



[◀ back](#)

Status: **Pending**

Case Number: **WP 38401/2014**
(KAHC010473412014)

Classification: **GM RES**

Date of Filing: **07/08/2014**
11:44:13

Petitioner: **CITIZENS ACTION GROUP**

Pet. Advocate: **ROHAN KOTHARI**

Respondent: **THE STATE OF KARNATAKA**

Resp. Advocate: **GOVT ADVOCATE FOR R1 & 2**

Filing No.: **WP 38401/2014**

Judge: **ALOK ARADHE AND S VISHWAJITH SHETTY**

Last Posted For: **HEARING - INTERLOCUTORY APPLN**

Last Date of Action: **20/10/2022**

Last Action Taken: **ADJOURNED**

Next Hearing Date: **14/11/2022**

Daily Orders: WP 38401/2014

1	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>20/10/2022</u>
	<p>Smt.Sreeraksha, learned counsel for the petitioner in W.P.No.38401/2014. Mr.M.P.Srikanth, learned counsel for Slum Clearance Board. Mr.G.R.Mohan, learned counsel for the respondent No.7 in W.P.No.38401/2014. Mr.S.H.Prashanth, learned counsel for the BBMP. Smt.Prathima Honnapura, learned Additional Government Advocate for the State - respondents.</p> <p>In compliance of the order dated 14.10.2022, learned Additional Government Advocate has filed a status report in which inter alia it is stated that Subramanyapura lake is situate on land bearing Sy.No.64 of Uttarahalli Village, Uttarahalli Hobli, Bangalore South Taluk. It is further stated that the aforesaid land is recorded as Government gomal lake. A kharab uttar copy dated 25.01.1958 has also been annexed. It is further stated in the affidavit that the road on land bearing Sy.No.64 exists since 1903. Reference has been made to various revenue records in the status report.</p> <p>Learned counsel for the petitioners pray for and are granted two weeks' time to enable them to file objections to aforesaid status report.</p> <p>In view of stand taken on behalf of the State Government, we deem it appropriate to direct the learned Additional Government Advocate to produce the original records for reference of this Court.</p> <p>In respect of Puttenahalli lake, Mr.Amit Deshpande, learned counsel submits that notices for removal of encroachments have already been issued and the action taken report shall be filed on the next date of hearing.</p> <p>Mr.S.H.Prashanth, learned counsel for BBMP shall also apprise this Court with regard to the steps taken for removal of encroachments on storm water drains as well as steps taken to ensure for prevention of dumping of garbage and all other wastes on all storm water drains, before the next date of hearing.</p> <p>List on 14.11.2022.</p>	
2	ACTING CHIEF JUSTICE AND S VISHWAJITH SHETTY	<u>14/10/2022</u>

	<p>Smt.Jayna Kothari, learned Senior counsel for the petitioner in W.P.No.38401/2014.</p> <p>Mr.M.P.Srikanth, learned counsel for Slum Clearance Board.</p> <p>Mr.G.R.Mohan, learned counsel for the respondent No.7 in W.P.No.38401/2014 undertakes to file an affidavit in support of I.A.No.2/2020 on or before the next date of hearing.</p> <p>Mr.S.H.Prashanth, learned counsel for the BBMP undertakes to file a reply to the application filed on behalf of Slum Clearance Board in W.P.No.4964/2021 on or before 19.10.2022 after supplying a copy of the same to the learned counsel for the remaining respondents.</p> <p>Smt.Prathima Honnapura, learned Additional Government Advocate shall also disclose the stand of the State Government by way of an affidavit with regard to existence of a road on Subramanyapura lake.</p> <p>List for order on 20.10.2022.</p>
--	--

3	ACTING CHIEF JUSTICE AND S VISHWAJITH SHETTY	<u>12/10/2022</u>
	<p>Learned counsel for BBMP in W.P.No.38401/2014 may file response to I.A.2/2020 on or before next date of hearing.</p> <p>In W.P.No.4964/2021, Mr.M.P.Srikanth, learned counsel for Slum Clearance Board submits that the slum clearance board has no authority to take action for removal of the encroachment made by slum dwellers on Subramanyapura Lake on an area measuring 1 acre 17 guntas as the slum in question is not a notified slum. It is further submitted that he has filed an application seeking modification of the order dated 12.09.2022.</p> <p>Let a copy of the same be supplied to learned counsel for the petitioner as well as learned Additional Government Advocate and learned counsel for other respondents.</p> <p>Mr.Guru Dhatta, learned counsel who has filed an application seeking impleadment shall supply a copy of the same to the learned counsel for the petitioner as well as counsel for respondents.</p> <p>List for orders on 14.10.2022.</p> <p>Let W.P.No.27067/2019 be also listed for orders on 14.10.2022 along with I.A., which has been filed by learned Senior counsel on 26.08.2022.</p>	

4	ACTING CHIEF JUSTICE AND S VISHWAJITH SHETTY	<u>12/09/2022</u>
	<p>Smt.Jayana Kothari, learned Senior counsel for Mr.Rohan Kothari, learned counsel for the petitioners.</p> <p>Mr.G.R.Mohan, learned counsel for the petitioner in W.P.No.29107/2019</p> <p>Mr.S.Rajashekar, learned Additional Government Advocate for respondent Nos.1 and 2.</p> <p>Mr.Amit Deshpande, learned counsel for respondent No.4-BBMP.</p> <p>Mr.S.H.Prashanth, learned counsel for respondent No.4.</p> <p>Mr.K.Krishna, learned counsel for respondent No.5.</p> <p>Mr.G.R.Mohan, learned counsel for respondent No.7.</p> <p>Mr.Leo F Saldanha, learned counsel for respondent No.8.</p> <p>In pursuance of directions contained in the order dated 15.07.2022 and 20.07.2022, the designated officers of Subramanyapura Lake and Begur Lake have filed the compliance affidavit. From perusal of aforesaid compliance affidavits, it appears that 81 private encroachments were found on Begur Lake. Notices dated 27.07.2022 were issued for removal of the aforesaid encroachments and thereafter, 33 encroachments have been removed.</p> <p>It is stated by learned Senior counsel that out of the remaining, 45 encroachers have filed an appeal before the District Judge viz., M.A.No.54/2022, in which an interim order of injunction has been passed on 04.08.2022. In the said appeals, BBMP has filed objections and the next date of hearing is 16.09.2022.</p> <p>It is therefore directed that in case, BBMP shall file an application seeking vacation of the interim injunction on or before next date of hearing.</p> <p>In respect of remaining area of Begur Lake, viz., plot bearing No.4, it is pointed out that a bench of this court in a writ petition viz., W.P.No.26970/2015 has</p>	

passed an interim order in which BBMP is not a party. The BBMP is therefore, granted the liberty to file appropriate applications in the aforesaid writ petition.

In respect of Subramanyapura Lake, it is pointed out that the land measuring 1 acre and 17 guntas is being utilized for the purposes of a link road and there is an encroachment of 3 acres and 39 guntas by slum dwellers, which is notified as a slum as per order dated 18.03.2005, which is notified in official gazette dated 14.04.2005. It has been pointed out that the removal of encroachment by the slum dwellers has to be carried out by Slum Clearance Board.

Learned Additional Government Advocate has pointed out that a survey was conducted and a mahazar was prepared on 06.09.2022 and notice to slum board was also issued on 01.09.2022. However, neither encroachments have been removed nor any one has appeared on behalf of the slum board.

It is therefore, directed that Executive Engineer of Slum Board shall appear before this court on 12.10.2022.

In respect of Puttenahalli Lake it is pointed out by Mr.Amit Deshpande that despite instructions, Executive Engineer of Bommanahalli Division of BBMP has not submitted the compliance report. Despite order dated 20.07.2022, neither any action has been taken for removal of encroachment on Puttenahalli Lake nor compliance report has been submitted. Therefore, we direct Executive Engineer of Bommanahalli Division of BBMP to remain present on 12.10.2022.

Heard on I.A.1/2022.

The City of Bengaluru has faced unprecedented floods and part of city were was inundated with rain water. The aforesaid situation has arisen as the BBMP has failed to perform its statutory duties of removal of encroachments. A division bench of this court by an order dated 18.06.2019 had issued the following directions:

12. Our attention is invited to the directions contained in paragraph 33 of the order dated 18th June, 2019 and in particular clauses (xii), (xiii) and (xiv) thereof, which contain directions against the State Government as well as BBMP concerning survey of storm water drains and removal of encroachments on the drains. We grant time of six weeks to both the State Government and BBMP to place on record the steps taken for implementation of the said directions.

However, it is brought to our notice that the aforesaid directions have not been complied with. Therefore, we direct the authorities of the State Government as well as authorities of BBMP to take immediate steps for removal of all encroachments on Storm Water Drains immediately and to submit up to date status report and shall also take steps to ensure prevention of dumping of all kind of wastes and other pollutants into Storm Water Drains in this regard on or before next date of hearing.

The requirement of personal appearance of designated authorities of BBMP is dispensed with for the time being.
List on 12.10.2022.

5	ACTING CHIEF JUSTICE AND S VISHWAJITH SHETTY	<u>01/09/2022</u>
	Mr.S.H.Prashanth, learned counsel for the respondent No.4 who assists Mr.D.N.Nanjunda Reddy, learned Senior counsel undertakes to supply a copy of the compliance report to Smt.Sreeraksha, learned counsel for the petitioners during the course of the day. Smt.Jayna Kothari, learned Senior counsel for the petitioners prays for a short accommodation in order to enable her to go through the same. The designated officers who were directed to be present on the earlier occasion, shall remain present on the next date as well. List on 12.09.2022.	
6	ACTING CHIEF JUSTICE AND J.M.KHAZI	<u>20/07/2022</u>
	Smt.Sania.H, learned counsel for Mr.Rohan Kothari, learned counsel for the	

petitioners.

Mr.G.R.Mohan, learned counsel for the petitioner in W.P.No.29107/2019

Mr.S.Rajashekar, learned Additional Government Advocate for respondent Nos.1 and 2.

Mr.Amit Deshpande, learned counsel for respondent No.4-BBMP.

Mr.D.N.Nanjunreddy, learned Senior counsel with Mr.S.H.Prashanth, learned counsel for respondent No.4.

Mr.K.Krishna, learned counsel for respondent No.5.

Mr.G.R.Mohan, learned counsel for respondent No.7.

Mr.Leo F Saldanha, party-in-person for respondent No.8.

Mr.Pramod Kumar N.G., Executive Engineer, Bangalore South Division, Designated Officer for Subramanyapura Lake and Begur Lake present.

Mr.S.G.Hiremath, Liason Officer, Tank Development Authority is also present before the Court.

This court by an order dated 15.07.2022 had directed that designated officer of Subramanyapura Lake and Begur Lake shall remain present before this court and shall state as to within how much time the encroachment on Begur Lake as well as encroachment to the extent of 1 acre and 7 guntas on Subramanyapura Lake would be removed. In compliance of the aforesaid order, the said officer is present before the court who has filed his affidavit stating that aforesaid encroachments on Subramanyapura Lake and Begur Lake shall be removed and has suggested for following timelines:

1. For conducting survey and physical marking of the encroached portions - 30 days (subject to the deputation of the required tahsildars and surveyors by the Government).
2. After survey, time required for serving of notice by identifying the occupants - 30 days (in the manner specified by the KTCDA Act)
3. Provision for time to appeal as per Section 22 (5) of the Karnataka Tank (Conservation and Development) Act, 2014 - 30 DAYS.
4. To arrange for men and machinery towards clearance of encroached areas - 15 days.

After hearing learned counsel for the parties and designated officer, in our opinion, the timelines for clearance of the encroachment are not realistic. This petition is pending before this court since, 2014 and several directions have been issued from time to time. However, the fact remains that the encroachment still exists on the Subramanyapura Lake and Begur Lake.

Learned Additional Government Advocate states that the concerned Tahsildars shall abide by the directions, which may be issued by this Court and human resource and machinery would be made available to the designated officer for removal of the encroachment without any delay.

Therefore, following directions are issued:

(i) Survey and physical marking of the encroached portions of the Lake shall be made within ten days and Tahsildar and Surveyors shall be deputed by the State Government for the aforesaid purpose immediately.

(ii) After the survey, notices shall be issued to the encroachers within a period of one week positively.

(iii) The human resource and machinery including police protection shall be provided to the designated officer by the State Government within period of three days thereafter and the encroachment shall be removed within a period of 10 days thereafter.

A compliance report shall be filed on or before the next date of hearing.

At this stage, party-in-person i.e., respondent No.8 has invited the attention of this Court to the Affidavit dated 01.06.2022 and 13.07.2022 and has pointed out the construction of roads are being made inside Subramanyapura Lake and Begur Lake.

In response, learned Senior counsel for respondent No.4 submits that BBMP is the public body which is bound to abide by the directions of the Supreme Court in Mantri Techzone (P) Ltd. Vs. Forward Foundation reported in (2019) 18 SCC 494 as well as report submitted by Justice N.K.Patil Committee. It is further submitted that the walkway bund in the lake, consisting of mud, is in use in Begur Lake and the same is being constructed around the Subramanyapura Lake, with a view to maintain the lake. It is also pointed out that the aforesaid walkway is not open to the use of public in general and is meant to facilitate the maintenance of lakes.

Learned Senior counsel for respondent No.4 further submits with reference to the first photograph annexed with Affidavit dated 13.07.2022 filed by respondent No.8, that the work of proposed expansion of the road may be fall

within the lake area.

Learned Senior counsel on instructions from Mr.Mohan Krishna, Chief Engineer (Lakes) who is present before this Court submits that no roads are been constructed within the lake areas of Subramanyapura Lake and Begur Lake and states that no new roads would be constructed.

We have considered the submissions made by the learned counsel for the petitioner, learned Senior counsel for respondent No.4 and party-in-person for respondent No.8.

In compliance of order dated 18.06.2019, of CSIR-NEERI, an expert body, was directed to submit the report. The aforesaid expert body, after inspection of the Begur Lake, has stated that BBMP has undertaken work of dewatering, de-silting and de-weeding since July 2018. It has also been stated that in the report submitted by it that formation of walkway has been constructed around the lake using the de-silted material from the lake.

We find no ground not to accept the opinion of the expert body. From the perusal of the aforesaid report the walkway bund is already in existence in Begur Lake. BBMP is, therefore, permitted to construct the walkway bund around the Subramanyapura lake measuring 3 mts in width using de-silted material from the lake. It is also made clear that no construction material except mud shall be used for the purpose of walkway bund. It is also directed that aforesaid walkway bund, shall be used by the BBMP for the purpose of maintenance of the lake for dewatering, de-silting and de-weeding, etc. It is further directed that BBMP shall ensure the walkway bund shall be properly made without compromising on the actual lake area.

It is further directed that the existing roads which are situated within the lake area shall not be widened, and no new roads shall be constructed.

Learned counsel for BBMP prays for and granted time to enable him to seek instructions on I.A.Nos.5/2020 to 7/2020 filed on behalf of respondent Nos.11, 12 and 13.

Mr.Pramod Kumar, Executive Engineer shall remain present on the next date of hearing.

List on 01.09.2022.

7	ACTING CHIEF JUSTICE AND J.M.KHAZI	<u>15/07/2022</u>
	<p>Smt.Jayana Kothari, learned Senior counsel for Mr.Rohan Kothari, learned counsel for the petitioners.</p> <p>Mr.G.R.Mohan, learned counsel for the petitioner in W.P.No.29107/2019</p> <p>Mr.S.Rajashekar, learned Additional Government Advocate for respondent Nos.1 and 2.</p> <p>Mr.Amit Deshpande, learned counsel for respondent No.4-BBMP.</p> <p>Mr.S.H.Prashanth, learned counsel for respondent No.4.</p> <p>Mr.K.Krishna, learned counsel for respondent No.5.</p> <p>Mr.G.R.Mohan, learned counsel for respondent No.7.</p> <p>Mr.Leo F Saldanha, learned counsel for respondent No.8.</p> <p>This court by an order dated 02.06.2022 had directed the designated officers viz., the Executive Engineers of BBMP to take steps for removal of encroachments in Subramanyapura Lake and Begur Lake. This court in the aforesaid order had also noted the encroachments on the tank on the basis of the compliance report dated 11.04.2022 passed by the State Government.</p> <p>When the matter was taken up today, learned counsel for BBMP submitted that there is encroachment of 3 acres and 39 guntas by slum dwellers called Bhuwaneshwarinagara Kolache Pradesha, Uttarahalli on the Subramanyapura Lake and the Slum Development Board is the competent authority to remove encroachments. However, no explanation has been offered by the Designated Officer with regard to other encroachments on Subramanyapura Lake to an extent of 1 acre and 7 guntas. Similarly, in respect of Begur Lake, no satisfactory explanation has been offered with regard to action taken by the designated officers viz., Executive Engineers of BBMP for removal of encroachments. It is only stated before us that they have entered into correspondence with the revenue officials. In the aforesaid circumstances, it is directed that Mr.Pramod Kumar N.G., Executive Engineer, Bangalore South Division, Designated officer for Subramanyapura Lake and Begur Lake shall remain present before this court on 20.07.2022.</p>	

Mr.S.H.Prashanth, learned counsel for respondent No.4 undertakes that the aforesaid officer shall remain present before this court, the said officer shall state before this court as to within how much time they would remove the encroachment on Begur Lake as well as the encroachment to the extent of 1 acre and 7 gutnas on Subramanyapura Lake.

The issue pertaining to encroachment to the extent of 3 acres 39 guntas in respect of the slum dwellings shall be dealt with separately.

Learned counsel for BBMP shall respond to the affidavit filed by respondent No.8 in W.P.No.38401/2014 about the construction of two roads on Begur Lake and Subramanyapura Lake on or before next date of hearing.

In W.P.NO.4964/2021:

This court had passed an order dated 01.04.2022 by which it was directed that Lake Conservation and Development Authority shall take steps for removal of encroachment of Puttenahalli Lake in Bommanahalli Sub-Division of BBMP.

For the reasons assigned in the order dated 02.06.2022, the learned Additional Government Advocate as well as Mr.Amit Deshpande, learned counsel who represents BBMP submitted that the Executive Engineer of Bommanahalli Sub Division of BBMP is the competent authority to remove the encroachment from Puttenahalli Lake.

In view of the aforesaid submission and for the reasons assigned in the order dated 02.06.2022, the direction contained in the order dated 01.04.2022 passed in W.P.No.4964/2021 is modified and the Executive Engineer of Bommanahalli Sub Division, BBMP is directed to take steps for removal of encroachment on Puttenahalli Lake and to submit a compliance report.

Learned Additional Government Advocate shall also file a report with regard to construction of road on Sukkanahalli Palya on 19.07.2022.

IN W.P.NO.29107/2019

Learned counsel for BBMP prays for and is granted three days time to respond to I.A.1/21, which is filed in W.P.No.29107/2019.

Learned counsel for BBBMP shall also file response if any to I.A.5/22, 6/22 and 7/22 on or before next date of hearing.

List on 20.07.2022.

8	ALOK ARADHE AND J.M.KHAZI	<u>02/06/2022</u>
	<p>ORDER IN W.P.NO.38401/2014</p> <p>Smt.Jayna Kothari, learned Senior counsel along with Mr.Rohan Kothari, learned counsel for the petitioner.</p> <p>Mr.Dhyan Chinnappa, learned Additional Advocate General along with Mr.S.Rajashekar, learned Additional Government Advocate for respondent Nos.1 and 2.</p> <p>Mr.D.N.Nanjunda Reddy, learned Senior counsel along with Mr.Amit Deshpande, learned counsel for the respondent No.4.</p> <p>Mr.V.Raghunath, learned counsel for the respondent No.6.</p> <p>Mr.G.R.Mohan, learned counsel for the respondent No.7.</p> <p>Mr.Leo F.Saldanha, respondent No.8-in-person.</p> <p>Smt.Sruti Chaganti, learned counsel for the respondent No.9.</p> <p>This Court, by an order dated 18.04.2022, had referred to the compliance memo dated 11.04.2022 filed by the State Government in which it is stated that the State Government had found the encroachments in respect of Subramanya lake which read as under:</p> <p>(1) There is an encroachment of 1 acre 7 guntas which space is utilised for the purpose of link road between Subramanyapura and Uttarahalli and this road, is presently being used by the general public and is the only connecting road between Subramanyapura and Uttarahalli.</p> <p>(2) There is also encroachment of 3 acres 39 guntas by Slum Dwellers and this slum is called Bhuvaneshwarinagara Kolache Pradesha, Uttarahalli. This slum is notified slum as per order dated 18.03.2005 bearing No.KSACR 4/2003-04 which got notified in official gazette on 14.04.2005. The encroachment by slum</p>	

dwellers needs to be carried out by Slum Clearance Board as it is a notified slum.

Similarly, in respect of Begur lake, the following encroachments have been found:

(1) An extent of 6 acres 37 guntas is encroached by private persons in the lake area.

(2) Encroachment to an extent of 1 acre 36 guntas is already removed. Remaining private encroachment area measuring an extent of 5 acres 1 guntas requires to be removed.

(3) The encroachment of lake area by Government is 3 acres 26 guntas for the purpose of Nice Road and public road.

(4) An extent of 11 guntas is utilized for the purpose of formation of island in the middle of the lake for the purpose of developing tourism in the area for the benefit of general public. BBMP is proposing to develop this island. Details and particulars in this regard will have to be furnished by BBMP. The said 11 guntas is shown as Block No.VIII in blue colour in the survey sketch.

On 31.5.2022, it was directed that a notification issued under Section 10(1) of the Karnataka Tank Conservation and Development Authority Act, 2014 shall be produced by the counsel for the Tank Development Authority.

When a query was put to the learned Additional Advocate General, learned Additional Advocate General submitted that a notification dated 23.05.2016 was issued under Section 13 of the Lake Development Authority Act, 2014 by which the Officers of the Forest Department, Bruhat Bengaluru Mahanagara Palike (BBMP) and the Bangalore Development Authority (BDA) were designated as designated officers in respect of each lake. It is also pointed out that the aforesaid Act was repealed by the Karnataka Tank Conservation and Development Authority (Amendment) Act, 2018. However, under Section 19 of the aforesaid Amendment Act, the action taken under the Lake Development Authority Act has been saved. Therefore, it is submitted that the notification dated 23.05.2016 survives.

On the other hand, learned Senior counsel for the BBMP submits that the aforesaid notification is in contravention of Section 2(d) of the Karnataka Tank Conservation and Development Authority Act, 2014.

Admittedly, a notification under Section 13 of the Lake Development Authority Act, 2014 has been issued, by which the officers of the Forest Department, BBMP and BDA have been designated as designated officers vide notification dated 23.05.2016. The designated officers for removal of encroachments in respect of each of the lakes mentioned therein. In the present proceedings, we are not called upon to examine the validity of notification dated 23.05.2016. Therefore, it is not necessary for us to examine the issue whether the notification dated 23.05.2016 is in contravention to Section 2(d) of the Act. It is not in dispute before us that in view of notification dated 23.05.2016, the Executive Engineers of the BBMP are the designated officers in respect of Subramanyapura lake and Begur lake as has been stated in the said notification. It is also not in dispute that the encroachment exists in the tank area of the aforesaid lakes which is required to be removed by the designated officers in accordance with the procedure prescribed under Section 22 of the Karnataka Tank Conservation and Development Authority Act, 2014. Therefore, it is directed that the designated officers shall initiate proceedings for eviction of unauthorised occupants of Subramanya lake and Begur lake in accordance with the proceeding prescribed under Section 22 of the Act and shall take steps to remove the encroachment. A report in this regard shall be submitted before this Court by the designated officers of the BBMP within a period of six weeks from today. The Additional Advocate General assures this Court that all assistance for removal of encroachments shall be provided to the designated officers if a request is made to the State Government in this behalf.

Mr.Leo Saldanha, respondent No.8-in-person submits that he has filed an affidavit on 01.06.2022 stating that a road is being constructed at Sunkanapalya lake. However, copy of affidavit has been supplied yesterday to the learned counsel for the respondents.

Learned Additional Advocate General and other counsel for the respondents therefore pray for a short accommodation to enable them to seek instructions and to make a statement with regard to construction of road on Sunkanapalya lake.

