

**MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE -PUNE**

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MPCB/ROPI

201123-FTS-0117

Date: 23/11/2020.

To
Hon'ble Registrar,
National Green Tribunal (PB), New Delhi.

Sub. :- Joint Committee Report in Original Application No. 03/2020 (WZ) Devraj Bhatia vs. PMC & Ors. in compliance of Order passed by Hon'ble Tribunal on 13/02/2020.

Ref. :- Order passed by Hon'ble NGT on 13/02/2020.

Sir,

In compliance of the Order passed by Hon'ble Tribunal on 13/02/2020, submitting herewith the joint committee report by Maharashtra Pollution Control Board.

(Pratap Jagtap)

Sub-Regional Officer, MPCB Pune-I.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION – 03/2020 (WZ)**

Devraj Bhatia & Anr.

... Applicants

v/s

Pune Municipal Corporation &Ors.

... Respondents

Joint Committee Report in compliance of Order dated 13/02/2020 passed by the Hon'ble NGT

1. The Hon'ble National Green Tribunal vide Order dated 13/02/2020 constituted a joint committee comprising of 1) The Collector, Pune ; (2) The Assistant Commissioner, Encroachment Department, Pune Municipal Corporation (3) The Maharashtra Pollution Control Board and directed the committee to verify the factual aspects and submit the report.
2. In compliance of the Order dated 13/02/2020 passed by Hon'ble NGT , the Joint Committee carried out the visit on 13/03/2020 in the presence of the Complainant' son and met the Complainant Devraj Bhatia. During visit it was observed that the Complainant's property is located between two roads and at a distance of 8 Meter from the nallah in question.
3. During site visit the cement concrete road developed by Pune Municipal Corporation (PMC), a boundary wall admeasuring around 130 meter along with the natural stream (Nallah) were seen. During discussion with complainants, it comes to know that Shri. Bhatia has developed his property in 1965.
4. The cement concrete road was developed by PMC some time in 2013. The 8 meter road was developed by PMC on the existing path way. For construction of the road , PMC has neither procured any new material from

outside for filling the road nor the level of the original ground level is increased. This road has been opened for public in 2014.

5. A stream having width around 10 to 12 m. exists on the south of the complainant's property. The width of the stream throughout the length i.e. from the point where the concrete road starts and the concrete road ends, observed same. An old abandoned irrigation canal crosses the natural drain. It was observed that the width of the opening below the canal is almost the same size as the natural drain. The said canal and bridge is in existence since before the development of the complainant's property and it was observed that there are no any changes made in the width of the bridge and width of the stream.
6. The said canal was built for agricultural purpose for conveyance of water irrigation from Khadakwasla dam and it is understood that the said construction was carried out before 1961. Before the work of lining the nallah and construction of boundary wall of the nallah, the citizens of the area used the area for open defecation. Due to large number of pigs were seen, foul smell and unhealthy condition prevailed in the area. The entire nallah has been lined and boundary wall has been constructed by the Drainage Department of the PMC. Also, during the monsoons, the water from the nallah never entered into the property of the complainant.
7. Due to development works, construction of new structures in the adjoining area of the complainant; ground levels in the adjoining properties are higher than complainant's property. In fact, almost all the adjoining properties near the property of the complainant are developed; the resurfacing of the adjoining road & direct approach road to the adjoining properties carried out many times; on account of these developments in the adjoining properties, the road levels of those properties are higher than that of the complainant property. Hence, water gets logged into the

premises of the complainant's property. It is observed that the complainant has not made any independent arrangement for draining the water so accumulated.

8. The drainage line connection to the complainant's society and adjacent property has been provided on the private road present at north side of their property. Storm water drain and drainage line connection arrangements have been made on their private road present on North side.
9. After comparing the level of the complainant's property to the properties present on the south side of the nallah, it is observed that level of the complainant's property is higher than that of the properties located on the south side of nallah, still south side properties don't face any rain water accumulation issues. Hence, complainant's claim of accumulation of water in his property due to the concrete road and lining of nallah present on south side of his property is misleading and technically incorrect.
10. Pune Municipal Corporation has conducted a survey of Nallah and adjoining properties from third party institution i.e. Liance Surveyors M/s. Yogesh Associates, Su. No. 101, Dadaji Padal, Lohagaon-Wagholi Road, Lohagaon, Pune-47 and they have submitted the survey drawings on 02.09.2020 and the drawing shows that the level of complainant's property is 0.83 meter above than the Nallah lining level. The existing level of the concrete road has been finalized considering the level of road present at the East side and West side of the said concrete road. Hence, the question of providing entry to complainant's property as well as providing utility services connections does not arise. PMC report is attached as Annexure-I.
11. A joint visit of P. M. C. Road Department, Drainage department along with the complainant was carried out on 27.04.2020 and planning was made by P. M. C. for dewatering the water logged in the complainant's property, but the complainant did not allow and is not giving consent for execution.

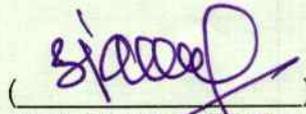
12. In view of above its observed that PMC has developed Cement Road in 2013. Adjoining properties of the complainant's house are also developed, there is possibility of water logging at complainant's house in rainy season due to higher level of adjoining properties. Hence, it is recommended by the committee that the complainant shall allow to PMC to carry out the work for dewatering the water and accordingly drainage department, Pune Municipal Corporation shall take necessary steps to avoid water logging.
13. The said road was constructed in the year 2013. This application is filed beyond Limitation period. Hence, the Application is **barred by Limitation**.



