

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTH ZONE**

**APPEAL NO. 53 OF 2024 (SZ)**

**IN THE MATTER OF**

**M/s. Madras Engineering Group and Centre ... Appellants**

**Vs.**

**Government of Karnataka and Others ... Respondents**

**AFFIDAVIT ON BEHALF OF KARNATAKA STATE**

**POLLUTION CONTROL BOARD**

**PAPERBOOK**

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**DEVRAJ ASHOK**

**COUNSEL FOR KARNATAKA STATE POLLUTION CONTROL BOARD**

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PLACE: BENGALURU

DATE:



THROUGH COUNSEL

DEVRAJ ASHOK  
PH: 8050637442

BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTH ZONE

1

APPEAL NO. 53 OF 2024 (SZ)

IN THE MATTER OF

M/s. Madras Engineering Group and Centre ... Appellants

Vs.

Government of Karnataka and Others ... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE

KARNATAKA STATE POLLUTION CONTROL BOARD

I, Shri. M.S. Natesh, aged about 57 years, son of Late T.H.Shivananja Devaru, presently working as the Environmental Officer, Bangalore City East Regional Office, Karnataka State Pollution Control Board (the "KSPCB"), Nisarga Bhavan, do hereby solemnly affirm and state that I am duly authorized and competent to depose the present affidavit, on behalf of the KSPCB. I am familiar with the facts and circumstances about the present matter, based on the official documents/records of the Karnataka State Pollution Control Board and also in my official capacity and depose as set forth below:

1. It is respectfully submitted that the above-referenced appeal has been filed by the Appellant, challenging the imposition of environmental compensation/penalty for causing water pollution, in Original Application 54 of 2016. However, while the present appeal proceedings were pending before this Hon'ble Tribunal, the Appellant herein had simultaneously approached the Hon'ble High Court of Karnataka by way of Writ Petition No. 26954 of 2024, challenging the very same order of the Hon'ble NGT in OA 54 of 2016, imposing environment compensation (hereafter, also referred to as the "Writ Proceedings").

2. The Writ Proceedings were finally disposed of by the Hon'ble High Court by way of judgment and order dated 26.11.2024 (hereafter, also referred to as the "Writ Order"). It is important to note that by way of the Writ Order, the Hon'ble



High Court of Karnataka has held that writ proceedings can be initiated, though an appeal remedy lies before this Hon'ble Tribunal, if there has been a violation of principles of natural justice by the Respondents. The Appellant herein had contended in the Writ Proceedings that the environmental compensation in OA 54 of 2016 was imposed without providing them an opportunity of hearing. Consequently, the Hon'ble High Court of Karnataka, having allowed the Writ Proceedings, has passed the Writ Order, with the specific directions at paragraph 7, as follows:

*“7. In light of the foregoing reasons and discussion, the following order is passed,*

*(i) Order dated 20th May 2022 passed by the National Green Tribunal Special Bench in Original Application No. 64 of 2015 is set aside insofar as and to the extent that it records a finding that M/s. Madras Engineering Group and Centre – the appellant herein has contributed to pollution.*

*(ii) The aforesaid order dated 20th May 2022 of the National Green Tribunal Special Bench is set aside also in so far as it confirms interim order dated 23rd September 2021, ex-parte imposing on the Appellant environment compensation of Rs. 2,94,60,000/- on the alleged ground of non-compliance of the discharge standards in two MLD-STP operated in Ulsoor Lake, Bangalore Water Supply and Sewerage Board.*

*(iii) The setting aside of the order and the finding imposing the environmental compensation on the Appellant are on the sole ground that they were passed without affording an opportunity of hearing to the appellant and thus in breach of principles of natural justice.*

*(iv) The matter is remitted back to the National Green Tribunal, Southern Zone, Chennai, to reconsider and decide afresh the question of imposition or otherwise of the environment compensation on the appellant, and to decide as to whether the*



*appellants are liable to pay such compensation, after extending opportunity of hearing to the appellants;*

*(v) The NGT shall permit the appellants to produce all the documents and the materials in their defence to put forward their case and the appellant shall also be heard for their case.*

*(vi) the parties shall co-operate in expeditious completion of the above exercise by NGT.*

*(vii) The appellants, however, shall be obliged to deposit an amount of Rs. 1,00,00,000/- (Rupees One Crore only) with the Karnataka State Pollution Control Board in view of the order dated 21st August 2024, passed by the National Green Tribunal in Appeal No. 53 of 2024. At the same time, the said deposit shall remain subject to the outcome of the fresh exercise and order afresh to be passed by the National Green Tribunal as per the above directions.*

8. *It is clarified that the aforesaid order and directions are passed only on the ground of non-compliance of principles of natural justice."*

A copy of the judgment and order of the Hon'ble High Court of Karnataka dated 26.11.2024 in Writ Petition No. 26954 of 2024 is annexed herewith as **ANNEXURE R1,**

3. In view of the above directions of the Hon'ble High Court of Karnataka in the Writ Proceedings and without prejudice to the legal rights of the KSPCB to challenge such directions in a higher court of law, the following submissions are made:

(A) It may be noted that the environment compensation was imposed on the Appellant herein, in OA 54 of 2016, after consideration of a recommendation made by a joint committee constituted by the Hon'ble NGT, by order dated 19.02.2020. The Joint Committee consisted of the Central Pollution Control Board, KSPCB,



*Karnataka State Pollution Control Board  
Bangalore-560 010*

Bruhat Bengaluru MahanagaraPalike and the District Magistrate, Bengaluru. Having considered the site inspection report of the Joint Committee and the parameters for computation of environment compensation applied, the environment compensation was confirmed by this Hon'ble Tribunal in its final judgment and order dated 20.05.2022. A copy of the judgment and order of this Hon'ble Tribunal dated 20.05.2022, in OA 54 of 2016, is annexed herewith as ANNEXURE R2;

(B) In view of the above, it is respectfully submitted that the Joint Committee will have to make fresh submissions to this Hon'ble Tribunal, after having duly considered the objections/submissions of the Appellant, if any; and

(C) the Appellant will have to make detailed submissions on the specific objections that they may have, to the earlier report of the Joint Committee, to enable the Joint Committee to review their earlier submission to this Hon'ble Tribunal and provide a cumulative submission to this Hon'ble Tribunal (including after fresh site inspection, if so directed by this Hon'ble Tribunal), to enable a comprehensive decision by this Hon'ble Tribunal.

4. KSPCB will be obliged to provide any other information that may be required by this Hon'ble Tribunal.

*M. S. ...*  
**DEPONENT**  
Environmental Officer  
Regional Office  
Bangalore City East Zone  
Karnataka State Pollution Control Board  
Bangalore-560 010

**VERIFICATION**

Verified on this TENTH (10th) day of September, 2025, at Bengaluru, that the contents of the above affidavit are true and correct to the best of my knowledge, information and belief and nothing material is concealed therefrom.



*M. S. ...*  
**DEPONENT**  
Environmental Officer  
Regional Office  
Bangalore City East Zone  
Karnataka State Pollution Control Board  
Bangalore-560 010

SWORN TO BEFORE ME

*[Handwritten signature]*

ONKARAPPA N.R.



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26<sup>TH</sup> DAY OF NOVEMBER, 2024

PRESENT



THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

WRIT PETITION NO. 26954 OF 2024 (GM-POL)

**BETWEEN:**

1. THE UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF DEFENCE  
136, SOUTH BLOCK  
NEW DELHI - 110 001.
2. M/S. MADRAS ENGINEERING GROUP AND CENTRE  
REP. BY ADMIN OFFICE  
HEADQUARTERS  
MADRAS ENGR GP AND CENTRE  
PIN CODE - 900 493.
3. M/S. GARRISON ENGINEER (NORTH)  
BANGALORE  
SHIVANA CHETTY GARDENS  
BENGALURU - 560 042.

...PETITIONERS

(BY SRI K. ARAVIND KAMATH, ASGI A/W  
SRI B. PRAMOD, CGSC)

**AND:**

1. GOVERNMENT OF KARNATAKA  
REP. BY IT CHIEF SECRETARY  
ROOM NO.320, 3<sup>RD</sup> FLOOR  
VIDHANA SOUDHA  
BENGALURU - 560 001.





2. THE GOVERNMENT OF KARNATAKA  
REP. BY ITS ADDITIONAL SECRETARY  
ROOM NO.222, 2<sup>ND</sup> FLOOR  
VIDHANASOUDHA  
BENGALURU - 560 001.
3. KARNATAKA STATE POLLUTION  
CONTROL BOARD  
REP. BY ITS CHIEF ENVIRONMENTAL OFFICER  
ZONAL OFFICE, BENGALURU CITY  
"NISARGA BHAVANA"  
3<sup>RD</sup> FLOOR, 7<sup>TH</sup> D MAIN  
THIMMALAH ROAD, SHIVANAGAR  
BENGALURU - 560 010.
4. CENTRAL POLLUTION  
CONTROL BOARD  
REP. BY ITS CHAIRMAN  
SOUTH ZONE OFFICE  
BENGALURU - 560 079.

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R -1 & 2  
MS. KRISHIKA VAISHNAV ADVOCATE FOR  
SRI. A. MAHESH CHOWDARY, ADVOCATE FOR R-3 &  
SRI. KIRAN B. S. ADVOCATE FOR R-4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 & 227 OF CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OR CERTIORARI ISSUE A WRIT OR ORDER BY WAY OF CERTIORARI QUASHING THE ORDER DATED 23.09.2021, 20.05.2022 (ANNEXURE-A AND A1) PASSED BY THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI IN THE MATTER OF SUO MOTU BASED ON THE NEWS ITEM PUBLISHED IN THE HINDU DATED 08.03.2016 TITLE LAKE IN HEART OF BENGALURU CITY TURNS GRAVEYARD FOR FISH IN OA No. 54/2016 (SZ) BY HOLDING IT TO BE ILLEGAL, ARBITRARY AND CONTRARY TO THE PRINCIPLE OF NATURAL JUSTICE & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE  
N.V. ANJARIA  
and  
HON'BLE MR JUSTICE K.V. ARAVIND

**ORAL ORDER**

(PER: HON'BLE THE CHIEF JUSTICE  
MR. JUSTICE N.V. ANJARIA)

At the outset, learned Additional Solicitor General Mr. K. Arvind Kamath, assisted by learned Central Government Standing Counsel Mr. B. Pramod for the petitioners does not press prayer (ii) in paragraph 32, seeking to delete the same.

2. Accordingly, prayer in paragraph 32(ii) is permitted to be deleted, which was as under,

“Issue a writ or order or direction, directing the 3<sup>rd</sup> respondent not to order closure of the 2<sup>nd</sup> petitioner and not to take any coercive/adverse action pursuant to notice/communication dated 09.07.2024 [Annexure A2] pending disposal of the Appeal before the Hon'ble NGT, Chennai”

2.1 Similarly, in the interim prayer, the following part was not pressed and sought to be deleted, which is permitted to be deleted,

“..... and notice/communication dated 09.07.2024 [Annexure-A2] passed by the 3<sup>rd</sup> respondent, and direct the respondents not to take any coercive/adverse action against the petitioners in the



interest of justice and equity and pass such other order/s deemed just and proper in the facts and circumstances of the case.”

