

K.D. Sharma and ors. Vs. B.M. Dhaul, Chief Engineer (Retd.), Delhi Jal Board,

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Court : Delhi

Decided On : Nov-25-2008

Reported in : 155(2008)DLT263

Judge : Shiv Narayan Dhingra, J.

Appeal No. : Cont. Cas(C) 20/2008

Appellant : K.D. Sharma and ors.

Respondent : B.M. Dhaul, Chief Engineer (Retd.), Delhi Jal Board, ;mr. Arun Mathur, Chief Executive Officer, Delh

Advocate for Def. : Shobhna Takiar, Adv.

Advocate for Pet/Ap. : Ashok Sethi,; Sanjeev Singh and; Hari Mohan, Advs

Judgement :

ORDER

Shiv Narayan Dhingra, J.

1. In the present contempt petition the petitioners have submitted that despite assurances given in the Court in WP 4034-36/2004 4034-36/2004 dated 6.3.2006 that all broken sewer lines as set out in the report of Mr. B.M. Dhaul would be rectified by 31.5.2006 and it would be ensured that no sewage flows into storm water drain, the respondents failed to comply with the order and assurances given

in the Court. Repeated representations and demand letter written by the petitioner after passing of the order had no effect. Petitioner has placed on record representations and letters written to the respondents on 25.8.06, 23.9.06, 13.10.06, 3.11.06, 13.3.07 and 21.8.07 addressed to Chief Engineer, respondent No. 1 pointing out that sewage and sullage was still flowing in the storm water drain. The petitioner contended that respondent No. 2 Mr. Arun Mathur, was squarely responsible for not discharging his duty of inspecting the sewage lines and to stop the flow of sewage and sullage into storm water drain. The contemner, respondent No. 2 was in gross contempt of order of the Court. Respondent No. 3, Chief Engineer and respondent No. 4, Executive Engineer had also failed to perform their duties and functions of stopping sewage and sullage going into the storm water drain. It is stated that Mr. B.M. Dhaul, Chief Engineer of Delhi Jal Board had undertaken before this Court that sewage lines would be restored to original stage by mid of 2006 but this was not done and therefore, they are guilty of willful and intentional disobedience of the order of the Court.

2. In response to the contempt petition, the respondents have denied the allegations of willful and intentional disobedience of the order of the Court and simultaneously pleaded an unconditional apology for any act considered contumacious. It is stated that Kalkaji trunk sewer having a length of 4 km to which the sewer lines of Greater Kailash, Masjid Moth, EPR colony and Chirag Enclave were connected, was more than 35 years old and in bad shape. It was submitted that following actions were taken by the respondents in order to comply with the order of the Court:

(i) The sewer line of 250mmQ carrying discharge from Savitri Cinema Complex was replaced which was found damaged and discharging into the drain.

(ii) The individual house sewer connections of GK-III in front of Savitri Flyover were found discharging directly into the storm water drain. These connections were shifted to sewer line.

(iii) The sewer line carrying the discharge of Masjid Moth and GK III was found damaged inside the drain near Savitri Cinema. The same was restored to carry the sewage in the sewer line.

(iv) Damaged sewer line under Savitri flyover was traced out and replaced to connect the sewer line from Chirag Delhi side into the sewer line.

(v) The sewer line in B-Block Kalkaji was also found directly connected to the drain. Same has been diverted to the trunk sewer line.

(vi) The inflow of sewer into the drain from Savitri Cinema, outer Ring Road side, i.e., southern side of VSNL compound was stopped and diverted into the sewer line.

3. It was further submitted that due to above actions of the respondents flow into the storm water drain was considerably reduced by September 2006. However, fresh settlement was observed in Kalkaji trunk sewer in September 2006 that resulted in increased flow of sewage into 'S' Block storm water drain again. Tenders for fixing sewer lines were invited in November 2006 and during execution of the restoration work, further settlement occurred in the upstream reach of already settled sewer line. This work was completed on 8.1.2008. A decision was taken to rehabilitate the dilapidated trunk sewer line and other steps were also taken. The estimated cost of rehabilitated trunk sewer lines was about Rs. 1700 lac. Tenders for this work were invited in March 2008 but the respondents received no response. Tenders for augmenting sewer system and laying new sewer line costing about Rs. 200 lac were also invited but respondents received no response in November 2007 and re-invited in January 2008. Only one firm participated in the 3rd call and the quotation of this firm was rejected due to high rate.

