

Item No.07

Court No. 1

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

M.A. No.85/2023
In
Original Application No.81/2023

Sunil Kumar Aledia

Applicant

Versus

Govt. of NCT of Delhi

Respondent

Date of hearing: 06.05.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Kunal Anand, Ms. Richa Kapoor & Ms. Atika Singh, Advs. with Mr. Jitesh Kumar Srivastava, AE & Mr. K.K. Meena, JE, Delhi Jal Board
Ms. Jyoti Mendiratta & Ms. Ananya Basudha, Advs. with Mr. Babulal Meena, AE & Mr. Rajendar Choudhary, JE, PWD

ORDER

1. This M.A. has been registered on the basis of the report filed by the Joint Committee in pursuance to the order dated 13.03.2023 passed in O.A. No. 81/2023. In the OA, registered on the basis of the letter petition, the grievance was in respect of discharge of sewage in storm water drain passing through Malviya Nagar, Vidhan Sabha to Greater Kailash, Vidhan Sabha by joining sewer line to storm water drain by Delhi Jal Board which was converting storm water drain into sewage drain, damaging environment and causing health hazard. The Tribunal by order dated 13.03.2023 had disposed of the OA, forming a Committee with a direction to the Committee to submit the report before the Registrar and with further direction to list the matter before the Bench, if found necessary.

The report dated 25.05.2023 was submitted by the joint Committee reflecting the position as under:-

“.....(i) to conduct the joint inspection of the drain to find out the damages/leakages in drain & adjoining sewer line. (ii) and thereafter, to take remedial measures and repair the damages in sewer line and drain to resolve the issue and also to submit the action taken report.”

2. The Tribunal, thereafter, had registered the MA on the basis of the report and had considered the report of the DJB dated 24.02.2024 stating as under:-

“5. That in compliance of the aforementioned orders and in furtherance to the action taken report dated 25.05.2023, the Delhi Jal Board seeks to submit:

- That the sewer line which was running on Basant Kaur Marg, was damaged by the Public Works Department, Govt of NCT of Delhi during the construction of a drain near C-92 Shivalik to DERC (BSES) office. It is because of the damage and construction of the aforesaid drain, the sewer is flowing into drain passing through Malviya Nagar Vidhan Sabha to Greater Kailash Vidhan Sabha (Shahpur Jatt).*
- Given the seriousness of the situation, DJB has proposed a remedial solution i.e. replacing the old damaged sewer line from C-Block Shivalik to the BSES office on Shivalik Road (Basant Kaur Marg), spanning 455 meters. This replacement would separate the sewer line from the stormwater drain, effectively halting the sewage from mixing with the stormwater."*
- To replace the damaged sewer line, an estimated cost of Rs. 1,26,48,980/- has been calculated based on the Delhi Schedule of Rates 2021 under the name of work "Improvement of damage sewerage system at Shivalik Main Road near BSES office in Malviya Nagar under Malviya Nagar Constituency AC-43" which was also informed in the meeting dated 09.05.2023. (S.No. 6 of MOM SDM/HK/GEM.CORR.2023/2978-88. True copy of Minutes of Meeting dated 15.05.2023 held on 09.05.2023 regarding the drain passing through Malviya Nagar Sabha to Greater Kailash Vidhan Sabha in District South is attached and annexed herewith as Annexure 2.*
- In Principle approval for the above cited work has also been got accorded from competent authority i.e. Chairman DJB. The proposal has been submitted for allocation of budget and upon receipt of funds, the case will be processed for competent authority for calling on tender.”*

3. Hence, while passing the order dated 26.02.2024, the Tribunal had noted that the sewage was still flowing into the storm water drain in question even after lapse of three years and that no effective action was taken to remediate the situation. Accordingly, the Tribunal on 26.02.2024 had directed as under:-

“9. The above disclosure by DJB clearly reflects that the sewer is still flowing into storm water drain passing through Malviya Nagar Vidhan Sabha to Greater Kailash, Vidhan Sabha (Shahpur Jat). More than three years have passed but till now, no effective action has been taken to remediate the situation. In the status report dated 24.02.2024 also no action has been reflected till now.

10. Hence, we give an opportunity to all the concerned respondents to argue on the next date of hearing on the issue of violation of the environmental norms by them and as to why environmental compensation be not imposed upon them and quantum thereof. All the concerned respondents are granted four weeks’ time to file their response on these issues and advance arguments on these issues on the next date of hearing.

4. Thereafter, the status report dated 03.05.2024 has been filed by the DJB taking the following stand:-

“5. That in compliance of the aforementioned orders and in furtherance to the action taken report dated 26.02.2024, the Delhi Jal Board seeks to submit:

- i. In compliance of Hon'ble NGT order dated 26.02.2024 and to prevent the flowing of the sewerage into storm water drain, DJB has proactively and diligently made efforts by deploying desilting machines to clean the damage sewer line by PWD, during construction of storm water drain at Basant Kaur Marg. During cleaning of the sewer lines by desilting machines, debris such as bricks, construction material which were dumped in the various sewer manholes and sewer line during construction of storm water drain by PWD has been removed through sewer manholes.*
- ii. A joint inspection dated 09.04.2024 has been done by Sh. Sunil Kumar Aledia (applicant) and DJB and inspection report has also been shared with SDM Hauz Khas. EE(PWD) SR-2 and Sh. Sunil Kumar Aledia (Applicant). True copy of Joint Inspection Report dated 15.04.2024 is attached and annexed herewith as ANNEXURE -2.*

- iii. *Inspite of making efforts to functional said damaged sewer line, the blockage in part portion of the said damaged sewer line in downstream could not be removed.*
- iv. *In view of above and in interest to prevent the flowing of sewerage into storm water drain, the restoration of the flow of the sewerage has been done on 25.04.2024. Now it is running satisfactory and no sewer flowing into Shahpur Jat drain.*
- v. *That on 29.04.2024 concerned officer of DJB, MCD, PWD along with the Petitioner and Tehsildar inspected the site and observed no sewer into drain. ANNEXURE-3 (Colly)."*

5. The stand now taken by the DJB reveals that the restoration of flow of sewerage has been done on 25.04.2024 and thereafter, no sewer is flowing into Shahpur Jat Drain. The stand of the DJB is that the sewage was earlier discharged in the storm water drain passing through Malviya Nagar, Vidhan Sabha to Greater Kailash, Vidhan on account of damage caused to the sewer line running on Basant Kaur Marg by the construction work of PWD carried out in respect of drain near C-92 Shivalik to DERC (BSES) (Office).

6. Counsel for the PWD has orally disputed the stand of the DJB that it was because of the fault of the PWD, the sewage had started flowing through the storm water drain.

7. The sewage water continued to flow in the storm water drain creating health hazard for more than three years without any action by the concerned authorities.

8. Since, there was a clear violation of norms by either DJB or PWD or by any other authority, which had led to the flowing of sewage water into storm water drain for more than three years and leading to pollution and

causing health hazard, therefore, necessary action is required to be taken by DPCC for imposition of EC against the violator.

9. Hence, we dispose of the MA, directing the Member Secretary, DPCC to identify the violator, initiate action and impose the EC for past violation against the violator and submit action taken report before the Registrar General of the Tribunal within three months 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 and if found necessary, the matter may be listed before the Bench for consideration.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 06, 2024
M.A. No.85/2023 In
Original Application No.81/2023
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