

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL NEW DELHI

O.A. No. 125 of 2017 & 217 of 2017

IN THE MATTER OF :-

Court on its own Motion

....PETITIONER.

VERSUS.

State of Karnataka & ORS.

....RESPONDENTS.

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THROUGH

Date:-10/08/2020
Place New Delhi


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10.08.2020

Individual Para wise Reply of the KSPCB to Concise Submissions by Amicus Curiae - Raj Panjwai, Senior Advocate of Sl.No.4, 7,9 & 10 of National Green Tribunal dated 07-08-2020.

Due to paucity of time individual reports are being filed by the individual departments however a convince compilation will be filed this Hon'ble Court on 11.08.2020.

4. (Sl. 4) of Hon'ble Justice Santosh Hegde Committee Report dated 06.03.2020 and Page No. 78 of Compliance / Status of the work as on 15.07.2020, Sl.No.2

Submissions by Amicus Curiae: a) As per the report of the Monitoring Committee, KSPCB had stated that there are 61 Units without STPs and Rs. 271.5 Crores are estimated to be recovered. However, no details have been furnished about the action initiated for the recovery of the said amount. Nor the stage of the proceedings for closure under Section 33A of the Water Act. It may be pointed out that KSPCB has not filed any affidavit of compliance before this Hon'ble Tribunal. Consequently, the Hon'ble Tribunal may direct KSPCB to file a comprehensive affidavit in respect of all the matters.

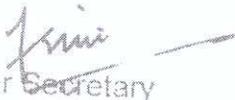
KSPCB Reply: As per the directions of the Honorable NGT, the KSPCB had given the notices to the Apartments discharging untreated sewage. They are 61 in Number and Rs. 271.5 Cr was assessed.

Meanwhile the following apartments had approached the Honorable High Court against the payment of EC demand from the PCB and Court directed as below;

In Writ Petition No. 3303/2020, the Hon'ble High Court has issued interim order on 12.02.2020 directing the KSPCB to issue Show Cause Notice to the petitioner to be heard for a liability of Rs. 7 Crores. Meanwhile, the electricity supply to the premises of the Petitioner shall not be disconnected.

Another Writ Petition No 4284/2020 has been filed before the Hon'ble High Court of Karnataka by M/s. Sharewood Residents Association:

An interim direction on 26.2.2020 has been issued from Hon'ble High Court as under: -


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- By way of add-interim relief, we restrain the second respondent from initiating any proceedings to recover the amount mentioned in Annexure-F1 and F2.
- However, notwithstanding pendency of this petition it will be always open for the second respondent (KSPCB) to issue Show cause notice in terms of Annexure F1 & F2.
- Needless to add that before passing final orders on the notices at Annexure A1& A2 as well as G1 & G2 and Show cause notices issued in terms of Paragraphs 9 above an opportunity has being heard shall be granted to the petitioners.

In view of the COVID-19, the Hon'ble Government of India has declared Nationwide Lock Down since 23.03.2020 onwards. Hence, there had been no progress of work from 24.03.2020 upto 14.04.2020. Further, vide order No. 15.04.2020 Department of Health and Family welfare, Government of India has classified Bengaluru urban under Red hot zone. Under the circumstances, the restrictions were continued till 03.05.2020.

Accordingly, the KSPCB has to wait until the peak of Covid and Lockdown to get over. Post which they were sent letters to attend the Personnel Hearing. However, they sought postponement due to Covid.

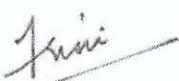
Again, letter was issued to attend and once again they sought postponement. At this stage, the PCB had invited the Office Bearers of the Bangalore Apartments Federating (BAF) and it was jointly agreed to have the PH over VC.

Accordingly, the Video Conference was done on 4.7.2020 (Meeting ID 1666707609 Password: 9Ua3tyt2mMU) called all the Apartments who are due to pay the EC. After hearing them, the Board has taken a decision and directed the defaulters to pay the Environmental Compensation Charges as assessed by the Board earlier otherwise to initiate actions under 33(A) of the Water Act and as per the direction of the Hon'ble NGT.

Post the Personnel Hearing, still as they have not paid, and making correspondences each one giving some reasons why they can't pay. Now the Personnel Hearing proceedings are being brought to the notice of the Hon'ble NGT, Hon'ble High Court and Board will initiate action as per the provisions of the Act.