I.A.No.2/2020 shall be considered on the next date of hearing. In the meanwhile, it is open to the respondents to respond to the same, if so advised.

Let the matter be listed for submission of compliance report on behalf of the designated officers of BBMP, on 15.07.2022.

	<p>ORDER IN W.P.NO.20652/2018 Mr.Kiran C.V., learned counsel submits that he has filed NOC vakalath for respondent No.4. Office is directed to reflect his name as the learned counsel for the respondent No.4.</p> <p>ORDER IN W.P.NO.29107/2019 Mr.G.R.Mohan, learned counsel for the appellant. Let a copy of I.A.No.1/2021 be supplied to the learned Additional Advocate General and the learned Senior counsel for the BBMP. They pray for and are granted two weeks time to enable them to respond to the same.</p>	
9	ALOK ARADHE AND J.M.KHAZI	<u>31/05/2022</u>
	<p>ORDER IN W.P.NO.38401/2014 Smt.Jayna Kothari, learned Senior counsel along with Mr.Rohan Kothari, learned counsel for the petitioner. Mr.Dhyan Chinnappa, learned Additional Advocate General along with Mr.S.Rajashekar, learned Additional Government Advocate for respondent Nos.1 and 2. Mr.Chandan Sanjay Bhat, learned counsel for Mr.Amit Deshpande, learned counsel for the respondent No.4. Mr.V.Raghunath, learned counsel for the respondent No.6. Mr.G.R.Mohan, learned counsel for the respondent No.7. Mr.Leo F.Saldanha, learned counsel for the respondent No.8. Smt.Sruti Chaganti, learned counsel for the respondent No.9. Learned counsel for the BBMP submits that the BBMP is not the competent authority to remove the encroachments. In view of the aforesaid submission, learned Additional Advocate General had invited the attention of this Court to Section 10(1) of the Karnataka Tank Conservation and Development Authority Act, 2014 (hereinafter referred to as 'the Act' for short) and has submitted that under Section 10(1) of the Act, a notification has been issued on 09.10.2019 by the Karnataka Tank Conservation and Development Authority by which an officer of BBMP has been designated as the designated officer under Section 10(1) of the Act and the aforesaid officer is empowered to remove encroachments. When a query was put to the learned counsel for the respondent No.7 - authority, he was unable to state whether the authority has issued a notification under Section 10(1) of the Act. From perusal of Section 10(1) of the Act, it is evident that the authority has to issue a notification to appoint designated officer who has been empowered to remove the encroachments under Section 22 of the Act. Accordingly, it is directed that on or before the next date of hearing, the learned counsel for the authority shall place the notification issued under Section 10(1) of the Act, failing which the Chief Executive Officer of the Tank Conservation and Development Authority shall appear before this Court. List on 02.06.2022.</p>	
10	ALOK ARADHE AND J.M.KHAZI	<u>26/05/2022</u>
	<p>As jointly prayed by learned counsel for the parties, let this appeal be de linked with W.P.No.24768/2005 and be listed separately for hearing in the next week. In W.P.No.38401/2014 Let objections, if any, to I.A.2/20 be filed by the concerned respondents on or before the next date of hearing. List on 31.05.2022.</p>	
11	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>22/04/2022</u>
	List on 26.05.2022.	
12	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>18/04/2022</u>

	<p>ORDER IN W.P.NO.38401/2021</p> <p>Smt.Jayna Kothari, learned Senior counsel for the petitioner.</p> <p>Mr.Dhyan Chinnappa, learned Additional Advocate General for the State – respondents.</p> <p>Mr.G.R.Mohan, learned counsel for the petitioner in W.P.No.11044/2018.</p> <p>In compliance of the order dated 01.04.2022, the State Government has filed compliance memo.</p> <p>Learned Senior counsel for the petitioner has invited the attention of this Court to the aforesaid compliance memo dated 11.04.2022 and has pointed out that the State Government has found the following encroachments in respect of Subramanyapura lake:</p> <p>(1) There is an encroachment of 1 acre 7 guntas which space is utilised for the purpose of link road between Subramanyapura and Uttarahalli and this road, is presently being used by the general public and is the only connecting road between Subramanyapura and Uttarahalli.</p> <p>(2) There is also encroachment of 3 acres 39 guntas by Slum Dwellers and this slum is called Bhuvaneshwarinagara Kolache Pradesha, Uttarahalli. This slum is notified slum as per order dated 18.03.2005 bearing No.KSACR 4/2003-04 which got notified in official gazette on 14.04.2005. The encroachment by slum dwellers needs to be carried out by Slum Clearance Board as it is a notified slum.</p> <p>Similarly, in respect of Begur lake, the following encroachments have been found:</p> <p>(1) An extent of 6 acres 37 guntas is encroached by private persons in the lake area.</p> <p>(2) Encroachment to an extent of 1 acre 36 guntas is already removed. Remaining private encroachment area measuring an extent of 5 acres 1 guntas requires to be removed.</p> <p>(3) The encroachment of lake area by Government is 3 acres 26 guntas for the purpose of Nice Road and public road.</p> <p>(4) An extent of 11 guntas is utilized for the purpose of formation of island in the middle of the lake for the purpose of developing tourism in the area for the benefit of general public. BBMP is proposing to develop this island. Details and particulars in this regard will have to be furnished by BBMP. The said 11 guntas is shows as Block No.VIII in blue colour in the survey sketch.</p> <p>At this stage, Mr.V.Raghunath, learned counsel for the Lake Development Authority submits that it has no authority to remove the encroachment.</p> <p>On the last date of hearing, Mr.Amit Deshpande, learned counsel who had appeared for BBMP had apprised this Court that the Lake Development Authority alone has the authority.</p> <p>In view of aforesaid propagatory stand, learned Additional Advocate General shall make a statement before the Court with regard to the competent authority as well as the steps which may be taken for removal of encroachments, on or before the next date of hearing.</p> <p>It will be open for the respondents to file objections to the application which has been filed by the State Government for recalling the orders dated 02.06.2021 and 16.06.2021.</p> <p>List on 22.04.2022.</p>	
13	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>11/04/2022</u>
	<p>Mr.V.Raghunath, learned counsel for Lake Development authority submits that Lake Development Authority has already carried out the inspection and shall submit a status report within two weeks by 13.04.2022.</p> <p>List on 18.04.2022.</p>	
14	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>01/04/2022</u>
	<p>W.P.No.38401/2014</p> <p>In W.P.No.38401/2014, learned Senior counsel for the petitioner has invited the attention of this court to the directions contained in the order dated 16.06.2021 and has pointed out that the respondents in particular, the BBMP and the State Government have not complied with the following directions:</p>	

(i) Even though survey in respect of Arehalli Lake has been undertaken, yet the survey report has not be annexed by BBMP.

(ii) Despite the direction contained in the order dated 16.06.2021, the State Government has not taken any action for removal of encroachment by Muzrai Temple over an area measuring 8.08 guntas.

(iii) Despite a direction to the State Government, the State Government has not undertaken the survey of lakes and buffer zones in the State.

Learned Additional Government Advocate undertakes to place on record the steps taken by the respondent in respect of removal of encroachment on land measuring 8.08 guntas by Muzrai Temple on or before next date of hearing. Learned Additional Government Advocate further states that in pursuance of the directions contained in the order dated 16.06.2021, the State Government as carried out a survey of lakes and buffer zones and undertakes to produce the survey report on the next date of hearing.

W.P.No.29107/2019

In W.P.No.29107/2019, learned Additional Government Advocate submits that the entries made in the RTC extract have been corrected and the area for the burial ground has been separately earmarked and the entries lake in Mysore has been restored.

In view of aforesaid submission, I.A.No.1/2021 in WP No.29107/2019 is disposed of.

W.P.No.38401/2014

At this stage, respondent No.8 in W.P.No.38401/2014 submits that he has filed a memo in the Registry of this court on 31.03.2022. It is further submitted that the encroachments are taking place on Subramanyapura Lake, Bengaluru.

In view of aforesaid submission, learned counsel for BBMP states that the Subramanayapura Lake is managed by BBMP. The competent authority of the BBMP is therefore, directed to undertake a survey of the aforesaid lake and to ascertain the area of encroachment on the lake as well as its surrounding area. The BBMP shall submit a report in this regard on or before the next date of hearing and shall also apprise this court with regard to the steps, which shall be taken by BBMP to remove the encroachment on the lake.

It is also pointed out by respondent No.8 that a Raja Kaluve is situated adjacent to Subramanyapura Lake and the aforesaid Raja Kaluve is under encroachment.

In view of aforesaid submission, learned counsel for BBMP submits that the aforesaid Raja Kaluve has not been handed over to the BBMP and the BDA has carried out the survey before handed over to BBMP and the same can be handed over to BBMP after a notification is issued in this regard by the State Government.

In view of the aforesaid submission, learned counsel for the BDA as well as the State government undertake today to initiate action for the transfer of the management of the said Raja Kaluve to the BBMP on or before next date of hearing.

In the meanwhile, BBMP is directed to take effective steps to prevent encroachment on the Subramanyapura Lake. Learned AGA shall also report compliance with regard to removal of encroachment on the Begur Lake on or before next date of hearing.

Heard on I.A.2, 3, 4 , 5 & 6/21. Mr.Pradeep Naik, learned counsel for the impleading applicants submits that the applicants are public chartable trust who are interested in the upkeep of the lake areas. Learned senior counsel for the petitioner submits that she does not object to the impleadment of the impleading applicants. For the reasons assigned in the applications which are duly supported by an affidavit, the same are allowed. Let the necessary amendment be carried out within a period of one week.

Let I.A.12-17/2021 be posted for consideration on the next date of hearing. In the meanwhile, it will be open for the petitioner to file objections to the same.

WA 1226/2021

Learned Senior Counsel for the petitioner submitted that a report with regard to the current status of land as well as the details of the encroachments, if any, in the land which is the subject matter of this petition may be called for from the Lake Development Authority.

	<p>Learned counsel for Lake Development Authority in undertakes to produce status report of the land in question on or before next date of hearing.</p> <p>W.P.No.4964/2021</p> <p>In W.P.No.4964/2021, learned counsel for the Karnataka Lake Conservation and Development Authority undertakes to initiate steps for removal of encroachment of Puttenahalli Lake under the provision of Section 24 of the Karnataka Lake Conservation and Development Authority Act, 2015 and to report compliance on or before next date of hearing. List on 11.04.2022.</p>	
15	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>24/03/2022</u>
	<p>ORDER IN W.P.NO.38401/2014 Smt.Jayna Kothari, learned Senior counsel for the petitioner. Learned counsel for the BBMP submits that in compliance of the order dated 16.06.2021, BBMP has filed compliance report on 15.03.2022. However, learned Senior counsel for the petitioner and other counsel for the respondents submit that they have not received a copy of the aforesaid compliance report. Let a copy of the compliance report be served on the learned Senior counsel for the petitioner as well as the learned counsel for the respondents during the course of the day. ORDER IN W.P.NO.4964/2021 Smt.Sindhu V., learned counsel for the petitioner submits that the office objections have been complied with. Learned counsel for the petitioner submits that on the bund of the lake namely Puttenahalli lake situated at J.P.Nagar area in the municipal limits of Bommanahalli Zone, an area measuring 1 acre 35 guntas, has been encroached by the encroacher. In view of the aforesaid submission, Mr.Amit Deshpande, learned counsel for the BBMP prays for an adjournment in order to enable him to seek instructions. ORDER IN W.P.NO.29107/2019 Mr.G.R.Mohan, learned counsel for the petitioner submits that office objections have been complied with. Mr.S.Rajashekar, learned Additional Government Advocate shall file an additional status report in lieu of the status report filed on 28.06.2021. Let the matters be listed on 01.04.2022.</p>	
16	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>14/03/2022</u>
	<p>Sri G.R.Mohan, learned Counsel for respondent no.7 in W.P.No.38401/2014. Sri S.H.Prashanth, learned Counsel for respondent no.4 in W.P.No.38401/2014. Learned Counsel for respondent no.4 submits that he would file compliance affidavit in terms of the directions issued on 16.06.2021 during the course of the day. In the meanwhile, it will be open to the parties to file objections to IA-2/2020 in W.P.No.38401/2014. List on 24.03.2022.</p>	
17	ALOK ARADHE AND S VISHWAJITH SHETTY	<u>03/03/2022</u>

	<p>ORDER ON I.A.NO.13/2021 IN W.P.NO.38401/2014</p> <p>Smt.Jayna Kothari, learned Senior counsel for the petitioner.</p> <p>Smt.Vani H., learned Additional Government Advocate for the respondent Nos.1 and 2.</p> <p>Mr.A.S.Ponnanna, learned Senior counsel along with Smt.Sumangala Simmimath, learned counsel for the respondent No.3.</p> <p>Mr.Shanth Kumar, learned counsel for Mr.S.N.Prashanth Chandra, learned counsel for the respondent No.4.</p> <p>Mr.K.Krishna, learned counsel for respondent No.5.</p> <p>Mr.V.Raghunath, learned counsel for respondent No.6.</p> <p>Mr.G.R.Mohan, learned counsel for the respondent No.7.</p> <p>Mr.Pradeep Nayak, learned counsel for the impleading applicant in I.A.Nos.2/21, 3/21 and 4/21.</p> <p>Heard on I.A.No.13/2021, an application filed by the BWSSB seeking modification of the order dated 21.10.2019 passed by a Bench of this Court and to permit the aforesaid respondent to carry out the work of setting up of sewage treatment plant (STP) at Kaggadasapura on an area measuring 1 acre 18 guntas on Sy.No.124/3.</p> <p>This Court, by an order dated 15.02.2022, had directed the Chief Executive Officer of the Karnataka Tank Conservation and Development Authority to file an affidavit on the following issues:</p> <ol style="list-style-type: none"> 1. Whether the proposed STP shall be constructed beyond the buffer zone. 2. What would be the effect of construction of STP on the Kaggadasapura lake. <p>In pursuance of the aforesaid directions, Mr.C.Mruthyunjaya Swamy , Chief Executive Officer, Karnataka Tank Conservation and Development Authority has filed an affidavit and in paragraph 2 of the affidavit, it is stated that the proposed construction of STP by BWSSB does not fall within the lake buffer zone area as the same is sought to be constructed on an adjacent land belonging to the State Government bearing Sy.No.124/3 measuring 3 acres 26 guntas. It has further been stated in the affidavit that out of the said area, the construction of STP shall be made on an area measuring 1 acre 18 guntas which is outside the buffer zone. In paragraph 3 of the affidavit, it is stated that the construction of STP is a requirement to treat sewage generated in the urban conglomeration before letting into the lake which will help in rejuvenation of lake and its biodiversity. It is also stated that the proposed STP is adjacent to the lake which is very much feasible and ideal. The aforesaid affidavit is taken on record.</p> <p>In view of the affidavit filed on behalf of the expert body that the construction of STP is in public interest and with a view to conserve and preserve lake in question as well as the fact that the proposed construction is sought to be made outside the buffer zone of the lake in question, we permit the BWSSB to construct the water sewage treatment plant of 5 MLD capacity on an area measuring 1 acre 18 guntas on Sy.No.124/3 which is outside the buffer zone of the Kaggadasapura lake.</p> <p>The order passed by this Court dated 21.10.2019 needs no modification.</p> <p>Accordingly, I.A.No.13/2021 is allowed.</p> <p>At this stage, learned counsel for the respondent No.7 has invited the attention of this Court to order dated 18.06.2019 and submits that the directions contained in the aforesaid order have not been complied with by the State Government as well as by the BBMP.</p> <p>Learned counsel for the BBMP prays for and is granted one week's time to comply with the directions contained in the order dated 18.06.2019 on or before 11.03.2022, failing which appropriate order shall be passed.</p> <p>The Competent Authority of the State Government as well as the Commissioner, BBMP shall also file a status report with regard to compliance of directions contained in the order dated 16.06.2021.</p> <p>List on 14.03.2022.</p>	
18	ALOK ARADHE AND M.G.S. KAMAL	<u>25/02/2022</u>

	<p>ORDER ON I.A.NO.13/2021 IN W.P.NO.38401/2014</p> <p>Smt.S.R.Anuradha, learned Senior counsel for the petitioner.</p> <p>Mr.G.R.Mohan, learned counsel for the petitioner in W.P.No.11044/2018.</p> <p>Mr.V.Laxminarayan, learned Additional Government Advocate for the respondent Nos.1 and 2.</p> <p>Mr.A.S.Ponnanna, learned Senior counsel along with Smt.Sumangala Simmimath, learned counsel for the respondent No.3.</p> <p>Mr.K.Krishna, learned counsel for respondent No.5.</p> <p>Mr.V.Raghunath, learned counsel for respondent No.6.</p> <p>Heard on I.A.No.13/2021, an application filed by BWSSB seeking modification of the order dated 21.10.2019 passed by a Bench of this Court and to permit the aforesaid respondent to carry out the work of setting up of sewage treatment plant at Kaggadasapura on an area measuring 1 acre 18 guntas on Sy.No.124/3.</p> <p>Learned Senior counsel for the respondent No.3 submitted that in order to prevent sewage water from entering Kaggadasapura lake, the Karnataka State Pollution Control Board directed the BWSSB to build a treatment plant in order to treat the sewage water and to let the treated water into the lake. In furtherance of the aforesaid order, the BWSSB has invited tenders and successful bidder has been issued work order. It is also submitted that the total amount of work for construction of 5 MLD capacity STP near the lake in question is estimated at Rs.26,38,35,800/- which includes the operation and maintenance cost of constructed plant for a period of 10 years. It is further submitted that the respondent No.2 has also obtained permission from the revenue authorities namely the Deputy Commissioner and the Tahsildar. It is also pointed out that sewage treatment plant shall be constructed on an area measuring 1 acre 18 guntas which is outside the buffer zone and is ideal for construction of Sewage Treatment Plant (STP). It is further submitted that setting up of STP would ensure conservation as well as preservation of the lake. It is also urged that any further delay would result in loss of public exchequer as the cost of the project would escalate.</p> <p>On the other hand, learned counsel for the petitioners submitted that they do not oppose to the construction of STP. However, it is urged that the STP should not be constructed within the buffer zone and an opinion of an expert should be obtained by this Court to ascertain the effect of setting up of STP on the lake in question.</p> <p>In view of the aforesaid submission and in view of the competing interest, we deem it appropriate to direct the Chief Executive Officer of the Karnataka Tank Conservation and Development Authority which is an expert body and is entrusted with the task of conservation and preservation of lakes in the State of Karnataka, to file an affidavit stating as follows:</p> <ol style="list-style-type: none"> 1. Whether the proposed STP shall be constructed beyond the buffer zone. 2. What would be the effect of construction of STP on the Kaggadasapura lake. <p>Let the aforesaid affidavit be filed on or before 03.03.2022.</p> <p>In the meanwhile, let objections if any, to W.P.No.4964/2021 be filed.</p> <p>List on 03.03.2022.</p>	
19	ALOK ARADHE AND M.G.S. KAMAL	<u>14/02/2022</u>
	<p>Mr.Rohan Kothari, learned counsel for the appellant submits that Smt.Jayna Kothari, learned Senior counsel is not available. He, therefore, prays for an adjournment.</p> <p>List on 25.02.2022.</p>	
20	RITU RAJ AWASTHI(CJ) E AND SURAJ GOVINDARAJCJ ,SGRJ	<u>27/01/2022</u>

	<p>WP NO. 38401/2014 Connected Cases: WP NO.24768/2005, WP NO.11447/2016, WP NO.11044/2018, WP NO.20652/2018, WP NO.27067/2019, WP NO.29107/2019, WP NO.4964/2021, WP NO.5956/2021, WP NO.14472/2021</p> <p>It has been pointed out by learned Senior Counsel for the petitioners that the case is wrongly listed before this Bench today. There is already an order dated 25.03.2021 to list the matter before a Bench of which Hon\ble Justice Suraj Govindraj is not a party. Office shall comply the order dated 25.03.2021 and list it before the appropriate Bench.</p>	
21	RITU RAJ AWASTHI(CJ) AND SACHIN SHANKAR MAGADUM	<u>07/12/2021</u>
	<p>Learned counsel for the petitioner prays for and is allowed two weeks\ time to file objections to I.A preferred by respondent No.3 in W.P No.38401/2014. List on 24.01.2022.</p>	
22	RITU RAJ AWASTHI(CJ) AND SACHIN SHANKAR MAGADUM	<u>07/12/2021</u>
	ADJOURNED	
23	ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA	<u>18/08/2021</u>
	<p>WP NO. 38401/2014 Connected Cases: WP NO. 24768/2005, WP NO. 11447/2016, WP NO. 11044/2018, WP NO. 20652/2018, WP NO. 29107/2019, WP NO. 4964/2021, WP NO. 5956/2021</p> <p>W.P.No.38401 of 2014 We have perused the report dated 17th August 2021 submitted by Sri Kamal Pant, IPS, Commissioner of Police, Bengaluru City and all the annexures thereto. The copies of the said report along with the annexures be supplied to the learned counsel appearing for the parties.</p> <p>2. The learned counsel appearing for the ninth respondent relies upon the memo dated 16th August 2021. Though the learned Additional Government Advocate submits that an action has been already taken on the basis of what is stated in the memo, we direct him to supply a copy of the said memo along with the annexures to the Police Officer who is investigating Crime No.169/2021. Needless to add that the investigating officer shall look into the said memo and the documents annexed thereto.</p> <p>3. We direct the Deputy Commissioner of Police, South-East Division, Koramangala, Bengaluru to supervise the investigation in connection with Crime No.169/2021 and submit a report to this Court containing the details of the investigation carried out till 31st August 2021. The report shall be filed on record in a sealed cover on or before 2nd September 2021.</p> <p>4. The affidavit of Sri Gaurav Gupta, the Chief Commissioner of the Bruhat Bengaluru Mahanagara Palike (BBMP) dated 18th August 2021 is taken on record. We make it clear that the State Government shall take an appropriate decision on the appeal/application made by BBMP 19th March 2021 as expeditiously as possible and preferably, within a period of one month from today.</p> <p>ORDERS ON I.A.NOS.7 & 8 OF 2021 IN W.P.NO.38401/2014</p> <p>5. Paragraph 8 of the order dated 11th August 2021 on these two applications reads thus: \"8. We have heard the learned counsel appearing for the applicant (proposed respondent No.7). She states that all the encroachments made by the applicant on Kaggadasapura lake have been removed except two pillars. Her submission is that if the said two pillars are removed, the apartment building may come down. However, there is no such material placed on record in support of the said</p>	

	<p>contention. We direct the applicant to produce the relevant photographs and other material on record. The learned Additional Government Advocate will also take instructions.\"</p> <p>Today, our attention is invited to the averments made in paragraph 4 of the affidavit filed in support of I.A.No.8/2021 which reads thus: \"4. I state that pursuant to the order dated 18.03.2016, the Tahsildar, Bengaluru East Taluk vide his letter dated 26.05.2016 bearing No.LND/CR/613/2011-12 had given a report to the Special Deputy Commissioner, Vigilance Bangalore stating that Mojini Dhararu from Department of Survey Settlement and Land Record and ADLR had conducted a survey and also had submitted a map report dated 29.04.2016 wherein the flat owners of the Proposed Respondent No.7 had released the land to the Government and consequently cannot demolish the compound wall as there are two main pillars attached to the compound. A copy of the letter dated 26.05.2016 issued by Tahsildar along with the Mahazar report drawn by the Village Accountant; Bangalore East Taluk is produced herewith as Document No.2.\"</p> <p>6. Hence, a clear stand was taken by the applicant earlier that the two pillars which are required to be demolished are attached to a compound. However, before the Court, as could be seen from paragraph 8 of the said order dated 11th August 2021, a submission was made that all the encroachments made by the applicant on Kaggadasapura lake except two pillars have been removed and if the said two pillars are removed, the apartment building may collapse. Thus, either there is a false statement made in paragraph 4 of the affidavit filed by Dr.K.V.S.Ananda Babu who is the President of the proposed seventh respondent or he has given instructions to his lawyer to make a statement which is untrue. Before we initiate action against the said Dr.K.V.S.Ananda Babu, we call upon him to file an affidavit explaining his conduct.</p> <p>7. However, in the meanwhile, to avoid any controversy, we direct the jurisdictional Tahsildar to visit the site and to demarcate the said two pillars in presence of Dr.K.V.S.Ananda Babu or a representative of the applicant. This exercise shall be completed within a period of one week from today. The direction contained in paragraph 9 of the order dated 11th August 2021 will continue to operate till 27th August 2021.</p> <p>8. List this group of petitions on 26th August 2021 at 4.15 p.m.</p>	
24	ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA	<u>11/08/2021</u>
	<p>WP NO. 38401/2014 Connected Cases: WP NO. 24768/2005, WP NO. 11447/2016, WP NO. 11044/2018, WP NO. 20652/2018, WP NO. 29107/2019, WP NO. 4964/2021, WP NO. 5956/2021</p> <p>W.P.No.38401 of 2014: The learned counsel appearing for the ninth respondent has filed a memo dated 11th August 2021. By filing the memo, a shocking incident of unveiling of the idol of Lord Shiva installed by the Bruhat Bengaluru Mahanagara Palike (BBMP) on an artificially created island in Begur lake has been brought to the notice of this Court. Our attention is also invited to the interim orders dated 30th August 2019, 17th September 2019 and 22nd February 2021. In the said orders, it has been held that the decision to create islands in the lake was prima facie illegal. In fact, the order dated 17th September 2019 holds that the decision to install the idol/statue of Lord Shiva on the island was prima facie illegal. Paragraph 4 of the said order reads thus: \"4. If the action of making or creating artificial islands in the said lake is prima facie illegal, it follows the subsequent decision of installation of the stone statue of Lord Shiva is illegal. We may note such decisions taken by BBMP show that it has completely forgotten the applicability of Doctrine of Public Trust. The BBMP cannot treat the lakes as if the same are of their private ownership. Moreover, as regards installation of a statue, in paragraph 12 of the affidavit, it is stated that such action is being taken on the request made by the members of public and by the Committee of Nageshwara temple situated at the shore of the lake. Prima facie, it appears to us while passing a resolution permitting installation of a statue, BBMP has acted in contravention of sub-section (2) of Section 12 of the said Act of 2014. As stated earlier, prima facie, it is our view that the Lake</p>	

Authority cannot permit such activities as the same are not covered by sub-section (6) of Section 12. There is a prayer made in the affidavit to permit the BBMP to go ahead with work. Considering the prima facie findings recorded as above, we are not inclined to modify our order dated 30th August 2019 as regards the said lake. One more reason why we are declining to modify the same is that after the State Government and BBMP have agreed to appoint National Environmental Engineering Research Institute (for short 'NEERI') as consultants, no further steps should be taken unless the proposed activities are looked into by NEERI."

