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**Dr. Subhash C. Pandey v. Municipal
Corporation, Bhopal, Judgment
of 19 September 2014**

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**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH
BHOPAL**

Original Application No. 34/2013 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

Dr. Subhash C. Pandey
A-6 Comfort Garden,
Janki Nagar, Chuna Bhatti,
Bhopal (M.P.)

.....Applicant

Versus

1. Municipal Corporation, Bhopal
Through the Commissioner,
Sadar Manzil,
Bhopal (M.P.)
2. Town and Country Planning
Through Joint Director,
Paryavaran Parisar, E-5, Arera Colony,
Bhopal (M.P.)
3. Housing and Environment Department
Through Principal Secretary,
Govt. of Madhya Pradesh,
Mantralay, Vallabh Bhawan,
Bhopal (M.P.)
4. Public Health Engineering Department
Through the Secretary,
Government of Madhya Pradesh,
Vallabh Bhawan,
Bhopal (M.P.)
5. Environment Planning and
Coordination Organization (EPCO),
Through Executive Director,
Paryavaran Parisar, E-5, Arera Colony,
Bhopal (M.P.)

6. M.P. State Tourism Development Corporation
Through Managing Director,
Paryatan Bhawan, Bhadbhada Road,
Bhopal (M.P.)
7. Madhya Pradesh State Pollution Control Board
Paryawaran Parisar, Near 10 Number Bus Stop,
E-5 Arera Colony, Bhopal (M.P.)

.....Respondents

Counsel for Applicant :	Ms. Swapnil Gupta, Advocate
Counsel for Respondent 1:	Mr. Vivek Agarwal, Advocate Mr. Asad Ullah Khan, Advocate Mr. G.S.Saluja, City Er. Bhopal City
Counsel for Respondent 2 to 6:	Mr. Sachin Verma, Advocate with Mr. Rakesh Rawat, OIC, UADD
Counsel for Respondent No. 7:	Ms. Parul Bhadoria Advocate for Mr. Purushaindra Kaurav, Advocate

Dated : 19th September , 2014

Judgement

1. This application was filed under Section 14 of the National Green Tribunal Act, 2010 by the Applicant raising the issue with regard to pollution in the commonly known Shahpura Lake of Bhopal. It was submitted that the aforesaid water body has a catchment area of about 8.29 sq. kms. and most of the area around the lake is surrounded by dense human habitation including high density slums. The aforesaid water body, as per the Application is 'lake' and as per the Respondents, it is only an 'oxidation pond'. Due to the surrounding areas of the lake being densely populated both the untreated domestic and industrial effluents as well as the solid waste enters the lake. As a result of the same, the water is highly polluted with high BOD and COD levels so also there is a decline in the ambient air quality around the lake and even the ground water in the vicinity has also

become polluted. It was submitted that cultivation of fish is being carried out in the polluted water of the lake and used for human consumption being unmindful of the fact that as a result of the pollution in the water, the fish can be unfit for human consumption. It was also submitted that the polluted water is let out from the lake to flow into the outlet nallah from where it reaches the Kaliasote river and subsequently the Betwa river and the same water is used for irrigation purpose and vegetables are cultivated. These vegetables reach the market and being unmindful of the source from where such products are coming, they are consumed by the inhabitants of the area affecting their health. The Applicant submitted that tests have revealed that the water of the Shahpura Lake fell short of the parameters prescribed for drinking purpose over a period of time and it was submitted during the course of hearing that of late, it has become unfit for bathing and even for washing clothes.

2. It was submitted that water from various nallahs and drains that feed the lake pass through the colonies namely Panchsheel nallah, Manisha Market nallah, Chuna Bhatti nallah, etc. some of which are flowing in close proximity of the congested and densely populated slums from where lot of solid waste is also being thrown into these nallahs which eventually enters into the lake and even untreated and unregulated sewage from these slums directly enters the lake through such nallahs. It was prayed by the Applicant that the Respondents be directed to take immediate steps against discharge of untreated sewage and dumping of solid waste as well as hazardous waste into the Shahpura Lake and improve the quality of the water within a time frame and till then stop the use of water for fishing and

irrigation purposes. It was also submitted that recreational activities around the lake must be regulated and people must be warned not to use the water as the water in the Shahpura Lake is highly polluted and unfit for human use.

