

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

M.A.No. 25/2014

in

Original Application No. 34/2013

**Subhash C. Pandey Vs. Municipal Corporation Bhopal & Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. P.S. RAO, EXPERT MEMBER**

**PRESENT :** **Applicant :** Dr. Subhash C.Pandey  
**Respondent No. 1 :** Shri Asad Ullah Khan, Advocate for  
Shri Vivek Agrawal, Advocate,  
Shri G.S. Saluja, Executive Engineer, BMC  
Shri Jawahar Singh, SE, CPA  
**Respondent No. 2 to 6 :** Shri Sachin K. Verma, Advocate  
**Respondent No. 3 to 5 :** Shri Sanjeev Sacheva, EPCO  
**Respondent No. 7 :** Shri Shivendu Joshi, Advocate for  
Shri Purushindra Kaurav, Advocate

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 03</b> <b>16<sup>th</sup> January, 2014</b>	<p style="text-align: center;"><b><u>Misc. Application No. 25/2014</u></b></p> <p>In pursuance of our order dated 10.01.2014, the applicant has filed the Misc. Application No. 25/2014 suggesting 5 names of responsible citizens of Bhopal city, to be included in the Monitoring Committee to oversee the removal of the solid waste from the Nalahs entering into the Shahpura Lake. The applicant has also filed the consent letters given by the aforesaid citizens for being included in the Monitoring Committee. However, the name of Shri D.K. Dixit, Member, Bhopal Senior Citizens' Forum has been suggested by the applicant during the hearing as there was some reservation against one of the suggested names. Accordingly, the following five individuals are nominated by the Tribunal as members of the Monitoring Committee as agreed by the respondents.</p>

<b>O.A. No.</b> <b>34/2013</b>  <b>16<sup>th</sup> January,</b> <b>2014</b>	<b>S. No.</b>	<b>Name</b>	<b>Age (Yrs)</b>	<b>Field of Work</b>
	1	Mr.D. K. Dixit	68	Bhopal Senior Citizens' Forum
	2	Mr. Shiv Shankar Gupta	63	Executive Engineer (Retd.)
	3	Ms. Reeta Tuli	55	Senior Woman Consular
	4	Mr. Ritesh Purohit	28	Senior Journalist, Dainik Bhaskar
	5	Mr. Govind Saxena	46	Senior Journalist, Patrika
<p>Dr. Neeraj Verma, Scientist, MPPCB and Dr. Sanjeev Sachdeva, Scientist, EPCO should assist the Monitoring Committee on technical issues.</p> <p>In compliance to our directions dtd. 10.01.2014, Shri G.S. Saluja, Executive Engineer, Bhopal Municipal Corporation (BMC) submits that the work could only be started on 15.01.2014 on account of festival. He submits that within 10 days the aforesaid work (removal of the solid waste and fixing of the wire mesh in the Nalah) which was given out on the previous date i.e. on 10.01.2014 shall be completed. So far as the verification of the work of removal of solid waste from the mouth of the Nalah and in the Nalahs entering into the Shahpura Lake is concerned, the BMC shall provide transportation facility to the aforesaid committee members to reach the spot to verify whether the work is being carried out to their satisfaction. The first inspection shall be taken up on 21.01.2014 at about 12 noon. The officials of the BMC including the concerned Health Officer and the Daroga shall remain personally present during the inspection by the Monitoring Committee. The Monitoring Committee shall prepare a report on the aforesaid work being carried out for the removal, transportation and disposal of the solid waste from the Shahpura Lake and furnish their report to the Tribunal. It would be open for the Applicant to remain present during the aforesaid inspection. The Monitoring Committee shall decide and inform Shri G. S. Saluja, Executive Engineer, BMC the date on which they intend to carry out the next inspection after their first visit on 21.01.2014. The matter be listed in Tribunal on 29.01.2014 by</p>				

