



SURFACE TENSION

The war over city lakes is heating up

CASES ON PROTECTION OF URBAN WETLANDS



CENTRE FOR SCIENCE AND ENVIRONMENT

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DAL LAKE: SRINAGAR

The case: On July 24, 2000, a writ petition was filed by *Syed Mujtaba Hussain*, a human rights lawyer, and *Green Kashmir*, a Srinagar based non governmental organisation, against the *Union Government of India; the State of Jammu and Kashmir; the J&K Lakes Waterways Development Authority; the J&K Pollution Control Board; the Urban Environmental Engineering Department, Srinagar; and the Ministry of Urban Development, Srinagar*. The petitioners invoked the extraordinary jurisdiction of the Supreme Court of India (SC), under Article 32 of the Constitution, urging it to intervene to save the Dal Lake that has turned into a ‘reservoir of sewage, wastes and effluents.’ The petition was on behalf of the people of Kashmir who have been deprived of a clean and healthy environment, ‘leading to an infringement of their fundamental rights’, said the litigants.

The background: Known across the world as the jewel of the Kashmir valley, the spectacular Dal lake has played a significant role in sustaining the economy of Jammu & Kashmir. But since the 1960’s steadily swelling population—within and on its periphery—has emerged as a serious threat to the survival of this once pristine waterbody.

The lake now shelters about 50 hamlets with a population of over 50,000 people, who have property rights over 300 hectares (6,000 kanals) of agricultural land and 670 hectares (13,400 kanals) of water area. Besides this, a large number of commercial and residential buildings such as hotels, guest houses, restaurants and house boats have sprung up in and around the Dal. All this has drastically reduced the size of the lake. According to ancient manuscripts, Dal was spread over an area of 75 sq km in 1200 AD, It has now shrunk to about 15 sq km. The petition claimed that flow of untreated sewage, pesticides, fertilisers and other effluents, is destroying the lake, and the governments, both at the state and centre, have not taken any effective step to control this. They have thus, ‘acted in breach of their statutory duties’, it said.

The Union Ministry of Environment and Forests had launched a Rs 500 crores ‘Save Dal’ Project in 1997. Later, Dal was accorded top priority under the National Lake Conservation Plan. A new body, J&K Lakes Waterways Development Authority, was constituted to implement the project and the Centre “agreed in principle” to contribute Rs 297.90 crores as conservation expenditure, while the state made a commitment of Rs 194 crores, to be spent on rehabilitating the Dal dwellers.

However, neither of them fulfilled their promise. While the Centre released Rs 50 crores in 1997-98, the state has released a meagre Rs 24.50 crores till now. The cash flow has since dried up and the ‘Save Dal’ lake is in a state of complete disarray.

The plea: The litigants proposed the following:

- An integrated ring sewage system should be set up around the Dal Lake;
- The Centre should release the remaining funds, enabling the state to take effective steps to check pollution; and
- The Supreme Court should set up a High Powered Committee to monitor the manner in which this money is spent and this body should report directly to Supreme Court.

The proceedings: *This case (WP 436 of 2000) is still under consideration of the SC of India. The following are some of the highlights:*

- **September 11, 2000:** The apex court issued a show cause notice to all the respondents. It asked them to specify their respective roles in controlling the flow of pollutants in the lake.
- **March 2, 2001:** As none of them responded to the notice issued by the SC, a fresh notice asking them to comply with the orders within six weeks was issued. The court also appointed Kamini Jaiswal, a New Delhi-based lawyer, as *amicus curie*, since Syed Mujtaba Hussain went to the US for higher education.
- **April 12, 2001:** The Ministry of Environment and Forest (MoEF), GoI, filed a counter affidavit through its additional Secretary Ms. R Dalwani. While agreeing with the petitioner's stand that the condition of Dal is critical, the ministry informed the court about the funds earmarked under NLCP for Dal lake conservation programme. Besides this additional funds of Rs 75 crores have also been released by the Planning Commission (PC). MoEF also informed the court that the pre feasibility report received from the Government of Jammu & Kashmir involved high power requirement and was hence considered to be unsustainable. On the advice of the PC, the task of preparing a detailed project report (DPR) was assigned to the Alternate Hydro Energy Centre, Roorkee which submitted a DPR in November 2000 for an estimated cost of Rs. 249.97 crores for a period of 3 years. The DPR was sent for comments and approval of state government. However the state government has not yet given its approval to the DPR.
- **April 20, 2001:** The court asked the central and state government to file a detailed affidavit indicating how they propose to utilise the money that is being sanctioned by the central government.
- **June 26, 2001:** MoEF submitted before the court the year wise expenditure in DPR for Dal lake conservation.
- **September 28, 2001:** While expressing their dissatisfaction, on, the court asked both the respondents to give a detailed account of the expenses incurred by them on the conservation of Dal lake.
- **October 21, 2001:** Responding to the SC's order dated September 28, 2001, Jammu and Kashmir Lakes and Water Development Authority (JKLWDA) filed an affidavit stating that a sum of 79.17 crores out of 81.17 crores have been encashed till March 31, 2001.
- **2001:** The petitioner filed a rejoinder expressing his unhappiness over the expenditure sheet submitted by the JKLWDA. He claimed that the details submitted are too general and requested the court to direct JKLWDA to submit a detailed account of expenses. The rejoinder observed that if

Key issues: The case has brought the following issues to the forefront:

- ✓ *Failure of the executive:* The apathetic attitude of the governments at the centre and the state emerges as one of the most glaring problems in this case. The lack of political will displayed by decision makers—to carry forward the ambitious NLCP—that earmarks funds for reviving the Dal, appears to have sealed the fate of the lake.
- ✓ *Problem of encroachment:* The lake dwellers have turned Dal into a mass of floating agricultural field, using it to grow vegetables and flowers. While they have been practicing this ingenious form of cultivation for centuries, it has become a regular feature only after militancy robbed them of their traditional profession—tourism. Now they are being forced to destroy their very source of survival. Commercial structures that have mushroomed around the lake have further intensified the problem.
- ✓ *Unchecked flow of pollutants:* Dal is dying because an alarming amount of pollutants, including, untreated sewage, fertilizers, pesticides, and effluents are being constantly pumped into it. Srinagar does not have sewage treatment plants or a peripheral drainage system. Dal is used as a dumping ground for all varieties of wastes that the city generates every day.

the respondents continue to blame each other on the non-release of funds, then precious time will be wasted on this squabble, while the condition of the lake deteriorated further.

