Subject: Submission about violation of human right to safe drinking water and sanitation by denying access to water to over 2 million poor in Mumbai, India.

Reference: Invitation of views through a letter dated 11 November, 2011 by Special Rapporteur on human right to safe drinking water and sanitation for a report on stigmatization in realization of human right to water and sanitation to be presented to the HRC in September, 2012.

Respected Madam,

Pani Haq Samiti is a forum of NGOs, CBOs, Organisation and individuals in Mumbai, working on the issue of human right to safe and clean drinking water and sanitation. We believe that water is public good and fundamental right of the all human being. We wish to submit the issue of denial of drinking water to over 2 million people in Mumbai.

Mumbai Municipal Corporation of Greater Mumbai (MCGM), the Local Self Government in Mumbai under the direction of State Government of Maharashtra (GoM), India has denied access to drinking water and other basic services officially to over 2 million urban poor living in the settlements came into existence after 01.01 1995. Denying drinking water is the gross violation of human rights in general and right to safe and clean drinking water and sanitation in particular which is being recognized as human right by General Assembly of United Nation on 28 July, 2010 and India voted in favour of the resolution. The facts of gross violation of human right to safe drinking water and sanitation by the State of India are as under:
The Department of Urban Development (UDD) of GoM issued a Circular, No: GEN/1996/45/CR15/UD27 dated on 4\textsuperscript{th} March, 1996, to curb the increasing slums in Mumbai, which states that:

“take the precaution that, hereafter water supply to any illegal construction shall not be approved [Original in Marathi]”

Further, Housing Department of GoM set the cut-off date of 1\textsuperscript{st} January, 1995 as criteria for the entitlement of rehabilitation under Slum Rehabilitation Schemes through a GR No.SRA-1096/P.K.68/Housing cell dated on 16\textsuperscript{th} May, 1996. Attuning to above circular, MCGM amended its Water Charges Rule to incorporate the ground of cut-off date to deny water to urban poor. The water charges rule states that:

“Stand post connections on meter measurements shall be given to residential structures in slum areas, which have come into existence prior to 01.01.1995 or any other date specified by Government of Maharashtra in this behalf”.
The poor living in post 1995 settlements of Mumbai, comprises mainly Schedule Caste, Schedule Tribes and minorities, which have been traditionally experiencing stigmatization in Indian context and in modern era it further intensified by denying access to water and other basic services in Mumbai. These people access water from unsafe sources like open wells, hand pipes, tube wells and small pits and forced to relieve at opens spaces causing numerous health concerns and further entrapping in poverty trap. Since in Indian context responsibility of domestic water management rests with women, women and Children are the worst suffers. Children, particularly girl children are forced to collect water from far distance by crossing Mumbai’s busy railway tracks and roads risking their lives and at the cost of their education. Women also fall prey to sexual harassment while collecting water from far distance during odd times. They suffer from back and neck pain due to carrying water overhead and in some settlement women suffered miscarriages.

The stigmatization further intensified due to incrimination of stealing water from the supply pipes. However, they purchase water from water Mafia at over 200% higher compare Municipal Corporation price. Higher cost result in consumption of less water or water from unsafe sources. During a survey in Dec, 2011 many reported about not taking bath daily and use sub quality water (saline ground water) for bathing, washing cloths and utensils and other
domestic uses. Irony is that people from such settlements are rightful voters and vote in each
election but entire environment creates impediments in their amelioration and development.
By denying water and sanitation the State has denied the life with dignity.

For the realization of right to safe and clean drinking water and sanitation we
approached all the authorities from Municipal Corporation to federal Government but the voice
of the poor voice fall on the deaf years.

Attached Documents

1. Circular of UDD, GoM, India (Original in Marathi Language)
2. Circular of UDD, GoM, India (Translated in English)
3. Water Charges Rule of MCGM (Original in Marathi Language)
4. Water Charges Rule of MCGM (Translated in English)

Pani Haq Samiti, Mumbai

Apanalaya, BUILD, CORO, YUVA, Ghar Bachao Ghar Banao Andolan, HRLN, ICHRL, Girni
Kamgar Sangharsh Samiti, Nirbhay Bano Andolan, Ashankur, Jal Biradari, Mahila Vikash
Parishad, Maharashtra Yuva Parishad, Nivara Hakka Suraksha Samiti, Footpathwashi
Nagric Sangthana, Akhil Bhartiya Janwadi Mahila Samiti, Janta Dal, Don Bosco
Development, Shramik Mukti Sangh Aarey, Janata Jagruti Manch, Mahila Vikas
Sanshta, Awaz-e-Niswan, Lawyer’s Collective.
परिपत्र