3. The Union of India along with its two limbs namely M/s. Madras Engineering Group and Centre and M/s. Garrison Engineers (North) Bangalore which are under the Ministry of Defence, have filed the present petition.

3.1 The petitioner No.2-Madras Engineering Group is a category-B Training establishment, having designed capacity to train 2700 Agniveers and 1500 Soldiers. The Centre has authorized 51 Officers, 267 Junior Commissioned Officers and 1093 other Ranks. They along with the soldier-trainees undergo regular training. About 5000 employees and trainees stay within the campus with their family. Petitioner No.3-M/s.Garrison Engineers provide accommodation complexes.

3.2 Invoking the jurisdiction of this Court under Article 226 of the Constitution, the petitioners have challenged order dated 23<sup>rd</sup> September 2021 and 20<sup>th</sup> May 2022 passed by the National Green Tribunal, Southern Zone, Chennai passed in Original Application No.54 of 2015 which was a *suo motu* proceedings, based on the



news item published in 'The Hindu' daily dated 8<sup>th</sup> March 2016 titled as 'Lake in the heart of Bengaluru City turns graveyard for fish'.

3.3 An interim order was passed by the National Green Tribunal (NGT) on 23<sup>rd</sup> September 2021 in the aforesaid proceedings, whereby the NGT imposed environment compensation to the tune of Rs.2,94,60,000/- on petitioner No.2-Madras Engineering Group on the ground of non-compliance of the discharge standards in 100 KLD STP. Order dated 20<sup>th</sup> May 2022 thereafter came to be passed, finally disposing of the said proceedings of Original Application No.54 of 2016. In that order, a finding was *inter alia* recorded in paragraph 12 that Madras Engineering Group-petitioner No.2 along with the slaughter house Bangalore Water Supply and Sewerage Board (BWSSB) has contributed to the pollution.

3.4 It was directed that the compensation be assessed and recovered by Karnataka State Pollution Control Board-respondent No.3 herein from the petitioner No.2. The Tribunal provided that the BWSSB may contribute Rs.1,00,00,000/- (Rupees One Crore only) towards the interim compensation. It is to be noticed that the



petitioners herein were not party in the aforesaid proceedings before the NGT.

3.5 The prayer which was deleted as recorded above, was in respect of the notice-cum-order dated 9<sup>th</sup> July 2024, whereby the competent authority of Karnataka State Pollution Control Board called upon the petitioner to pay the environmental compensation of Rs.2,94,63,000/- as per the order dated 23<sup>rd</sup> September 2021 of the NGT within seven days, failing which, it was provided that, the closure order would be issued under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974.

3.6 With the above background of the order passed by the NGT, the case of the petitioners in the present petition may be noticed. While calling in question the aforementioned order dated 20<sup>th</sup> May 2022 as well as previous order which was interim order dated 23<sup>rd</sup> September 2021, it is stated that the petitioners were not party to the said *suo motu* proceedings initiated by the NGT. It is stated that open storm water drain of BWSSB flows through MEG & Centre adjacent to the 100 KLD STP commissioned in 2019 culminating in Ulsoor Lake.



3.6.1 It is stated that it is only when the Joint Committee appointed by the NGT came for inspection, the petitioner knew that *suo motu* proceedings were taken up by the NGT in the year 2016. It appears, it was stated that the Committee in its report dated 10<sup>th</sup> August 2020 recommended to the NGT that the STP was operated without Consent of Establishment and Consent of Operation and that the treated water did not comply the discharge standards. The Committee recommended imposition of environmental compensation from the date of sample collection.

3.6.2 It was stated that Central Pollution Control Board addressed letter dated 2<sup>nd</sup> July 2021 to inform the petitioner, to which reply was forwarded. The STP and SWD was re-inspected by the Joint Committee on 28<sup>th</sup> July 2021 and report was submitted to NGT. It is the case that even during this re-inspection, the petitioners were not given opportunity by the Joint Committee of being heard and put forward their case. The NGT thereafter passed the impugned orders invoking *suo motu* proceedings on the basis of newspaper report, in which also, the petitioners were not party.

3.7 Notice dated 9<sup>th</sup> July 2024 came to be issued from the Environmental officer, State Pollution Control Board with reference



to the proceedings and the orders passed by the NGT to call upon the petitioners to pay the imposed environment compensation of Rs.2,94,60,000/-, failing which, it was intimated, action in law would be initiated. The petitioners have filed Appeal No.53 of 2024 before the NGT against the said notice.

3.8 In the proceedings of the aforementioned appeal, the NGT passed the following interim order staying notice dated 9<sup>th</sup> July 2024 subject to condition that the appellant deposits sum of Rs.1,00,00,000/- with the Karnataka State Pollution Control Board, extracting paragraph 3,

“3. Without going into the merits of the case, considering the averment made in the appeal that there are more than 5000 employees/trainees residing in that area dependent on the Project Proponent, we grant an order of interim stay of the impugned notice dated 09.07.2024 subject to the condition that the appellant shall deposit a sum of Rs.1,00,00,000/- (Rupees One Crore only) to the Karnataka SPCB within a period of 06 (six) weeks from today, failing which the stay granted will be automatically vacated without further reference to this Tribunal.”

4. Learned Additional Solicitor General Mr. Arvind Kamath made following submissions,



- (i) The orders passed by the NGT imposing the environment compensation on the petitioner and the finding that the petitioner has created and contributed to pollution, are both without hearing the petitioner. The petitioner was not party to the proceedings. No opportunity was given to the petitioner.
- (ii) Even there is no assessment of the amount of environment compensation.
- (iii) The orders are unilaterally passed in breach of principles of natural justice.
- (iv) Without prejudice to the above contentions,
  - (a) In the reply to letter dated 2<sup>nd</sup> July 2021 of the Central Pollution Control Board, it was pointed out that the BWSSB diverted sewage from various civil areas into SWD flowing through MEG & Centre. Complaints were made against BWSSB to stop the flow of sewage which was becoming health hazard to the soldiers and other residents in the Centre.



- (b) It is no where the case that the Army establishments/stations in Karnataka need to take prior consent before operationalising the STPs.
- (c) The sewage load of the petitioner No.2 is very less and 1200 KLD STP is under planning. The claim about the generation and disposal into drains by the petitioner are exaggerated.
- (d) During inspection, the samples were collected from the entry point of the storm water drain to ascertain the pollution. The BWSSB and others are the main polluters and the petitioner cannot be pinned with the fault.
- (e) The treatment accorded to the petitioner is discriminatory.

4.1 It was further submitted by learned Additional Solicitor General that all the above aspects of the case and the contention of the petitioners could have been pointed out to the NGT, had the petitioner been the opportunity of hearing. Highlighting that non-giving of opportunity of hearing, caused serious prejudice to the petitioner as it is saddled with huge amount of environment



compensation erroneously and even without any assessment process, by recording ex parte finding.

4.1.1 Learned Additional Solicitor General submitted that the breach of natural justice and the admitted fact that the petitioner was not given opportunity of being heard, are good ground for this Court to exercise its jurisdiction under Article 226 of the Constitution and to set right the injustice done to the petitioner. He submitted that, even as the other side will point out about the availability of alternative remedy under Section 22 of the NGT Act, 2010 which provides for the Appeal to the Supreme Court, in the facts of the case when there is a clear breach of natural justice, this Court may exercise its powers.

4.1.2 In support of the above submission, the decision of the Supreme Court in **Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]**, was pressed into service, for what it laid down in paragraphs 14 and 15 of the judgment. Another decision in **Harbanslal Sahnia vs. Indian Oil Corporation [(2003) 2 SCC 107]**, was also relied on to highlight that the writ jurisdiction is not invariably excluded even when the alternative remedy is available.



4.1.3 For the similar principle, decision of the Apex Court in **Radhakishan Industries vs. State of H.P. [(2021) 6 SCC 771]**, which also ruled on the lines of **Whirlpool Corpn. (supra)**, in which it was stated that the power under Article 226 of the Constitution to issue writs can be exercised not only for enforcement of fundamental rights, but for any other purpose including the circumstance arising in the facts of the present case.

4.2 Learned Advocate Mr. Mahesh Choudary for respondent No.3-Karnataka State Pollution Control Board (KSPCB) relied on Section 22 of the National Green Tribunal Act, 2010, to vehemently submit that read with Section 14 of the Act which deals with the settlement of dispute by the Tribunal, since the appeal is provided before the Hon'ble Supreme Court under the said Section, the petition under Article 226 and 227 of the Constitution would not lie, and that the present petition is liable to be thrown away on that ground alone.

4.2.1 Learned Advocate for respondent No.3 vehemently submitted that petition is a belated attempt on the part of the Union of India and its defence establishments to call in question the order of the Tribunal. It was his submission that on the ground of delay,



the Court may not entertain the petition. The proposition was highlighted that delay or latches is one of the factors which would weigh with the High Court while exercising discretionary powers under Article 326 of the Constitution. Decision in **Karnataka Power Corporation vs. K. Thangappan [(2006) 4 SCC 322]** and in **Mrinmoy Maity vs. Chhandakoley [(2024) SCC Online SC 551]**, was relied on to buttress the submission.

4.2.2 Learned Advocate for respondent No.3 proceeded to raise contentions on merits by relying on affidavit-in-reply. He further attempted to submit that it could not be said that the petitioners are not aware about the proceedings before the Tribunal. Therefore, it was submitted that no relief could be granted to the petitioners even on the ground of breach of natural justice.

5. There is no gainsaying that the petitioners were not party before the NGT which took up *suo motu* proceedings and proceeded to pass the interim and thereafter the final order against the petitioners, imposing environment compensation recording a finding to hold that the petitioners are contributory to pollution.



5.1 In the final order dated 20<sup>th</sup> May 2022, following finding was recorded,

“Slaughter house, MEG and BWSSB have contributed to the pollution apart from other. Compensation be assessed and recovered from them by the State PCB, following due process. BWSSB may kindly contribute interim compensation of Rs.1 crore.”  
(Para 12)

5.1.1 In the interim order dated 23<sup>rd</sup> September 2022, observations were made by the NGT which were in absence of the petitioners to become the basis for the final order and confirmation therein, extracting the same,

“3. EC for non-compliance of 100 KLD STP operated by MEG & C:

Based on the water consumption data, the Joint Committee in its report dated 10.08.2020 estimate that 4300 KLD of sewage is generated in Madras Engineering Group and Centre campus. Out of this 100 KLD is treated in the STP installed by Madras Engineering Group and Centre and remaining 4.2 MLD is discharged to UGD system installed by BWSSB. Treated sewage from STP is discharged to the storm water drain. MEG has not applied for Consent for Establishment and Consent for Operation from KSPCB for installation and operation of STP and discharging of treated sewage. The STP is operated without valid consent. During the Joint Committee inspection on 14.05.2020, it was observed that treated sewage was not complying the discharge standards with reference to BOD, COD, Ammonia and fecal coliform. During



the Joint Committee inspection on 28.07.2021, again it was observed that treated sewage was not complying within the discharge standards with reference to COD and Fecal coliform. Thus, the EC is estimated as follows:

#### Pollution Index of industrial sector (PI)

The Karnataka State Pollution Control Board has categorized of sewage treatment plants of capacity >100 KLD into Large scale and RED category and accordingly the consents are issued. For red category of industries, average pollution index is 80. Thus, PI is considered as 80 in the EC estimation for STP.”

