

Item No. 3

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 88/2027 (CZ)

Tribunal at its own motion

Applicant(s)

Versus

State of Rajasthan & Ors

Respondent(s)

Date of hearing: **08.04.2022**

**CORAM : HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

None

For Respondent(s):

Mr. Arvind Soni, Adv
Ms. Parul Bhadoria, Adv

ORDER

Background

1. The proceedings of this Tribunal was initiated on the basis of a news article dated 03.08.2017 published in Patrika Newspaper having wide circulation in the State with regard to discharge of toxic effluent from the textile industries as well as the other industries using chemical dyes at Jaipur in Rajasthan and their discharge without being adequately and properly treated and thus discharging the untreated water into the Man Sagar lake in Rajasthan causing pollution in the lake and death of hundreds of fishes. This Tribunal while considering the matter observed as follows:

“This is a disturbing feature as in the Water Act no effluent can be allowed to discharge into any water body without due treatment. Directions in the case of the textile industry at Bhilwara Pali and Balotra have already been issued. Even earlier the Rajasthan High Court in its Judgment in the case of Vijay Singh has given directions for treatment of the effluent and setting up of the ETPs / CETPs. However, this issue of discharge of the effluent into the Man Sagar Lake raises serious issues. We therefore, direct taking cognizance

Suo-moto of the news report that the RSPCB and the RO Jaipur will submit a factual report in this matter. All inlets into the Man Sagar Lake at Jaipur shall be inspected and sample be taken on various points particularly those at which effluent may be joining from the areas having such "textile and carpet industry". Sample of the water from the nallas as well as lake shall be taken. More importantly, some of the dead fishes which are lying shall also be preserved and tested for determining the cause of their death as also the presence of any toxic material in them. The source of such toxic material into the lake as well as into the dead fishes shall be identified and persons responsible for the same as far as possible shall be enlisted and their names be submitted before this Tribunal.

We may recall that Man Sagar lake was considered to be a success story in the past regarding how a water body which was earlier contaminated and polluted became clean the Jal Mahal was a beautiful lake and had become a public picnic spot. The deterioration of the Man Sagar Lake (Jal Mahal) to this condition is something which is a cause of concern. This fact shall also be brought to the notice of Principal Secretary Environment.

Issue Notice to the Principal Secretary Environment, State of Rajasthan and through the Member Secretary RSPCB Jaipur to the RO Jaipur. We direct that photo copies of the news report be prepared and the same be sent along with the notices and the copy of this order. An advance copy of this news item report along with the copy of this order be given to the Learned Standing Counsel Shri Sandeep Singh today itself and he shall communicate our order telephonically and send a copy by e-mail or any other electronic media to all the Respondents for necessary action immediately so that the evidences may not be destroyed. Application be registered."

2. In pursuance of the order notices were issued to the responsible authorities of State of Rajasthan and after hearing the issue the Tribunal further observed vide order dated 21.08.2017 as follows:

After going through the newspaper report of 03.08.2017 published with photographs of dead fishes in Mansagar Lake (Jal Mahal) at Jaipur with the caption " ye kya hua kaarkhano se nikla zehar, hazaaro machliyo ki maut", Notices were ordered to be issued after taking cognizance of the above by this Tribunal. Pursuant to the notice the State has put in its appearance along with the RSPCB.

Our attention has been drawn to a State Legislation titled "Rajasthan Lakes (Protection and Development) Authority Act 2015". The Statement of Objects and Reasons shows that the Act is aimed "to provide for the development and protection of the lakes in the State of Rajasthan, for constitution of a lake development authority for that purpose and matters connected therewith and incidental therewith". It has further been brought to our notice that vide notification issued in exercise of the powers conferred under Section 5 of the Rajasthan Lake (Protection and Development) Authorities Act 2015 the Mansagar (Jal Mahal) Lake at Jaipur was declared as one such lake and brought within the purview of the "authority". The authority is required to ensure that in the "Mansagar (Jal Mahal) lake and its geographical boundaries" inter-alia the following activities that are "activities that result in significant change of water temperature, the significant change of physical or chemical characteristics of wetland water resources, including quantity or production of pollutants and discharge of drainage" shall be prohibited. We may add that this is in addition to the provisions contained in the central water Act 1974 where such activities are prohibited. Along with the affidavit that has been filed today analysis report of the water sample taken at four different locations have also been filed.

A perusal of the affidavit filed today by the RSPCB states that a STP of 27 MLD at Bharampur a 7.8 MLD tertiary treatment plant established near Mansagar Lake are being maintained and operated by the Jaipur Municipal Corporation. During the course of hearing it was also given out that the RSPCB has filed two complaints for prosecution against the Jaipur Municipal Corporation which are pending. We would therefore, direct notices to be issued to the Commissioner Jaipur Municipal Corporation to show cause and explain their stand in this behalf.