महानगरपालिका व नगरपरिषद क्षेत्राच्या अनधिकृत बांधकामावर सार्वजनिक जिंदगीशीरो अतिक्रमण होत एक चित्रित्याची आवश्यकता आहे. अनधिकृत बांधकामावर अतिक्रमणाची शीर्षक ठरविणासाठी त्याने उपाययोजना करू गरून घेत आहे. सर्व महानगरपालिका आयुक्त व नगरपरिषदेचे मुख्याधिकारी यांना अशा सूचना देण्याची आवश्यकता होत आहे की संबंधित महानगरपालिका व नगरपरिषद क्षेत्राचे प्रशासनिक विभाग पाहून त्या क्षेत्रामध्ये एका अधिकार-यांची नियुक्ती करण्यात येणारी. अशा प्रत्येक क्षेत्रामध्ये अनधिकृत बांधकामावर अतिक्रमण होणार नाहीत याची जवाबदेही या क्षेत्रीय अधिकार-यांच्या दायित्वात येणारी. जर अशा क्षेत्रामध्ये नव्यांनी अनधिकृत बांधकामावर अतिक्रमण आश्चर्याचे आढळून असेल तर या क्षेत्रीय अधिकार-यांना जवाबदेही घरलं त्यांच्याविरूढ़ विभागीय चौकशीस तात्काळ प्रारंभ करण्यात येणार आहे. व त्या कारभाराचे नर्मदर्शी सुरु, असंपूर्णता त्याना आहे की त्यांना निलिपित करण्यात येणारे होते. ही कारभार संपूर्ण ह्या विभागातील संबंधित क्षेत्रीय अधिकारी त्या विभागात नियुक्त झाल्यानंतरच सदर बांधकाम पालू आहे किंवा कसे पुर्णपणे खात्री करू नये. तत्परता या फुट वारोखी अनधिकृत बांधकामास पाणी वातावरणाचा मंजूर होणार नाही वाचविद्यारूंथे चेतावणू येणारे.  

०२. प्रत्येक क्षेत्रीय अधिकार-यांना आकर्षण करून सप्ताहांत देणे ही ह्या क्षेत्राची संबंधित पोलीस अधिकार-यांचे जबाबदेही असेल. नर पोलीस अधिकार-यांना उचित सहकार्य भेटित नाही असे निर्दिष्ट आपल्यांच्या पोलीस अधिकार-यांनी हिताच्या पोलीस अधिकार नर संबंधित पोलीस आयुक्त यांनी तात्काळ करण्यात करती. धोक्यावर, अनधिकृत बांधकाम तोपमानानित पोलीस संस्थानाची माणसतया केरलास तात्काळ करणे ही संबंधित पोलीस अधिकार-यांची जबाबदेही राहिल. त्यामुळे विविध माणसतया अवलंब करणे कोणत्याही रोगांना आढळल्यास आढळल्यास.
03. अनिश्चित कांडकामाणिविश्व नाटीस बनाखल्यात्त नगरपरिषद् वा महानगरपालिकेच्या संबंधित अधिकार-यांनी त्या नाटीसीविश्व न्यायालयाच्या हून देश मधून तलाळेच्या साधन न्यायालयात केलेले झालेले कारकी करणे. असा केलेले सरल झाल्यानंतर सुविधा काटकरून त्या न्यायालयात त्या भाग कोटीच्या निदर्शन होणारे आणून कोटीच्या स्थल विनियमित करणे आणि पायवाही करणे व स्थल उद्घाटन अनिश्चित कांडकाम काही टाकून राहिले.

04. वर दिलेल्या सूचना राष्ट्रीय कार्यकर्त्यांचे पालन होईल याची काठनी सर्व महानगरपालिका आयुक्त, नगरपरिषद मुख्याधिकारी, जिल्हा पोलीस अभियंता व पोलीस आयुक्त यांनी कुपवण घ्यावी. या सूचना गृह विभागाच्या सहभागीते निर्णय निर्णायक करणारी आल्या आहेत.

महाराष्ट्राचे राज्यपाल यांच्या आदेशातुमार व नावाचे.

स्वाक्षर/-
(के. नांदनाथ)
सचिव

प्रति,
सर्व महानगरपालिका आयुक्त.
सर्व विभागीय आयुक्त.
संचालक, महानगरपालिक प्रशासन संचालनालय, मुंबई.
संचालक, नगर रचना व मुल्यांतरण विभाग, पुणे.
सर्व जिल्हा अधिकारी.
सर्व नगर परिषदं मुख्याधिकारी.
पोलीस महासंचालक.
पोलीस महानिरीक्षक.
सर्व पोलीस उप महानिरीक्षक.
सर्व पोलीस आयुक्त व जिल्हा पोलीस अभियंता.
सर्व उप/सहायक संचालक, नगर रचना.

