

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA**

O.A. NO. 99 OF 2024

IN THE MATTER OF:

NITYENDU SHEKHAR BHATTACHARJEE ...APPLICANT

VERSUS

THE STATE OF ASSAM & ORS. ...RESPONDENTS


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FILED BY:

Date: 27.04.2024


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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, AT KOLKATA**

O.A. NO. _____ OF 2024

MEMO OF PARTIES

Nityendu Shekhar Bhattacharjee APPLICANT
House No. 13, Bilpar, Silchar
Pin- 788005
Email: Nityendubhatt61@gmail.com

versus


1. The Principal Secretary RESPONDENT
Department of Environment and Forest, NO.1
The Govt. of Assam, F-Block, 2nd Floor,
Janata Bhawan,
Dispur- 781005
Email: acs.envforest@gmail.com
2. The Assam Pollution Control Board RESPONDENT
Through the Member Secretary, NO.2
Department of Environment and Forest,
Govt. of Assam, Bamunimaidan, Guwahati-
21, Assam- 781021
Email: chairman@pcbassam.org
3. District Magistrate RESPONDENT
Cachar, Silchar NO.3
Pin- 788001
Email: dc-cachar@nic.in
4. Silchar Municipal Board RESPONDENT
Through NO.4
Executive Officer, Silchar Municipal Board,
Silchar, Assam
Pin- 788001

Email: smb1882@gmail.com

5. Superintendent of Police
Tarapur, Silchar, Assam
Pin- 788001
Email: sp-cachar@assampolice.gov.in
- RESPONDENT
NO.5
6. Central Pollution Control Board
Through its Chairman, Parivesh Bhawan,
CBD-cum-office, Complex East, Arjun
Nagar,
New Delhi-110032
Email: ccb.cpcb@nic.in
- RESPONDENT
NO.6

FILED BY:

Date: 27.04.2024


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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, AT KOLKATA**

O.A. NO. _____ OF 2024

IN THE MATTER OF:

NITYENDU SHEKHAR BHATTACHARJEE ...APPLICANT

VERSUS

THE STATE OF ASSAM & ORS. ...RESPONDENTS

SYNOPSIS

The Applicant is a resident of House No. 13, Bilpar, Silchar, and is a victim of rampant dumping of garbage in front of his house. The applicant's residence is situated in the town of Silchar since the last 50 years. There is a big open drain running in front of the house of the Applicant, where people regularly dump garbage and the water in the drain has become so contaminated that it emanates obnoxious smell leading to serious health hazards to the residents of the house.

However, it is very unfortunate that the entire town has become a dumping ground for garbage and there are various spots where the garbage's are dumped regularly and it has become a perennial problem and a health hazard for the residents of Silchar. The applicant and his family are gravely aggrieved by the unchecked dumping of garbage in front of his house and drain and inaction on the part of respondent municipality in putting a stop to the menace of throwing of garbage in front of the applicant's house and drain which is causing an inhospitable environment for the applicant herein to live and lead a healthy life in his own house.

LIST OF DATES

1970: The House No. 13, Bilpar, Silchar, where the applicant resides was built during that time.

- 2016:** That Solid Waste Management Rules came into force in 2016. The Govt. of Assam have thereafter notified the same in the State of Assam as is evident from their website. However, it is absolutely unfortunate that there has been a rampant violation of the same in the town of Silchar, as there is no organized mechanism for collection and dumping of garbage in Silchar and garbage's are thrown anywhere and everywhere in the town which is causing a big menace to the Applicant as well the other people living nearby.
- 2017:** The Applicant has been time and again raised the issue to the Respondent no 4 herein that there is a big open drain running in front of the house of Applicant, where people regularly dump garbage and the water in the drain has become clogged causing contamination that it emanates obnoxious smell leading to serious health hazards to the residents of the house, with the respondent Municipality on various occasions and even went to meet them personally to resolve the issue. However, most of the time the concerned person was not available in his seat.
- 25.01.2024:** The applicant herein has given representation before the Chief Operating Officer of the Silchar Municipal Board regarding dumping of garbage in front of the Applicant house and also regarding the clogged and contaminated drain water which has entered the house of the Applicant causing inhospitable environment for the Applicant and his family members to live in their own house.

27.04.2024: Hence, the Applicant herein is constrained to file the present application as due to the inaction by the Respondents herein, applicant's own house has become inhospitable with contaminated drain water flowing into his own house along with toxic fumes causing breathing problems and nausea.

**BEFORE THE HON'BLE NATIONAL GREE TRIBUNAL,
EASTERN ZONE BENCH, AT KOLKATA**

O.A. NO. _____ OF 2024

BETWEEN

Nityendu Shekhar Bhattacharjee	APPLICANT
House No. 13, Bilpar, Silchar	
Pin- 788005	
Email: Nityendubhatt61@gmail.com	

Versus

- | | | |
|----|-----------------------------------|------------|
| 1. | The Principal Secretary | RESPONDENT |
| | Department of Environment and | NO.1 |
| | Forest, The Govt. of Assam, F- | |
| | Block, 2nd Floor, Janata Bhawan, | |
| | Dispur- 781005 | |
| | Email: acs.envforest@gmail.com | |
| 2. | The Assam Pollution Control Board | RESPONDENT |
| | Through the Member Secretary, | NO.2 |
| | Department of Environment and | |
| | Forest, Govt. of Assam, | |
| | Bamunimaidan, Guwahati-21, | |
| | Assam- 781021 | |
| | Email: chairman@pcbassam.org | |
| 3. | District Magistrate | RESPONDENT |
| | Cachar, Silchar | NO.3 |



Pin- 788001

Email: dc-cachar@nic.in

- | | | |
|----|--|--------------------|
| 4. | Silchar Municipal Board
Through
Executive Officer, Silchar Municipal
Board, Silchar, Assam
Pin- 788001
Email: smb1882@gmail.com | RESPONDENT
NO.4 |
| 5. | Superintendent of Police
Tarapur, Silchar, Assam
Pin- 788001
Email: sp-cachar@assampolice.gov.in | RESPONDENT
NO.5 |
| 6. | Central Pollution Control Board
Through its Chairman, Parivesh
Bhawan, CBD-cum-office, Complex
East, Arjun Nagar,
New Delhi-110032
Email: ccb.cpcb@nic.in | RESPONDENT
NO.6 |

To,
**The Hon'ble Chairperson and His Companion Members of this
Hon'ble Tribunal.**

**AN APPLICATION UNDER SECTION 14 OF THE NATIONAL
GREEN TRIBUNAL ACT, 2010.**

MOST RESPECTFULLY SHOWETH: -



1. The Applicant is a permanent resident of House No. 13, Bilpar, Silchar distressed and gravely effected by the severe pollution caused by the dumping of garbage in front of his house. There is a big open drain running in front of the house of Applicant, where people regularly dump garbage and the water in the drain has become so contaminated that it emanates obnoxious smell leading to serious health hazards to the residents of the house.
2. The addresses of the respondents are stated above for the purpose of service of notices pertaining to the instant application. All the acts, actions and inactions of the respondent authorities are amenable to the jurisdiction of this Hon'ble Tribunal.
3. The applicant above named begs to present the instant application against the inaction of the respondent authorities herein to prevent and control air as land pollution caused by a big open drain running right in front of the house of Applicant, where people regularly dump garbage and therefore, the water in the drain has become so contaminated that it emanates obnoxious smell leading to serious health hazards to the residents of the applicant's house, due to which it has endangered the lives of the Applicant and other residents staying in and around to such an extent as causing and endangering the life and health of residents on the grounds set-out hereunder:

BRIEF FACTS OF THE CASE:

1. The Applicant is a resident of House No. 13, Bilpar, Silchar, and is a victim of rampant dumping of garbage in front of his house. There is a big open drain running in front of the house of Applicant where due to regular dumping of garbage, water in the drain has become so contaminated that it emanates obnoxious smell leading to serious health hazards to the residents of the house.
2. It is most humbly submitted that the town of Silchar, situated in the State of Assam functions under the Silchar Municipal Board headed by the Executive Officer, the Respondent herein. The website of Silchar



Municipal Board clearly enumerates various functions which ought to be undertaken by Respondent no. 4 inclusive of solid waste Management. A copy of Home Page of the Silchar Municipal Board is annexed hereto and marked as **Annexure P1**.

3. That it is most humbly submitted that in spite of Solid Waste Management Rules coming in force in 2016, there has been a rampant violation of the same in the town of Silchar as there is no organized mechanism for collection and dumping of garbage in Silchar and garbage is thrown anywhere and everywhere which is evident from the photographs annexed with this Application. Copies of Photographs pertaining to garbage dumped in front of the residential house of the Applicant herein is annexed hereto and marked as **Annexure P2 Colly**).
4. The Applicant has also raised this issue on various occasions before Respondent no. 4 herein but all efforts of the Applicant have been futile. The Applicant herein is a victim of menace of indiscriminate garbage dumping in front of his house due to the complete inaction by the Respondent Municipal Board. After raising great hue and cry, the Respondent board has on two occasions collected the garbage, however in the absence of the proper mechanism of the garbage disposal in Silchar town, the menace of garbage dumping in front of the residential house of the Applicant continues without any remedy.
5. That the Applicant has also given a written representation to the office of the Respondent No. 4 regarding dumping of garbage in front of his house and also regarding the contaminated drain water which has entered his house of the applicant, yet the Respondent No. 4 has not taken any steps in this regard. A copy of written representation along with the postal receipts dated 25.01.2024 is annexed hereto and marked as **Annexure P3**.
6. That it is most humbly submitted that it is very unfortunate that the Respondent Municipal Board is completely oblivious to the alarming situation of the rampant garbage dumping in front of the house of the applicant herein and is not taking any concrete steps to remedy the situation. It is most respectfully submitted that the salient features of the Solid Waste Management Rules 2016 mandates as follows: -



- All the Resident Welfare and market Associations, Gated communities and institution with an area more than 5,000 sq. m should segregate waste at source- in to valuable dry waste like plastic, tin, glass, paper, etc. and handover recyclable material to either the authorized waste pickers or the authorized recyclers, or to the urban local body.
 - Every street vendor should keep suitable containers for storage of waste generated during the course of his activity such as food waste, disposable plates, cups, cans, wrappers, coconut shells, leftover food, vegetables, fruits etc. and deposit such waste at waste storage depot or container or vehicle as notified by the local authority to keep the locality clean and hygienic.
 - New townships and Group Housing Societies have been made responsible to develop in-house waste handling, and processing arrangements for bio-degradable waste.
 - The developers of Special Economic Zone, industrial estate, industrial park to earmark at least 5% of the total area of the plot or minimum 5 plots / sheds for recovery and recycling facility.
 - Non-recyclable waste having calorific value of 1500 K/Cal/Kg or more shall not be disposed of on landfills and shall only be utilized for generating energy either or through refuse derived fuel or by giving away as feed stock for preparing refuse derived fuel.
 - High calorific wastes shall be used for co-processing in cement or thermal power plants.
 - Construction and demolition waste should be stored, separately disposed of, as per the Construction and Demolition Waste Management Rules, 2016.
7. That it is unfortunate that there exist no facilities where households, commercial establishments and institutions can deposit the waste leading to streets and public places being treated as receptacles of waste.
8. That it is submitted with great humility that the Solid Waste Management is an integral part of the environmental management not only of the town but of the country as a whole. Right of the citizens to clean and healthy



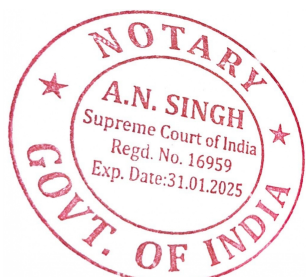
environment guaranteed under Article 21 of the Constitution of India embraces the right to clean and well-maintained city, streets, highways and environment.

