Dr. Srikanta Samanta vs. State of West Bengal

COUNSEL FOR APPLICANT(S):
Mr. Krishnendu Bera, Advocate (in Virtual Mode)

COUNSEL FOR RESPONDENT(S):

Mr. Sibojyoti Chakraborty, Advocate for Respondent Nos. 1 & 2,

Mr. Dipanjan Ghosh, Advocate for Respondent No. 3,

Mr. Surendra Kumar, Advocate for Respondent No. 4 (in Virtual Mode),

Mr. Sudip Kr. Dutta, Advocate for Respondent No. 5 (in Virtual Mode).

CORAM:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

HEARD ON: JANUARY 17th, 2025

ORDER

BY HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER

1. Mr. Krishnendu Bera, learned Counsel is present (in Virtual Mode) for the Applicant.

2. Mr. Sibojyoti Chakraborty, learned Counsel and Mr. Dipanjan Ghosh, learned Counsel files Vakalatnama on behalf of the Respondent Nos.1 and 2, State Respondents and Respondent No.3, West Bengal Pollution Control Board respectively; the same are taken on record.

3. Affidavit dated 13.01.2025 has been filed by the Respondent No.5, Panchayat Pradhan, Nabagram Gram Panchayet; the same is taken on record.

4. Affidavit dated 15.01.2025 has been filed by the Respondent No.2, District Magistrate & Collector, Hooghly District; the same is taken on record.

5. Affidavit dated 16.01.2025 has been filed by the Respondent No.3, West Bengal Pollution Control Board; the same is taken on record. (Final order of the said case will be uploaded in website by separate sheets of paper).

6. This Original Application was registered on the basis of a letter petition dated 28.08.2024 received in the office of the Tribunal and sent by Dr. Srikanta Samanta, the Principal, Nabagram Hiralal Paul College, Konnagar, Hooghly – 712246, West Bengal, alleging therein that there was a dumping ground located near the southern boundary wall of the College that was posing a serious environmental problem by way of health risk, aesthetic degradation having adverse environmental impact. It was alleged that the accumulation of waste was leading to foul odour and was attracting pests contributing to health hazards for students, staff of the College as well as local residents; the open dumping of waste was causing environmental degradation including soil and water contamination and the unsightly appearance of the dumping ground was adversely affecting the visual appearance of the College and its surrounding areas. It was stated that several complaints were made in the past to the local authority but no action was taken.

7. At the time of admission, this Tribunal also constituted a committee with a direction to inspect the site in question and submit its Fact-Finding Report with regard to the allegations made in the letter

petition in the Original Application. The members of the Committee were as under: -

(i) *Collector & District Magistrate, Hooghly, or his representative not below the rank of Additional District Magistrate;*

(ii) *Senior Scientist, West Bengal Pollution Control Board; and*

(iii) *Senior Scientist, Central Pollution Control Board.*

8. Affidavit dated 13.01.2025 has been filed by the Respondent No.5, Panchayat Pradhan, Nabagram Gram Panchayet wherein it is stated that the said Panchayet is not dumping any waste at the site in question and that the Gram Panchayet has already entered into an Agreement with the Uttarpara Kotrung Municipality in which it has been agreed that the Uttarpara Kotrung Municipality will collect all the waste of the Gram Panchayat and dispose off the same in accordance with the Solid Waste Management Rules, 2016 and the environmental laws.

9. Affidavit dated 15.01.2025 has been filed by the Respondent No.2, District Magistrate & Collector, Hooghly District confirming the observations of the Fact-Finding Committee constituted by this Tribunal**.**

10. In the Committee Report, it has been mentioned that the garbage dumpsite was a strip of land measuring about 6 kottah in between the eastern side of Nabagram Hiralal Paul College, Konnagar and the Howrah-Bandel Railway line. Though mounds of garbage were not found at the site at the time of the visit, the committee was informed during site visit that the land is being used for dumping of all types of solid waste (garbage) on a regular basis. Remnants of unsegregated organic and inorganic wastes including some burnt wastes were observed at the dumpsite.