Paragraphs 5 and 6 of the order dated 22nd February 2021 read thus:

"5. The learned senior counsel appearing for BBMP submits that certain work is required to be carried out on the islands already created. However, from the order dated 17th September, 2019 and in particular paragraph 4 thereof, it appears that as per the stand taken on oath earlier by BBMP, the main object of creating the island seems to be installation of an idol thereon as per the request made by members of the public and the Committee of Nageshwara Temple which is situated on the shore of the lake. Therefore, BBMP will have to make its stand clear on the removal of the idol before we consider the prayer for carrying out the work on the islands.

6. While we observe that except what is prohibited under the order dated 30th August, 2019, all other works can be carried as per the advice of NEERI, we direct BBMP to take a clear stand on the removal of the idol by the next date. This application will be considered on 3rd March, 2021 at 3.45 p.m."

2. Our attention is also invited to the annexures produced along with the said memo. We direct the learned Additional Government Advocate to forthwith forward a copy of the said memo along with the annexures to the Commissioner of Police, Bengaluru who will personally look into the matter and initiate action in accordance with law.

3. The learned counsel appearing for BBMP states that status quo ante has been restored today in the morning by BBMP by again covering the statue and by removing the flags on the island.

4. If anyone is aggrieved by the orders passed by this Court, he has the statutory remedies available. Those who were aggrieved by the interim orders of the Court could have always challenged the interim orders or could have applied to the Court for intervention and modification of the said orders. If what is stated in the memo is correct, the practice of defying the orders of the Court in this fashion has to be strongly deprecated by all concerned. No law enforcing agency should tolerate such behaviour. We, therefore, direct the State Government to ensure that the police force is deputed to keep a constant vigil near the island created in Begur lake.

5. If the orders passed by this Court from time to time are perused, it is very clear that all the orders are intended to ensure that the existing lakes in the State are protected and the lakes which have disappeared with the passage of time are restored and rejuvenated. The issue involved about Begur lake is about the legality of the action of BBMP in creating an artificial island for installing a statue of Lord Shiva. Whether an island can be constructed in a lake is also a legal and factual issue. There is no religious issue involved in this group of petitions.

6. The State Government will report compliance about the action taken by the Commissioner of Police as well as the action taken of posting the requisite number of police for keeping round-the-clock vigil around Begur lake. The report shall be submitted by the State Government by 17th August 2021.

7. The learned Additional Government Advocate appearing for the State Government has submitted a memo enclosing therewith a survey report of Subramanyapura lake. The eighth respondent also has filed a memo. The learned counsel appearing for BBMP seeks time to take instructions both on the memo filed by the eighth respondent and the survey report of Subramanyapura lake.

ORDERS ON I.A.NOS.7 & 8 OF 2021 IN W.P.No.38401/2014

8. We have heard the learned counsel appearing for the applicant (proposed respondent No.7). She states that all the encroachments made by the applicant on Kaggadasapura lake have been removed except two pillars. Her submission is that if the said two pillars are removed, the apartment building may come down. However, there is no such material placed on record in support of the said contention. We direct the applicant to produce the relevant photographs and

	<p>other material on record. The learned Additional Government Advocate will also take instructions.</p> <p>9. Till the next date, no action shall be taken on the basis of the notice dated 9th August 2021 as prayed for in I.A.No.8/2021.</p> <p>KAGGADASAPURA LAKE</p> <p>10. We have perused the compliance report dated 10th August 2021 submitted by the State Government in respect of removal of the encroachments on Kaggadasapura lake. It is pointed out that there is a Yoga Mandir constructed by BBMP on the said lake. The learned counsel appearing for BBMP seeks time to take instructions regarding removal of the said Yoga Mandir. He states that as regards the Dry Waste Collection Centre, this Court has already granted time of three months to BBMP to remove the same. The details of 20 encroachments have been set out in the said report. The aforesaid encroachments by BBMP are at Sl.Nos.12 and 13. As regards the encroachment at Sl.No.3, today, we have granted an interim relief till the next date. As regards the encroachments made by other private parties, notices have been issued and in many cases, the action of removal is proposed on 12th August 2021. Further action taken report shall be submitted by BBMP within a period of one month from today.</p> <p>11. At this stage, the learned Additional Government Advocate tenders across the Bar two separate memoranda reporting compliance with the directions issued in paragraph 17 of the order dated 14th July 2021. The copies thereof be supplied to the learned counsel appearing for the parties so that they can be heard on this issue.</p> <p>IN W.P.No.29107/2019</p> <p>12. The State Government has filed a compliance memo today by placing on record the survey report of Hebbal lake, Mysuru. The survey report shows that there are encroachments including the encroachment made by the State Government by construction of a Sewage Treatment Plant (STP) which is in violation of Section 12 of the Karnataka Tank Conservation and Development Authority Act, 2014. We direct the State Government to make a statement on the next date when all the encroachments as can be seen from the survey report will be removed including the encroachment made by it by construction of STP.</p> <p>13. For considering the directions issued today about Begur lake as well as for considering the compliance to be reported in terms of the order passed on I.A.Nos.7/2021 and 8/2021 in W.P.No.38401/2014, the petitions shall be listed on 18th August 2021 at 4.30 p.m. On that day, the other compliances including compliance with the order dated 5th March 2021 will be considered.</p>	
25	<p>ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA</p>	<u>14/07/2021</u>
	<p>WP NO. 38401/2014 Connected Cases: WP NO. 29107/2019, WP NO. 20652/2018, WP NO. 11044/2018, WP NO. 11447/2016, WP NO. 24768/2005, WP NO. 5956/2021, WP NO. 4964/2021</p> <p>1. As indicated in paragraph 11 of our order dated 16th June 2021, we are dealing with the issue of preservation and protection of thirty meters buffer zone around the lakes. This issue arose in the context of the directions issued by this Court to carry out a survey of Krishnarajpura lake. The survey report discloses that there is a small encroachment to the extent of 0.01 gunta on the lake area by the Forest Department. The survey report indicated that there are no encroachments on the buffer zone of the said lake. But, the owner of the adjacent land in survey No.20 has erected a compound wall/fencing along with the boundary of the lake. As can be seen from the survey map, some part of the private land in survey No.20 forms a part of buffer zone of the said lake. It is in this context that the issue regarding buffer zone arose before this Court. The State Government has filed a memo of compliance along with which the photographs showing the said wall constructed in the buffer zone have been produced.</p> <p>2. A reference will have to be made to the judgment and order dated 11th April 2020 in the case of ENVIRONMENT SUPPORT GROUP AND ANOTHER vs. STATE OF KARNATAKA REPRESENTED BY ITS CHIEF SECRETARY AND OTHERS . A perusal of the said decision shows that while dealing with the specific issues concerning</p>	

the lakes subject matter of a group of petitions before this Court, the Court has generally dealt with the issue of lakes. It is under this decision that the concept of thirty meters buffer zone around the lakes was evolved.

3. By the order dated 7th April 2011 passed by this Court in Writ Petition No.817 of 2008, a Committee was constituted under the Chairmanship of Hon'ble Shri Justice N.K.Patil. The order records that the Committee was appointed to suggest a strategy for preservation of lakes in Bengaluru. Accordingly, there are two reports of the Committee which are placed on record. The first report is dated 26th February 2011 based on the order of this Court dated 26th November 2010 passed in the said writ petition. Under the order dated 26th November 2010, a Committee was constituted by this Court to examine the ground realities and prepare an action plan for preservation of lakes in the city of Bengaluru. The Committee was headed by Hon'ble Shri Justice N.K.Patil. In the report dated 26th February 2011, Clause 8 has the heading \"Strategy for preservation of Bengaluru lakes\". Sub-clause (4) of clause 8 is relevant for the purpose of buffer zone which reads thus:

\"The present norm of 30 mt buffer surrounding leagal boundary lakes is a must to preserve the lakes and if the buildings are allowed too close to lakes, it will affect the lake environment adversely. The buffer limits, needs to be reviewed and it is suggested to increase the 30 mt buffer progressively by 2mt per every 5 ha of increase in lake area beyond 40 hac. This will facilitate development of buffer surrounding the lake in the form of tree parks, walking path without reducing/compromising lake area for creation of such facilities.\"

(underline added)

4. In paragraph 26 of the aforesaid decision in the case of ENVIRONMENT SUPPORT GROUP AND ANOTHER (supra), the Division Bench has observed that the recommendations made by the Committee headed by the Hon'ble Shri Justice N.K.Patil have been accepted. But the interim orders passed in the said petition have not been specifically extended. Clause (2) of the operative part is relevant which reads thus:

\"The unauthorised construction within the 30 mtrs of peripheral lake area have to be removed.\"

Hence, a specific direction was issued that the unauthorised constructions within thirty meters peripheral lake area must be removed. Correspondingly, under clause (5) of the operative part of the said decision, a direction was issued to the Forest Department to undertake planting of the trees and saplings in the buffer zone of the lake.

5. At this stage, it is necessary to make a reference to the provisions of the Karnataka Tank Conservation and Development Authority Act, 2014 (for short 'the Tank Conservation Act'). The Tank Conservation Act contains a very wide definition of \"tank or ponds or lake\" in clause (g) of Section (2). Firstly, we deal with the provisions of the Tank Conservation Act, as it stood prior to its amendment made by the Karnataka Act No.15 of 2018. What is material for our consideration is Section 12 of the original Act which reads thus:

\"12. Acts prohibited in tanks.- Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government Departments, corporation or any local or other authority and their agents or employees or any body on their behalf shall.-

(1) use the tank for any purpose other than storage or impounding of water or for the purpose mentioned in clause (9) of section 5;

(2) construct any structure on tank land, occupy any tank land or part there of or cause any obstruction at the natural or normal course of inflow or outflow of water into, or from, the tanks on the upstream and or downstream;

(3) make any construction or carry on any commercial or recreational or industrial activity within thirty meters from the outer boundary of the tank;

(4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the tank by using vehicle or otherwise;

(5) discharge untreated sewage into the tank directly or indirectly;

- (6) construct roads, bridges and allied works within tank area including the tank bund. The Authority may grant permission for such works only after ensuring that the original capacity of the tanks is not reduced even after such work;
- (7) breach bund, waste weir including lowering raising the height of the waste weir from its original height or remove fence, boundary stones or any hoarding or any sign board erected by the authority; and
- (8) do any other act which is detrimental directly or indirectly to the tanks:

Provided that nothing in this Act shall prohibit withdrawal of water for drinking or irrigation or any other purpose, for human consumption from any tank specified by the Authority from time to time:

Provided further that nothing in this Act shall prohibit stocking of fish seeds and development of fisheries (except the fish which are dangerous or harmful to the aquatic eco-system of the tank) by the Government and its licensee, lessees or contractor in any tank specified by the Authority from time to time."

(underlines supplied)

6. Sub-section (3) of Section 12 of the Tank Conservation Act recognizes the concept of buffer zone of thirty meters, from the outer boundary of the tanks as defined in clause (g) of Section 2. Under Section 23 of the Tank Conservation Act, any contravention of the provisions of Section 12 is made an offence which is punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with a fine of not less than ten thousand rupees but which may extend to rupees twenty thousand. Under Section 34, the offences under the Tank Conservation Act have been made cognizable. Under Section 5 of the Tank Conservation Act, the functions of the Authority have been laid down. Sub-section (2) of Section 5 and sub-section (16) of Section 5 of the Tank Conservation Act are relevant which read thus:

"5. Functions of the Authority.-

xxx xxx xxx

(2) to protect, conserve, reclaim, regenerate and restore tanks, ponds, lakes to facilitate recharge of depleting ground water by promoting integrated approach with the assistance of concerned Government Departments, local and other authorities;

xxx xxx xxx

(16) to do such other acts as the Authority may consider necessary, conducive or incidental, directly or indirectly, to achieve the object of this Act."

7. Before we elaborate on the functions of the Authority as constituted under Section 3 of the Tank Conservation Act, we may note here that "Authority" has been defined in clause (b) of Section 2 to mean the Karnataka Tank Conservation and Development Authority constituted under Section 3 of the Tank Conservation Act.

8. At this stage, we may refer to the important amendments made to the Tank Conservation Act by the Karnataka Act No.15 of 2018 which came into force on 26th March 2018. Sub-section (3) of Section of 1 of the original Act provided that the Tank Conservation Act shall apply to all the tanks, ponds, lakes in the Karnataka State located outside the limits of all Municipal Corporations and the Bengaluru Development Authority as well as to any other water bodies as may be notified by the Government. By Section 3 of the Karnataka Act No.15 of 2018, in sub-section (3) of Section 1 of the original Act, the words starting from "located outside" and ending with "Bengaluru Development Authority" have been omitted. The effect of the said amendment is that the Tank Conservation Act is applicable to all the tanks, ponds, lakes in the Karnataka State or any other water bodies as may be notified by the Government. Thus, in view of the said amendment, the provisions of the Tank Conservation Act are applicable to all the tanks, ponds and lakes across the State of Karnataka.

9. There is one more important amendment carried out by the Karnataka Act

No.15 of 2018. Sub-section (3) of Section 12 of the Original Act has been substituted by the following sub-section (3):

"make any construction or carry on any commercial or recreational or industrial activity within thirty meters from the outer boundary of the tanks."

(underline supplied)

10. Thus, from the date on which the Tank Conservation Act came into force till 25th March 2018, the following activities in thirty meters buffer zone of the lakes were prohibited.

- (a) any irregular or any unauthorised construction;
- (b) any commercial, recreational, industrial complexes or houses; and
- (c) carrying on any industrial activity

11. As a result of the substitution of sub-section (3) of Section 12 of the Original Act, now from 26th March 2018, there is a complete prohibition on making any construction or carrying on any commercial or recreational or industrial activity within thirty meters, from the outer boundary of the tanks. We may also note here that Section 12 of the Tank Conservation Act starts with a non-obstante clause which overrides anything to the contrary contained in any law for the time being in force. Thus, now from 26th March 2018, no person or institution or organisation or company or firm or association or Government Departments or Corporation or any local or other authority and their agents or employees or any body on their behalf is entitled to make any construction or carry on any commercial or recreational or industrial activity within thirty meters, from the outer boundary of the tanks. Now, this complete prohibition under sub-section (3) of Section 12 of the Tank Conservation Act will have to be strictly implemented. We may also note here Section 47 of the Tank Conservation Act which reads thus:

"47. Effect of other laws.- (1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act of omission, which also constitutes an offence under this Act, or from being liable under such other law to any higher punishment or penalty other than that provided in this Act or the rules made thereunder:

Provided that no person shall be punished twice for the same offence."

(underline supplied)

This reiterates what is provided in Section 12 of the Tank Conservation Act of giving overriding effect to the provisions of the Tank Conservation Act over the other laws for the time being in force.

12. We have quoted sub-sections (2) and (16) of Section 5 of the Tank Conservation Act. It is the duty of the Authority to protect, conserve, reclaim, regenerate and restore tanks, ponds, lakes to facilitate recharge of depleting groundwater by promoting integrated approach with the assistance of concerned Government Departments, local and other Authorities. Sub-section (16) of Section 5 empowers the Authority to do such other acts as the Authority may consider necessary, conducive or incidental, directly or indirectly, to achieve the object of the Tank Conservation Act. Thus, we have no manner of doubt that it is the duty and obligation as well as the function of the said Authority to implement complete prohibition under sub-section (3) of Section 12 of the Tank Conservation Act as amended with effect from 26th March 2018.

13. Therefore, we propose to issue appropriate directions to the Authority. Before we issue any direction, we direct the Registrar (Judicial) to issue notice to the Karnataka Tank Conservation and Development Authority constituted under Section 3 of the Tank Conservation Act. The learned Additional Government Advocate will supply the office address of its Chief Executive Officer to the Registrar (Judicial) and will also supply email id of the Authority. We direct the Registrar (Judicial) to forward a copy of this order in physical form as well as a soft copy of this order to the Chief Executive Officer. The Registrar (Judicial) shall

inform the Chief Executive Officer that the said Authority must be represented before this Court on the next date.

14. Coming to the issue of removal of encroachments on the tanks or lakes or its buffer zone, appropriate directions will have to be issued. Under Section 67 of the Karnataka Land Revenue Act, 1964 (for short, \"the Land Revenue Act\") all lakes and tanks vest in the State Government. Even if the State Government transfers the management of the lakes or tanks to any local authority, the vesting of the bed of lakes and tanks in the State Government is not affected. As far as the encroachments on the lakes are concerned, there are powers vesting in the Land Revenue Act in various authorities under the Land Revenue Act to evict the encroachers. One such power to evict is under Section 104 of the Land Revenue Act.

15. If there are illegal constructions made on the lake or the tank area and when the lake or tank area forms a part of jurisdiction of municipalities within the meaning of Part IXA of the Constitution of India, under the Municipal Laws, the Municipalities can always exercise power of demolition of illegal construction. The power of the State Government under the provisions of the Land Revenue Act to remove encroachments will naturally include the power to remove constructions made upon the lake or tank area.

16. As observed earlier, as regards the buffer zone of thirty meters, as provided in sub-Section (3) of Section 12 of the Tank Conservation Act, we propose to issue directions against the authority. However, when thirty meters buffer zones are situated within the jurisdiction of a Municipality under part IXA of the Constitution of India, in case of illegal and unauthorized constructions in the buffer zone of thirty meters, there are abundant powers vested in the Municipality to take action of removal of illegal constructions.

17. We, therefore, direct the State Government to issue directions to the Authorities under the Land Revenue Act to take action for removal of encroachments on the lake or tank area by exercise of powers under the Land Revenue Act. Similarly, Urban Development Department of the State Government shall issue directions to all the Municipalities within the meaning of Part IXA of the Constitution of India, to take action for removal of illegal constructions made on tanks or lakes and within thirty meters buffer zone of the tank or lakes. The direction issued, as above, shall be produced for perusal of the Court on the next date.

18. At this stage, we may again reiterate the well settled legal principle. Right to live in pollution free environment is now a part right to life guaranteed under Article 21 of the Constitution of India. Lakes are a part of our ecosystem. If the lakes are not preserved or if the lakes which have disappeared due to various reasons are not restored or rejuvenated, true effect cannot be given to the fundamental right of the citizens to live in a pollution free environment.

19. Apart from fundamental right of the citizens under Article 21 of the Constitution, under Article 48A of the Directive Principles of the State Policy, it is the duty of the State to protect and improve the environment. Under clause (g) of Article 51A of the Constitution, it is the fundamental duty of every citizen to protect and improve the natural environment including lakes. Therefore, considering the fundamental rights guaranteed under Article 21 of the Constitution, 48A of the Directive Principles of State Policy and fundamental duties of the citizens under clause (g) of Article 51A of the Constitution, it is the duty of the Authorities under the Land Revenue Act to take prompt steps to remove encroachments on the lakes or tanks. It is also the obligation and duty of the Municipalities to take action for removal of illegal constructions on tanks or lakes as well as on the buffer zones as contemplated under sub-section (3) of Section 12 of the Tank Conservation Act.

20. While we propose to issue direction against the Authority under the Tank Conservation Act, it will be also necessary to lay down the powers and functions of various Committees created under the decision of this Court in the case of Environment Support Group (supra) as modified subsequently. We propose to hear the learned counsel appearing for the parties as well as the party in person on this aspect on duties of the various Committees. Prima facie, we are of the view that the basic function of these Committees should be to oversee and

monitor the performance of duties and obligations of various Authorities in connection with lakes or tanks and its buffer zones.

21. Before we part with the issue of the lakes or tanks and its buffer zones, we may state that the State Government has filed an affidavit of Sri.Lakshmisagar N.K., Under Secretary to the Government dated 8th February 2021 placing on record the decision of the State Government which holds that the buffer zones will be restricted to thirty meters. One of the submissions made across the bar is that in case of bigger lakes, for its proper conservation, buffer zone having width of thirty meters will be too small. However, that issue can be gone into provided there is a challenge to the Government decision which is produced along with the aforesaid affidavit.

22. We may also note here that our attention was invited to the order of National Green Tribunal dated 4th May 2016 in Original Application No.222/2014 wherein general directions were issued regarding the maintenance of buffer zones such as buffer zone of 75 meters from periphery of water bodies. However, we find that the Apex Court in the case of Mantri Techzone Private Limited vs. Forward Foundation and others has set aside the said general directions.

23. Sri.Leo F Saldanha, party-in-person expressed his apprehension that the State and the instrumentalities of the State may regularise the structures on the tanks or lakes or its buffer zones. We will deal with this issue at the appropriate stage.

24. Now coming to the direction issued to carry out survey of all lakes and buffer zones across the State, the learned Additional Government Advocate is relying upon a chart which is at page 23 of the compliance report dated 30th June, 2021. However, we find that out of 39179 lakes, survey of only 17009 lakes has been completed by 23rd February, 2021.

25. We are conscious of the fact that from April 2021, the State Government officers were busy in dealing with second wave of COVID-19. But now that the situation has improved, the State Government shall take immediate steps for carrying out survey of the remaining lakes and its buffer zones. In fact the learned Additional Government Advocate pointed out that a meeting of Apex Committee was held on 18th February 2021 and similar directions have been issued enjoining the Deputy Commissioners to commence the work of survey.

26. We direct the State Government to issue specific directions to all concerned officers including the Deputy Commissioners to commence the work of survey of lakes and buffer zones under their respective jurisdiction. We again reiterate that survey has to be of the lakes as well as its thirty meters buffer zones.