9. That the Hon'ble Supreme Court of India years back in the case of Municipal Council, Ratlam vs. Vardhichand, AIR 1980 SC 1622 had held that it is not open for the municipalities to plead a lack of funds. Indeed, a responsible Municipal Council constituted for precise purpose of preserving public health and providing better facilities cannot run away from its principal duty by pleading financial inability.
10. That in spite of comprehensive guidelines by Central Pollution Control Board, Respondent No. 6 herein, no steps are being taken by the Respondents to ensure the same. Such rampant and indiscriminate throwing of garbage in front of the house of the applicant herein has led to immense menace of mosquitoes and flies and is constant threat to the health.
11. That it is pertinent to mention that the Solid Waste Management Rules, 2016 casts duties and responsibilities on the local authorities and others which are as follows: -

“15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations. - The local authorities and Panchayats shall, -

(a) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;

(b) 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. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;



(c) establish a system to recognise 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;

(d) facilitate formation of Self-Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;

(e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;

(f) prescribe from time-to-time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;

(g) direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink cans, tetra packs, fruit peel, wrappers, etc., or burn or burry 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 the waste pickers or waste collectors authorised by the local body;

(h) setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors 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; Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed 1 [blue] and those for storage of other wastes shall be printed black;

(i) establish waste deposition centers for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous



wastes at this center for its safe disposal. Such facility shall be established in a city or town in a manner that one center is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centers;

(j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;

(k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;

(l) provide training on solid waste management to waste-pickers and waste collectors;

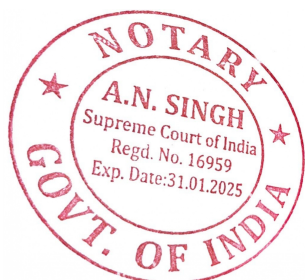
(m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day-to-day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions; I Substituted for the word "white" the word "blue" by G.S.R. 298(E) dated 10.4.2019 The Solid Waste Management Rules, 2016 797

(n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;

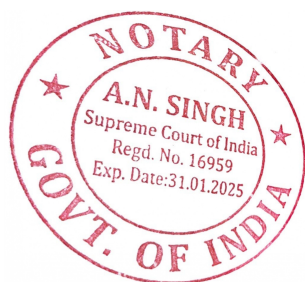
(o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;

(p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;

(q) transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on-site processing of such waste;



- (r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;
- (s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste Management Rules, 2016;
- (t) involve communities in waste management and promotion of home composting, biogas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;
- (u) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.
- (v) facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Housing and Urban Affairs from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental impacts such as a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes; b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;
- (w) undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;
- (x) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of



the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;

- (y) make an application in Form-I for grant of authorization for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tons per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;*
- (z) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;*
- (za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;*
- (zb) the annual report shall then be sent to the Secretary-in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;*
- (zc) educate workers including contract workers and supervisors for door-to-door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;*
- (zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;*
- (ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and*
- (zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and*

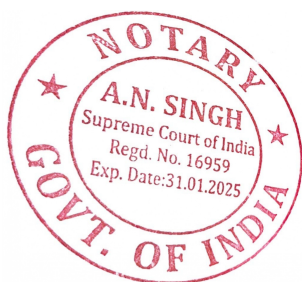


(zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -

- i. not to litter;
- ii. minimise generation of waste;
- iii. reuse the waste to the extent possible;
- iv. practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;
- v. practice home composting, vermi-composting, bio-gas generation or community level composting;
- vi. wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non- biodegradable waste;
- vii. storage of segregated waste at source in different bins;
- viii. handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and
- ix. pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for sustainability of solid waste management.

(zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;

(zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and nonreactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in



Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;

- (zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to biomine or bio-remediate the sites;*
- (zk) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment. The Solid Waste Management Rules, 2016;*
- (zl) collect and transport bio-degradable, non-bio-degradable and domestic hazardous waste from households including slums and informal settlements, commercial, institutional and other nonresidential premises, multi-storey buildings, large commercial complexes, malls, housing complexes and the like in compartmentalised and covered vehicle to the respective processing facility”.*

12. That it is most humbly submitted that Solid Waste Management Rules, 2016 has also categorically differentiated dumping site and landfill site. Dumping site is unauthorized and illegal in accordance with Rule 3(20) of the Solid Waste Management rules 2016 which states that “*Dump sites means land utilized by the local Body for disposal of solid waste without following the principles of sanitary land filling*”. Further, Rule 3(40) of the Solid Waste Management rules 2016 states that sanitary land filling means “*the final and safe disposal of residual solid waste and inert waste on land in a facility designed with protective measures against pollution of ground water, surface water, and fugitive air dust, windblown litter, bio dour, fire hazard, animal menace, bird menace, pets or rodents, greenhouse gas emission, persistent organic pollutants slope inability and erosion*”.

13. The applicant states that the improper dumping of solid waste in the open are against the CPCB guidelines which adversely effects the air quality by



becoming air borne and also affecting the water quality during the rainy season as there are various open drains in the entire town of Silchar.

14. The applicant herein most humbly submits that the garbage is being openly dumped in the water bodies and open drains in the town of Silchar. It is pertinent to state here that the pollution under Section 2(e) of Water Prevention and Control Pollution Act, 1974 means contamination of water or such alteration of the physical, chemical, biological, properties of water or such discharge of substances into water as may or likely to create nuisance or render such water harmful or injurious to the public health or safety or to domestic, commercial, industrial, agricultural or other legitimate uses or to life and health of animals or plants of aquatic organisms. Furthermore, the State Pollution Control Board has the power to take measures under Section 32 of the Water (Prevention and Control Pollution) Act, 1974 in case of pollution of stream or well. Section 22 and 24 of Air (Prevention and Control Pollution Act, 1981 also prohibits pollution in excess of Standard laid down by State Board. However, in the present situation, none of the norms are being adhered to and the open drains of Silchar town are highly contaminated and the same is mixed with garbage.

15. That it is most humbly submitted that Hon'ble Supreme Court of India way back in 1996 had issued various directions in the case of B.L Wadhwa vs. Union of India and Ors. (1996) 2 SCC 594 which primarily included ensuring that the streets, public premises, parks etc., shall be surface cleaned on the daily basis including holidays. The Hon'ble Supreme Court of India also gave categorical directions that the authorities should ensure collection of levies, recovery charges and costs from any person littering or violating provisions of the diverse Acts, By-laws and regulations to ensure proper and scientific disposal of waste in a manner to subserve the common good.

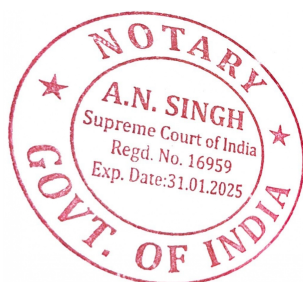
16. It is most respectfully submitted that an Original Application No. 606 of 2018 was filed before this Hon'ble Tribunal for Compliance of Municipal Solid Waste Management Rules, 2016. That vide order 17.05.2019, This Hon'ble Tribunal was pleased to lay down elaborate mechanism to deal with the Solid Waste Management. Further, this Hon'ble Tribunal after



discussion with Chief Secretaries directed that all States may send quarterly reports including the follow up action of deliberations as these directions has become necessary for compliance of the relevant rules.

17. It is most respectfully submitted that various directions were passed by this Hon'ble Tribunal, Principal Bench in O.A No. 606/2018 vide order dated 17.05.2019 directing the State Governments to take expeditious and effective steps in accordance with law for dealing with the menace of Solid Waste Management Rules, 2016 to protect the environment and public health which state as follows:

- i. Apart from model towns and cities already notified, at least three villages in every district shall be notified on the website as model villages which will be made fully compliant. Remaining cities, towns and villages of the State may be made fully compliant in respect of environmental norms within one year.
- ii. A quarterly report to be furnished by the Chief Secretary, in every three months. The Chief Secretary may personally monitor the progress, at least once in a month, with all the District Magistrates. The District Magistrates shall monitor the status of compliance of environmental norms, at least once in two weeks.
- iii. Estimate of value of environmental degradation and cost of restoration be prepared and compensation be planned and recovered from polluters for environmental restoration and restitution on that basis.
- iv. Performance audit of functioning of all regulatory bodies may be conducted and remedial measures be taken, within six months.
- v. Introduction of a policy of giving ranking, based on performance on the subject of environment and giving of rewards or other incentives on that basis to individual areas, localities, institutions or individuals may be considered. This may also include encouraging students or other citizens significantly contributing to the cause of



environment. The best practices may be evolved, if necessary, in the light of experiences on the subject. This may help in educating and involving public at large which may help in enhancing of environmental laws.

- vi. the Tribunal has directed setting up of monitoring committee with high level representatives of the Central Government on the one hand and Chief Secretaries of the State on other to consider remedial action for remedying the polluted river stretches, discuss remedial measures to deal with the gaps in compliance of waste management rules, measures to remedy nonattainment cities, polluted industrial clusters, illegal sand mining, reuse of treated water, conservation of water bodies in a proper manner.

18. It is pertinent to mention that this Hon'ble court also directed the estimate value of environmental degradation and cost of restoration be prepared and compensation should be planned and recovered from polluters for environmental restoration and restitution on that basis.

19. It is most respectfully submitted that if such a huge quantity of waste remains uncollected or untreated then that obviously would mean that the remnant waste is spread anywhere and everywhere and is bound to result in adverse impacts having far reaching consequences on human and the environment. A copy of the Order dated 17.05.2019 vide Original Application No. 606 of 2018 for the State of Assam is marked and annexed as **Annexure P4**.

20. It is most respectfully submitted that Government of India has initiated several projects which envisages cleaning of the streets, roads, remedying polluted river in the State of Assam but unfortunately, we are today in 2024 and nothing has been complied till date as mentioned in the Solid Waste Management Rules, 2016.

21. It is most respectfully submitted that further, vide order dated 27.01.2023 in Original Application No. 606 of 2018, this Hon'ble Tribunal further directed that the State of Assam may consider following the "*Integrated Solid Waste Management for local Governments a practical guide*" published in 2017 by Asian Development Bank whereby categorical



details cost effective techniques of solid waste management, planning and segregation of waste categories, waste collection methods, waste processing, waste to energy and diversion land fill development, operation and its management of landfill and also including contract issues by involving public private partnership has been reported.

22. That it is most humbly submitted that this Hon'ble Tribunal also observed that after interaction with the Chief Secretary of the State of Assam, it was established that further measures in the matter by innovative approach and stringent monitoring, ensuring that gaps in solid (unprocessed 752 TPD and 33 lakh tones of legacy waste) and liquid waste (435 MLD) generation and treatment are bridged at the earliest, shortening the proposed timelines, adopting alternative/interim measures to the extent and wherever found viable. Restoration plans need to be executed at the earliest simultaneously in all districts/cities/ towns/ villages in a time bound manner without further delay. This Hon'ble Tribunal also directed that District Magistrates must take ownership for monitoring of sewage and solid waste management and providing report to Chief Secretary and overall compliance be ensured by Chief Secretary for which regular meetings be conducted, which has not duly been complied with till date. A copy of the Order dated 27.01.2023 vide Original Application No. 606 of 2018 pertains for the State of Assam is marked and annexed as **Annexure P5**.

23. It is most respectfully submitted that unfortunately, we are today in 2024 and nothing has been complied till date as mentioned in the orders dated 17.05.2019, 27.01.2023 and the Solid Waste Management Rules, 2016.

24. It is most respectfully submitted that in the case of Almitra H. Patel & Anr. vs. Union of India & Anr., NGT O.A. No. 199 of 2014, following directions were given, in the interest of the environment and public health by this Hon'ble Tribunal:

- i. Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.
- ii. The directions contained in this judgment shall apply to the entire country. All the State Governments and Union



Territories shall be obliged to implement and enforce these directions without any alteration or reservation.

- iii. All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this judgment, within four weeks from the date of pronouncement of the judgment. The action plan would relate to the management and disposal of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016. c. The period of six months specified under Rule 6(b), 18, 23 of the Rules of 2016 has already lapsed. All the stakeholders including the Central Government and respective State Governments/UTs have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned w.e.f. 1st January, 2017. There shall be no extension given to any stakeholders for compliance with these provisions any further. The period of one year specified under Rule 11(f) 12(a), 15(e), 22(1) and 22(2) has lapsed. The concerned stakeholders have obviously not taken effective steps in discharging their statutory obligations under these provisions. Therefore, we direct that the said period of one year shall commence with effect from 1st July, 2017. For this also, no extension shall be provided. Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay



environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

- iv. The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.
- v. All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.
- vi. Wherever a Waste to Energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the waste. g. It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be 85 to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory. We make it clear that buffer zone and green



belt are essential and their extent would have to be decided on a case-to-case basis.