- **2002:** The court appointed Kamini Jaiswal as the commissioner to file report on the current status of the lake before the SC. (*Personal communication on June 7, 2002*)

Key players: The following are the major parties to this case:

PETITIONER	RESPONDENTS
Syed Mujtaba Hussain R/o Nagin, Hazartbal, Srinagar, Kashmir	Union of India Through: Its secretary, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi
Green Kashmir Through: Its managing trustee, Fazal Ali, R/o Nagin, Hazartbal, Srinagar, Kashmir	State of Jammu and Kashmir Through: Its chief secretary Civil Secretariat, Srinagar, Kashmir
	J & K Lakes and Water Ways Development Authority Through: Its vice chairman C/o Habak, Naseem Bagh, Srinagar 90006 Kashmir
	J & K State Pollution Control Board, Through: Its chairman Near Silk factory, Rajbagh, Srinagar, Kashmir
	Urban Environmental Engineering Department [UEED] Through: Its chief engineer, Suleman Shopping Complex, Dalgate, Srinagar, Kashmir
	Chief Engineer, Roads and Buildings (R & B), Exhibition Ground, Opposite High Court, Srinagar, Kashmir
	Ministry of Housing and Urban Development Through: Its commissioner secretary Civil secretariat, Srinagar

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CHANDOLA LAKE: AHMEDABAD

THE CASE: In October, 2000, *Shailesh R Shah*, a citizen of Ahmedabad, filed a public interest litigation (PIL) in the Gujarat High Court (HC), on behalf of all the residents of the city requesting the court to revive and recharge the Chandola lake situated in the outskirts of Ahmedabad. The PIL, filed under the Article 226 of Constitution of India, was against the *State of Gujarat; the Collector, Ahmedabad; and the Executive Engineer, State Irrigation Department*. It also demanded effective steps for increasing the water harvesting potential of this lake.

THE BACKGROUND: The Chandola Lake, spread over an area of 1200 hectare, has dried up due to neglect. The government has allowed large-scale encroachment on this water body. It is being for agriculture, as well as for other purposes like processing of waste oil and plastics. Kharicut, the lake's feeder canal is choked with filth and garbage.

Chandola is not an exceptional case in Gujarat. Many other lakes in the state share the same fate. In 1960, Ahmedabad had at least 204 lakes. Today, almost all of these have been built upon, encroached or left to disuse. With rapid growth in population, the cities have spread out in all directions, in a completely unplanned manner. The town planning schemes did not take into account the natural drainage patterns and topography of the area. This resulted in two things. Firstly, the rainwater that earlier flowed into the lakes and the low lying areas now got trapped near residential areas causing seasonal flooding and water logging. Secondly, the lakes dried up, making them prime targets of the real estate developers and other encroachers. Or they have been turned into garbage dumps.

The plea: The litigants proposed the following:

- A court directive asking the Government of Gujarat to announce the state water policy;
- Directing it to place on record, documents and land records of big and small lakes in and around Ahmedabad as on (say) 1960 and their present status;
- Directing the government to remove encroachments in and around Chandola lake and to execute works for desiltation, reviving feeder streams and to take steps for reviving and recharging the Chandola Lake.

The proceedings: This case (WP 10621 of 2000) was settled with a final judgment issued on August 2, 2002. The following are some of the highlights:

- **October 9, 2000:** The court directed the state government, collector of Ahmedabad and executive engineer of irrigation department to place before the court the state's water policy and a comparative status of lakes.
- **November 21, 2000:** The Court expressed shock at the condition of the lakes. Very few of the 204 lakes that existed in the city in 1960 remained now. It directed the collector to place the status of encroachments on lake lands and to ensure that the remaining 137 lakes, as listed by the additional deputy collector, are used as lakes. The bench observed, "We are required to pass this order on account of shortage of water."
- **January 25, 2001:** The HC demanded detailed affidavits for the alleged unauthorised construction at the Gopalnagar Lake in Kalol. The judges observed, "It is not made clear by the AUDA (Ahmedabad Urban Development Authority) as to what was the necessity of changing the purpose for which the land was reserved, namely for recreational to residential zone. In the absence of any specific reason assigned for such a change it is a matter of conjecture whether such a change

Key issues: The case has brought the following issues to the forefront:

- ✓ *Failure of the executive:* The lakes in Ahmedabad are dying because the executive is completely indifferent about them. Its lack of interest or will to save the lakes is stark, and surfaced over and over again during the past two years. *Yet, the Court in its final verdict made the government the sole custodian of the beleaguered lakes in Ahmedabad. The watchdog body has no representation from citizen's groups and experts. This is in sharp contrast to the Udaipur case, where the court ruled that petitioners must be invited to all executive meetings of the monitoring body.*
- ✓ *Lack of public support:* The court's decision may have been influenced by the fact that unlike most other cities, the residents of Ahmedabad did not come forward to support the campaign to save the lakes. Neither did any NGO take the initiative. In fact, the public openly expressed resentment against the April 18 interim order that blocked all construction work in the city. This factor strengthened the case of the executive several fold.
- ✓ *Unholy nexus between the executive and the builders' lobby:* As in Uttaranchal, it was clear right from the outset that a strong bond existed between the government and the builder's lobby. The land use pattern demarcated in the Master Plan of the Ahmedabad city was changed several times, turning lands allotted for recreational use to residential plots, to accommodate the builders.
- ✓ *Lack of awareness among townplanners:* This case exposes the lack of technical insight of town planners, who laid out the expansion plans of the city, with scant regard to the natural drainage patterns and topography of the area. Thus effectively killing the lakes. It was this lobby that played a key role in destruction of lakes of Ahmedabad. The interim order banning construction activities around lakes irritated this lobby and they generated an opinion against this order. Finally this order was lifted much to the relief of those involved in real estate development.

was made keeping in view the interest and protection of the wild life and the environment or there was some direct or indirect pressure of the builders and private contractors who were interested in utilising the land for raising constructions.”

- **February 13, 2001:** While condemning the callous attitude of the concerned authorities, the judges directed them to produce a schedule indicating the action plan for removal of encroachments and recharge of lakes by February 26.
- **March 14, 2001:** On receiving no reply from the state government the court decided to close the right of the state to file any further affidavit. But the Ahmedabad Municipal Council (AMC) was granted a week's time for filing their reports.
- **April 18, 2001:** A two-judge bench comprising B C Patel and D A Mehta passed a dramatic sixty-six page interim order. They observed, “Even the Gujarat Town planning and Urban Development Act does not authorise the development authority to make town planning scheme in such a way so that it affects the sources of water, lakes, ponds, rivers etc. The government, through a circular in 1999 banned the allotment of water body to any one. Hence it becomes the duty of the AMC/ AUDA and District Collector to see that the water body remains a water body so that the people benefit from the natural resources and it facilitates groundwater recharging”. It further directed the authorities to remove unauthorised constructions and not to permit any constructions within 500 metres of lakes smaller than 5,000 square meter (sq m) in area and 1000 m if the lakes are bigger. While referring to lakes all over the state, the judges hoped that “The state government shall consider these directions in its true spirit.... and shall make it applicable to all the lakes, ponds and water bodies in the state.” AMC was directed to rehabilitate the encroachers elsewhere and to inform the court within six weeks about the progress.