27. It is rightly submitted that a direction to carry out survey of Rajakaluve is required to be issued. The term 'Rajakaluve' will have to be defined so that a proper survey is carried out. We propose to hear the parties on this issue on the next date.

28. At this stage, Sri.V.Raghunath, the learned counsel appears and takes notice for the Authority under the Tank Conservation Act. Hence, Registrar (Judicial) need not issue notice to the Authority, as directed earlier. But he will supply a copy of this order to the learned counsel appearing for the Authority. We also direct the counsel appearing in W.P.No.38401/2014 to supply copies of the relevant pleadings and orders of this Court to the learned counsel appearing for the Authority.

29. We direct the Registry to fix these petitions on 11th August 2021 at 2.30 p.m. for further hearing.

26	ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA	<u>30/06/2021</u>
----	---	-------------------

	<p>WP NO. 38401/2014 Connected Cases: WP NO. 29107/2019, WP NO. 20652/2018, WP NO. 11044/2018, WP NO. 11447/2016, WP NO. 24768/2005, WP NO. 5956/2021, WP NO. 4964/2021</p> <p>List the petitions on 14th July, 2021 at 2.30 p.m.</p>	
27	ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA	<u>16/06/2021</u>
	<p>We have perused the affidavit of Shri B.T.Mohan Krishna, Chief Engineer of Bruhat Bengaluru Mahanagara Palike (BBMP) Lake Division, BBMP, which is of 15th June, 2021. As regards a tender notice published for preparation of a Detailed Project Report (DPR), in paragraph 2, Shri Mohan Krishna has clarified that the tender notice was published for preparation of the DPR in terms of the recommendations of the National Environmental Engineering Research Institute (NEERI). He states that thus the DPR will be prepared in terms of the recommendations of NEERI. He assures the Court that BBMP will implement the recommendations made by NEERI.</p> <p>AREHALLI, TAVAREKERE AND KAMAKSHIPALYA LAKES</p> <p>2. In the affidavit, it is stated that in the event any additional amount over and above Rs.6.89 crores is required for the work of interim measures as suggested by NEERI, necessary additional allocation will be made.</p> <p>3. As regards Arehalli, Tavarekere and Kamakshipalya lakes, it is stated that BBMP has already approached the jurisdictional Tahsildar and the jurisdictional Additional Director of Land Records for conducting a survey for the purpose of fixing the boundaries. He submitted that BBMP will follow up the matter of conducting the survey. Further progress made in the matter of survey of the aforesaid three lakes shall be placed on record by BBMP within a period of six weeks from today.</p> <p>KAGGADASAPURA LAKE</p> <p>4. As regards the encroachments on Kaggadasapura Lake, in the affidavit, BBMP has given an assurance to shift the chain-link fencing in Survey No.5 within a period of two months from today. A similar assurance has been incorporated that the dry waste collection in Survey No.141 will be removed within an outer limit of three months from today. Accordingly, we grant time to BBMP of two months to remove the chain-link fencing and time of three months to remove the structure of dry waste collection.</p> <p>5. We have already referred to the assurance given by BBMP to remove two encroachments. However, the State Government has not responded on the issue of removal of the encroachment over an area of 8.08 guntas by a Muzarai temple. We direct the State Government to ensure that the said encroachment is removed and temple/structure occupying the area of 8.08 guntas is relocated within a period of three months from today.</p> <p>BEGUR LAKE</p> <p>6. As regards the encroachment of Begur lake, the State Government has not responded. In the Begur lake, the encroachment is to the extent of 6 acres 37 guntas, including the area of 3 acres 26 guntas occupied by two public roads. We direct the State Government to initiate proceedings in accordance with law for removal of the encroachments except the roads. We grant outer limit of three months to remove the encroachments.</p> <p>SUBRAMANYAPURA LAKE</p> <p>7. NEERI will consider the suggestions incorporated by the eighth respondent in the letter dated 18th March 2021 as regards Subramanyapura lake. We make it clear that as the exercise undertaken by NEERI is a continuous exercise and therefore, whenever any suggestions are made by the parties to the petitions, it will be appropriate if NEERI considers the same. We direct BBMP to communicate this part of the order to the concerned officer of NEERI.</p> <p>IN W.P. NO.38401 OF 2014</p> <p>8. We direct the learned counsel for the petitioner in W.P.No.38401 of 2014 to serve a copy of the petition to Shri M.R.C.Ravi, the Standing counsel for the Karnataka Slum Development Board. Appearance of the said learned counsel shall be shown on the cause list.</p>	

9. The learned Additional Government Advocate seeks time to file a status report about the work of the survey of various lakes in the State. He stated that the necessary information could not be collected due to COVID-19 situation. We grant time of six weeks to the State Government to do so. We make it clear that as the situation created by the second wave of COVID-19 has eased to a certain extent, now, the State Government must make earnest efforts to ensure that the survey of lakes and buffer zones is commenced and is completed at the earliest.

KRISHNARAJAPURA LAKE

10. As regards Krishnarajapura lake, the learned Additional Government Advocate has submitted along with a memo dated 16th June 2021, a report dated 15th June 2021. We direct the State Government to place on record the photographs of the fencing/compound shown on the sketch annexed to the report. A copy of the report and the sketches annexed thereto be supplied to the learned counsel appearing for the parties.

11. At an appropriate state, this Court will have to consider a very important issue of the cases where 30 meter buffer zone around the lakes forms a part of a private property. The issue in such cases will be of removal of structures on the buffer zone. If the structures are illegal, it will not pose any major difficulty. But, if the structures have been carefully constructed before the order of this Court directing maintenance of buffer zone of 30 meters, the question is how the structures can be removed.

12. One more issue concerning the buffer zone will be if the buffer zone of a particular lake is privately owned and there is a compound wall lawfully erected by the owner on the land forming a part of the buffer zone along the boundary of the lake, whether the action of removal of the wall can be taken. In a given case, such wall may block the inlets of the lake.

13. We will pass appropriate orders as regards Krishnarajapura Lake after copies of the documents are served upon the learned counsel appearing for the parties.

14. As regards the direction issued in W.P. No.29107 of 2019 on 2nd June, 2021, the learned Additional Government Advocate states that the survey of the water body and the lake could not be carried out due to the transfer of the concerned Deputy Commissioner. We grant time of six weeks to complete the survey and submit a report to this Court.

15. List this group of petitions at 4.15 p.m. on 30th June, 2021 for considering the issue of laying down the functions of various Committees working at different levels. The issue raised by the eighth respondent in W.P. No.38401 of 2014 by a memo dated 16th December, 2020 regarding Nagawara and Hebbal lakes will also be considered on the next date.

28	ABHAY SHREENIWAS OKA (CJ) AND M.NAGAPRASANNA	<u>02/06/2021</u>
	<p>ORDER</p> <p>W.P.No.38401 of 2014:</p> <p>1. Fourth respondent, Sri.B.T.Mohan Krishna, Chief Engineer, Bruhat Bengaluru Mahanagara Palike (BBMP) lake division has filed along with his affidavit dated 20th April 2021, a copy of the report submitted by CSIR National Environmental Engineering Research Institute (NEERI) on 15th April 2021. The report contains proposed restoration plans for Arehalli 2 and 3 lake, Tavarekere lake and Kamakshipalya Lake.</p> <p>2. The learned counsel appearing for the BBMP will supply a soft copy of the said affidavit along with the annexures to the parties to the petitions.</p> <p>3. We have perused the affidavit of Sri.B.T.Mohan Krishna. Annexure R6 is a copy of the tender notification issued calling for quotations for providing DPR services for development and improvements to Tavarekere Lake. It is obvious that the tender notification has been issued even without considering the recommendations by NEERI in the aforesaid report. As regards Arehalli lake, a job certificate has been already generated on 26th March 2021 earmarking the grant of Rs.6.89 crores for development of the said lake. We hope and trust that if for the implementation of the recommendations of NEERI, any additional</p>	

amount is required, the job certificate will be modified. Sri.B.T.Mohan Krishna will file an affidavit explaining how the tender notification dated 19th April 2021 was issued.

4. Appropriate directions will be issued on the basis of the said report of the NEERI after hearing the parties. However, NEERI has suggested a complete survey of the water body areas of water body No.1 (Srinivaspura lake) in Sy.No.28 and water body No.3 in Sy.No.27. There is a recommendation that GPS documentation should be carried out and permanent fencing along the boundaries of the lake has to be provided. In case of Thavarekere lake, NEERI has again recommended detailed survey of the lakes both in Sy.Nos.41 and 74 for ascertaining the boundaries of the lakes. Recommendation is also made to make GPS documentation. In case of Kamakshipalya lake, similar recommendation has been made by NEERI.

5. We do not think that there can be any dispute about the recommendations for carrying out survey of the water bodies. Before the next date, Sri.B.T.Mohan Krishna, Chief Engineer, BBMP shall file affidavit setting out the steps taken by BBMP to commence the survey of water bodies and make GPS documentation.

6. We have perused the compliance report dated 12th April 2021 filed by the State Government placing on record all the details regarding survey carried out of Begur and Kaggadasapura lake. In case of Begur lake, the survey is carried out of the lake and its buffer zone. As far as Begur lake is concerned, there are encroachments to the extent of 6 acres 37 guntas. Details have been provided in the report. Area of 3 acres and 26 guntas is occupied by two public roads. As regard these two public roads, the issue will be considered separately. However, the other encroachments will have to be removed in accordance with law at the earliest.

7. The survey of Kaggadasapura lake shows that the total extent of lake in Sy.No.141 of Kaggadasapura village is 32 acres and 16 guntas and in Sy.No.5 of Byrasandra village, it is measuring 14 acres and 24 guntas. It is stated that there are encroachments to the extent of 1 acre and 36 ½ guntas in Sy.No.141 and 0.04 guntas in Sy.No.5. Out of the encroachments on the lake area in Sy.No.141, areas of 5.12 guntas and 11.8 guntas respectively have been covered by asphalted roads constructed by BBMP. As regards the lake area in Sy.No.5, a very negligible portion is occupied by a chain link fencing made by BBMP. Even the encroachments on Kaggadasapura lake will have to be removed at the earliest. We may also mention here that on the lake area in Sy.No.141, there is an encroachment made by BBMP to the extent of 1.08 guntas by constructing a building for dry waste collection centre. BBMP shall make a statement on the next date regarding the outer limit within which the said encroachment will be removed. The report also mentions that area of 8.08 guntas has been occupied by a muzarai temple. Therefore, the State Government will have to come out with a proposal for relocating the said temple. We may note here that it is the obligation of the State Government, its agencies and instrumentalities like BBMP to ensure that there are no encroachments made on the lake area and its buffer zone. Therefore, if encroachments are made by the State Government or its agencies and instrumentalities, they will have to lead by example by removing the said encroachments so that others can follow their example.

8. As regards Subramanyapura lake, the learned Additional Government Advocate stated that a survey could not be carried out due to COVID-19 situation. A memo has been filed by eight respondent appearing in person on 18th March 2021 to which a letter addressed by Centre for Green Building Material and Technology, Bangalore (CGBMT) to him has been annexed. The letter contains suggestions under the subject "Design and Ecosystem Services Based Management Practices for Subramanyapura lake".

9. For the purposes of passing effective directions regarding removal of encroachments on Subramanyapura lake and buffer zone, the presence of Karnataka Slum Development Board will be necessary. We permit the petitioner in writ petition No.38401 of 2014 to implead the Karnataka Slum Development Board as a party respondent. The amended petition copy shall be filed within a period of one week from today. Sri.M.R.C.Ravi, learned counsel, is directed to accept notice for the Karnataka Slum Development Board and the petitioner shall serve a copy of the petition on the said standing counsel Sri.M.R.C.Ravi

representing Karnataka Slum Development Board, so that he can appear and assist the Court. We grant time of eight weeks to the State Government to complete the survey of Subramanyapura lake and its buffer zone.

10. As regards the direction issued by this Court to carry out survey of all the lakes and its buffer zones in the State, the learned Additional Government Advocate states that substantial progress could not be made due to COVID-19 situation. However, it is necessary for the State to place on record the present status of the survey, so that appropriate directions can be issued on the next date. The State Government will place the same on record before the next date.

11. Our attention is invited to the memo dated 11th January 2021 filed by the eight respondent complaining about the failure of various authorities to take action for removal of encroachment on Krishnarajapura lake. He has invited our attention to the complaints made by the Karnataka Tank Conservation and Development Authority as well as by the Karnataka State Legal Services Authority, the copies of which have been annexed to the memo. We direct the Deputy Commissioner of the Bangalore Rural District to ensure that the survey of the said lake and its buffer zone is carried out by the revenue and survey officers of the State Government for ascertaining the boundary of the lake as well as boundary of the buffer zone and also the extent of encroachments made in the lake area as well as in the buffer zone. Needless to add that after the survey is carried out, immediate steps will have to be taken to remove the encroachments, if any. Considering the present COVID-19 situation, we are not fixing any outer limit for completing the work as on today. But, steps will have to be taken by the Deputy Commissioner to carryout the survey and to remove encroachments on the lake area and buffer zone at the earliest.

12. Our attention is invited to the directions contained in paragraph 33 of the order dated 18th June, 2019 and in particular clauses (xii), (xiii) and (xiv) thereof, which contain directions against the State Government as well as BBMP concerning survey of storm water drains and removal of encroachments on the drains. We grant time of six weeks to both the State Government and BBMP to place on record the steps taken for implementation of the said directions.

W.P.No.29107 of 2019:

13. By filing I.A.No.1/2021, the petitioner has made grievance regarding encroachment on the water body in Sy.No.88 of Madahalli village, Jayapura Hobli, Mysore Taluk. By filing a memo, a grievance is made about the failure of the authorities to remove the encroachments on Hebbal lake in Mysore. We direct the Deputy Commissioner of Mysore District to take immediate steps for carrying out survey of both the lakes and its buffer zones, for the purpose of demarcating the boundaries of the lakes and its buffer zones and for ascertaining the extent of encroachments on the lakes and buffer zones, if any. Needless to add that after the report is received, immediate steps shall be taken in accordance with law for removal of encroachments. Though considering the present situation, we are not fixing any outer limit for carrying out survey and removal of encroachments, steps shall be taken at the earliest.

W.P.No.5956 of 2021:

14. This petition will be considered on the 16th June, 2021. In the meanwhile, the learned counsel appearing for petitioners will take instructions whether petitioners want time to remove their structures.

15. List this group of petitions on 16th June, 2021 at 2.30 p.m., for considering the question of issuing directions on the basis of the report of NEERI submitted on 15th April, 2021. The learned counsel appearing for BBMP shall ensure that all the parties will get a soft copy of the report at the earliest.

16. With the consent of the parties, live streaming of this group of petitions shall be made from the next date on experiment basis.

29	ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI	<u>20/04/2021</u>
	On account of paucity of time, the matter is adjourned. Date will be intimated later.	

30	ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI	<u>12/04/2021</u>
	<p>The learned Additional Government Advocate has submitted a report on fresh survey as regards Begur and Kaggadasapura lakes. The copies of the said report be supplied to the learned counsel appearing for the parties. In the meanwhile, we direct the State Government to take effective steps for removal of the encroachments on the said two lakes.</p> <p>The learned counsel appearing for the Bruhat Bengaluru Mahanagara Palike (BBMP) states that the further report of National Environmental Engineering Research Institute is expected by 15th April 2021. After the report is received, the same shall be placed on record along with a memo. The soft copies of the report be supplied to the learned counsel appearing for the petitioners.</p> <p>List the petitions on 20th April 2021 at 5.00 p.m.</p>	
31	ABHAY SHREENIWAS OKA (CJ) AND SURAJ GOVINDARAJ	<u>25/03/2021</u>
	<p>The petitions shall not be listed before a Bench of which Hon'ble Justice Suraj Govindaraj is a party.</p> <p>We direct the Registrar (Judicial) to place the petitions before the Chief Justice on the administrative side for constituting a special Bench.</p>	
32	ABHAY SHREENIWAS OKA (CJ) AND M.G.S. KAMAL	<u>19/03/2021</u>
	List the petitions on 25th March 2021 at 2.30 p.m.	
33	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	<u>05/03/2021</u>
	<p>ORDER PERTAINING TO BEGUR LAKE</p> <p>So far as I.A. No.3 of 2020 pertaining to Begur Lake is concerned, a direction was issued to carry out a survey. We have perused the affidavit filed by Shri Mahendra Jain, Additional Chief Secretary, Department of Revenue, Government of Karnataka. The sketch prepared after carrying out the survey is placed on record along with the affidavit as Annexure-R.14. A sketch is also annexed to the report submitted by the Deputy Commissioner, Bengaluru Urban District.</p> <p>2. Though in paragraph 1 of the report, it is stated that there is no encroachment made on the buffer zone of the said lake by M/s Assetz Canvas and Cove, a Developer, as alleged by the eighth respondent, the survey sketch shows the boundaries of the lake and not the boundaries of the buffer zone. Moreover, what is observed in the report of the Deputy Commissioner as regards Begur Lake may not be consistent with paragraph 12 of the affidavit of Shri Mahendra Jain in which it is stated that M/s Assetz Canvas and Cove has deposited soil in the buffer zone within 30 metres of the lake. We fail to understand how the Court can come to a conclusion about the encroachment made by the said Developer, unless the survey sketch shows the boundaries of the buffer zone around the lake.</p> <p>3. We, therefore, direct the State Government to carry out a fresh survey. In fact, in the memo of compliance filed by the Bruhat Bengaluru Mahanagara Palike (BBMP) on 3rd March, 2021, it is stated that BBMP has written to the Assistant Director of Land Records to carry out a fresh survey. Therefore, the State Government must carry out a survey by making demarcation of the buffer zone, so that it can be ascertained whether there is any encroachment on the buffer zone. The report of the Deputy Commissioner records that there are six encroachments noticed on Begur Lake out of which item nos.5 and 6 are by public roads. We direct the State Government to take immediate steps to remove the four other encroachments.</p> <p>4. A fresh survey shall be carried out and completed within three weeks from today. Needless to add that after carrying out the fresh survey, if any encroachments are found on the buffer zone, immediate action shall be initiated</p>	

in accordance with law to remove the encroachments. The surveyor who carries out the survey shall be provided with the sketch produced by the eighth respondent on the basis of which he claims there are encroachments on the buffer zone.

5. The learned senior counsel appearing for BBMP, Shri D.N.Nanjunda Reddy seeks time to take a clear stand on the erection of an idol/statue on the island in the lake. By way of an indulgence, we grant time of two weeks. We make it clear that the object of making an island cannot be to install an idol thereon. In this context, BBMP shall take a decision.

ORDER PERTAINING TO KAGGADASAPURA LAKE

6. In the report of the Deputy Commissioner annexed as R-13 to the affidavit of the State Government dated 3rd March, 2021, it is stated that a total of 23 encroachments were found on the lake. The sketch at Annexure-R.15 is produced showing the location of the said encroachments. However, as in the case of Begur Lake, even in this case, buffer zone is not shown on the survey sketch and therefore, it is not clear whether the encroachments on the buffer zone have been identified. We, therefore, direct the State Government to carry out a fresh survey to finalize the location of the buffer zone and to ascertain whether there are any encroachments.

7. As regards the 23 encroachments listed, the State Government and BBMP will have to work in co-ordination as illegal structures will have to be removed by BBMP. The encroachments on the land vesting in the Government will have to be removed by the Government. Considering a large number of encroachments, we direct that a joint effort shall be made both by the Deputy Commissioner and the Commissioner of BBMP to ensure that the encroachments are removed at the earliest. For removing the encroachments which are already found, the authorities need not wait for submission of a fresh survey report.

8. As regards the work to be carried out in the said lake, we have perused the recommendations of National Environmental Engineering Research Institute (NEERI). It appears that NEERI has opined that BBMP can proceed with the rejuvenation work based on the Detailed Project Report (DPR) prepared by it. The learned senior counsel for BBMP states that only the work covered by DPR and the work which is stated in the affidavit tendered today will be carried out. While BBMP can proceed with the said work, we direct it to provide soft copies of the DPR to the counsel for the applicant in the application concerned as also to the eighth respondent appearing in person.

9. The affidavit filed today records that the existing the pathway with a width of 30 feet will be reduced to about 3.5 metres and the area recovered from the pathway would be added to the water body. This exercise of adding the area to the water body will have to be done scientifically and if necessary, BBMP shall seek the guidance of NEERI on this aspect.

10. In the affidavit filed today, there is also an assurance that the work of construction of islands in the lake area would not be undertaken by BBMP and the opinion of NEERI will be sought on the issue of construction on the island. We accept the further assurance given on behalf of BBMP that even if NEERI recommends construction of the islands, the work will be undertaken only if a leave is granted by the Court to carry out the said work. We, therefore, permit BBMP to commence the work as per DPR and also to commence the work of reducing the width of the pathway as stated in the affidavit tendered today. As regards the DPR, the counsel for the petitioners as also the eighth respondent (appearing in person) are free to make suggestions to BBMP.

ORDER PERTAINING TO SUBRAMANYAPURA LAKE

11. As regards this lake, a compliance affidavit was filed on 3rd March, 2021 by BBMP. The recommendation of NEERI is that a footbridge connecting inlet and outlet weir is necessary for maintenance and de-silting operations. BBMP has already filed a statement accepting that the pillars earlier erected for construction of the footbridge have been demolished. As per the suggestion of NEERI, in the affidavit dated 3rd March, 2021, BBMP has referred to construction of the bridge. Annexures-R.1 to R.5 show the manner in which BBMP is proposing to construct the bridge.

12. The eighth respondent appearing in person states that if the design of the bridge is changed as suggested by him, it will be better for the aesthetics. He is proposing an arch bridge to be constructed. We permit the eighth respondent to submit a design to BBMP of the arch bridge. If by construction of the arch bridge, the aesthetics part is taken care of, we are sure that BBMP will modify the design prepared by it and construct the arch bridge accordingly. At this stage, no other direction is required to be issued as regards Subramanyapura Lake.

13. To ascertain whether there are encroachments on the lake area and on the buffer zone, the learned Additional Government Advocate states that time of one month is required to complete the survey. Accordingly, we extend the time granted to the State Government to complete the survey by a period of one month from today.

14. We have perused the affidavit of the State Government filed on 3rd March, 2021 which gives certain details in a tabular form regarding the survey of lakes undertaken in terms of clause (1) of the judgment and order dated 11th April, 2012 in Writ Petition No.817 of 2008. The tabular form shows that even 50% of the lakes in the State have not been surveyed as yet. The chart shows that out of the lakes which are surveyed, encroachment was found to the extent of an area of 42,094 acres. The encroachment to the extent of an area more than 10,000 acres is yet to be removed. This will have to be considered in the context of the fact that the figures are in respect of less than 50% of the lakes. There is no clarity on the question whether a survey of the buffer zone was also carried out with a view to ascertain whether there are illegal constructions thereon.

15. The other issue will be of regularly monitoring the work of survey and work of removal of encroachments.

16. The eighth respondent has submitted an affidavit dated 5th March, 2021 suggesting constitution of committees in addition to what is provided in the aforesaid judgment in Writ Petition No.817 of 2008 and has also suggested reconstitution of committees. The suggestion is that if committees are properly constituted, the same can be entrusted with the work of monitoring the survey and removal of encroachments. The eighth respondent states that he was the second petitioner in Writ Petition No.817/2008 and he will apply for modification of the directions issued therein as regards the constitution of the committee .

17. Only after a prayer for modification of the earlier judgment is made, appropriate orders can be passed regarding entrusting the responsibility of monitoring the work of survey and monitoring the work of removal of encroachments to the committees. In the meanwhile, the State Government will clarify the aspect whether a survey has been carried out not only of the lake area, but also on the buffer zone as a direction was issued to remove the unauthorized construction within 30 metres of peripheral area of the lakes.

18. The application which may be made by the eighth respondent in Writ Petition No.817 of 2008 shall be listed on 19th March, 2021.

19. The State Government will place necessary clarification on record regarding the survey of buffer zones around the lakes throughout the State.

20. Our attention is invited to the judgment and order dated 5th March, 2019 passed by the Apex Court in Civil Appeal No.5016/2016 (Mantri Techzone Pvt. Ltd. vs. Forward Foundation & Others)

21. To understand the purport of the said order, it is necessary to ascertain who were the respondent Nos.9 and 10 before the National Green Tribunal.