- vii. The Committees constituted under Rule-5 would meet at least once in three months and not once in a year as stipulated under the Rules of 2016. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, local bodies, departments and Project Proponents.
- viii. The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their respective plants, wherever such plant is located within a 100 km radius of the facility. In other words, it will be obligatory on the part of the State, local authorities to create a market for 86 consumptions of RDF. It is also for the reason that, even in Waste to Energy plants, Waste–RDF–Energy is a preferred choice.
- ix. In Waste to Energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.
- x. The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerized weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.
- xi. Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at



source/collection point and then transport it in accordance with the Rules of 2016 to the identified sites.

- xii. The landfill sites shall be subjected to bio-stabilization within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent leachate and generation of Methane. The stabilized waste should be subjected to composting, 87 which should then be utilized as compost, ready for use as organic manure.
- xiii. Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of Direction 13.
- xiv. The deposited non-biodegradable and inert waste or such waste now brought to land fill sites should be definitely and scientifically segregated and to be used for filling up of appropriate areas and for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.
- xv. The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such 88 other allied items. Hazardous waste, so collected by the centers should be



either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.

- xvi. MoEF & CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment. The directions and orders passed in this judgment shall not affect any existing contracts, however, we still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under process, this judgment and the Rules of 2016 shall completely and comprehensively apply.
- xvii. Complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple 89 burning, while Rs. 25,000/- (Rs. Twenty-Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.
- xviii. All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.



- xix. CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such waste burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.
- xx. directions contained in the judgment of the Tribunal in the case of 'Kudrat Sandhu Vs. Govt. of NCT & Ors', O.A. No. 281 of 2016, shall mutatis mutandis apply to this judgment and consequently to all the stakeholders all over the country.
- xxi. Any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions 90 contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986 and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.
- xxii. the State Governments/UTs, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the



concerned States/UTs/Districts. y. We expect all the concerned authorities to take note of the fact that the Rules of 2016 recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.

- xxiii. the directions contained in this judgment and the obligations contained under the Rules of 2016 should be circulated and published in the local languages.
- xxiv. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.

A copy of the judgement dated 22.12.2016 passed in Original Application No. 199 of 2014 being Almitra H. Patel & Anr. vs. Union of India & Anr., is marked and annexed as **Annexure P6**.

- xxv. That it is most humbly submitted that in light of the above facts and circumstances, the Applicant herein has no other alternative remedy but to approach this Hon'ble tribunal as the residence of the Applicant has become completely inhospitable due to the clogged and contaminated drain in front of the house wherein the Respondents have not taken any action to implement the Solid waste management rules of 2016.

LIMITATION:

It is most humbly submitted that the present Original Application has been filed within limitation, as prescribed under National Green Tribunal ACT, 2010.

That the respondent herein has not taken any action towards cleaning and sanitising the area outside the residential house of the applicant herein, therefore the cause of action is counting in nature of action.



GROUNDS

1. For that the Respondent Municipality have miserably failed to comply with the provisions of the Solid Waste Management Rules 2016.
2. For that the Respondent Municipality has turned a blind eye from rampant littering for the sole reason that they do not have any mechanism for collection and disposing of the garbage in front of the house of the Applicant There is a big open drain running in front of the house of Applicant, where people regularly dump garbage and the water in the drain has become so contaminated that it emanates obnoxious smell leading to serious health hazards to the residents of the house, which ought to have been cleaned by the Respondent State under the mandate of Solid Waste Management Rules, 2016.
3. For that the Respondent is duty bound to implement the Solid Waste Management Rules, 2016 in letter and spirit.
4. For that the act of the Respondent is willfully disregarding the law and various judgements passed by the Hon'ble Supreme Court and this Hon'ble Tribunal prima facie amounts to contempt of court.
5. For that the act of the Respondents State in not ensuring implementation of Solid Waste Management Rules, 2016 warrants interference by this Hon'ble Tribunal.
6. For that the residence of the applicant herein has become completely inhospitable due to the overflow of the drain caused by clogging and contamination.



7. For that the inaction of the Respondents herein is causing severe health problems to the Applicant and his family members residing adjacent to an overflowing uncovered clogged and contaminated drain.
8. For that any other ground/grounds that may be raised at the time of hearing with the leave of this Hon'ble Tribunal.

PRAYER:

In view of the facts and circumstances stated herein above, this Hon'ble Tribunal may be pleased to:

1. Issue Mandatory order commanding the respondents each one of them and their men, agents, assigns and subordinates to take immediate steps to implement the Solid Waste Management Rules, 2016 and direct the respondents to prevent illegal dumping of open garbage in front of the house of the Applicant by flouting Solid Waste Management Rules, 2016 and causing air pollution, land pollution as well as health hazard due to such inaction;
2. Issue Mandatory order commanding the respondents each one of them and their men, agents, assigns and subordinates to cover and net the open drains flowing in front of the house of the Applicant herein as these clogged and contaminated drains releasing obnoxious gases are causing serious health hazards to the Applicant and his family;
3. Grant costs in favor of the applicant herein;
4. Any other appropriate direction/directions and/or order/orders as this Hon'ble Tribunal may deem fit and proper;

AND FOR THIS ACT OF KINDNESS, PETITIONERS, AS DUTY BOUND, SHALL EVER PRAY.



Nityendu Shekhar Bhattacharjee

Place Delhi

Deponent

Date: 20.02.2024

VERIFICATION

I, the deponent above named hereby verify that the paragraphs 1 to 7 of this affidavit are true to the best of my personal knowledge. No part of it is false and nothing material has been concealed.

Signed on 20.02.2024 and verified on 02 March 2024.

Nityendu Shekhar Bhattacharjee

Deponent

Place Delhi

Date: 20.2.2024

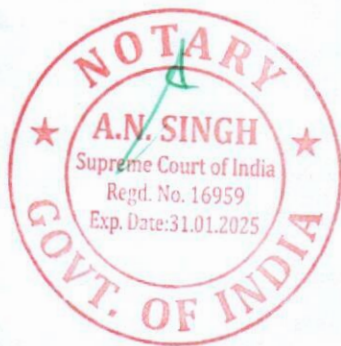
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I Identify the deponent who has Signed/Put T.I. in my presence

02 MAR 2024

FILED BY:

Date: 02.03.2024

MBI
Madhumita Bhattacharjee
Advocate for the Applicant
J-1921, C.R.Park,
New Delhi-110019
D/2074/1999,
Mob. 9811785211



TESTED
ATTESTED
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

Govt.

02 MAR 2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, AT KOLKATA**

O.A. NO. _____ OF 2024

IN THE MATTER OF:

NITYENDU SHEKHAR BHATTACHARJEE ...APPLICANT

VERSUS

THE STATE OF ASSAM & ORS. ...RESPONDENTS

AFFIDAVIT

I, Nityendu Shekhar Bhattacharjee, resident of House No. 13, Bilpar, Silchar -788004 do hereby solemnly declare and affirm as under:

1. That I Nityendu Shekhar Bhattacharjee, resident of House No. 13, Bilpar, Silchar -788004. That I am authorized on behalf of the applicant to swear this affidavit and I am well conversant with facts of the case derived from the records and hence competent to affirm this affidavit.
2. That I state that I have read and understood the contents of the accompanying application from paras 1 to 24, pages 6 to 31, and list of dates from pages 3 to 5, which has been drafted by my counsel under my instructions and facts stated herein are true and correct to the best of my knowledge and belief which are derived from the official records and the rest are prayers before this Hon'ble Tribunal.
3. That the annexures annexed to the O.A are true copies of its respective originals.



Nityendu shekhar Bhattacharjee

Deponent

Place New Delhi

Date: 02.03.2024

VERIFICATION

I, the deponent above named hereby verify that the paragraphs 1 to 7 of this affidavit are true to the best of my personal knowledge. No part of it is false and nothing material has been concealed.

Signed and verified on 02 March 2024

Nityendu shekhar Bhattacharjee

Place New Delhi 02 MAR 2024

Deponent

Date: 02.03.2024

I Identify the deponent who has
signed/Put T.I. in my presence

Certified that the above Named Deponent
identify by Shri/Smt. Nityendu shekhar Bhattacharjee
Solemnly affirmed before me at Delhi
S. No. 2941
The contents of the affidavit which have
been read & explained to me are true and
correct Notary

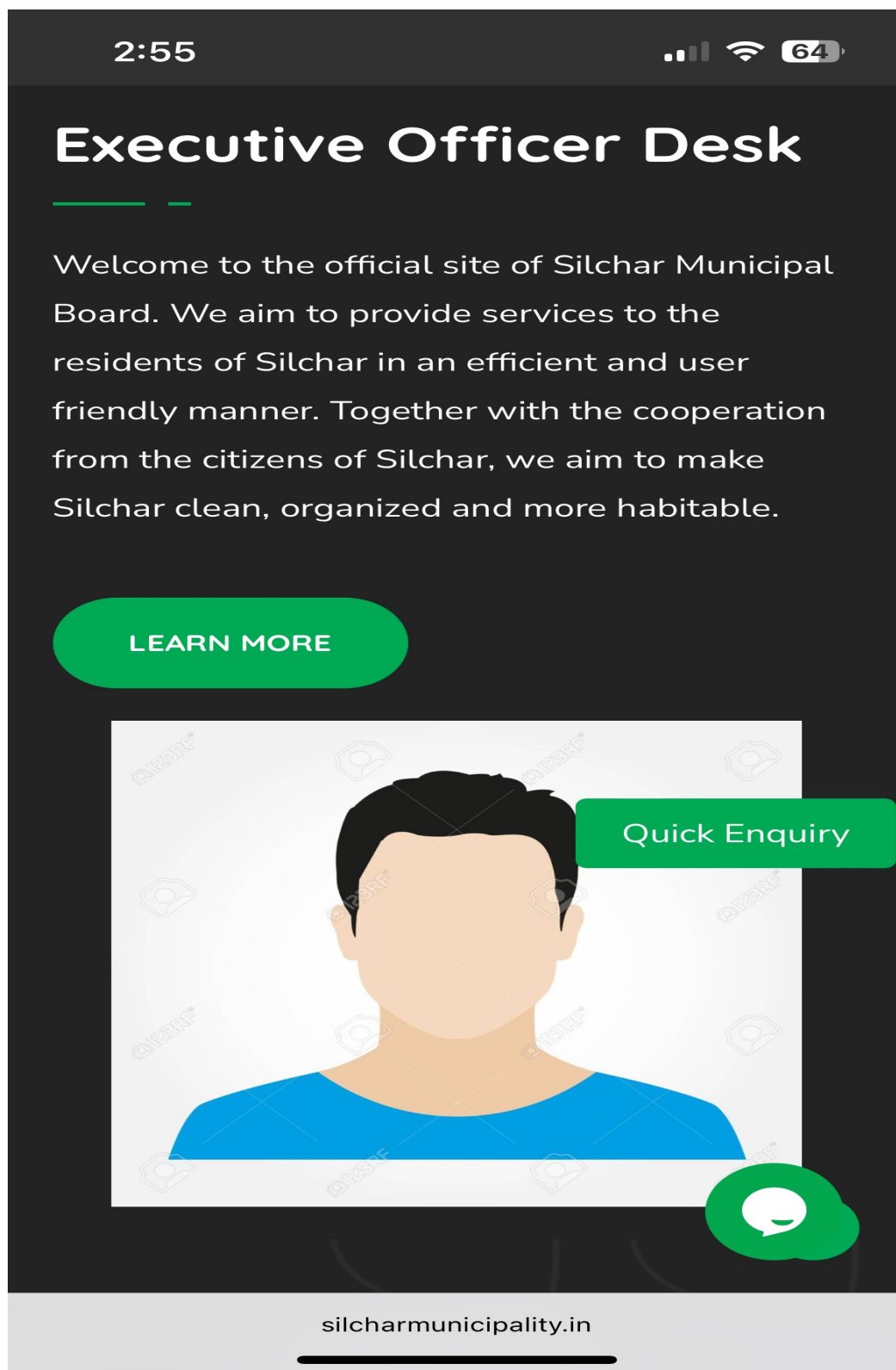
Nityendu shekhar Bhattacharjee





ATTESTED
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

02 MAR 2024






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Municipal Departments


Visiting Hours: Mon – Sat : 9:30 A.M. – 5:00 P.M. Office Hour.
Closed 2nd & 4th Saturday

Service Offered: Any Public Petitions, Issue & Dispatch, Certificate Staff Payments




General Branch

Head Assistant (H.A) is taking care of the this branch, Where H.A. is acting as a Point of contact [Quick Enquiry](#)
Executive Office/Chairman



Tax Branch

Works as the Establishment Branch and Consulting Various Other Branches



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2:56



M.P.I (Master Planning Implementation) Section

MPI branch employees are deals with Building Construction Permission, Land Sale Permission



Water Supply

This Section deals with dispose of Petitions relating to domestic/Commercial Water Connection.