- **December 24, 2001:** Based on the interim order of April 18, AUDA and AMC stopped processing the applications for construction of new buildings as well as extension work in existing buildings. The plan submitted by the Indian Institute of Management, Ahmedabad (IIMA) much before the date of interim order, were prepared in accordance with the General Development Control Regulation (GDCR). They were denied permission to construct a new building on the grounds that it is nearer to the Vastrapur Lake. IIM A approached the court against this decision of AMC stating that the proposed construction in no way is likely to affect the existence of the lake.
- **March 15, 2002:** The court clarified that buildings affected by earthquake are not covered by the judgement made on April 18. Court observed, “The state government, despite various direction has not placed any material on record. The court was required to take up the matters because the executive failed in discharging their duties to maintain water bodies as water bodies.”
- **March 22, 2002:** The concerned authorities failed to submit a detailed action plan on recharging lakes before the court. The court again asked the authorities for a detailed report.
- **April 5, 2002:** The court disappointed with the lack of response from the authorities, constituted a five-member committee of experts to suggest the following:
Methods of recharging the lakes and ponds in Ahmedabad;
To assess the feasibility of reviving the water bodies and the lands that are not being used as water bodies;
To the court if buildings have been constructed on lakes or ponds and where ever there is no construction, whether the land is reserved for other purposes; and
To assess the feasibility of prohibiting construction within 500/1000 m radius.
- **April 19, 2002:** The court ordered Surendra Patel, chairperson, Ahmedabad Urban Development Authority (AUDA) to tender an unconditional apology and to scrap permissions given in 129 cases to build on water bodies. Patel was also asked for an undertaking that he will be personally liable if any of these parties demand damages.
- **May 10, 2002:** The committee submitted its preliminary report before the court and mentioned about AUDA ‘s failure to submit all the details to the committee. AUDA submitted a list of water bodies, which cannot be developed. Court directed the AUDA Chairman and AMC, commissioner to furnish all the information on lakes within 10 days. Committee assured the court that a decision would be taken within 15 days of receiving relevant information. Interestingly, this was the last working day for justice B C Patel in Ahmedabad High Court, as he was promoted to the rank of Chief Justice of Jammu and Kashmir
- **August 2, 2002:** Two year long legal battle initiated by Shailesh Shah came to an end when the Gujarat High Court bench comprising of Justice R K Abhichandani, who took the place of BC Patel and Justice D A Mehta gave the final judgement. As per this ruling, the responsibility of deciding the distance from lake to the construction site is left to the discretion of the civic authorities responsible for urban development and local bodies like municipal corporations, municipalities and *panchayats*, based on the town planning regulations.

This verdict ordered the government to:

- Notify all lakes and ponds within the state and to preserve them as it is
- To undertake urgent measures for checking pollution, rejuvenating the waterbodies and using them for recharging groundwater
- To remove encroachments and facilitate rehabilitation as per the existing norms
- To create a *water resources council*, headed by the chief minister, as laid out in the state’s draft water policy, to oversee the programme for rejuvenation of all waterbodies. A water resources committee chaired by the chief secretary of the state will assist this committee.

The final verdict which has entrusted the executive with the duty of protecting the lakes, notes “The interim orders made in these petitions have, however, goaded them (the authorities) into some action and the final responses on behalf of the state government, the urban development authorities and the municipal corporation have raised a distinct ray of hope that may in the near future glitter on the surface waters of the waterbodies that are promised to be reinforced and preserved.”

Key players: The following are the major parties to this case:

PETITIONER	RESPONDENT
Shailesh Shah 12-A, Rachna, Mani Nagar Co-operative, Ishanpur, Ahmedabad	State of Gujarat Through: Its secretary Government of Gujarat Sachivalaya, Gandhinagar
	The Collector Office of the collector Gheekanata, Ahmedabad
	The Executive Engineer Irrigation Department Government of Gujarat Ahmedabad

FOR MORE INFORMATION

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URBAN WATERBODIES: DELHI

The case: On June 22, 2000 *Vinod Kumar Jain*, founder and chair of TAPAS, a New Delhi based non governmental organisation, filed a writ petition (WP) in the High Court of Delhi (HC) under the Article 226 of the Constitution of India against the *Government of Delhi and the state-run water utility, Delhi Jal Board (DJB)*. The state authorities have failed to provide safe drinking water to all its citizens, said the litigant.

The background: Unplanned urbanisation and spiralling population have resulted in severe water crisis in Delhi. The state-run water utility, DJB, is fighting a losing battle to plug the gap between demand and supply. Majority of the citizens depend primarily on groundwater to meet their daily requirements, as DJB's service is inadequate and erratic. A large portion of the city is not even connected to the Boards' supply network.

Result: groundwater levels in most parts of Delhi have dipped precariously. Over dependence on groundwater has also led to fluoride and nitrate contamination in many blocks. To add to this crisis, over 40 per cent of the treated water transported through DJB's distribution system is wasted due to leaking pipes and pilferage.

The government, meanwhile, announced its plans to undertake rainwater-harvesting projects to mitigate the water crisis. But very little has materialised till now. On June 7, 2000, the DJB and the Municipal Corporation of Delhi (MCD) unveiled its programme to construct at least 150 new ponds to store rainwater.

TAPAS filed the public interest litigation (PIL) to ensure that the schemes are implemented and the people of Delhi are no longer deprived of their basic rights to receive safe and adequate supply of drinking water.

The plea: The litigants proposed the following:

- It sought urgent directions and orders to ensure supply of safe drinking water to citizens by replacing old pipes, preventing water pilferage, increasing the number of water treatment plant etc.
- The petitioner pleaded before the court to give directions to Delhi Jal Board (DJB) and Municipal Council of Delhi (MCD) to make public their schemes for rainwater harvesting.
- It also requested the court to appoint an agency or a watchdog body to ensure time bound implementation of such schemes.

THE PROCEEDINGS: The case, WP 3502 of 2000, is continuing in the court

- Quality of drinking water was the first issue that the court focused upon. To further strengthen the case, the petitioners also filed a rejoinder affidavit requesting the court to get the quality of water supplied tested through an independent agency.
- **November 13, 2000:** The court made Tapas and DJB jointly responsible for conducting these tests done.
- **March 21, 2001:** The court examined quality test reports based on the samples collected from various parts of Delhi and found that water is fit for drinking purposes. And thus, the matter of safe drinking water was settled.

During this hearing, the court also asked DJB to produce details of the rainwater harvesting projects that it planned to take up during the current year (2000-2001). To ensure effective implementation of these projects, the HC sought information from MCD regarding the provisions in the building byelaws that require the owner or occupant of a building to undertake rainwater harvesting.

- **April 16, 2001:** While responding to the court's query, MCD clarified that no such provision existed. Although it had presented a proposal to the Ministry of Urban Development on this issue in 1999, no action was taken.
- The HC issued notices to the ministry asking an explanation for delaying the process of amending the byelaws.
- The HC also issued notices with the Delhi Development Authority (DDA) and the New Delhi Municipal Corporation (NDMC) to file an affidavit stating whether they are planning to take up rooftop water harvesting in their respective buildings.

The court also asked DJB, to carry out a survey of the areas for locating the leakage in water pipes and to submit a report of the same.