प्रत भारतीसाठी:-

१) म. मुख्यमंत्री यांचे प्रधान सचिव,
Circular

Illegal constructions and encroachments on public land in the jurisdiction of Municipal Corporations and Municipal Councils has become the matter of concern. It has become necessary to take immediate action to prevent illegal construction and encroachment and remove the existing one. All the Municipal Corporation Commissioners and chief-officers of Municipal Councils are instructed to divide the jurisdiction of respective Municipal Corporation and Municipal Councils in administrative divisions and appoint an officer in those divisions. In each such division the responsibility of prevention of illegal construction and encroachment is assigned to concern officer of the division. If in such divisions any new illegal construction or encroachment appears, the respective officer of that division will be held responsible and immediate departmental enquiry shall be initiated and the concern officer will be suspended till the continuation of the enquiry.

Before initiating these proceedings against the respective officer of that division, it will be ensured that the construction work is started in that division after the appointment of the concerned officer. Similarly, precaution will be taken that here after water supply to the illegal constructions shall not be approved.

02. The concerned police officer of that division will be responsible to provide all necessary support to each division officer. If it is noticed that appropriate support is not extended by the police officers, the District Superintendent of Police or concerned Police Commissioner shall take immediate action against such police officers. Briefly, the prompt arrangement of the required police protection if asked for the demolition of illegal construction is the responsibility of concerned Superintendent of Police. So that, the process of bringing stay orders from the Courts by following different means will prevented.
03. The concerned officer of the Municipal Corporation and Municipal Council shall file caveat in the competent Court after issuing notice against illegal constructions to avoid the stay from the Court against the notice. Even after filing caveat if Court issues stay order, the action to be taken to lift the stay of the Court by bringing the matter to the Court’s notice and demolish the illegal construction as soon as stay is dismissed.

04. All the Commissioner of Municipal Corporations, Chief officer Municipal Council, District Superintendents of Police and Police Commissioners will ensure the comprehensive implementation of above guidelines. These guidelines are being issued with the consent of Home Department.

By order or by name of Governor of Maharashtra

Signature

(K. Nalinakshan)

Secretary

To,

All the Municipal Corporation Commissioners
All the Divisional Commissioners
Director, Directorate of municipal administration, Mumbai
Director, Town planning and valuation department, Pune
All District Collectors
All the of Municipal Council Chief Officers
Director General of Police
Inspector General of Police
All the Deputy Inspector General
All the police commissioner and District Superintendent of Police
All Deputy/Assistant Director, Town Planning

Coy for Information:-

1. Chief Secretary of Chief Minister
BRIHANMUMBAI MAHANAGAR

HYDRAULIC ENGINEER’S OFFICE

AND

CHIEF ENGINEER (SEWERAGE OPERATION)’S OFFICE

WATER CHARGES RULES

AND

SEWER AND WASTE REMOVAL RULES

(EFFECTIVE FROM 01.06.2006)

PRICE RS.60/-
6.3 Deleted.
6.4 Not in use.
6.5 Not in use.
6.6 Not in use.
6.7 Deleted.
6.8 Deleted.

6.8.1 For the premise under construction and/or addition / alteration, where no unmetered connection for construction use is taken as per the previous rule no.2.1 or 2.7 and where water is used from existing metered connection or accessible connection for construction purpose, Rs.60/- per 1,000litres rate will be charged for approximate water used for construction purpose.

6.9 Stand post connections on meter measurements shall be given to residential structures in slum areas, which have come into existence prior to 01.01.1995 or any other date separately notified by Government of Maharashtra in this behalf. Such connections shall be given only for groups of structures, as per provisions of Appendix “E”.

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6.9.1 The stand post connections on the basis of meter measurement shall also be given to structure(s) in slum areas in existence prior to 01.01.1995 or any other date notified by Government of Maharashtra in this behalf, conducting trade with requisite authentic documents subject to submission of a stamped undertaking which shall include conditions prescribed from time to time by the Municipal Commissioner or any officer suitably empowered by him in this behalf. Such connections shall be charged at the appropriate rate prescribed under Rule No.1.0. If however, the highest rate amongst them shall be applicable. The consumption in the event of not working of meter will be charged as per the provision under Rule No.3.0.

6.9.2 Deleted.

7.0. Rule No 7 not in use.

Appendix (A)

Merged in Rule No.1.1

Appendix (B)

Totally deleted