

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE, CHENNAI
ORIGINAL APPLICATION NO. 132/2023
[Earlier ORIGINAL APPLICATION NO. 312/2022 (PB)]**

**OBJECTIONS BY THE APPLICANTS TO THE REPLY OF
RESPONDENT NO. 4 -B.B.M.P (BRUHAT BENGALURU
MAHANAGAR PALIKE) DATED 28-Nov-2023**

BETWEEN:

Smt. Vilasini Ramkumar & Ors

... APPLICANTS

Versus

State of Karnataka & Ors

...RESPONDENTS

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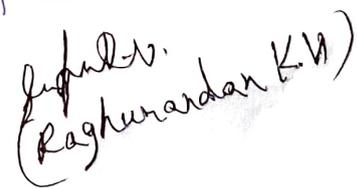
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For Applicants:

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VILASINI RAMKUMAR

② 
CHARESH CHARATI

③ 
Raghuradan K.H.

Place: Bengaluru

Date: 25-01-2024

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It is respectfully submitted that these sets of objections be read together with the objections dated 20.02.2023 by the applicants to the Reply of R-4 and reply dated 16.09.2022 by the applicants to the Action Taken Report (ATR) submitted by Karnataka State Pollution Control Board (KSPCB) on 18.08.2022.

BRIEF FACTS:

1. The present Original Application has been registered based on a complaint received by way of E-mail and is about encroachment of Kembattahalli lake by burial ground and other structures. In addition the applicants have also raised issues of construction activity in the buffer zone of the lake, violations of storm water drain norms (encroachment of drains, construction in buffer zone), underutilisation of lake capacity, pollution of lake.
2. This Hon'ble Tribunal took cognizance of the matter based upon the email and registered the matter as O.A No 312/2022 vide its order dated 06.05.2022. The Hon'ble Tribunal ordered for a factual and action taken report from a Joint committee comprising of State Wetland Authority, State PCB Commissioner, Municipal corporation of Greater Bengaluru and Collector, Bengaluru with the State PCB as nodal agency for coordination and compliance. The committee was tasked to hold meetings, undertake site visits, look

into the grievances of the applicants and take requisite remedial action by following due process of law. The nodal agency was asked to furnish an ATR within two months.

3. The Karnataka State Pollution Control Board uploaded an ATR dated 05.08.2022 on the website of this tribunal on 18.08.2022.
4. We, the applicants have furnished our reply to the ATR dated 05.08.2022 on 16.09.2022 and have clearly refuted the claims made in the ATR.
5. It is submitted that BBMP has furnished a reply on 19.12.2022.
6. It is submitted that we, the applicants, have submitted objections on 20.02.2023 to BBMP's reply.
7. It is submitted that Karnataka State Wetland Authority has submitted a report on 23.05.2023.
8. The matter was transferred to the Southern Zone Bench, Chennai vide order dated 21.08.2023 of the Principal Bench.
9. It is submitted that the Principal Bench on 19.09.2022 had passed an order "*In view of the averments made in the application and observations made in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Karnataka through Chief Secretary, government of Karnataka, (2) State wetlands authority, (3) State PCB, (4) Commissioner, Bruhat Bengaluru Mahanagar Palike (BBMP) and (5) Deputy commissioner, Urban District Bengaluru who stand impleaded as*

respondents number 1 to 5. Notice of the application be issued to respondents number 1 to 5 requiring them to file their response / reply to the averments made in the application and the observations made in the report of Joint Committee within 2 months at <mailto:judicial-ngt@gov.in> preferably in the form of searchable PDF or OCR support PDF and not in the form of image PDF okay.

10. Further this hon'ble bench vide it's order dated 12.09.2023 had remarked "Vide order dated 19.09.2022 the principal bench of the national green tribunal had directed the Chief Secretary to Government, State of Karnataka to give a response to the complaint made. However, the same has not been filed even after the passage of one year".
11. Then the bench passed an order on 12.09.2023 : "Hence, we direct the Chief Secretary to Government, State of Karnataka to file a comprehensive report after getting the appropriate responses from the other respondents namely Karnataka State Wetland Authority, Karnataka State Pollution Control Board, Commissioner BBMP, and the Deputy Commissioner - Urban District Bengaluru pertaining to the letter petition filed by the applicants which would enable this tribunal to pass appropriate orders."