22. The learned Additional Government Advocate will take instructions on this aspect and clarify on the next date.

23. List the petitions on 19th March, 2021 at 2.30 p.m.

	<p>Hearing will continue tomorrow (5th March 2021) at 11.40 a.m.</p> <p>In W.P.No.29107/2019</p> <p>As far as I.A.No.1/2021 is concerned, the learned counsel appearing for the petitioner will provide a copy of the same to the learned Additional Government Advocate, who will file statement of objections within a period of three weeks from today.</p>	
35	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	<u>03/03/2021</u>
	<p>On account of paucity of time, this petition cannot be heard today. Let the petition be listed on 04th March 2021 at 3.45 p.m.</p>	
36	ABHAY SHREENIWAS OKA (CJ) AND SACHIN SHANKAR MAGADUM	<u>22/02/2021</u>
	<p>W.P. No.38401/2014 & connected matters</p> <p>I.A. No.1 OF 2020 PERTAINING TO SUBRAMANYAPURA LAKE</p> <p>Before we consider the prayer for vacating the order dated 14th August, 2019 and in particular in paragraph 18 thereof, the Bruhat Bengaluru Mahanagara Palike (BBMP) will have to place on record the details of the design of the bridge which is proposed to be constructed in terms of the recommendation of National Environmental Engineering Research Institute (NEERI). Paragraph 18 of the order dated 14th August, 2019 prevents only construction activities on the bed of the entire area of the said lake. No other activity which is otherwise permissible under law has been prohibited. The learned senior counsel appearing for BBMP states that the necessary plan will be placed on record.</p> <p>2. This application will be listed on 3rd March, 2021 at 3.45 p.m. I.A. No.3 OF 2020 PERTAINING TO BEGUR LAKE</p> <p>3. A memo has been filed by the eighth respondent contending that there has been encroachments made by Assetz Canvas and Cove, a developer, not only on the buffer zone but also on the lake itself. We, therefore, direct the State Government as well as BBMP to immediately carry out a survey with a view to ascertain whether any encroachments have been made. Needless to add that, if on carrying out the survey, such encroachments are found, apart from stopping further work in accordance with law, necessary action shall be taken to remove such encroachments.</p> <p>4. In I.A. No. 3 of 2020, the prayer made by BBMP is to modify the order dated 30th August, 2019. The said order restrains BBMP from carrying out the work of creation of islands within the lake area and it also directs BBMP to ensure that no work is carried out so as to reduce the existing area of the lake without the leave of the Court. The learned senior counsel appearing for BBMP relies upon the recommendations of NEERI submitted along with a letter dated 17th December, 2019. The recommendation of NEERI records that in some lakes in Bengaluru City, the islands created by BBMP have grown to be good thickets of diverse plants and a large number of migratory birds and other avian population can thrive on these thickets. It is observed that these islands can function when there is no additional anthropogenic activity and great care should be taken not to allow the islands to turn into hubs for human use or any other activity involving regular intervention of human population. The order of this Court dated 30th August, 2019 does not prohibit any other activity undertaken by BBMP for rejuvenation and restoration of the lake except the work of carrying out any island within the lake area and any work which will reduce the lake area.</p>	

Save and except this restraint, there is no embargo to carry out any other work as per the opinion/recommendation of NEERI.

5. The learned senior counsel appearing for BBMP submits that certain work is required to be carried out on the islands already created. However, from the order dated 17th September, 2019 and in particular paragraph 4 thereof, it appears that as per the stand taken on oath earlier by BBMP, the main object of creating the island seems to be installation of an idol thereon as per the request made by members of the public and the Committee of Nageshwara Temple which is situated on the shore of the lake. Therefore, BBMP will have to make its stand clear on the removal of the idol before we consider the prayer for carrying out the work on the islands.

6. While we observe that except what is prohibited under the order dated 30th August, 2019, all other works can be carried as per the advice of NEERI, we direct BBMP to take a clear stand on the removal of the idol by the next date. This application will be considered on 3rd March, 2021 at 3.45 p.m.

I.A. No.4 OF 2020 PERTAINING TO
KAGGADASAPURA LAKE

7. The learned Additional Government Advocate will make a stand regarding the steps taken to remove the encroachments on the lake subject matter of this application. Even the learned senior counsel appearing for BBMP shall place on record the steps taken to remove the illegal constructions. The order dated 21st October, 2019 pertaining to the lake subject matter of this application (I.A. No.4 of 2020) restrains BBMP only from creating islands in the lake and from carrying out further construction in the lake area and for installing statues. No other work is prohibited under the said order. This application also shall be considered on 3rd March, 2021 at 3.45 p.m.

37	ABHAY SHREENIWAS OKA (CJ) AND SACHIN SHANKAR MAGADUM	<u>17/02/2021</u>
	<p>W.P.No.38401/2014</p> <p>With the assistance of the learned counsel appearing for the parties and the eighth respondent who is appearing in person, we have perused the recommendations of the National Environmental Engineering Research Institute (NEERI) in Volume 9 of the report submitted by it concerning Arehalli, Kamakshi Palya and Thavarakere lakes. Volume 9 contains restoration plans for the said three lakes.</p> <p>2. At the outset, we may note here that in paragraph 3.10.20 of the report, NEERI has observed that the restoration plans contained in Volume 9 are the basic plans and detailed restoration plans for these three lakes will be given in Phase-II report which will include the master plan for each lake. In view of this observation, it is crystal clear that the suggestions which are incorporated in Volume 9 and the works which are suggested will have to be looked upon as the basis for implementing the final recommendations which may be made in Phase-II report.</p> <p>3. The learned Senior Counsel appearing for Bruhat Bengaluru Mahanagara Palike (BBMP) has submitted Charts in relation to the said three lakes containing the recommendations of NEERI and the response of BBMP.</p> <p>4. Before we deal with the specific recommendations, it must be noted here that the work undertaken by NEERI is some sort of a continuous process. On the last date, the eighth respondent submitted that he has certain suggestions which should be looked into. We make it clear that we are not experts in the field and we may not be able to decide whether any of these suggestions made for modification of the recommendations of NEERI can be accepted. However, as Phase-II report is awaited, BBMP, the eighth respondent and the petitioners can always submit their responses to NEERI so that the same can be taken into consideration by NEERI while preparing a separate master plan for each lake. We are sure that the experts of NEERI will take into consideration the suggestions as</p>	

aforesaid.

AREHALLI LAKE

5. Now, coming to Arehalli lake, the learned Senior Counsel appearing for BBMP has stated that the work of construction of fencing around the lake will be taken up. He states that for that purpose, a budgetary provision will have to be made in BBMP budget of 2021-22. For saving the area of the lake from encroachments, this step shall be taken up by BBMP. The learned Senior Counsel also stated that the work of dewatering of the lake before desilting and removal of superficial sediment up to a depth of 3 metres will be undertaken. In fact, the eighth respondent submitted that this is the proper time to undertake the work of desilting up to a depth of 3 metres. We direct BBMP to take up the said work.

6. We also direct BBMP to consider of involving the residents of nearby areas in the work of removal of superficial sediment up to a depth of 3 metres. The reason is that without the support of the local residents, the work of restoration of the lake cannot be done. BBMP shall also immediately undertake awareness programmes as suggested by it. Boards shall be displayed at the prominent places in and around the lake area making the members of the public aware that the work of restoration of the lake has been undertaken by BBMP. It is the duty of BBMP to ensure that there are no encroachments made on the lake area.

KAMAKSHI PALYA LAKE

7. As regards Kamakshi Palya lake, the learned Senior Counsel appearing for BBMP expresses some reservations on taking up the work of deepening of the lake on the ground that the area is too small. The eighth respondent submitted that this is the time that the said work should be ideally undertaken. To avoid any controversy, we direct BBMP to seek the opinion of NEERI on immediately commencing the work of lake deepening or dredging. We request NEERI to immediately respond and advise BBMP. If so advised by NEERI, BBMP will immediately take up the work of lake deepening.

8. As far as the recommendation of NEERI regarding controlling the discharge of effluents into the lake, we direct the Karnataka State Pollution Control Board (KSPCB) to take immediate effective steps.

9. The learned Senior Counsel appearing for BBMP has agreed that the recommendation of NEERI of planting shady trees and development of nursery around the lake periphery will be undertaken.

10. As in case of Arehalli lake, BBMP shall display boards at the prominent places in and around the lake area informing the members of the public that the work of restoration of the lake has been undertaken by it. The learned Senior Counsel appearing for BBMP states that boards showcasing conservation of the lake will be also displayed.

THAVARAKERE LAKE

11. Now, coming to Thavarakere lake, the learned Senior Counsel appearing for BBMP stated that the recommendation of NEERI of removing the unwanted silt up to a depth of 2 metres and the work of deepening of the lake will be undertaken. Ordered accordingly.

12. As regards the recommendation Nos.5 and 6 of NEERI, we are of the view that BBMP shall take steps for implementing the said recommendations. While doing so, BBMP shall also take into consideration the recommendations contained in the report submitted by the Committee headed by Hon'ble Sri Justice N.K.Patil. The eighth respondent is free to submit his suggestions in this behalf to BBMP in writing. Even the recommendation Nos.7, 8 and 9 shall be implemented by BBMP.

GENERALLY

13. As regards the above directions, BBMP shall submit a report about the steps taken by 15th April 2021 so that the Court can monitor the works undertaken by it.

14. Further hearing of these petitions will continue on 22nd February 2021 at 4.30 p.m when the interlocutory applications filed by BBMP along with the

	<p>recommendations made by NEERI concerning the relevant lakes will be considered.</p> <p>15. We permit the petitioner in W.P.No.38401/2014 to implead KSPCB as an additional respondent. Amended copy shall be filed within two weeks. For physically carrying out the amendment, we grant time of six weeks. Sri Gururaj Joshi, the learned counsel takes notice for the added respondent.</p>	
38	ABHAY SHREENIWAS OKA (CJ) AND SACHIN SHANKAR MAGADUM	<u>10/02/2021</u>
	List on 17th February 2021 at 4.30 p.m.	
39	ABHAY SHREENIWAS OKA (CJ) AND SACHIN SHANKAR MAGADUM	<u>02/02/2021</u>
	To be listed on 9th February 2021 at 3.45 p.m.	
40	ABHAY SHREENIWAS OKA (CJ) AND SACHIN SHANKAR MAGADUM	<u>16/01/2021</u>
	<p>COMMON ORDER</p> <p>Along with a memo dated 16th December, 2020, the Bruhat Bengaluru Mahanagara Palike (BBMP) has placed on record reports of CSIR-National Environmental Engineering Research Institute (NEERI) which run into twelve volumes. We direct BBMP to provide soft copies of the reports to all the parties in this group of petitions including the parties to the interlocutory applications which are pending.</p> <p>2. A letter dated 27th July, 2020 addressed by NEERI to the Additional Chief Secretary, Urban Development Department, which is placed on record by the State Government along with a memo dated 15th January, 2021 records that time may be granted to submit a Phase-II report by 31st March, 2021.</p> <p>3. We, therefore, direct BBMP to obtain necessary clarification from NEERI on the issue whether the reports submitted are interim reports or final reports. Only after this clarification is taken from NEERI that we will deal with the letter dated 27th July, 2020.</p> <p>4. We have perused the compliance reports of 20th November, 2020 and 15th January, 2021 filed by the State Government. In terms of the order dated 11th April, 2012 in W.P. No.817 of 2008, An Apex Committee was constituted by the Government order dated 9th December, 2013. As per the said order, the Principal Secretary to the Government, Revenue Department, the Member Secretary, the State Legal Services Authority and the Chief Executive Officer (CEO) of the Lake Development Authority are the members of the Apex Committee with the CEO of the Lake Development Authority being the Secretary. The Government Order specifically states that the Apex Committee shall entertain complaints and give proper directions to the concerned Authorities for the maintenance and development of lakes as directed by this Court.</p> <p>5. The aforesaid two compliance reports appear to suggest that there were some meetings convened by the Karnataka Tank Conservation and Development Authority (for short, "the said Authority") constituted by the Karnataka Tank Conservation and Development Authority Act, 2014. The CEO of the said Authority seems to be acting as the Secretary of the Apex Committee, though he is not a member of the Apex Committee as the modification made to the order dated 9th December, 2013 is not placed on record.</p> <p>6. We, therefore, direct the Principal Secretary to the Government, Revenue Department to file a personal affidavit setting out the details of the meetings of the Apex Committee held up to date. The minutes of the meetings shall be annexed to the affidavit. The Principal Secretary, Revenue Department, will also state how many complaints were placed before the Apex Committee and in how many complaints effective action has been taken by the Apex Committee. As observed earlier, unless the Apex Committee regularly meets and complaints</p>	

about violations of the directions issued by this Court are placed before it, the very purpose of constituting the Apex Committee gets defeated. The Principal Secretary to the Government, Revenue Department will have to also explain as to how the CEO of the said Authority has become a part of the Apex Committee. The affidavit of the Principal Secretary to the Government, Revenue Department shall be filed within a period of two weeks from today and copies thereof shall be supplied to all the concerned parties.

7. Apart from directing constitution of the Apex Committee, in paragraph 10 of the decision of this Court on W.P. No.817 of 2008, three other Committees were ordered to be constituted in terms of paragraphs 7 to 9 of the said judgment and order. The Committees accordingly constituted are required to submit quarterly reports to the Apex Committee which was required to issue directions to the concerned Authorities based on the reports. While filing the affidavit as aforesaid, the Chairman of the Apex Committee shall set out the details of the quarterly reports received by the various Committees constituted at other levels as per the directions of this Court in W.P. No.817 of 2008. He will also state whether any directions have been issued by the Apex Committee to any other Committee.

8. Under the judgment and order dated 11th April, 2012 in W.P. No.817 of 2008, the first direction issued was to conduct a survey of lakes and tanks in the State of Karnataka by demarcating the boundaries and making proper fencing. In clause (viii) of paragraph 33 of the order dated 18th February, 2019, a direction was issued to place on record a copy of the survey of lakes and tanks in Karnataka. Even the said order is not yet complied with, though it is passed way back on 11th April, 2012. In fact, after passing the aforesaid direction to submit a report on record, more than one and a half years have lapsed, but still that direction is not complied with.

9. The learned Additional Government Advocate, at this stage, invites our attention to a chart at page No.189 appended to the compliance affidavit dated 20th November, 2020. The chart indicates that there are 37,126 lakes in the State and it is stated that there are 18,972 lakes maintained by other Departments. It is not clear from the affidavit which Department is maintaining 18,972 lakes and which Department is maintaining the other lakes. However, it is stated in the chart that only 14,839 lakes have been surveyed.

10. To begin with, we direct the State Government to provide to the parties to the petition soft copies of the details of the survey carried out in Bengaluru Urban and Bengaluru Rural Districts within a period of one week from today. The chart indicates that the action of removal of encroachment on the lakes to the extent of 20,114 acres has still not been taken. The Secretary, to whom we have issued the directions, shall look into this aspect as well. The State Government will have to give a chart of district wise break-up of various lakes which have been surveyed, the names and details of the lakes in respect of which encroachments were found, the extent of encroachments removed and the extent of the encroachments yet to be removed. Though such a chart is required to be filed for all the districts, to begin with, the learned Additional Government Advocate will provide a chart in relation to Bengaluru Urban, Bengaluru Rural and Belagavi Districts.

11. In terms of clause (xi) of paragraph 33 of the order dated 18th June, 2019, the State Government has not created any Grievance Redressal Mechanism. The State Government has issued a public notice stating that the grievances can be made to the CEO of Karnataka Tank Conservation and Development Authority. We have already found that the CEO of the said Authority is not a member of the Apex Committee. Moreover, the said notification is not clear. The notification must specify the landline number, cell phone number and Whatsapp number.

12. As per clause (xii) of paragraph 33 of the said order, it was the duty of the State Government to ensure that a survey of storm water drains is carried out within the limits of BBMP. Thereafter, BBMP must take action of removal of the encroachments. The State Government has not stated on oath whether a survey of the storm water drains as directed in clause (xii) of the said order has been carried out. Paragraph 14 of the order dated 14th August, 2019 refers to the status of Subramanyapura Kere. It records that there are several encroachments on the said lake.

13. The eighth respondent appearing in person states that the situation of the said lake has not undergone any change, and in fact, it has become worse. He

pointed out that several representations have been made to the Apex committee and to other Authorities, but no steps have been taken. We direct the Principal Secretary to the Government, Revenue Department to immediately take steps for removal of all encroachments on Subramanyapura Kere. The steps taken for removal of encroachments shall be placed on record by filing an affidavit within a period of four weeks from today. The Principal Secretary being the Chairman of the Apex Committee, must also explain why the complaints filed by the eighth respondent about this lake right from May 2018 have not been acted upon.

14. We have perused paragraphs 16 and 17 of the order dated 14th August, 2019 passed by this Court containing a direction to reconsider the Government Order dated 20th July, 2019. In paragraph 19 of the affidavit filed by Shri E.V.Ramana Reddy, Additional Chief Secretary, Urban Development Department, it is merely stated that the State Government has fixed a buffer zone at 30 metres based on the order of the Apex Court. However, nothing is placed on record to show that any attempt was made to reconsider the Government Order dated 20th July, 2019. The decision taken on the question of reconsidering the Government Order dated 20th July, 2019 shall be placed on record within a period of two weeks from today.

15. As regards the direction contained in paragraph 5 of the order dated 30th August, 2019, the affidavit filed by the Commissioner of Bengaluru Development Authority (BDA) dated 13th January, 2021 deals with this aspect. A copy of the opinion of NEERI submitted on 4th January, 2021 is annexed which records that no restoration plan of the said lake can be suggested. However, recommendations have been made regarding compensation. The learned counsel appearing for BDA states that the report of NEERI will be placed before the Board of BDA and further decision will be taken. We direct the Board to take a decision at the earliest and in any event, not later than six weeks from today.

16. The order dated 4th March, 2020 refers to the failure to remove unauthorized constructions within 30 metres of the buffer zones around the lakes. Obviously, this exercise was not undertaken as the survey of the lakes is not completed. However, if the survey of some of the lakes in the State is completed and it is found that there are encroachments within 30 metres of the buffer zone, the State Government must issue immediate directions to start the removal of unauthorized construction in the buffer zone. The Principal Secretary shall report compliance about this direction within a period of four weeks from today.

17. In the order dated 1st December, 2020, this Court has referred to the action of the State Government of appointing private corporate entities for the work of rejuvenation of lakes. This issue has been dealt with by the State Government in the compliance and further action-taken report. Even in the said report, it is not stated by the State Government that any transparent process was conducted for selecting corporate

entities or other entities. A workshop was held and thereafter, Memorandum of Undertakings (MoUs) are entered into.

18. The fact of entering into such MoUs is dealt with by the eighth respondent by filing a memo dated 16th December, 2020. In the said memo, several violations committed by these six private entities while carrying out the work of rejuvenation have been stated. It is pointed out that in case of three lakes, Sewage Treatment Plants have been constructed inside the lake. The Principal Secretary to the Government, Revenue Department shall file an affidavit dealing with what is stated in the memo dated 16th December, 2020. The affidavit shall be filed within a period of two weeks from today.

19. In the compliance and further action report dated 15th January, 2021, the State Government has relied upon the order passed by the National Green Tribunal (NGT) in O.A.No.325/2015 and it is prayed that this petition should be transferred to NGT. A specific prayer is made in paragraph 28 to that effect. Perusal of paragraph 22 of the order dated 18th November, 2020 passed by

	<p>NGT clearly shows that the order is essentially about the restoration of water bodies as well as polluted rivers. In this case we are not concerned only with the restoration of the lakes but also with the issue of removal of encroachment of the lakes and rejuvenation of the lakes. Nothing is placed on record to show that NGT is seized of these larger issues. Therefore, we reject the prayer made in paragraph 28 for transferring this petition to NGT.</p> <p>20. Today, the counsel for BBMP and the Karnataka State Pollution Control Board could not remain present. For considering the compliance made by both the entities, the petitions shall be listed on 2nd February 2021 at 3.45 p.m.</p> <p>21. The report submitted by the eight respondent appearing in person of January 2021 of Dr.S.Subramanya is taken on record. Copies have been supplied to the counsel who are present in the Court.</p> <p>22. List the petitions on 2nd February 2021 at 3.45 p.m. W.P. No. 51475 of 2019 shall be de-linked from this group of petitions and listed with W.P. No.24739 of 2012.</p>	
41	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	<u>17/12/2020</u>
	<p>For considering all the aspects and all the pending I.A.s, list these petitions on 16th January 2021 at 2.30 p.m.</p> <p>As no other matter will be fixed on 16th January 2021 at 2.30 p.m., the learned members of the Bar are requested to appear and assist the Court.</p>	
42	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	<u>01/12/2020</u>
	<p>We have perused the affidavit filed by the State Government dated 20th November 2020. The State Government has reported compliance with the order dated 4th March 2020 and in particular paragraph 10 of the said order. We direct the State Government and the BBMP (wherever BBMP is a party) to place on record the procedure followed before entering into the Memorandum of Understanding (MOU) with private Corporate Entities. Annexure-R20 shows that an offer was given by the State Government to M/s. Infosys Foundation. The offer shall be placed on record. The State Government and the BBMP must state whether any public notice was issued calling upon the private Corporate Entities and other organizations to come forward and assist for restoration/rejuvenation/maintenance of lakes. The State Government and the BBMP shall take a clear stand whether the work which is supposed to be carried out as per the MOUs at Annexures-R20 to R25 is permissible as per the directions issued by this Court in Writ Petition No.817 of 2008 and the report of Hon'ble Sri Justice N.K.Patil (Retired). We are putting the BBMP and the State Government to the notice that it is their duty to immediately stop work which is not permissible under the aforesaid order. We also direct the State Government to place on record the extent of work carried out under the aforesaid MOUs. Both the State Government and the BBMP will have to take a stand whether the concerned companies/Corporate Entities have complied with the terms and directions of the MOUs. We may add here that even if it is permissible to allow the corporates/private entities to do the work of restoration/rejuvenation/maintenance of lakes, the work can be assigned to the Corporate Entities only after following a fair and transparent process. There is nothing placed on record to show that such a process was followed before entering into MOUs with the private Corporate Entities. If the State Government / BBMP would have invited the offers, perhaps better offers could have been received by the State Government and the BBMP. The compliance shall be reported by the State Government as well as the BBMP within two weeks from today. While reporting compliance, the State Government and the BBMP must take a clear stand whether these private Corporate Entities are today in</p>	

possession of the lakes and the area surrounding the lakes. The State Government and the BBMP will also state on record whether any Officers have been nominated with a view to ascertain whether compliance is being made by these Entities with the terms and conditions of the MOUs.

We may note from the compliance report that the Apex Committees ordered to be constituted under the order dated 11th April 2012 have held only six meetings so far and only two meetings have been held in the year 2020. Prima facie, this shows that the Apex Committees are not discharging their duties. The Apex Committees will have to hold frequent meetings to monitor the progress. Prima facie, we are not satisfied with the compliance report of the State Government.

After 5th March 2020, the BBMP has not reported any compliance. Learned Senior Counsel appearing for the BBMP seeks time to report compliance. We grant time of two weeks to the BBMP to file compliance report.

The BBMP has not reported compliance of the order passed on IA-2 of 2019 in W.P.No.24768/2005. The BBMP has not filed statement of objections to IAs-1 and 2 of 2020. We direct the BBMP to report compliance of the order passed on IA-2 of 2019 and to file statement of objections in both IAs-1 and 2 of 2020 within a period of two weeks from today.

To enable the Court to properly hear the matter, one of the petitioners will have to prepare a detailed chart giving all details about the compliance so far reported by various authorities.

ORDER ON IA-5/2020 IN W.P.No.38401/2014

After arguing the application for sometime, the learned Senior Counsel appearing for the applicant seeks permission to withdraw the application. Accordingly, IA-5/2020 is dismissed as withdrawn.

At this stage, learned Senior Counsel appearing for the BBMP states that the applications made by the BBMP for modification of the interim orders in respect of three lakes may be taken up on the next date of hearing.