4. It is admitted by the respondents that sewage from sewer lines falls into the storm water drain system but submitted that this was due to suspected settlements in some reaches of the trunk sewer line and this can be rectified only after rehabilitation of trunk sewer line is complete. It is also admitted that sewage from District Centre Nehru Place is finding its way into storm water drain system and ultimately leads to drain behind S-Block Greater Kailash-I.S.E. (South) has also written to S.E., DDA in this respect.

5. It is pleaded that it was not a case that respondents had not complied with the order but it was a case of re-occurrence of flow of sewage in the storm water drain and it was a case of fresh settlement that resulted in flow of sewage again to drain. The department was in the process of adopting suitable rehabilitation technology for the sewer lines and the tenders would be re-invited shortly. At the present there was sewage flow into S-Block water drain which could not be checked by the respondents. The respondents have high respect for the order of the Court and submit that there was no willful default.

6. It is only in this country that the citizens have to knock at the doors of the Court in order to get the reliefs of the kind as prayed in this petition. It only shows with what contempt the normal citizens of this country are dealt with by the authorities and the essential facilities like sewage lines are not maintained by the department despite repeated complaints of the citizen. When petitions are filed in the Court, false reports are filed to mis-guide the Court as is evident in this case from following part of the order of this Court passed in CWP-4034-36/2004:

It is a matter of great regret that senior officers of Delhi Jal Board have been filing false status reports. The issue has been finally clarified as per the last status report filed under the signatures of Shri B.M. Dhaul, Chief Engineer, Delhi Jal Board.

Under normal circumstances, I would have taken action for perjury against Shri Manohar Chellani, CE(C)(V), Delhi Jal Board but I am informed that he has retired from service and is not keeping good health. I refrain from taking any action against Shri9 Manohar Chellani.

7. Excuses are always available for those who do not want to work. There is no dearth of excuses and on the basis of excuses the persons cannot be exempted from non-compliance of the orders of the Court. It is surprising that main trunk sewer line became dilapidated, as is asserted in the response, within 35 years of its construction. This reflects deep rooted corruption in the department. Main trunk sewer lines are meant to last not decades but centuries since they are life lines of the cities and with them is connected the entire sewage of different areas of the cities.

8. That apart the Court is not interested to know the excuses for which the order could not be executed. If a department which is meant for looking after the sewer lines is not able to stop the flow of sewage and sullage into storm water drain and through storm water drain into river Yamuna, the questions can be raised about the utility of such a department. No excuses can undo the damage being caused by administration by non-stoppage of flow of sewer and sullage into the storm water drain and then into Yamuna, despite an undertaking given to the Court about 2' years back. If 2' years are not sufficient to stop the flow of sewage into storm water drain, what period of time is needed by the department nobody knows. Repeated failure of the sewer system as is pleaded by the respondents also shows the quality of work being done by the respondents.

9. I consider that where there is a callous and negligent attitude in fulfillment of the undertaking given to the Court, it has to be considered by the Court that there is deliberate violation of the order of the Court. In response to several representations written by the petitioner about not complying with the order, the respondents have placed on record only two letters; one is dated 9.2.07 written by Executive Engineer Mr. P. Pant informing the petitioner society that work costing Rs. 52.00 lac is under process of award and the work order is likely to be issued within a week time and the second letter is dated 4.4.08 written by Mr. R.S. Negi, S.E. (South) to S.E. (Circle)XV, DDA Sarita Vihar, New Delhi wherein it is mentioned that sewer from the District Centre Nehru Place is finding its way in the storm water system, which ultimately leads to S-Block GK-I, storm water drain. The RWA of S Block GK-I has filed a contempt petition against Delhi Jal Board and others for failure to stop the flow of sewer in S Block storm water drain in GK-I and the date of hearing was of first week of May 2008, so the SE (Circle) was requested to look into the matter of priority and prevent the flow of sewer in the storm water system. Apart from these two letters, no other letter or document of the respondents shows that respondents had given any serious thought even to stop flow of sewer into the storm water drain.

10. I consider that respondents No. 2, 3 and 4 are in contempt of Court for not abiding by the undertaking given to the Court and liable to be punished for the Contempt of Court. Respondents No. 2, 3 and 4 are awarded a suspended

sentence of two weeks' civil imprisonment and a fine of Rs. 20,000/- each. In case the entire flow of sewage into storm water drain is not stopped within three months from today, the above respondents shall undergo this civil imprisonment. However, they shall be liable to pay the fine in any case which be recovered from their salaries. List the matter on 5th March, 2009.

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