<p><b>O.A. No.</b> <b>34/2013</b></p> <p><b>16<sup>th</sup> January,</b> <b>2014</b></p>	<p>which time it is expected that the aforesaid task would be completed within the time frame as prayed by the BMC.</p> <p>The BMC has filed an affidavit today that they are in a position to carry out the aforesaid task only with regard to the Nalabs flowing into the Shahpura lake and so far as other lakes of Bhopal city are concerned, the matter may be taken up while dealing with the cases on different lakes already being dealt by the Tribunal in separate petitions. Though, we had given the directions on 10.01.2014 with regard to all the other lakes located in the Bhopal city. However we accept prayer made by the BMC in this regard though similar work should have been simultaneously undertaken in Siddiq Hassan Talab, Motiya Talab and the Upper Lake.</p> <p>Today, the Learned Counsel for the BMC has given out the names of the Health Officers, Shri H.K. Shrivastava and Shri Vivek Jain and Asst. Health Officer, Shri S.K. Maheshwari, Shri Mohd. Asif Nazia and Shri Ashok Maheshwari who are reported to be overall in-charge so far as sanitation and cleanliness in the jurisdiction of the BMC is concerned. The aforesaid officers are directed to remain present personally before the Tribunal on 29.01.2014 and explain the circumstances as to why the aforesaid solid waste is allowed to flow into the Nalabs and not removed and disposed in accordance with the Municipal Solid Wastes (Management and Handling) Rules, 2000 framed under the Environment (Protection) Act, 1986 and also why they should not be personally held responsible and / fined for having perpetuated pollution into the water bodies in the city of Bhopal.</p> <p>We are constrained to observe that under the 73<sup>rd</sup> Constitution Amendment local bodies were given the powers and the jurisdiction of local self governance to the elected representatives which in this case are the Ward Members, Corporators who it appears that they are not paying much attention towards sanitation and cleanliness in their areas and leaving it to the officials of the BMC and their staff for doing the aforesaid work.</p>
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<b>O.A. No.</b> <b>34/2013</b>	The present situation has arisen more out of indifference on the part of the
<b>16<sup>th</sup> January,</b> <b>2014</b>	both, elected representatives as well as the Officers and Staff of the BMC.
	The Hon'ble Supreme Court even before the enactment of the Environment (Protection) Act, 1986 in the famous case of 'Ratlam Municipality' had issued directions bringing sanitation and cleanliness as part of right to life and liberty under Article 21 of the Constitution and making it the duty of the Municipalities and the local authorities to ensure that the aforesaid right is allowed to be enjoyed by the citizens.
	The State Government under Article 48 (A) of the Constitution has to perform the duty of protection of the environment and every citizen under Article 51 (A) also has the same duty. Need is therefore both on the part of the said agencies including the local authorities as well as of every citizen to ensure that the surroundings in which they live are kept clean and the environment which includes land, water and air is kept free from pollution and protected.
	By giving more power to the local authorities and the elected representatives of the local bodies by the 73 <sup>rd</sup> and 74 <sup>th</sup> Constitution Amendment it was expected that the elected representatives shall create awareness among the common people and citizens on issues of local governance which includes sanitation. The indifference on the part of the citizens to this issue is leading to the present sad state of affairs where the water bodies, both natural and manmade some of which are a source of drinking water, are highly polluted. We are constrained to observe that this is the situation in Bhopal, the Capital City of Madhya Pradesh which is famous for its lakes and is also known as the 'City of Lakes'. Unfortunately, in most of the cases that have come up before us the poor conditions of the lakes and other water bodies have been highlighted and this is not as a result of any natural cause but as a result of indifference on the part of both elected representatives, officials and citizens who take it for granted. The duty lies as stated above not only individually but also a

<b>O.A. No.</b> <b>34/2013</b>	<p>responsibility has been cast on the elected representative as well as the officers of the local bodies to ensure proper sanitary conditions and see that not only the sewage and solid waste is not allowed to pollute the water bodies but at the same time take suitable remedial measures. The Pollution Control Boards are also expected to carry out regular monitoring of the quality of the water and furnish the data to the Municipal Authorities and the State Government so that it becomes the duty of the State Government and the local authorities to ensure that the water bodies are kept free from pollution. Sometimes the attitude of passing of the buck, and shirking the responsibility among the authorities is leading to the lakes being reduced to the state where there is no single responsible authority to take care of them. State Government therefore must consider to revive the original Lake Conservation Authority under one nodal agency so that the responsibility can be fixed and the lakes are not allowed to gradually die and can be preserved both in area and quality. The concerns which are being raised with regard to situation are liable to arise as a result of scarcity of water and more particularly drinking water must be taken note of and wherever there is water and whatever drinking water is available and provided by nature must be conserved and kept pollution free.</p> <p>We expect that by sending this order to the Chief Secretary, Government of Madhya Pradesh we are trying to emphasise that seriousness is taken note and necessary steps are initiated by the State Government for preservation of the lakes and keeping them free from pollution and encroachments and restore the old glory of the city of Bhopal and its lakes. Accordingly, the Registrar is directed to send a copy of this Order to the Chief Secretary, Government of Madhya Pradesh.</p> <p>The matter be listed on Tribunal on <b>29.01.2014</b>. The Monitoring Committee shall carry out the inspection and the Bhopal Municipal Corporation shall provide the necessary transportation to the members to visit the lakes. The applicant shall co-ordinate with each of the members of</p>
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the Monitoring Committee and with the Municipal Engineer for the aforesaid purpose. If any difficulty arises the party would be at liberty to approach the Tribunal.

.....JM  
(DALIP SINGH)

.....EM  
(P.S. RAO)

