

Original Application No.12/2013(CZ)

Pandit Hari Shankar Samadhiya Vs. Union of India &Ors

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

PRESENT : Applicant :

Respondent No. 1,3,4,5 &8 :

Shri Sachin K.Verma, Advocate

Shri Ayush Dev Bajpai, Advocate

Respondent No. 2 :

Shri Suman Mandal, Advocate

On behalf of Shri Sandeep Singh, Adv.

Respondent No. 6:

Shri Shivendu Joshi, Advocate for

Shri Purushaindra Kaurav, Advocate

Respondent No.7:

Shri Vijay Shahni, Advocate

Date and Remarks	Orders of the Tribunal
Item No. 1 2 nd December, 2013	<p>The submissions which have been made in writing by the respondent no. 5 be taken on record and compliance report submitted by respondent no. 7 also be taken on record.</p> <p>The Learned Counsel appearing for the Municipal Corporation, Gwalior submits that the tenders for the short-term measures to be adopted, are proposed to be opened on 05.12.2013 and thereafter the work orders in accordance therewith shall be issued by 15.12.2013.</p> <p>It has also been pointed out that initially identification of persons who have encroached and raised constructions (kachha & pukka) within the river bed has been made and notices to remove the constructions within three weeks, have also been issued and in some cases demolition has also been carried out for which photographs have been submitted before us. It has also been submitted that as far as long-term measures are concerned, proposals were sent to the Government. Shri Sachin K. Verma, Learned Counsel appearing for the State Government has placed before us written submission along with the letter dated 17.10.2013 from the Chief Engineer, Directorate of Urban Development wherein certain details and further information have been sought from the Municipal Corporation, Gwalior with regard to the long-term measures.</p>

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We have considered the aforesaid submissions. So far as the short-term measures adopted by the Municipal Corporation are concerned, as was submitted, demolition of some of the illegal constructions have already taken place and notice to other persons have been issued and on expiry of the notice period, demolition shall be taken up. We may point out that once the demolition is done to remove the encroachments and tress-passers which are within the river bed, it would be the duty of the Municipal Corporation, Gwalior to have the debris removed from the river bed so that no obstruction remains. The Municipal Corporation and the Government which has in their letter dated 17.10.2013 directed the District Collector to carry out further survey for demarcating the river boundary, may proceed on the basis of the existing survey record and in case a necessity arises for fresh survey, the same could be taken up immediately and completed before 31.12.2013 and no further delay on this account shall be accepted. Estimated cost shall be worked out on a provisional basis and proposal be sent by the Municipal Corporation, Gwalior to the State Government and it shall be the duty of the State Government to provide required financial allocation. It would be open for the State Government, if it so chooses, to get necessary funds from any agency and utilise any scheme for the aforesaid purpose.

The Learned Counsel appearing for the Municipal Corporation, Gwalior submits that after 15.12.2013 work on the short-term projects will be initiated and would be completed within a period of two months. At the same time, we may also emphasise that it should be open for the State Government and the Local Authorities of Gwalior city to frame a scheme for allocation of alternate sites so that the eligible affected persons may be rehabilitated. We may hardly emphasise that the present position has arisen as a result of dereliction of duty of civic authorities in preventing the encroachments and for coming up of illegal structures on

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the river bed of the Morar river in Gwalior city. The State Government must emphasise the Collector of the District that no encroachments are allowed within the water bodies and the river beds and so also no untreated effluent is allowed to flow into the water bodies and the rivers contrary to the provisions of Environment (Protection) Act, 1986 and Water (Prevention and Control of Pollution) Act, 1974.

It has been brought to our notice that in the length of the river falling within and along the limits of Cantonment Board, Gwalior also, certain unauthorised constructions have illegally been made. In that view of the matter, let the notices be issued to the Cantonment Board, Gwalior to show cause and submit before this Tribunal what steps the Cantonment Board has taken for removal of such unauthorised and illegal constructions along and in the river bed of river Morar. Registry would issue notice to the Cantonment Board, Gwalior and also send a copy of this order.

The matter be listed on **09.01.2014**.

.....JM
(DALIP SINGH)

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