11. The Committee has confirmed that the Nabagram Gram Panchayet has entered into an Agreement (MoU) with Uttarpara Kotrung Municipality dated 07/11/2017, valid for three years, based on which segregated waste (about 3 TPD) from 7500 households of Nabagram Panchayat would be collected and temporarily stored in a segregated manner at a waste collection point after which the waste would be collected & managed by the Uttarpara Kotrung Municipality in their solid waste processing facility. The Committee was also informed that consultations for a revalidated agreement with Uttarpara Kotrung Municipality is underway and the MoU would be signed accordingly.

12. The Committee has also observed that the surrounding environment including the students & staff of Nabagram Hiralal Paul College would be affected by the open dumpsite (foul odour, air and water pollution, aesthetic nuisance etc.) in view of the proximity of the said dumpsite. The Committee also observed that proper mechanism for scientific waste management was not observed at the open dumpsite and the Committee, therefore, recommended that necessary direction may be issued to Panchayat & Rural Development Department, Govt. of West Bengal to facilitate the setting up of a proper and scientifically managed solid waste storage & transfer station at Nabagram Panchayat under Serampore-Uttarpara Block as per the provisions of the Solid Waste Management Rules, 2016.

13. Affidavit dated 16.01.2025 has been filed by the Respondent No.3, West Bengal Pollution Control Board. Along with this affidavit, an Inspection Report of an inspection carried out on 18.12.2024 has been filed. The Inspection Report reads as under:-

"Report in the matter of Original Application No.211/2024/EZ (Dr. Srikanta Samanta & Others vs. The State of West Bengal) vide Hon'ble NGT order (Eastern Zone Bench) dated 13.11.2024.

The Hon'ble National Green Tribunal, Eastern Zone Bench constituted a Joint Committee comprising the State PCB, CPCB & the District Magistrate, Hooghly in the matter.

Pursuant to the order of the Hon'ble NGT, the Committee comprising the following members was constituted.

1. *Smt. Tamil Oviya, IAS, ADM (LR), Hooghly*
2. *Sri Sandeep Roy, Scientist 'D', Regional Directorate, CPCB, Kolkata*
3. *Sri Baijayanta Kumar Majumdar, Environmental Engineer & In charge, Hooghly Regional Office, WBPCB*

The members of the committee decided to carry out a site visit on 18.12.2024. Accordingly, the members of the committee accompanied by Smt Roshni Sarkar, WBCS (Ex.), OC (Env.), Shri D. Chattopadhyay, AEE, WBPCB, Smt. Soma Das, Pradhan, Nabagram Panchyat and officials of the Serampore-Uttarpara Block visited the area on 18.12.2024 at around 12.00 noon. During the visit, the Applicant was also present at the alleged site.

Observations:

The garbage dumpsite was observed to be on a strip of land measuring about 6 kottah in between the eastern side of Nabagram Hiralal Paul College, Konnagar and the Howrah-Bandel Railway line. Although mounds of garbage were not found at the time of visit, however, it was informed that the land is used for dumping of all types of solid wastes (garbage) on regular basis. Remnants of unsegregated organic and inorganic wastes including some burnt wastes were observed in the dumpsite. The area around the site is mostly residential with some commercial establishments including College in between. Smt. Soma Das, Pradhan of Nabagram Panchayat, informed that they had a Memorandum of Agreement (MoU) with Uttarpara Kotrung Municipality dated 07/11/2017, valid for three years, based on which segregated wastes (about 3 TPD) from 7500 households of Nabagram Panchayat would be collected and temporarily stored in a segregated manner in a waste collection point after which the wastes would be collected & managed by the Uttarpara Kotrung Municipality in their solid waste processing facility. She informed that consultations for a revalidated agreement with Uttarpara Kotrung Municipality are underway and the MoU will be signed accordingly.