In addition to the above the Jaipur Municipal Corporation / Jaipur Development Authority shall also give a list along with the location of the site of industrial units situated around the lake and along nallahs or from which sewage / effluent go into the nallahs particularly the Bhramपुरi nallah and the Daktalai nallah.

It has also been stated that 35 industrial units which were pouring waste water into the nallahs have been issued closure directions. Their present status as to whether or not they have been closed down shall be filed before this Tribunal also the source from which they are deriving the water whether municipal source / pHE or own source of ground water shall be specified and disconnection shall be ordered with immediate effect. These units to whom closure

directions have been issued shall be sealed by the PCB and shall remain sealed till further orders. The above directions shall be subjected to any order being passed by competent authority or appellant authority in case any appeal against the closure directions has been filed. Details of such appeals or stay been granted by any competent authority or appellant authority shall also be placed before this Tribunal.

The report of the analysis and examination which was ordered to be carried out of the fishes recovered from the Mansagar Lake shall also be placed on record on the next date of hearing.

We would direct Learned Counsel Ms. Parul Bhadoria to assist this Tribunal in this matter. Copy of the above order shall be sent to the Chief Secretary, the Secretary Environment, the Member Secretary RSPCB, the Commissioner Jaipur Development Authority and the Commissioner Jaipur Municipal Corporation for necessary action and compliance. The Registry will send the same by E-mail in addition to the hard copies.

3. In compliance of the order, Jaipur Development Authority examined the matter and submitted the compliance report and after hearing this Tribunal observed as follows:

Jaipur Development Authority (JDA) has filed compliance before us wherein it has been stated that they have identified 9 industries so far against whom appropriate action has been initiated on account of illegal operations. These 9 industries have neither 'CTE nor CTO' under the Air and Water Act'. We have been informed that disconnection of the electricity for these industries have been ordered. A list of these industries has been appended as Annexure R-1 to the said compliance. The same is ordered to be taken on record.

Jaipur Municipal Corporation has filed its compliance wherein it has been stated that the STP at Brahampura of 20 MLD capacity which is a very old plant was established nearly 40 years ago and is unable to treat

the sewage in a proper manner. It was given out that up gradation of the STP with an additional capacity of 8 MLD under 'AMRUT YOJNA' was sanctioned and work order also issued. It was further stated that the old sewage lines are damaged at some places and work on the same had been commenced. While carrying out the work on one portion of the land which is said to have been allotted to Jal Mahal Resort Pvt. Ltd. the Jaipur Municipal Corporation received notice / letter dtd. 12.09.2017 from the Jal Mahal Resort Pvt. Ltd. through authorized signatory informing Jaipur Municipal Corporation that the land in dispute was allotted to the said company by the Rajasthan Tourism Development Corporation with the issuance of the notification in the year 2015 under the Rajasthan Lake Development (Protection and Development) Authority Act, 2015 the land in dispute as per the State Government came within the purview of the said Act and a notification to that effect declaring the land as protected area on 01.07.2015 issued in exercise of the powers under Section 5 of the Act was challenged before the Hon'ble Supreme Court in W.P.(Civil) No. 56912015 in which vide order dtd. 07.09.2015 for maintenance of the Status-quo was passed. It is stated that on account of the aforesaid order the work of carrying out a sewage line and / or laying of the afresh new sewage line could not be carried out on the said portion of land. It is stated that the aforesaid sewage line was meant to connect to the STP which is being upgraded and capacity increased so that untreated sewage may not be allowed to enter the Man Sagar Lake at Jaipur.

In so far as the aforesaid contention of the Municipal Corporation is concerned we direct that the subsequent

development after the order of the Hon'ble Supreme Court dtd. 07.09.2015 be placed on record. In case any replies have been filed by the State / Jaipur Municipal Corporation the same may also be placed on record before the this Tribunal. Jaipur Municipal Corporation as well as the State bring the matter to the notice of the Hon'ble Supreme Court if not already done that there is in fact the sewage line in existence which is required to be repaired / freshly laid for connecting to the STP so as to prevent the water pollution in the Man Sagar Lake by treating the sewage. In our opinion these facts need to be placed before the Hon'ble Supreme Court as allowing the untreated sewage to flow into water body prima facie amounts to violation of the provision of the Water Act, 1974. The steps taken in this behalf shall be placed on record before this Tribunal on the next date of hearing.

The PCB has filed a list of 35 units which were found erring and not having valid CTE and CTO against whom actions have been initiated between 2007 to 2013 has been placed on record. We have been informed that the PCB authorities have already taken action and these units have been ordered to be closed down. However, we would direct that a detailed inquiry by the District Administration as well as the Industries Department along with the PCB and the official of the electricity power distribution company be carried out as to whether after the closure orders these units 35 in number have in fact remained closed down or were in operation. Water Sample at the old discharge points including those of the soil as at these points shall be taken and analysis report submitted before this Tribunal. The

inquiry shall also include the findings if there is any proof of these units having operated despite the closure directions.

