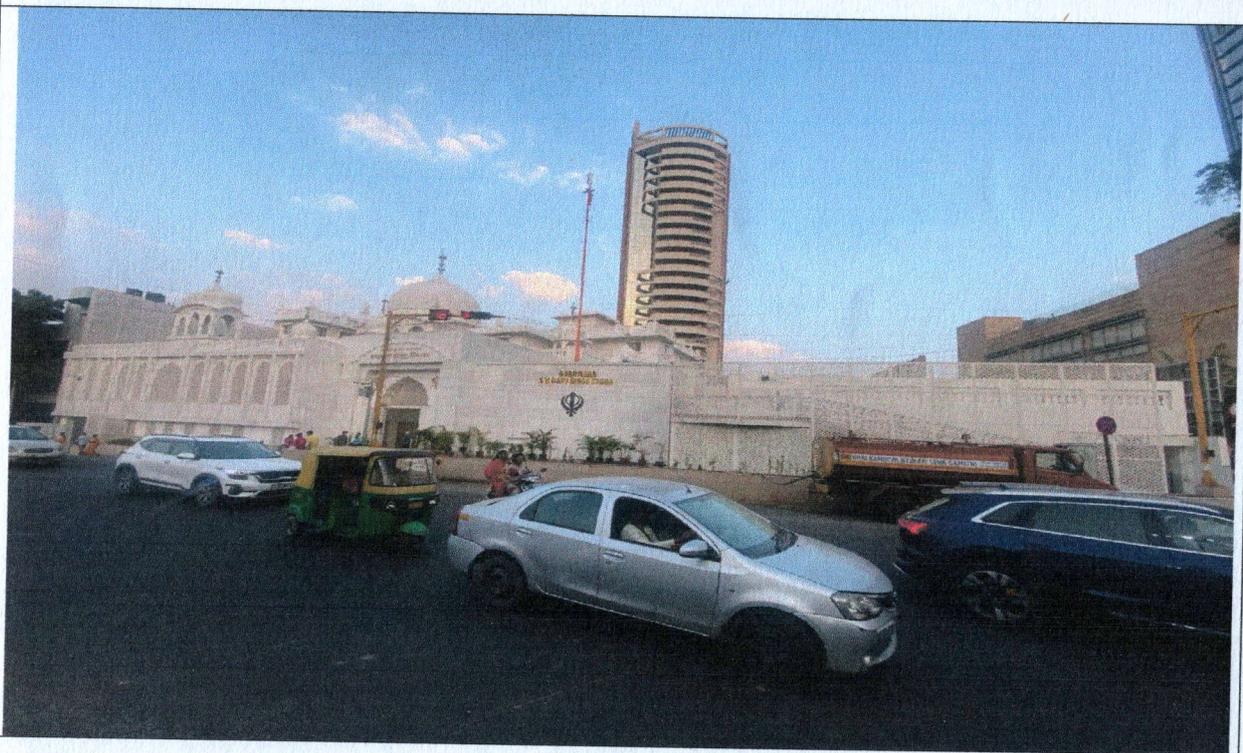
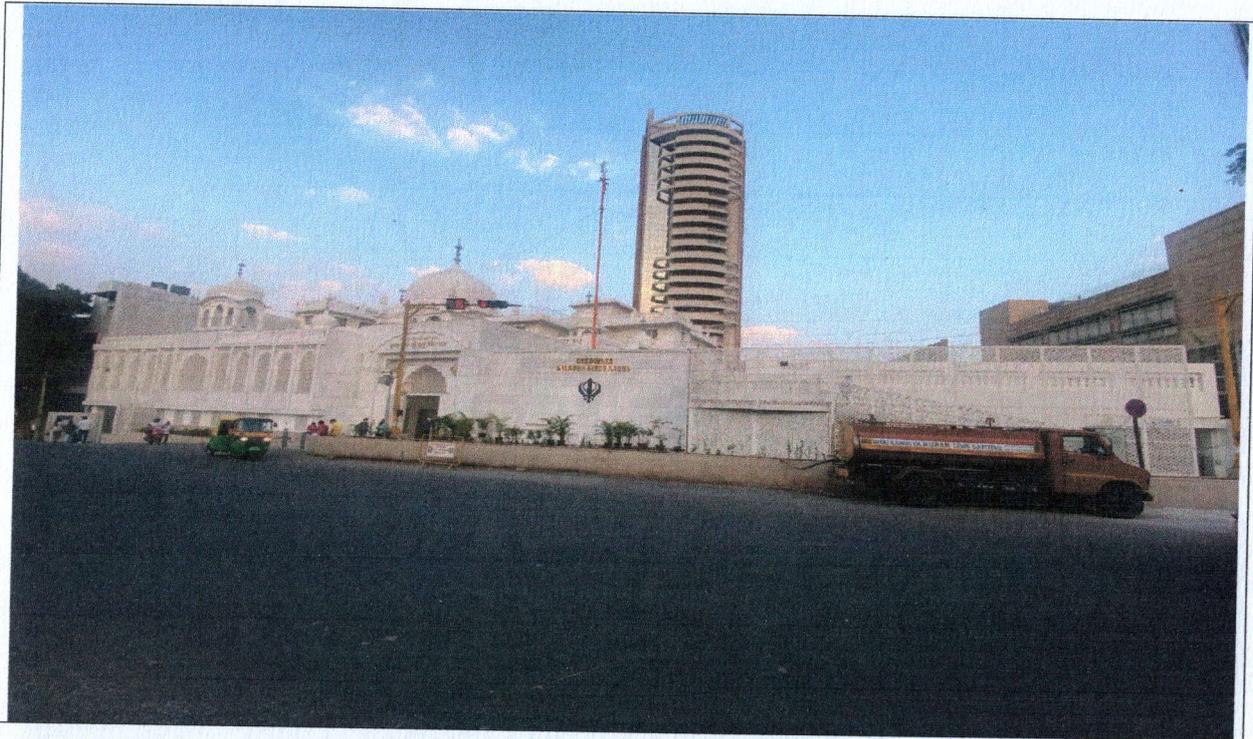
Verified at Bengaluru on this 09 day, May' 2024 that the contents of the above Affidavit are true and correct on the basis of my knowledge and official documents. No part of it is false and nothing material has been concealed therefrom.



