

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE CHENNAI

O.A.No. 115 of 2016

In the Matter of:

Human Rights & Consumer Protection
Rep. by its Chairman

...Applicant

Vs

State of Telangana And Others

... Respondents

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Place: Chennai

Date: 17.01.2024



Counsel for R5

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN BENCH, CHENNAI**

O.A.No.115/2016

Human Rights & Consumer Protection
Rep by its Chairman
Sri.Takur Raj Kumar Singh, BHEL MIG-982
Serilingampally

.....Applicant

Vs

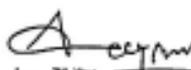
1. State of Telengana,
Rep. by its Chief Secretary,
Hyderabad,
Telegana State,
And others

.....Respondents

Report filed by the 5th Respondent

I, A.Narayana, S/o Rajaiah, aged 58 yrs, presently working as Executive Engineer, North Tanks Division, HL & WBM Circle, GHMC, Hyderabad, now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows:

1. I am working as Executive Engineer in the North Tanks Division, GHMC, the 5th Respondent herein and I am authorized to fill this Report on behalf of the 5th Respondent.
2. I submit that before the Hon'ble Green Tribunal, South Zone, Sri Thakur Raj Kumar Singh has submitted that there are encroachments in Sakhi Cheruvu and to stop the illegal walking track / road and to remove encroachments in Full Tank Level. Buffer Zone & Nalas of Sakhi Cheruvu water body at Patan cheruvu village (GHMC Circle 13), Medak District.
3. I submit that the 5th respondent had filed the counter affidavit dated 15.11.2016 before this Hon'ble NGT stating the factual position.


EXECUTIVE ENGINEER
North Tanks Division,
HYDERABAD,

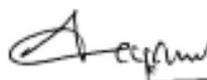
4. I humbly submit that the 5th respondent had also filed an affidavit in O.A.No.115 / 2016 before the Hon'ble Tribunal on 13.03.2022.
5. This Hon'ble Tribunal by order Dt:14.03.2022 had observed as follows:

"In the above reports, it is not mentioned as to what is the present stage, after removal of encroachments. Further, it is also not clear from the report submitted as to whether there was any encroachment in SakhiCheruvu comprising in Sy. No.615 at Patancheruvu Village and Mandal, Medak District which was specifically mentioned in O.A. No.115/2016. As per the earlier order, we have directed the authorities to file a detailed report regarding this Cheruvu as well, but no such exercise has been done by the authorities and whatever reports filed, they are only relating to the water bodies mentioned in O.A. No.156/2016 alone.

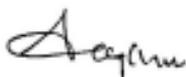
When this was pointed out, the learned counsel appearing for the State of Telangana submitted that if some time is granted, they will come with a proper report in respect of the same as well.

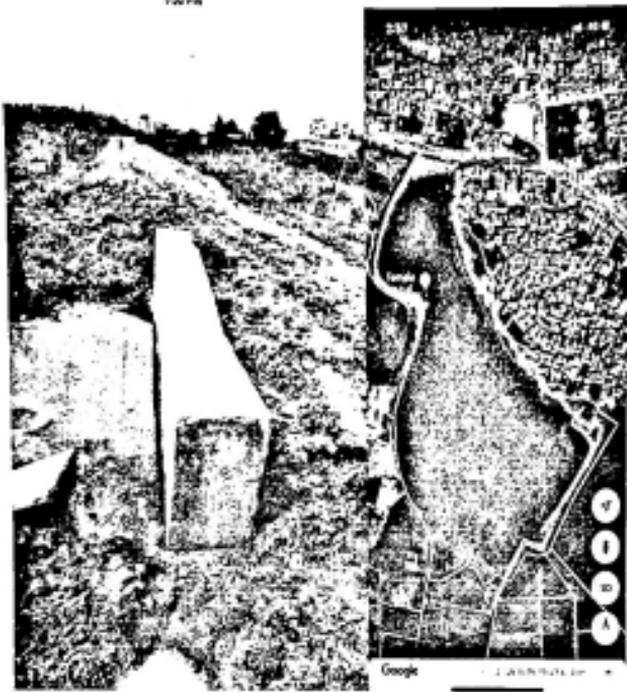
Though there was an admission that certain walkway was constructed in that lake, it is not clear from the reports as to whether that walkway has been removed after fixing the buffer zone and FTL of the said water body namely, SakhiCheruvu which was seen from the photograph produced by the applicant in O.A. No.156/2016. So, the concerned authorities namely, the Lake Protection Committee and Public Works Department and Irrigation Department are directed to submit a detailed report regarding the same as well and also further progress in respect of the action taken as mentioned in the action taken reports regarding the removal of the encroachment etc."