After 5th March 2020, if National Environmental Research Institute (NEERI) has submitted any report, copies of the report shall be placed on record by the learned Counsel appearing for the BBMP.

List these petitions along with all pending applications on 17th December 2020.

43	ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI	<u>23/11/2020</u>
	List the petitions before the regular Bench on 1st December 2020.	
44	ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY	<u>09/11/2020</u>

	<p>We had directed the Registry to list this group of cases as the same were not listed after 4th March 2020. Firstly, this Court will have to ensure implementation of all the interim directions issued from time to time upto 4th March 2020. The parties will have to be heard on further interim directions which are required to be issued.</p> <p>The learned Senior Counsel appearing for Bengaluru Water Supply and Sewerage Board (the third respondent in W.P.No.38401/2014) seeks orders on I.A.No.5/2020. However, the third respondent has not produced any sketch or drawing showing the place in which it is proposed to construct the Sewage Treatment Plant (STP).</p> <p>We, therefore, direct the third respondent to file an affidavit and produce the sketch and necessary details of the place where the STP is proposed to be set up. We grant time of ten days to the third respondent to do so.</p> <p>If any of the respondents have not filed affidavits/compliance reports reporting compliance with all the orders issued from time to time, we grant them time to do so. They shall file their affidavits/compliance reports by 20th November 2020. Let the petitions be listed on 23rd November 2020,</p> <p>It will be open for the petitioner in W.P.No.38401/2014 to file statement of objections to I.A.No.5/2020 before the next date.</p> <p>I.A.Nos.3 and 4 of 2020 shall be also shown on the cause list so that those applications can be heard on the next date.</p>
--	--

45	ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI	<u>04/03/2020</u>
	<p>1. The first issue is regarding implementation of directions issued by this Court in W.P.No.817 of 2008 by judgment and order dated 11th April 2012.</p> <p>2. We have carefully perused the affidavit filed on behalf of the State dealing with the compliance.</p> <p>3. After having perused the said affidavit dated 13th February, 2020 of Sri.N.Manjunath Prasad, Principal Secretary to the Government, Revenue Department, M.S.Building, Bengaluru, we find that It is an affidavit reporting non-compliance with the directions issued eight years back vide order dated 11th April 2012 in W.P.No.817/2008. All the committees as contemplated by the said judgment and order have not been constituted. The committees so constituted have hardly held meetings. Even the Apex Committee has held only five meetings. Though the Apex Committee is empowered to entertain complaints and issue directions, the very fact that the Apex Committee exists and is entitled to entertain grievances at various levels is not made known to the members of the public. As a result of failure to constitute committees, there is no proper survey of lakes and tanks in the entire State of Karnataka as directed vide order dated 11th April 2012 in the writ petition. A direction was issued to conduct survey by demarcating boundaries and to make proper fencing. However, such survey in terms of the order of this Court has not been carried out at all for the last about eight years.</p> <p>4. The data of existing and disappeared lakes which is placed on record comes from the following sources :</p> <ol style="list-style-type: none"> 1) Remote Sensing Application Centre (data of Bengaluru); 2) The Survey Settlement and Land Records Department ; 3) Karnataka Public Lands Corporation Ltd.; 4) Minor Irrigation Department; 5) RTCs and village records; 6) Laxman Rao Report; 7) Justice N.K.Patil Report 8) EMPRI Lake Survey <p>5. Barring few exceptions, the data collected from these entities does not tally and there is a large variance. Therefore, it is a matter of great importance that the directions issued way back in the year 2012 to conduct survey of all lakes and tanks are scrupulously implemented. The State Government shall ensure that all concerned Committees are constituted within a period of one month from today and a direction is issued to all the Committees to complete the work</p>	

of survey as directed under the order dated 11th April 2012 within the time bound programme fixed by the State Government. All the Committees shall be provided with a soft copy of the data collected from the aforesaid eight sources. It is obvious that on the basis of the data furnished by the aforesaid entities as well as RTCs, village records and other relevant documents, the data of the lakes which have disappeared with passage of time shall also be collected by the Committees. The State shall fix a time bound programme for completing the task. The State shall also issue orders to comply with the directions in the judgment and order dated 11th April 2012 in W.P.No.817 of 2008.

6. Another important task which remains is of removal of unauthorized constructions within 30 meters buffer zone around the lakes. This exercise will have to be immediately undertaken after the survey of lakes. In fact, the District Level Committees shall ensure that as and when a survey of an individual lake is completed, appropriate authorities take action to remove unauthorized constructions within 30 meters buffer zone. Thereafter, the action as contemplated in clauses (3) (4) and 5 of paragraph 50 of the judgment and order will have to be taken.

7. We direct the State Government to give wide publicity to existence of the Apex Committee and the fact that the Apex Committee is empowered to deal with all the complaints and to issue necessary directions to the concerned Committees for proper maintenance and development of lakes. Further, the mode of making complaints and the manner in which the complaints shall be entertained shall also be published while giving publicity to the existence of Apex Committee.

8. As stated earlier, the affidavit of Sri.N.Manjunath Prasad, the Principal Secretary to the Government, Revenue Department shows complete non-compliance with the directions in the order dated 12th April 2012. In view the said non-compliance, in fact, today this Court would have been justified in initiating contempt action against the State Government. However, today we are refraining from passing such order with the hope that before the next date, substantial compliance will be made by the State Government.

9. The affidavit of the State Government brings on record another disturbing feature regarding the memorandum of understanding executed by the State Government with Corporate Entities as per the draft annexed on pages 118 onwards. The draft indicates that the State is virtually parting with the lakes to private Corporate Entities.

10. We direct the State Government to place on record along with the affidavit the copies of such agreements already executed. The issue of legality of the agreements will have to be considered. Prima facie, it appears to us that by the execution of the said agreements, the State wants to shift its burden of maintaining the lakes to the private Corporate Entities. Unless the legality of such agreements is examined, we cannot permit the State Government to execute such agreements. Therefore, we direct that till further orders are passed, the State Government shall not execute any such MOU with any Corporate Entity. However, this order will not prevent the State Government from taking funds from the Corporate Entities for rejuvenation of lakes.

11. We direct the State Government to file an affidavit on or before 17th April 2020 setting out further steps taken as directed by this Court in W.P.No.817/2008. However, while filing the affidavit, the State Government will have to justify the stand taken by it that it intends to execute MOUs with Corporate Entities in the form which is available from page 118 onwards of the affidavit filed by it.

12. Now, coming to the compliance affidavits filed by BBMP, it is stated that out of 205 lakes which includes 38 lakes which has been recently transferred to BMMP on 11th December 2013, survey of 116 lakes have been carried out.

13. Learned AAG states that insofar as the lakes which are vesting in the State are concerned and which are handed over to BBMP, it is the obligation of the BBMP to remove the encroachments on the lake area. In response to the said submission, the learned Senior counsel for the BBMP states that the BBMP will take immediate steps for removal of illegal constructions in the lake areas.

14. In view of the submissions made on behalf of the State Government, BBMP will have to take all possible steps to remove the encroachments on the lake area of the lakes handed over by the State Government to the BBMP.

15. The National Environmental Research Institute (NEERI) has sought time to submit its report. We grant time to submit the report till 31st March 2020. As soon as the report is received from the NEERI, copies thereof shall be furnished to the State by the BBMP and to the parties to these writ petitions so that the report can be taken up for consideration on the next date.

16. As report of NEERI is likely to be received by 31st March 2020, after the report is submitted, the directions already issued by this Court will have to be moulded in terms of the recommendations of NEERI.

17. As stated in the affidavit of 12th February 2020, a survey of 160 lakes has been completed by the BBMP and survey of 45 lakes remains to be carried out. It is stated that a request has been made to the ADLR to conduct survey. We direct the concerned ADLR to commence and conduct the survey of remaining 45 lakes within the maximum period of two months from today.

18. As regards encroachments on the lakes which have been handed over to BBMP, the State Government and BBMP shall take joint action for removing such encroachments. Proceedings shall be immediately initiated to clear the encroachments. If encroachments are in the form of construction of structures, BBMP shall exercise powers under the Karnataka Municipal Corporations Act, 1976 for demolishing the structures.

19. The progress made regarding removal of encroachments on the lakes within the jurisdiction of BBMP shall be reported to the Court both by the State and the BBMP by filing affidavits on or before 14th April 2020.

20. Learned Senior Counsel appearing for the BBMP seeks modification of the directions issued by this Court regarding Subramanyapura lake and Begur lake. However, necessary opinion of the experts in this regard has not been placed on record by the BBMP. The BBMP can pray for modification only after reports of the experts is placed on record.

21. We direct the BBMP to file reply to I.A.2 of 2020 filed by Citizen Action Group. This application shall be considered on the next date.

22. As regards the directions issued on I.A.2 of 2019 in W.P.No.24768/2005, we extend the time granted to the BBMP to file compliance affidavit by a further period of two weeks. It is made clear that thereafter no further extension will be granted. We permit the counsel for the petitioner in the said petition to file a memo for placing necessary facts on record.

23. There is one more important aspect on which an affidavit has been filed by the BBMP on 12th February 2020. There is an inordinate delay on the part of the BBMP in framing the Solid Waste Management Bye-laws. A draft of the Bye-law was approved way back on 13th July 2019. It is reported that the final draft of the bye-law after considering the objections was placed before the Council of BBMP on 28th January 2020. But consideration of the same has been postponed. We direct that appropriate decision for approval of the final draft of the bye-laws shall be taken by BBMP Council in its next meeting.

	<p>24. We may record here that framing of bye-laws has been inordinately delayed by the BBMP. This order shall be brought to the notice of the Council of BBMP by the Municipal Commissioner.</p> <p>25. For considering further compliance, the petition shall be listed on 20th April 2020 at 2.30 p.m.</p> <p>26. Learned AAG has placed on record a copy of the final report of the Technical Committee on three breached tanks within the BBMP limits containing suggestions for preventing such incident. The copies of the report shall be supplied to the parties to the petition.</p> <p>27. The State Government will make its stand clear as regards the acceptance of the report of the Committee. From the report, it appears that large number of recommendations have been made by the Committee. The Committee has recorded that breaches in respect of all the three tanks were avoidable and the Committee has made suggestions from preventing such incidents happening in the future. These aspects will be considered on the next date of hearing.</p> <p>28. It will be open to the State Government to provide soft copies to all concerned.</p>
--	---

46	ABHAY SHREENIWAS OKA (CJ) AND HEMANT CHANDANGOUDAR	<u>17/02/2020</u>
	<p>A mention is made at 11.30 a.m. by the learned Additional Government Advocate for an adjournment on the ground that the learned Additional Advocate General is not available. He states that the learned advocate for the petitioner as also the eighth respondent appearing in person have been informed about the request.</p> <p>As per the request made, let the matters be listed on 2nd March, 2020 at 2.30 p.m.</p>	

47	ABHAY SHREENIWAS OKA (CJ) AND HEMANT CHANDANGOUDAR	<u>13/01/2020</u>
	<p>ORDER ON I.A. NO.5/2019 IN W.P. NO.38401/2014</p> <p>Perused the translated copies of Annexure-A. We have heard the learned counsel appearing for the applicant.</p> <p>2. There is no specific order passed on the basis of the orders passed in the writ petition in which this interlocutory application is filed, to dispossess the applicant. The applicant is relying upon the decree passed in a civil suit to which the State is a party. The learned counsel pointed out that an order of permanent injunction is also granted. If any proceedings for eviction or dispossession of the applicant are initiated by the State Government, the applicant can always invite the attention of the concerned authorities to the orders of the Court and other documents of title possessed by him. As of today, the application is premature and the same is, therefore, rejected.</p> <p>COMMON ORDER</p> <p>3. Now coming to the compliance of the various directions issued by this Court in W.P. No. 38401/2014, to say the least, there is hardly any compliance by the Bruhat Bengaluru Mahanagar Palike (for short, 'BBMP'). In fact, all the non-compliances have been listed in detail in the memo filed by the petitioner in W.P. No.38401/2014.</p> <p>4. We have indicated to the learned counsel appearing for BBMP the flaws in the affidavits tendered today. Nothing is forthcoming as to why there is no progress made in framing the Solid Waste Management Bye-laws, the draft of which was notified in August, 2019. In short, today there is no material on record to show that a majority of the directions have been complied with by BBMP.</p> <p>5. The State Government's affidavit of compliance filed by the Principal Secretary, Revenue Department, Government of Karnataka, is also silent about the various directions issued by this Court. The State Government was supposed</p>	

to respond by pointing out the action taken by the District Level Committees and the Apex Committee. What the affidavit reports is non-compliance of the directions issued under the final judgment and order passed in W.P. No.817/2008. In fact, this is a fit case where suo moto contempt proceedings for committing deliberate breach of the orders of this Court in W.P. No.817/2008 deserves to be initiated. We are informed that the learned Advocate General will be representing the State. Therefore, we are postponing that action till we hear the learned Advocate General.

6. The basic issue which is not addressed is about the availability of data of the lakes in every district of the State. We are informed that the Lake Development Authority which was disbanded, had collected data and the same has been handed over to the Minor Irrigation Department of the State Government.

7. The eighth respondent and his colleagues working in the field tell us that the data is available at two places. Data will be available with the Karnataka State Remote Sensing Application Centre having its office in the capital city, and secondly, it is pointed out that a survey map has been prepared by the Survey of India in the year 1972. In fact, this map of 1972 will also throw light on the cases where the lakes have disappeared or the lake area is substantially reduced. The State must procure the said data from Remote Sensing Application Centre and the data available in the map of 1972 of the Survey of India. Moreover, the State will ascertain whether the data collected by the Lake Development Authority is available with the Minor Irrigation Department.

8. It is obvious that the District Level Committees which are constituted in thirty districts have not complied with the directions of the Court. The Apex Committee which was supposed to supervise their work has hardly held meetings. The Committees at the district level have not caused a survey of the lakes to be made in the respective districts. Therefore, we are unable to understand how the Committees are going to implement the directions of this Court in W.P. No.871/2008. The State must collect the aforesaid data and make available a soft copy thereof to all the parties to these petitions so that they can assist us.

9. As indicated earlier, the affidavit filed by the Chief Engineer of BBMP, Storm Water Drain Division, dated 17th December, 2019 cannot be accepted for the reasons which have been indicated by us to the learned counsel appearing for BBMP.

10. Now, coming to the last direction issued on page 8 of the earlier order dated 27th November, 2019, the affidavit of the State is completely silent. The eighth respondent has tendered an affidavit of today's date. It is pointed out in the affidavit that without the State extending its helping hand, though a representation was made to the State on 2nd January, 2020, the Environment Support Group, a Trust, has already commenced the survey in collaboration with Bird Watchers Field Group of Bengaluru. The Groups are doing purely voluntary work. Logistic support from the State is required for conducting a survey of lakes, tanks in Bengaluru as well as wetland habitats. We direct the State Government to provide logistic support as sought by the said organization and as set out in the letter dated 2nd January, 2020. It must be noted here that no aid in terms of money is sought for the Project of Survey. What they need is support as sought in the letter dated 2nd January, 2020. The State shall ensure that all possible assistance is rendered and the required help is extended for carrying out the survey.

11. The learned counsel appearing for BBMP has submitted the views/opinions of CSIR-National Environmental Engineering Research Institute (for short, "NEERI") as regards tanks and lakes. Copies thereof to be furnished to the parties to these petitions. In the light of the views/opinions expressed by NEERI, BBMP will have to tell the Court whether it is willing to accept the views/opinions of NEERI and modify the plan of rejuvenation activities.

12. An application is made by BBMP for modification of the earlier directions of this Court regarding Subramanyapura Lake. The application and the prayers are not supported by any opinion of experts. The learned counsel for BBMP states that opinion of the expert will be placed on record.

13. Our attention is invited to the appeal made by Hon'ble Chief Minister and Chairman of the Karnataka Tank Conservation and Development Authority which is also signed by the Hon'ble Minister for Minor Irrigation and Vice-Chairman of the said Authority. The State Government, while filing the affidavit in terms of the directions of this Court, must explain what role will be assigned to corporate companies and organizations in the work of development and maintenance of tanks. It is obvious that this appeal does not mean that tanks and lakes in the State will be handed over to the corporate companies and organizations.

14. By way of a last chance, we give one more opportunity to the State to file an affidavit reporting compliance with the directions issued in W.P.No.38401/2014.

15. As regards W.P.No.817/2008 is concerned, we have already indicated that we intend to initiate contempt proceedings against the State. Even BBMP is finally granted time to report compliance with all the directions in the present petitions. We finally grant time to the State and to BBMP to report compliance till 12th February 2020. The State will report compliance with the directions contained in the present order. The State and BBMP shall ensure that copies of the compliance reports are supplied to all concerned in any event, on or before 14th February 2020.

ORDER ON I.A.NO.2/2019 IN W.P.No. 24768/2005

16. Heard the learned counsel appearing for the petitioner and the learned counsel for BBMP. It is contended that on a park area, a temple is sought to be constructed. Her contention is prima facie supported by the photographs at Annexure-R.

17. The learned counsel for BBMP states that it is necessary to verify whether the temple is constructed on the park area which is the subject matter of the writ petition. In fact, way back on 31st October 2019, a representation was submitted to the Joint Commissioner (South) in which it is alleged that the temple is being constructed on the site of the park. In any case, BBMP will have to consider the issue in the light of the fact that even according to its case, it is being constructed on a footpath adjacent to the park which is obviously construction of an illegal religious structure carried out after 29th September 2009 on a public place and therefore, the action of removal will have to be taken. As of today if the temple is not fully constructed, BBMP shall ensure that no further construction is carried on and in respect of the construction already carried out, appropriate action for removal is initiated in accordance with law.

18. Compliance affidavit with this order shall be filed on or before 12th February, 2020.

19. List these petitions on 17th February, 2020 in the afternoon session.

48	ABHAY SHREENIWAS OKA (CJ) AND PRADEEP SINGH YERUR	<u>20/12/2019</u>
	Let the matters be listed on 13th January, 2020 at 2.30 p.m.	
49	ABHAY SHREENIWAS OKA (CJ) AND PRADEEP SINGH YERUR	<u>17/12/2019</u>
	LIST ON 20/12/2019	
50	ABHAY SHREENIWAS OKA (CJ) AND PRADEEP SINGH YERUR	<u>27/11/2019</u>
	<p>The learned senior counsel appearing for the petitioner in WP.No.38401/2014 has tendered a memo on the status of compliance.</p> <p>2. We have perused the memo. Large number of directions issued against the BBMP and the State Government, have not been complied with. As regards the</p>	

non accessibility of the Government Grievance Redressal Website, Sri Lakshmisagar N.K., Under Secretary to the Government who is personally present in the Court states that even today the website can be accessed and in fact, he has registered his own complaint. However, the grievance regarding toll-free numbers remains unanswered and same in the case with regard to whats app number.

4. Neither the learned Government Advocate nor the learned counsel appearing for the BBMP are in a position to address us on non compliances mentioned in the report and they seek time.

5. Now coming to the last order dated 8th November 2019 as regards the lake at Sl.No.15 of the list of 19 lakes, the status report has been filed by the learned counsel appearing for the Karnataka State Pollution Control Board in which reliance has been placed on the judgment and order dated 23rd February 2001 in WP.No.24185/1997 (PIL).

6. We have perused said judgment. There is an observation in the said judgment that the question of restoration of tank and preservation of tank bed is highly impracticable 'at this juncture'. This judgment has been rendered in a petition filed 22 years back. The judgment is delivered 18 years back. Thereafter, the new techniques have been evolved for restoration of lakes. Moreover, thereafter, the law has undergone change. The Apex Court has evolved the law on precautionary principle and public trust doctrine.

7. In the changed scenario, the Karnataka State Pollution Control Board has to take a call whether it wants to hold on to office premises constructed on a tank bed. We hope and trust that the authorities of the Karnataka State Pollution Control Board will apply their mind to the principles evolved by the Apex Court in the context of the fundamental duties under Article 51A of the Constitution of India and will lead by example. The Karnataka State Pollution Control Board must apply its mind and take a decision whether in the event of the National Environmental Engineering Research Institute (for short 'NEERI') recommending that the restoration of the said lake is possible, if the structures thereon are removed, it is willing to surrender the premises in its possession. In fact, the preliminary report submitted by NEERI has noted the existence of the structures. If the structures which are occupied by the public entities like the Karnataka State Pollution Control Board and the KSRTC are removed, it may be possible to restore atleast a part of the lake. As NEERI report is not likely to be submitted immediately, we grant longer time to the Karnataka State Pollution Control Board to take a call and to take a decision on this aspect till 15th January 2020. Even the State Government will have to consider the issue not only in respect of the aforesaid lake but in respect of certain other lakes forming a part of the list of 19 lakes which have disappeared as there are structures erected by the public authorities. If the State Government can take a policy decision to relocate the structures, it may be easily possible to take steps to restore the lakes. In fact, in one of the orders, we have observed that if it is not possible to remove the structures, restore and rejuvenate the lake, the State Government will have to create artificial lakes in different parts of the city.

8. The representative of the Environmental Management and Policy Research Institute is personally present in the Court. It is pointed out by him that the report prepared after doing voluminous work was submitted to the Lake Development Authority. The State must immediately respond on this aspect. There are recommendations made in the said report and the State will have to come before the Court whether it has accepted the recommendations and whether any action has been taken on the basis of voluminous work done by the Environmental Management and Policy Research Institute, which is a part of the State Government set up.

9. We direct the BBMP to share the soft copies of the report prepared by the said Institute to NEERI, so that NEERI will be benefited by the exercise undertaken by the said authority.

10. The eighth respondent appearing in person has tendered an affidavit enclosing the materials collected by the the Environmental Management and Policy Research Institute. The affidavit deals with some of the 19 disappeared lakes. We propose to hear all the parties on the said documents and pass an

order.

11. Our attention is also invited to three recent incidents about the collapse of retention walls of the lakes which lead to large scale flooding in certain areas of the city. The eighth respondent appearing in person states that the work of rejuvenation may not have been done scientifically. There is dispute between the learned counsel appearing for the BBMP and learned counsel appearing for the BDA about the jurisdiction of the said authorities over the three lakes. The collapse of retention of the wall of three lakes has resulted into serious consequences. Apart from causing enormous damages to the citizens and their properties, such collapse may lead to destruction of the lakes. We direct the State Government, BBMP and BDA to come out with immediate measures to ensure that such incidents will not be repeated in respect of the other lakes. Moreover, the State must ensure that the proper enquiry must be held on the causes of the said incidents and an enquiry report must be placed before the Court.

12. As NEERI is ceased out the matter, the State Government, BBMP and BDA will report the incidents concerning three lakes to NEERI along with the relevant materials and photographs, so that while preparing the final report, even NEERI can apply its mind to the causes of the incidents and can come out with suggestions for prevention. The State must come out on the next date with immediate preventive measures to ensure that such incidents will not happen in relation to the other lakes.

13. We propose to grant time of three weeks to the State Government, BBMP and BDA to respond on this aspect as well as issue of non compliance of the orders of this Court.

14. Now coming to the compliance of the direction issued in WP.No.817/2008, though the Principal Secretary of the Revenue Department who is the head of the Apex Committee was made a party and though he was directed to respond by filing the objections setting out the steps taken by the Apex Committee, there is no response. The Principal Secretary of the Revenue Department has not complied with the specific direction issued under the order dated 8th November 2019. If he does not comply with this order, the action under the Contempt of Courts Act, 1971 will have to be initiated against him.

15. As stated earlier, the memo tendered in WP.No.38401/2014 records that most of the directions issued in WP.No.817/2008 have not been complied with. The status report indicates that the District Level Committees had not done their job and in fact, only one meeting of the Committees had held during the entire year 2019. Even this aspect shall be dealt with by the Principal Secretary.

Let the petitions be listed on 17th December 2019 at

2.30 p.m. for considering the compliance of the earlier directions as well as the directions issued today.

Registry to show the name of Sri Amit Deshpande, learned counsel as appearing for the fourth respondent- BBMP.

The presence of the representative of the Environmental Management and Policy Research Institute is not necessary on further dates.

