

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 06 of 2012

M.A. No. 1148/17

IN THE MATTER OF:

Manoj Mishra

Applicant

Versus

Union of India &Ors.

Respondents

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Filed through

(MS. PUJA KALRA)

Advocate on behalf of SDMC

430-431, 4th Floor, Lawyers Chambers

Delhi High Court, New Delhi

Dated _____ February 2020

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**RESPONSE IN TERMS OF PARA 20 OF THE ORDER OF THE
HON'BLE NGT DATED 3.1.2020 ON BEHALF OF SOUTH DELHI
MUNICIPAL CORPORATION (SDMC).**

I, Deepak Kumar, S/o Sh. G.B. Singh aged about 49 years presently working as Executive Engineer, Sanitary Land Fill site (SLF) Okhla Phase-I, SDMC having its office at Room No. 6, Gate No. 4 at office complex of Dr. Ambedker Stadium, Delhi Gate, New Delhi -110002. The deponent above named, do hereby solemnly affirm and declare as under:-

That the deponent is presently working as Executive Engineer, SLF Okhla Phase-I, SDMC, and well conversant with the facts of the present case based on the official records maintained as such and competent to depose thereto.

That the Hon'ble NGT vide order dated 3.1.2020 directed as under:-

"To sum up, our directions in the present order are:

Chief Secretary, Delhi; DDA; DSIIDC; PWD, Irrigation and Flood Control Department, Cantonment Board; NDMC; South, East and North Delhi Municipal Corporations may furnish their response in terms of Para 20 above by e-mail at judicial-ngt@gov.in before the next date. Departments/Agencies under Delhi Government may give their respective reports to the Chief Secretary so that Chief Secretary gives a report on behalf of all the Departments/Agencies of Delhi, while other authorities may give their reports separately. The report of the YMC may be sent to Chief Secretary, Delhi; DDA; DSIIDC; PWD; Irrigation and Flood Control Department; Cantonment Board; NDMC; South, East and North Delhi Municipal Corporations by e-mail.”

That the contents of para no. 20 as stated above is reproduced below:-

“With a view to consider the suggestion of the YMC for entrusting the functions of management of all the drains in Delhi to a single agency, we require a response from Chief Secretary, Delhi; DDA; DSIIDC; PWD; Irrigation and Flood Control Department; Cantonment Board; NDMC; South, East and North Delhi Municipal Corporations which may be furnished by e-mail at judicial-ngt@gov.in before the next date. The report of the YMC may be sent to Chief Secretary, Delhi; DDA; DSIIDC; PWD; Irrigation and Flood Control Department; Cantonment Board; NDMC; South, East and North Delhi Municipal Corporations by e-mail.”

**RESPONSE OF SDMC IN TERMS OF PARA NO. 20 ABOVE
IS AS UNDER:-**

That it is submitted that, the DMC Act 1957, states as follows:-

“42. Obligatory functions of the Corporation

Subject to the provisions of this Act and any other law for the time being in force, it shall be incumbent on the Corporation to make adequate provision by any means or measures which it may lawfully use or take, for each of the following matters, namely: —

*(a) the construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences; ****

*(c) the scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters;****

(e) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

355. Collection and removal of filth and polluted matter through municipal agency (1) It shall be lawful for the Commissioner to take or cause to be taken measures for the daily collection, removal and disposal of all filth and polluted and obnoxious matters from latrines, urinals and cesspools not connected by a drain with a municipal drain from all premises situate in any portion of Delhi. (2) In such portion of Delhi and in any premises wherever situated in which there is a latrine, or urinal connected with a municipal drain, it shall not be

lawful, except with the written permission of the Commissioner, for any person who is not employed by or on behalf of the Commissioner, to discharge any of the duties of scavengers.”