6. I submit that as regard to Para 6, of the above mentioned Hon'ble National Green Tribunal order dated 14.03.2022, it is respectively submitted that the counter affidavit was filed on 13.03.2022 stating a Joint Inspection was conducted on 22.10.2021 by officials of Revenue, Town planning and Irrigation Department. The structures falling in FTL/Buffer zone of sakhi cheruvu have been identified and listed in **ANNEXURE -I**.
7. I submit that the process of removal of structures/ encroachments and further actions will be taken up by Town planning section of the 5th Respondent. The Photographs taken during the Joint Inspection


 EXECUTIVE ENGINEER
 North Tanks Division,
 HYDERABAD.

- dated 08.09.2021 was also enclosed. Accordingly Town Planning Department of GHMC has issued the notices to the 18 house holders identified during Joint Inspection. In response to the above notices, some of the encroachers submitted the permission copies obtained from Gram Panchayat / Municipality (**ANNEXURE -II**).
8. I further submitted that one of the encroacher by name Raju Nayak H.No.12-71/9/C has approached Hon'ble Court and filed Writ Petition No. 5794 of 2023. (**ANNEXURE -III**).
10. I submit that as regards Para 8, of the Hon'ble NGT order dated 14.03.2022, it is respectfully submitted that the work for development and beautification of Sakicheruvu in Patancheru of Medak district (now Sangareddy district) under GHMC limits was sanctioned and laying of walking track around the FTL boundary of lake was the part of above work. The walking track was formed by deepening of lake quantity of earth excavated from the tank bed area which increases the capacity of tank. I further submit that culverts are also constructed at lowest points across the walking track for inflow channels for entering of water from its catchment into the tank. Hence, there is no shrinkage of water body due to laying of walking track along the FTL boundary. Further the main objective of taking up the laying of walking track is to protect the tank area from the possible future encroachments. Therefore, there is no decrease of tank capacity and there is no obstruction to the free flow of catchment water entering into the tank. The Photo of Inlets, which has been constructed to facilitate the entry of the catchment water into the lake bed and a google map of the tank area is enclosed.


EXECUTIVE ENGINEER
North Tanks Division,
HYDERABAD.



11. I further submitted that this respondent will abide by the orders of this Hon'ble NGT and it is humbly prays that this Hon'ble Tribunal pass appropriate orders to the facts and circumstances of the case and thus render Justice.

Dated at Chennai on the 20th day of July 2023

Signed his name in
My presence


 Before **EXECUTIVE ENGINEER**
 North Tanks Division,
 HYDERABAD,
 Advocate: Chennai

ANNEXURE - 1

STATISTICS SHOWING THE LIST OF THE PDS UNITS IN THE STATE OF ANDHRA PRADEH AS ON 31.03.2011

Sl No	Name of the Unit	Area in Sq. Mtrs.	PDS Substation in Sq. Mtrs.	2011 Ratio in Sq. Mtrs.	Status of the House Owner	Type of House	No. of House
1	607 12-71A	431	127.8	127.8	100% owned	100%	100%
2	607 12-71AA	446	127.8	127.8	100% owned	100%	100%
3	607 12-71AA/01	546	127.8	127.8	100% owned	100%	100%
4	607 12-71/01	483	127.8	127.8	100% owned	100%	100%
5	607 12-71/01/01	416	127.8	127.8	100% owned	100%	100%
6	605 12-71 Available	416	127.8	127.8	100% owned	100%	100%
7	605 12-71 Available	416	127.8	127.8	100% owned	100%	100%
8	605 12-71 Available	416	127.8	127.8	100% owned	100%	100%
9	603 12-71/01	438	127.8	127.8	100% owned	100%	100%
10	601 11-57/01	546	127.8	127.8	100% owned	100%	100%
11	601 11-57/01	546	127.8	127.8	100% owned	100%	100%
12	601 11-57	546	127.8	127.8	100% owned	100%	100%
13	601 11-57	546	127.8	127.8	100% owned	100%	100%
14	601 11-57	546	127.8	127.8	100% owned	100%	100%
15	601 11-57	546	127.8	127.8	100% owned	100%	100%
16	601 11-57	546	127.8	127.8	100% owned	100%	100%
17	601 11-57	546	127.8	127.8	100% owned	100%	100%
18	601 11-57	546	127.8	127.8	100% owned	100%	100%
19	601 11-57	546	127.8	127.8	100% owned	100%	100%
20	601 11-57	546	127.8	127.8	100% owned	100%	100%

22/7/2011

By: *[Signature]*
 Addl. Director,
 G.H.M.C.

Tachile,
 Panchajanya Taluk

By: *[Signature]*
 Addl. Director,
 G.H.M.C.