The learned counsel appearing for the fourth respondent-BBMP has tendered across the bar a letter dated 7th November 2019 addressed by the NEERI to the Additional Chief Secretary. The letter notes that the nature of the huge exercise undertaken by NEERI. Considering the magnitude of the task entrusted to NEERI, we accede to the request made in the said letter. We extend the time granted to NEERI to submit a report till the end of February 2020.

This order shall be communicated to NEERI by the learned counsel appearing for the BBMP.

The eighth respondent appearing in person has tendered across the bar for perusal of the Court a Survey of Irrigation Tanks as Wetland Bird Habitats in the Bangalore area by Birdwatchers' Field Club of Bangalore in January 1989. He pointed out that the survey was sponsored by the Karnataka State Forest Department and the logistical support was provided by the said Department. He states that the said Institute is again willing to undertake the same exercise provided necessary support comes from the State Government. We direct the State Government to consider this aspect and make a statement on the same, so that the same exercise can be undertaken by the same Institute with the logistical support of the State Government.

	WP.Nos.24768/2005 and 11447/2016 shall be tagged along with these writ petitions.	
51	ABHAY SHREENIWAS OKA (CJ) AND S R.KRISHNA KUMAR	<u>21/10/2019</u>
	<p>Eighth respondent pointed out that study of major lakes in the State was made by the Environmental Management and Policy Research Institute of the Government of Karnataka for dealing with conservation strategies of the major lakes. He states that the assessment was made not only in relation to the lakes in Bengaluru, but also in relation to various lakes in different parts of Karnataka.</p> <p>We direct the State Government to provide soft copies of the reports submitted by Centre for Lake Conservation to the advocates appearing for the authorities, the learned amicus curiae and the eighth respondent appearing in person so that they can address the Court by inviting attention of the Court to the relevant parts of the report.</p> <p>I.A.No.3/2019 filed by the State is allowed by directing impleadment of the Principal Secretary of the Revenue Department in his capacity as the Head of the Apex Committee constituted under the orders of this court passed in writ petition No.817/2000. Necessary amendment be carried within two weeks.</p> <p>Learned Additional Government Advocate takes notice for the Chief Secretary to the Government, State of Karnataka.</p> <p>Our attention is invited to interim application tendered in relation to Kaggadasapura lake. We make it clear that till the matter is heard and further orders are passed, no steps shall be taken by any of the respondents for creating islands in the lake, for carrying out any further construction in the lake area and for installing statues.</p> <p>List these petitions on 08th November 2019.</p>	
52	CJ & SRKKJ	<u>17/09/2019</u>
	<p>17.09.2019 WP.No.38401/2014 c/w WP.Nos.11044/2018, 20652/2018, 30521/2019 & 29107/2019</p> <p>Firstly, we will deal with the compliance of the order dated 30th August 2019. The order deals with Begur lake. There is an affidavit filed by Bruhat Bengaluru Mahanagara Palike (BBMP) of Sri B.T.Mohan Krishna, Chief Engineer, BBMP Lake Division. In the affidavit, the issue of creating artificial islands within the said lake is dealt with. The learned Senior Counsel representing BBMP relies upon the report of Sri Justice N.K.Patil and in particular Clause 7(a) and contended that the report authorizes making of such islands. After having perused Clause 7(a) of the report, we find that basically Clause (a) does not deal with the issue of creation of islands in existing lakes. There is a passing observation that unless the area of the lake is more than 20 hectares, it may not be a wise plan to form an island in the lake under restoration. This observation does not relate to the existing lakes but to the lakes under restoration. The other contention raised in the affidavit is that three artificial islands are proposed to be made in the lake and it would not affect storage capacity of the lake. Moreover, it is contended that the Authority established under the provisions of the Karnataka Tank Conservation and Development Authority Act, 2014 (for short the said Act of 2014) has granted permission to make islands on 28th August 2018.</p> <p>2. For the sake of convenience, we reproduce Section 12 of the said Act of 2014, which reads thus:</p> <p>12. Acts prohibited in tanks.- Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government departments, corporation or any local or other authority and their agents or employees or any body on their behalf shall,-</p>	

- (1) use the tank for any purpose other than storage or impounding of water or for the purpose mentioned in clause (9) of section 5;
- (2) construct any structure on tank land, occupy any tank land or part thereof or cause any obstruction at the natural or normal course of inflow or outflow of water into, or from, the tanks on the upstream and or downstream without permission of the Government;
- (3) make any irregular and unauthorized construction, any commercial, recreational or industrial complexes or houses or carry on any industrial activity within thirty meters from the outer boundary of the tank;
- (4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the tank by using vehicle or otherwise;
- (5) discharge untreated sewage into the tank directly or indirectly;
- (6) construct roads, bridges and likewise other structures within the tank area including the tank bund without permission of the Government;
- (7) breach bund, waste weir including lowering raising the height of the waste weir from its original height or remove fence, boundary stones or any hoarding or any sign board erected by the authority; and
- (8) do any other act which is detrimental directly or indirectly to the tanks.

Provided that nothing in this Act shall prohibit withdrawal of water for drinking or irrigation or any other purpose, for human consumption from any tank be specified by the Authority from time to time.

Provided further that nothing in this Act shall prohibit stocking of fish seeds and development of fisheries (except the fish which are dangerous or harmful to the aquatic eco-system of the tank) by the Government and its licensee, lessees or contractor in any tank specified by the Authority from time to time.

(Underline supplied)

3. The learned Senior Counsel for BBMP relied upon sub-section (6) of Section 12 of the said Act of 2014 under which a permission has been purportedly granted by the Authority. Sub-section (2) of Section 12 imposes a ban on construction of any structure on tank land. The BBMP in its affidavit referred above has stated that the proposal is to create three artificial islands by making concrete pilings and one of the islands will be built for installation of a very large stone Statue of Lord Shiva. Prima facie, sub-section (2) of Section 12 of the said Act of 2014 will apply to the construction of islands which may be made by taking concrete pilings in the bed of the lake. Prima facie, sub-section (6) of Section 12 will not apply to the activity of making islands by using concrete pilings. Taking concrete pilings and making an island thereon will amount to construction of a structure on the tank land, and therefore, it is clearly prohibited under sub-section (2) of Section 12.

Sub-section (6) of Section 12 is applicable to construction of roads, bridges and likewise other structures. The word likewise will have to be construed ejusdem generis and creation of islands will not be covered by sub-section (6) of Section 12. Thus, prima facie, it appears to us that a permission has been purportedly granted by the Lake Authority though it has no power to grant permission to do something which is completely prohibited under sub-section (2) of Section 12. Prima facie, the Authority had no jurisdiction to grant permission to do what the BBMP intends to do.

4. If the action of making or creating artificial islands in the said lake is prima facie illegal, it follows the subsequent decision of installation of the stone statue of Lord Shiva is illegal. We may note such decisions taken by BBMP show that it has completely forgotten the applicability of Doctrine of Public Trust. The BBMP cannot treat the lakes as if the same are of their private ownership. Moreover, as regards installation of a statue, in paragraph 12 of the affidavit, it is stated that such action is being taken on the request made by the members of public and by the Committee of Nageshwara temple situated at the shore of the lake. Prima facie, it appears to us while passing a resolution permitting installation of a statue, BBMP has acted in contravention of sub-section (2) of Section 12 of the said Act of 2014. As stated earlier, prima facie, it is our view that the Lake Authority cannot permit such activities as the same are not covered by sub-section (6) of Section 12. There is a prayer made in the affidavit to permit the BBMP to go ahead with work. Considering the prima facie findings recorded as above, we are not inclined to modify our order dated 30th August 2019 as

regards the said lake. One more reason why we are declining to modify the same is that after the State Government and BBMP have agreed to appoint National Environmental Engineering Research Institute (for short NEERI) as consultants, no further steps should be taken unless the proposed activities are looked into by NEERI.

5. As regards the other lakes which are referred in paragraphs 4 and 5 of the order dated 30th August 2019, BBMP has stated that the said lakes have not been handed over to it by the State Government. We, therefore, direct the State Government to respond to what is observed in the order dated 30th August 2019 in connection with the said lakes. The State Government shall respond within a period of three weeks from today by filing affidavits/objections.

6. Our attention is invited to a memo dated 17th September 2019 tendered by the learned Principal Government Advocate for producing the order dated 5th September 2019 passed by the State Government. The memo shows that the State Government has taken its own time to pass an order appointing NEERI in terms of the order dated 18th June 2019. Though an approval has been given to appoint NEERI, the requisite amount is not paid by BBMP even as of today. The learned Senior Counsel appearing for BBMP assures the Court that within a period of one week, necessary amount will be paid and necessary work order/agreement will be executed within the same time.

7. The order dated 5th September 2019 passed by the State records that even the issue regarding restoration of 19 disappeared lakes will be referred to NEERI for submitting its opinion. We, therefore, direct the BBMP to ensure that the necessary amount is paid to NEERI and an agreement as contemplated by order dated 5th September 2019 is executed with NEERI, within a maximum period of ten days from today.

8. Our attention is invited to number of directions which are part of the earlier orders which have not been complied with. Clause (vi) of the operative portion of the order dated 18th June 2019 is not complied with by the State Government and BBMP. Even Clause (vii) has not been complied with. There is non-compliance with the directions contained in the order dated 14th August 2019. The directions were issued under the said order both against the State Government and BBMP. There is also a grievance made as regards the failure to satisfy the Court about availability of grievance redressal mechanism. The learned Senior Counsel appearing for BBMP states that two more affidavits have been filed by BBMP apart from the said affidavit of Sri B.T.Mohan Krishna. We direct the BBMP and the State to ensure that the copies of all the objections/affidavits are provided to the Advocates appearing for the petitioners as well as the learned Senior Counsel appointed as Amicus Curiae so that they can assist the Court.

9. By the next date of hearing, we direct the learned counsel appearing for the petitioners to prepare a comprehensive chart indicating the compliance and non-compliance with various directions issued to the State Government and the other authorities under the various orders of the Court passed from time to time. BBMP will have to also comply with the directions issued in W.P.No.30521/2019. We direct the State, BBMP and other authorities to ensure that affidavits/compliance reports of all the directions issued from time to time by this Court are filed in this Court by 11th October 2019 and copies thereof are supplied to all concerned.

10. Before we part with this order, we must make a reference to status report submitted today by the Karnataka State Pollution Control Board. In the status report, it is pointed out that various steps were taken by the Pollution Control Board and the Police to implement the directions issued by this Court. It is pointed out that out of 1,91,247 idols immersed on 2nd September 2019, only 1,654 idols were made up of POP. Thus, only 0.086% of total idols immersed were made up of POP. It is stated in the compliance report that this was due to successful publicity given by the Pollution Control Board and other agencies as well as the steps taken to develop awareness by various methods. The learned counsel appearing for the Pollution Control Board assures the Court that even for Durga festival, similar steps will be taken for educating masses and making the members of the public aware about the directions issued by the Pollution Control Board.

	<p>11. The learned Additional Government Advocate has produced for perusal of the Court an advertisement published by the Government of Karnataka by which the members of the public have been given information about the availability of grievance redressal mechanism. The said document shall be placed on record along with the compliance report.</p> <p>For considering the compliance reports/affidavits and for issuing fresh directions, let these petitions be listed on 21st October 2019 at 2.30 p.m.</p>	
53	CJ & MNJ	<u>30/08/2019</u>
	<p>IN</p> <p>W.P.NOS.38401/2014 C/W 11044/2018, 20652/2018, 30521/2019 & 29107/2019</p> <p>We have perused the affidavit filed by the eight respondent in W.P.No.38401/2014, in terms of the order of this Court dated 14th August 2019. He has brought on record the present situation of Begur lake, which is stated to be one of the most historic lakes in the capital city. It is pointed out that as per the survey records, the area of the lake is 137.24 acres. It is pointed out that the lake has been heavily contaminated due to industrial and domestic sewage in the recent years. It is pointed out in the affidavit that a major portion of the lake, particularly the area that is submerged at full flood levels, is now being converted into sites of various infrastructure projects intending to turn the lake into a tourism destination. An effort is being made to create three artificial islands involving concrete pilings and the building of bunds. It is pointed out that one major island is being built for installation of a very large stone Shiva statue. It is pointed out that one more additional bund is being built through the lake bed. It is pointed out that massive sewage and storm water concretized drainage chutes are being built into and criss-crossing the lake bed. Photographs are produced at Annexure-D.</p> <p>2. Learned counsel appearing for the BBMP seeks time to take instructions. He states that he has been recently appointed to represent BBMP.</p> <p>3. Prima facie it appears to us that construction of islands within the lake will be in violation of the guidelines laid down in W.P.No.817/2008. While, we appreciate the intention of the BBMP to create a tourist spot near the lake, prima facie, BBMP has no authority to reduce the area of the lake and to make islands in the lake. In view of doctrine of Public Trust, BBMP cannot reduce the area of the lake. Such action is contrary to the law laid down in the order dated 18th June 2019. Till BBMP responds to this affidavit, we direct the BBMP not to carry on any work of building islands within the lake area of 137.24 acres. We also direct the BBMP to ensure that no work is carried out so as to reduce the existing lake area without the leave of the Court.</p> <p>4. The second factual aspect pointed out by the eighth respondent in paragraph 9 is about the two lakes (Jaraganahalli lake/Yelachenahalli lake) which are contiguous lakes described in paragraph-9 of the affidavit. The photographs annexed show that though the lakes have been shown in the revenue records, the same have disappeared, though the open area exists.</p> <p>5. In paragraph-10, attention of this Court is invited to one more lake namely, Venkatrayanakere. It is alleged that the BDA formed a residential layout on the lake bed. It is alleged that the BDA has re-designated the lake as karab land, though as per the village survey records, the existence of lake can be seen. The eighth respondent points out that in 2031 plan, the area is again shown as a lake. We direct the BDA to file an affidavit dealing with the averments made in paragraph-10 of the said affidavit and also to state before the Court in what manner the BDA proposes to restore the lake.</p> <p>6. We direct the BBMP to file an affidavit dealing with the averments made in paragraph-9 of the said affidavit. The BBMP to state in what manner the lakes can be restored. The BBMP shall also file the affidavit dealing with the</p>	

averments made in paragraph Nos.4 to 7 of the affidavit of the eighth respondent. The affidavits shall be filed before 17th September 2019.

7. The aforesaid interim direction issued in respect of Begur lake shall be scrupulously implemented by the BBMP.

8. Today, learned Senior Counsel appearing for the petitioner filed memorandum of facts which brings on record as to how the Grievance Redressal Mechanism ordered to be created by the Court, is working. In clause No.(ix) of paragraph-33 of the order dated 18th June 2019, the Grievance Redressal Mechanism was ordered to be created. Perusal of the memorandum of facts shows that Mobile Application, Sahaya Website Portal and BBMP Call Centre are totally ineffective, as can be seen from the statements made in the memorandum of facts. The only one mode of filing complaints namely, via email, appears to be functioning properly.

9. It appears that the BBMP is taking the directions issued by the Court very casually. We, therefore, direct the Municipal Commissioner to himself look into this aspect of functioning of grievance redressal mechanism and file his affidavit reporting compliance with the direction contained in clause (ix) of paragraph-33 of the order dated 18th June 2019. Such affidavit shall be filed on or before 16th September 2019, which shall be considered on 17th September 2019, when Court will consider the other compliances.

10. We also direct the BBMP to file an affidavit dealing with the status report submitted by the fifth respondent in W.P.No.29107/2019. The said affidavit shall be filed on or before 16th September 2019. Appearance of Sri. Gururaj Joshi, learned counsel, be shown for the fifth respondent.

11. The learned counsel appearing for the Karnataka State Pollution Control Board in W.P.No.11044/2018 has filed a status report about the action taken by the Pollution Control Board in terms of the order dated 18th June 2019 passed by this Court. The status report also includes the steps taken for preventing pollution which may be caused due to immersion of idols and other pooja materials. The steps taken to encourage making of mud based idols are also highlighted in the report. A copy of the memo dated 30th July 2019 issued by the Pollution Control Board as well as the copies of the letters addressed by the Pollution Control Board to the Additional Chief Secretary of the Urban Development Department and the Additional Chief Secretary of the Home Department are also annexed to the status report. It is stated that the meetings have been convened in connection with the implementation of the directions issued on 20th July 2019 under Section 3 of the Water (Prevention and Control of Pollution) Act, 1974. In view of what is stated in the status report, the State Government shall ensure that all steps are taken to implement the directions issued by the Pollution Control Board and the police machinery shall co-operate for implementation of the directions issued by the Pollution Control Board.

12. Further steps taken in this behalf shall also be considered on 17th September 2019.

54	CJ & MNJ	<u>14/08/2019</u>
	<p>Today, we are dealing with the implementation of the directions issued in the order dated 18th June 2019. We are also dealing with the issue of passing further interim directions.</p> <p>2. Now, we turn to the directions issued by this Court in the order dated 18th June 2019. As regards appointment of National Environmental Engineering Research Institute (for short NEERI), the learned AGA states that the State Government has granted in principle approval to the appointment of NEERI as an expert agency as per the directions of this Court. In view of the said statement, we direct the State Government to ensure that the necessary funds are immediately released for making payment to NEERI. Within a period of two weeks from today, the terms of reference of appointment of NEERI and document of appointment shall be placed on record.</p> <p>3. As regards directions contained in Clauses (vi), (vii) and (viii), the time provided therein for making compliance has not yet expired.</p> <p>4. As regards the direction contained in Clause (ix), our attention is invited to the status report submitted by the Bruhat Bengaluru Mahanagara Palike (for short BBMP). Even the said status report records that on the date of filing the status</p>	

report, facility of lodging complaints through WhatsApp was not available. The learned Senior Counsel appearing for one of the petitioners made a grievance that even toll-free number is not functioning which is made available through a call center. She states that necessary affidavit will be filed on record before the next date.

5. Moreover, we are not satisfied that to the existing grievance redressal mechanism, a wide publicity has been given by the BBMP so that citizens are aware about the availability of the mechanism.

6. Further, the State Government has not complied with the directions contained in Clause (x) of the order. If the State Government does not comply with the said direction in Clause (x) as well as Clause (xi) within a period of three weeks from today, action under the Contempt of Courts Act, 1971 will have to be initiated against the State Government. If the BBMP fails to comply with the direction contained in Clauses (ix) and (xi) within a period of three weeks from today, necessary action will have to be initiated against the BBMP.

7. As regards the compliance with the directions contained in Clauses (xii) and (xiii) of the said order, we have dealt with the same in our last order.

8. As regards the directions issued in Clauses (xiv) and (xv), the BBMP has not come out with any comprehensive scheme. Only by way of indulgence, we extend the time granted to the BBMP by a period of three weeks from today.

9. As regards the compliance to be made by the Pollution Control Board, an affidavit of compliance of the directions in the Clauses (xviii) and (xix) shall be filed within a period of three weeks from today. No further time shall be granted.

10. As regards the direction contained in Clause (xxi), all that BBMP has done is to formulate bye-laws which have been approved by the BBMP Council on 30th July 2019. The affidavit dated 5th August 2019 does not lay down any outer limit within which the draft bye-laws will be published and final bye-laws will be published.

11. We are dealing with the implementation of the Solid Waste Management Rules, 2016 (for short the said Rules) by the BBMP. There is a gross delay on the part of the BBMP in framing the bye-laws. In fact, the direction of this Court was to file an affidavit disclosing the reasons as to why the exercise of framing bye-laws was not undertaken within a period of one year from the date of notification of the said Rules of 2016. The only excuse given is that the BBMP was awaiting the issue of model Solid Waste Management bye-laws by the State Government. That is not a valid reason for not framing the bye-laws within the stipulated period of one year.

12. We, therefore, direct the BBMP to complete the work of finalizing the bye-laws and to bring the final bye-laws into force within a maximum period of two months from today.

13. Today, the Karnataka State Pollution Control Board has tendered a status report which records that Bagalkunte lake situated in Ward No.14 of the BBMP was inspected on 13th August 2019. Photographs are also annexed. The photographs show that there is hardly any water accumulated in the lake. Moreover, there is a photograph annexed which shows that there is a discharge of sewage on the southern side of the lake. We direct the BBMP to look into this aspect and ensure that the discharge of sewage is immediately stopped.

14. The eighth respondent who appears in person has tendered an affidavit setting out the present status of a lake. The said lake is Subramanyapura Kere which is referred in the orders passed in W.P.No.24739/2012 along with W.P.No.46523/2012. The order dated 4th March 2013 passed in the said writ petitions records that as per the directions of the Court, the Deputy Commissioner of Bengaluru District has passed an order declaring it as Subramanyapura Lake. It is observed in the order that the said lake having an area of 18 acres will not be treated either as gomala or as karab land. The same order also records that there are encroachments on the said lake. There are further orders passed by this Court on 28th June 2013, 19th August 2013, 30th August 2013, 20th September 2013 and 11th October 2013 dealing with the rejuvenation of the lake and removal of the encroachments on the said lake. The eighth respondent has annexed the photographs showing the manner in which there is a progressive destruction of the said lake. He has relied upon Google photographs taken from the year 2005 to 2019. He pointed out that the representations have been made to the Chairperson of the Apex Committee constituted by this Court and the Chief Executive of the Lake Development Authority including a representation on 17th May 2018 setting out the grievances with regard to the destruction of the said lake and even today, the construction activity in the lake still continues. The photographs show that the

work of construction of column footing for a bridge has commenced on the lake bed which is completely prohibited under the earlier order of this Court.

15. Our attention was also invited to the order dated 11th April 2012 passed in W.P.No.817/2008 which records that the report of the Committee headed by the Justice N.K.Patil has been accepted. Our attention is also invited to the report of the Committee headed by Justice N.K.Patil and in particular Clause (iv) thereof which records that buffer zone of 30 meters must be increased progressively by 2 meters for every 5 hectares of the lake area beyond 40 hectares. Thus, the recommendation is that for a lake having the maximum area of 40 hectares, the buffer zone will be of 30 meters and thereafter, there will be a progressive increase by 2 meters for every 5 hectares.

16. The eighth respondent has also invited our attention to an order made by the Government of Karnataka on 20th July 2019. He pointed out that irrespective of the size of the lakes, the buffer zone has been confined to 30 meters.

17. After having gone through the order dated 11th April 2012 and a report of the Committee headed by the Justice N.K. Patil, we find that the said report was accepted by this Court. Prima facie, we are of the view that the order of the State Government dated 20th July 2019 which provides that buffer zone of 30 meters from the edge of the lake shall be maintained irrespective of the size of the lakes, is contrary to the recommendations of the report of the Justice N.K. Patil which have become a part of the order of the Court dated 11th April 2012. We direct the State Government to respond and to ensure that necessary modification/clarification is made to the order dated 20th July 2019 within a period of three weeks from today.

18. As regards Subramanyapura lake, we direct the BBMP and the State Government to immediately stop all the construction activities on the bed of the entire area of the said lake as recognized by the Deputy Commissioner of the District. Within a period of three weeks from today, the BBMP shall place on record the details of the work in progress. The State Government shall also respond by pointing out the action taken by the Apex Committee on the basis of representation dated 17th May 2018. The State Government shall file an affidavit within a period of three weeks from today.

19. The other issue is about 19 lakes in the capital city which have disappeared. The order of the Court dated 18th June 2019 makes a reference to the stand taken by the BBMP that on 19 lakes, constructions have come up. This Court has referred to the stand specifically taken in that behalf by the BBMP in one of its affidavits. After taking such a stand, neither BBMP nor the State Government have come out with any solution. In fact, it is an admitted fact that as many as 19 lakes in the city have disappeared. In this behalf, prompt remedial action ought to have been taken seriously by both the State Government and the BBMP. The documents on record indicate that on the site of one of the lakes, in fact a bus stand has been constructed.

20. The State Government as well as BBMP must come clean before the Court and point out the measures that they propose to take for restoration of the said 19 lakes. The State Government and the BBMP must discharge its constitutional obligation at least by coming out with a program to create 19 more lakes in the city for compensating the lakes which have disappeared due to construction being carried out. The BBMP and the State Government have virtually allowed the lakes to be filled in and construction to be carried out in as many as 19 lakes in the city. This is a gross illegality. We direct the State Government and the BBMP to come out with a comprehensive scheme in this behalf within a period of one month from today.