Personal Section

[Quick Enquiry](#)




The responsibility of this section is to managing the record for information as needed and updating all paper work




M.I(Municipal Inspector)/Drainage Section




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M.I(Municipal Inspector)/Drainage Section

This section deals all type of Garbage Collection and Take care of the drainage system.



Docket /Reception section


This section receives and sells various forms like Mutation , House Connection , etc.




Park/Square/Square Light/Cemetery, /Funeral

Quick Enquiry

The section deals all kind Govt. Benefits for widow, disabled, old age person, etc.



Account Branch



An accounting department provides

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2:56

64



Account Branch

An accounting department provides accounting services and financial support



Trade Licence Branch

Licence Branch Silchar Municipal Board Deals of Trade Licence, Rickshaw, etc Licence



Digital Cell

Digital cell deals with all segments of Municipal Services Digital System.

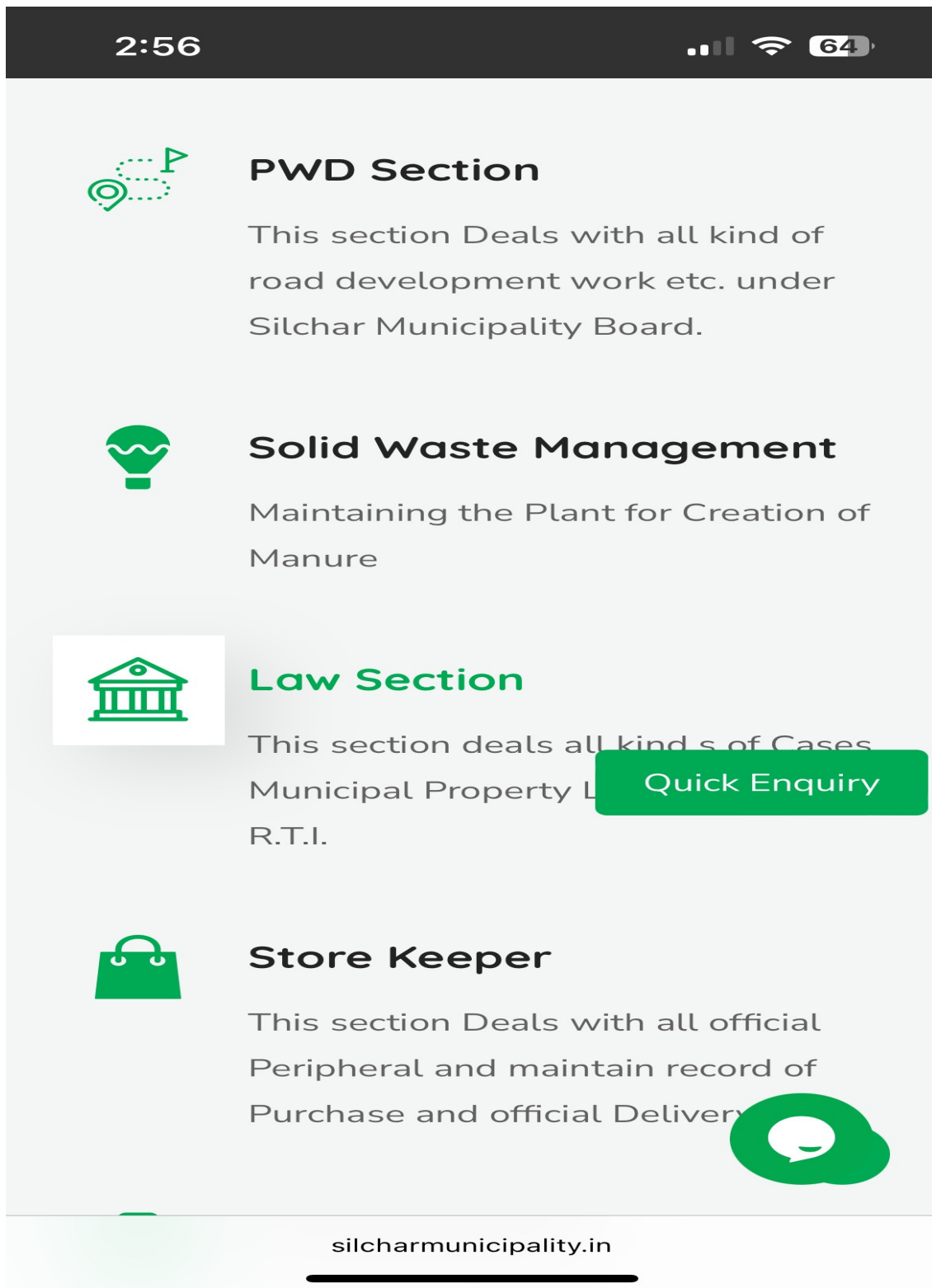
[Quick Enquiry](#)

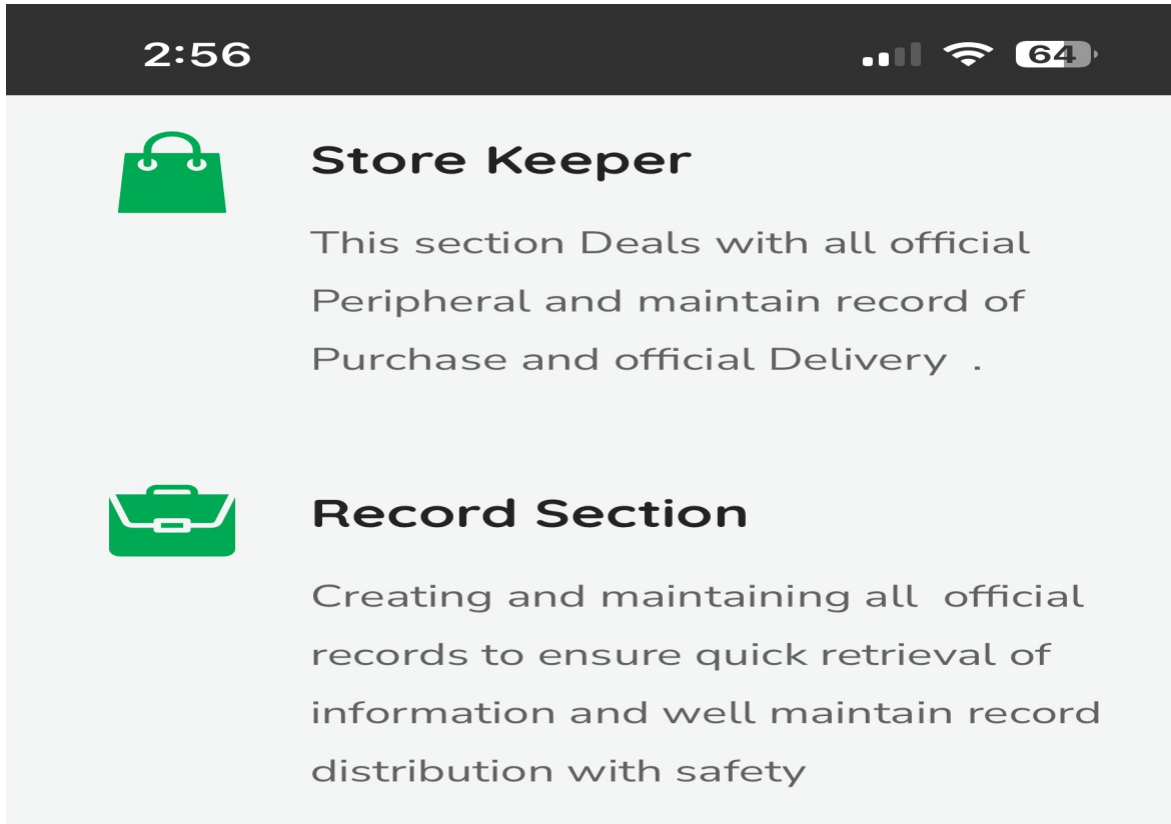
Birth & Death Section (Health Branch)

This Section deals registration of Birth and death of Silchar Urban Area.



silcharmunicipality.in





Developm Works

Quick Enquiry



2:56

**Sri Shankar Chakrabarty**Superintendent of General
administration

Department : General Branch

**Sri Kamur Uddin**

Tax Daroga (TD)

Department : Tax Branch

**Sri Raju Dey**

Superintendent of Accountants

Department : Account Branch

[Quick Enquiry](#)**Omkar Datta**

A.E.E

Department : PWD Section

Key Officials

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Key Officials



Sri Pankaj Singh

D.A

Department : Market

[View All](#)

Upcoming Events

[Quick Enquiry](#)

 [VIEW ALL](#)




[ALL](#)


[MEETING](#)


[NOTICE](#)





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2:56   


 **Silchar Municipal Board**
Silchar Assam

 **Silchar Municipal Board,**
Sadar Ghat, Silchar, Cachar,
Assam, Pin:-788001

 **03842233828 (Office)**


 **03842-233830 (General Branch)**

 **03842-233839 (Conservancy)**

 **smb1882@gmail.com**

IMPORTANT LINKS

Panchayat & Rural Dev
Ministry of Panchayati Raj
Government of Assam
State Finance Commission
Central Finance Commission
PLANPLUS
NREGA
IAY
NSAP



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Our Services

We have information on how to make many different transactions with the our Smart City.

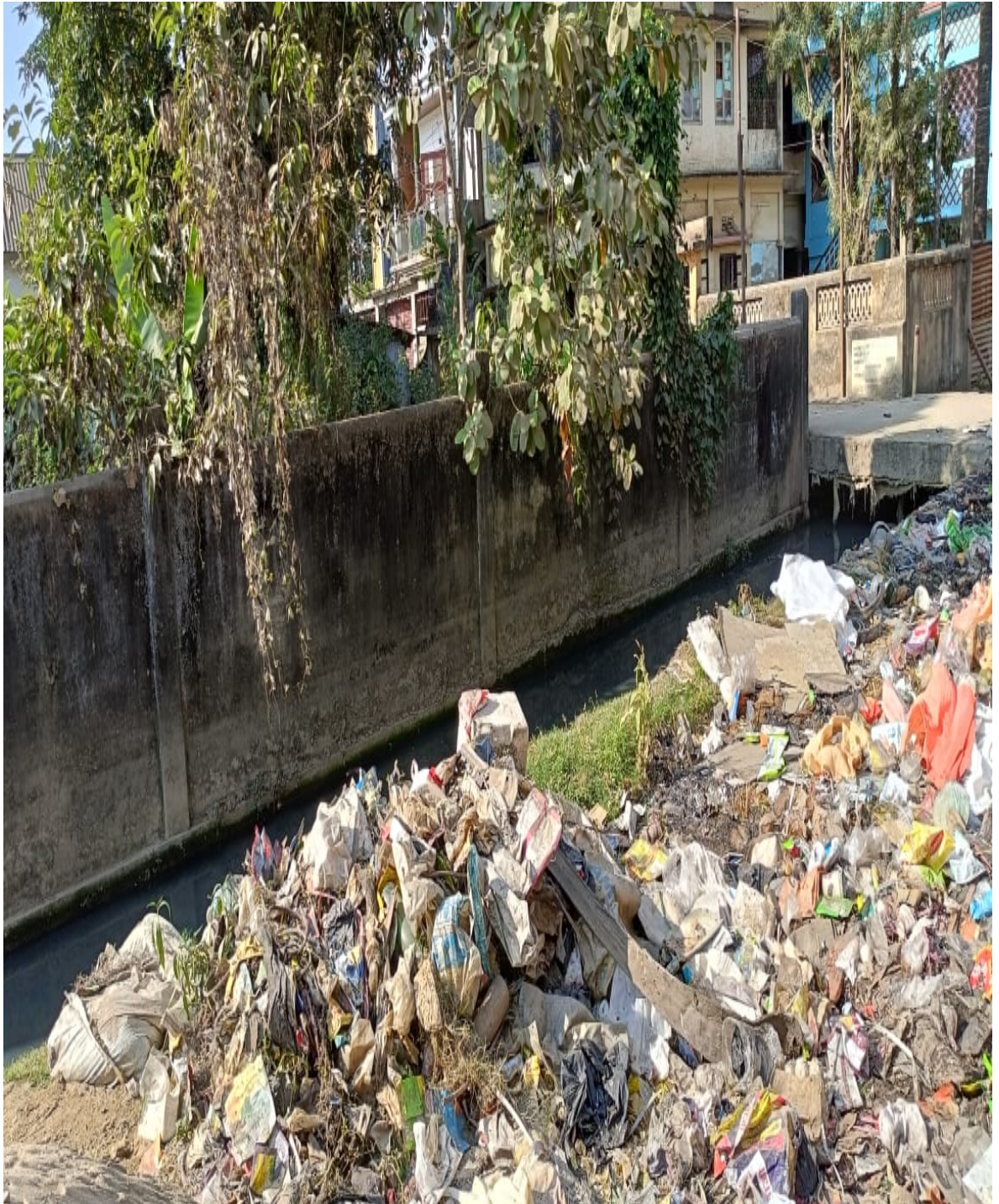
- Water Supply
- Birth & Death Registration
- Property Tax Assessment & Collection
- Building Sanction
- Solid Waste Management
- Street Lightning
- Trade License