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GREATER HYDERABAD MUNICIPAL CORPORATION
Patancheru & Rameswaram Circle 22



From
 The Deputy Commissioner
 Patancheru & Rameswaram
 Circle 22, GHMC

To,
 The Nodal Officer (STF) and
 Joint Commissioner,
 SLP Zone, GHMC.

Lr.No. 1090/TPSC/1r-22/SLPZ/2023, Dt: 25.08.2023

Sir,

Subj: GHMC - Circle - 22 - Patancheru & Rameswaram - SLP Zone - Town Planning Section - Encroachments in the FTL/Buffer Zone of Saki Cheruvu - Issued Notices - Request to take necessary action - Reg.

- Ref: - 1. Lr.No. E/NTD/DEJ/2021/1445/1 Dt: 22.11.2021 from the Executive engineer, North Task Division, Hyd.
 2. Lr.No.H4/3677/2022, ..12.2022 received in this office on Dt: 29.12.2022.
 3. This office show cause notices and speaking orders.

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It is to submit that, a letter was received from the Executive engineer, North Task Division, Hyd vide ref. 1st cited stating that, with reference to the NGT case 115/2016 a joint inspection was conducted along with Revenue and town planning officials to identify the structures/encroachments falling in FTL / Buffer zone of Saki cheruvu, Patancheru. During joint inspection it was observed that there are 18 No's of structures falling in FTL/Buffer Zone . As per G.O.Ms.No.168 of (MA&UD Department) Dt:07.04.2012, no permanent structures are allowed in FTL buffer zone. The details of structures falling in FTL/Buffer are annexed herewith and it is requested to issue notices to the owners of the identified structures for demolition.

Further it is to submit that, the Collector has addressed a letter vide ref.2nd cited enclosing a complaint copy and requested to go through the contents of the complaint and submit a detailed report immediately regarding the encroachment of Saki Cheruvu and constructed RCC buildings by the local people without taking any permissions from municipal authorities. Therefore this office has issued show cause notices and speaking orders to 18 No's of structures falling in FTL/Buffer Zone as per the list annexed by the Executive engineer, North Task Division, Hyd. The details are as follows.

Sl.No	Name of house owner	House No.	No of floors (RCC building)	Notice issued by GHMC Details	Remarks
1	B.Dasareb	11-92	Ground floor	9537/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
2	Ravi	11-93	Ground floor	9538/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
3	Srinu S/o Ramanao	11-94	Ground floor	9539/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
4	Sabitha	11-95	Ground floor	9540/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
5	Machusudra Reddy	11-97	Ground floor + 1 upper floor	9542/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
6	Ashok	11-971	Ground floor	9543/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
7	K.Rangana	11-972	Ground floor + 1 upper floor	9544/TPS/Circle22/SLPZ/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission

8	P Vinod Reddy	12-71/7B	Ground + 2 upper floors	9545/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Municipal / Grampanchayat Permission
9	Raja Nayak	12-71/9C	Ground floor	9546/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Court Case W P No. 5794 of 2023
10	Jyothi W/o Premod	10	Ground floor + 3 upper floor	9546/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
11	R.K. Singh	11-47	Ground floor + 3 upper floor	9543/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
12	Mahaveer Inani Kumar	Beside Plot No. 10	Ground floor + 3 upper floor	9547/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
13	Md Jabbar	12-71/10/1	Ground floor	9540/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
14	J.Sarjaneeshwar	12-71/10	Ground floor	9550/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
15	Talor	beside IL.No. 12-71/A/3/1	Ground + 3 upper Floor	9552/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
16	Md Shaveen Khan	12-71/A	Ground + 2 upper floors	9553/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
17	Sathya Srwa Sarathi	Sy.No. 615	Ground floor	9554/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
18	Pochamma temple complex	Sy.No. 615	Ground floor	9555/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted
19	Amzad	12-71/A/3/1	Ground floor	9551/TPS/Circle22/SLP2/GH MC/2023 dt: 23.01.2023	Reply Not Submitted

In view of the above it is to submit the encroachers haven't replied to this office notices even after sufficient time and hence it is confirmed that they have no explanation to offer in this matter and thus structures constructed in FTL/Buffer Zone of Sakki cheruva are unauthorized and illegal encroachments. Therefore, you are hereby requested to direct the concerned Task Force team to take provide sufficient machinery and men and fix up demolition program for the structures constructed illegally in FTL/Buffer Zone of Saki Cheruva and inform the same to this office which enables this office to co-ordinate with the Irrigation and Revenue officials.

This may be treated as "word order".

Yours faithfully,

Deputy Commissioner,
Patancheru & Ramachandrapuram,
Circle-22, GHMC

Copy to:

1. The Deputy Collector & Tahsildar, Patancheru Sub-Division, for favor of kind information.
2. The Executive Engineer, North Tanks Division, M.G Road Secunderabad for favor of kind information.

