

**IN THE NATIONAL GREEN TRIBUNAL, EASTERN  
ZONE, KOLKATA**

**O.A. NO. 66/ 2023 /EZ**

Brundaban Das Azad, .....Applicant

Vrs.

Union of India and others .....Respondents

**COUNTER AFFIDAVIT FILED BY RESPONDENT NO.  
12 i.e. WATER CORPORATION OF ODISHA (WATCO).**

I, Sri Pradipta Kumar Swain, aged about 62 years S/o Late Purna Chandra Swain, At present Chief Executive Officer, Water Corporation of Odisha, at-Unnati Bhawan, Satya Nagar, Bhubaneswar, 751007, do hereby solemnly affirm and state as follows :-

1. That, I am the Chief Executive Officer of Water Corporation of Odisha (WATCO) and managing the sewerage and water supply system of Bhubaneswar City. I have also gone through the aforesaid original application in detail and also swear this affidavit on behalf of respondent No. 12 i.e. Chairman WATCO, being instructed / authorized by him.
2. That the fact of this respondent is that, Water Corporation of Odisha (WATCO) is registered, under the Companies Act, 2013. This corporation is a wholly owned not for profit

*Handwritten signature: A. Pradipta Kumar Swain*  
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company of the Govt. of Odisha, within the meaning of Section 3(1) and Section -8 of said Act. The object of the said corporation is to carry on the function of the operation, maintenance and management of production, distribution and management of water supply and collection, treatment and disposal of sewerage services. This corporation has come into operation, by Notification of the Govt. Department H & UD dtd.09.07.2015. Now the operation of the corporation is extended to 7 Municipal Corporations and 29 ULBs (out of 110 ULBs) of the state. In fact, the sewerage system of Bhubaneswar City was managed by Orissa Water Supply and Sewerage Board (OWSSB). The said work of sewerage system has been redistributed to WATCO, phase wise time to time. The sewerage system of the city has been divided into 5 districts, having Sewerage Treatment Plants (STP) in each district of different capacities for treatment of liquid waste of the city. Out of 5 STPs, the work of 3 STPs of different districts have been completed and the rest two STPs will be completed by 30.09.2023 and 31.11.2023 respectively. These STPs, having capacity of 183.5 MLD can cover entire Households of Bhubaneswar city. The detail data regarding STPs with

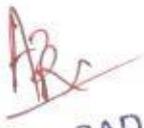
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their number, quality / capacity, area, numbers of house service connection with a time of completion of sewerage networking and full operation are given below for reference.

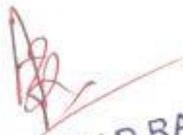
Sl. No.	STP	Capacity	No. of House covered till date	Time of completion of Sewerage Network	Remarks
1	Dist-I	56 MLD	32440	31.08.2023	Completed
2	Dist-II	28 MLD	15214	31.08.2023	Except 20m of Rath Road near PWD culvert
3	Dist-III	43.5 MLD	23667	31.11.2023	
4	Dist-IV	8 MLD	5936	Completed	
5	Dist-V	48 MLD	13945	30.09.2023	
Total	5 Nos.	183.5 MLD	91202		

After the operation of the aforesaid STPs, to its full capacity there will be no possibility of any discharge of liquid waste to the open drains. Besides that, WATCO is also taking proper steps for treatment of the drain water through facultative ponds, before it is discharged to 'Gogua Canal'. In this manner WATCO is taking sincere effort to restrict the discharge of liquid waste to 'Gangua Canal' through open drains. As regards other prayer of the applicant such as clean and restrict of dumping of municipal waste, convert the canals into water body, removal of all sand and shoals, plantations and encroachments etc are beyond discretion / jurisdiction of this corporation to solve the said problem.

  
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3. That in respect of para-1 & 2 of OA, it is submitted that, as this paragraphs state about the address of the applicant as well as respondents for notice purposes of the case, therefore this respondent has no reply.
4. That in respect of para-3 of OA, it is submitted that it is not a fact that, unwarranted disposal of waste water into 'Gangua Canal' making water body as dump yard, which ultimately affects the water of Daya River as well as Chilika Lake, etc. In this aspect, the various departments and agencies of the Govt. are taking necessary steps to safeguard the 'Gangua Canal' free from pollution and makes it water body as usual.
5. That in respect of para-4 of OA, it is submitted that, as this paragraph states about the various activities of the applicant for larger interest of the public, then he has to prove the same, by himself in which this respondent has no reply.
6. That in respect of para-5 of OA, it is submitted that, it is admitted fact that, 'Gangua Canal' is a stream, which originates from western upland area of Bhubaneswar City and flows along the south eastern side of the city and ultimately outfalls into river Daya.

