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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 41 OF 2011**

Baner Area Sabha & Another .. Petitioners

Vs

Pune Municipal Corporation & Ors .. Respondents

Ms. Gayatri Singh & Ms. Kranti L.C. for the Petitioners

Mr. A.A. Kumbhakoni i/b Mr. R.S. Khadapkar for Respondent No. 1

Mr. A.S. Patil i/b Mr. J.G. Reddy for Respondent No. 2

Mr. V.S. Gokhale, AGP for Respondent No. 3

Mr. J.S. Deo for Respondent No. 4

**CORAM : D. D. SINHA &  
SMT. V.K. TAHILRAMANI, JJ**

**DATE : 26th APRIL, 2012.**

**P.C.:**

- 1.** Heard the learned counsel for the respective parties.
- 2.** The grievance of the petitioners is in respect of carrying out construction of storm water drainage system for Pune which is undertaken with financial assistance of Rs. 177.95 crore from JNNURM, Government of India. It is brought to the notice of this Court that on earlier occasions, quite a few orders and directions are already given by this Court, however, it is submitted by the learned counsel for the Corporation that the

storm water drainage system is absolutely necessary to eliminate the hurdle of water logging, flooding, loss to life and property and provide safety, good health to citizens and improve hygienic condition in the city. The project got approved in the year 2009 and work started in March, 2010.

**3.** Learned counsel for the petitioners has submitted that if the Court is inclined to grant permission to the Pune Municipal Corporation for carrying out the construction of storm water drainage system, in that event, the Corporation should undertake the construction strictly in accordance with the recommendations of EAC (Expert Appraisal Committee) of MOEF (Ministry of Environment and Forests). Those recommendations are six in numbers and reads thus:

- i. The natural drainage sections are found shallow, silted and filled with vegetations and debris. Frequent flooding at certain stretches implies inadequate carrying capacity of the drains. The proposed drainage sections should accommodate recommended intensity of rainfall which may be considered for future 30-50 years of development in the catchments area. Consequently, the width of the section may be determined / revised based on acceptable future hydraulic loading as practiced by PMC.
- ii. As agreed by PMC vide letter dated 09.08.2011, shall not provide bed treatment / bed concrete except fencing wall where natural section available is adequate to carry design flood discharge. At location where natural section is not adequate to carry the design flood discharge, PMC shall explore non-concretetisation techniques for lining of the storm water drain.

- iii. Necessary prior permission shall be obtained for cutting of trees from the competent authority. Compensatory afforestation shall be carried out. Also shall identify / acquire the 7-9 m wide corridor on either side of the drain for raising the appropriate green belt consulting Forests Department / botanical experts wherever possible. Encroachments should be strongly deal with as per the law.
- iv. The PMC shall relocate the sewer line outside the drains immediately so as to prevent ground water contamination through percolation. This should include measures to intercept and diversion sewers for preventing sewage out falling into drainage channels.
- v. The malba / excess earth material / debris from the drain vicinity shall be removed and disposed off at the approved sites.
- vi. PMC shall maintain the width of nallah as mentioned in the Development Plan sanctioned vide Notification No. TPS-1807/39/CR-1070/07/UD-13 dated 18.09.2007.

The Committee accepts the recommendations of its sub-Committee with the above comments and recommends that the Storm water drainage work shall be undertaken with the above conditions to prevent likely environmental impacts.

4. Learned counsel for the Corporation has submitted that while carrying out the construction of storm water drainage system, the Corporation shall strictly adhere to the suggestions and recommendations of MOEF referred to herein above but he submitted that so far as recommendation no. (ii) is concerned, the Corporation though principally agreed, however if the flow

carrying capacity is found to be inadequate for the chosen design criteria as mentioned in recommendation no. (i), only in that case, PMC shall carry out the appropriate treatment of the nallahs bed including concretization to enhance the flow carrying capacity for the chose design criteria. Similarly, so far as recommendation no. (iv) is concerned, it is submitted that the Corporation shall adopt these recommendations while designing a new sewerage system.

5. We have considered the contentions canvassed by the learned counsel for the petitioners as well as learned counsel for the respondent Corporation and also perused the recommendations of MOEF. In view of the statement made by the learned counsel for the Corporation, it is evident that the Corporation has categorically agreed to carry out the construction of storm water drainage system in conformity with the recommendations of MOEF as referred to herein above with certain suggestions in so far as recommendation nos. (ii) and (iv) are concerned. Learned counsel for the Corporation has submitted that so far as recommendation no. (ii) is concerned, the Corporation shall carry out the the same, if the flow carrying capacity is found to be inadequate for the chosen design criteria as mentioned in recommendation no. (i), only in that case, the Corporation shall carry out the appropriate treatment on the nallahs bed including the concretization to

enhance the flow carrying capacity for the chosen design criteria. We want to make it clear that the Corporation should not carry out the activity of concretization without obtaining permission of this Court. So far as recommendation no. (iv) is concerned, the Corporation is required to relocate sewer line outside the drains immediately so as to prevent ground water contamination through percolation. We direct the Corporation to file an appropriate affidavit in this regard giving details about within what time, the Corporation shall initiate the process of relocation of the sewer line outside the drains as required by recommendation no. (iv) of MOEF. The affidavit to be filed within a period of six weeks.

6. We want to observe that the storm water drainage system definitely would be a major step in eliminating the hurdles of water logging, flood and loss of life etc and shall also provide safety, good health and improve hygienic condition in the city of Pune. The project is approved in the year 2009 and the financial assistance of Rs. 177.95 crore is also provided by the Government of India (JNNURM). It is, in these situations and circumstances, we feel it appropriate to permit the Corporation to undertake the construction work for storm water drainage system and to eliminate the adverse impact on environment, the construction work to be carried out in conformity with the recommendations of MOEF as well as the observations made

by us in this order.

7. S.O to 14<sup>th</sup> June, 2012.

**[ SMT. V.K. TAHILRAMANI, J ]**

**[ D. D. SINHA, J ]**

Amberkar