[Quick Enquiry](#)





































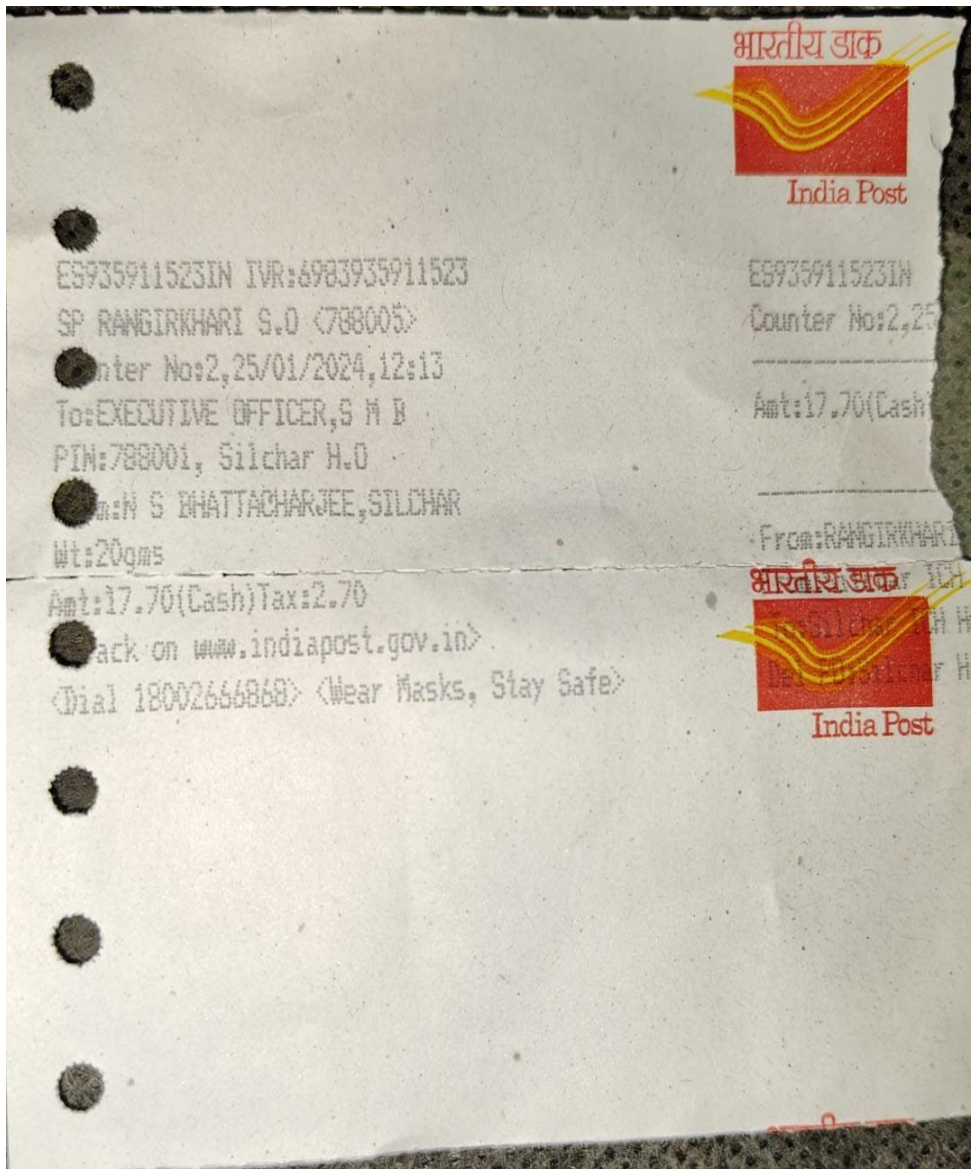












To,

The Chief Operating Officer,

Silchar Municipal Board

Address: House No. 13,

Bilpar, Silchar,

Assam, Pin- 78005

Sub – Perennial Problem of dumping of garbage & stagnation of contaminated water requiring your urgent attention (Reg. House No. 13, Bilpar)

Dear Sir,

At the outset, I take this opportunity to express my gratitude for your prompt action of removing the garbage from the entry of our house which was accumulated there for a few days.

The undersigned is a resident of house no. 14, Radha Madhav Park Bilpar, Silchar. This is to bring you kind attention that there is a perennial problem regarding dumping of garbage in front of our house as there is an open drain. Due to this, there is extreme clogging of garbage in front of our entry gate leading to obnoxious stinking and inherent problem of mosquito breeding. This has caused immense health hazard for all the residents of our house, some guests who have arrived from outside have also fallen sick. This dumping of garbage has to stop immediately for which I request your urgent attention.

It is also suggested in the interest of public at large, that spots may be identified for dumping of garbage or door to door collection of garbage may be initiated as per the mandate of the Solid Waste Management Rules, 2016. It is also to bring to your kind notice that the indiscriminate dumping of waste consists of primarily plastic waste which is a great threat to the environment. The plastic waste so dumped leads to clogging and stagnation of the drain water in front of our house leading to the back flow of the drain water to our premises which does not find any outlet to flow out. This stagnated water has now become highly contaminated and is dark black in color leading to frequent diarrhea of the family members. This has become an acute health hazard and a perennial problem for which I request

your good self to take immediate corrective steps so as to remedy the situation at the earliest.

We look forward to your prompt action, in this regard. For any clarification, please feel free to revert to us.

Thanking you in great anticipation.

Your truly

(N.S. Bhattacharjee)

Address: House No. 13,

Bilpar, Silchar,

Assam, Pin- 78005

Mobile No. 9954140913

ANNEXURE P-4

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016
(State of Assam)

Date of hearing: 17.05.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

For Respondent (s):

Mr. Alok Kumar, Chief Secretary, State of Assam
Mr. Ravi Kapoor, Additional Chief Secretary,
Environment & Forest
Mr. Y. Suryanarayan, Chairman PCB, Assam
Mr. Gokul Bhuyan, Nodal Officer, PCB, Assam
Mr. Shuvodeep Roy and Mr. Vinayak Gupta,
Advocates**ORDER**

S.NO.	CONTENTS	PARA No.
I	Preface	1
II	Proceedings in Almitra Patel dealing with the issue of Waste Management	2-8
III	Previous Proceedings in Present Matter	9-27
IV	Present Proceedings	28-36
V	Deliberations	37-41
VI	Directions	42-43
VII	Further Observations	44-51

I. PREFACE

1. The issue for consideration is status of compliance of orders of this Tribunal on the subject of solid waste management and allied issues. At

the outset, we may mention that scientific waste management has been a serious challenge in the country. Absence of proper waste management is a major contributor to air, water and soil pollution and has reportedly resulted in large number of deaths and diseases. On account of continued and acknowledged non-compliance of statutory rules, and noticing manifestation of environmental degradation in the form of polluted river stretches, air polluted cities and critically polluted industrial clusters, unsuccessful regulatory regime, the Tribunal found it necessary to require monitoring at highest level of States/UTs in the country and required the Chief Secretaries of the States/ UTs to remain present in person before this Tribunal on specified dates with the status of compliance.¹ Accordingly, by now Chief Secretaries of all States/ UTs except two² have so appeared and presented the status reports on specific issues which include waste management, remedial action for polluted river stretches, air polluted cities, critically polluted industrial clusters, sand mining, compliance of environmental principles viz. 'Polluter Pays', 'Sustainable Development' and 'Precautionary Principle'. Since huge gaps have been found in the compliance of law, the Chief Secretaries have been required to personally monitor and take further steps, furnish quarterly reports and appear before the Tribunal again after six months. Present being almost the last order in the series, we propose to state the details of the proceedings which have taken place and the way forward. We have found that while continuous monitoring at the level of Chief Secretaries in the light of several orders passed by this

¹ O.A. no. 606/2018 Compliance of Municipal Solid Waste Management Rules, 2016, Order dated 16.01.2019

² Jharkhand and Jammu & Kashmir who are scheduled to appear on 05.07.2019 & 18.07.2019 respectively.

Tribunal may go a long way, a forum is required for collective exchange of thoughts to address the complex issues such as identifying right techno-economical models to be adopted throughout India for different categories depending upon the size of area, extent of population, geographical terrain, demographic profile, strategies for implementation in terms of budgetary resources, human resources and other challenges commonly faced. Having regard to the flagship programmes of Government of India such as *Swachh Bharat Mission*, *Namami Gange*, which are integrally connected to the issues of waste management, water management and conservation, control of air and water pollution, the involvement of highest level authorities in the Central Government with the highest authority of the States may be necessary in the spirit of cooperative federalism. Such directions have been issued in certain orders of this Tribunal to which reference will be made in the later part of this order.

II. PROCEEDINGS IN ALMITRA PATEL DEALING WITH THE ISSUE OF WASTE MANAGEMENT:

2. The matter arose before this Tribunal on transfer of proceedings in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors.*, by the Hon'ble Supreme Court, vide order dated 02.09.2014.
3. We may note that the issue has been subject matter of consideration before the Hon'ble Supreme Court in several proceedings, including in *Municipal Council, Ratlam v. Vardhichand*³ and *B.L. Wadhera v. Union of*

³ (1980) 4 SCC 162

*India and Ors.*⁴ It has been categorically laid down that clean environment is fundamental right of citizens under Article 21 and it is for the Local Bodies as well as the State to ensure that public health is preserved by taking all possible steps. For doing so, financial inability cannot be pleaded.

4. The Hon'ble Supreme Court had appointed Barman Committee which gave report on 06.01.1998 and it was duly accepted. The same led to draft for management of MSW Rules, 1999 which were replaced by 2000 Rules and are now succeeded by 2016 Rules. The Hon'ble Supreme Court gave directions for proper management of municipal solid waste, *inter-alia*, vide orders dated 24.08.2000, 04.10.2004, 15.05.2007 and 19.07.2010.
5. All the States were parties before the Hon'ble Supreme Court and draft action plans were prepared which were to be updated, as per revised Rules.
6. It has been observed by the Hon'ble Supreme Court in *Almitra H. Patel and Anr. v. Union of India and Ors.*⁵ that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees. Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums have multiplied significantly occupying large areas of public land. Promise of free land

⁴ (1996) 2 SCC 594

⁵ (2000) 2 SCC 679

attracts more land grabbers. Instead of “slum clearance” there is “slum creation” in cities which is further aggravating the problem of domestic waste being strewn in the open. Accordingly, the Court directed that provisions pertaining to sanitation and public health under the DMC Act, 1957, the New Delhi Municipal Council Act, 1994 and Cantonments Act, 1994 be complied with, streets and public premises be cleaned daily, statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

7. The Hon’ble Supreme Court again in *Almitra H. Patel and Anr. v. Union of India and Ors.*⁶, while further reviewing the progress noted the following suggestions for consideration by the State Governments and Central Government and SPCBs/PCCs: -

“1. As a result of the Hon’ble Supreme Court’s orders on 26.7.2004, in Maharashtra the number of authorizations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat’s successes.