3. After receiving the application, vide order dated 02.07.2013, the Tribunal issued notice to the Respondents in response to which the Respondents have put in their appearance and prayed for time to submit their replies.
4. Having considered the replies of the Respondents as well as the submissions made during the course of hearing as well as taking notice of the directions issued by the Hon'ble Supreme Court in the Order passed in the case of *Mrs. Almitra H.Patel and Anr. Vs. Union of India and Ors.*, wherein the State Governments have been directed to take effective measures and make all out efforts for proper management of sewage water and effluents as well as solid waste. As such the Bhopal Municipal Corporation (BMC) and Environment Planning and Coordination Organization (EPCO) which is a body constituted for the purpose of assisting and advising the State Government on taking care of the environmental issues including the water bodies in the State of MP, were directed to submit their response on the aforesaid issues. The aforesaid directions came to be issued under the order dated 12.09.2013.
5. The matter was listed on 26.09.2013 and the Municipal Corporation submitted that in response to the directions issued on 12.09.2013 various steps have been taken by the Corporation for cleaning the lake manually. However, this was disputed by the Applicant by means of photographs showing that heaps of solid waste was still lying in the fringes and along

the banks of the lake though a sewage treatment plant on Panchsheel Nagar nallah has been installed and maintained by the Public Health Engineering Department. However, the capacity of the same not being sufficient, the problem of untreated sewage entering the lake still remains. Accordingly, on 26.09.2013, the Respondents were directed to jointly submit an Action Plan regarding the present status of identifying the problems relating to Shahpura Lake and remedial steps which are required to be taken for improving the condition of water in the lake. It was further directed that the Municipal authorities shall continue to carry out the manual cleaning of the lake. It was also pointed out that around the lake, lot of eateries, both permanent as well as temporary, are opened every day in the evening which are frequented by a number of visitors to the lake and waste being generated therein is often thrown into the lake itself. With a view to mitigate and deal with the aforesaid problem, Counsel for BMC submitted that more number of dustbins would be installed around the lake. The case was fixed for hearing on 28.10.2013 to enable the parties to submit the Action Plan.

6. The Respondent No. 7, MP State Pollution Control Board in their replies dated 11.09.2013 and 14.12.2013 submitted water quality monitoring results indicting that certain parameters particularly that of BOD and COD levels are beyond the prescribed limits. The PCB also enclosed copies of various notices issued by it to the BMC highlighting the pollution in the lake under the relevant sections of Water (Prevention & Control of Pollution) Act, 1974 and even instituted prosecution against the BMC on 09.09.2005 under Section 44 of the said Act.

7. On 28.10.2013, the Learned Counsel for BMC submitted that in pursuance of the directions issued on 26.09.2013, a Committee had been constituted comprising the Executive Engineer, Public Health Engineering Department; Executive Engineer, MP State Pollution Control Board; City Engineer, Bhopal Municipal Corporation and Sr. Scientist, EPCO. The said Committee had held a meeting on 24.10.2013 and its proposals were submitted to the State Government on 26.10.2013. It was submitted that the matter being under consideration of the State Government and as the BMC would require necessary financial support to carry out the task in accordance with the proposal approved by the Government, some time may be granted.
8. As would be seen from the above, on the issue of dealing with the problem of pollution in Shahpura Lake, a proposal was submitted by the BMC to State Government in October, 2013.
9. In the meanwhile, regular manual cleaning operations were carried out and by way of short term measure on the suggestion made by the Tribunal on 06.01.2014, the BMC installed wire-mesh/grills at different locations on the nallahs for collection of solid waste and preventing it from entering the lake through the nallahs. On 06.01.2014, it was submitted that the proposals with regard to the manner in which the issue of improving the water quality in the Shahpura lake by taking necessary steps and in preventing the solid waste as well as untreated sewage and hazardous waste from entering into the lake are concerned, a Consultant has been engaged and the Detailed Project Report (DPR) of the Consultant was expected to be received in the month of March, 2014. As a result of the aforesaid, the

matter remained pending and only limited measure of manual cleaning as well as prevention of solid waste from entering into the lake through the nallahs by installation of wire-mesh/grills in the nallahs, as indicated above, could be carried out. At one point of time, even suggestions like taking bio-remediation measures were also made. In the meanwhile, it was submitted that as a result of declaration of Model Code of Conduct, on the eve of General Elections, further steps could not be taken in respect of the progress on the measures identified for which the DPR was sought from the Consultant.