(Sl. 7) of Hon'ble Justice Santosh Hegde Committee Report dated 06.03.2020 and Page No. 26 of Compliance / Status of the work as on 15.07.2020, Sl.No. 9

Submissions by Amicus Curiae: a) Despite the direction of the Hon'ble Tribunal, KSPCB has not issued any order or direction to bring into force the recommendation of the BIS on the


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standards for phosphorus for use in soaps and detergents. The Hon'ble Tribunal may direct the KSPCB/State Government to issue an appropriate order/direction in this regard preferably within four weeks.

KSPCB Reply: The Bureau of Indian Standards (BIS) (Chemical Department) was contacted on 7.8.2020 and it was learnt that the standards have been fixed for the Phosphorous content in the Detergent/Soaps and it has been sent to their publication Department for issuing Notification. The KSPCB will follow up with BIS for the early release of Notification/Gazette.

Also, as per the earlier order of the Hon'ble Supreme Court, in the case of laying standards for the Kerosene, had directed to get standards laid down by BIS. The details are shown below:

In a judgement dated 30.8.2016, in Application No. 81 of 2015(W/Z) titled Dileep B Nevatia Vs Union of India & Ors. Was challenged before the Honourable Supreme Court, where in by its order dated 7.5.2018 in CA Diary No 42031 of 2017 Honourable Supreme Court was pleased to direct:

"That may be so. However, having regard to the statutory regime, since it is the BIS which has to lay down such standards, MoEF may approach the BIS for this purpose and once these desired standards are laid down by BIS, MoEF can lay down the standards within 6 months. This appeal stands disposed of with the observations".

(Sl. 9) of Hon'ble Justice Santosh Hegde Committee Report dated 06.03.2020 and Page No. 79 of Compliance / Status of the work as on 15.07.2020, Sl.No.4

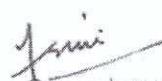
Submissions by Amicus Curiae: a) Compensation of Rupees 19.85 Crores had to be recovered from 376 defaulting units. A sum of Rupees 75 Lakhs has been recovered from 14 units.

b) The Hon'ble Tribunal may direct the KSPCB to file a detailed action taken report along with copies of orders passed in this regard along with a summary of compensation recovered

KSPCB Reply: Out of 376, units 22 units have paid an Environmental Compensation (EC) amount of Rs 115 Lakhs;

1. M/s Happiest Minds, Ganapa Towers, No. 51/3, Hosur Main Road, Madiwal, Bengaluru - 560 076
2. M/s Prism Properties, Prism Sovereign Apartment, Sy No. 106/1 & 107, Kundalahalli Village, K.R Puram Hobli, Bengaluru East Taluk
3. M/s Nandi Gaardens Apartment Owners Association, Nandi Gardens, J.P Nagar 9th phase, Aalahalli, Anjanapura Post, Bengaluru.
4. M/s Sumadhura Silver Ripples Owners Welfare Association at Sy No. 25/1A, 25/2, 28, 30/2, Nallurahalli Village, KR Puram Hobli, Bengaluru - 5600 066.

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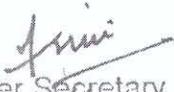

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5. M/s Chitrakut Environs Apartment Owners Welfare Association, at Sy No. 184, 7th Cross, Veerabhadra Nagar, Talacauvery Layout, Basavanagar, Bengaluru - 560 037.
6. M/s SJR Builders by name SJR Luxuria, at Sy No. 100/P/1, 101/1 & 103, Arekere Village, Begur Hobli, Bengaluru.
7. M/s Ferns Icon & Developers Ltd, Ferns Icon Apartment, at Sy No. 28, 34/3, 36/2, 36/3, 36/4 & 36/5, Doddanekundi Village, Bengaluru East Taluk.
8. M/s Island Star Mall Developers Pvt Ltd., at No. 40/41, Lower Ground, Whitefield Main Road, Mahadevapura Post, Bengaluru.
9. M/s DSR spring Beauty Apartment Owners Association, at Sy No. 124/1, Kundalahalli, AECS Layout, ITPL Main road, Bengaluru.
10. M/s Intel Technology India Pvt Ltd, No. -23-56P, Outer Ring Road, Devarabeesanahalli, Varthur Hobli, Bengaluru.
11. M/s HSBC data Processing India Pvt Ltd, No. 148/1, Futura, Bannerughatta Road, Bengaluru.
12. M/s Maruthi Infotech Centre, Sy No. 11/1 & 12/1, Challaghatta Village, Amarjyothi Layout, Intermediate ring road, Domlur, Bengaluru.
13. Samhi JV Business Hotels Pvt Ltd., (Formerly Supreme Build Cap Pvt Ltd.,) Sy No. 43,44/1, 44/2, Devarabisanahalli, Varthur Hobli, Bengaluru.
14. Keys Hotel, No. 7 Hosur Main Road, Singasandra Village, Bengaluru.
15. M/s Golf Link Software Pvt Ltd, SY No 13/2, Challaghatta village, off intermediate ring Road Bangalore.
16. Mohan Enterprises, Krishna Maganumm, Sy NO 65/3, Doresanipaly Bangalore.
17. Mohan Enterprises, Kalyni Vista SY No 165/1, Doresanipalya Bangalore.
18. M/s. Royal citadel apartment owners association No 157/6, Begur Village, Bangalore
19. Mohan Enterprises, Kalyani Magnum Sy No 165/2, Doresanipaly Bangalore.
20. M/s. GV properties Pvt Ltd, Embassy Point SY No 10/2a to 2b, CHallaghatta Village, Bangalore.
21. Umbal Properties Pvt Ltd, Hilton Residencies SY No 5/1, Challaghatta Village, Bangalore.
22. M/s Aricent Technologies Ltd, SY No 18/1, ORR, Panathur Post Kadubeesanahalli, Bangalore.