1. That there are various other authorities managing the colonies, road and drains for example Central Public works department, Public works department of Govt. of Delhi, Delhi Development Authority, Railway Authorities, Delhi Cantonment Board, New Delhi Municipal Council etc.to repair, maintain and de-silting of drains is done by the respective authorities within the jurisdiction of SDMC.
2. That all drains along with all roadshaving Right of Way more than 60 ft. in SDMC area are constructed, maintained and cleaned/de-siltedby the PWD since May 2012.
3. That all drains along with all roads having Right of Way less than60 ft. are constructed, maintained and cleaned/de-silted by SDMC only.
4. That SDMC has approximately 247 nos. of drains with length 164 Km. more than 4 ft. in depth/width; these drains are being de-silted throughout the year by departmental labour/machines/contract.
5. That SDMC has also approximately 28000 nos. of drains with length of 5604 Km. below 4 ft. in depth/width are got de-silted by departmental SafaiKaramcharies on day to day basis.

6. That to carry out the de-silting operation, machines such as backhoe loaders, Hydraulic Excavators, Super Suckers, Suction-cum jetting machines etc. have already been deployed.

7. That only in extreme cases, the work of de-silting has been entrusted to private contractor who carry out de-silting through mechanical means.

8. SDMC has 26 permanent pumping stations located in low lying area prone to flooding. These pumping stations are kept functional round the year. That, to avoid water stagnation at vulnerable points (which is identified on the previous year rains/water stagnation experience) the SDMC has adequate number of mobile pump sets.

9. That SDMC has set up control rooms in all its 4 zones to monitor the flooding and water stagnation position in various parts of the Corporation. That the pump sets of higher capacity with diesel generator sets are deployed to function continuously. That the suction machines available in each zone are also put into service to remove the blockage/water stagnation.

10. That SDMC has prepared the Monsoon Emergency plan containing all necessary information about telephone numbers of important control rooms to be contacted in case of water stagnation, zone wise details of storm water drains, list of vulnerable points, pumping station, deployment of portable pumps along with map showing nallah/drains of SDMC.

11. That SDMC has taken all efforts to meet the emergency situation during monsoon, still in case unprecedented rain fall it does

take some time to clear. Control Room is setup in each zone which is equipped with Truck&Labour&pumps to attend the complaints regarding water logging. In addition to Central Control Room has also been set-up at Civic Center round the clock which attends the complaints regarding water logging.

12. That the drains are basically storm water drains, designed to cater for the discharge of storm water of the adjoining areas. However due to inadequacy and non-availability of underground sewerage system, instead of storm water, the sewage effluent flows through the said drains during dry weather as well as during monsoon. The sewerages system is being maintained by the Delhi Jal Board (DJB) throughout the city. It is also observed that in several part of the City where there is no proper civic infrastructural facilities are available, the storm water drains are being used by the residents in the vicinity to dump solid waste also thereby chocking the free flow of water and reducing the sectional area of the drains.

13. That Hon'ble NGT vide order dated 25.7.2018 in the matter of Manoj Mishra vs. Union of India &Ors. in OA No. 6 of 2012 directed as under:-

“Whoever violates this direction relating to the dumping of debris, shall be liable to pay compensation of Rs. 50,000/- on the ‘Polluter Pays’ Principle and the Precautionary Principle. Such compensation shall be used for removal of such waste and restoration of environment.”

14. ENFORCEMENT FOR DUMPING OF DEBRIS/MALBA IN THE DRAINS

- I. That as per DMC Act 1957, the SDMC has already delegated Sanitary Inspector/Equivalent or higher in rank to take action against defaulters/offenders for dumping of debris/malba in the drains. 12553 nos. of defaulters/offenders have been challaned and an amount of Rs. 268.81 lacs recovered w.e.f. 1.1.2019 to 31.12.2019.
- II. That in compliance to the orders of the Hon'ble NGT as stated above at serial no. 13, the SDMC has also delegated the powers to all AEs (Maintenance), all AEs (DEMS) and all Sanitary Inspectors to initiate proceedings to recover amount treating non-payment of compensation as dues recoverable vide office order no. D-064/Comm./SDMC/2020 dated 27.1.2020.
15. That it is suggested that all road side drains must be managed by road management agencies and apart from above, all other drains must be managed by I&FC, GNCTD.

-sd-
DEPONENT

VERIFICATION:

Verified at Delhi on this _____ day of February, 2020 that the contents of the above said written submission are true and correct as per the official record maintained and made available in this regard. No part of it is false and nothing material has been concealed there from.

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DEPONENT