- **May 10, 2001.** The judges expressed their dissatisfaction over the inability of the Ministry of Urban Development to specify the time frame for amending the buildings by laws. DJB was fined Rs 2,500 for not submitting the report on the leaking water pipes.
- The HC took up the issue of protecting the natural lakes of Delhi during this hearing. The bench observed, "We understand that natural water bodies that exist in Vasant Kunj and Prasad Nagar areas would vanish if not taken care." The MCD was directed to submit an affidavit with regard to steps taken to protect these water bodies. As a prelude the court directed the DJB, MCD and the NDMC to collect information on the waterbodies in Delhi.
- **May 28, 2001:** The court again directed the Ministry of Urban Development to carry out the amendment in the building by laws expeditiously and to proactively publicise these byelaws, in a bid to spread awareness among the people.
- **May 31, 2001:** The court gave directions to form a joint survey committee to assess the number of natural water bodies in Delhi. As these water bodies came under the jurisdiction of authorities such as the MCD, DDA, Railways, government of Uttar Pradesh, government of Haryana, flood control and tourism departments of the government of National Capital Territory (NCT) of Delhi, representatives of these bodies formed the committee. INTACH (Indian National Trust for Art and Cultural Heritage), a New Delhi based NGO, and the Archaeological Survey of India (ASI) were also included in the team. Besides, the court issued a deadline of October 31, 2001 to the concerned authorities to relocate the slums existing near these water bodies to protect them from unregulated discharge of pollutants.

During this period, Tapas filed two rejoinders to compel the ministry of Urban Development and Poverty Alleviation to widen the scope of building by laws, incorporating all the buildings constructed on an area of 100-sq m. The ministry finally announced these amendments on July 28, 2001.

- **August 31, 2001:** The HC sought explanation from the concerned authorities for not conducting the joint survey of the water bodies despite of the repeated orders issued on May 31 and July 27, 2001. While clarifying their stand on the issue of rainwater harvesting, the HC observed that the

KEY ISSUES: The case has brought the following issues to the forefront:

- ✓ *Impact of PILs:* Delhi truly reflects the power of PILs. Tapas succeeded in triggering off a series of activities by filing the PIL and following it up with rigorous rejoinders. The High Court has since been using it as a tool to nudge various government bodies into action.
- ✓ *Lackadaisical attitude of the executive:* This case also establishes the fact that all efforts made to save the beleaguered lakes can be blocked or inordinately delayed by an executive that is apathetic and uninterested.
- ✓ *Overlapping jurisdiction of land owning agencies:* The plethora of landowning agencies that govern the capital has also raised serious problems in the implementation process. A lot of precious time is being lost while the DDA, the MCD, the DJB and the NDMC deny responsibility and try to push the blame onto each other.
- ✓ *Need for comprehensive, authentic information:* The Delhi High Court and Tapas face yet another crippling block—lack of scientific data on waterbodies and their catchment areas, and on technology to clean these up.

buildings by laws have been amended and as a similar case is being heard in the Supreme Court of India, they will not issue any further directions in this matter.

Later, the joint survey committee submitted its report, identifying 508 water bodies in Delhi.

- **March 8, 2002:** The responsibility of protecting the water bodies was delegated to the specific land owning agencies. During this hearing, court reiterated the need for protecting the water bodies. It issued orders to the union ministry of Tourism, and ASI to conserve three ponds that were identified by the petitioner, as being part of city's historical heritage.
- The joint survey committee recommended that only water bodies with an area of about 4,000-sq m should be protected, based on the survey conducted during October 2001- January 2002. The committee observed that smaller water bodies do not contribute much to recharging groundwater and are difficult to maintain and hence should be 'killed'. They recommended that water bodies twice the size of the destroyed one should be developed at suitable sites.
- TAPAS contested this report by filing a rejoinder - on the ground that it is relatively easy to recharge smaller water bodies.
- **April 26, 2002:** The HC ordered the land owning agencies to protect waterbodies irrespective of their sizes. The court observed that, "Costs should not be a consideration while protecting resources like lakes." While citing the examples from Singapore, it observed that many lakes could be protected for tourism purposes. Thus, INTACH was directed to provide a list of water bodies that can be preserved for the tourism purposes.
- **August 16, 2002:** The court asked the land owning agencies to file a report on the feasibility of developing forty waterbodies for tourism purposes with the help of INTACH. It also issued a show cause notice to PWD as to why the waterbody at Jahangirpuri was filled up. The bench also asked the land owning agencies as well as the MCD to prepare the map of waterbodies through satellite imagery.
- **September 13, 2002:** The HC issued four directives. Firstly, the Archaeological Survey of India was asked to revive 11 waterbodies that come under their jurisdiction. Secondly, while restraining the Public Works Department, the court asked it to find ways of restoring the marshes that they have filed up with flying ash. Thirdly, the concerned state authorities were asked to develop

ways to revitalise Neela Kunj, a waterbody in Vasant Kunj. Fourthly, The court inquired about the status of the 40 ponds to be developed for tourism.

- The Ministry of Water Resources, Government of India, has directed the Central Ground Water Authority to prepare a report on the potential of restoring and recharging the *baolis* of Delhi to mitigate persisting water crisis.

Key players: The following are the major parties to this case:

PETITIONER Vinod Kumar Jain TAPAS 47/3 Vindhyachal Farmhouse, Mandi Road, Jaunpur, New Delhi 110047	RESPONDENT Delhi Jal Board Through: Its Chairman Varunalaya Phase-II Jhandewalan Delhi 110055
	National Capital Territory of Delhi Through: Its chief secretary 5, Shyam Nath Marg Delhi 110054

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LAKES OF UDAIPUR: RAJASTHAN

THE CASE: In 1997, *Praveen Khandelwal*, representing the *Jheel Sanrakshan Samiti* (JSS), an Udaipur based non governmental organisation, filed a public interest litigation (PIL) in the Supreme Court (SC) against the *Government of Rajasthan, the Municipal Council of Udaipur and the Rajasthan Pollution Control Board*, seeking urgent judicial intervention to clean up the lakes in Udaipur, and to check the flow of pollutants into these water bodies. But this case was directed to the Rajasthan High Court (HC) in the same year.

THE BACKGROUND: Udaipur has faced water scarcity from its inception, due to its geographical location. The Hindu monarchs who ruled the city built an array of artificial lakes to ensure regular water supply for their subjects. They were taken care of not only by the administration but also the local people. In the British regime, Udaipur came to be known as the city of lakes, and the four large water bodies, Pichhola, Swaroop Sagar, Fateh Sagar and Badi, remained its lifelines.

But the condition of the lakes deteriorated sharply in the post independence era. While, unregulated and rapid commercialisation escalated the inflow of pollutants, an indifferent government machinery that paid scant attention to proper cleaning up operations, only intensified the problem. As many as twelve government agencies were assigned the task of working as *caretakers* of these waterbodies. But they merely passed on the responsibility to one another. The health of the lakes grew more precarious every year.