- 10.** It was only on 15th July, 2014 that a copy of the DPR prepared by the Consultant for conservation and development of Shahpura Lake came to be submitted before this Tribunal. The DPR prepared by the Consultant was received by the BMC and thereafter, the BMC submitted it to the Urban Administration and Development Department (UADD) for taking necessary decisions and making financial allocations against each of the items mentioned therein. As has been recorded above, during this intervening period of filing of the application, directions were issued by this Tribunal from time to time with regard to deployment of staff, using of boats for collection and removal of solid waste as well as weeds and other vegetation, manual cleaning on the water front as also for pressing equipment and machinery for the purpose.
- 11.** On 18.09.2014, a Miscellaneous Application came to be filed on behalf of the Respondents seeking extension of time for placing the outcome of the decision pursuant to the presentation of the Consultant firm regarding the technical feasibility and assessment of the DPR. Since the matter had

already been kept pending for such a long period awaiting for the DPR of the Consultant, this Tribunal rejected the aforesaid Miscellaneous Application and directed the Respondents to submit affidavit along the stage-wise action plan firmly indicating the date of commencement and date of completion of each of the steps with are required to be taken in respect of each of the works to be carried out.

12. In response to the order dated 18.09.2014, today, both, the BMC through it's Commissioner as well as the State Government through the Principal Secretary, Urban Development and Environment Department, have filed their respective affidavits. Along with the affidavit of the Municipal Commissioner, two tabular statements indicating the schedule of works that would be taken up under Phase-I and Phase-II with time frame for each of the specific activities, have been given. The aforesaid tabular statements are as under:

**CONSERVATION AND MANAGEMENT OF SHAHPURA LAKE PHASE-I
PROPOSAL**

S N	Name of Work	Finalization of tech. feasibility report	Tender call	Tender finalization	Agreement / Work Order	Work start	Work complete
1	Construction of sewage treatment plant in Ekant Park to cater dry weather flow of Panchsheel Nallah, Char Imli, Nallah, Shyam Nagar & E-5 Nallah	Oct.14 1 st Week	Oct,14 2 nd Week	Jan.15 2 nd Week	Jan.15 3 rd Week	Jan.15 4 th Week	April-16
2	Construction of sewage treatment plant at downstream of Waster River to treat garland drain out fall of Chuna Bhatti area	Oct.14 1 st Week	Oct.14 2 nd Week	Jan.15 2 nd Week	Jan.15 3 rd Week	Jan.15 4 th Week	April-16
3	Construction of diversion structure and sumpwell, pump house to divert dry weather flow of Manisha Market Nallah and Shahpura Chhawani to existing sewage pump house	-	Tender has been called	Tender has been finalized	Work order given	4 th Week Sep.14	March-15
4	A. Construction of alternative idol immersion site near Campion school road	-	Tender has been called	Tender has been finalized	Work order given	Work started	Dec.14
	B. Parking space, separation of	Oct.14	Oct.14	Jan.15	Jan.15	Jan.15	July-15

	water body land space and site development	1 st Week	2 nd Week	2 nd Week	3 rd Week	4 th Week	
5	Procurement of water body cleaning equipment such as boats, algae cleaning boats, Tipper, amphibious, excavator etc.	Oct.14 1 st Week	Oct.14 2 nd Week	Jan.15 2 nd Week	Jan.15 3 rd Week	Jan.15 4 th Week	May.15
6	Installation of floating fountain for aeration purpose in Shahpura lake	-	Tender has been called	Oct.14 2 nd Week	Oct.14 3 rd Week	Oct.14 3 rd Week	Dec. 14
7	Prevention of solid waste dumping in lake and gabion structure & metal mesh in Nallah	Oct.14 1 st Week	Oct.14 2 nd Week	Jan.15 2 nd Week	Jan.15 3 rd Week	Jan.15 4 th Week	May-15

Note: – These proposals are included in Phase-I for improvement of water quality of lake on priority basis. However there may be changes in schedule in light of enforcement of model code of conduct. The work's included in 2nd phase will be executed in financial year 2015-2016 as per financial arrangement.

CONSERVATION AND MANAGEMENT OF SHAHPURA LAKE PHASE-II PROPOSAL

S N	Name of Work	Finalization of tech. feasibility report	Tender call	Tender finalization	Agreement / Work Order	Work start	Work complete
1	Development of Lake fringe area prevention works	Oct 14 2 nd Week	Feb.15 2 nd Week	March 15 3 rd Week	April 15 1 st Week	April 15 2 nd Week	May 16
2	Channelization of Nallah inside Ekant Park and downstream side STP to Kaliasote River	Oct 14 2 nd Week	Feb.15 2 nd Week	March 15 3 rd Week	April 15 1 st Week	April 15 2 nd Week	May 16
3	Development of Nursery plantation and landscape of downstream side	Oct 14 2 nd Week	Feb.15 2 nd Week	March 15 3 rd Week	April 15 1 st Week	April 15 2 nd Week	Dec. 15
4	Development of recreation part near waste wise at Chuna Bhatti road	Oct 14 2 nd Week	April 15 2 nd Week	May 15 3 rd Week	May 15 4 th Week	June 15 1 st Week	July 16
5	Development of landscape, path way garden and lake front development behind P.C.B. campus	Oct14 2 nd Week	April 15 2 nd Week	May 15 3 rd Week	May 15 4 th Week	June 15 1 st Week	July 16

Note :- The works included in 2nd phase will be executed in financial year 2015-16 as per financial arrangement.