5.2 The only plank of contention on behalf of respondent No.3- Pollution Board is Section 20 of the NGT Act, 2010 to submit that the same provides the remedy before the Hon'ble Supreme Court and that the petitioners cannot invoke the jurisdiction and Article 226 of the Constitution of India.

5.2.1 Said Section 22 of the NGT Act reads as under,

“22. Appeal to Supreme Court.- Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908: Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.”



5.3 In the context of the above provision of Section 22 of the NGT Act and in view of the contention, the question falls for consideration is whether it would be permissible for the High Court to exercise powers under Article 226 of the Constitution. The position of law is well settled that only reason that an alternative remedy is available, would not be an embargo on the High Court's power to entertain the petition under Article 226 in certain contingencies.

5.4 Surveying the decisions generally laying down the above law, in **Harbanslal Sahnia (supra)**, the Apex Court relying on its own decision in **Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]** observed that Rule of exclusion of writ jurisdiction because of availability of an alternative remedy is a rule of discretion and not of a compulsion. It was stated that certain contingencies such as where the petitioner seek to enforce the fundamental rights, where there is failure to comply with the principles of natural justice or where the orders of proceedings are without jurisdiction or that the vires of the Act is challenged, the availability of the alternative remedy is not to be pleaded as a bar.



5.4.1 The Supreme Court in **U.P. Power Transmission Corporation Ltd. vs. CG Power and Industrial Solutions Ltd. [(2021) 6 SCC 15]**, stated to reiterate that existence of an alternative remedy will not be always a prohibitory norm for the High Court to refuse to entertain the writ petition,

“It is well settled that availability of an alternative remedy does not prohibit the High Court from entertaining a writ petition in an appropriate case. The High Court may entertain a writ petition, notwithstanding the availability of an alternative remedy, particularly: (1) where the writ petition seeks enforcement of a fundamental right; (ii) where there is failure of principles of natural justice or (iii) where the impugned orders or proceedings are wholly without jurisdiction or (iv) the vires of an Act is under challenge. Reference may be made to *Whirlpool Corpn. v. Registrar of Trade Marks* [(1998) 8 SCC 1] and *Pimpri Chinchwad Municipal Corpn. v. Gayatri Construction Co.* [(2008) 8 SCC 172], cited on behalf of Respondent 1.”

(para 67)

5.4.2 The statement of law that notwithstanding availability of the alternative remedy, the High Court retains the power to exercise its writ jurisdiction, was asserted and elaborated in **Whirlpool Corpn. (supra)**, in following words,

“The power to issue prerogative writs under Article 226 of the constitution is plenary in nature and is not limited by any other provisions of the



Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for “any other purpose”.

(Para 14)

5.4.2.1 It was held that the availability of alternative remedy is never a bar to the discretion available with the High Court whether to entertain or not the prerogative writs,

“Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

(Para 15)



5.4.3 The rule of exhaustion of statutory remedy is rule of discretion and not rule of law, stated the Apex Court in **State of U.P. vs. Mohammed Noor [AIR 1958 SC 86]**,

“But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.” (Para 17)

5.4.4 In **A.V. Venkateswaran, Collector of Customs vs. Ramchand Sobhraj Wadhvani [AIR 1961 SC 1506]**, it was highlighted that the discretion vested in the High Court to entertain the petition irrespective of the remedy available is customised in the sense that facts of each case have to be applied,

“...the two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and



that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules which should be applied with rigidity in every case which comes up before the Court.” (Para 18)

5.5 Having noticed the proposition of law in general context that non-compliance of principles of natural justice is one of the exceptions to the rule of discretion normally followed that the High Court would desist from exercising jurisdiction under Article 226 of the Constitution, when the alternative remedy is available, it is to be observed that the same statement of law would apply to the specific context of Section 22 of the NGT Act, as well. The issue could be said to be no more *res integra* that the jurisdiction under Article 226 of the Constitution would be exercisable even in the wake of providence of Section 22 in the NGT Act, provided and subject to the exceptions recognised by the Supreme Court discussed above, exist in the given set of facts.

5.6 The question whether there would be an ouster of the jurisdiction of the High Court under Articles 226 and 227 of the Constitution in wake of provisions of Sections 14 and 22 of the NGT Act, 2010, specifically came up for consideration with the Hon'ble Supreme Court in **Madhya Pradesh High Court**



**Advocates Bar Association vs. Union of India [(2022) SCC Online 639]**, wherein one of the issue considered by the Apex Court was whether the NGT ousts High Court's jurisdiction under Sections 14 and 22 of the NGT Act.

5.6.1 While noticing the context of creation of the National Green Tribunal, the Apex Court in turn stated that the forum was created to go into the environmental issues with mandate to comply with the principles of natural justice,

“The precursor to the NGT Act was the 186<sup>th</sup> Report of the Law Commission of India dated 29.3.2003 which came after the Supreme Court repeatedly urged Parliament through various judgments to establish specialized environmental courts, with qualified judges and technical experts on the bench. The Supreme Court also put forward that there should be direct appeals to the Supreme Court from such environmental courts. The Law Commission then recommended creation of a specialized court to deal with the environmental issues. The Law Commission expressed the view that it is not convenient for the High Courts and the Supreme Court to make local inquiries or to receive evidence. Moreover, the superior Courts will not have access to expert environmental scientists on permanent basis to assist them. The NGT was conceived as a complementary specialized forum to deal with all multidisciplinary environmental issues, both as original as well as an appellate authority. The specialized forum was also made free from the rules of evidence applicable to normal courts and was permitted to lay down its own procedure to entertain oral and



documentary evidence, consult experts etc., with specific mandate to observe the principles of natural justice.” (Para 13)

5.6.2 The issue about the exercise of jurisdiction by the High Court vis-à-vis the said provisions in the NGT Act, was considered and addressed by the Hon'ble Supreme Court by recalling the *ratio* of the decision of seven judges bench in **L. Chandra Kumar vs. Union of India [(1997) 3 SCC 261]** in which it was held in paragraphs 78 and 79 that ~~the~~ power of judicial review over legislative action vested in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution, is an integral and essential feature of the Constitution, constituting part of its basic structure. It was held that, therefore, ordinarily power of High Courts and Supreme Court cannot be excluded. It was further observed that the power vested in the High Courts to exercise judicial superintendence over the decisions of all Courts and Tribunals within their respective jurisdictions, is also part of the basic structure.

5.6.3 The Apex Court in **Madhya Pradesh High Court Advocates Bar Association (supra)**, observed,



“It can further be noted that in terms of the above ratio in *L. Chandra Kumar* [supra], the High Courts have been entertaining petitions under Article 226 and 227 of the Constitution against orders of the NGT. While exercising such jurisdiction, the Courts necessarily exercise due discretion on whether to entertain or to reject the petition, as per the test broadly laid down in *Whirlpool Corpn. v. Registrar of Trade Marks, Mumbai*;

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to



cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.” (Para 21)

5.6.4 Noticing thus that the power of judicial review can be exercised and prerogative writs can be issued in three circumstances namely enforcement of the fundamental rights, where there is a breach of violation of principles of natural justice or where the order of proceedings is wholly without jurisdiction, the Supreme Court in **Madhya Pradesh High Court Advocates Bar Association (supra)**, held in terms that the jurisdiction of the High Court would remain unaffected,

“It is also noteworthy that nothing contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court’s exercise their discretion in tandem with the law depending on the facts of each particular case.”  
(Para 22)

5.7 An aspect of delay was attempted to be raised in vain by the respondents. It is not possible to come to a conclusion that there



was a culpable omission on the part of the appellants in not challenging the orders immediately. Not only that the appellants were not party to the proceedings before the NGT, they had never an opportunity to put forward their rebuttal or the case in defence to the finding and conclusion by the NGT about their liability to pay the compensation. Even if the appellants could be attributed with the knowledge of the proceedings before the Tribunal, when they were not given opportunity to put forward their case and that they were not heard, their right to challenge the finding and the decision could be said to be remaining alive to be exercised in Court of law. It was legitimate for the appellant to file the petition when the effect of the order was felt. A litigant, in the present case, the Union of India and Defence Units under it, would not while away the time for the sake of whiling away. The aspect of delay has to assessed and applied in the setting of facts and in the context of dispute.

5.8 The principles of natural justice are intended to operate in the areas not chattered by any law even though any legal provisions may not contemplate the observance of natural justice. The consequence of the action and the prejudice which may be caused to the party would necessitate the compliance of natural justice.



The natural justice is a principle which ensures fair and non-prejudicial adjudication whenever a decision making process is going to effect the rights of any person.

5.8.1 Natural justice aims to secure fair play in action. It implies that the Court would not permit one-sider to influence a decision by his own version which may not be known to the other side, going to be effected if the version is to be acted upon *ex parte*.

5.8.2 A person who is subjected to some inquiry or imposition of some decision should not be left in dark as to the risk of confronting with adverse finding without any opportunity to put forward his case, raise defence and adduce evidence or produce material before the decision maker. They may be the material evidence or case which would dissuade decision maker from taking one particular view against the another.

5.8.3 In **State Bank of India vs. D.C. Aggarwal (JT 1992 (6) SC 673)**, the Apex Court held that while taking action against a person on the basis of certain material or evidence without bringing the same to the notice of such person is violative of procedural safeguards and contrary to fair and just inquiry.



5.8.4 The contention that the petitioners are to be attributed with knowledge of the proceedings is of no avail, even if it is to be so presumed. The High Court of Allahabad in **Committee of Management, Vaidik Higher Secondary School and others vs. District Inspector of Schools and others [1993 AWC 1071 Allahabad]** equivalent MANU/UP/0842/1993 noted with reference to an English decision with a reference to decision of the Privy-Council in **Mahon Vs. Ali New Zealand Limited (1984 (3) All E.R. 201)** which held (at page 210) that "more knowledge of enquiry proceedings or presence at the hearing is not enough" for taking away with the observance of natural justice. It was held that even if a person has knowledge of the proceedings or is present, that by itself cannot be a ground not to observe the principals of natural justice, if such person is lightly to be adversely affected.

5.8.5 It is to be observed also that the NGT in imposing the liability of environment compensation on the petitioners-the Union of India and its defence establishment, not only proceeded in breach of natural justice and without affording any opportunity to the petitioners, the amount demanded and made payable, turns out to be the demand without even assessing the liability. A demand



notice is served without undertaking the exercise of assessment. There is no assessment of the liability qua the petitioners, when the petitioners have not been heard and had never the occasion to raise the defence.