It was left to the citizens of Udaipur to fight for the life of these dying water bodies. And they have been doing so with singular zeal. The people of Udaipur have tried to draw the attention of the authorities to the lakes through rallies, public meetings, lecture sessions and distributing relevant literature. But to no avail. In 1980, the citizens removed water hyacinths that had totally covered Fateh Sagar and Swaroop Sagar lakes. Again in 1995 the people undertook another cleaning programme.

These enterprising citizens have moved the courts several times, appealing for the protection of their lakes. Among a host of PILs that have been filed over the years, the following is a significant one.

BALWANT SINGH MEHTA, 1982: Final verdict came out in January 5, 1994. Balwant Singh Mehta, an eminent citizen and a signatory to the Indian Constitution Formation Committee filed a PIL in the Rajasthan High Court against the state government, seeking measures to control lake pollution. The case continued till 5 January 1994, when the court ordered the administration of Udaipur to constitute a committee that can develop a viable plan to protect the city's lakes. It also issued directives that the administration should provide potable water to all citizens within the next six months. However, the state authorities did not respond to these orders

THE PROCEEDINGS: The Samiti's PIL (Writ petition 3687/1997) is still continuing in the HC.

- **August 25, 1998:** As this PIL mentioned the Mehta PIL, on, the HC instituted a contempt of court case against the collector of Udaipur for non-compliance of the order issued by the High Court in 1994.
- **November 24, 1998:** The District Judge of Udaipur, who was asked to study the status of the Udaipur lakes, submitted his report before the court. This report described the grave condition of

these water bodies, thereby strengthening the case against the administration.

- However, no significant development took place, in spite of this. The case proceeded at snail's pace in the HC.

In 1999, JSS filed another PIL to expedite the cases related to water bodies. This PIL was given considerable attention by the double bench headed by Justice N N Mathur and Justice D N Joshi, who head it on a regular basis.

- The petitioners pleaded before the court to issue directions to the Department of Environment, Government of Rajasthan, urging it to approach the centre for sanctioning of a project for conserving the lakes of Udaipur under the National Lake Conservation Plan.
- The petitioners also demanded that a well-defined strategy should be evolved to treat the sewage before it enters the lakes, as well as to prevent garbage dumping near the lakes.
- They also requested the court to direct the authorities to take effective steps to implement the Mansi Wakal project for augmenting the city's water supply and to issue notifications banning permanent construction within 200 meters of the High Flood Level of the Udaipur lake system. The petitioners pleaded the court to direct the government to constitute an autonomous Lake Authority of Udaipur (Jheel Vikas Society) to effectively manage the lake system.
- **May 1, 2000:** The HC asked the petitioners to submit their suggestions for the protecting the lakes.
- **May 8, 2000:** The judges declared that they would not tolerate the lethargic attitude of the authorities, which were directed to submit the status report within eight weeks. The court suggested that both the state and the citizens should take keen interest and in protecting the water bodies. Following directions were given,
 - The executive committee of the Jheel Vikas Society, (a society constituted by the government in 1999 with the divisional commissioner as the president) was asked to prepare a time bound action plan to overcome the various problems associated with the lakes in Udaipur city.
 - Petitioners were to be invited to the meetings of the executive committee of the Jheel Vikas Society.
 - The society was instructed not to give membership to any person, organisation or institution against whom there is an allegation of polluting the environment.

KEY ISSUES: The case has brought the following issues to the forefront:

- ✓ *Role of the people:* The issue of protecting Udaipur's lakes has been kept alive for decades solely by the zealous citizens. They braved long delays in the judicial process and an apathetic and partisan government, which has allowed rampant commercialisation around the lakes. This case reiterates the importance of spreading awareness among the people and involving them in the campaign to save water bodies. *The court acknowledged the significant role played by the people of Udaipur, when it ruled that all petitioners must be invited to the meetings of the executive committee of the Jheel Vikas Society.*
- ✓ *Failure of the executive:* The government failed to react even after being severely admonished by the court. The inadequate status reports that were repeatedly submitted by senior government officials reflect their complete lack of interest in the issue.
- ✓ *Delay in the judicial level:* The battle to save the Udaipur lakes has been long and protracted, and continues even today. One of the primary reasons for this is the role played by the judiciary down the years. The attention given to these cases has been sporadic and has varied sharply, depending on the interest level of the presiding judges. Such delays could have had a disastrous impact on the fragile health of the lakes.

- A task force was constituted to monitor activities such as desilting of lakes, sewerage diversions, prevention of construction work in areas demarcated as ‘no construction zones’ etc.
- The state pollution board was directed to provide list of prosecution cases pending in courts for violation of pollution laws in any of the lakes of Udaipur.
- The collector of Udaipur was ordered to remove all encroachments in and around the city’s lakes within a period of eight weeks.
- The municipal council was advised to put big wagon type dustbins near the lakes to control pollution caused by garbage.
- A board of commissioners was appointed to oversee the implementation of courts orders related to this issue.
- **May 24, 2000:** The court expressed its unhappiness over the report submitted by the task force and observed “It appears that except for some paper work nothing substantial has been done. Simply constituting the task force is not were the matter ends.” The bench issued a last warning to the officers concerned and commented, “Before we proceed to comment further on the working and competence of the concerned officers, we give them a last opportunity to comply with our May 8 directions bonafidely, faithfully and religiously.”
- **June 1, 2000:** The court said that the appraisal report submitted by the authorities clearly indicate absence of a proper action plan.
- **June 2, 2000:** The divisional commissioner submitted a time bound action plan to revive the lakes of Udaipur. While stating that the Udaipur lake system has been included in the NLCP, directions were issued to the Centre to file an affidavit in this regard by July 10.

KEY PLAYERS: The following are the major parties to this case:

PETITIONER	RESPONDENTS
Rajendra K Razdan and Tez Razdan Jheel Sanrakshan Samiti 113, Chetak Marg Udaipur 313001	State of Rajasthan
	Municipal Council of Udaipur
	Rajasthan Pollution Control Board

FOR MORE INFORMATION:

Tej Razdan

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SAROORNAGAR LAKE: HYDERABAD

The case: In August 1995, *KL Vyas*, convener of the 'Save the Lake Campaign', launched by the Society for the Preservation of Environment and Quality of Life, filed public interest litigation (PIL) in the Andhra Pradesh High Court (HC), against the *Government of Andhra Pradesh*, seeking protection of 170 lakes in Hyderabad. The Hyderabad Urban Development Authority had identified these lakes as water bodies covering over 10 hectares (ha) of land. While the PIL encompassed all these lakes that were under threat, its attention was focused on the Saroornagar Lake that was under severe stress due to large-scale encroachment on its catchment area and alarming level of pollution.

The background: Hyderabad has a glorious tradition of tanks built by its ruling dynasties. It owes its many lakes—that stored and supplied water for drinking and irrigation to its citizens—to the Qutab Shahi (1564-1724AD) and the Asaf Jahi (1724-1948 AD) rulers. The first of these was Hussain Sagar, built on a tributary of the Musi River in 1562. Later, more tanks were constructed to handle floods and to cater to the city's growing population.