The PCB has filed by way of Annexure R-A water analysis report of the samples taken on 03.08.2017 and 14.08.2017, however, we find that analysis work carried out on 23.08.2017 dtd 24.08.2017 in our opinion such delay of more than 24 hours for carrying out the analysis of the water sample taken on various points would be meaningless as we have been informed by the Learned Counsel that the analysis must be carried out within a period of 24 to 48 hours of taking of the samples or as prescribed in the Rules. Analysis of samples after more than 10 to 20 days in our opinion runs contrary to the mandate of the provisions of law.

Having said so we still find that so far as the dissolved oxygen (DO) level is concerned it is measured as nil which is a cause of concern. Similarly, Ph at some sites varies from 8.89 to 9.16 as against the prescribed limits of 6 to 8. The cause for the same must be ascertained after detailed analysis of not only of DO but also of Ph and other factors. In addition to the above the fresh sample analysis report that is to be filed shall also contain a column indicating the prescribed limits. The PCB shall also indicate what are the prescribed limits for such like water bodies as in contradistinction to the water for the limits prescribed for categories of other than water fit for irrigation.

During discussion we have further been informed that discharge from the Man Sagar Lake and the sewage before it proceeds towards the Ramgarh area through the nallah is passing through the forest area at the foot of the Bandh Ki Ghati. The Respondent shall also submit whether

any FC has been obtained in this behalf for discharge of sewage through forest land from the MoEF & CC. While taking samples for analysis at specific points of entry of the sewage into the Man Sagar Lake be identified and plotted on a sketch map and marked along with the relevant sample reports. The discharge of such untreated sewage to the forest land in our opinion prima-facie runs counter under the requirement of the Forest Act 1980 and such forest lands cannot be utilised for the said purpose. If no FC has been obtained proper steps for managing the sewage in the Bandh Ki Ghati and the area below it shall be initiated by the local authority including Jaipur Development Authority (JDA) and the Jaipur Municipal Corporation (JMC).

We would direct that the Collector Jaipur submit a report with regard to the classification of the land and its categorization and the extent of the boundary of the Man Sagar Lake as per the revenue record as preferably of the 1959 the date coming into force of the Rajasthan Tenancy Act. Since, Section 16 of the Rajasthan Tenancy Act specifically prohibits conferring of any Khatidari (proprietary) rights in the Talabi land (tank belt) it would also be required to explain in what manner such land came to be either converted or allotted or brought within the Abadi area of the local authorities which other bodies or activities other than conservation of the water body. Very purpose of Section 16 of the Rajasthan Tenancy Act was for preservation and maintenance of the water bodies. Such acts wherever taken need to be reviewed as the shrinkage of the water bodies and any construction in catchment area which obstructs the free flow of water into such water bodies and lakes would run counter to all environmental

norms and jurisprudence. The detailed report in this behalf be submitted on the next date of hearing.

4. Regional officer, Rajasthan Pollution Control Board visited the site and examined the matter and submitted the following facts:

“i. Dead fish were seen at bank of lake near hanumanji ka mandir, new surrounding road of the lake. Water sample was also taken from the above-mentioned site.

ii. The joint stream of Nagtalai and Brahampuri Nallahs flows parallel to Delhi road adjoining east bank of Jalmahallake. The said nallahs carry mainly the city sewage. There is a wall which separates jalmahal lake boundary and the nallah near band ki ghati, delhi road. It was observed that due to overflow from the said nallah, accumulated sludge along with waste water would have entered into the waters of laek. The said joint stream carrying waste water ultimately leads into kanota dam and under normal conditions, waste water of this stream does not enter into jalmahal lake.

iii. Large numbers of food vendors were also observed on the bank of lake, why do not handle waste properly and it causes contamination of lake due to entry of municipal waste.

iv. Heaps of municipal waste were also observed around the lake.

v. The following illegal streams carrying waste water into the lake were also observed:

a) In front of Sahid vankarmi udhyam

b) In front of Shree Sanjay Sharma museum & research museum & research centre.

c) In front of dairy booth no. 3256,

d) In front of hotel Regenta,

e) In front of Jaipur, blue pottery

f) In front of Axis Bank, Amber road, Jaipur

vi. In the upstream side in North direction, municipal waste is temporarily collected at transfer station and therefore, run off from this area may carry contaminants into the lake.”

5. State Pollution Control Board has further suggested the actions which are required to be taken by Jaipur Municipal Corporation and Jaipur Development Authority which is as follows:

I. To restart the Sewage treatment plant and tertiary treatment plant at Brahampuri immediately.

II. To provide facility to divert excess sewage to sewage treatment plant at jaisingpura khor and to lay down proper sewerage system for the same.

III. To prepare action plan for up-gradation of sewage treatment plant and Tertiary Treatment Plant so as to achieve prescribed standards and to enhance the capacity according to likely generation of sewage.

IV. To ensure house to sewer connections in the entire area so that no sewage/waste water flows in the open drainage/ Nallah.

