

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)
IN
ORIGINAL APPLICATION NO. 12 OF 2020 (SZ)**

**REPORT SUBMITTED BY 1ST RESPONDENT / ADDITIONAL CHIEF
SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT**

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Dated at Chennai on this the 6th day of August 2021.

M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE), CHENNAI**

Original Application No. 12 of 2020 (SZ)

BETWEEN:

Tribunal on its own motion SUO MOTU
Based on the News Item in Mathrubhumi
Malayalam Newspaper dated 19.01.2020,
"The removal of debris in Maradu not according to
Norms – The National Green Tribunal". Applicant
AND

The Chief Secretary to Kerala,
Thiruvananthapuram,
Kerala and others ... Respondents

**REPORT SUBMITTED BY 1ST RESPONDENT / ADDITIONAL CHIEF
SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT**

It is submitted that this Hon'ble Tribunal vide its order dated 23.06.2021 in OA No.12/2020 has directed State Government to submit a report as to whether the obligation on the Government of preparing a policy and identifying the area/areas where the construction and demolition debris will have to be dumped/processed and, if so, when it was framed and whether it has been communicated to the authorities, whether any guideline has been issued by the Government in the absence of making a policy to implement these rules as the time line provided for implementing the same has expired long ago. Hon'ble NGT has also directed the State Government to file a detailed report, on the steps taken to strictly implement Construction and Demolition Waste Management Rules, 2016 in the State and if there is any gap, what are the further steps are going to take to fill up the gap and make the implementation in full as is expected under the Rules.

2. It is submitted that as per G.O. (P) No. 65/2018/LSGD dated 13/09/2018 Government have notified the State Policy of Solid Waste Management in terms of Rule 11 and 15 of Solid Waste Management Rules 2016 and provisions for handling Construction and Demolition Waste (C&D waste) have been specified in the same. As per G.O (Rt)

No.811/2020/LSGD dated 01/05/2020, the state has published Integrated Solid Waste Management Strategy, in which the strategy on management of C&D Waste is also included. It is also submitted that Government have made following amendments in Kerala Municipality Building Rules and Kerala Panchayat Raj Building Rules vide G. O. (P) No. 57/2020 /LSGD dated 24/09/2020 and G. O. (P) No. 56/2020/LSGD dated 24/09/2020 respectively.

Rule 79A: Management of Construction and Demolition Waste -

(1) Every permit holder for construction of a building and for demolition of an existing building or concrete structure shall be responsible for safe disposal of waste generated during the process of such construction and demolition in accordance with the Construction and Demolition Waste Management Rules, 2016.

(2) The Government shall from time to time fix the Waste disposal charges for municipalities or a group of municipalities payable by applicants at the time of submitting applications seeking permits. It shall be competent for the Government to fix differential charges depending on load and distance factor.

(3) The Government shall in consideration of the provisions of the said Rules by notification provide for mechanisms for transportation, utilization, processing and downstream uses of the finished and intermediary products for construction and other purposes including their mandatory usage in specific types of infrastructure.

(4) Municipalities shall establish or cause to establish waste processing facilities for such wastes on Public Private Partnership mode or outsourced model or lease franchise model or on any structure utilizing the funds accrued from the charges and other receipts with them including plan fund.

(5) The Government shall provide technical and financial support to

Municipalities for the above purposes”

3. It is submitted that as per G.O (M.S) No/6/2019/Envvt dated 27.11.2019 direction has been issued to earmark 5% area for the establishment of recycling and recovery facilities in industrial parks. Town and Country Planning Department is in the process of incorporating sites for waste management in the approved master plan.

4. It is further submitted that Government have decided to implement the Kerala Solid Waste Management Project (KSWMP), with the financial aid of the World Bank. Regional facilities for the management of C&D waste in Public Private Partnership mode are planned to be set up under the KSWMP. Once the facilities are set up, the Government shall issue guidelines for usage of C&D waste in public works.

5. It is humbly submitted that Rule 6 of the Construction and Demolition Waste Management Rules, 2016 elucidates the duties of Local Self Government Institutions. Kerala State Pollution Control Board had prepared a summary of the responsibilities vested in the Local Self Governments under Rule 6 of the Construction and Demolishing Waste Management Rules, 2016 issued by the Central Government and forwarded to the Director of Urban Affairs, Panchayat Director and Rural Development Commissioner. It is submitted that direction has been given to the Panchayat Director and the Director of Urban Affairs to take necessary action to bring the guidelines of KSPCB to the attention of all the local bodies to ensure implementation of same. Accordingly Director of Panchayat has issued a circular on 05.04.2019, which depicts the duties of Grama panchayats in Construction and Demolition Waste Management. The said circular instructs the Local Bodies as follows:

1. Grama panchayats should ensure detailed plan and undertaking of disposal from the producers of Construction and Demolition Waste.
2. Grama panchayats should ensure the final cleanup of Construction and Demolition sites.
3. In construction and demolition sites containers should be installed to

collect waste and proper disposal of the same should be ensured.