The city of lakes had about 532 tanks and *kuntas* (percolation tanks) within a radius of 35 kilometers. Thus the science of rainwater harvesting using waterbodies is ancient in this region. However the recent trends had been that of systematic killing of lakes. Tanks (lakes) are getting converted into residential colonies with the consent of government. For instance, a slum sprang up at Mir Jamla tank and an affluent residential colony came up in the lakebed of Masaabcheruvu. But, it was the destruction of Saroornagar that led to the genesis of 'Save Lakes Campaign' by PRAKRITI, a group of environmentalists, in September 1999.

Originally spread over 65 ha the lake is reduced to 25.41 ha at present. Denudation of the catchment area and discharge of untreated sewage into the Saroornagar Lake were endangering its very existence. A greater threat to the lake's existence had come on October 22, 1984, when the government of Andhra Pradesh issued orders for the 'abandonment of the lake' by depleting the tank level from 31 meters (m) to 29 m to facilitate development of residential colonies in the exposed peripheral areas. However after four years, the Municipal Corporation passed a unanimous resolution to counter the government order and protect the lake at any cost. Meanwhile two major fish kills were reported in October 1999. The Madannapet fisherman's society reported the matter to Andhra Pradesh Pollution Control Board (APPCB), who assigned the cause of this incidence to eutrophication caused by a drain entering the lake.

The stormwater drains in the upper catchment areas of Saroornagar Lake were filled with silt and occupied by people, endangering the lives of people living down stream. All these facts were presented before the authorities with a request to prevent the lake being used as a garbage dump yard; divert the sewage drains entering the lake; demarcate the lake boundaries; remove encroachments and undertake plantation in the periphery. On numerous occasions irrigation officials, with the support of local police, attempted to open the old *pucca* bund to reduce the water in the lake. With the support from the local media and citizens, fisher folks and activists of the movement stalled these moves. But the threat to the existence of this lake persisted. Appraising the Chief Minister and the Minister for Environment and Forests on these issues yielded no results. Finally out of despair, in August 1995, a PIL was filed in the HC.

KEY ISSUES: The case has brought the following issues to the forefront:

- ✓ **Public participation:** The success of the Save Lake Campaign is due to the support it got from all walks of life. To highlight the problem mass rallies, lectures, demonstration and distribution of pamphlets were undertaken.
- ✓ **Lack of proper legislation to counter encroachment:** Some laws that were framed before independence accorded ownership of lakes to individuals. The Nizam of Hyderabad, permitted farmers to raise crops in the lake periphery during months when the lake recedes. These farmers later on became the owners of these lakes.
- ✓ **Lack of proper sewerage system in the city:** This has led to dumping of all the wastes into lakes. A proper sewerage system in the city will to a larger extent reduce the pollution of lakes.
- ✓ **Government's apathy:** Even after repeated requests from the public, the government agencies were indifferent towards the protection of lakes. They even tried to abandon a lake by draining out the water. It was this apathy that forced the activists to approach the judiciary.

THE PLEA: The PIL pleaded for the protection of 170 lakes in Hyderabad

THE PROCEEDINGS: The following are some of the highlights:

- Acting on a petition, the honorable justice C V N Shastry directed the government departments to protect all water bodies around the city
- Again, on the same petition, a bench comprising of M N Rao and Rajgopal Rao directed the state government to appoint Environment Protection Training and Research Institute (EPTRI), Hyderabad to prepare an action plan for the protection of Saroonagar Lake.
- The report was submitted by EPTRI and restoration work has already begun. EPTRI is now striving to protect, conserve and renovate all the other 170 lakes around the twin cities of Hyderabad and Secundrabad.
- Later the jurisdiction of the order was extended to include the protection of all the water bodies in the state of Andhra Pradesh. About 90 per cent of these lakes are located in the rural areas.

KEY PLAYERS: The following are the major parties to this case:

Petitioner	Respondents
K L Vyas Save the Lake Campaign	State of Andhra Pradesh and others

For more information:

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Sommya Apartments
HUDA Complex
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URBAN TANKS IN HOWRAH: WEST BENGAL

The Case: In April 1995, Subhash Dutta on behalf of the Howrah Gantantrik Nagarik Samiti (HGNS), a Kolkata-based non-governmental organisation, filed public interest litigation (PIL) in the Supreme Court (SC) against the Government of West Bengal and the civic authorities of Howrah, a satellite township near Kolkata. In his 486-pages petition, along with other civic issues, Dutta pleaded for judicial intervention for protection of 110 urban water tanks located in Howrah, SC referred the matter back to the Calcutta High Court (HC) on April 16, 1996. In a historic move, it directed the HC to form a special ‘green bench’—for the first time in India— to deal with the petition.

The impact was spectacular. The final verdict of the HC banned the filling up of urban water bodies in Howrah. The court directed the Howrah municipal corporation to list ponds under the jurisdiction of all the police stations in the area. The officers-in-charge have been given the responsibility to protect the water bodies in their respective regions.

The background: Subhash Dutta has been trying to draw the attention of the authorities to the steadily escalating civic problems in Howrah since 1980. The focal point of his crusade has been the ‘killing’ of waterbodies. The Samiti has filed a dozen PIL in the Calcutta HC, seeking intervention. However, “The orders given by the court were not positive, as they failed to comprehend the various dimensions of the problem”, says Dutta. So the Samiti knocked the doors of the SC.

Interestingly, the existing Inland Fisheries Act in West Bengal already prohibits filling up of wetlands in all parts of the state. But the powerful land mafia in Kolkata has been systematically destroying the lakes, in blatant violation of the law.

The proceedings: The case (WP of 1995) has been decided

- **June 17, 1996:** During the first hearing the matter was not heard by the HC on the grounds of non-receipt of papers from the SC.
- **September 2001:** The HC issues its final verdict.

KEY ISSUES: The case has brought the following issues to the forefront:

- ✓ *New implementation strategy:* The decision of the HC to use police officers as guardians of lakes is unique. The functioning of this system may need to be monitored closely by a watchdog body, to ensure proper implementation.
- ✓ *Ineffectual law:* The enactment of a law specifically addressing urban water bodies is not enough. The executive needs to ensure that it is being enforced and the people living around these lakes need to keep vigil.
- ✓ *Role of the judiciary:* A judicial bench, too, can be partisan in its approach. Dutta, whose appeals were rejected by the HC several times, claims that the level of corruption in the judicial system of West Bengal is relatively high, as compared to the rest of the country. An environmentally insensitive bench may thwart the entire process.

KEY PLAYERS: The following are the major parties to this case:

PETITIONER	RESPONDENTS
Subhash Dutta Howrah Gantantrik Nagarik Samiti, Kolkata	State of West Bengal
	Civic authorities of Howrah

RABINDRA SAROBAR: COLKATTA

THE CASE: In June 1997, Subhash Dutta, representing the Howrah Gantantrik Nagarik Samiti (HGNS), along with two other non-governmental organisations Rabindra Sarobar Bachao Committee and Paribesh Dushan Rodh Committee filed another public interest litigation (PIL) against the Government of West Bengal. The petition pleaded for the protection and revival of the Rabindra Sarobar, a waterbody located in a densely populated locality in southern Kolkata. It is the largest lake in the city.