V. To remove unauthorized commercial activities i.e., camel riding, street food vendors etc.

VI. To prepare an action plan for laying down of pipe lines for reuse of treated sewage by farmers or for other gainful purposes in the downstream side.

VII. To prepare technical proposal for avoiding the mixing of waste water flowing in Joint stream of nagtalai nallah and brahampuro nallah into the lake.

VIII. To immediately close down all the waste water inlets into the lake.

IX. To immediately close down the municipal solids waste collection cum transfer station near Amber Hills in upstream of Mansagar lake.”

6. It has further been submitted that the lake area and the geographical area around it has been declared as a protected area vide GOR notification dated

01.07.2015 and certain activities have been prohibited / regulated vide notification dated 01.07.2015

7. The relevant notification is quoted as follows:

 सत्यमेव जयते	राजस्थान राज-पत्र विशेषांक	RAJASTHAN GAZETTE Extraordinary
	साधिकार प्रकाशित	Published by Authority
	आषाढ 10, बुधवार, शाके 1937-जुलाई 1, 2015 Asadha 10, Wednesday, Saka 1937- July 1, 2015	

भाग 6 (क)
नगरपालिकाओं संबंधी विज्ञप्तियां आदि।

Local Self Government Department
NOTIFICATION
Jaipur, July 1, 2015

NO.F.8(Ga)(8)(Niyam)DLB/15/8502 :- In exercise of powers conferred under section 5 of the Rajasthan Lakes (Protection and Development) Authority Act, 2015 (Act No.5 of 2015), the State Government hereby specifies that the following activities in the protected area are expedient for protection and development of the Mansagar (Jalmahal) Lake situated in villages Vijayamahar Tehsil Jaipur and Amer, Tehsil Amer District Jaipur,-

- (a) shall be prohibited in the protected area of the Mansagar (Jalmahal) Lake and in its geographical boundaries :-
- the removal, excavation, grading, or degrading of soil, sand, gravel, minerals, organic matter, or material of any kind except for Lake preservation/conservation;
 - the dumping, discharging, or filling with any material except for the preservation/conservation of the lake;
 - the draining, flooding, or disturbing of the water level or water table;
 - the driving of pilings;
 - the placing of obstructions;
 - the destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;
 - activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants; and
 - discharge of drainage
- (b) may be carried out after prior permission of the Rajasthan Lake Development Authority,-
- boating for tourists;
 - adventure water games;
 - other water games;
 - bird sanctuary;
 - conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland;
 - outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;
 - the maintenance of drainage ditches to original specifications;
 - education, scientific research, and use of nature trails;
 - navigation aids and boundary markers;
 - minimal soil disturbance for site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored, etc.;
 - ecotourism sans creation of concrete jungle around the Lake;
 - maintenance activities of Lake; and
 - the construction, re-construction, demolition or expansion of any structure but such activities may be allowed to be carried out where it is considered to be expedient for the protection and development of the lake only after obtaining prior permission of the Rajasthan Lake Development Authority.

By order of the Governor,
Dr. Manjit Singh,
Principal Secretary Local Self Govt.,

8. National Institute of Urban Affairs prepared a revival of Mansagar Lake, Jaipur as follows:-

Due to the process of urbanization, water bodies are lost in oblivion, owing to neglect by concerned authorities and encroachment of water bodies' catchment by built spaces put to various urban use. Cities rich in history like Jaipur in India have inherited tangible and intangible heritage in the form of buildings, streets, palaces and forts, water bodies (also called Baolies / Jheel) and culture, rituals and customs. This is a documentation of revival of Lake Mansagar from Jaipur, in the state of Rajasthan.

A brief about the lake Mansagar Lake

Mansagar Lake is located in the northern part of modern day Jaipur city (see map-1) . The lake was built by Raja Mansingh – I, in the year 1610, who reigned over Amer. The Lake Mansagar was formed in the midst of Nahargarh hills (western side of the lake), Amer hills (northern side of the lake) and Amargarh hills (eastern side of the lake), by constructing a dam on river Darbhawati, to address the drought in the surrounding lands. The height of the dam was increased by Raja Jai Singh – II during his reign (1699-1744), who also founded the city of Jaipur (Pink City), south of this lake. Today, the lake has an area of about 300 acres (1.21 km²).

Catchment area of Lake Mansagar

The catchment area of the lake covers an area of 23 – 24 km² and has hills surrounding the lake on three sides and the Jaipur city on the fourth side (south of the lake). The run-off reaching the lake is carried by - Nagtalai Nala (natural channel) and Brahmपुरi drain, covering the 60% of the urbanized catchment area of the lake Mansagar. Heavy pollution load is carried by these drains from this urbanized catchment, which constitutes entire old Pink city of Jaipur and northern portion of modern Jaipur city.