Remarks:

It is apparent that the surrounding environment including the students & staff of Nabagram Hiralal Paul College would be affected by the open dumpsite (foul odour, air and water pollution, aesthetic nuisance etc.) in view of the proximity of the said dumpsite.

As a proper mechanism for scientific waste management was not observed at the open dumpsite, the committee recommends that the necessary direction may be issued to Panchayat & Rural Development Department, Govt. of West Bengal to facilitate the setting up of a proper and scientifically managed solid waste storage & transfer station at Nabagram Panchayat under Serampore-Uttarpara Block as per the provisions of the Solid Waste Management Rules, 2016. An effective waste management system would ensure adherence to environmental norms and thereby the people living in the neighbourhood would not suffer due to its activities in any way whatsoever.

Guidelines on the provision of Buffer Zone must be complied with while setting up Solid Waste processing and disposal facilities." ***Photograph of the said garbage dumpsite has been attached herewith for reference:***



The open garbage dumpsite with Nabagram Hiralal Paul College on the right and train line on the left



The garbage dumpsite

14. We have heard the learned Counsel for the parties and perused the documents on record.

15. Along with the affidavit of the Nabagram Gram Panchayat, a copy of the Agreement between the said Panchayat and Uttarpara Kotrung Municipality dated 15.01.2025 has been filed, which provides for collection of wastes from rural households of Nabagram Gram Panchayat to be treated in the Waste Treatment Plant of Uttarpara Kotrung Municipality and to be disposed of finally in a safe and scientific manner. The agreement also provides for collection and transportation of segregated solid waste from primary waste collection to four-wheel fuel-operated auto tippers for the secondary mobile segregated solid waste collection system to the Waste Treatment Plant of Uttarpara Kotrung Municipality.

16. We find that, as per the Fact-Finding Committee Report, the previous agreement between the Nabagram Gram Panchayat and Uttarpara Kotrung Municipality had been entered into on 07.11.2017 for a period of three years, whereas the fresh agreement between the Nabagram Gram Panchayat and Uttarpara Kotrung Municipality is dated 15.01.2025. This shows that from 2020, after the expiry of the three-year period of the previous agreement, the Nabagram Gram Panchayat had made absolutely no efforts to revalidate or execute a fresh agreement for lifting, disposal, or treatment of waste being generated in the Nabagram Gram Panchayat and being dumped at the dump-site in question.

17. This shows absolute callousness and violation of the environmental norms by the Nabagram Gram Panchayat to comply with the Solid Waste Management Rules, 2016 or to take steps for entering into an agreement with necessary parties for lifting of the garbage from the dump-site in question.

18. Rule 15 of the Solid Waste Management Rules, 2016 lays down the duties and responsibilities of local authorities and village Panchayats of Census Town and urban agglomerations. Rule 15 reads as under

"The Solid Waste Management Rules, 2016

Duties of Local Authorities and Village Panchayats –Rule15

Solid Waste Management Rules, 2016 (for short, 'SWM') have extended the application of SWM Rules to local authorities and village Panchayats of Census Town and urban agglomerations. Local authorities/Village Panchayats are the most important link in the implementation of SWM Rules. Therefore, important and vast duties regarding implementation of SWM Rules are imposed upon them.