4. The practice of disposal of waste in source level should be encouraged.
5. The entrepreneurs who intended to produce 20 tons of waste daily/300 tons of waste monthly should secure prior permission from Grama panchayats.
6. Grama panchayats should update the details related to construction and demolition waste.
7. Grama panchayats in collaboration with experts in this field may prepare novel plans related to the disposal of construction and demolition waste and such information may be published via websites of Grama Panchayats.
8. Recycling of construction and demolition waste should be encouraged.
9. Suitable methods for the disposal/recycling of construction and demolition waste should be ensured either in the ownership of Grama panchayats or on the basis of 'Memorandum of Understanding' with private parties.
10. Grama panchayats should ensure, entrepreneurs, who works in the field of construction and Demolition, observes the Construction and Demolition Waste Management Rules, 2016.

Therefore it is most humbly prayed that this Hon'ble Tribunal may be pleased to take the said Report filed by the Additional Chief Secretary, Local Self Government Department on Record and thus render justice.

Dated at Chennai on this the 9th day of August, 2021



(E.K.Kumaresan)

Counsel for R1, R3 & R5

Standing Counsel for State
Government of Kerala

NGT(SZ), Chennai Bench

Report submitted by Additional Chief Secretary, Local Self Government Department based on the order dated 23.06.2021 of Honble NGT in OA No.12/2020

As per order dated 23.06.2021 in OA No.12/2020 Honble NGT has directed State Government to submit a report as whether the obligation on the Government of preparing a policy and identifying the area/areas where the construction and demolition debris will have to be dumped/processed and, if so, when it was framed and whether it has been communicated to the authorities, whether any guideline has been issued by the Government in the absence of making a policy to implement these rules as the time line provided for implementing the same has expired long ago. Hon'ble NGT has also directed the State Government to file a detailed report, on the steps taken to strictly implement Construction and Demolition Waste Management Rules, 2016 in the State and if there is any gap, what are the further steps are going to take to fill up the gap and make the implementation in full as is expected under the Rules.

It is submitted that as per G.O. (P) No. 65/2018/LSGD dated 13/09/2018 Government have notified the State Policy of Solid Waste Management in terms of Rule 11 and 15 of Solid Waste Management Rules 2016 and provisions for handling Construction and Demolition Waste (C&D waste) have been specified in the same. As per G.O (Rt) No.811/2020/LSGD dated 01/05/2020, the state has published Integrated Solid Waste Management Strategy, in which the strategy on management of C&D Waste is also included. It is also submitted that Government have made following amendments in Kerala Municipality Building Rules and Kerala Panchayat Raj Building Rules vide G. O. (P) No. 57/2020 /LSGD dated 24/09/2020 and G. O. (P) No. 56/2020/LSGD dated 24/09/2020 respectively.

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(2) The Government shall from time to time fix the Waste disposal charges for municipalities or a group of municipalities payable by applicants at the time of submitting applications seeking permits. It shall be competent for the Government to fix differential charges depending on load and distance factor.

(3) The Government shall in consideration of the provisions of the said Rules by notification provide for mechanisms for transportation, utilization, processing and downstream uses of the finished and intermediary products for construction and other purposes including their mandatory usage in specific types of infrastructure.

(4) Municipalities shall establish or cause to establish waste processing facilities for such wastes on Public Private Partnership mode or outsourced model or lease franchise model or on any structure utilizing the funds accrued from the charges and other receipts with them including plan fund.

(5) The Government shall provide technical and financial support to Municipalities for the above purposes”

As per G.O (M.S) No/6/2019/Envvt dated 27.11.2019 direction has been issued to earmark 5% area for the establishment of recycling and recovery facilities in industrial parks. Town and Country Planning Department is in the process of incorporating sites for waste management in the approved master plan.

It is submitted that Government have decided to implement the Kerala Solid Waste Management Project (KSWMP), with the financial aid of the World Bank. Regional facilities for the management of C&D waste in Public Private Partnership mode are planned to be set up under the KSWMP. Once the facilities are set up, the Government shall issue guidelines for usage of C&D waste in public works.

Rule 6 of the Construction and Demolition Waste Management Rules, 2016 elucidates the duties of Local Self Government Institutions. Kerala State Pollution Control Board had prepared a summary of the responsibilities vested in the Local Self Governments under Rule 6 of the Construction and Demolishing Waste Management Rules, 2016 issued by the Central Government and forwarded to the Director of Urban Affairs, Panchayat Director and Rural Development Commissioner. It is submitted that direction has been given to the Panchayat Director and the Director of Urban Affairs to take necessary action to bring the guidelines of KSPCB to the attention of all the local bodies to ensure implementation of same. Accordingly Director of Panchayat has issued a circular on 05.04.2019, which depicts the duties of Gramapanchayats in Construction and Demolition Waste Management. The said circular instructs the Local Bodies as follows:

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With

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M/s. E.K.KUMARESAN
Standing counsel for Kerala(SZ)
Counsel for R1, R3, R5