Problems which infested the lake

The lake remained in good condition till the city of Jaipur was ruled by the maharajas (former city rulers), but the situation became alarming when the Jaipur administration diverted walled city sewage to the lake through the drains Brahmपुरi nallah and Nagtalai nallah in 1962. Growth of aquatic weed like water hyacinth suppressed the algal growth and added dead organic pollution load leading to decrease in the fish count in the water body.

With this the lake became an example of polluted water body, receiving city sewage. The aquatic life of the lake deteriorated and migratory birds stopped arriving to this natural habitat. An

unbearable stench emanated from the lake and the lake bed got filled with sewage soaked silt, which posed an environmental and health hazard (see Picture-2). The lake turned into a mosquito breeding ground.

Turnaround of Lake Mansagar

In the year 1999, the state government started working on a strategy to clean up and revive Lake Mansagar as the revival of the lake was linked to environmental and economical benefits. The strategy to restore the lake was based on a public-private model, wherein the private player would clean and maintain the lake and the palace, and the government would lease out 100 acres of land in the vicinity of the lake to the private player to develop it for tourism and recreation activities and recover the invested amount.

In 2002, the Ministry of Environment and Forests (MoEF), Government of India, appointed the Jaipur Development Authority (JDA) as the nodal agency for Lake Mansagar's restoration under the National Lake Conservation Plan. In 2004, Jal Mahal Resorts Pvt Ltd., led by Kothari Group, won the bid and were formally engaged by state government in reviving the lake and the palace. In the following year, a 99 year lease agreement was signed between the two parties (at an annual lease amount of Rs. 2.52 crores) with an increase by 10% in the amount every three years. This agreement ensured maintenance of lake and the infrastructure like Sewage Treatment Plant.

Steps taken to revive the lake

It was a difficult task to clean the lake. The first step taken was to check the sewage and solid waste from entering the lake through drains. A 1.5-km channel was constructed as part of the initiative to divert drain and storm water into a 7-metre-deep sedimentation basin constructed on the east side of the lake (towards dam). This led to the physical screening of water and removal of solid waste and pollutants from the water (primary screening). Simultaneously, second step taken up by the private player was the dredging of the lake bed. This increased the lake's depth from 1.5 meter to more than 3 meters, which helped in increasing the storage capacity of the lake.

Water sample from the lake indicated that the Biochemical Oxygen Demand (BOD) registered a sharp decline after passing through the sedimentation basin. The BoD going into the sedimentation tank was 450 BOD, but reduced to 25 at the outfall point. The e-coli bacteria in the lake also shrunk from 2.4 million in 2000 to just 7,000 in 2009-11.

Apart from these two major steps, several other measures helped in the restoration of the water body. Two sewage treatment plants were also constructed to treat 7 million litres of waste water daily and discharge the treated water into the lake. This source of water, helped in ensuring supply of water to the lake. Before the restoration effort the Mansagar Lake used to dry up in the summer, but it remains perennially full. To attract flora and fauna, five nesting islands were created to attract migratory birds, fishes were introduced and giant bubblers were installed for aeration of the lake

Current status of the lake and the surroundings

After the revival of Mansagar Lake it has turned into a tourist spot. Locals and tourists can be seen enjoying evenings on the lake front promenade developed by Jaipur Development Authority, along the Jaipur – Amer road. The lake front also has a museum, hotels and restaurants and is well connected to Jaipur old and new city, by city buses, cabs and auto-rickshaws. The lake has now been added as a picnic spot to the city of Jaipur and is loved by people for the open space and water front. However, at present that the lake front is not clean. The water at the edges of the lake, near the promenade, is littered and solid waste is visible, which is visually an unpleasant sight. The practice of feeding bread crumbs to fishes in the lake is partly to be blamed for the littering. Lack of dustbins along the promenade, despite a large number of street vendors and food stalls, is another reason for poor solid waste management in the area.

Importance of Lake's revival in building city's resilience

Jaipur (urban area and its surrounding) has lost 60 rivulets out of 518 rivulets due to expanding built-up area in an unplanned manner. More than a 1000 wells/tube wells have completely stopped recharging water due to increase in paved areas between years 1986 to 20074 . Encroachments on natural drains and expansion built spaces is causing flooding during extreme rainfall events, for instance on 20th and 21st August 2012 heavy downpour in Jaipur caused floods leaving the city devastated. Two hours of heavy downpour on the night of the 21st measuring 17 cms caused the flooding in city and claimed 8 lives . A similar heavy rainfall event happened in July 1981, when Jaipur received 32cm of rainfall in 24 hours.

The lake and local natural drainage act as a buffer and prevent flooding. These natural features facilitate easy discharge of water, which is left standing if the outfall or the natural channel is obstructed. Lake Mansagar offers such environmental services to the northern parts of city of Jaipur.