THE BACKGROUND: Rabindra Sarobar has fallen victim to uncontrolled spiralling of population in the city - a large part of which consist of illegal immigrants from neighbouring Bangladesh. About 800 of such families live in the land surrounding the lake that belongs to the Indian Railways, and more than 9,000 people are using its water for washing and bathing purposes, daily. Result: Rabindra Sarobar has shrunk beyond recognition and its water is heavily polluted.

THE PROCEEDINGS: The case (writ petition of 1997) is ongoing.

- In July 2001, the High Court (HC) issued orders to evict the squatters occupying about 3.5-km stretch of land between Lake Gardens and Tollygunge stations—the process to be completed by January 25, 2002.
- The response to this was extremely significant. Sougata Roy, a local member of legislative assembly (MLA) representing the Trinamul Congress Party filed a special legal petition requesting the court to give grace period till April 30, 2002. He made this move on behalf of the Dhakuria-Tollygunge Railway Bastu Sangram Samiti, a group representing the people living around Rabindra Sarobar.
- Fearing that eviction orders may trigger mass protest against the eviction orders, the court withdrew its ruling. It directed that the squatters should be provided proper sanitation facilities, to prevent further pollution of Sarobar. It ordered the State government and Railways to pay Rs 38 lakhs respectively for developing the infrastructure.
- The Indian Railways has filed a counter petition declaring its inability to pay.
- Result: the case remains hamstrung.

Key issues: The case has brought the following issue to the forefront:

- ✓ **Political pressure a major deterrent:** Any significant step to remove encroachment and to clean up the Sarobar was effectively thwarted by political intervention. The judiciary was forced to withdraw its stand.

KEY PLAYERS: The following are the major parties to this case:

PETITIONER	RESPONDENTS
Subhash Dutta, Howrah Gantantrik Nagarik Samiti, Kolkata	State of West Bengal
Rabindra Sarobar Bachao Committee	
Paribesh Dushan Rodh Committee.	

FOR MORE INFORMATION

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LAKES OF KUMAON: UTTRANCHAL

THE CASE: On 20 December, 2001, Fredrick Smetacek (Jr), Chief co-ordinator of Society of Appeal for Vanishing Environments (SAVE), a Bhimtal based non governmental organisation, filed a public interest litigation (PIL) in the High Court (HC) of Uttaranchal under Article 226 of the Constitution of India, against the collector of Nainital, and various other office holders including Sarpanch Van panchayat, June Estate; Bhimtal; Chairman, Nagar Panchayat, Bhimtal; Pradhan Gram Sacha, Bhaktura, June Estate, Bhimtal; Jal Nigam through its executive engineer, Nainital, Irrigation department, through its executive engineer, Nainital; and the Forest department through its divisional forest office Nainital.

THE BACKGROUND: Sat-tal, Bhimtal and Naukuchiatal lakes, have been traditionally used as primary sources of drinking and irrigation water for the entire Kumaon region. The catchment area of these lakes known as *June state* or *Jones Estate* is a hot spot of bio diversity and a unique eco system. While this region falls under 'no construction' zone, it was being ravaged by rampant construction work, undertaken by private builders, backed surreptitiously by the government.

The issue first came under the glare of publicity on October 10, 2000, when *Amar Ujala*, a widely circulated Hindi daily, published an article on the illegal leasing out of 100 acres of Van Panchayat's forestland. A private builder was given the permission to develop a township and resort project known as 'Shivkoot Hills' in this land.

The government had even changed the land-use pattern to facilitate this process. It was allegedly facilitated by the housing secretary of the Government of Uttar Pradesh (UP), just before the formation of Uttaranchal.

This news report triggered a volley of protests from the local people, culminating into a movement that is now known as the 'June Estate Prakaran'. It forced the Uttaranchal government to order a high-level inquiry to look into this matter on January 17, 2001.

But the powerful builders were undaunted by government intervention. They continued to fell trees and construct roads. As the public outcry grew louder and louder, the builders lobby unleashed a reign of terror to subdue the protagonists. In a desperate bid to save the lakes Fredrick Smetacek (Jr) approached the courts.

THE PLEA: The litigants proposed the following:

- This PIL demanded that Sat-tal, Bhimtal and Naukuchiatal, lakes in Nainital district, should be preserved and protected by the government in the same way as Nainital, which is covered under the high profile National Lake Conservation Plan (NLCP). It sought judicial intervention to end felling of trees by builders around the lakes and cleaning the garbage that is regularly dumped into these waterbodies.
- SAVE also pointed out that though a vast amount of money was spent to desilt Bhimtal and Sat-tal in 1998-2000, adequate steps were not taken to check the sources of pollution. Hence the problem of siltation had remained unresolved. It also requested a thorough legal investigation into the rampant sale of government and forestland by local land mafia and encroachment on public roads and lands.

THE PROCEEDINGS: This PIL filed on December 20, 2001(PIL 944 of 2001) is still under consideration of the HC. These are some of the highlights:

- **December 21, 2001:** The High Court Bench comprising Justice P C Verma studied the petition and instructed the district administration and the Land Development Authority (LDA) to take effective measures to prevent all unauthorised activities in the June Estate. The court further instructed the state authorities to file a counter affidavit by January 9, 2002. However, the respondents did not meet the deadline and no counter affidavits were filed.
- **February 18, 2002:** Anand Ballabh Kandpal, Sarpanch, Van Panchayat and one of the nine respondents filed the counter affidavit accepting all the facts and allegations levelled by the petitioner. However, he mentioned that though a road has been constructed even after the enquiry was ordered, all other construction activities were stopped. He requested the court to appoint an independent and impartial committee to look into the status of land sales and transfer of Van Panchayat’s forestland. He also submitted that his efforts to implement the forest, environment and revenue laws to protect the property of the Van Panchayat, have earned him the ire of the builders lobby who enjoyed the support of revenue department officials. This affidavit has strengthened the petitioner’s case.

Key issues: The case has brought the following issues to the forefront:

- ✓ *Power of public opinion:* The petitioners could stand up against the powerful builders lobby, only because they enjoyed support of the local people and the media. The June Estate Prakaran that had already gained ground in the region and mobilised the masses fuelled their campaign. Thus this case is different from the other case studies from different parts of the country where individual lawyers or the environmentalists wage a lonely fight against the establishment for the protection of urban waterbodies. This emphasises the importance of having a mass base for the initiatives in lake conservation.
- ✓ *The muscle wielding builders:* This case also exposes the nexus between the government agencies and the builders lobby for the systematic killing of waterbodies.
- ✓ *Need for a comprehensive legal system:* This case also projects the need for a strong legal and institutional framework both at the national as well as state’s level to protect the ecology. Such an arrangement will ensure that economic and ecological developments are complementary rather than being counter productive.