21. For reporting compliance, we direct that the petitions be listed on 17th September 2019 under the caption of orders .

22. The eighth respondent states that he wants to bring it to the notice of the Court that there is a destruction of another lake in the city. To enable him to place necessary material on record, we direct that this petition shall be listed on 30th August 2019. The eighth respondent shall serve a copy of the affidavit in advance to the learned counsel representing the parties.

55	CJ & MNJ	<u>05/08/2019</u>
----	----------	-------------------

	<p>W.P.No.38401/2014 c/w W.P.Nos.11044/2018, 20652/2018 and 30521/2019</p> <p>The status report of the Bruhat Bengaluru Mahanagara Palike (for short the BBMP) and the affidavit filed by the BBMP are taken on record. The copies be supplied to the petitioners and the learned Amicus Curiae by the advocate for the BBMP. The CSIR, National Environmental Engineering Research Institute has submitted a quotation claiming a reasonable amount. The State Government will have to immediately take a decision and ensure that necessary payment is released as the said institution has agreed to complete Phase-1 of the work within three months from the date of receipt of the payment. In the status report filed by the BBMP, it is stated that the survey carried out in June and July reveals that out of 650 cases, 354 cases were of the encroachments on the drains. Out of 354 cases in 201 cases the encroachments have been removed by the BBMP and in 52 cases there is an interim relief granted by this Court. We are sure that the BBMP and the State will contest the proceedings by inviting attention of the concerned Courts to the order dated 18th June 2019. Thus, out of 354 cases in which encroachment was found, excluding the cases where there is an interim order in 52 cases, the BBMP is yet to remove the encroachment in 102 cases. BBMP to take immediate steps to do so. As ordered earlier, the process of survey and demolition of encroachments will continue. Let the petitions be listed under the caption of Orders on 14th August 2019, so that the petitioners and the learned Amicus Curiae can respond to the material placed on record.</p>	
56	CJ & HTNPJ	18/06/2019
	<p>Order dated 18.06.2019 in WP 38401/2014 Connected with WP 11044/2018 is scrolling in the Home Page of High Court Website in latest Judgments/Orders Dash Board.</p>	
57	CJ & PSDJ	07/06/2019
	<p>W.P.No.38401/2014 c/w W.P.No.11044/2018</p> <p>List these matters on 13th June 2019 at 2.30 p.m.</p>	
58	CJ & PSDJ	06/06/2019
	<p>IN</p> <p>WP.No.38401/2014 C/w WP.No.11044/2018</p> <p>List these matters on 7th June 2019 at 2.30 p.m.</p>	
59	CJ & PSDJ	04/06/2019
	<p>W.P.No.38401/2014 c/w W.P.No.11044/2018</p> <p>List these matters for orders on 6th June 2019.</p>	
60	LNS J (AG.CJ) & PSDJ	09/04/2019

	<p>W.P.No.38401/2014 c/w W.P.No.11044/2018</p> <p>ORDER</p> <p>Shri V. Sreenidhi, learned counsel for the BBMP submits that as on today, about 500 encroachments have been cleared and still another 2000 encroachments are yet to be cleared.</p> <p>In respect of this, it is observed that wherever encroachments have been cleared, the BBMP is directed to send a status report to the Committee to verify. Learned counsel for the BBMP is also directed to serve a copy each of the status report on learned Amicus Curiae and learned counsel for the petitioners.</p> <p>Shri D. Nagaraj, learned AGA is also directed to make available a report from the City Survey Department identifying the encroachments to the BBMP, which shall take further steps for removal of the same. BBMP shall also keep the Committee and the Amicus Curiae informed about the removal of encroachments from time to time.</p> <p>Call this matter on 04.06.2019. In the meantime, learned AGA is directed to file an affidavit on behalf of City Survey Department with regard to the encroachments and the BBMP shall file a status report with regard to removal of encroachments.</p>	
61	LNS J (AG.CJ) & PSDJ	<u>19/03/2019</u>
	Post these matters for hearing on 09.04.2019 at 2.30 p.m.	
62	LNS J (AG.CJ) & PSDJ	<u>22/02/2019</u>
	<p>None appears for the petitioners.</p> <p>Call these matters on 19.03.2019.</p>	
63	LNS J (AG.CJ) & PSDJ	<u>23/01/2019</u>
	<p>W.P.No.38401/2014 C/W W.P.No.11044/2018, W.P.No.47875-876/2014</p> <p>ORDER ON I.A.NOS.1/2017 & 1/2018</p> <p>Heard the learned counsel for the parties on the applications for impleading. For the reasons stated in the affidavits supporting the applications, I.A.No.1/2017 in W.P.No.38401/2014 and I.A.No.1/2018 in W.P.No.11044/2018 are allowed and the applicants are permitted to come on record. Petitioner is permitted to carry out the amendment. Sri V.Sreenidhi, learned counsel appearing for BBMP, seeks a week's time to file the affidavit as per the order passed by this Court. Learned counsel appearing on behalf of BWSSB submits that the affidavits are ready and seeks permission to file the same in the office. Accordingly, the learned counsel is permitted to file the affidavits in the office. Learned counsel for the petitioners in W.P.No.47875-876/2014 submits that the petitions be delinked and posted along with W.P.No.58006/2018. Hence, W.P.No.47875-876/2014 be delinked and post along with W.P.No.58006/2018. Call these matters on 30.01.2019.</p>	
64	DINESH MAHESHWARI (CJ) & SSJ	<u>15/12/2018</u>

	<p>Learned Senior counsel Shri Aditya Sondhi, the co-opted member of the Co-ordination Committee dealing with several aspects pertaining to Basic Infrastructure Facilities for the Bengaluru City , submits that several aspects concerning removal of encroachment on storm water drains and preventing sewage flow to storm water drains are proposed to be discussed in the Co-ordination Committee meeting today at 3.30 p.m.</p> <p>Having regard to the submissions made and the issues involved, it appears appropriate to expect the Co-ordination Committee to give proper directions for execution of all the necessary works and co-ordination of all the agencies involved.</p> <p>Having said so, we deem it appropriate to defer consideration of these matters today, while providing that before the next date, it would be expected of the Bruhat Bengaluru Mahanagara Palike (BBMP), Bangalore Water Supply and Sewerage Board (BWSSB) and the State Government to file specific affidavits of responsible officers stating the work executed with other necessary details as required in these matters.</p> <p>List these matters on 23.01.2019.</p>	
65	DINESH MAHESHWARI (CJ) & SSJ	<u>03/11/2018</u>
	<p>It has been indicated that several aspects related with the work in question have been discussed in the meetings of the Co-ordination Committee. The Minutes of the meetings of the Co-ordination Committee though have been filed in the other matter related with potholes in W.P.No.42927/2015, but for the issues involved herein, we would request the learned AGA to file a copy of such minutes in these matters too.</p> <p>Learned counsel Sri V. Sreenidhi appearing for the BBMP submits that as an initial measure of one time cleaning, tenders have been floated on 27.10.2018 and the work is expected to be undertaken expeditiously.</p> <p>While expecting substantial progress of the work by next date, we adjourn consideration of this matter today.</p> <p>List these matters on 15.12.2018.</p>	
66	DINESH MAHESHWARI (CJ) & SGPJ	<u>27/10/2018</u>
	<p>W.P.No.38401/2014 c/w W.P.No.11044/2018</p> <p>It has been indicated that several aspects related with the work in question are being attended at by the respective authorities and the matter is being taken up for discussion in the Co-ordination Committee also as indicated by the Co-opted Member, Sri. Aditya Sondhi.</p> <p>These matters have been taken up today in the special sitting of the Court along with other matter, being W.P.No.42927/2015, relating to the road conditions in the city of Bengaluru.</p> <p>Having regard to the submissions made by learned counsel for the parties, these matters are adjourned today but it would be expected of the respondents to file a progress report of the work being undertaken, particularly of desilting and cleaning of the storm water drains.</p> <p>List these matters on Saturday, 03.11.2018.</p>	
67	DINESH MAHESHWARI (CJ) & SGPJ	<u>25/10/2018</u>
	<p>Having regard to the variety of issues involved and the over all circumstances, it appears appropriate that these and the cognate matters be listed in the special sitting of the Court on Saturdays.</p> <p>As agreed to by learned counsel for the parties, list these matters on 27.10.2018 at 2.00 p.m.</p> <p>Registrar (Judicial) to make necessary arrangements.</p>	
68	DINESH MAHESHWARI (CJ) & SGPJ	<u>25/09/2018</u>

	<p>W.P.No.38401/2014 c/w W.P.No.11044/2018</p> <p>It has been pointed out during the course of submissions that a Co-ordination Committee was indeed constituted by the Government of Karnataka by the order dated 02.06.2015. It has also been pointed out that the said Committee, headed by the Chief Secretary to the Government of Karnataka, is holding its regular meetings.</p> <p>Having regard to the issues involved, we had requested the presence of learned Chief Secretary, who has appeared with the learned Advocate General before the Court.</p> <p>On the suggestions of the Court, it is agreed to that the efforts on the part of the said Committee need to be expedited in a proper and structured manner. It is also agreed that apart from the members of the Committee as provided for, an independent member be included in this Committee.</p> <p>Having regard to the issues involved, we have requested the learned Senior Advocate Shri Aditya Sondhi to be a part of this Committee, who has agreed to our suggestions.</p> <p>Accordingly, while continuing with the Committee framed by the Government under Order No.UDD 361 MNY 2015 dated 02.06.2015, it is ordered that the learned Senior Advocate Shri Aditya Sondhi shall stand included therein as a co-opted member.</p> <p>Learned Chief Secretary has assured that the next meeting of the Committee shall be convened tomorrow (26.09.2018).</p> <p>We would expect this Committee to meet in the frequency of about 7-10 days so as to ensure continuity of the efforts and proper and effective execution of the requisite work/s by the agencies/authorities concerned.</p> <p>Having regard to the circumstances, these matters stand adjourned today.</p> <p>Be listed on 25.10.2018.</p> <p>It would be expected of the learned Advocate General to place on record the minutes of the past three meetings of this Committee as also of all its future meetings.</p>	
69	DINESH MAHESHWARI (CJ) & SGPJ	<u>11/09/2018</u>
	<p>WP No.38401/2014 C/w WP No.11044/2018</p> <p>Sri V.Sreenidhi, learned counsel for the Bruhat Bengaluru Nagara Palike (BBMP), has pointed out that since after the previous hearing of these matters, as per his instructions, the Government has constituted nodal officers for 8 different zones of the principal area of Bengaluru to monitor the work relating to the issues involved in these matters.</p> <p>Learned AGA shall be expected to place all the particulars of such composition on record.</p> <p>Learned counsel for the parties also submit that they shall be supplying the details of various bodies/committees co-relating to the issues involved in these matters.</p> <p>Learned counsel for the BBMP submits that he shall file an additional affidavit with regard to the work executed by the BBMP.</p> <p>List these matters on 25.09.2018, as prayed.</p>	
70	DINESH MAHESHWARI (CJ) & RDJ	<u>16/08/2018</u>

	<p>In W.P.No.38401/2014, Sri.V.Sreenidhi, learned counsel appearing for the BBMP submits that he has filed further affidavit specifying the progress on the tasks being undertaken and the methodology adopted for co-ordination with different departments. Learned counsel submits that additional work is being undertaken at the present and he shall be filing further progress report by 03.09.2018.</p> <p>Learned counsel appearing for the BWSSB submits that the response to the affidavit on their behalf shall be filed in the Registry during the course of the day.</p> <p>Learned counsel for the Karnataka State Pollution Control Board submits that he shall be filing his response to the affidavit before the next date.</p> <p>In the connected matter, i.e. W.P.No.11044/2018, formal notices are issued calling upon the respondents to file their respective responses.</p> <p>Respondent No.1 is represented by the learned AGA.</p> <p>Respondent Nos.2 and 5 are represented by Sri.V.Sreenidhi, learned counsel.</p> <p>Respondent No.3 is represented by Sri.Gururaj Joshi, learned counsel.</p> <p>Respondent No.4 is represented by Sri.D.L.N.Rao, learned Senior Counsel with Sri.Gurudev I. Gachchinamath.</p> <p>List these matters on 11.09.2018, as prayed.</p>
--	---

71	DINESH MAHESHWARI (CJ) & KSDJ	<u>03/07/2018</u>
	<p>With reference to the order dated 11.06.2018, learned counsel for the Bruhath Bengaluru Mahanagara Palike (BBMP) has filed the affidavit of the Chief Engineer, Storm Water Drain, BBMP, Bengaluru.</p> <p>On being queried about the methodology of execution of several tasks and attending on the requirements, learned counsel for the BBMP has indicated that the Chief Engineer is regularly monitoring, on the basis of the reports submitted by the Engineers in-charge of the area concerned.</p> <p>It is also indicated that the Engineers of the BBMP and Bangalore Water Supply and Sewerage Board (BWSSB) are generally working in tandem to attend on the requisite tasks.</p> <p>As at present, we are not making any other comment in the matters, but would leave it open for the petitioner as also learned counsel for the BWSSB and the Karnataka State Pollution Control Board to submit their respective responses to the affidavit filed on behalf of the BBMP.</p> <p>It would also be required of the BBMP to submit further affidavit specifying progress on the tasks being undertaken and the methodology adopted for coordination with different departments.</p> <p>List these matters on 01.08.2018, as prayed.</p>	

72	DINESH MAHESHWARI (CJ) & KSDJ	<u>11/06/2018</u>
	<p>Learned counsel for the BBMP as also learned AGA submit that they shall be filing the requisite affidavits during the course of the day.</p> <p>Learned counsel for the BBMP further submits that, as per his instructions, substantial progress has been made and work of about 24 kms of remodeling and construction and 6 kms of desilting of storm water drains is to be executed, which is likely to be completed very soon.</p> <p>At request, the matters stand adjourned today.</p> <p>Be listed on 03.07.2018, as prayed.</p>	

73	DINESH MAHESHWARI (CJ) & KSDJ	<u>28/05/2018</u>
	<p>With reference to the order of the Court on the last date of hearing, learned Additional Government Advocate as also learned counsel for Bruhat Bengaluru Mahanagara Palike pray for time to file their respective affidavits.</p> <p>Time prayed for is allowed.</p> <p>List these matters on 11.06.2018, as prayed.</p>	

74	DINESH MAHESHWARI (CJ) & PSDJ	<u>17/04/2018</u>
	<p>Learned counsel for Bruhat Bengaluru Mahanagara Palike (BBMP) has filed a status report dated 16.04.2018 pointing out developmental works with regard to remodeling, construction, maintenance and desilting of storm water drains carried out by BBMP in furtherance to the earlier reports in this matter.</p> <p>Having regard to the circumstances of the case and for requirement of proper supervision/monitoring of the work in question, we have sought response of learned AGA.</p> <p>Learned AGA points out that as per his instructions, being conscious of requirement of this work, the Additional Chief Secretary to the Government of Karnataka, in its Urban Development Department, held a meeting of the authorities related with BBMP and BWSSB.</p> <p>We sought the response of learned AGA, if the desirability of a proper monitoring/supervisory committee has been examined at the level of the Chief Secretary?</p> <p>Learned AGA prays for time to complete his instructions.</p> <p>Time prayed for is allowed.</p> <p>On the next date, it would be expected of BBMP to submit further progress report but hard copy of the photographs need not be filed. However, learned counsel may keep ready with him soft copies for perusal of the Court, if required.</p> <p>List these matters on 28.05.2018, as prayed.</p>	
75	DINESH MAHESHWARI (CJ) & BMSPJ	<u>26/03/2018</u>
	<p>Learned counsel for the petitioner in W.P.No.38401/2014 as also learned counsel for the petitioner in W.P.No.11044/2018 have filed their respective response/suggestions.</p> <p>Copies thereof have been supplied to learned counsel for the respective respondents, who may submit their response/s before the next date.</p> <p>List these matters on 17.04.2018.</p>	
76	DINESH MAHESHWARI (CJ) & BMSPJ	<u>15/03/2018</u>

	<p>On behalf of Bruhat Bengaluru Mahanagara Palike (BBMP), a note on Detailed Action Plan for removal of encroachments on storm water drains and for desilting of the drains has been filed.</p> <p>However, having gone through the same, we find that though certain extent of the work done and proposed to be carried out in terms of kilometers of storm water drains have been stated, but without the necessary particulars on the location of such drains where the work is said to have been completed and the other locations where the work is proposed to be commenced from 20th inst. The learned counsel for the BBMP is granted a week's time to file the complete details on the facts, as stated in the note dated 14.03.2018.</p> <p>Learned counsel for the Bengaluru Water Supply and Sewerage Board submits that he shall be filing the progress report in the Registry during the course of the day.</p> <p>Learned counsel for the petitioner may also submit her response before the next date.</p> <p>List this matter on 26.03.2018, as prayed.</p>	
77	DINESH MAHESHWARI (CJ)& SSDYJ	<u>16/02/2018</u>
	<p>Learned Senior Counsel Shri D.L.N.Rao appearing for the Bengaluru Water Supply and Sewerage Board and learned counsel Shri V.Sreenidhi appearing for the Bruhat Bengaluru Mahanagara Palike submit that the work over the storm water drains and treatment of effluents is in progress and on the next date of hearing, the progress made in execution of the work shall be placed before the Court.</p> <p>At request, the matter stands adjourned today.</p> <p>Be listed on 15.03.2018.</p>	
78	HGRJ (AG.CJ) & PSDJ	<u>29/01/2018</u>
	<p>Sri Subramanya.R., learned counsel is permitted to retire from the case. Memo dated 13.02.2015 filed in this behalf stands disposed of accordingly.</p> <p>List on 31.01.2018.</p>	
79	HGRJ (AG.CJ) & PSDJ	<u>14/12/2017</u>
	<p>Sri V.Sreenidhi, learned Standing Counsel for respondent no.4 submits that respondent no.4-BBMP will place on the record of the case a detailed action plan for removal of encroachments on storm water drains and for desilting the drains. He prays for time till 23.01.2018. Accordingly, list on 23.01.2018.</p>	
80	SKMJ(CJ) & PSDJ	<u>24/07/2017</u>
	<p>Mr.D.L.N.Rao, learned Senior Advocate appearing for the Bengaluru Water Supply and Sewerage Board, submits a status report.</p> <p>The status report is taken on record.</p> <p>The next status report is to be submitted by the Bengaluru Water Supply and Sewerage Board, after three months.</p> <p>Post this matter after three months, when the Bruhat Bengaluru Mahanagara Palike, shall, also, submit a report as to the condition of the storm water drains.</p>	
81	SKMJ(CJ) & BRBJ	<u>09/01/2017</u>
	<p>Status report is filed by Mr.D.L.N.Rao, learned senior advocate appearing for the Bengaluru Water Supply and Sewerage Board.</p> <p>Post this matter after three weeks.</p>	

82	SKMJ(CJ) & BRBJ	<u>27/09/2016</u>
	<p>The sixth status report has been filed by the Bengaluru Water Supply and Sewerage Board (for short the Board) in Court.</p> <p>Let the report be kept in record.</p> <p>Miss Jayna Kothari, learned advocate appearing for the writ petitioner, submits that the progress is not satisfactory.</p> <p>It appears that construction of some of the water treatment plants have commenced.</p> <p>Post this matter in January 2017, when the Board is directed to submit a fresh status report.</p>	
83	SKMJ(CJ) & RVMJ	<u>14/09/2016</u>
	<p>As prayed for by Srimathi Sumangala Gachchinamath, learned advocate for the respondent No.3, post this matter on September 27, 2016, under the same heading.</p>	
84	SKMJ(CJ) & RVMJ	<u>07/06/2016</u>
	<p>Mr.D.L.N.Rao, learned senior advocate appearing for the Bengaluru Water Supply and Sewerage Board informs that already fifth status report has been filed on May 30, 2016.</p> <p>Let such report be kept with the record.</p> <p>Smt.Jayna Kothari, learned advocate, moves a Court hall memorandum showing some deficiencies in the maintenance of the lakes. A copy has, already, been served on Mr.Rao.</p> <p>Post this matter after two months when the Bengaluru Water Supply and Sewerage Board shall submit another status report.</p> <p>In the meantime, if necessary, there could be an inspection with the help and assistance of the Bruhat Bengaluru Mahanagara Palike and the representatives of the petitioners or any other person concerned in the matter.</p>	
85	SKMJ(CJ) & RVMJ	<u>30/05/2016</u>
	<p>As prayed for by Mr.Gurudev I. Gachchinmath, learned advocate appearing for the Bengaluru Water Supply and Sewerage Board, post this matter on June 6, 2016.</p>	
86	SKMJ (AG.CJ)& BMJ	<u>07/12/2015</u>
	<p>Mr.D.L.N. Rao, learned senior advocate appearing for the Bengaluru Water Supply and Sewerage Board (the Board for short) submits fourth status report.</p> <p>Let it be kept on record.</p> <p>Post this matter on April 26, 2016, when the Board and Bruhat Bengaluru Mahanagara Palike are directed to submit further status report.</p>	
87	SKMJ (AG.CJ)& RMRJ	<u>08/06/2015</u>
	<p>Issue notice on respondent No.6 returnable by two weeks.</p>	
88	D.H.WAGHELA (CJ)& BRBJ	<u>01/12/2014</u>

1. During the pendency of the present petition, the concerns of the petitioner-Citizens Action Group are stated to have been partly addressed and a statement in that regard is submitted by respondent No.4-BBMP. The first status report submitted by respondent No.3-BWSSB explains in detail the planning and projections for management of water resources and disposal of sewage water as well as rain water by the rain water drains. It is generally denied that the storm water and the sewage water are allowed to be carried by the same sewerage system. It is, however, also acknowledged that in so many areas the sewage is directly discharged in storm water drains, which could cause serious health hazard and pollution of the lakes in a massive way.

2. It is not disputable that the sewerage system is choked or blocked at several places and are urgently required to be cleared and cleaned. It was noted from the status report that there are about 183 lakes in Bengaluru, each having at least two inlets from the storm water drains. If the storm water drains opening into lakes also carry untreated industrial effluents or domestic sewage, the lakes would be in danger of dying. Therefore, besides other measures being taken up by both the respondents, it is very important and imperative that whichever storm water drain is opening into any of the lakes, it has to be maintained in a scientific manner and any leakage or release into such drains of any sewage, effluent or industrial effluent must be strictly prevented by taking all the necessary steps, including sealing such outlets and initiating penal action against any person or party releasing any pollutants into the storm water drains. Such storm water drains may be running through residential or industrial areas and may be running for several kilometers. But they must be maintained in such condition that only rain water is carried in such drains and such water passes on through such drains to the lakes.

3. The parties having realized the importance of the above aspect, it was stated at the bar that cleaning and maintenance of such storm water drains will be taken up on priority basis and the BBMP and BWSSB will work in tandem to ensure that no sewer or untreated effluent, either domestic or industrial, would be released directly or by outlets into such drains.

4. The hearing of the petition is adjourned to 30.1.2015 in the hope that by that time necessary actions would have been initiated and borne some results, which could be reported to the Court by BBMP as well as BWSSB.

5. Since the subject matter of the petition is crucial and important for survival of Bengaluru as a beautiful and civilized metropolitan city, it could be expected that the representatives of the people, the elite and enlightened citizens, the non-governmental organizations concerned with the well-being of lakes and water bodies of the city and the people in general would realize the importance of cleanup and maintenance of the storm water drains and co-operate in efforts of the statutory agencies and authorities concerned in ensuring that the storm water drains are maintained in the manner in which they have to be maintained, even at the cost of some inconvenience or expenses to some private parties.

89	D.H.WAGHELA (CJ)& BRBJ	<u>25/11/2014</u>
	List on 1.12.2014 for BWSSB to file their affidavit in - reply or statement of objections, with copy in advance to learned counsel for petitioner.	
90	D.H.WAGHELA (CJ)& ABHJ	<u>25/08/2014</u>
	Learned AGA appears on advance copy and waives service for respondent Nos.1 and 2. Issue notice to respondent Nos.3 and 4 returnable on 22.09.2014.	