Discussion with residents of a locality to the west of Lake Mansagar, revealed the following:

- i. Mansagar lake used to supply water to old Jaipur city, when population was small. Later, Ramgarh dam near the city supplied water to the city and today Bisalpur dam supplies water to the city.*
- ii. Rainfall has decreased in the region. Earlier Mansagar used to fill up by rainwater, but not now.*
- iii. Tourist activity is responsible for the garbage and filth deposited in the lake.*
- iv. Water table has risen in the area, but people do not use the water for their domestic use, but use it for cattle. People are aware that the water in the lake is being discharged from sewage treatment plant, and therefore hesitate in using the water for domestic purposes.*
- v. Machines working in the lake to oxygenate the water help in supporting the aquatic life and bird population.*
- vi. Poor maintenance of the lakefront promenade is due to the court case against the private developer.*

The Litigation which has ruined the development The project, though a very good one, has run into trouble. It is now embroiled in litigation. Following is the extract from different local newspapers which highlights the course of litigation and its consequences:

In 1999, the state government entered into a partnership with private developer to clean up the Mansagar lake and restore Jal Mahal under a public-private partnership arrangement. The state did its bit to clean up the lake by tapping into the ` 25 crore National Lake Development Fund. The private firm did the rest to restore Jal Mahal and also pay for the annual maintenance of both - the monument and the lake. In return, the company was to get 100 acres in the vicinity of the lake, which it could develop into a tourist hub.

The KGK Consortium led by Kothari won the bid to undertake this work. The KGK Consortium was an amalgam of various companies led by Kothari and christened The Jal Mahal Resorts Pvt Ltd.

According to media reports⁶, even after using up Rs. 25 crore (Rs.250 million) from the lake fund by the State Government, the lake was left stinking at the time the property was to be handed over to Kothari in 2004. The State Government told the private company that it had done whatever it could, and any further expenditure on lake clean up will have to be done by the company. KGK Consortium appointed a German engineer for the cleanup task. The engineer and

his team joined the two nallahs, created a sedimentation basin and dredged the whole lake bed to revive and restore the lake. The team also restored the Jal Mahal. However, when the palace was ready and the lake restored for its first batch of tourists, the High Court issued Non Bail-able Warrants against Navratan Kothari in response to separate criminal cases filed by Bhagwat Gaur, a local lawyer, and heritage activist Ved Prakash Sharma. A University of Rajasthan professor and botanist, K.P. Sharma, filed a third PIL. Chief Justice Arun Mishra clubbed all the three cases and ruled in May 2012 that the lake's surrounding cannot be altered, pending a resolution of the matter.

KGK's legal adviser pointed out that in addition to the initial bid amount of Rs 2.5 crore (Rs. 25 million), the consortium was required to deposit an additional amount every year in an escrow account for 99 years from 2005. In the first three years, this annual amount was Rs 2.5 crore and the contract stipulated that it would be escalated every three years by 10 per cent. So since 2005, KGK had deposited at least Rs 18.75 crores and 'this money could only be used for the maintenance of the lake'. The restoration was important to enable a hotel to be constructed in its vicinity. Drains flowing into the lake had to be diverted. The state government, which had promised Rs 24 crore for the clean-up, had used the money to develop a promenade around the lake instead of cleaning the lake.

KGK spent over Rs 35 cr for the restoration of the lake and the monument. The 372 acre area of the lake is now declared as a protected area through notification released by the Local Self Government Department on July 2015. After this notification many activities in the lake area are restricted – including construction of resort and hotel on the lake peripher. It is due to this ongoing litigation, the financial sustainability of the project has been affected, resulting in poor maintenance of the lake, areas surrounding the lake and a large prime space lying vacant in Jaipur. It is feared that due to lack of maintenance the benefits accrued from the revival of the lake may start vanishing. It will not only be a loss of architectural jewel like "Jal Mahal", but a large ecosystem which has multiple benefits for the city of Jaipur.

9. Due to importance of Mansagar Lake, the public in general took the cognizance of the matter which found place in the Times of India dated 06th June, 2017 where it has been reported that the lake is continuously stinking and clearly becoming an eyesore. The news article reported is as follows:

“With the Brahmpuri sewerage treatment plant (STP) continuing to remain defunct, the foul smell from the lake is keeping tourists as well as residents away from the picturesque lakeside.

A sharp increase in the inflow of sewage water into the protected lake has resulted in rising pollution and disturbed the ecology.

The Jaipur Municipal Corporation (JMC) had recently sanctioned Rs 25 crore to prepare a DPR to renovate the Brahmpuri STP. However, nothing has been done so far.

In 2003, the JMC was given the responsibility to treat the sewage water before pumping it into the lake. As per the proposal, the Brahmpuri plant was to treat 27 mld at a cost of Rs 2.69 lakh/month.

Out of the 27 mld from the plant, 7 mld would be used for maintaining the water level in Mansagar Lake during summers, while the remaining 20 mld was to be released into Brahmpuri nullah where it mixes with untreated sewage.

The untreated sewage from [Nagthalai](#) nullah too would enter Brahmpuri nullah and finally get discharged in the downstream of Mansagar Lake. This would then flow to Khor through the drain to irrigate vegetables cultivated in the area.

