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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10623/2021**

MADHU VIHAR DATA NAGAR WELFARE ASSOCIATION

.....Petitioner

Through: Mr. Himanshu Dagar, Mr. Utkarsh
Goel, Mr. Ashish Sirohi and Mr.
Shreshtah Raj Shrivastava, Advs.

versus

**THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORS.**

.....Respondents

Through: Mr. Vijay Joshi, SC for MCD
Mr. Anuj P. Aggarwala, Adv. for
Delhi Jal Board.
Mr. Vijay Joshi, Senior Panel Counsel
with Mr. Shubham Chaturvedi and
Ms. Katyayini Joshi, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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24.07.2024

1. The petitioner in the instant petition prays for the following reliefs:-

“A. Mandamus, thereby directing the Respondents No. 1 and to 2 to constitute a high level committee to investigate the reasons for seepage of sewage water in the residential area and shops situated at Madhu Vihar, on account of laying of faulty sewage line in the said area by the Respondent No. 3 and to punish the erring officials of the Respondent No.3.

B. Mandamus, thereby directing the Respondents No. 3 to take necessary steps to take immediate steps to extract the sewage water that has entered the residences/houses of the resident members of the Petitioner association.



C. Mandamus, thereby directing the Respondents No. 3 to make appropriate arrangements for repairing of the broken/faulty sewage line and to take corrective measures expeditiously.”

2. Respondent No.3 vide its Action Taken Report has made the following averments:-

“1. The present status report/action taken report is being filed by Respondent No.3 Delhi Jal Board in compliance with the directions passed by this Hon'ble Court vide order dated 12th November, 2021.

2. It is respectfully submitted that at the outset, the answering Respondent denies the allegations made by the Petitioners in the writ petition. It is specifically denied that the sewer system as laid by Respondent No.3 is faulty, or that there is any seepage or overflow of sewer water as alleged by the petitioners.

3. It is submitted for the consideration of this Hon'ble Court that Respondent no. 3 is responsible for the production and distribution of drinking water and for collection, treatment and disposal of domestic sewage in the Capital. In the present matter, the sewerage system has been laid as per design for discharging the sewage of Madhu Vihar area including adjoining areas by the answering Respondent. The sewer lines had been laid by the Project Wing of answering respondent and thereafter handed over to the maintenance wing in the month of March, 2021.

4. On the other, hand, the work of collection and disposal of rain water is the responsibility of other departments of Delhi Government & Central Government like DOA, SDMC, DSIIDC and Irrigation & Flood Control Department etc. The answering respondent is only responsible for sewage disposal in the national capital.

5. On 19.07.2021, the capital city experienced very heavy rain fall. Due to absence of a proper drainage system and storm water drains in the colony and nearby areas, rain water got accumulated on roads/lanes.

6. It is respectfully submitted that there is no sewage water over flow from the sewerage system. Further, sewer lines are not designed to carry rain water. However, as and when rain water accumulates on the roads/lanes, the residents have a practice to open the manhole covers. This results in rain water with silt, garbage, polythene bags, jute bags, wooden & plastic articles entering into the sewer lines resulting into choking of the sewerage system. In fact, answering respondent has also suffered on this account.



7. Be that as it may, it is submitted that the Madhu Vihar colony was inspected on 5.11.2021 by the staff of answering respondent. It was observed that the sewerage system laid down was functioning properly and there was no sewer overflow visible at site. The staff of the answering respondent also removed any existing debris and articles that had entered the sewerage system due to opening of man-hole covers by the residents of Madhu Vihar. Pictures taken during the inspection are annexed herewith and marked as **Annexure R-1**.

8. It is respectfully submitted that as on date, the sewerage system is running properly to discharge the generated sewage. As stated in preceding paragraphs, the problem of water logging and its seepage into houses is due to absence of proper drainage system in the colony/ areas for which answering respondent is not responsible. The photographs/videos at page 21 enclosed with the petition do not pertain to the sewerage system laid by the answering respondent and may have been taken by the petitioner at any construction site fitted with either rain water or seepage water from surroundings areas during construction of manholes.

9. Submitted for kind consideration of this Hon'ble Court. The answering respondent craves leave of this Hon'ble Court to file a counter-affidavit to the writ petition as and when directed by this Hon'ble Court. ”

3. The additional Action Taken Report has further been placed on record, which states as under:-

“1. The present additional status report /action taken report is being filed by Respondent No.3 Delhi Jal Board in compliance with the directions passed by this Hon'ble Court vide order dated 28th January, 2022.

2. It is respectfully submitted that the Madhu Vihar colony was inspected on 5.11.2021 by the staff of answering respondent. It was observed that the sewerage system laid down was functioning properly and there was no sewer overflow visible at site. The pictures taken during inspection conducted on 5.11.2021 are already annexed along with the action taken report dated 24th January, 2022.

3. Even thereafter, the answering Respondent has continued to perform preventive maintenance work on the sewer line. The answering Respondent has carried out the de-silting of sewer lines by sewer cleaning machines and silt and debris has been removed from the sewer lines. True copies of photographs taken by the answering respondent between 27.01.2022 to 31.01.2022 which depict the ongoing maintenance work been carried out



*by the Respondent in Madhu Vihar are annexed herewith and marked as **Annexure R-1**.*

*4. It is most respectfully submitted that while undertaking maintenance work, large amount of debris has been found in the sewer lines including garbage and gunny bags which are improperly disposed/thrown in the sewer lines. True copies of pictures showing all debris that was removed from the sewer lines while undertaking maintenance work by the Respondent are annexed herewith and marked as **Annexure R - 2**. In addition, more photographs taken by the answering Respondent DJB up to 9th February, 2022 while undertaking maintenance work by the answering respondent are annexed herewith as **Annexure R - 3**.*

5. It is respectfully submitted that as on date, the sewerage system is running properly to discharge the generated sewage disposal. As stated in preceding paragraphs, the problem of water logging and its seepage into houses is due to absence of proper drainage system in the colony/ areas for which answering respondent is not responsible.

6. Submitted for kind consideration of this Hon'ble Court. The answering respondent craves leave of this Hon'ble Court to file a counter-affidavit to the writ petition as and when directed by this Hon'ble Court."

4. It is thus seen that after filing of the additional Action Taken Report, the petitioner has not controverted the averments made therein.

5. In view of the action taken by the respondent-Delhi Jal Board, the Court, at this stage, is not inclined to keep this writ petition pending and instead disposes of the same, reserving liberty in favour of the petitioner to re-agitate the issue before the concerned authorities in case the cause still survives.

6. With the aforesaid observations, the petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

JULY 24, 2024

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