- *To formulate plan for SWM in accordance with State policy within six months from the date of notification of SWM Rules, 2016*
- *To ensure implementation of SWM Rules, 2016 in letter and spirit*
- *To educate workers involved in collection of segregated waste*
- *To make arrangement for collection of segregate solid waste on door to door basis from households, slums, commercial, institutional and other premises including informal settlements*
- *To facilitate formation of Self Help Groups and encourage integration of SWM*
- *To prescribe user fee for collection of waste from waste generators*
- *To integrate authorised waste pickers/waste collectors to facilitate their involvement and participation in SWM and to recognize their organizations*
- *To frame bye-laws regarding SWM*
- *To submit annual reports to SPCB*
- *To issue directors to waste generator regarding their duties under SWM Rules, 2016*
- *To educate and spread public awareness regarding duties of waste generators under SWM Rules, 2016 through information, education and communication campaigns*
- *To phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body. Incentives may be provided to recycling initiatives by informal waste recycling sector.*
- *To set up material recovery facilities and secondary storage facilities*
- *To provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities*
- *To arrange Bins in three colours i.e. green for bio- degradable waste, white for storage of recyclable waste and black for storage of other waste*
- *To ensure safe storage and transportation of hazardous wastes to disposal facility*
- *To establish centres for depositing domestic hazardous waste and instruct waste generators to use them for safe disposal of domestic hazardous waste in every city or town. There should be one such centre for every twenty square Kms.*
- *To issue appropriate directions to sweepers not to burn tree leaves and store them separately for being handed over to waste collectors*
- *To make arrangement for collection of waste generated from street sweeping on*

daily/alternate days/twice a week basis.

- *To collect waste regarding vegetable, fruit, meat, poultry, fish market on daily basis and promote and establish compost plant or bio-methanation plant in the vicinity*
- *To ensure hygienic conditions in compost plant*
- *To collect waste generated from horticulture, parks and gardens and process the same therein*
- *To make arrangement for transportation of bio-degradable waste to compost plant/bio-methanation plant or other facilities.*
- *To set up secondary storage facility*
- *To transport non-biodegradable waste to material recovery and secondary storage facility and disposal facility*
- *To involve participation of communities in SWM and also in promotion of home composting, bio-gas generation etc and ensuring control of odour and further ensuring hygienic conditions therein*
- *To ensure that construction and demolition waste is disposed off as per Construction and Demolition Waste Rules, 2016*
- *To facilitate on its own or in partnership with private sector or other agencies, construction, operation and maintenance of Solid Waste processing and treatment facilities and the requisite infrastructure. For this purpose, provision of land shall be responsibility of Department in charge of allocation of land*
  - *Facility to be set up as per the technical and other guidelines issued by CPCB*
  - *Approval of SPCB to be obtained*
  - *Operator shall be responsible for safe and environmentally sound operation of the facility and to ensure that the operation is in accordance with norms specified*
- *To make provision of funds for capital investment and maintenance for SWM.*
- *If SW exceeds 5 TPD, to make an application for authorization for processing, treatment and disposal facility and to get renewal by filing an application atleast 60 days before the date of expiry*
- *To frame bye-laws and prescribe criteria for levying of spot fine on persons who litter or fail to comply with the provisions of SWM Rules*
- *To arrange construction, operation and maintenance of sanitary landfill*
- *To ensure that only non-usable, non-recyclable, non- biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill*
- *To ensure that sanitary landfill sites meet the prescribed criteria*
- *To ensure that the workers employed in processing and disposal facility are given protection equipment and the same are used by them*
- *To ensure bio-mining and bio-remediation of dumpsites.*
- *Scientific capping of landfill to prevent damage to the environment, if bio-mining/bio-remediation can not be done.*
- *To ensure implementation of provisions of SWM Rules regarding collection, segregation*

and storage of waste while approving building plans

- *To examine and inspect existing dumpsites and to find out the possibilities of bio-mining and bio-remediation and implement the same.*

Duties of Manufacturers or Brand Owners

- *Manufacturers/brand owners of disposable products such as tin, glass, plastics packaging, etc. are mandated to provide requisite financial assistance to local authorities for establishment of SWM system*
- *Brand owners selling their products in non-biodegradable packing are required to make arrangement for collecting back such waste*
- *Manufacturers of sanitary napkins and diapers to provide pouches/wrapper for their safe disposal*
- *Manufacturers of sanitary napkins and diapers to explore possibility of using recyclable material in their products*
- *To educate the public regarding wrapping and disposal of their products.*

Duties of Specified Industrial Units

Industrial units situated within 100 kms of RDF (Refuse derived fuel) and Waste to Energy plants based on solid waste are required to replace at least 5% of their fuel requirement with RDF within six months from the date of notification of these rules."