“Since the STP is closed for long, the water is not being treated. The sewage water is flowing into the lake and increasing pollution in the area,” said Triyambak Singh, a local resident of Brahmpuri area.

In July 2015, the state government declared the city’s [Jal Mahal](#) and the Mansagar Lake as protected area and placed it under the [Rajasthan Lake Development Authority](#) (RLDA).

But, even this failed to improve the situation. “As the lake now comes under the protected area, releasing polluted water into it is an offence. Despite several reminders of district collector, the JMC has failed to restart the defunct STP,” said a JMC official.

10. The matter was examined by the Pollution Control Board and the samples from the Jalmahal area was collected and analyzed by the State

Board and the result of the analysis and the action taken report was filed by an affidavit cum compliance report by the Regional Officer as follows:

“The Bioassay test of lake water from the point of incident was also conducted in the Laboratory of the State Board. The bioassay test report indicates 100 % survival of fish after 96 hours, which reveals that the cause of death of fish was sudden DO deficit in the lake water due to discharge of untreated sewage.

The report of analysis of the samples so collected also reveals that the concentration of metals in the Jalmahal lake water was not found to the extent that it can cause death of fish as had happened on dated 03.08.2017. It is further submitted that the Dissolved Oxygen (DO) in the water collected from the lake water from the area of incident was found zero which reflects that DO had suddenly dropped to zero level due to accidental discharge of sewage from the nallahs in certain area of Lake where the incident of death of fish had taken place.”

11. Nagar Nigam, Jaipur also examined the matter and submitted an affidavit in the form of compliance report mentioning the reasons for pollution in the lake with remedial measures as follows:

- i. That, Bhrahmapuri STP (27 MLD) is an old plant and is having very old technology so sewage is not properly treated in it.*
- ii. That, for better functioning of 'Bhrahmapuri treatment plant a new STP of 8 MLD under AMRIT YOJNA has been sanctioned and LOA has been issued and the time of completion of work is one year.*
- iii. That, it is further submitted that adjoining to Jal Mahal Lake the old sewage line is damaged and obstructed at various places, so work order of laying out of new pipelines of about 1500 meters (1200 mm) has been issued to M/s. Ganapati construction and time of completion of work is one year.*
- iv. That, at this juncture it is pertinent to mention that as the work was to be undertaken by the contractor, Jal Mahal Resorts Pvt. Ltd. forwarded a letter to Nagar Nigam commissioner that a copy of the order passed by the Hon'ble supreme court in which status quo vide order dated*

07.09.2015 has been passed, so the work could not be proceeded further.

12. The matter was being monitored by this Tribunal since 2017.

Monitoring by a Tribunal or Tribunal appointed Committee cannot be for indefinite period and ownership of execution of action plan for restoration of pristine ecology of the lakes/wetlands must be finally owned and taken over by the State authorities, headed by the Chief Secretary. Governance deficit has to be made up by further action in mission mode. The road-map has already been laid down by the orders of this Tribunal. We may note that apart from the present matter, issues of solid and liquid waste disposal generally and of polluted river stretches, water bodies, lakes and wetlands have been dealt with by this Tribunal in the light of Hon'ble Supreme Court decisions¹. Detailed guidelines have been laid down on all aspects of restoration of lakes and water bodies and several issues are overlapping with restoration of polluted river stretches. Specific directions cover the present matter on subjects of preventing discharge of sewage and effluents and solid waste, removing encroachments from catchment areas, desilting and dewatering, maintaining lake free from any constructions inside has already been issued.

In the present context, sewage entering the lake needs to be diverted and treated sewage utilised for non-potable use. The lake is to be maintained with required oxygen levels for survival of aquatic life.

13. Protection of lakes and water bodies and preventing pollution is part of 'public trust' doctrine obligating the State authorities to take stern measures for enforcing the basic constitutional right of citizens to clean environment. Without this being done in a meaningful manner, there can be no sustainable development. There is need for stringent enforcement by way of adverse measures, including recovery of compensation for continuing violation and adverse entries in the record of defaulting officers. Accountability for those

¹ (2000) 2 SCC 679 Almitra Patel, Tribunal orders in OA 606/2018, last order 2.7.2020: Solid Waste (2017) 5 SCC 326 Paryavaran Suraksha, Tribunal last order dated 22.2.2021 in OA 593/2017: Liquid waste, including 351 polluted river stretches (OA 673/2018), coastal pollution (OA829/19), re-use of treated water (OA148/2016). (2017) 5 SCC 805, Tribunal order dated 27.8.2020, OA 351/2019, Raja Muzaffar Bhat v J & K: Wetlands and lakes: M.K. Balakrishnan and Ors. v. UOI, Tribunal order dated 18.11.2020 Lt Col Sarvadaman OA 325/2015, Water bodies, (1997) 1 SCC MC Mehta v. Kamal Nath, (2001) 6 SCC 496 Hinch Lal Tiwari vs. Kamala, (2006) 3 SCC 549 Intellectual Forum vs. State of AP

who are entrusted the responsibility to comply with these directions must be fixed on the principle of good governance, to enforce rule of law to protect rights of citizens.