2. All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open

⁶ (2004) 13 SCC 538

dumps, due by 31.12.2001, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off(leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.

3. Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.

4. States seems to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3-fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitizing/stabilizing, which is always the first step in composting viz. inoculate the waste with cow dung solution or bioculture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.

5. Unless each State creates a focused 'solid waste management cell' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.

6. The admitted position is that the MSW Rules have not been complied with even after four years. None of the functionaries have bothered or discharged their duties to ensure compliance. Even existing dumps have not been improved. Thus, deeper thought and urgent and immediate

action is necessary to ensure compliance in future.”

8. After transfer of proceedings to this Tribunal on 02.09.2014, the matter was taken up from time to time and several directions were issued. Finally vide order dated 22.12.2016, after noticing that the SWM Rules, 2016 had been notified on 08.04.2016 which laid down elaborate mechanism to deal with the solid waste management, the Tribunal directed as follows:

1. *Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.*
2. *The directions contained in this judgment shall apply to the entire country. All the State Governments and Union Territories shall be obliged to implement and enforce these directions without any alteration or reservation.*
3. *All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this judgment, within four weeks from the date of pronouncement of the judgment. The action plan would relate to the management and disposal of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016.*
4. *The period of six months specified under Rule 6(b), 18, 23 of the Rules of 2016 has already lapsed. All the stakeholders including the Central Government and respective State Governments/UTs have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned w.e.f. 1st January, 2017. There shall be no extension given to any stakeholders for compliance with these provisions any further.*

The period of one year specified under Rule 11(f) 12(a), 15(e), 22(1) and 22(2) has lapsed. The concerned stakeholders have obviously not taken effective steps in discharging their statutory obligations under these provisions. Therefore, we direct that the said period of one year shall commence with effect from 1st July, 2017. For this also, no extension shall be provided.

Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

5. *The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.*
6. *All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.*
7. *Wherever a Waste to Energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the waste.*
8. *It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence,*

we hold that this provision is not mandatory, but is directory.

We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case to case basis.

9. *We direct that the Committees constituted under Rule-5 would meet at least once in three months and not once in a year as stipulated under the Rules of 2016. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, Local Bodies, departments and Project Proponents.*
10. *The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their respective plants, wherever such plant is located within a 100 km radius of the facility.*

In other words, it will be obligatory on the part of the State, local authorities to create a market for consumption of RDF. It is also for the reason that, even in Waste to Energy plants, Waste-RDF-Energy is a preferred choice.
11. *In Waste to Energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.*
12. *The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerised weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.*
13. *Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at source/collection point and then transport it in accordance with the Rules of 2016 to the identified sites.*

14. *The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent leachate and generation of Methane. The stabilized waste should be subjected to composting, which should then be utilized as compost, ready for use as organic manure.*
15. *Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of Direction 13.*
16. *The deposited non-biodegradable and inert waste or such waste now brought to land fill sites should be definitely and scientifically segregated and to be used for filling up of appropriate areas and for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.*
17. *The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such other allied items. Hazardous waste, so collected by the centers should be either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.*
18. *We direct MoEF&CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.*
19. *The directions and orders passed in this judgment shall not affect any existing contracts, however, we*

still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under process, this judgment and the Rules of 2016 shall completely and comprehensively apply.

20. *We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple burning, while Rs. 25,000/- (Rs. Twenty-Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.*
21. *All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.*
22. *We direct the CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such waste burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.*
23. *That the directions contained in the judgment of the Tribunal in the case of 'Kudrat Sandhu Vs. Govt. of NCT & Ors', O.A. No. 281 of 2016, shall mutatis mutandis apply to this judgment and consequently to all the stakeholders all over the country.*
24. *That any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986*

and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.

25. That the State Governments/UTs, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the concerned States/UTs/Districts.
26. We expect all the concerned authorities to take note of the fact that the Rules of 2016 recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.
27. We further direct that the directions contained in this judgment and the obligations contained under the Rules of 2016 should be circulated and published in the local languages.
28. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.
29. Copy of this judgment be circulated to all the Chief Secretaries/Advisers of States/UTs by the Registry of the Tribunal. The said authorities are hereby directed to take immediate steps to comply with all the directions contained in this judgment and submit a report of compliance to the Tribunal within one month from the date they receive copy of this judgment.”

III. PREVIOUS PROCEEDINGS IN PRESENT MATTER:

9. The Tribunal in a review meeting on the administrative side with the CPCB and municipal solid waste management experts on the subject of waste management on 23.07.2018, considered the matter in the light of Annual Report prepared by the CPCB in April 2018 under Rule 24 of the MSW Rules, 2016 and noticed serious deficiencies.

Accordingly, it was decided to take up the issue of execution of judgment dated 22.12.2016 in *Mrs. Almitra H. Patel & Anr. V. Union of India & Ors. (supra)*, by way of interaction with all the States/UTs through video conferencing. For this purpose, meetings were held on 02.08.2018, 07.08.2018, 08.08.2018, 13.08.2018 and 20.08.2018.

10. At the conclusion of the interaction, the Tribunal declared that the mandatory provision of the Rules and directions should be implemented in a time bound manner. Following specific steps were required to be taken⁷:

- i. Action plans were to be submitted by all the States to CPCB latest by 31.10.2018 and executed in the outer deadline of 31.12.2019 which should be overseen by the Principal Secretaries of Urban and Rural Development Departments of the States.
- ii. The States should have Monitoring Committees headed by the Secretary, Urban Development Department with the Secretary of Environment Department as Members and CPCB and State Pollution Control Boards (SPCBs) assisting the Committees.
- iii. They should have interaction with the Local Bodies once in two weeks.
- iv. Local Bodies are to furnish their reports to State Committees twice a month.
- v. The State Committees may take a call on technical and policy issues.

⁷ O.A. no. 606/2018 Compliance of Municipal Solid Waste Management Rules, 2016, Order dated 20.08.2018

- vi. Local Bodies may have suitable nodal officers. Bigger Local Bodies may have their own Committees headed by Senior Officers.
 - vii. Public involvement may be encouraged and status of the steps taken be put in public domain.
 - viii. The State Level Committees are to give their reports to the Regional Monitoring Committees on monthly basis.⁸
 - ix. Instead of every local body separately floating tenders, the standardized technical specifications be involved and adopted.⁹
 - x. Best practices may be adopted, including setting up of Control Rooms where citizens can upload photos of garbage which may be looked into by the specified representatives of Local Bodies, at local level as well as State level.
 - xi. It was directed that mechanism be evolved for citizens to receive and give information.
 - xii. CCTV cameras be installed at dumping sites.
 - xiii. GPS be installed in garbage collection vans. This may be monitored appropriately.¹⁰
11. Performance audit was to be conducted for 500 ULBs with population of 1 lakh and above initially, as suggested by the MoHUA as follows:

	Key Parameters/ Indicators	Description of Parameters/Indicators for physical evaluation
1	Door to Door Collection	Door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises.
		Transportation in covered vehicles to processing or disposal facilities

⁸Para 21

⁹ Para 22

¹⁰ Para 23

2	Source Segregation	Segregation of waste by households into Biodegradable, non-biodegradable, domestic hazardous.
3	Litter Bins & Waste Storage Bins	<ul style="list-style-type: none"> • Installation of Twin-bin/ segregated litter bins in commercial & public areas at every 50-100 meters. • Installation of Waste storage bins in strategic locations across the city, as per requirement (Unless Binless) • Elimination of Garbage Vulnerable Points.
4	Transfer Stations	Installation of Transfer Stations instead of secondary storage bins in cities with population above 5 lakhs.
5	Separate transportation	<ul style="list-style-type: none"> • Compartmentalization of vehicles for the collection of different fractions of waste. • Use of GPS in collection and transportation vehicles to be made mandatory at least in cities with population above 5 lakh along with the publication of route map.
6	Public Sweeping	<ul style="list-style-type: none"> • All public and commercial areas to have twice daily sweeping, including night sweeping and residential areas to have daily sweeping.
7	Waste Processing <ul style="list-style-type: none"> • Wet Waste • Dry Waste • MRF Facility 	<ul style="list-style-type: none"> • Separate space for segregation, storage, decentralised processing of solid waste to be demarcated • Establishing systems for home/decentralised and centralised composting • Setting up of MRF Facilities.
8	Scientific Landfill	<ul style="list-style-type: none"> • Setting up common or regional sanitary landfills by all Local Bodies for the disposal of permitted waste under the rules • Systems for the treatment of legacy waste to be established.
9	C&D Waste	Ensure separate storage, collection and transportation of construction and demolition wastes.
10	Plastic Waste	Implementation of ban on plastics below <50 microns thickness and single use plastics.
11	Bulk Waste Generators (BWGs)	Bulk waste generators to set up decentralized waste processing facilities as per SWM Rules, 2016.
12	RDF	Mandatory arrangements have to be made by cement plants to collect and use RDF, from the RDF plants, located within 200 kms.
13	Preventing solid waste from entering into	Installation of suitable mechanisms such as screen mesh, grill, nets, etc. in water bodies such as nallahs, drains, to arrest solid waste

	water bodies	from entering into water bodies.
14	User Fees	Waste Generators paying user fee for solid waste management, as specified in the bye-laws of the Local Bodies.
15	Penalty provision	Prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or Local Bodies to levy spot fines as per the byelaws framed.
16	Notification of Bye Laws	Frame bye-laws incorporating the provisions of MSW Rules, 2016 and ensuring timely implementation.
17	Citizen Grievance Redressal	Resolution of complaints on Swachhata App within SLA.
18	Monitoring mechanism	States/ULBs to update month wise targets/action plans on the online MIS.

12. The Regional Committees were to be headed either by former High Court Judges or by Senior Retired Officers and Apex Committees by a former Supreme Court Judge.¹¹ Common problems faced and suggestions were to be noted in tabular chart.¹² The Committees were to function for a period of one-year subject to further orders.¹³

13. The matter was again taken up on 16.01.2019 in light of reports received from some of the Committees, especially from the State of Uttar Pradesh.

14. It was noticed that timeline of two years had expired which was the period prescribed for steps 1 to 7 under Rule 22 and three years is to expire on 08.04.2019 which covers steps upto Sr. No. 10. The time limit is as follows:

¹¹ Paras 18 and 20

¹² Para 14

¹³ Para 18

S. No.	Activity	Time limit from the date of notification of rules
(1)	(2)	(3)
1.	Identification of suitable sites for setting up solid waste processing facilities	1 year
2.	Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more	1 year
3.	Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities	2 years
4.	Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source	2 years
5.	Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.	2 years
6.	ensure separate storage, collection and transportation of construction and demolition wastes	2 years
7.	setting up solid waste processing facilities by all Local Bodies having 100000 or more population	2 years
8.	Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population	3 years
9.	setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules	3 years

10.	<i>setting up common or regional sanitary landfills by all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules</i>	3 years
11.	<i>bio-remediation or capping of old and abandoned dump sites</i>	5 years

Since violation of Rules is statutory offence under the Environment (Protection) Act, 1986 and results in deterioration of environment, affecting the life of the citizens, it was noted that the authorities may be made accountable for their lapses and required to furnish performance guarantee for compliance or pay damages as had been directed in some of the cases.¹⁴

15. The Tribunal noted that solid waste management is of paramount importance for protection of environment, as the statistics paint a dismal picture of the environment in the country. The Tribunal had also referred to proceedings before it, relating to 351 polluted river stretches 102 non-attainment cities in terms of ambient air quality and 100 industrial clusters which are critically polluted as per data available with CPCB. The Tribunal had taken cognizance of such serious environmental issues and required the respective States to

¹⁴Para 20. Cases referred to in the said para are as follows:

- (a). All India Lokadhikar Sangathan vs. Govt of NCT Delhi & Anr, E.A No. 11/2017, Date of Order 16.10.2018;
- (b). Sobha Singh vs. State of Punjab & Ors. O.A. No. 916/2018, Date of Order 14.11.2018;
- (c). Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors. O.A No. 110 (THC)/2012, Date of Order 04.01.2019;
- (d). Ms. Ankita Sinha vs. State of Maharashtra & Ors. O.A. No. 510/2018, Date of Order 30.10.2018,
- (e). Sudarsan Das vs. State of West Bengal & Ors. O.A. No. 173/2018, Date of Order 04.09.2018;
- (f). Court on its Own Motion vs. State of Karnataka, O.A. No. 125/2017, Date of Order 06.12.2018.

prepare time bound action plans and execute the same so as to restore water and air quality, as per prescribed norms.¹⁵

16. The Tribunal also noted that there was a need to conduct performance audit of statutory regulators so that they are manned by competent as well as credible persons and there is a regime of their accountability, as observed by Hon'ble Supreme Court. Failure to do so would be disastrous for the health of the citizens and defeat the very purpose of regulatory regime manned to protect the environment. Accordingly, it was held that the issues being interconnected, an integral approach was required in the matter for sustainable and inclusive development. Coordination was required with different authorities of the State, which was not possible without involvement of the Chief Secretaries.¹⁶

¹⁵ Para 21. Cases referred to in the said para are as follows:

- O.A. No. 110 (THC)/2012-Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors.
- O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB" dated 20.09.2018: wherein the Tribunal issued directions to prepare and implement Action Plans to rejuvenate and restore the 351 polluted river stretches.
- Original Application No. 681/2018, News Item Published in "The Times of India' Authored by Shri Vishwa Mohan Titled "NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15" dated 08.10.2018: wherein the Tribunal directed Action Plans to be prepared for the 102 non-attained cities to bring the standards of air quality within the prescribed norms.
- Original Application No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018: wherein the Tribunal directed preparation of time bound Action Plans to ensure that all industrial clusters comply with the parameters laid down in Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.
- Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 dated 31.08.2018: wherein the Tribunal constituted Apex and Regional Monitoring Committees for effective implementation of MSW Rules, 2016.

