

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)
Original Application No.475/2022

A. Ali

...Applicant

Versus

State of West Bengal

...Respondent

Date of hearing: 16.11.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondent: Ms. Madhumita Bhattacharya, Advocate for WBPCB.

Application is registered based on a complaint received by Email.

ORDER

1. Mr. A.Ali, Editor, Nalhat 2nd Block Citizens Committee, Post Office- Lohapur, District- Birbhum, West Bengal has sent the present letter petition, which is treated and registered as original application, complaining that Tulavati Mal, owner of pond with JL No. 118, Khatian No. 1826, Dag No. 162 situated behind village Lohapur Swarnakar Pattiis dumping soil generated by clearing/construction of the road and filling the pond due to which 15 families, who are dependent on the pond, are facing serious problems.

2. Vide order dated 02.08.2022, this Tribunal constituted a Joint Committee comprising of the State PCB and District Collector, Birbhum and directed the same to submit factual and action taken report within three months.

3. In compliance thereof, the report of the Joint Committee by way of affidavit has been filed through email dated 15.11.2022. The relevant part of the report is reproduced below:-

“Report of the joint committee constituted as per Hon'ble NGT, Principal Bench order dated 02/08/2022 in the matter of A. Ali Indic vs. State of West Bengal in OA no. 475/2022”

Background:

The applicant alleges that Smt Tulabati Mal, owner of the water body (classified as Doba) in Mouza- Lohapur, J.L. no.- 117, L.R. Dag no.- 172 having an area of 10 decimals (as per land records), is filling up the said water body. Therefore, a Joint Committee comprising of the State Pollution Control Board (WBPCB) and District Collector, Birbhum visited the site in order to look into the grievances of the applicant, verify factual position and take requisite action by following due process of law.

Observation:

The members of the Joint Committee (officials of District Collector, Birbhum & WBPCB) constituted by the Hon'ble NGT inspected the site on 20/10/2022 in order to examine the allegations of the applicant. The inspecting officials met Smt. Tulabati Mal (owner of water body) and representatives of the complainant (family members of Sri Jagabandhu Ray and Sri Ujjwal Dutta) and heard versions of both sides.

During inspection, no activity related to filling up of the water body under scrutiny, which is full with aquatic plants & weeds, was noticed.

Residence of Smt Tulabati Mal is adjacent to the water body and lies on the West of the water body. Residence of Sri Jagabandhu Ray is situated on the adjacent plot East of the water body. It was learnt that sullage from Sri Jagabandhu Ray's residence is discharged into the said water body (owned by Smt. Tulabati Mai) as his residence has no proper drainage although the construction of the building took place more or less 15 years ago, as informed by the members of Ray family.

other relevant information:

The representative of the complainant alleged that Sint Tulabati Mal & others living on the West of the water body are trying to construct a pathway by filling up the Northern fringe of the water body in order to get easy access of the village market at Lohapur-Swarnalcrupatti through the passage between the residences of Sr: Jagabandhu Ray & Sri Ujjwal Dutta. The members of both Ray & Dutta families claim that such passage is a private property belonging to the Rays & Duttas in parts as per construction rules and cannot be trespassed by villagers from the west of the water body.

Smt. Tulabati Mal & others on the other hand claim that they are very much entitled to construct a bank for the water body on the Northern side of it and use it as a pathway.

Photographs taken during inspection are annexed herewith for ready reference.

Remarks/Recommendations:

- (i) *No filling up of the water body was evident during visit*
(ii) *During inspection, verbal direction was given to Smt. Tulabati Mal to restore the water body by cleaning the aquatic plants & weeds.”*

4. We have gone through the report and we find that the Joint Committee did not look into the material aspect of the case as to whether 15 families are dependent on the pond as mentioned in the letter petition or not and whether they have any legal/easementary right in respect of the same or not. No revenue documents have been obtained and attached with the report by the Joint Committee. The Joint Committee is directed to look into all relevant aspects as mentioned in the letter petition and obtain the relevant revenue documents and submit its report within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

5. List for further consideration on 24.02.2023.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

November 16, 2022
AG