

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH AT, PUNE

ORIGINAL APPLICATION NO. 70/2020

Mr. Prafull Shivaji Pise

Age: Adult, Occupation: Business,

Address: Khend By Pass Road, Mahalaxmi Nagar,

Taluka: Chiplun

District: Ratnagiri

Pin: 415605

Mob No: 9689788008

Email: prafull.pise@gmail.com

----- APPLICANT

V/S

1. The Municipal Council of Chiplun
Through its Chief Officer
Chiplun, District: Ratnagiri
2. The District Collector Ratnagiri
3. The Maharashtra Pollution Control Board,
Sub- Regional Office Chiplun

4. Mr. Sudhir Sharad Butala
Age: 53 Years, Occ: Advocate
Residing at : Khed
5. Mrs. Snehal Sudhir Butala
6. Ms. Beena Sameer Sheth
7. Mr. Iqbal Husain Arkate

----- RESPONDENTS

Subject:- Tripartite Committee Report Constituted by Respondent No.2

- Ref :-**
- 1) Order dated 12/10/2020 passed by Hon'ble National Green Tribunal in Original Application No. 70/2020.
 - 2) A meeting held at District Collector Office at Ratnagiri dated 21/10/2020.

**FACTUAL AND ACTION TAKEN REPORT SUBMITTED BY
RESPONDENT NO. 2**

It is respectfully submitted that, in the aforesaid original application Hon'ble Tribunal as passed the order dated 12/10/2020. According to the said order a Committee consisting of I) District

Collector, Ratnagiri, Maharashtra II) Chief Officer, Municipal Council of Chiplun, District Ratnagiri, Maharashtra and III) Maharashtra State Pollution Control Board (MPCB) came to be constituted on 21/10/2020.

The reports of said Tripartite Committee is respectfully submitted here below.

Respondent No. 1 & 3 jointly visited the alleged spot in issue and have done the spot inspection. During the said spot inspection Respondent No. 1 & 3 noticed the following factual aspects.

1. Respondent No. 1 & 3 physically inspected the gutter/ nallah which is located near building or construction as stated in original application by the applicant. Respondent No. 1 & 3 also carried out the measurements physically at the alleged spot, and the particular distances and measurements are as below.
 - A) As per alignment and measurements, the distance of alleged nallah/ gutter that to from the alleged building is at a distance of 50 meter, the width of nallah/ gutter kept open for actual flow of water i.e. distance between inner walls of nallah/ gutter = 3.10 Mtr.
 - B) As per alignment and measurements, the distance of alleged nallah/ gutter that to from the alleged building is at a distance of 100 meter, the width of nallah/ gutter kept open for actual flow of water i.e. distance between inner walls of nallah/ gutter = 3.20 Mtr.
 - C) As per alignment and measurements, the distance of alleged nallah/ gutter that to from the alleged building is at a distance of 150 meter, the width of nallah/ gutter kept open for actual flow of

water i.e. distance between inner walls of nallah/ gutter = 3.20 Mtr.

2. 1) The minimum width of the width of nallah/ gutter kept open for actual flow of water i.e. distance between inner walls of nallah/ gutter which is located at the front of the building = 3.20 Mtr.
 - 2) As per the official record at office of Respondent No. 1, there resides near about 1500 citizens within the vicinity of the alleged nallah/ gutter but as of today nobody has complained about the said nallah. Moreover, nobody has complained till today regarding any occurrence of any life threatening incident.
 - 3) The gutter/ nallah in issue runs towards 'Shivnadi' river and thereafter said Shivnadi river reaches to 'Vashishti' river.
3. According to the official record, The Municipal Council, Chiplun has granted permission for the construction of the building in C.T.S. No. 6397 situated nearby the Gutter/ Nallah in issue on 19/06/2019. Thereafter, vide Ja.Kra.No.2340 dated 02/01/2020 the owner of the proposed building was issued an order to construct the alleged Gutter/ Nallah which is situated in front of the proposed building. Thereafter, the permission holder for construction of the proposed building informed the Municipal Council, Chiplun on 17/02/2020 regarding the completion of permanent construction of said Nallah/ Gutter as per order of Municipal Council, Chiplun.

4. Considering the pleadings of the applicant at Para No. 06 in respect of section 24.2 of Water(Prevention and Control of Pollution) Act 1974, the said provision is related to construction.

The section 24.2 state as - A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:-

- (a) Constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;
- (b) Depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;
- (c) Putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;
- (d) Causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

Considering the said legal provision as well as according to the spot inspection, there is no violation observed of said provisions as far as construction of alleged Nallah/ Gutter is concerned.

5. According to clarification dated 07/04/2014 of Development Control Rules, as per Rule No. 11.1 (B) the distance of 9 Mtr. Or 15 Mtr. is maintained with the objective of dispersion of or spreading of water into surrounding area from non-channelised watercourse. But a

clarification is given herebelow that there is necessity of the said distance when there is controlled water flow of the minor water course (Nallah).

Rule No. 11.1 - As per this rule, minor watercourse/ nallah with the width of 6 mtr. or less than that which is channelled by retaining walls/ channelized through which the flow is going to be normal and control, then in that place there arise the need of maintaining regular margin of distance as per Development Control Rules. In other case/s there is necessity to maintain the said distance as mentioned in these Rules.

According to physical inspection of the spot by Chief Officer, Municipal Council, Chiplun, it is respectfully submitted that the watercourse in issue is "Minor Watercourse" which runs through the alleged Nallah/ Gutter, so that there is provision for approval of construction of Nallah/ Gutter within the regular marginal distance by controlling the watercourse within the same space of construction of concerned watercourse. Accordingly the alleged construction of Nallah/ Gutter has been found as per the norms by maintaining marginal distance as noticed during spot inspection .

6. During the spot inspection done by committee members such as Respondent No. 1 & 3 **it was also not noticed** that the watercourse has been changed altogether as contended by the Applicant. Moreover, **it was not noticed** the water logging within the alleged Nallah/ Gutter.
7. During the spot inspection, it transpire that or reveal that, there is neither threat to the life of citizens residing within the nearby locality

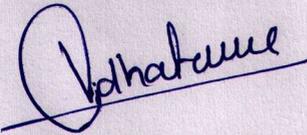
nor there is a big threat / damage to the environment as contended by the Applicant. Besides that, there was **no any complaint was received to the office of Respondent No. 1** from the City dwellers/ citizens residing in the residential buildings situated in the surrounding area of alleged construction of Nallah/ Gutter.

There is no any complaint have been received regarding pollution of water due to the alleged construction of Nallah/ Gutter as contended by the applicant.

Hence this report.

Date: 07/12/2020

Place: Ratnagiri



(Vaibhav Vidhate)
Chief Officer
Municipal Council,
Chiplun



(Ajay Chavan)
I/C Sub Regional Officer,
(M.P.C.B.), Chiplun



(Laxminarayan Mishra)
Collector, Ratnagiri