KEY PLAYERS: The following are the major parties to this case:

PETITIONER THE	RESPONDENTS
Fredrick Smetacek (Jr), Chief Co-ordinator Society of Appeal for Vanishing Environments (SAVE) Bhimtal, Nainital	Collector, Nainital
	Sarpanch Van panchayat, June Estate, Bhimtal, Nainital
	Chairman, Nagar Panchayat, Bhimtal
	Pradhan Gram Sacha, Bhaktura, June Estate, Bhimtal, Nainital
	Nainital Jheel Parishetriya Vishesh Kshetra Vikas Pradhikaran, Waverly compound, Nainital through its Secretary

PETITIONER THE	RESPONDENTS
	Jal Nigam through its executive engineer, Nainital
	Jal Sansthan through its general manager Nainital
	Irrigation department, through its executive engineer, Nainital
	Forest department through its divisional forest office Nainital

FOR MORE INFORMATION:

Fredrick Smetacek (Jr)
 Chief Co-ordinator
 Society of Appeal for Vanishing Environments (SAVE)
 Bhimtal, Nainital
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LAKES OF BANGALORE: KARNATAKA

Most of Bangalore's tanks were built in the pre-British days. A linking chain was created in each region. Situated in the same catchment area, the surplus water from one tank would flow into another situated lower.

In the absence of a river source close by, Bangalore has always depended heavily on its tanks. Kempe Gowda, a founder of modern Bangalore, built a number of tanks in the 15th century. These tanks were respected and protected by the local stakeholders. By the 1860s, Bangalore had evolved an intricate system of harvesting rainwater, and very little was allowed to go waste. But by the middle of this century, the crisis had become acute. The gradual dependence on pumped-up river water has led to the neglect of traditional water systems.

Meanwhile, the government remains the biggest enemy of the lakes and tanks. The city corporation has built the city bus terminus on the Dharmanbudhi tank. Part of the Sampangi tank has been covered into the Kanteerva stadium, while the rest has been taken over by the Sampaniram Nagar Extension Colony. The Siddikatte tank has long since been converted into the city market. The Bangalore-based non-governmental organisations have filed public interest litigation against a government order transferring tanks land for the construction of flats.

Pollution is also killing the tanks, with storm drains carrying the sewage into them, instead of water. And groundwater sources has been depleting rapidly. Besides, the drying up of the lakes have thrown out of gear the lives of all the fisher folk and washer folk dependent on them for their livelihoods.

LAKES OF CHENNAI:TAMIL NADU

The Madras Metropolitan Area (MMA) has a water spread area of more than 63 sq km, in addition of the 39 temple tanks, called *kulam*. Most tanks in the area form a 'system eris', a water harvesting system consisting of a series of connected tanks, and are situated in the basin of one of the four rivers flowing through the area.

Traditionally, townships in south India were centred around temples. The temple tanks were protected, and had wells located in them, serving as a link with aquifers. According to experts, a system of storm drains will have to be laid out to revive these tanks. Encroachment of the lakes by the government for construction is a major problem. In the recent years, although the state has taken pro-active steps to promote rainwater harvesting, the lakes of the city remain neglected.

ANNEXURE

A NOTE FROM CAG ON WETLAND PROTECTION IN CHENNAI

Introduction to CAG

Citizen consumer and civic Action Group (CAG) is a public interest group in Chennai dealing with issues of public health, safety, performance of public utilities, consumer and environmental protection.

CAG is based on a simple concept - that the quality of our lives is deteriorating and that mere complaining will not solve the problems. We need to actively do something about it. CAG's declared objectives are therefore to provide a platform for citizens to represent consumer and environmental problems, to monitor the performance of public utilities, and to take up issues of public health, development and safety.

CAG was originally christened Consumer Action Group. After nearly a decade of our existence, we decided to change it to CAG (Citizen, consumer and civic Action Group), keeping in mind, the larger role that groups such as ours have to play. Specifically, issues affecting the common citizen such as extreme pollution, lack of urban planning, poor quality health care and poor civic amenities have emerged as priorities in the work undertaken by CAG.

Under the Government of India instituted scheme of National Awards to recognise and foster the efforts made by voluntary consumer organisations, CAG has won the Second prize in the year 1989 and the First prize for the year 1992.

CAG's work on wetlands in Chennai city

CAG has been actively involved in various environment protection issues. The organisation has made several interventions seeking protection of water bodies, wetlands and low lying lands in and around Chennai City. Below is a brief outline of some of these activities.

(a) Protection of the Adyar creek and estuary area

The Adyar Creek and Estuary are vital parts of Chennai's ecosystem. This area where the Adyar River meets the Bay of Bengal in the southern part of the city, was once the home of about 170 varieties of birds, several more types of fish, and many forms of coastal and wetland vegetation. However, pollution caused by construction debris, plastic and raw sewage has dramatically changed the Estuary from its previous state of ecological wealth. The pollution of the Estuary not only has a direct effect on species biodiversity but also on human life in the city. Apart from all the characteristic services provided by this wetland, the existence of this wetland contributed in no small measure to the supply of groundwater in the city.

In 1993, CAG challenged the decision of the State government to construct a memorial for Dr. Ambedkar on the Adyar creek. The Single Judge of the Madras High Court in a landmark judgement in 1994, agreed with the arguments made by CAG and directed that the construction of the memorial

be restricted to a small part of the original plan and that the rest of the land be restored back to its original condition.

The State government appealed against this decision, but lost before a Division Bench of the High Court in March 2001.

Meanwhile in mid-1997, at the Adyar estuary, a large multistoried residential complex was being constructed. CAG and other environmental groups in Chennai organised a massive signature campaigning seeking demolition of this building and protection for the Adyar estuary and creek. When the government failed to respond to this signature campaign, CAG petitioned the Madras High Court.

The Court directed the State Environment Department to consider declaring the entire area, a protected area under relevant environmental statutes.

Specifically on the legality or otherwise of the multistoried building, the Court noted that no government department had any objection to the building. The Court also noted that the builder had provided sufficient evidence to show that the building did not violate any law or affect the environment in any manner. As such therefore the building was allowed to stand. CAG filed appeals against this order, right up to the Supreme Court, but lost at every stage.

(b) Protection on urban lakes

In 1993, CAG noticed that the TN Housing Board was developing large housing projects in tank perumboke, lakes and catchment areas of lakes. Challenging this decision, CAG sought the intervention of the Court in stopping the Housing Board from carrying out their projects in water catchment and ground water recharge areas in the State.

CAG also asked the Court to appoint a Committee of Experts to go into the issue of misuse of water catchment and ground water areas in the State.

Despite the passage of several years, this petition has not been heard beyond preliminary arguments. No interim orders were given in this case.

(c) Protection of urban waterways

CAG has also been involved in issues related to the cleaning up of the city's waterways (the Adyar river, the Cooum river, the Buckingham canal and the Otteri nullah). Work on this has been carried out through citizen campaigns (Waterways Monitoring Programme), writ petitions and very recently, through participation on a government sub-committee on this issue.

For more information:

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