25/8/2023

HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION No.5794 of 2023ORDER:

This writ petition is being disposed of at the admission stage with the consent of both parties.

This writ petition is filed seeking the following relief:

.....to issue a Writ or Order or Direction more particularly one in the nature of a Writ of MANDAMUS declaring the action of the 3rd Respondent herein in serving a copy of Show Cause Notice to the Petitioner herein vide Notice No 9548/TPS/Cir-22/SLPZ/GHMC/2023 dated 23/01/2023 addressed to Sri Raju Nayak H No 12-71/9/C Sy No 605 Patancheru alleging that the Petitioner has constructed G Plus 3 and Penthouse by encroaching into FTL Zone / Buffer Zone of Sakthi Cheruvu in the above mentioned premises whereas the Petitioners house number is H No 12-71/9/A Plot No 20 bearing Survey No 606 607/U and 608/U Patancheru Town and Mandal Sangareddy District and set aside the same as illegal arbitrary violation principles of natural justice and in violation of Article 14 and 19 of the Constitution of India and Consequently direct the Respondents 2 and 3 herein to consider and pass appropriate orders on the explanation dated 02/02/2023 Received on 03/02/2023 and the building permission application of the Petitioner received vide Receipt No GHMC/004243/16-17 dated 14/10/2016 forthwith till such time not to initiate any further coercive steps and to pass.....

2. Heard Mr. T. Basavajiah, learned Counsel appearing for the petitioner and Mr. M.A.K. Mukheed, learned Standing Counsel appearing for respondent-GHMC.

3. It is the case of the petitioner that he is the absolute owner of the house bearing H.No.12-71/9/A, Plot No.20 having purchased the same through registered sale deed bearing Document No.4208 of 2015, dated 11.03.2015 and he also made an application for regularization of un-approved layout

forming part of Sy.Nos.606, 607 and 608 of R C Puram, to the GHMC in terms of Go.M.S. No.151, MA, dated 02.11.2015 and he also paid the regularization fee of an amount of Rs.1,36,046/-. It is the further case of the petitioner that to construct a multistoried building, the petitioner has made an application to the GHMC vide receipt No.GHMC/004243/16-17, dated 14.10.2016 in file No.3/C13/03241/2016 but the same was not considered.

4. Mr. M.A.K. Mukheed, learned Counsel appearing for the respondent-Municipal Corporation submits that having noticed the shortfalls in the application submitted by the petitioner, they have issued a show cause notice directing the petitioner to submit an explanation and also not to proceed with the illegal Constructions over the subject plot but the petitioner instead of resubmitting the application, complying the shortfall conditions, in a hasty manner is proceeding with the illegal constructions over the subject plot, without there being any sanctioned plan. In these circumstances, they have issued a show cause notice under Section 452 (1) of the Greater Hyderabad Municipal Corporation Act, 1955 in proceedings No.9548/TPS/Cir-22/SLPZ/GHMC/2023 dated 23.01.2023 and according to the said show cause notice, a joint inspection was conducted by the revenue officials and irrigation department including GHMC officials and it was observed that the petitioner has constructed RCC building in FTL zone and the said construction is carried out in violation of the building rules framed in G.O.Ms. No.168, dated 07.04.2012.

5. Learned Counsel for the petitioner submits that the petitioner having received the said show cause notice has submitted a detailed explanation stating that joint inspection was conducted without issuing any notice and therefore the said inspection report is not binding on him. Further, he stated that the said land is not forming part of the FTL area and there are no appropriate measurements to come to such a conclusion that the construction carried out by the petitioner is forming part of the FTL area and the respondents without considering the explanation submitted by the petitioner dated 02.02.2023, are now interfering with the petitioner's possession and are threatening to demolish the building. He submits that the respondents have not initiated any action considering the representation and if appropriate action is initiated by the respondents in accordance with law, he will submit an explanation. He also submits that the petitioner will take recourse for regularization of his constructions in accordance with law.

6. Learned Standing Counsel appearing for the respondent-Municipal Corporation has submitted that they will follow due process of law before removing the unauthorized constructions for which the petitioner is not entitled for regularization, since the petitioner's constructions are forming part of the FTL area.

7. This court taking into consideration all the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of, directing the respondents-Municipal Corporation to follow the procedure

prescribed under the provisions of the Greater Hyderabad Municipal Corporation Act, 1955, before initiating any action for removal of illegal constructions which have been carried out by the petitioner and if the same are not permissible to be regularized under the various Go's issued by the Government.

8. With the above direction, writ petition is disposed of. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

Date: 02-03-2023
myk

JUSTICE C.V.BHASKAR REDDY