14. In spite of the fact that Water (Prevention and Control of Pollution) Act, 1974 was enacted years back, to give effect to the decision in Stockholm Conference in the year 1972, the water pollution remains rampant. Though a serious criminal offence under the law of the land, the authorities have failed to take stringent action against the violators. In a way the State-authorities, who are constitutionally under obligation to ensure treatment of sewage before the same is discharged into the water bodies, have to take the blame. The adverse effect of water pollution on health and environment is well known. Water bodies, including lakes and wetlands, have great role in sustaining aquatic life, attract migratory and other birds, add to the natural aesthetics, help harvesting rain water, maintain micro climate, recharge ground water and perform other ecological services.

The Hon'ble Supreme Court in its judgment in *Paryavaran Suraksha vs. Union of India & Ors.*, (2017) 5 SCC 326 discussed the need to remedy water pollution and fixed a firm deadline of 31.03.2018 by which all necessary CETPs/STPs/ETPs should be in place failing which coercive action, including prosecution of State authorities was mandated. It also indicated sources of funding. The said direction continues to be violated. This situation can hardly be held to be conducive to the environmental rule of law. The sewage treatment is less than 50% (the sewage generation from the urban population of the country is reported to be about 70000 MLD and treatment capacity about 27000 MLD) which is a matter of serious concern. The Tribunal has issued repeated directions on the subject. Till it is remedied, the goal of sustainable development is far cry. Similarly, directions have been given for protection of water bodies and wetlands.

The environmental law principles, which this Tribunal is mandated to apply under Sections 20 and 15 of the NGT Act, 2010, are – 'sustainable development', 'precautionary' and 'polluter pays'. These principles,

accepted in Stockholm conference, have been held to be part of right to life under article 21 of the Constitution in *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647. In *Hanuman Laxman*, (2019) 15 SCC 401, (paras 142-156), significance of environmental rule of law has been highlighted to achieve sustainable development goals for prosperity, health and well-being. This requires filling of gap between law and enforcement. In *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606, at page 621, it was observed that the State has to forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water and providing sanitation, without which life cannot be enjoyed. Any contra acts or actions would cause environmental damage. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment. Environmental protection has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is constitutional imperative on the Central Government, State Governments and bodies like municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve the man-made environment and natural environment.

15. Accordingly, there is need for further continuous action and effective monitoring at the highest level in the Government. Consistent with earlier orders on the subject, such monitoring needs to be taken over by the Chief Secretary who may take over the record and take stock of all the left-over issues, with the assistance of other identified authorities and experts. He may inter alia interact with the State Lake Conservation and Development

Authority and Forest, Ecology and Environment Departments. Review meetings may be held atleast once in a month to monitor further progress and completion of targets, already fixed or which may be further fixed. It will be open to all persons interested in restoration and maintenance of the lakes in question to give their suggestions and offer assistance which may be duly considered by the Chief Secretary, on its merits. All pending projects for setting up of STPs, fencing of lake, removal of encroachments, etc. may be executed expeditiously. Particular attention may be given to preventing discharge of untreated water into the water body. Directions in earlier orders and current order be duly carried out and overseen by the Chief Secretary, as already mentioned, atleast once a month. In pursuance of order of this Tribunal dated 18.11.2020 in OA 325/2015, Lt. Col. Sarvadaman Singh Oberoi v. Union of India & Ors., the steps for protection of water bodies have been directed to be taken and quarterly reports sent by the Chief Secretaries of States to the Secretary Ministry of Jal Shakti. Similarly, a quarterly report is to be given by the Chief Secretaries in respect of steps taken for protection of lakes and wetlands to the National Wetlands Authority, as earlier directed in OA 351/2019, Raja Muzaffar Bhat, supra, vide order dated 27.8.2020 and also placed on the website of the State Wetland Authority, for information of all the stake holders. The lakes in question are undoubtedly of great significance for the Jaipur city and are glory and pride of the city. We do hope the administration will appreciate the need for stringent action and efforts for maintaining the said Lakes. We further direct the SPCB to regularly monitor and ensure that no untreated / sewage / industrial / chemical water be discharged into the water body / lake and in case of any violation immediate legal action should be initiated in addition to realisation of environmental compensation in accordance with law. The compensation must be calculated from the date of violation to its continuance and shall be deposited in the account of SPCB and may be utilised for improvement of environment subject to sanction of competent authority.

The copy of this order may be sent to Chief Secretary and Member Secretary, Rajasthan State Pollution Control Board for compliance.

The Original Application stands disposed of accordingly.

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

08th April, 2022
O.A. No.88/2017(CZ)
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