13. As has been mentioned in the affidavit as well as the aforesaid tabular statements, the first phase consisting of the construction of the sewage treatment plants at Ekant Park as well as at the downstream to treat the garland outfall of the Chuna Bhatti area, is to be completed by April 2016. It had further been submitted that the construction of the diversion structure and sumpwell, pumping house to divert dry weather flow of Manisha Nallah and Shahpura Chhawni shall be completed by March, 2015.

Construction at alternate site for immersion of idols etc. is scheduled to be completed by December, 2014. In para 5 of the affidavit, it has been stated that the procurement of machinery and equipment such as boats, amphibious excavator, etc. shall be completed by May/July, 2015. Likewise, installation of floating fountain for aeration purpose is to be completed by December, 2014. For all the above noted works, which have been identified under Phase-I as submitted by Shri Vivek Agrawal, Learned Counsel appearing for BMC, the required finances amounting to Rs. 12 Crores are made available with the BMC. It was submitted by Shri Sachin K. Verma, Learned Counsel for the State that finances will not be a problem and in case any further assistance is required, the State Government will provide necessary funds.

- 14.** Likewise, as has been mentioned in the tabular statement, Phase-II works to be carried out commencing from October, 2014, are to be completed latest by July, 2016. Shri Sachin Verma pointed out from the affidavit of the Principal Secretary, UD&E Department, that BMC will bear the financial burden from their own financial resources for Phase-I works and in respect of Phase-II plan the commencement of works will be subject to the availability of the financial resources to BMC, and the State Government can muster in the Financial Year 2015-16 and all the necessary support for Phase-II works will be provided to the BMC by the State Government to complete the aforesaid task.
- 15.** Learned Counsel for the Applicant submitted that in case the above action plan is implemented and works are executed in a time bound manner as opposed to what has happened in the past, hopefully the situation,

particularly the water quality in the Shahpura Lake, would improve so as to bring it within the prescribed norms. However, the Learned Counsel for the Applicant submitted that to regularly monitor the progress of the aforesaid works a Committee consisting responsible and learned senior citizens who are residents of Bhopal city, may be constituted by this Tribunal and +periodically report to this Tribunal based upon the time schedule which has been given in the Action Plan submitted along with the affidavit of the Municipal Commissioner.

16. The Learned Counsel appearing for the BMC as well as the State and the MPPCB agreed that such a Committee may be constituted. Accordingly, as suggested by the Learned Counsel for the parties the names of the following individuals are ordered to be included in the committee:

- (1) Shri K.S.Sharma, IAS, Chief Secretary (Retired)
- (2) Shri R.C.Chandel, Retired District Judge
- (3) Shri H.K. Higorani, Retired Chief Engineer, PHED
- (4) A scientist from the R.O. of MPPCB, Bhopal

17. The aforesaid committee shall be assisted by a suitable Scientist nominated from the Regional Office of the MPPCB, Bhopal whose name shall be conveyed to this Tribunal by the Regional Officer, MPPCB, Bhopal through the Counsel for the MPPCB. The Learned Counsel for the State as well as the Learned Counsel for the BMC shall convey the above order and obtain the letter of consent from the aforesaid responsible senior citizens for agreeing to be Members of the Monitoring Committee to oversee the progress of the execution of the aforesaid works in a time bound manner as a gesture on their part for the

welfare of residents of the city of Bhopal and in the interest of environment.