5.9 More recent decisions laying down that the NGT is obliged to comply with the principles of natural justice, finally reiterates the position of law. The Apex Court in **Singrauli Super Thermal Power Station vs. Ashwini Kumar Dubey** which was **Civil Appeal No.3856 of 2022** decided on **05.07.2023**, disapproved the order of the National Green Tribunal which was passed without compliance of natural justice. The National Green Tribunal had constituted an expert Committee with regard to the alleged violations, in respect of which there was no opportunity was given to the opponent.

5.9.1 The Hon'ble Supreme Court noticed that Section 19(1) of the NGT Act, 2010 reads to provide that the Tribunal shall not be bound by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice, and proceeded to observe,

“In other words, the NGT has simply accepted the recommendations as remedial action



suggested by the Committee but the same is in the absence of there being objections filed by the appellants herein who were the respondents before the NGT and without giving any hearing to them and against whom directions impugned in these cases have been passed by the NGT. We find that the procedure adopted by the NGT is an instance of violation of the principles of natural justice.”  
(Para 11)

5.9.2 A decision of the Supreme Court in **Madhyamam Broadcasting Ltd. vs. Union of India [(2023) SCC Online 366]**, was referred to notice observations therefrom,

“The facet of audi alteram partem encompasses the components of notice, contents of the notice, reports of inquiry, and materials that are available for perusal. While situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core of the principle is abrogated because it is the core that infuses procedural reasonableness.”  
(Para 14)

5.9.3 The Supreme Court in **Singrauli Super Thermal Power Station (supra)**, then further observed that observance of principles of natural justice as contemplated in Section 19(1) of the Act is indispensable. It was stated that the material on which the authority acts must be supplied to the party against whom such material/data is to be used in as much as only then, such party



would have an opportunity 'not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authorities relies'. A reasonable opportunity must be accorded to the affected party to present its observations and comments. With such observations, the NGT in that case set aside the order before it and the case was remanded to NGT for reconsideration.

5.9.4 In a more recent decision in **Veena Gupta vs. Central Pollution Control Board [(2024) 2 Scale 200]**, the appeal before the Hon'ble Supreme Court arose when an *ex parte* order passed by the NGT in *suo motu* proceedings holding the appellants guilty and directing payment of compensation. It was a ground of challenge that before passing adverse order, opportunity was not given.

5.9.5 Such repetitive orders without affording opportunity of hearing and without compliance of natural justice by the NGT, came under scanner of the Apex Court in the following observations,

“The National Green Tribunal’s recurrent engagement in unilateral decision making,



provisioning ex post factor review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding.” (Para 4)

6. For all the aforesaid considerations and the position of law highlighted, this Court is inclined to exercise powers under Article 226 of the Constitution in limited context and in respect of specific area which is non compliance of principles of natural justice, in as much as the order against the petitioners came to be passed by the NGT imposing the liability of payment of environment compensation without affording hearing to the petitioners. The NGT passed interim order and then confirmed the finding against the petitioners to confirm the liability even when the NGT had no version available from the petitioners, which could have been raised in defence.

7. In light of foregoing reasons and discussion, following order is passed,



- (i) Order dated 20<sup>th</sup> May 2022 passed by the National Green Tribunal Special Bench in Original Application No.64 of 2015 is set aside in so far as and to the extent that it records a finding that the M/s. Madras Engineering Group and Centre-the appellant herein has contributed to pollution.
- (ii) The aforesaid order dated 20<sup>th</sup> May 2022 of the National Green Tribunal Special Bench is set aside also in so far as it confirms interim order dated 23<sup>rd</sup> September 2021, ex parte imposing on the appellant environment compensation of Rs.2,94,60,000/- on the alleged ground of non-compliance of the discharge standards in two MLD-STP operated at Ulsoor Lake, Bangalore Water Supply and Sewerage Board.
- (iii) The setting aside of the order and the finding imposing the environment compensation on the appellant are on the sole ground that they are passed without affording of opportunity of hearing to the appellant and thus in breach of principles of natural justice.



- (iv) The matter is remitted back to the National Green Tribunal, Southern Zone, Chennai to reconsider and decide afresh the question of imposition or otherwise of the environment compensation on the appellant, and to decide as to whether the appellants are liable to pay such compensation, after extending opportunity of hearing to the appellants.
- (v) The NGT shall permit the appellants to produce all the documents and the materials in their defence to put forward their case and the appellant shall also be heard for their case.
- (vi) The parties shall co-operate in expeditious completion of above exercise by NGT.
- (vii) The appellants, however, shall be obliged to deposit amount of Rs.1,00,00,000/- (Rupees One Crore only) with the Karnataka State Pollution Control Board in



view of order dated 21<sup>st</sup> August 2024, passed by the National Green Tribunal in Appeal No.53 of 2024. At the same time, the said deposit shall remain subject to outcome of the fresh exercise and order afresh to be passed by the National Green Tribunal as per the above directions.

8. It is clarified that the aforesaid order and directions are passed only on the ground of non compliance of principles of natural justice.

9. This Court has not gone into, nor has expressed any opinion on merits.

10. The present petition is allowed in part as above.

**Sd/-**  
**(N.V. ANJARIA)**  
**CHIEF JUSTICE**

**Sd/-**  
**(K.V. ARAVIND)**  
**JUDGE**

Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 54/2016(SZ)  
(with I.A No. 95/2022(SZ))

SUO MOTU- based on the news item  
published in The Hindu dt: 8.3.2016  
titled "**Lake in heart of Bengaluru  
city turns graveyard for fish**" .....

Applicant

Versus

Government of Karnataka, Bengaluru and Ors.

Respondent(s)

Date of hearing: 20.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER  
HON'BLE PROF. A SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. Darpan K.M., Advocate for R1 & R2.  
Mr. Nishanth represented  
Mr. M.R. Gokul Krishnan, Advocate for R3.  
Mr. T.V. Sekar, Advocate for R4.  
Mr. R. Thirunavukarasu, Advocate for CPCB.  
Mr. B.S. Shrinivas, Advocate (I.A. No. 95/2022 – Applicant).

**ORDER**

1. Proceedings in this matter were initiated by this Tribunal *Suo Motu* on the basis of news item published in The Hindu dated 08.03.2016 titled "Lake in heart of Bengaluru city turns graveyard for fish" to the effect that thousands of dead fish were seen floating in the water due to pollution of the water in the lake in question viz. **Ulsoor lake** at Bengaluru.

2. Vide order dated 08.03.2016, the Tribunal issued notice to the Chief Secretary, Karnataka, Principal Additional Secretary, Environment and Forest Department, Bengaluru and Chairman, State PCB.
3. Reply has been filed on behalf of the State of Karnataka and State PCB.
4. A joint Committee of CPCB, State PCB, Bruhat Bengaluru Mahanagara Palike (BBMP) and District Magistrate, Bengaluru was constituted to take water samples of the lake to determine the sources of pollution. Accordingly, the joint Committee filed its report dated 10.08.2020 making suggestions for remedial action which was directed to be acted upon. In response thereto, the BBMP filed its response dated 18.11.2021 and CPCB filed its report dated 15.12.2021. The matter was finally considered on 10.02.2022 when the Tribunal directed filing of updated status report.
5. Accordingly, further report has been filed by BBMP on 20.04.2022 and a latest report of the joint Committee dated 19.05.2022 has also been filed.
6. The report of the BBMP mentions that directions of this Tribunal dated 18.12.2019 in OA No. 125/2017, *Court on its own Motion v. State of Karnataka* relating to abatement of pollution in Bellandur lake have been considered. The State PCB has issued orders to close the slaughter house at the tannery road but the State PCB has been requested to withdraw the same and instead to modernize the same to avoid illegal slaughtering.

7. The report filed by the joint Committee through CPCB in response to order of this Tribunal dated 10.02.2022, after inspection of the area on 14<sup>th</sup> - 15<sup>th</sup> March, 2022, mentions the report of the water samples. The report mentions the status of steps taken by Bangalore Water Supply and Sewerage Board (BWSSB), BBMP, Department of Fisheries and State PCB. The report also mentions recommendations for further action. Relevant extracts from the report are reproduced below:

**“2.1 Status of measures implemented by Bengaluru Water Supply and Sewerage Board (BWSSB)”**

SI	Suggestions of the Joint Committee in the report dated 10/08/2020	Status of implementation																								
1	To operate the existing STP of 2 MLD at its full capacity with a compliance to the discharge Standards, so that additional 0.5 MLD can be discharged to Ulsoor Lake, may adequate to maintain loss of water due to evaporation, infiltration, etc.	<p>1. During the inspection by the Joint Committee on 14/03/2022, the 2 MLD STP was operating with inflow of 1.85 MLD capacity. The daily flow meter readings recorded by BWSSB during 1/08/2021 to 28/02/2022 were verified and observed that the STP was operated at an average capacity of 1.95 MLD and in the range 1.85 MLD to 2.00 MLD. The photographs of the STP are enclosed as Photograph 1 &amp; 2. The flow meter readings at the outlet of the STP from 01/08/2021 to 28/02/2022 is appended as <b>Annexure 2</b>.</p> <p>2. The grab sample was collected at the outlet of the STP on 14/03/2022 in presence of Joint Committee members. The samples were analysed at CPCB Laboratory and the analysis results are as follow (<b>Annexure 3</b>):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Parameter</th> <th style="text-align: center;">Standard</th> <th style="text-align: center;">Concentrations in sample collected at outlet of STP</th> </tr> </thead> <tbody> <tr> <td>pH@25°C</td> <td style="text-align: center;">5.5-9.0</td> <td style="text-align: center;">7.9</td> </tr> <tr> <td>BOD (3days @ 27°C)(mg/L)</td> <td style="text-align: center;">&lt; 10</td> <td style="text-align: center;">0.5</td> </tr> <tr> <td>COD (mg/L)</td> <td style="text-align: center;">&lt; 50</td> <td style="text-align: center;">38</td> </tr> <tr> <td>TSS (mg/L)</td> <td style="text-align: center;">&lt; 20</td> <td style="text-align: center;">BDL*1</td> </tr> <tr> <td>Ammonical Nitrogen (mg/L)</td> <td style="text-align: center;">&lt; 5</td> <td style="text-align: center;">BDL *2</td> </tr> <tr> <td>Total Nitrogen (mg/L)</td> <td style="text-align: center;">&lt; 10</td> <td style="text-align: center;">0.14</td> </tr> <tr> <td>Fecal Coliform (MPN/100 ml)</td> <td style="text-align: center;">Less than 100</td> <td style="text-align: center;">10</td> </tr> </tbody> </table> <p>Note:</p>	Parameter	Standard	Concentrations in sample collected at outlet of STP	pH@25°C	5.5-9.0	7.9	BOD (3days @ 27°C)(mg/L)	< 10	0.5	COD (mg/L)	< 50	38	TSS (mg/L)	< 20	BDL*1	Ammonical Nitrogen (mg/L)	< 5	BDL *2	Total Nitrogen (mg/L)	< 10	0.14	Fecal Coliform (MPN/100 ml)	Less than 100	10
Parameter	Standard	Concentrations in sample collected at outlet of STP																								
pH@25°C	5.5-9.0	7.9																								
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Fecal Coliform (MPN/100 ml)	Less than 100	10																								