¹⁶Paras 21 to 25. Cases referred to in the said paras are as follows:

- Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors, O.A. No.95/2018.
- https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf- India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-andenvironment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>- Most pollution-linked deaths occur

17. The Tribunal also considered its experience of administrative interaction held on the subject on 04.12.2018 with the Committees appointed and found that the mechanism had not become as effective as expected.¹⁷

18. The Tribunal accordingly modified the mechanism of Committees. For the States, Member Secretaries of the SPCBs were made the Convener of the Committees. Secretaries of Urban Development, Local Bodies, Local Self-Government, Environment, Rural Development Health and representatives of CPCB, wherever CPCB office is existing were to be Members. The Committees were to work for six months or as may be considered necessary.¹⁸

in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFT063r7x4Ti8ZbHF7mM.html>- Delhi's most polluted city, Mumbai worse than Beijing as per WHO; http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf- WHO Water Quality Index .

- News Item published in 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15" O.A. No. 681/2018- <http://www.greentribunal.gov.in/DisplayFile.aspx>
- <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.
- Sudarsan Das vs. State of West Bengal & Ors. O.A. No. 173/2018 Order dated 04.09.2018
- Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors. O.A. No. 176/2015, order dated 3.1.2019
- Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors O.A. No.95/2018, order dated 11.01.2019.

¹⁷ Para 26.

¹⁸Para 28. Cases referred to in the said para are as follows:

- See order dated 19.9.2018 of this Tribunal in O.A No. 606/2018 to the effect that the non-official Chairperson will be paid consolidated amount equal to basic pay of the post held by the incumbent. A former Judge of Hon'ble Supreme Court will be entitled to Rs. 2.50 Lakhs per month. A former Judge of the High Court will be paid Rs. 2.25 Lakhs per month. On same pattern, remuneration may be fixed for any other retired Member.
- E.A. No.32/2016 order dated 15.11.2018- Clarifying that while the State may provide the logistics and other facilities, the financial aspects may be taken care of by the State Pollution Control Boards/Committees. The financial aspects will include the remuneration or other incidental expenses which may be increased with a view to effectively execute the directions of this Tribunal. Such expenses may include secretarial assistance, travel as well as cost incurred for any technical assistance.

19. The Committees constituted under the Rules were to work in tandem with the Committees constituted by the Tribunal. The CPCB was to prepare Standard Operating Procedure (SOP) for implementation of Clause J of Schedule I for dealing with the legacy waste. The Collectors were to have monthly meetings, as per Rule 12 and submit reports to State Urban Development Departments, with a copy to State Level Committees.¹⁹ CPCB has since prepared such SOP and circulated to the State Pollution Control Boards in February 2019. We are given to understand that such procedure has been successfully implemented at places such as Goa, Indore and Kumbhkonam.

20. Every State was to constitute a Special Task Force (STF) in each District with four members – one each nominated by the District Magistrate, Superintendent of Police, Regional Officer of the SPCBs and the District Legal Services Authority (DLSA) for awareness by involving educational, religious and social organizations, including local Eco-clubs. This was also to apply with regard to awareness in respect of other connected issues i.e. polluted rivers, air pollution, etc. In this regard, reference was made to directions of the Hon'ble Supreme Court requiring such awareness programmes to be undertaken.²⁰ Accordingly, circular dated 07.05.2019 was issued by

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- Apart from remuneration, all actual expenses incurred in taking assistance for secretarial working will be reimbursed by concerned PCB as already directed vide order dated 17.12.2018 E.A. No.32/2016, Amresh Singh v. Union of India & Ors.

¹⁹ Para 32.

²⁰ Paras 35 and 36. Cases referred to in the said paras are as follows:

- O.A. No. 138/2016 order dated 27.08.2018
- O.A.No. 673/2018, order dated 20.09.2018
- Suo Moto Application No. 290/2017, order dated 24.10.2018
- O.A. No. 200/2014 order dated 29.11.2018

the National Legal Services Authority to the State Legal Services Authority and the Tribunal has directed CPCB to coordinate with NALSA at the national level and with SLSAs and DLSAs at the State and District level respectively, through State PCBs.²¹

21. The Tribunal also referred to its order dated 19.12.2018, in Original Application No. 673/2018, for laying down scale of compensation to be recovered from each State/UT in failing to carry out directions of this Tribunal on the issue of preparing action plans for river stretches. Similar pattern was proposed in case of failing to carry out directions in the present case.²²

22. The Chief Secretaries/Advisor of all the States and UTs were required to appear in person and be ready on the following specific points:

a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.

b. Status of functioning of Committees constituted by this order.

c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in "The

• (2004)1 SCC 571

• (2005)5 SCC 733

²¹ O.A. no. 606/2018 Compliance of Municipal Solid Waste Management Rules, 2016 (State of Karnataka) order dated 24.04.2019

²² Para 38. Cases referred to in the said para are as follows:

- Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors O.A. No. 110(THC)/2012.
- News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (O.A. No. 673/2018) vide order dated 19.12.2018- wherein this Tribunal held that compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches.

Hindu” authored by Shri Jacob Koshy Titled “More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

- d. *Status of functioning of Committees constituted in News Item Published in “The Times of India’ Authored by Shri Vishwa Mohan Titled “NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15” dated 08.10.2018. (Original Application No. 618/2018).*
- e. *Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels” dated 13.12.2018.*
- f. *Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.*
- g. *Total amount collected from erring industries on the basis of ‘Polluter Pays’ principle, ‘Precautionary principle’ and details of utilization of funds collected.*
- h. *Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State.”*

23. It was also directed that the Chief Secretaries may not nominate other officer for appearance before this Tribunal. However, they may seek change of date, with advance intimation.²³

24. Further direction was for the State to display on their respective websites the progress made on the above issues.²⁴ Under Rule 14, the CPCB was directed to coordinate with the Committees.²⁵

²³ Paras 40 and 41

²⁴ Para 42

²⁵ Para 45

25. As already noted, Chief Secretaries of all States/ UTs except two have already appeared in person and filed their respective reports.
26. After interaction with the Chief Secretaries, directions have been given by the Tribunal for further course of action and the Chief Secretaries been directed to appear in person again with status of compliance and progress after six months on specified dates. The directions include identifying certain areas in Phase-I for compliance of environmental norms within six months and the remaining State to be compliant within one year. The Chief Secretaries are to monitor the progress atleast once in a month and the District Magistrates atleast twice in a month. Progress report is to be sent to the Tribunal within three months. Training is to be imparted. Cost of restoration of damage to environment is to be assessed and recovered. Performance audit is to be conducted. Policy to give ranking based on performance and to encourage those who contribute to the environment and other strategies for community involvement are to be considered. It was further suggested that the Chief Secretaries may have a monitoring cell directly attached to them for environmental issues. These directions were considered necessary to ensure that environment protection and restoration is given highest priority in view of serious challenge posed by deteriorated environment and largescale violations which are not satisfactorily dealt with by the administrative machinery of the Government. The Tribunal hopes and expects that continued involvement of Chief Secretaries/Advisor will result in

improvement of the situation and lead to better protection of quality of air, water and environment and help public health.

27. We may note that after order dated 16.01.2019 some of the issues referred to in Para 22 hereinabove i.e. waste management, remedying river pollution, air pollution, pollution of industrial clusters, unscientific and illegal sand mining and compliance of environmental norms have been dealt with by further orders of this Tribunal as follows:

- (i) Vide order dated 05.03.2019, dealing with State of Himachal Pradesh, it was directed that the Apex Committee may conclude its proceedings by 30.04.2019 and furnish its final report. Thereafter, monitoring at apex level could be done by MoEF&CC and CPCB in terms of Rules 5 and 14 of the SWM Rules respectively and direction of this Tribunal vide order dated 22.12.2016 [Para 43(9)]. However, the State Level Committees as directed by the Tribunal headed by retired Judges and the Chief Secretaries are to continue alongwith the other Committees. After expiry of the term of the State Level Committees, the Chief Secretaries are to take a decision about continuation of the said Committees. The direction was issued as the Chief Secretaries have now taken over the monitoring.
- (ii) Vide order dated 08.04.2019, in O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled

“More river stretches are now critically polluted: CPCB”, the Tribunal while dealing with the issue of remedial action for making 351 river stretches pollution free, **directed constitution of Central Monitoring Committee (CMC) comprising representatives from NITI Ayog, Ministry of Water Resources (MoWR), Urban Development Department, MoEF&CC, NMCG and CPCB representing the Central Government and the Chief Secretaries representing the States/UTs so that a holistic view can be taken on all significant aspects of remedying 351 river stretches.**

- (iii)** Vide order dated 24.04.2019, in *O.A. No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016* (in respect of State of Karnataka), **the Tribunal directed that the CMC should also include the issues dealt with in the present matter in the light of the report of the CPCB identifying the gaps in compliance of Solid Waste Management Rules, 2016, Plastic Waste Management Rules, 2016, Bio Medical Waste Management Rules, 2016, air pollution in 102 cities, pollution in 100 polluted industrial clusters, illegal and unscientific sand mining, these subjects being integral to the purpose for which CMC was being constituted as mentioned in sub para (ii) above. CPCB is to prepare gap analysis report by 15.07.2019 and meeting of CMC is to be held before 31.07.2019.**

- (iv) CPCB has been further directed vide order dated 24.04.2019²⁶ to explore undertaking carrying capacity study of all Eco-sensitive areas and such areas where scientific evidence has established violation of environmental norms in the form of non-attainment cities, polluted river stretches and critically polluted industrial clusters and suggest remedial measures, having regard to the directions passed by this Tribunal, *inter-alia*, in *Anil Tharthare Vs. The Secretary, Env't. Dept. Govt. of Maharashtra & Ors.*,²⁷ *Ajay Khera Vs. Container Corporation of India Limited & Ors.*²⁸ and *Westend Green Farms Society Vs. Union of India & Ors.*²⁹ Remedial measures may be necessary in the light of such study by way of planning steps to regulate population density, vehicle numbers, nature and quality of vehicles, nature and quality of activity to be allowed. Absence of such measures may render it difficult to meaningfully implement the accepted norms of 'Sustainable Development' or 'Intergenerational Equity'.
- (v) Vide order dated 24.04.2018 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016* (in respect of State of Karnataka), **a suggestion was given that the**

²⁶ Vide order dated 24.04.2019 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2018* (State of Karnataka).

²⁷ Para 33 of the order wherein the Tribunal directed constitution of a five Members Expert Committee to carry out carrying capacity study of the area for relevant environment parameters and impact of such expansion on already congested and stressed areas.

²⁸ Para 18 of the order wherein the Tribunal directed assessment of carrying capacity for the NCT of Delhi as well as other major cities particularly 102 non-attainment cities within reasonable time, preferably in one year. The assessment would specifically study capacity in terms of number of vehicles, extent of population, extent of nature of different activities – institutional, industrial and commercial etc.