  
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7. That in respect of para-6 of OA, it is submitted that, it is not a fact that 'Gangua Canal' receives so much liquid discharge of the city, as it is mentioned in this paragraph by the applicant.
8. That in respect of para -7 of OA, it is submitted that, it is not a fact that, Bhubaneswar City does not have any organized sewerage system and most of the sewage are discharged through storm water drains in the canal.
9. That in respect of para-8 of OA it is submitted that it is not a fact that 'Gangua Canal' is polluted by the discharge of Municipal waste water of the city through several storm water drains.
10. That in respect of para -9 of OA, it is submitted that, it is not a fact that 'Gangua Canal' receives waste water of the city through different drains at the different points of the city, by which worsen the water quality of the said water body.
11. That in respect of para -10 of OA, it is submitted that, it is not a fact that 'Gangua Canal' is unfit for any purpose, due to discharge of waste water of the city.

  
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12. That in respect of para -11 & 12 of OA, it is submitted that, the 'Gangua Canal' is not so much polluted, by which the Pungent Smell causing the area extremely unhygienic and unhealthy.
13. That in respect of para -13 of OA, it is submitted that, it is an admitted fact that Bhubaneswar Municipal Corporation has around 34 Micro Compositing Centres (MCCs) for sanitation purpose, which is based on records.
14. That in respect of para-14 of OA, it is submitted that, it is a fact that there are 5 STPs in working condition in the city, having different capacities. The details of said STPs having their capacity and coverage of area have already been mentioned in para -2 of this Counter affidavit for reference.
15. That in respect of para -15 of OA, it is submitted that, although the Central Pollution board by it's report states about the pollution of Gangua Canal, but the State Govt. is taking precautionary measure to prevent the said pollution, by constructing a number of STPs in the City not to discharge any waste water to Gangua Canal, through open drains.

  
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16. That in respect of para-16 of OA it is submitted that, in respect of report of the Department of Forest, Environment and Climate Changes relating to pollution of Gangua Canal, in fact the state govt. is taking various steps through it's agencies to prevent the said pollution.
17. That in respect of para - 17 of OA, it is submitted that, it is not a fact that there is no sewerage system in the city by which the people of the city have connected their septic tank and soak pits to open drains, which ultimately polluted Gangua Canal.
18. That in respect of para -18 of OA it is submitted that, the Bhubaneswar Municipal Corporation is also taking necessary steps time to time for eviction of unauthorized occupants over the water body of the canal.
19. That in respect of para - 19 of OA, it is submitted that, it is a fact that Daya River is a branch of Kuakai River and it flows to Khurda District and Puri District and finally merged with Chilika Lake.
20. That in respect of para -20 of OA, it is submitted that, it is a fact that the River Daya has a great historical importance, where the Kalinga war was fought by Emperor Ashok and

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after seeing the Blood shed of the said war, King Ashok became Saint by accepting Buddhism. In this aspect Dhauli, Temple is established near River Daya to keep that memory.

21. That in respect of para -21 of OA, it is submitted that, it is not a fact that, due to non proper waste water treatment facility in the city, the water body of Gangua Canal is polluted, which ultimately affects the pollution of River Daya.
22. That in respect of Para -22 it is submitted here that it is not a fact that, the River Daya is polluted due to discharge of waste water of the city through Gangua Canal.
23. That in respect of para -23 of OA, it is submitted that, it is not a fact that, the riverine eco system of River Daya has been affected, due to unchecked disposal of solid and liquid waste of Bhubaneswar City.
24. That in respect of para-24 of OA, it is submitted that, it is not a fact that, the river Daya has been polluted by Gangua Canal, due to discharge of waste water of Bhubaneswar city.

  
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25. That in respect of para-25 of OA it is submitted that, it is a fact that, Daya river outfalls into Chilika, by passing through district Khurda and Puri.

26. That in respect of para -26 of OA, it is submitted that, it is also a fact that, Chilika Lake is a brackish water lagoon. This lake is a largest brackish water lagoon in the world and it is also famous for aquatic species like Irrawaddy Dolphin, Green Sea Turtle, dugong and migratory birds etc.

27. That in respect of para -27 of OA, it is submitted that, it is not a fact that due to discharge of waste water into Gangua Canal affected to River Daya as well as Chilika Lake ultimately.

28. That in respect of para - 28 of OA, it is submitted that, in respect of Report of State Pollution Control Board, in fact the State Govt is taking all necessary steps through its agencies to prevent the pollution of Gangua Canal.

29. That in respect of para -29 of OA, it is submitted that, Chilika lake is not adversely affected to sensitive and eco system of the area, due to pollution of Gangua Canal.

  
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30. That in respect of para -30 & 31 of OA it is submitted that, as regards action plan for restoration of polluted stretch of Gangua Canal, the State Govt. has built up a number of STPs through its agencies i.e. WATCO for treatment of waste water of the city.

31. That in respect of para -32 of OA it is submitted that, it is not a fact that, nothing has been done by the Govt. to stop dumping of municipal waste into the canal and the canal has turned into a dumping yard, but on the contrary the Govt. is trying their level best to manage the liquid and solid waste of the city by its various agencies like, Bhubaneswar Municipal Corporation, Orissa Water Supply and Sewerage Board and also Water Corporation of Odisha to avoid any pollution.