Further, following 6 Number of Petitioners in writ petition No. 4540/2020 have approached the Hon'ble High Court;

1. Brigade Harmony Apartment owners Associations, Sy NO 250, Ramagondanahalli village, whitefiled Bangalore.
2. Druvika Mogra Apartment welfare association No 3333, Whitefiled, Mahadevapura, Bangalore.
3. AOC- DNR atmosphere owners condominium owners and residents welfare association, 231, Varthur Main road, Whitefiled Bangalore.
4. Durga Rainbow Flat owners welfare association, No 8/1, 9/1, 9/2, 9.3 ORR, Mahadevapura Bangalore.
5. Nagarjuna Maple heights apartments Condominium at 182-185 Narayanapura, ORR, Mahadevapura Bangalore.


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6. Nester Raga owners' associations Sy No 152,153, Marathahalli ORR mahadevapura Bangalore.

And the Hon'ble High Court has issued interim order on 26.02.2020 directing the KSPCB to issue Show cause notice to the petitioner, an interim direction issued from Hon'ble High Court is as under: -

- We direct that, if any orders are passed on the show cause notices, Annexure-A1 to A6 no action on the basis of such order shall be taken for a period of 15 days from the date on which the order are served upon the petitioners. Till the next date, no action shall be taken for recovery of the amount on the basis of the notices at annexure F1 to F6.
- It will be open for the second respondent to issue show cause notices in terms of Annexure F-1 to F-6 and to pass orders after giving an opportunity of being heard to the petitioners. If final orders are passed on the basis of the said show cause notices, the same shall not be implemented in any manner for a period of 15 days from the date on which the final orders are served upon the respective petitioners.

In view of the COVID-19, the Hon'ble Government of India has declared Nationwide Lock Down since 23.03.2020 onwards. Hence, there had been no progress of work from 24.03.2020 upto 14.04.2020. Further, vide order No. 15.04.2020 Department of Health and Family welfare, Government of India has classified Bengaluru urban under Red hot zone. Under the circumstances, the restrictions were continued till 03.05.2020.

Accordingly, the KSPCB has to wait until the peak of Covid and Lockdown to get over. Post which they were sent letters to attend the Personnel Hearing. However, they sought postponement due to Covid.

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Post the PH, still as they have not paid, and making correspondences each one giving some reasons why they can't pay. Now the PH proceedings are being brought to the notice of the Hon'ble NGT, Hon'ble High Court and Board would initiate action and the process is initiated and shortly the closure orders will be issued for such units.



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10.(Sl. 10) of Hon'ble Justice Santosh Hegde Committee Report dated 06.03.2020 and Page No. 36 of Compliance / Status of the work as on 15.07.2020, Sl.No.12

Submissions by Amicus Curiae: a) CPCB has conducted the test and prima facie there appears to be no rational basis to get conducted a fresh test in respect of the sludge & silt of the said lakes. Amicus has received a copy of the test report conducted by CPCB, which are annexed with the report as Annexure A.

b) It is submitted that the disposal of sludge & silt has to be as directed by the Hon'ble Tribunal in accordance with the guidelines of Solid Waste Management Rules, 2016 and the Hazardous & Other Wastes (Management & Transboundary Movement) Rules, 2016. The State Government along with the concerned authorities should submit a proposal in this regard before the Monitoring Committee within a specified time frame for its approval.

KSPCB Reply:

Waiting for further directions from the Hon'ble NGT after the receipt of an expert opinion report


**MEMBER SECRETARY
KARNATAKA STATE POLLUTION CONTROL BOARD
BENGALURU**