

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.114/2022/EZ

Sirin Tammana & Ors.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 10.11.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Biranchi Narayan Mahapatra, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Anand Prakash Das, ASC for R-2,4 & 5 (in Virtual Mode),
Ms. Papiya Banerjee Bihani, Advocate for R-3 (in Virtual Mode)

ORDER

1. Mr. Biranchi Narayan Mahapatra, learned Counsel is present (in Virtual Mode) for the Applicant.
2. Ms. Papiya Banerjee Bihani, learned Counsel files Vakalatnama on behalf of the Respondent No.3, Odisha State Pollution Control Board; the same is taken on record.
3. Mr. Anand Prakash Das, learned Additional Standing Counsel files Vakalatnama on behalf of the Respondent No.4, Revenue Divisional Commissioner; the same is taken on record. He also files Vakalatnama on behalf of Respondent No.5, Collector-cum-District Magistrate, Ganjam; the same is also taken on record. When the case is next listed, the name of Mr. Anand Prakash Das, ASC shall be printed in the cause list as Counsel for State Respondents.
4. Affidavit dated 31.10.2022 has been filed on behalf of the Respondent No.3, State Pollution Control Board, Odisha; the same is taken on record. Along with this affidavit, an Inspection Report of an inspection carried out on 21.09.2022 has been filed. The

Observations made during the inspection and **Conclusion** and **Recommendations** read as under :-

Following observations are made during inspection :

- 1. Stone patching has been made around the embankment of Baula Bandha and concreted /Black topped road has also been constructed around the Adi of Water body.*
- 2. No direct discharge of sewage to the Baula Bandha was observed during inspection.*
- 3. Small quantities of solid wastes including plastic materials and garbage are found around the embankment of Baula Bandha.*
- 4. Few quantities of used plastic bottles, algal growth are also found floating at different portions of the Water body.*
- 5. Guard wall of one feet height has been constructed around the Baula Bandha (Except bathing ghats) to restrict the flow of surface runoff during rainy season.*
- 6. It was also observed that due to the religious rituals and believing, people are disposing the worshipping wastes such as flowers, leaves and other solid materials in to the Baula Bandha.*
- 7. Though Berhampur Municipal Corporation is removing the solid floating materials from time to time, the Corporation has to increase the frequency to reduce its impact on water pollution of the pond water.*
- 8. There are four nos. of bathing Ghats constructed at the four directions of Baula Bandha.*
- 9. It was apprehended from the surroundings, during rainy season surface run off might be discharged into the water body through bathing Ghats as guard wall was not constructed in those locations.*
- 10. There is no provision for removal of excess water during rainy season from the water body.*

11. Collected one no. of water sample from Baula Bandha on 21.09.2022 for analysis. The analysis result thus obtained indicates that water quality does not conform to Class B (Outdoor Bathing (Organised) with respect to Biochemical Oxygen Demand (BOD), Total Coliform (TC), MPN/100 ml and Fecal Coliform (FC), MPN/100 ml as per MoEF&CC Notification vide GSR No. 742(E) dtd.25.09.2000 for outdoor bathing.

CONCLUSION & RECOMMENDATIONS :

In view of the above following recommendations are made :

1. *Municipal Authority shall take necessary measures to remove the solid materials including plastic bottles, Algae and other foreign particles from the surface of the water body on regular interval basis.*
 2. *There shall be provision for removal of excess water during rainy season from the Baula Bandha.*
 3. *Awareness shall be created among the local people of the surrounding areas to prevent disposal of garbage/solid wastes/worshiping wastes into the water body.”*
5. Along with this Inspection Report, Water Analysis report has also been filed. Annexure-R-3/3 shows Dissolved Oxygen (DO) to be 11.0 mg/L whereas Biochemical Oxygen Demand (BOD) is shown as 9.0 mg/L.
6. In para 8 of the affidavit of the State Pollution Control Board, also it is stated that very high values of dissolved oxygen (11.0 mg/l) have been observed in the analysis result which may be ascribed to eutrophic condition of the pond.
7. Prima facie we find that the dissolved oxygen cannot be 11.0 mg/L, more so when the Biochemical Oxygen Demand (BOD) level is

shown as 9.0 mg/L. The State Pollution Control Board shall examine this aspect of the matter and file a fresh affidavit.

8. Mr. Biranchi Narayan Mahapatra, learned Counsel for the Applicant prays for and is granted three weeks for filing rejoinder-affidavit.
9. Counter-affidavit dated 09.11.2022 has been filed on behalf of the Respondent No.5, Collector-cum-District Magistrate, Ganjam; the same is taken on record.
10. Some of the annexures filed with this affidavit are in vernacular Oriya language. The Respondent should have filed the English translation. Mr. Anand Prakash Das, learned ASC may file the translated documents on affidavit within three weeks.
11. The affidavit of the State Respondent states that necessary and effective steps shall be taken for disposal of the OPP cases bearing OPP Case No.8/2022 to 89/2022 (82 nos.) under the Orissa Public Premises (Eviction of Unauthorized Occupants) Act, 1972 at the earliest.
12. The State Respondents are therefore directed to file fresh affidavit within four weeks stating what action has been taken in this regard.
13. **List on 10.01.2023.**

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

November 10, 2022
Original Application No.114/2022/EZ
SKB