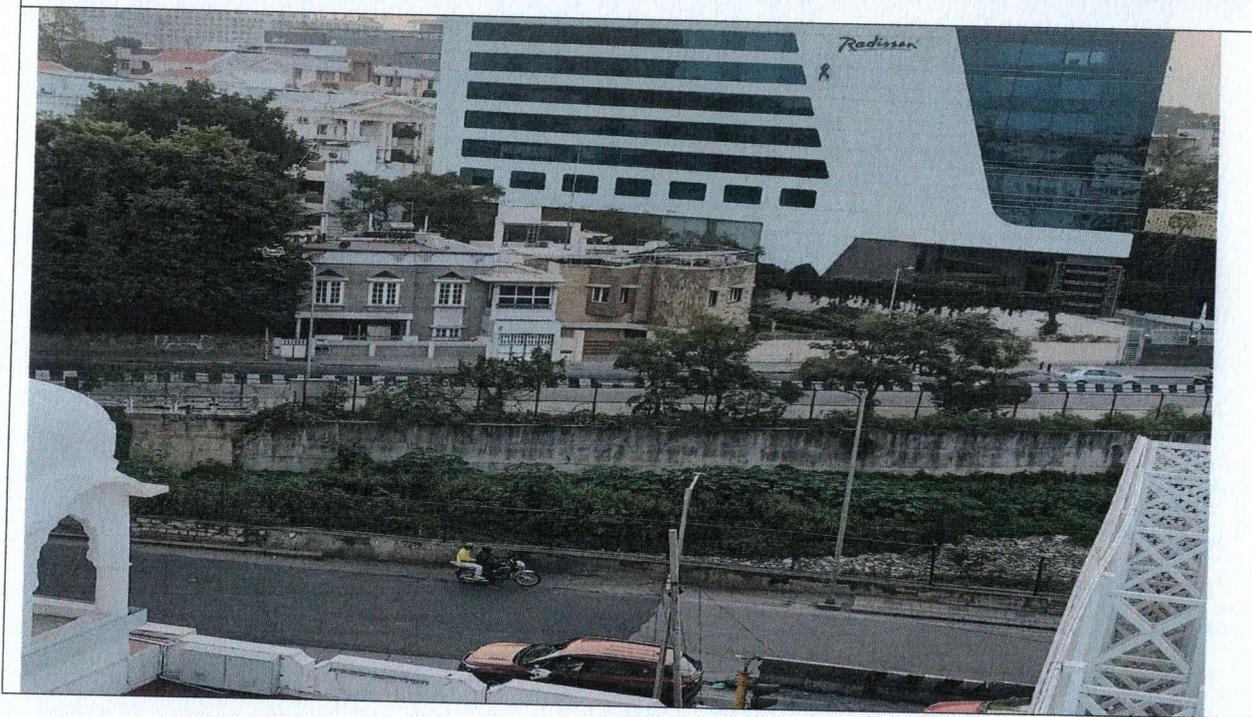
SWORN TO BEFORE ME
[Signature] 9/5/2024
CHANDRASHEKARAIYAH. S
 Advocate & Notary
 # 9/7, Kampegowda Nilaya,
 3rd Cross, Muthurayaswamy Extention,
 Sunkadakatta, Bangalore - 560 091.