		<p>*1: BDL - Range of testing of TSS - 5mg/L - 2000 mg/L</p> <p>*2: BDL - Range of testing of Ammonical Nitrogen is 1 mg/L - 500 mg/L</p> <p>The results show that the treated sewage is complying with the discharge standards.</p> <p>3. BWSSB has installed the Real Time Continuous Treated Sewage Water Quality Monitoring Station at the outlet to the STP for the parameters pH, temperature, COD, BOD, color, total suspended solids, dissolved oxygen, ammonical nitrogen and total nitrogen (Photograph 3). The copy of work order dated 13/09/2021 issued by BWSSB to M/s Axis Nano Technology Pvt Ltd for supply, installation, testing and commissioning and five years comprehensive operation and maintenance of Real Time Continuous Treated Sewage Water Quality Monitoring Station is appended as <b>Annexure 4</b>.</p> <p>4. BWSSB and KSPCB websites. The screenshot of online reading available in BWSSB website on 11/04/2022, 15.45 hr is as enclosed as Photograph - 4.</p> <p>5. It was reported by BWSSB that 1.5 - 2.0PPM of chlorine dosage is added to treated sewage at chlorine contact tank and maintained 15 minutes of retention time to nullify faecal and total coliform. During the inspection it was observed that the retention time provided was less. Retention time shall be increased to prevent residual chlorine entering into the lake.</p> <p>6. BWSSB has awarded a study to Indian Institute of Science (IISc), Bengaluru on 11/11/2020 for suggesting measures to upgrade 20 STPs operating in Bengaluru to comply the effluent discharge standards as per KSPCB norms which includes 2.00 MLD STP at Ulsoor. The copy of work order dated 11/11/2020 issued to IISc by BWSSB is appended as Annexure 5.</p> <p>7. The report submitted by IISc, Bengaluru to BWSSB on 21/03/2022 is appended at Annexure 6 and recommended to maintain residual chlorine dose upto 2.5 - 3 ppm with a retention time of 30 - 40 minutes. Subsequently residual chlorine of treated sewage prior to discharge should be maintained at less than 0.7 ppm. If required de-chlorination may be adopted by providing aeration to maintain the residual chlorine.</p>
2.	To identify all the missing links and illegal discharge of wastewater into storm water drain and also to complete all the works taken up with respect to upgradation / rehabilitation of sub mains and	1. BWSSB has identified 36 missing links and have taken up upgradation / rehabilitation of sub mains and lateral sewer lines (wastewater management zone - 20 works, maintenance zone - 16 works) to arrest the illegal discharge of sewage into

	<p>lateral sewer lines by December 2020, as committed to stop 17 MLD flowing in the Storm Water Drains during dry weather.</p>	<p>storm water drain. The list of works undertaken by BWSSB is appended as Annexure 7.</p> <p>2. During the inspection on 15/03/2022, BWSSB reported that out of 36 identified missing links 34 works (wastewater management zone – 20 works, maintenance zone – 14 works) were completed and other two works to be completed by the end of April 2022. BWSSB has submitted the report dated 23/04/2022 stating that remaining two works are also completed. The report is appended as Annexure-8.</p> <p>3. During the committee inspection lean flow was observed in the storm water drain (Photograph 5). The flow in the combined storm water drain (C- 100) at downstream of Ulsoor lake near Gurudhwar was monitored by the officials of BWSSB using float measuring technique during dry weather on 16/03/2022. The details of the flow are appended as Annexure 9. The average flow in the storm water drain during day time was 0.986 MLD and average flow of 24 hrs was 0.493 MLD. After completion of all 36 works, BWSSB has again measured the flow in the storm water drain on 16/04/2022 and report that the average flow in the storm water drain during day time was 0.386 MLD and average flow of 24 hrs was 0.193 MLD (Annexure 10). On implementation of 36 works, discharge of 17 MLD of sewage to storm water drain is stopped.</p> <p>4. The grab sample of water was collected from the storm water drain on 15/03/2022 and analysed at CPCB laboratory. The analysis report is appended as Annexure 11. The analysis results are as follow:</p> <table border="1" data-bbox="841 1607 1432 2236"> <thead> <tr> <th>Parameter</th> <th>Concentration</th> </tr> </thead> <tbody> <tr> <td>pH@25°C</td> <td>7.3</td> </tr> <tr> <td>BOD (3 days, 27°C) (mg/L)</td> <td>11</td> </tr> <tr> <td>COD (mg/L)</td> <td>36</td> </tr> <tr> <td>TDS (mg/L)</td> <td>394</td> </tr> <tr> <td>TSS (mg/L)</td> <td>BDL*</td> </tr> <tr> <td>Ammonical Nitrogen (mg/L)</td> <td>1.97</td> </tr> <tr> <td>Total Kjeldahl Nitrogen (mg/L)</td> <td>12.5</td> </tr> <tr> <td>Total Coliform (MPN/100ml)</td> <td>85 X10<sup>3</sup></td> </tr> <tr> <td>Fecal Coliform (MPN/100ml)</td> <td>24.5X X10<sup>3</sup></td> </tr> </tbody> </table> <p>Note: BDL*- Range of testing of TSS - 5mg/L – 2000 mg/L</p>	Parameter	Concentration	pH@25°C	7.3	BOD (3 days, 27°C) (mg/L)	11	COD (mg/L)	36	TDS (mg/L)	394	TSS (mg/L)	BDL*	Ammonical Nitrogen (mg/L)	1.97	Total Kjeldahl Nitrogen (mg/L)	12.5	Total Coliform (MPN/100ml)	85 X10 <sup>3</sup>	Fecal Coliform (MPN/100ml)	24.5X X10 <sup>3</sup>
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<b>3.</b>	To ensure the implementation of	1. BWSSB vide notification No.																				

	<p>Notification No. FEE 316 EPC 2015, dated 19.01.2016 issued by Forest, Ecology &amp; Environment Secretariat w.r.t. installation of STP and reuse of Treated Sewage.</p>	<p>BWSSB/C/CAO-S/4138/2015-16, Bengaluru dt 25/02/2016 and amended vide notification No. BWSSB/CAO-S/5008/2017-18 dt 21/2/2018, mandated installation of STP and Dual Piping System in following buildings as per Regulation 4A of Bengaluru Sewage Regulation:</p> <p>“No water supply or sewerage connection shall be granted by the Board on the application of owner or builder or occupier of new Building Projects, unless sewage treatment plant is established and facilities for reuse of treated effluent by providing dual piping system one for toilet flushing purpose and the other for all purposes in respect of;</p> <ol style="list-style-type: none"> <li>i. Residential buildings consisting of 20 and above apartments or measuring 2,000 m<sup>2</sup> and above whichever is lower; or</li> <li>ii. Commercial building measuring 2,000 m<sup>2</sup> and above; or</li> <li>iii. Buildings of educational institution measuring 5,000 m<sup>2</sup> and above.”</li> </ol> <p>The copy of the notification is appended as Annexure 12.</p> <p>2. The BWSSB reported that 40 numbers of buildings in the catchment area of Ulsoor lake have installed individual STP and the list is appended as Annexure 13.</p>
<p>4.</p>	<p>To ensure the implementation of BWSSB (Rain Water Harvesting) Regulations 2010 and subsequent amendments w.r.t providing rain harvesting structure by the owner or occupier of the residential building</p>	<ol style="list-style-type: none"> <li>1. BWSSB has already made mandatory to adopt rain water harvesting system in the existing buildings constructed on a site dimension measuring 216 m<sup>2</sup> and above and also for new buildings constructed on a site measuring 108 m<sup>2</sup> and above vide Government Order No. UDD19MNI2009 dated 27/08/2009 by Amendment of Bengaluru Water Supply and Sewerage Act, 2010-72A.</li> <li>2. BWSSB reported that around 1661 numbers of buildings in catchment area of Ulsoor lake have implemented the rain water harvesting system (Annexure 13).</li> </ol>
<p>5</p>	<p>To avoid laying of Under Ground Drainage (UGD) lines &amp; manholes within Storm Water Drains and also to execute work with an approval of BBMP – Storm Water Drain Division.</p>	<ol style="list-style-type: none"> <li>1. BWSSB reported that UGD line are laid in buffer zone, if buffer zones are available along the SWD. In case if there is no space, the UGD lines are laid inside SWD after obtaining approval by BBMP –SWD (Annexure 13).</li> <li>2. During the inspection of the Joint Committee on 15/03/2022, it was observed that UGD lines were laid in the buffer zones and at a few places where there is no space available for buffer zones, UGD lines were laid inside the SWD.</li> </ol>

## 2.2 Status of measures implemented by Bruhat Bengaluru Mahanagara Palike (BBMP)

Sl	Suggestions of the Joint Committee in the report dated 10/08/2020	Measures implemented
1	To remove accumulated floating debris / solid waste from wetland and main water body of Ulsoor Lake.	No floating debris/solid waste in wetland and in the lake were observed by the committee during the visit on 14/03/2022 and 15/03/2022 (Photographs 6 & 7).
2	To provide / install appropriate screen to arrest entry of floating matter at each stage i.e. Secondary drain to Primary drain, at regular interval may be of 1000 m in Primary drain. Also to develop system to remove accumulated debris from the screen on regular interval to protect and improve its functionality, also ensure disposal of debris removed to SWM processing facility. In addition, a section of 0.8 M width and 0.6 M depth pilot drain shall be constructed at the middle in all primary and secondary drains to carry dry weather flow and will help in collecting / removing solid waste. BBMP may explore deputing scavengers for supervising removing of solid wastes from the drains. To provide silt traps at appropriate locations in the primary and secondary drains to avoid carryover of silts to the Lakes and easy removal from the drains too.	<p>1. During the joint committee visit on 14/03/2022, it was observed that two floating trash barrier are installed one at storm water drain upstream of Ulsoor Lake and another 24 m wide at the entrance of the wetland for trapping floating materials. The photographs are enclosed at photograph 8 &amp; 9.</p> <p>2. As per the records furnished by BBMP, under 15th finance Commission pertaining to solid waste management infrastructure development in BBMP jurisdiction, provision is made in the Action plan to provide trash barriers for selected lakes to avoid the solid waste entering into the lakes. The copy of 15th finance Commission Action plan is appended as Annexure 14.</p> <p>3. As per the records of BBMP, annual maintenance contract for removal of debris and silt from SWD is given to a firm M/s Yoga &amp; Co, Bengaluru for 3 years vide work order dated 09/04/2019. The copy of the work order is enclosed at Annexure 15.</p> <p>4. Construction of a Silt Traps along C-200 drain above the Komala Junction Bridge is at the completion stage BBMP has reported that construction of other two silt traps at appropriate locations along C-200 drain is in progress and also made financial provisions to construct a few more silt traps to arrest the silt.</p> <p>5. BBMP reported that sewage pipelines are existing beneath the bed of storm water drains in C - 100 and C- 200 and its sub-streams due to which construction of pilot drain would be difficult. The construction of pilot drain at the middle of the SWDs are possible after the replacement of existing UGD/Sewage lines (Annexure 14).</p>
3	The existing screen provided to arrest entry of floating debris into wetland found inadequate and BBMP has planned to install floating screen for the same. The committee of the opinion that the entry of water during wet weather is nothing but a diluted wastewater /sewage and carries lot of organic wastes along with it. The existing treated sewage from BWSSB STP (2 MLD) and MEG STP (100 KLD) may be adequate to maintain the water level of Ulsoor Lake. So, it is suggested to replace the existing weir with sluice gates to stop entry of diluted sewage into wetland / Ulsoor	A sluice gate is installed in storm water drain at upstream of the Ulsoor lake and dry weather flow is diverted to the diversion pipe which leads to Chalaghatta 248 MLD STP. During rainy season overflow of the storm water drain reaches the wetland of the Ulsoor lake. The photographs of sluice gate is enclosed as Photograph 9.