Shri. Pratap Jagtap
Sub Regional Officer , MPCB Pune 1.



Shri. Manohar Shinde,
Deputy Engineer, Roads,
Pune Municipal Corporation



Shri. Shankar Thube
Circle Officer, Circle Office, Pune City,



Chief Engineer (road) office
Pune Municipal Corporation
Outward No- Road / 1580
Date 14/09/2020

The Divisional Officer,
Maharashtra pollution control board,
Jog center, 2 nd floor, Wakdewadi, Pune No. 3.

200916-FTS-0063

Sub : - Regarding application No. 03/2020 (WZ) (I – A 06 / 2020 in the National Green Tribunal, New Delhi Court

- Ref : - 1] The case filed by complainant Shri. Devraj Bhatia and others.
2] The orders given by the court on the date 13/2/2020.
3] The joint spot survey visit dated 17/3/2020 as per the court order.

The complainant Shri. Devraj Bhatia and others have filed a case against P. M. C. in the National Green tribunal, New Delhi Court. The said case is regarding cement concrete road adjoining and lining of a stream and also a wall built adjoining that stream near Mahale market. The applicant has a say that, the P.M. C. has carried out these constructions / development work on the adjoining side on the south side of their property and it is their claim that water is logged in their property due to this construction, hence they have demanded in the court that P. M. C. should remove and take back that construction / development.

A hearing on the above matter was held 13/2/2020. In the hearing, the court has appointed Maharashtra Pollution Control Board as nodal agency vide (para No. 6) of the order and requested MPCB to work as coordinator regarding this matter.

As per the directives issued by the honorable court representatives of MPCB, District collectorate office, PMC official made a site visit on 13/03/2020. During the site visit complainant Shri. Devraj Bhatia and his son were present during site visit the cement concrete road developed by PMC, a boundary wall admeasuring around 130 meter along with the natural stream (Nallah) were seen. The cement concrete road was developed by PMC some time in 2013. The 8 meter road was developed by PMC on the existing path way. For construction of the road no new material for filling has been procured from outside nor has the level of the original ground level is increased, the road has been opened for public in 2014.

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It was also observed that a stream of width around 10 to 12 m. is existing on the south of the complainant's property. At that time the places from where the concrete road starts and concrete road ends were also observed and it is found that the width of the stream was generally same. An old abandoned irrigation canal crosses the natural drain. It was observed that the width of the opening below the canal is almost the same size as the natural drain. The said canal and bridge is existing before the development of the complainant's property and it was observed that there is no change made in the width of the bridge and width of the stream.

The said canal was built for agricultural purpose for conveyance of water irrigation from Khadakwasla dam and it is understood that its said construction was carried out before 1961. Before the work of lining the nallah and construction of boundary wall of the nala, the citizens of the area used the area for open defecation. Due to this a large number of pigs were to be seen also foul smell and unhealthy condition prevailed in the area. The entire nala has been lined and boundary wall has been constructed by the Drainage Department of the PMC. Also, during the monsoons, the water from the nala never entered into the property of the complainant. It is also observed that due to development works, construction of new structures in the adjoining areas of the complainant's ground levels in the adjoining properties is more than the complainant's property.

In fact, almost all the adjoining properties near the property of the complainant are already developed and the resurfacing of their adjoining road & direct approach road is carried out many times on account of which the road levels are higher than that of the complainant property. Hence water gets logged into the premises of the complainant's property. It is observed that complainant has not made any independent arrangement for draining the water so accumulated.

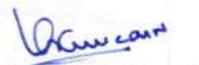
It is observed that drainage line connection of complainant's society and adjacent property has been provided on the private road present at north side of their property. Storm water drain and drainage line connection arrangements are been made on their private road present on north side. Comparing complainant's property level to the properties present on south side of Nala, it is observed that level of complainant's property is higher than that of properties at south side of Nalah, still south side properties doesn't face any rain water accumulation issues. So complainants claim of accumulation of water in their property due to the concrete road and lining of nalla present on south side of their property is misleading and technically incorrect.

Pune Municipal Corporation has conducted survey of Nala and adjoining properties from third party institution in which it is observed that complainant's property levels 0.83 meter above than the Nala lining level. Existing concrete road's level has been finalized considering the levels of road present at the East side and West side of the said concrete road. So question of providing entry to complainant's property as well as providing utility services connections does not arise.

Regarding this filed case, a joint visit of P. M. C. Road department, Drainage department along with the complainant was made and a planning was made by P. M. C. for dewatering the water logged in the complainant's property, but the complainant did not allow and is not giving consent for execution. If complainant makes demand to lay storm water line, PMC will give necessary approval to them.

Thus this report is being submitted by the P. M. C. as above mentioned in the joint site survey visit conducted jointly with you.

Regards,


V.G. Kulakarni

The Chief Engineer (Road)

Pune Municipal Corporation

Copy to : -1) Legal Officer, Legal Dept.

Pune Municipal Corporation