12. As on date (25.01.2023) the Chief Secretary, Government Of Karnataka has not filed a report in the matter in spite of multiple reminders (15 months and counting) by the Principal bench and the Southern Zone Bench, Chennai of the National Green Tribunal.
13. Thus we request that the Hon'ble Tribunal pass an order requiring the Chief Secretary , Government of Karnataka to file a report without any further delay and also require the personal attendance of the Chief Secretary before the Hon'ble bench to assist in the matter.
14. It is submitted that following is the brief summary of the report of BBMP dated 28.11.2023, observations and the applicants' response:
- a. (1) Sewage diversion work has been completed by BBMP.
(2) Presently no sewage is entering to the lake

Applicants' response:

- i. We still see sewage entering the lake. (Annexure I - photos attached)*
- b. As per RTC land record , two acres of land in survey No. 55 of Kembathalli village has been sanctioned for burial ground.

Applicants' response:

- i. The BBMP has not stated the plan and time frame for removal of encroachments.*

SUMMARY OF THE ISSUES (restating the same):

1. Encroachment of the lake at multiple places by the government, private parties including a burial ground and the authorities have turned a blind eye towards this. Even when the matter is being heard by the Hon'ble Tribunal there are attempts to change the status quo by cutting open the fence. Garbage is being dumped into the lake premises (Annexure II - photo attached)
2. Construction activity in the buffer zone of the lake and BBMP has turned a blind eye. In some cases, it's allegedly the violator. Even when the construction is being done right next to the lake the BBMP has chosen not to take any action. The BBMP officials are duty bound to conduct inspection of construction activities and take action but they have chosen not to take any action even after complaints. Unlike the lake boundaries the buffer zone is not marked and secured by fence and that helps the violators.
3. There are violations of the Storm Water Drain norms. Either Storm Water Drains are encroached, or buffer zone not maintained around the Storm Water drains as per norms.
4. The lake rejuvenation project has made the wastewater weir too low. In this torrential rain too, the lake is not even half full leading to less than 50% utilisation of lake capacity.
5. Sewage water is still entering the lake via inlets.

6. As can be seen the BBMP's request to treat the matter in OA 312 of 2022 as closed cannot be acceded to as it has primary responsibility in protecting the lake and it has been failing to perform its duties.

PRAYERS (restating the same):

We humbly request that the Hon'ble NGT may be pleased to :

1. Pass an order to survey all the survey numbers of the lake as per the village maps (Kembattahalli and Kottanuru).
2. Pass an order to identify the encroachments, clear the same and recover the lake area and also stop any of the lake area being used as roads, fence the lake barring one or two entrance gates.
3. Pass an order to direct the Government to make alternate arrangements to the displaced encroachers.
4. Pass an order to clearly mark the buffer zone in maps, secure the same with fences and make available the buffer zone markings online (like the Dishaank application) for public consumption. Pass an order to survey the buffer zone for illegal constructions, take actions to clear those constructions.
5. Pass an order to survey the Storm Water Drains, remove all encroachments, and maintain the Storm Water Drains according to the buffer zone norms.
6. Pass an order to stop the sewage water entry into the lake.
7. Pass an order to ensure that the full capacity of the lake is utilised for water storage.
8. Pass an order to seal off the lake except for the entrance gates.

9. Pass an order to establish a mechanism to monitor water quality of the lake at regular intervals.
10. Pass an order to direct the Government to provide for round the clock security with CCTV cameras.
11. Pass an order to direct the Government to fulfil and adhere to the buffer zone norms strictly.
12. Pass an order to initiate actions on the officials who have allowed encroachments / buffer zone constructions by acts of commission/omission.

Annexure I: Sewage entry into the lake.



Annexure II: Garbage dumping in lake premises.

