

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition (PIL) No. 12774/2021

All Residents Of Ansal Sushant City, Bhakrasani, Jodhpur-342013 Through - 1. Tej Prakash Pathak S/o Late Sh. Ram Kailash Pathak, Aged- 47 Years, Resident Of D-226, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan). 2. Prakash Kumar S/o Shri Binda Singh Aged- 39 Years, Resident Of House No. D-397-A, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan).
-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Local Self Government Department, Govt. Of Rajasthan, Jaipur.
2. Secretary, Public Health And Engineering Department, Rajasthan, Jaipur.
3. Jodhpur Development Authority, Through Its Secretary, Jda Circle, Jodhpur.
4. Executive Engineer, Public Health And Engineering Department, City Division- Jodhpur.
5. Ansal Properties And Infrastructure Limited, Through Its General Manager (Projects), Local Office- Bhakrasani, Jodhpur.
6. The Managing Director, Star Facilities Management Limited, Local Office- Sushant City, Bhakrasani, Jodhpur.
7. Sushant City Residents Welfare Society, Through Its Secretary Sh. Nishchal Shrivastava, Resident Of D-372-373, Ansal Sushant City, Bhakrasani, Jodhpur.

-----Respondents

Connected With

D.B. Civil Writ Petition (PIL) No. 13083/2021

Sushant Lok Residents Welfare Society, Registered Address R-113, Sushant Lok Ansal Api, Pali Road, Jodhpur (Raj.) Pin Code 342013 Through Its President.
-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Urban Development And Housing Department, Secretariat, Jaipur (Raj.).

2. The Principal Secretary, Public Health Engineering Department, Jaipur (Raj.).
3. The Principal Secretary, Public Work Department, Secretariat, Jaipur (Raj.).
4. District Collector, District Jodhpur (Raj.).
5. Jodhpur Development Authority, Jodhpur (Raj.) Through Its Secretary.
6. Gram Panchayat, Balaji Nagar, Panchayat Samiti Luni, District Jodhpur (Raj.) Through Secretary.
7. Ansal Properties And Infrastructure Pvt. Ltd., Registered Address 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi, Pin Code 110001 Through Its Managing Director.
8. Jodhpur Vidhyut Vitran Nigam Ltd., Jodhpur, New Power House Road, Jodhpur, Through Its Secretary.

-----Respondents

For Petitioner(s)	:	Mr. Deen Dayal Chitlangi Mr. Sushil Bishnoi Mr. Awardan Ujjwal Mr. Devendra Singh
For Respondent(s)	:	Dr. Praveen Khandelwal, AAG Mr. Rajat Dave, JDA Mr. Kuldeep Kumar Shah

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MADAN GOPAL VYAS
Order

04/03/2024

1. The instant petitions as Public Interest Litigation (PIL) have been preferred claiming the following reliefs :-

"Civil Writ Petition No. 12774/2021:-

10. *Relief prayed for:-*

It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed with costs and:-

A. By an appropriate writ, order or direction, the respondents may kindly be directed to make arrangement for supply of drinking water in the Ansal Sushant City colony.

B. Any other appropriate order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners and in public at large.

11. Interim order, if prayed for :-

I. On the facts and grounds mentioned in the annexed PIL and the affidavits, it is most humbly and respectfully prayed that during the pendency of the writ petition, the respondents may kindly be directed to make arrangements for drinking water by way of connecting the colony through the pipeline going alongside the colony in adjacent village Bhakrasani.

II. Or alternatively, the respondents may kindly be directed to provide drinking water to the residents through water tankers.

III. Any other interim relief which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be granted in favour of the petitioners.

Civil Writ Petition No. 13083/2021:-

Prayer:-

10/A. By an appropriate writ , order or direction, the respondent's authorities may kindly be directed to give the water connection and connect with the water tank constructed for the water supply of residents of Sushant Lok Colony and takeover the responsibility to maintain the water tanks and establishment of water supply to ensure for providing water facility to the residents of colony.

10/B. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to construct or repair the roads of the society for the smooth access of residents to their house.

10/C. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to connect the sewerage line of colony with the main sewerage line of city of Jodhpur for the disposal of waste of colony and carry out the regular maintenance of sewerage treatment plant for the disposal of waste of colony.

10/D. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to proper maintain the electricity supply and repair the street lights and operate the same and carry out the maintenance for in future.

10/E. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to takeover the charge for carry out the necessary development and maintenance of established facilities like water supply, roads, sewerage line, electricity supply, street lights, garden etc.

10/F. That the costs may kindly be awarded in interest of public at large.

Interim relief:-

11/A. On the grounds mentioned in the memo of writ petition, the respondent may kindly be directed to provide the basic amenities of adequate water supply to the residents of colony as per their basic need."