	Lake.	
4	<i>The treated water from STPs shall be discharged into wetland structure after complete cleaning to act as polishing process for removal of remaining suspended solids and biological oxygen demand making the water more hygienic and environmentally safe before release in to main course of Lake.</i>	<i>During the visit of the Joint Committee, it was observed that the treated sewage from STP is discharged into a wetland prior to the main course of lake (Photograph 12).</i>
5	<i>To provide Cascade Aerators for discharging treated sewage into wetland helps in removing odour due to Hydrogen Sulfide, if any. Also micro bubblers and fountains may be planned by ensuing available D.O., if required.</i>	<p>1. <i>During the visit of the Joint Committee on 14/03/2022, it was observed that cascade aerators for discharging treated sewage are not installed.</i></p> <p>2. <i>As per the records furnished by BBMP, under 15th finance Commission pertaining to solid waste management infrastructure development in BBMP jurisdiction, provision is made in the Action plan for installation of diffused aerator systems in Ulsoor (Annexure 14 &amp; 15).</i></p>
6	<i>To install online monitoring system to assess the water quality of Ulsoor Lake on real time monitoring basis at appropriate location. Until installation of online system, BWSSB may start monitoring pH, DO and Temperature on daily basis along with STP monitoring records</i>	<p>1. <i>The online monitoring system to assess the water quality of Ulsoor Lake on real time monitoring basis is not installed. BBMP reported that financial provision is made in the 15th finance Commission Action plan for installing online water quality monitoring system.</i></p> <p>2. <i>BWSSB has installed Real Time Continuous Treated Sewage Water Quality Monitoring Station at the outlet to STP for the parameters pH, temperature, COD, BOB, color, total suspended solids, dissolved oxygen, ammonical nitrogen and total nitrogen and connected to BWSSB and KSPCB websites.</i></p>
7	<i>To renew the consent issued by KSPCB under the Water (Prevention &amp; Control of Pollution) Act, 1974 for operating Slaughter House and 50 KLD ETP immediately. To upgrade and operate the ETP complying to the effluent discharge Standards and also to recycle the treated water for slaughter house washing/cleaning purpose. The effluent generated from mutton stalls located within slaughter house premises shall be treated in ETP and not to dispose directly into UGD. Also to implement the Notification No. PCB/WMC/SEO/2013-14/6271 dated 05.02.2014 issued by KSPCB as per the Guidelines for Slaughter House prepared by CPCB</i>	<p>1. <i>CPCB issued directions to KSPCB on 09/12/2021 under Section 18(1)b of the Water (Prevention &amp; Control of Pollution) Act, 1974 and the Air (Prevention &amp; Control of Pollution) Act, 1981 to close down all activities of M/s BBMP Civil Slaughter House, Tannery Road, Bengaluru with immediate effect. The copy of direction dated 09/12/2021 issued to KSPCB is appended as Annexure 16.</i></p> <p>2. <i>KSPCB issued Closure order under section 33(A) of Water (prevention &amp; Control of Pollution) Act 1974 and Section 31 (A) of Air (Prevention and Control of Pollution Act 1981 on 28/1/2022. The copy of direction issued by KSPCB is appended as Annexure 17.</i></p> <p>3. <i>The Joint committee visited M/s BBMP Civil Slaughter House on 15/03/2022 and following were observed:</i></p> <p>5. <i>i. The slaughter house was not in operation during the visit and it was reported that the slaughter house was</i></p>

		<p>close down since 13/03/2022. The photographs of process area of slaughter house and ETP are enclosed as Photographs 13 - 18.</p> <p>ii. The daily records of number of animals slaughters in slaughter house are maintained in the register. The copy of the register maintained by BBMP is appended as Annexure 18.</p> <p>4. In response to the closure orders issued, BBMP vide letter dated 16/03/2022 to KSPCB proposed following short and long term measures for implementation (Annexure 19):</p> <p>i. Short term measures:</p> <p>As an immediate short term measures, arrangement are made to transport the effluent to CETP and treat the effluent. BBMP issued work order dated 17/03/2022 to M/s Sai Enviro Tech to collect, transport and dispose liquid waste generated in the slaughter house to Common effluent treatment plant (CETP) for treatment for the period 17/03/2022 to 16/06/2022. The copy of work order is appended as Annexure 20. The copy of agreement with CETP is not furnished by the BBMP.</p> <p>ii. Long term measures:</p> <p>a. Modernization of the abattoir by providing new infrastructure including building, slaughtering and meat processing as per modern Abattoir protocols.</p> <p>b. Setting up an effluent treatment plant with zero liquid discharge with latest available technology – vacuum evaporation system.</p> <p>c. Setting up a biogas plant where solid waste will be processed. Gas generated shall be used to produce power for use within modernized abettor.</p> <p>5. Based on the short term measures implemented and long term measures proposed, BBMP through letter dated 16/03/2022 requested KSPCB to revoke the closure order issued as closure of slaughter house leads to:</p> <p>i. Illegal slaughtering of animals in shops and streets.</p> <p>ii. Massive discharge of blood and animal waste into drains.</p> <p>iii. Illegal selling of uncertified meat to customers.</p> <p>iv. Supply of unwholesome and unhygienic meat to customers.</p>
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		<p>v. Contaminating the ground water leading to environmental pollution.</p> <p>b. 6. BBMP has applied to KSPCB for renewal of the consent to operation. The consent is to be renewed by KSPCB.</p>
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### 2.3 Status of measures implemented by Department of Fisheries

Sl	Suggestions of the Joint Committee in the report dated 10/08/2020	Measures implemented
1	To prescribe appropriate physio-chemical and biological parameters in the contract/agreement to carryout water quality monitoring while appointing contractor for fishing.	<p>1. As per the records of Department of Fisheries, the contract for fishing is given to Bengaluru District, Fish production and marketing cooperative society Ltd on lease.</p> <p>2. Fish production and marketing cooperative society Ltd is conducting water quality monitoring in the lake once in three months through Karnataka Veterinary, Animal and Fisheries Sciences University, Fisheries Research and Information Centre (Inland), Hebbal, Bengaluru.</p> <p>3. The reports of the water quality analysis carried out in August and December 2021 and March 2022 is appended as <b>Annexure 21</b>.</p>
2	To carryout study of bio accumulation of heavy metals in some tissues of fishes in Ulsoor Lake.	<p>1. Department of Fisheries has conducted the study on bioaccumulation of heavy metals in fish through Karnataka Veterinary, Animal and Fisheries Sciences University, Fisheries Research and Information Centre (Inland), Hebbal, Bengaluru once in six months. The report states that the heavy metal in fish tissue in Ulsoor lake is</p>

		below permissible limit. The reports of analysis carried out in August 2021 and March 2022 is appended as <b>Annexure 21</b> .
3	To maintain the cleanliness of the Ulsoor Lake and disposal of aquatic plants by pit composing method or any other means.	During the visit of the Joint Committee on 14/03/2022, it was observed that cleanliness of the lake was maintained and it was informed during the inspection that debris, solid waste and eutrophic plants are regularly removed.
<b>2.4</b>	<b>Status of measures implemented by Madras Engineering Group and Centre</b>	
<b>Sl</b>	<b>Suggestions of the Joint Committee in the report dated 10/08/2020</b>	<b>Measures implemented</b>
<b>1</b>	To apply and obtain Consent (CFO) for discharge of effluents under the Water (Prevention & Control of Pollution) Act, 1974 and emissions under the Air (Prevention & Control of Pollution) Act, 1981 for operating & discharging of treated sewage from KSPCB immediately.	<p>1. MEG&amp;CC has not applied for Consent for Operation from KSPCB for operation of STP and discharge/utilization of treated sewage.</p> <p>2. MEG&amp;CC reported that KSPCB authorities have approached MEG&amp;CC regarding obtaining consent to operation for 100 KLD STP. On enquiring about the procedure to apply for consent to operation, a consent fee structure applicable to State/ Central Govt. Undertaking /PSU's were furnished by KSPCB. However, no fee structure was conveyed for Defence/Non Industrial/ Govt of India Agency. As the 100 KLD STP of MEG&amp;CC is built on A1 Defence Land, none of the listed fee structure were applicable and infrastructure developed on A1 Defence land is not liable to pay any fee. In this connection, KSPCB was requested to waive off consent fee vide letter dated 01/02/2022 (<b>Annexure 22 &amp; 23</b>).</p> <p>3. In pursuing of above KSPCB invited MEG&amp;CC authorities for personal hearing on date 04/04/2022. However, MEG&amp;CC authorities did not attend the</p>