- 18.** The Monitoring Committee shall be informed of the progress at each stage in respect of each of the works given in the tabular statement under Phase-I and Phase-II proposals submitted by the Commissioner, BMC through the Executive Engineer, BMC for undertaking field inspection and monitoring. The Members of the aforesaid Committee shall be at liberty to call for any information pertaining to the aforesaid works and personally verify the progress in respect of each of the tasks and submit their observations by way of report to this Tribunal. They shall be provided with all the required assistance and conveyance facility by the BMC. The Registry is directed that on receipt of the report of the Monitoring Committee, the same shall be brought to the notice of the Tribunal by listing the matter before the Tribunal.
- 19.** We have been assured by the Learned Counsel for the Respondents that the time schedule for implementation of action plan which has been worked out and submitted before this Tribunal, shall be dutifully observed and every effort shall be made to complete the task within the stipulated period. We may also add that in case there is any delay in execution of the works, which is unexplained, this Tribunal shall not hesitate in penalizing the Respondents. Such penalty shall depend upon the delay in respect of each of the aforesaid tasks to be completed. The Commissioner, BMC shall also appoint a responsible Officer who shall oversee the progress of each of the aforesaid tasks and the Commissioner, BMC shall also be personally responsible for supervising and ensuring the completion of the project on

time under both the Phases and the P.S., UD&E Department, Govt. of M.P. shall ensure that there are no huddles placed in execution and discharge of this project including availability of finances.

- 20.** We may add that the works which were initiated as directed by this Tribunal with regard to the fixing wire-mesh/grills including their maintenance/repair manual cleaning, deployment of boats, and other equipment and machinery shall be continued throughout the year and at no point of time there should be any scope given to the Applicant to complain disobedience of the orders of this Tribunal by the Respondents, particularly the BMC.
- 21.** The MPPCB shall carry out periodical monitoring of the quality of water and reports shall be placed on its website and also submitted before this Tribunal along with the observations of the MPPCB with regard to the baseline data on water quality compared with the water quality at the time of every testing. These reports shall also be taken into account for any additional requirement that may be necessary, if in case substantial improvement is not found in the water quality of the Shahpura Lake inspite of undertaking aforesaid activities, further requirements if any shall be given by way of directions by the MPPCB.
- 22.** As regards the pollution being caused as a result of the activities of the eateries that have been established along the lake, provision for keeping adequate number of dustbins shall be made. Patrolling by Police / Home Guards shall be intensified. Permanent notice boards duly warning the visitors / walkers not to throw any litter or waste material at any spot other than the designated site or in the dustbins shall be displayed at all the

prominent places. It may also be mentioned in the notice board that any person found violating the aforesaid norms shall be required to pay a spot fine of Rs. 500/- and prosecution under section 133 Cr. P.C. Every evening a responsible officer designated for the said purpose by the BMC shall remain present and go round the lake. Adequate publicity in this behalf must be given by the BMC through print and electronic media and the aforesaid directions must be complied in letter and spirit. Breach of the aforesaid directions and the amount of penalty so collected, shall be intimated to this Tribunal through the members of the Monitoring Committee who are also required to make occasional inspection of the lake for the aforesaid purpose.

- 23.** With the commissioning of the designated point for immersion of idols etc. residents may be suitably informed to carry out the immersions only at the designated site and should not be allowed to directly immerse into the lake. The directions as contained in the guidelines issued by the CPCB in June, 2010 with regard to immersion of idols, collection and removal of the debris and disposal of the same shall be strictly complied by the BMC.
- 24.** So long as the pollution levels in the water of the Shahpura lake continue to be high, as per the reports of the MPPCB, the fishing activities in the said lake shall remain prohibited. Needless to say, all efforts shall be made to ensure that fish caught from Shahpura Lake with the likelihood of it being unfit for human consumption, does not reach the market. For the aforesaid purpose, awareness programme must be conducted by the BMC to warn people at large. Fish cultivation may be permitted only if the criteria on

water quality standards are fulfilled as per the monitoring reports and advice of MPPCB at periodic intervals.

25. The issue with regard to use of water let out from the Shahpura Lake through the nallah / Kaliasote river for the purpose of irrigation and cultivation of vegetables, etc. also needs to be addressed. The MPPCB shall carry out necessary studies and submit their reports to the Agriculture Department and the District Collector, Bhopal informing them whether water let out from the Shahpura lake is fit for cultivation of agricultural crop & vegetables and till such time such reports are not received, the District Collector, Bhopal shall ensure that water flowing out from the Shahpura lake is not allowed to be used for irrigation purpose.
26. With the aforesaid directions, we dispose of the Original Application No. 34 of 2013.
27. The matter shall be placed before the Tribunal on **14th October, 2014** for looking into the first report of the Monitoring Committee and compliance of the authorities in terms of the proposals of Phase – I and Phase – II submitted along with the affidavit of the Commissioner, Bhopal Municipal Corporation.
28. The Learned Counsel for the parties shall file the consent of the Members of the Monitoring Committee on 29.09.2014.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal:
19th September, 2014