2. A simple but an elementary issue raised in the PIL is pertaining to drinking water facility for the colonies, whose residents have preferred these PILs. The colonies in question have been duly approved by the respondent-Jodhpur Development Authority, Jodhpur (for short, 'JDA') (the then UIT in the year 2006).

3. The problem in words is summarized as above in two lines but the solution seems to be awaited from the State and its organs, despite repeated orders of this Hon'ble Court and long pendency of the PILs so much so that while the duly and lawfully approved colonies are operating since 2006, the residents were forced to come to this Court by way of these PILs for a problem as simple as that of the drinking water.

4. This Court had issued notice in the writ petitions way back on 21.09.2021, which were duly served. Thereafter, on 28.10.2021, this Hon'ble Court observed that the residents of the two societies of Jodhpur have raised the grievances of non-supply of drinking water by the Public Health Engineering Department (PHED), apart

from other multiple issues that were raised. The respondents were directed to find a holistic solution and also the presence of the Secretary, Jodhpur Development Authority and Additional Chief Engineer, Public Health Engineering Department was called for.

5. Again in the presence of the aforementioned authorities, this Court on 25.11.2021 re-notified the matter on 16.12.2021, while again directing the officers to remain present before the Court on that date. On 16.12.2021, the Additional Advocate General and learned counsel appearing for the respondent-JDA sought some time to complete their instructions. This Court on 20.01.2022 was informed by the counsel for the respondent-State and the respondent-JDA that there have been meetings between the JDA and the Developer on the one hand and the PHED officials on the other hand, as per the communication dated 23.12.2021 placed on record, whereby a need for Overhead Reservoir has been marked. The matter was thus re-notified on 22.02.2022.

6. On 22.02.2022, it was recorded in the order sheet that the counter affidavits filed by the respondent-JDA show that the necessary facilities for supply of water so far did not come up, and according to the JDA, the same was on count of non-cooperation on the part of the PHED Department, as number of letters had been written, but no response was received. The Court accordingly, directed the two organs of the State to file a joint statement while keeping into consideration that the colonies in question are inhabited by a large number of persons and drinking water was an essential requirement.

7. The matters were again listed on 08.03.2022 and 25.04.2022, but further time was sought by the learned

Additional Advocate General. The stay petitions also kept on getting listed, simultaneously.

8. Another order was passed in the stay applications on 07.08.2023 in which this Hon'ble Court observed that PHED was to consider availability of water and the respondent-JDA was to account for the money received by them from the Developers. An assurance on the part of the learned Additional Advocate General was recorded that the aspects at the level of PHED will be re-examined in a comprehensive manner indicating the status pertaining to the petitioners' colonies as well as the other colonies. Further, a direction was given by this Hon'ble Court to the respondent-JDA to produce a comprehensive account/details of the amount deposited by the colonizer(s) between the period from 2007 to 2009 indicating the allocation of the said amount i.e. as to where the amount had been spent, and also amount, if any, which is left with them.

9. Again affidavits were filed by both the parties and while the adjudications were on going, this Hon'ble Court passed a detailed order on 14.12.2023 in pursuance of which, the Additional Chief Engineer, PHED was asked to hold a meeting with the Commissioner of JDA, Developers and the representatives of the registered Societies, within a period of one month from the date of the passing of the order, and thereafter, to come out with a workable solution to ensure installation of water supply system for these colonies and submit a proposal before this Court so that proper directions can be issued. This Court also directed the Additional Advocate General that in addition to the estimates for the petitioners' colonies, a comprehensive scheme is required to

be prepared, as there are many nearby colonies where a similar problem on account of absence of water supply system is prevailing, and for that, on the next date of hearing, Additional Chief Engineer, PHED was also to place before the Court a comprehensive plan including the estimate for installation of water supply facility.

10. The last order, an exhaustive order, was passed with a clear direction that the respondents were to act upon for giving a workable solution/comprehensive plan for resolution of the problem in question.

11. Today, the learned Additional Advocate General submits that they have filed an affidavit along with the minutes of meeting dated 12.01.2024. The affidavit which constitutes the details of minutes of meeting is covering seven issues deliberated in the meeting dated 12.01.2024. The said seven issues read as follows:-

- "1. Secretary, JDA promised to provide details of all approved colonies of the area including colonies near-by the petitioner colonies, regarding number of proposed plots, population etc.*
- 2. Additional Chief Engineer PHED Region I Jodhpur directed Superintending Engineer District Circle Jodhpur Sh. Rajendra Mehta & concerned Executive Engineer to carry out survey of the petitioner colonies with in next week for finding out workable solution for present residents of these colonies.*
- 3. Representative of Sushant City and Sushant Lok informed that presently approximately 200 and 100 plots respectively have residents who need to be provided water supply facility.*
- 4. Secretary, JDA informed that JDA have fund of Rs. 1.33 Cr. of Sushant City and Rs. 1.32 Cr. of Sushant Lok in their deposit.*
- 5. Representatives of near-by other colony Aditya Dwarkdhish, Kharda Nadi Road, near Basni Benda, Jodhpur were also present and they demanded water supply facility in their colony.*
- 6. ACE PHED Region I Jodhpur directed Superintending Engineers, PHED District Circle*

Jodhpur and City Circle Jodhpur for preparation of DPR for "detailed survey and project preparation" for all the JDA approved colonies for providing water supply infrastructure as per the availability of water of RGLC Phase III.