		<p>hearing. KSPCB reported that legal opinion regarding fee structure and consent for operation of STPs in A1 Defense land is sought. On receiving the legal opinion action deemed fit shall be initiated <b>(Annexure 24).</b></p>																								
<p>2</p>	<p>To operate the ETP complying to the effluent discharge Standards and not with discharge treated effluent directly into storm water drain. Shall lay a pipeline to discharge treated sewage with cascade aeration system in Wetland of Ulsoor Lake. Also to install flow meter and maintain proper records of the same.</p>	<p>1. The Joint Committee inspected 100 KLD STP installed by Madras Engineering Group and Centre on 14/03/2022. During the inspection STP was in operation (Photograph 19).</p> <p>2. The treated sewage is being discharged to the storm water drain from the outlet of the STP (Photograph 20). The grab sample of treated sewage was collected at the outlet of the STP in presence of Joint Committee members and samples were analysed at CPCB Laboratory. The analysis results of the treated sewage collected from the STP are as follow <b>(Annexure 25):</b></p> <table border="1" data-bbox="808 1303 1382 2067"> <thead> <tr> <th>Parameter</th> <th>Standard</th> <th>Concentrations in treated wastewater at outlet of STP</th> </tr> </thead> <tbody> <tr> <td>pH@25°C</td> <td>5.5-9.0</td> <td>7.4</td> </tr> <tr> <td>BOD (3days @ 27°C)(mg /L)</td> <td>&lt; 10</td> <td>8.0</td> </tr> <tr> <td>COD (mg/L)</td> <td>&lt; 50</td> <td><b>53</b></td> </tr> <tr> <td>TSS (mg/L)</td> <td>&lt; 20</td> <td>BDL</td> </tr> <tr> <td>Ammonic al Nitrogen (mg/L)</td> <td>&lt; 5</td> <td>BDL</td> </tr> <tr> <td>Total Nitrogen (mg/L)</td> <td>&lt; 10</td> <td>5.42</td> </tr> <tr> <td>Fecal Coliform (MPN/100 ml)</td> <td>Less than 100</td> <td><b>400</b></td> </tr> </tbody> </table> <p>3. The results show that the treated sewage is not complying with the discharge standards with reference to COD and Fecal coliform.</p> <p>4. Pipeline and cascade aeration</p>	Parameter	Standard	Concentrations in treated wastewater at outlet of STP	pH@25°C	5.5-9.0	7.4	BOD (3days @ 27°C)(mg /L)	< 10	8.0	COD (mg/L)	< 50	<b>53</b>	TSS (mg/L)	< 20	BDL	Ammonic al Nitrogen (mg/L)	< 5	BDL	Total Nitrogen (mg/L)	< 10	5.42	Fecal Coliform (MPN/100 ml)	Less than 100	<b>400</b>
Parameter	Standard	Concentrations in treated wastewater at outlet of STP																								
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		<p>system to discharge treated wastewater to wetland of Ulsoor Lake are not installed.</p> <p>5. Flow meter at the outlet of the STP is not installed and records are not maintained.</p> <p>6. As per the records furnished to the Joint Committee by M/s Garrison Engineer (North), MEG&amp;C, Bengaluru, a work for utilization of treated sewage from STP has been sanctioned for utilization of treated sewage for arboriculture and watering of Golf Area at MEG&amp;C. The work is tendered and commenced on January 2, 2022 and expected to complete before April 30, 2022. The copy of sanction order and work order is appended as <b>Annexure 22</b>.</p>
3	To propose and construct additional STP to treat additional 4200 KLD of domestic sewage generated from MEG and stop discharging untreated sewage into UGD in time bound manner.	<p>1. M/s Garrison Engineer (North), MEG&amp;C, Bengaluru has estimated the sewage load generated in MEG&amp;C and revised estimate is furnished to the joint committee and KSPCB vide letter dated 22/11/2021(<b>Annexure 26</b>).</p> <p>2. As per the records, total quantity of sewage generated in MEG&amp;C, Bengaluru is 1800 KLD and out of this 100 KLD is treated in the STP. 640 KLD is discharged in the septic tank. Remaining 1050 KLD of sewage is discharged to the underground drainage system of BWSSB with prior permission of BWSSB.</p> <p>3. As per the records, MEG&amp;C is the process of installing 1200 KLD STP. The tender action is in process and probable date of installation of STP is March 2024 (<b>Annexure 27</b>).</p>

**2.5 Status of measures implemented by Karnataka State Pollution Control Board**

1	To ensure the implementation of Notification No. FEE 316 EPC 2015, dated 19/01/2016	1. As per the records furnished by KSPCB, there are 62 units located in the catchment of Ulsoor Lake. Out of 62 units 37 units have installed STP/ETP to treat the wastewater generated, the treated
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	<p>issued by Forest, Ecology &amp; Environment Secretariat w.r.t. installation of STP and reuse of Treated Sewage.</p>	<p>effluent is reused for secondary purposes.</p> <p>2. The remaining 25 units are discharging the untreated wastewater into UGD with a permission of BWSSB and same is being treated by the BWSSB STP. These 25 units are established prior to notification dated 19.01.2016 (<b>Annexure 27</b>).</p>		
	<p>Out of 62 units, only 37 units (59.67%) are provided with STP/ETP to treat the wastewater generated and the remaining units are permitted to discharge untreated wastewater in to UGD with a permission of BWSSB. KSPCB shall reinvestigate &amp; take appropriate action to install STP/ ETP in remaining 25 units, if applicable.</p>	<p>It is reported by KSPCB that out of 62 units, 25 units are established prior to notification dated 19.01.2016, with prior permission from BWSSB and these units are discharging the untreated wastewater into BWSSB UGD, the same effluent is being treated in the terminal 2 MLD STP of BWSSB established at Ulsoor Lake premises. BWSSB authorities have verified the 25 units with RR numbers confirmed these units have obtained permission for discharging sewage into UGD from BWSSB authority. The sewage is treated in Ulsoor 2 MLD STP and also at Chalaghatta 248 MLD STP (<b>Annexure 27</b>)</p>		
<p><b>3.0 WATER QUALITY OF ULSOOR LAKE</b></p>				
<p>The Joint Committee has carried out water quality monitoring of Ulsoor Lake at three locations on 14/03/2022. The samples are analysed at CPCB, Regional Directorate laboratory and analysis reports is appended as <b>Annexure 28</b>. The water quality analysis results are as follow:</p>				
<p align="center"><b>Water Quality Analysis Results of Ulsoor Lake</b></p>				
Sl.	Parameter	Concentrations		
		Location 1	Location 2	Location 3
1	pH at 25°C	<b>9.1</b>	<b>8.9</b>	<b>9.3</b>
2	EC µs/cm at 25° C	302	301	312
3	TSS mg/L at 103-105°C	72	60	65
4	TDS mg/L at 180°C	156	186	157
5	COD mg/L	98	105	109
6	BOD mg/L at 27°C, 3 days	16	15	13
7	Dissolved Oxygen,	<b>11.8</b>	<b>12.8</b>	<b>11.8</b>

	mg/L			
8	Chloride, mg/L	21	22	25
9	Sulphates, mg/L	4	7	6
10	Phosphate as P, mg/L	0.67	1.18	0.21
11	Nitrate as N, mg/L	BDL	BDL	BDL
12	Ammonia as N, mg/L	<b>BDL</b>	<b>BDL</b>	<b>BDL</b>
13	Total Coliform (MPN/100 ml)	28 X 104	47 X 103	70 X 103
14	Fecal Coliform (MPN/100 ml)	34 X 103	175 X 102	6800

Where,

Location 1 – Ulsoor lake – Outlet near Guruduvara

Location 2 – Ulsoor lake – Near fishing centre

Location 3 – Ulsoor lake – Near Kalyani

The analysis results shows that the water quality of at the monitoring locations confirms to designated-best-use classification Class “D” – Prorogation of wildlife and fisheries except pH. The primary water quality criteria of designated-best-use classification Class “D” – Prorogation of wildlife and fisheries are as follow:

- i. pH between 6.5 and 8.5
- ii. Dissolved oxygen 4 mg/L or more
- iii. Free ammonia (as N) 1.2 mg/L or less
- iv.

The pH is higher in the water samples analysed may be due to presence of algae in the Ulsoor lake and the samples were collected 12.00 PM during that time rate of photosynthesis and respiration are higher.

KSPCB is regularly collecting and analyzing the samples of Ulsoor Lake under Boards Programme and NWMP Programme. As per the analysis report dated 05/04/2022, Ulsoor Lake water is conforming to Class ‘D’ Standards (Propagation of wild life, Fisheries). The copy of the analysis report is enclosed as **Annexure 29**.

#### **4.0 RECOMMENDATIONS REGARDING ACTION TO BE TAKEN, OFFICIALS RESPONSIBLE AND TIME LINE FOR IMPLEMENTATION:**

<b>Sl. No.</b>	<b>Department and officials responsible for implementation</b>	<b>Measures to be implemented</b>	<b>Time line for implementation as committed by the Departments</b>
1	Engineering - Chief, Bengaluru Water Supply and Sewerage Board	i. Retention tank for maintaining 30 minutes retention time	December 31, 2022 (8 months)

		<p>for effective chlorination shall be installed at 2 STP at Ulsoor lake.</p> <p>ii. Ensure implementation of Notification No. FEE 316 EPC 2015, dated 19.01.2016 issued by Forest, Ecology &amp; Environment Secretariat with respect to installation of STP and reuse of Treated Sewage.</p> <p>iii. Ensure implementation of BWSSB (Rain Water Harvesting) Regulations 2010 and subsequent amendments with respect to providing rain harvesting structure by the owner or occupier of the residential building.</p>	<p>Continuous</p> <p>Continuous</p>
2	Commissioner, Bruhat Bengaluru Mahanagra Palike	<p>i. Complete the installation of silt traps and trash barriers in Storm water drains, cascading aerators for discharge of treated sewage, diffused aeration system at lake.</p> <p>ii. Install online</p>	<p>March 31, 2023 (11 Months)</p> <p>December 31,</p>

		<p>monitoring system to assess the water quality of Ulsoor Lake on real time monitoring basis at appropriate location.</p>	<p>2022 (8 Months)</p>
		<p>iii. Ensure effluent generated in M/s BBMP Civil Slaughter House is transported and treated at CETP, install flow meter and camera at the outlet of the ETP, maintain manifestos and records for effluent transported and treated at CETP</p>	<p>Immediate</p>
		<p>iv. Ensure implementation of longterm measures such as modernization of the abattoir installation of effluent treatment plant to achieve zero liquid discharge and biogas plant for solid waste at M/s BBMP Civil Slaughter House as proposed by BBMP.</p>	<p>March 31, 2024 (1 year 11 Months)</p>
3	<p>Director, Department of Fisheries</p>	<p>i. Periodically carryout study of bio accumulation of heavy metals in tissues of fishes and monitor water quality in Ulsoor Lake.</p>	<p>Continuous</p>

4	Commandant, Madras Engineering Group and Centre	i. Apply and obtain Consent for Operation (CFO) under the Water (Prevention & Control of Pollution) Act, 1974 for operation of STP and utilization of treated sewage with in their premises	June 30, 2022 (2 Months)
		ii. Operate the STP complying to the effluent discharge Standards and utilize of treated water from STP for arboriculture and watering of golf area at MEG&C.	April 30, 2023 (11 Months)
		iii. Install a STP of 1200 KLD and treat additional sewage generated in MEG&C and stop discharging untreated sewage into UGD of BWSSB.	March 31, 2024 (1 Year 11 Months)
5	Member Secretary, Karnataka State Pollution Control Board	i. Ensure the implementation of Notification No. FEE 316 EPC 2015, dated 19/01/2016 issued by Forest, Ecology & Environment Secretariat with respect to installation of STP and reuse of Treated Sewage for secondary purpose.	Continuous

8. We have heard learned Counsel for the parties and considered the matter for passing final orders in the light of earlier proceedings and latest report.