[Signature] 9/5/2024
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 Reg. No. 1394 Date 9/5/2024

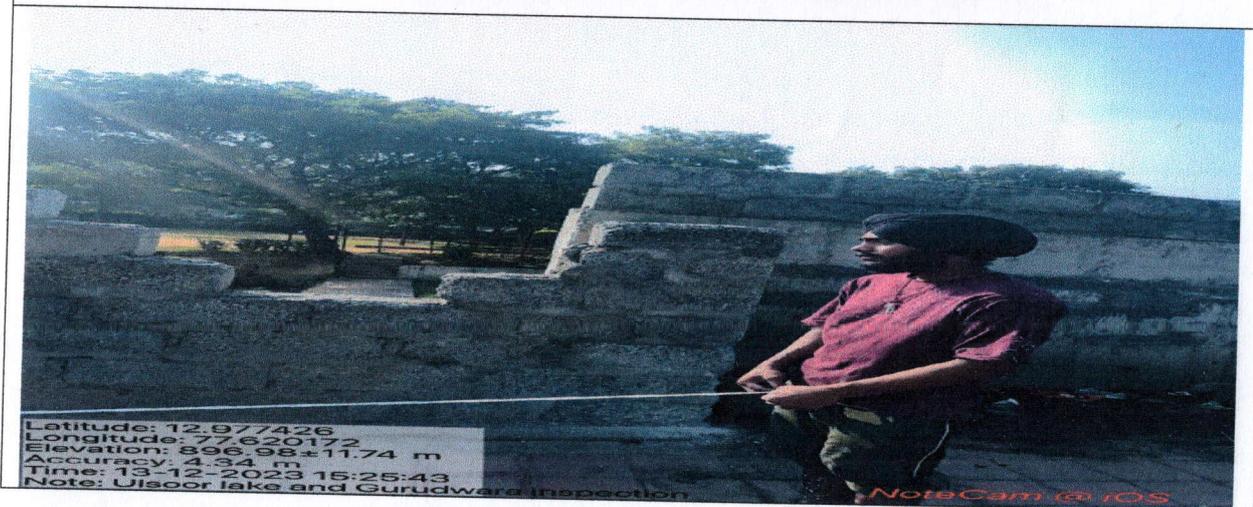
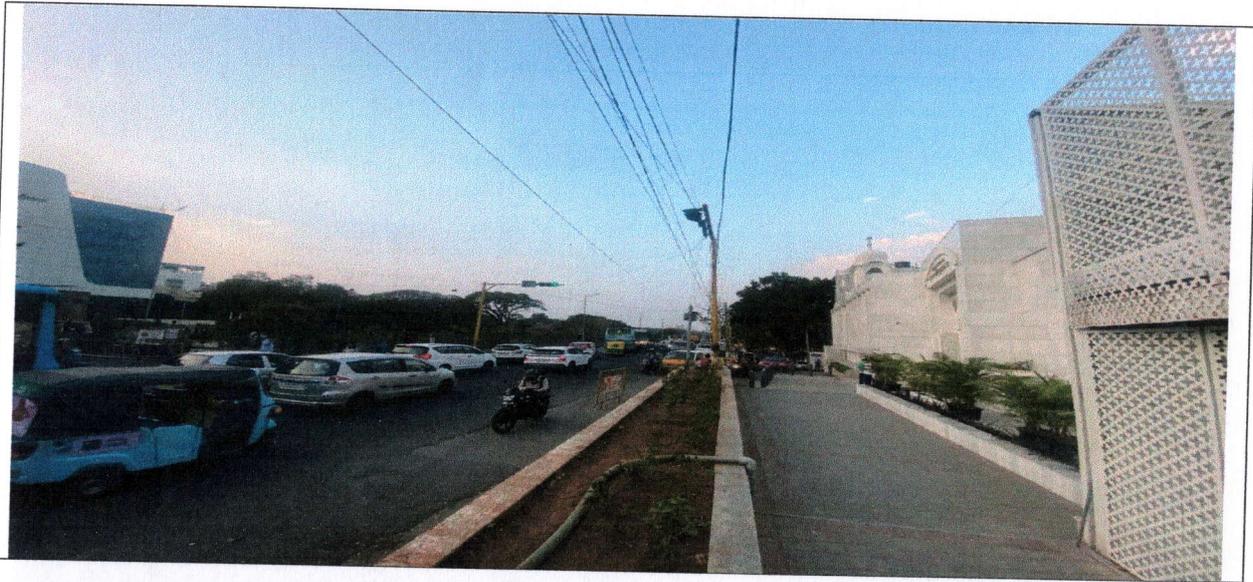
Photos of Gurudwara and distance of Gurudwara from Halasuru Lake



Photos of Gurudwara and distance of Gurudwara from Halasuru Lake



Photos of Gurudwara and distance of Gurudwara from Halasuru Lake



IN THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, KALAS MAHAL, CHENNAI
OA 113/ 2023 (SZ)

IN THE MATTER OF:

Vivek, Bangalore

... .. APPLICANT

VERSUS

The President, M/s. Gurudwara Sri
Guru Singh Sabha, Karnataka and
Ors

...RESPONDENTS

VAKALATNAMA

I, Padmanabhan R Regional Officer Bangalore City East , Karnataka State Pollution Control Board, Bangalore, do hereby appoint and retain Sh **Mukesh Kumar, Advocate**, Enrolment No. D/1944/2012, to act and appear for me/us in the above Application/ Petition/ Appeal and on my/ our behalf to conduct and prosecute (or defend) or withdraw the same and also proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, to file and obtain, return of documents and to deposit and receive money in my/ our behalf in the above Suit/ Petition/ Appeal and Application for Review, and to represent me/ us and to take all necessary steps on my our behalf in the above matter. I/ We agree to ratify all acts done by the aforesaid Advocate, in pursuance of this authority.

Dated this 09 day of May' 2024.

Accepted/ Identified/ Certified

MUKESH KUMAR
ADVOCATE
Enrl: D/1944/2012
Email: cc@LexRegula.com
Mob: +91-9211059000



R.O. BENGALURU CITY EAST
KARNATAKA SPCB
RESPONDENT NO.

Probably
9/5/2024

Filed on: 09.05.2024
Place: BANGALORE