7. Secretary, JDA proposed to have one more meeting in next week after necessary preparations as decided in this meeting."

12. The seventh issue as reproduced above, required the respondents to have one more meeting in the next week, but today, despite many more weeks having passed, no further instructions are there with the learned Additional Advocate General and the learned counsel appearing for the respondent-JDA.

13. Be that as it may, this Court is peeved by the mockery of justice at the hands of the respondents for failing in their duty to provide drinking water to the residents of an approved colonies in the second largest town of the State of Rajasthan. It is a matter of shame for the respondents who claim to have an exhaustive infrastructure for the town but have failed to provide even the basic facility to the common citizens who are under the impression that they are going to enter into a colony which has been duly approved by the JDA and has all the requisites in place since 2006 and though almost 18 years have passed yet have not been provided with a drinking water. The details of the meeting in an affidavit filed by the respondents is nothing but a sham in the eye of law and is nothing but cheating the common man as the concerned authorities continue to delay (dillydally) the issue of drinking water, despite a passage of 18 years.

14. Despite the exhaustive directions given by this Court one after another and affording of ample opportunities to the respondents, to provide with a basic need of drinking water, which

is a fundamental right of the citizens, as enshrined in Article 21 of the Constitution of India i.e. a right to live and a clean drinking water facilities in the authorized colonies approved by the respondents and its organs, and thus it is out of the extreme miseries that a citizen is facing i.e. non-supply of drinking water. On failure of the respondents to provide the basic drinking water facility in an approved colony, despite repeated orders and number of meetings and the affidavits, it comes out that no considerable plan has been brought before the Court which could convince the Court that there was a time bound, effective and efficacious stand of the respondents to immediately resolve the issue of supply of drinking water to the citizens.

15. This Court is conscious of the judgment rendered by the Hon'ble Supreme Court in the case of **A.P. Pollution Control Board II vs. Prof.M. V. Nayudu (Retd.) & Ors. (2001) 2 SCC**

62, relevant portion whereof is reproduced as hereunder:

"3. Drinking water is of primary importance in any country. In fact, India is a party to the resolution of the UNO passed during the United Nations Water Conference in 1977 as under:

"All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs."

Thus, the right to access to drinking water is fundamental to life and there is a duty on the State under Article 21 to provide clean drinking water to its citizens.

4. *Adverting to the above right declared in the aforesaid Resolution, in **Narmada Bachao Andolan v. Union of India [(2000) 10 SCC 664 : (2000) 7 Scale 34]** (Scale at p. 124 : SCC p. 767, para 248), Kirpal, J. observed:*

"248. Water is the basic need for the survival of human beings and is part of the right to life and

human rights as enshrined in Article 21 of the Constitution of India...."

16. Such failure of the State authorities amounts to contempt of the Court as the repeated directions which have been given for providing a solution to the problem including the last order dated 14.12.2023, required the respondents to give a comprehensive scheme and/or a comprehensive plan with a working solution on the issue of drinking water to the residents of the colonies.

17. Thus, this Court deems it appropriate and hereby initiates contempt proceedings against the officers holding the posts of Respondents No.1, 2, 3 and 4. Since all the four departments, which includes PHED and JDA are represented therefore, the learned Additional Advocate General Dr. Praveen Khandelwal and Mr. Rajat Dave, learned counsel appearing for the respondent-JDA are directed to accept the contempt notices issued by this Court against respondents No.1 to 4.

18. This Court shall contemplate punishing the officers for the contempt of the Court on the next date, when all the four authorities i.e. Principal Secretary, Local Self Government Department, Government Of Rajasthan, Jaipur, Secretary, Public Health And Engineering Department, Rajasthan, Jaipur, Secretary, Jodhpur Development Authority, Jodhpur and Executive Engineer, Public Health And Engineering Department, City Division- Jodhpur shall remain present before this Court so as to explain why they should not be punished for committing contempt of Court. It is made clear that ordinarily, this Court would not contemplate action against the respondents in the manner above, but the Court is left with no other option because despite repeated orders one after another and repeated directions, the respondents have failed

to carry the drinking water to the citizens who are living as residents of the JDA approved colonies in question and thus, deprived the residents of their fundamental right i.e. Right to access to drinking water as enshrined under Article 21 of the Constitution of India.

19. List the matters on 03.04.2024.

(MADAN GOPAL VYAS),J

(DR.PUSHPENDRA SINGH BHATI),J

48-49-KshamaD/-