

06.02.2025
Item No.3
PG/KS
Ct. No.1

W.P.A.(P) 198 of 2024
Vivekananda Sarkar & Ors.
Versus
The State of West Bengal & Ors.

Mr. Durga Prosad Dutta
Mr. Souvik Sen
.....For the Petitioners
Mr. Kishore Dutta, Ld. A.G.
Mr. Anirban Roy, Ld. G.P.
Mr. Sk. Md.Galib
Mr. Debraj Sahu
Mr. Sayak Chakraborty
.....For the State
Mr. Alok Kr. Ghosh
Mr. Arijit Dey
.....For the K.M.C.
Mr. Gouranga Kumar Das
Mr. Pradyut Saha
.....For the Respondent Nos.5 to 7.

1. The writ petition has been filed alleging that the respondents are proceeding to fill up a water body by putting up construction.
2. Respondent/ Kolkata Municipal Corporation was directed to file a report and the Executive Engineer (C), B.S. Kolkata Municipal Corporation has given written instructions to the learned Standing Counsel for the Kolkata Municipal Corporation dated 3rd July, 2024. In the said report it has been stated as follows:-

“It is not disputed that the competent authority issued the notice dated 16.05.2017 for taking over the management control of the water body upon recording its boundaries without however identifying the same by any premises number, the basis of issuances of the said notice was official notes as prepare by the concerned department. It appears that Environment & Heritage Department at that time did not verified the assessments record of the recorded premises along with the respective nature of uses. It appears that the location of the Jheel/the water body with its boundaries was

based on aerial survey map i.e. National Remote Survey Agency (NRSA) map. The petitioners have also raised their contentions to identify the location of the Jheel based on the satellite image as obtained from Google Earth. But the satellite image and the NRSA Map are apparently at variance with the physical condition of the area in question as existing since long. It further appears from the records that there was no further development in connection with taking over management control of the water body after issuance of the said notice dated - 16.05.2017. In fact, taking over the management control was/is on paper. However, the KMC and its authorities have not taken step nor there is any contemplation to fill up the existing Salboni Jheel or any part thereof in any form of manner at premises no 3 J.K. Ghosh Road.

The Govt. of West Bengal has approved a project namely 'Banglar Bari' Project based on Pradhan Mantri Awas Yojna with the approval of Ministry of Housing and Urban Affairs, Govt of India for implementation thereof on the government land at premises no 3/1 & 3/1/1 J. K Ghosh Road, Kolkata. The proposed project will be implemented on an area of land measuring about 7 bighas (more or less). The Project is now at final Stage towards implementation thereof. The proposed project will not affect the existing Salboni Jheel at a distance of 225 m towards north."

3. Learned advocate appearing for the petitioners would submit that as per the Master Plan, the water body has to be preserved.
4. After taking into consideration the submission made on behalf of either side and the stand taken by the Kolkata Municipal Corporation with the above-mentioned report, we note that the project viz. 'Banglar Bari' has been implemented and it is in the final stage of completion and the Kolkata Municipal Corporation has undertaken that the project will not affect the existing Salboni Jhill, which is at the distance of 225 meters towards North. In order to ensure that the project does not, in any manner, affect

the existing Shalboni Jhill, Kolkata Municipal Corporation shall ensure that the area is clearly cordoned off and if it is feasible to erect the boundary wall to prevent any encroachment into the Shalboni Jhill, the same shall be examined by Kolkata Municipal Corporation and necessary action be taken in accordance with law.

5. Furthermore, the specific stand taken by Kolkata Municipal Corporation is that Kolkata Municipal Corporation and its authorities are not taking any steps nor there is any contemplation to fill up the existing Shalboni Jhill or any part thereof, in any form or manner at premises No.3, J. K. Ghosh Road is placed on record.
6. With the above observation, writ petition stands disposed of.
7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)