32. That in respect of para -33 of OA it is submitted that, it is not a fact that, the respondents are remaining silent to take any steps as regards pollution of Gangua Canal as well as River Daya and Chilika Lake, but the govt. is taking various steps by constructing a number of STPs for treatment of the liquid and MCCS for treatment of solid waste of the city to make the city free from pollution.

  
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33. That in respect of para - 34 of OA, it is submitted that, as regard direction of the Central Pollution Control Board dtd.28.04.2023 for necessary action, in fact the Govt. has taken various steps to comply the said direction.
34. That in respect of para -35 of OA it is submitted that, although various news have come across through different news papers relating to pollution of Gangua Canal, but it is not a fact that the Govt. is not taking any positive steps to solve the said problem.
35. That in respect of para -36 & 37 of OA, it is submitted that, although section -2 (m) of National Green Tribunal Act, status about the pollution Environment, but it is not a fact that, the Govt. is not taking any precautionary measure to solve the said problem.
36. That in respect of ground No. I of the OA it is submitted that as the applicant has raised a substantial question relating to pollution of the environment of the area, due to arbitrary action of the respondent, by not taking any precaution, to check the pollution, which is pending in this Hon'ble Tribunal for adjudication, therefore this respondent can answer the said question at the time of hearing, being it is a point of law.

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37. That in respect of ground No. II of the OA it is submitted that, it is not a fact that, the pollution of Gangua Canal is so high, that it has adverse impact on the entire environment of the area, by which there can be a cause of action under the jurisdiction of this Hon'ble Tribunal for adjudication.
38. That in respect of ground No. III of the OA it is submitted that, it is not a fact that, the pollution of Gangua Canal is so high that it can have adverse impact on the environment, by which it is violating Article -19 (I) (G) of the Constitution of India.
39. That in respect of ground No. IV of the OA, it is submitted that, similarly it is not a fact that the pollution of Gangua Canal is so high, which can be treated as death nail for the river system affecting the livelihood of the community and other eco reversing system, being contrary to Section -7 & 39 of Orissa Irrigation Act, 1959.
40. That in respect of ground No. V of the OA it is submitted that, Similarly it is also not a fact that, the pollution of Gangua Canal is so high, which can be a cause of scarcity of drinking water and also contaminated the underground water with potassium and nitrate etc.

  
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41. That in respect of ground No. VI of the OA it is submitted that, it is also not a fact that, the Govt is not taking any step to check the pollution of Gangua Canal, by which the action of respondent can come under the definition of "Doctrine of public trust".
42. That in respect of ground No. VII of the OA it is submitted that it is also not a fact that the pollution of Gangua Canal is so high, which can change the flow dynamics of the river and can result in decrease of water level, ultimately create drought like situation, which would affect the livelihood of the people.
43. That in respect of ground No. VIII of the OA it is submitted that, it is also not a fact that, the Gangua Canal has ever been used by a large number of fisherman community for fishing to maintain their livelihood.
44. That in respect of Ground No. IX to XI of the OA, it is submitted here that, it is also equally wrong to say that, the pollution of Gangua Canal is not so high that, it can violate Article -21 of the Constitution of India, being a right to live.

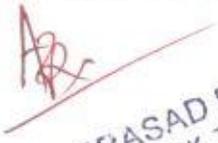
  
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45. That in respect of ground No. XII of the OA it is submitted that, it is also not a fact that, the pollution of Gangua Canal is not to that extent, by which it can violate the different provisions of various Acts, enacted by the legislature of the state/ center.

46. That in respect of ground No. XIII to XV of the OA, it is submitted that, the water of Gangua Canal has never been used as drinking water at any point of time. As the canal is in the mid of the city and the safe and clean drinking water is supplied by WATCO, therefore it can not be said that, the clean drinking water is prohibited to the nearby people of the area.

47. That in respect of ground No. XVI of the OA, it is submitted that, it is also not a fact that, the pollution of Gangua Canal violates the State Water Policy of the Govt. as because the water of Gangua Canal has never been used for drinking water, irrigation and also fishing purposes etc. at any point of time.

48. That by taking into account the aforesaid facts and law it is submitted here that, the pollution of Gangua Canal is not so alarming, by which the environment of the area is

  
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absolutely polluted. In fact, the facts stated by the applicant in this original application as regard to pollution of Gangua Canal is too much excessive and imaginary which is pending in this Hon'ble Tribunal for adjudication when the govt. is taking all precautionary measure to check the pollution of Gangua Canal, under such circumstance this original application has no merit, which can be dismissed for the interest of justice.

49. That the facts stated above are true to the best of my knowledge, based on records and information thereof.

Cuttack

Date 8/9/2023

Identified by

*RS*  
Advocate

*Madhita Kumar Swain*  
DEPONENT  
Chief Executive Officer,  
WATCO, Bhubaneswar



*P.K. Swain*  
The above named deponent being identified by *P.K. Swain* Adv solemnly affirm and states before me that the contents of the *Center No. 2* are true to the best of his/her knowledge and belief.  
*RS*  
*08.09.23*  
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Regd. No-ON-56/2004