19. The Rule 15 clearly provides that the Gram Panchayat shall arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises, etc.; establish a system to recognize organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste; direct waste generators not to litter i.e. throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink can, tetra packs, fruit peel, wrappers, etc. or burn or bury waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised waste pickers or waste collectors; establish waste deposition centres for domestic hazardous waste and advise centre for its safe disposal; set up Material Recovery Facilities or Secondary Storage Facilities with sufficient space to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from Material Recovery Facilities.

20. Schedule I of the Solid Waste Management Rules, 2016 lays down the criteria for site selection for sanitary landfills and it provides that the landfill site shall be 100 meters away from river, 200 meters from a pond, 200 meters from Highways, Habitations, Public Parks and water supply wells and 20 kms away from Airports or Airbase.

21. Rule (vii) of Para (A) under the heading – Criteria for site selection in Schedule I of the Solid Waste Management Rules, 2016 reads as under:

"SCHEDULE I

Specifications for Sanitary Landfills

(A) Criteria for site selection.-

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(vii) The landfill site shall be shall be 100 meter away from river, 200 meter from a pond, 200 meter from Highways, Habitations, Public Parks and water supply wells and 20 km away from Airports or Airbase. However, in a special case, landfill site may be set up within a distance of 10 and 20 km away from the Airport/Airbase after obtaining no objection certificate from the civil aviation authority/Air force as the case may be. The Landfill site shall not be permitted within the flood plains as recorded for the last 100 years, zone of coastal regulation, wetland, Critical habitat areas, sensitive eco-fragile areas."

22. The Gram Panchayat has not denied that the site in question was being used as a dumping site located near the southern boundary wall of the Nabagram Hiralal Paul College, Konnagar, Hooghly, West Bengal.

23. Allegation has also not been denied by the District Magistrate, District-Hooghly in his affidavit.

24. Mr. Krishnendu Bera, learned Counsel present (in Virtual Mode) for the Applicant states that garbage from the area has now been removed but he requests that this Tribunal may direct the Respondents not to use the area in question for garbage dumping.

25. The Joint Committee in its report mentions that the garbage dump- site was observed to be on a strip of land measuring about 6 kottah between the eastern side of Nabagram Hiralal Paul College, Konnagar and the Howrah-Bandel Railway line. Thus, we find that the dump-site in question was being used by the Nabagram Gram Panchayat in gross violation of the siting criteria as laid down in Schedule I Para (A) Rule (vii) of the Solid Waste Management Rules, 2016.

26. We, therefore, dispose of this Original Application and impose a penalty of Rs. 50,000/- on the Nabagram Gram Panchayat for dumping waste/solid waste on the dump site in question in gross violation of the Solid Waste Management Rules, 2016. The penalty shall be deposited by the Nabagram Gram Panchayat within one month with the West Bengal Pollution Control Board. The Respondents are directed to ensure that the dump site is removed from the present site and if it is to be created it should be created strictly in accordance with the siting criteria laid down in Schedule I Para (A) Rule (vii) of the Solid Waste Management Rules, 2016. We further direct that if the violations of Solid Waste Management Rules, 2016 continue the Nabagram Gram Panchayat shall be liable to pay further penalty of Rs. 1000/- to be deposited with the West Bengal Pollution Control Board for each day's violation.

27. We, therefore, direct that the recommendations made by the Joint Inspection Committee in its report shall be strictly adhered to by the Respondents and the West Bengal Pollution Control Board and the Board as the regulatory authority shall also conduct surprise visits to ensure

compliance of the Solid Waste Management Rules, 2016 by the Nabagram Gram Panchayat and if violations are found it shall take immediate remedial action and also impose Environmental Cost and Penalty as per the Solid Waste Management Rules, 2016.

28. I.As., if any, stand disposed of accordingly.

29. There shall be no order as to costs.

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