9. As shown by the latest compliance status report dated 19.05.2022, noted above, there is need for the State authorities to take further steps to prevent and control pollution and to maintain and restore the Lake free from pollution in the interest of environment and public health. The Tribunal has dealt with issues of lake pollution in Bengaluru in the context of Belanduru and connected lakes and directed remedial action in the light of action plan covering different environmental aspects. State authorities have taken steps which experience may be worthwhile to tackle the present problem also. Reference may be made to order of this Tribunal in the said matter being dated 12.03.2021 in OA No. 125/2017, *Court on its own Motion v. State of Karnataka*, relevant part of which is as follows:

“xxx .....xxx.....xxx

12. We have given due consideration to the issue. **We do find some progress but we agree with learned Amicus that the progress is very slow and inadequate. The remaining work needs to be executed on war footing by remedying the deficiencies pointed out above by learned Amicus.** We also permit learned Amicus to file a supplementary note directly to the Chief Secretary or to this Tribunal. If filed with the Tribunal, the same may be forwarded to the Chief Secretary, Karnataka for being addressed in positive spirit, in the light of observations already made and assurance of learned ASG.

13. Remedial steps to be taken so far for restoration of pristine ecology of the lakes in question have been discussed in earlier orders dated 6.12.2018, 21.10.2019, 18.12.2019 and 13.8.2020 and comments on some of the issues have been made hereinabove. Justice Hegde Committee has monitored the execution of the action plan on the subject for the last more than two years. **We place on record our gratitude to Justice Hegde for the outstanding contribution in the matter.**

14. However, **monitoring by a Tribunal or Tribunal appointed Committee cannot be for indefinite period and ownership of execution of action plan for restoration of**

**pristine ecology of the lakes/wetlands must be finally owned and taken over by the State authorities, headed by the Chief Secretary.** Governance deficit has to be made up by further action in mission mode. The road-map has already been laid down by the orders of this Tribunal. We may note that apart from the present matter, **issues of solid and liquid waste disposal generally and of polluted river stretches, water bodies, lakes and wetlands have been dealt with by this Tribunal in the light of Hon'ble Supreme Court decisions.<sup>1</sup> Copies of such orders have been duly sent to the Chief Secretary, Karnataka and Chief Secretary also appeared in person twice before this Tribunal for interaction on these issues in OA 606/2018. There are 17 polluted river stretches in Karnataka including Tungabhadra which has been identified by the State to be model of compliance. Detailed guidelines have been laid down on all aspects of restoration of lakes and water bodies and several issues are overlapping with restoration of polluted river stretches. Specific directions cover the present matter on subjects of preventing discharge of sewage and effluents and solid waste, removing encroachments from catchment areas, desilting and dewatering, maintaining lake free from any constructions inside and all other matters covered by different headings of the progress report quoted above.** In the present context, we may specifically note need to remedy foaming and fire incidents, attributed to detergents containing Phosphates, sewage entering the lake needs to be diverted and treated sewage utilised for non-potable use. The lake is to be maintained with required oxygen levels for survival of aquatic life.

15. Protection of lakes and water bodies and preventing pollution is part of 'public trust' doctrine obligating the State authorities to take stern measures for enforcing the basic constitutional right of citizens to clean environment. Without this being done in a meaningful manner, there can be no sustainable development. There is need for stringent enforcement by way of adverse measures, including recovery of compensation for continuing violation and adverse entries in the record of defaulting officers. Accountability for those who are entrusted the responsibility to comply with these directions must be fixed on the principle of good governance, to enforce rule of law to protect rights of citizens.

16. In spite of the fact that Water (Prevention and Control of Pollution) Act, 1974 was enacted 47 years back, to give effect to the decision in Stockholm Conference in the year 1972, the water pollution remains rampant. Though a serious criminal offence under the law of the land, the authorities have failed to take stringent action against the violators. In a way the State-authorities, who are

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<sup>1</sup> (2000) 2 SCC 679 Almitra Patel, Tribunal orders in OA 606/2018, last order 2.7.2020: Solid Waste  
 (2017) 5 SCC 326 Paryavaran Suraksha, Tribunal last order dated 22.2.2021 in OA 593/2017: Liquid waste, including 351 polluted river stretches (OA 673/2018), coastal pollution (OA829/19), re-use of treated water (OA148/2016).  
 (2017) 5 SCC 805, Tribunal order dated 27.8.2020, OA 351/2019, Raja Muzaffar Bhat v J & K: Wetlands and lakes: *M.K. Balakrishnan and Ors. v. UOI*, Tribunal order dated 18.11.2020 Lt Col Sarvadaman OA 325/2015, Water bodies, (1997) 1 SCC MC Mehta v. Kamal Nath, (2001) 6 SCC 496 Hinch Lal Tiwari vs. Kamala, (2006) 3 SCC 549 Intellectual Forum vs. State of AP

constitutionally under obligation to ensure treatment of sewage before the same is discharged into the water bodies, have to take the blame. The adverse effect of water pollution on health and environment is well known. **Water bodies, including lakes and wetlands, have great role in sustaining aquatic life, attract migratory and other birds, add to the natural aesthetics, help harvesting rain water, maintain micro climate, recharge ground water and perform other ecological services.**

The Hon'ble Supreme Court in its judgment in *Paryavaran Suraksha vs. Union of India & Ors.*, (2017) 5 SCC 326 discussed the need to remedy water pollution and fixed a firm deadline of 31.03.2018 by which all necessary CETPs/STPs/ETPs should be in place failing which coercive action, including prosecution of State authorities was mandated. It also indicated sources of funding. The said direction continues to be violated. This situation can hardly be held to be conducive to the environmental rule of law. The sewage treatment is less than 50% (the sewage generation from the urban population of the country is reported to be about 70000 MLD and treatment capacity about 27000 MLD)<sup>2</sup> which is a matter of serious concern. The Tribunal has issued repeated directions on the subject. Till it is remedied, the goal of sustainable development is far cry. Similarly, directions have been given for protection of water bodies and wetlands, referred to earlier in para 14, supra.

The environmental law principles, which this Tribunal is mandated to apply under sections 20 and 15 of the NGT Act, 2010, are – 'sustainable development', 'precautionary' and 'polluter pays'. These principles, accepted in Stockholm conference, have been held to be part of right to life under article 21 of the Constitution in *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647. In *Hanuman Laxman*, (2019) 15 SCC 401, (paras 142-156), significance of environmental rule of law has been highlighted to achieve sustainable development goals for prosperity, health and well-being. This requires filling of gap between law and enforcement. In *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606, at page 621, it was observed that the State has to forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water and providing sanitation, without which life cannot be enjoyed. Any contra acts or actions would cause environmental damage. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment. Environmental protection has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is constitutional imperative on the Central Government, State Governments and bodies like municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote,

<sup>2</sup> As per report of the CPCB dated 30.09.2020 quoted in the order of this Tribunal dated 05.02.2021 in OA 95/2018, *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors.*

protect and improve the man-made environment and natural environment.

**17. Accordingly, there is need for further continuous action and effective monitoring at the highest level in the Government. Consistent with earlier orders on the subject, such monitoring needs to be taken over by the Chief Secretary, Karnataka who may take over the record from the Monitoring Committee and take stock of all the left-over issues, with the assistance of other identified authorities and experts (which may include Indian Institute of Science, Bangaluru). He may inter alia interact with the State Lake Conservation and Development Authority and Forest, Ecology and Environment Departments. First meeting may be held latest by March 31, 2021. Thereafter, review meetings may be held atleast once in a month to monitor further progress and completion of targets, already fixed or which may be further fixed. It will be open to all persons interested in restoration and maintenance of the lakes in question to give their suggestions and offer assistance which may be duly considered by the Chief Secretary, Karnataka on its merits. All pending projects for setting up of STPs, fencing of lake, removal of encroachments, etc. may be executed expeditiously. Particular attention may be given to preventing formation of foam and fire incidents. Directions in earlier orders and current order be duly carried out and overseen by the Chief Secretary, as already mentioned, atleast once a month. In pursuance of order of this Tribunal dated 18.11.2020 in OA 325/2015, Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors., the steps for protection of water bodies have been directed to be taken and quarterly reports sent by the Chief Secretaries of States to the Secretary Ministry of Jal Shakti. Similarly, a quarterly report is to be given by the Chief Secretaries in respect of steps taken for protection of lakes and wetlands to the National Wetlands Authority, as earlier directed in OA 351/2019, Raja Muzaffar Bhat, supra, vide order dated 27.8.2020 and also placed on the website of the State Wetland Authority, for information of all the stake holders. The lakes in question are undoubtedly of great significance for the Bengaluru city and are glory and pride of the city. We do hope the administration will appreciate the need for stringent action and efforts for maintaining the said Lakes.”**

10. In the light of above, further action needs to be taken for maintaining and restoring Ulsoor lake. Action to be taken may include improving water quality by bringing down fecal coliform count. Other critical issues include preventing discharge of sewage/effluents into lake, monitoring of residual chlorine, modernizing abattoirs and expediting action by MEG to treat and utilize the sewage. Some aeration

devices/mechanism need to be set up in the lake, considering depletion of oxygen in late night/early morning hours due to eutrophic conditions. This may minimize the chances of massive fish mortality on account of low oxygen. Also, it may be prudent to ensure use eco-friendly (phosphate free) detergents to reduce the burden on the lake. Operation of slaughter house must be with requisite consent and ensure proper conveyance of effluents to the Treatment Facility. For violations, it must be closed.

11. The Tribunal having monitored remedial measures for more than five years and action points having been identified and some steps having been taken, it is now for the State authorities to monitor and coordinate further steps by concerned authorities/departments.

12. Slaughter house, MEG and BWSSB have contributed to the pollution apart from other. Compensation be assessed and recovered from them by the State PCB, following due process. BWSSB may initially contribute interim compensation of Rs.1 crore.

13. We direct constitution of a Monitoring Committee to be headed by Additional Chief Secretary-cum-Development Commissioner, Karnataka with nominees of BBMP, BWSSB, State PCB, District Magistrate, Bengaluru, State Fisheries Department and the State Wetland Authority. The Additional Chief Secretary may call a meeting for taking stock of the situation within one month and review the proposed action plan for completing the remaining work. The Monitoring Committee must meet periodically atleast once in a month physically or online. The Committee will be at liberty to coordinate with all the stakeholders, including any other departments/experts/ institutions. An estimate of cost of restoration may also be prepared with the sources of funding. Having regard to such estimate, recovery may be made to the extent possible from the violators, invoking the principle of 'Polluter Pays' by the State PCB. In any case, liability of the State will remain to the extent cost

cannot be recovered. The work should not be held up on account of funds, which is the responsibility of the Chief Secretary, Karnataka. The Chief Secretary, Karnataka may oversee the functioning of the Monitoring Committee atleast once in three months.

The application is disposed of.

I.A No. 95/2022(SZ) will also stand disposed of.

A copy of this order be forwarded to the Chief Secretary, Karnataka, Additional Chief Secretary-cum-Development Commissioner, Karnataka, Fisheries Department, Karnataka, BBMP, BWSSB, State PCB, District Magistrate, Bengaluru, Secretary, and the State Wetland Authority by e-mail for compliance.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Sudhir Agarwal, JM

Dr. Satyagopal Korlapati, EM

Prof. A. Senthil Vel, EM

May 20, 2022  
Original Application No. 54/2016(SZ)  
I.A No. 95/2022(SZ)  
DV