²⁹ Para 28 of the order wherein the Tribunal directed carrying capacity assessment to regulate activities violating environmental laws.

authorities allocating funds such as Finance Commission or other Central Government Departments may consider incentives to encourage compliance and impose appropriate conditions to ensure such compliance.

(vi) Vide order dated 22.04.2018 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016* (in respect of State of Meghalaya), CPCB was directed to prepare a program³⁰ indicating persons required to be imparted training, subjects of training, resource persons, location of training, duration of training programmes etc. as there is need to develop an institutional training mechanism involving technical, social and environmental issues for training of officers concerned with enforcement of environment norms at ground level. Training is to be an ongoing process at national level, State level and other appropriate levels.

(vii) Vide order dated 10.05.2019 in O.A. No. 148/2016, *Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors.*, the Tribunal directed all the States/ UTs to prepare and furnish action plan to the CPCB for reuse of treated water as the absence of such plan affects recharge of ground water and results in fresh water being used for purposes for which treated water can alternatively be used. **The Tribunal further directed that the CMC may also take cognizance of issue of reuse of treated**

³⁰Vide order dated 22.04.2019, in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2018* (State of Meghalaya).

water as the said matter deals with improving ground water regime and therefore was connected to remedying the 351 polluted river stretches.

(viii) Vide order dated 10.05.2019 in O.A. No. 325/2015, *Lt. Col. Sarvadaman Singh Oberoi Vs. Union of India & Ors.*, this Tribunal considered the issue of conservation of water bodies and issued directions to all the States/ UTs to furnish their respective Action Plans to CPCB. The CPCB was directed to furnish its analysis report to the Tribunal for further directions. **The Tribunal further directed that the Chief Secretaries may monitor the issue at the State level and the CMC may consider the matter at national level as the said matter deals with improving ground water regime and therefore was connected to remedying the 351 polluted river stretches.**

(ix) Vide order dated 13.05.2019 in O.A. No. 95/2018, *Aryavart Foundation Vs. M/s Vapi Green Enviro Ltd. & Ors.*, this Tribunal while considering the issue of unsatisfactory state of treatment of sewage and effluents, directed MoEF&CC to review the scheme of working of CETPs, apart from requiring CPCB to conduct performance audit of working of all State PCBs.

(x) Vide order dated 23.04.2019, in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016* (in respect of State of Tamil Nadu) CPCB has been directed to explore preparation of Annual Environment Plan for the country giving status of

compliance of environmental norms and gaps, if any. In the process, undertaking of assessment of damage to the environment in monetary terms may be considered so that by applying 'Polluter Pays' principle the cost of damage is recovered from identified polluters. This concept is necessary for effective enforcement of environmental rule of law.³¹

IV. PRESENT PROCEEDINGS

28. In pursuance of above, Mr. Alok Kumar, Chief Secretary, Assam is present in person.

29. A status report has been filed on 14.05.2019 on behalf of State of Assam indicating status of compliance of order dated 16.01.2019. The compliance report indicates some of the steps taken for solid waste management. Status of compliance of Plastic Waste Management Rules, 2016, Bio-medical Waste Management Rules, 2016, polluted river stretches and air polluted cities have also been mentioned.

30. Some steps claimed to have been taken by the State of Assam, as stated in the status report are:

- a) The State Government has prepared action plan for solid waste management. Scientific identification and allocation of sites for processing facility and sanitary landfill shall be done within 6 months.

³¹ Vide order dated 23.04.2019 in O.A. No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2018 (State of Tamil Nadu).

- b) The state of Assam has imposed ban on manufacture, supply, store, transport, sale, carry, and/or distribute and use of plastic carry bags, plastic banners, plastic buntings, plastic flex, plastic flags, plastic plates, plastic cups, plastic spoons, cling films and plastic sheets used for spreading on dining table including the above items made of thermocol and plastic which use plastic micro beads in the state of Assam.
- c) There is a safe storage for segregated Bio-medical waste within the premises in most of the facilities. Those facilities which do not have safe storage have been directed to comply.
- d) Directions has been issued to prepare Detailed Project Report (DPR) for installation of Sewage Treatment Plant conforming to environmental standards at three points namely Jonali Point, Sarabhatti and just before confluence with Brahmaputra at Bharalumkh.

31. From perusal of the compliance report and after hearing submissions of the State, we find that steps required to be taken under Rule 22 of the Solid Waste Management Rules, 2016 have not yet been fully completed. It is not clear whether the Local Bodies have submitted their annual reports to the State Pollution Control Board (SPCB) under Rule 24 and whether SPCB has submitted consolidated annual report to the Central Pollution Control Board (CPCB) under the said Rules. We have also found the steps taken for plastic waste management and bio-medical waste management to be inadequate.

32. From the compliance affidavit furnished by the Chief Secretary, huge gap is noticed in the steps taken and the steps required to be taken in terms of the Rules and for ensuring sustainable development. Unless such steps are taken, the unsatisfactory state of environment in the country in general and in the State in particular may not improve.

33. We take note of some of the articles published in the media. Information in the said articles needs to be cross checked and remedial measures taken, if necessary. It is reported as follows.

a) It was in 2012 when Guwahati, the capital city of Assam, was one of those cities in the world with the highest Black Carbon pollution levels. Black Carbon (BC) pollutants are responsible for glacier melting in the Himalayas.³² Not much has changed as Assam is now considered as the most polluted North Eastern State of the country with highest respirable suspended particulate matter (RSPM) and suspended particulate matter (SPM) recorded in last one year.³³

b) In 2018, Assam witnessed the spell of arsenic and fluoride contaminated water in 24 districts.³⁴ Assam is in the middle of grave groundwater contamination crisis. Climatic changes like erratic rainfall which results in sudden long, dry spells, leads to less runoff water seeping into the ground and rejuvenating

³² <https://www.assamtimes.org/node/6662> dated June 26, 2012

³³ <https://www.aqi.in/blog/assam-air-pollution-is-at-an-all-time-high/> dated February 7, 2019

³⁴ <https://timesofindia.indiatimes.com/city/guwahati/groundwater-in-24-districts-have-arsenic/articleshow/66083460.cms> dated October 5, 2018.

water table. All such events result in increase in concentration of minerals like fluoride, that is pumped up by borewells.³⁵

- c) According to CPCB data for 2018, detailing 351 polluted stretches on 323 rivers across the country, Assam comes second after Maharashtra in terms of polluted river stretches.³⁶

A major river, Brahmaputra faces maximum anthropogenic effect. Guwahati lacks a single state-owned sewage treatment plant (STP).³⁷ Apart from the Brahmaputra, the story of Bharalu river is equally pitiful. A decade ago, the Central Pollution Control Board (CPCB) declared the Bharalu river as one of the most polluted rivers in the country, however, its levels of pollution remain dismal even after 10 years. Not surprising that one of the biggest reasons of pollution in Bharalu river not going down over the years is because the city's untreated sewage waste goes into the river in the absence of STP.³⁸

- d) Unscientific dumping of garbage continues at Boragaon near Deepor Beel.³⁹ Silchar produces 85 Metric tons of waste per day.⁴⁰ There is no practice of segregation of waste as Biodegradable and non-biodegradable except for in a few

³⁵ https://www.business-standard.com/article/news-ians/assam-s-groundwater-contamination-will-worsen-experts-warn-119032900336_1.html dated march 29, 2019

³⁶ <https://www.sentinelassam.com/news/managing-waste/> dated December 24, 2018

³⁷ <https://swachhindia.ndtv.com/once-assams-lifeline-the-brahmaputra-river-today-is-struggling-with-oil-pollution-and-waste-disposal-which-are-gradually-rendering-it-lifeless-12018/> dated September 27, 2017.

³⁸ <https://www.guwahatipius.com/article-detail/bharalu-river-in-guwahati-remains-highly-polluted-even-after-10-years> dated January 10, 2019

³⁹ <https://www.sentinelassam.com/news/comply-with-norms-or-close-site-national-green-tribunal-ngt/> dated March 21, 2019

⁴⁰ <http://greenubuntu.com/municipal-solid-waste-management-is-a-big-issue-in-assam/> dated February 8, 2019.

households or waste collection systems at Silchar.⁴¹ Additionally, it was reported that the dumping site, located at 2.0 km away from the Municipal boundary of Silchar city, is uncontrolled, unscientific and non-segregated for solid waste management.⁴²

- e) It is not just Silchar, but cities like Dibrugarh, Jorhat town, Guwahati where waste disposal and management is non-adaptive.⁴³ At present, no proper disposal method is seen in the West Boragaon dumpsite of Guwahati. The municipal trucks simply carry the waste to the dumpsite and dispose it without any processing, which has now become a health risk to the local people with the resultant pollution of the air and water.⁴⁴
- f) Assam is the sixth largest e-waste producing state in India. According to a report by the Comptroller and Auditor General (CAG) in 2016, only 17 per cent of the hospitals, clinics and nursing homes in the state have obtained authorisation from the Pollution Control Board Assam (PCBA). Out of a total of 1,014 health care establishments in Assam, merely 178 have applied for authorisation from the PCBA which is a clear violation of the mandatory norms.⁴⁵ There is just one Common

⁴¹ <http://greenubuntu.com/municipal-solid-waste-management-in-assam-a-case-study/> dated February 23, 2019

⁴² Ibid.

⁴³ <http://greenubuntu.com/waste-disposal-continues-in-open-areas-and-rivers-in-upper-assam-study/> dated April 2018.

⁴⁴ <http://www.assamtribune.com/scripts/detailsnew.asp?id=jun2118/city051> dated June 21, 2018

⁴⁵ <https://www.guwahatipius.com/article-detail/hospitals-clinics-flout-bio-medical-waste-disposal-norms> dated February 5, 2018

Bio-Medical Waste Treatment Facility for the whole of the north-eastern region, at Panikheti in the outskirts of Guwahati. Generally, a CBWTF caters to all hospitals within a radius of 150 km.⁴⁶

- g) Due to unregulated sand mining, there have been instances in the past where, low lying areas in Solartek, Fakirganj, Salmara and Mancachar in Assam have seen large scale erosion and submergence of several villages.⁴⁷ Assam State exchequer has witnessed a huge loss of revenue due to illegal mining.⁴⁸
- h) In the attempt to curb illegal mining, apart from conducting demolition operations ⁴⁹, the Assam Police's Bureau of Investigation had arrested a deputy ranger of Golaghat forest division for his alleged involvement in an illegal sand mining racket in the Doigrung river area.⁵⁰

34. On behalf of CPCB, some data has been furnished in respect of State of Assam and the same is summarized as under: -

1	Solid Waste Management	Number of towns to be covered: 94
		Local Bodies : 26
		Waste Generation : 8110 TPD
		Collected : 7200 TPD
		Landfilling : 0
		Waste processing: Composting, Vermicompost,

⁴⁶ <https://caindia.org/hospital-waste-being-repackaged-and-sold-in-assam/>

⁴⁷ <https://www.northeasttoday.in/sand-mining-goes-unregulated-in-garo-hills/> dated November 23, 2017

⁴⁸ <https://www.guwahatipius.com/daily-news/more-than-10-illegal-sand-mining-sites-demolished-in-sonapur> dated February 2, 2019

⁴⁹ <http://www.assamtribune.com/scripts/detailsnew.asp?id=mar2118/city067> dated March 21, 2018

⁵⁰ http://timesofindia.indiatimes.com/articleshow/64271910.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst dated May 22, 2018.

		Biogas, RDF No. of Dumpsite: 94
2	Plastic Waste Management	Waste Generation : 24030 TPA No. of registered manufacturing units: 8 No. of unregistered units:5
3	Biomedical Waste	No of Hospitals : 1415+ Waste Generation : 8564.95 kg/d Treatment : 6581.27 kg/d Common Bio-medical waste Treatment Facilities : 1 No. of Captive Facilities : 104
4	Polluted River Stretches	P(I)-3 P(II)-1 P(III)-4 P(IV)-3 P(V)- 33 Total : 44
5	Air Quality Management	Non-attainment Cities: Guwahati, Nagaon, Nalbari, Sibsagar, Silchar
6	Industrial Clusters	Byrnihat, Digboi
7	ETP, CETP, STPs	ETPs No. of industries which require ETP: 2435 No. of industries having functional ETP: 1616 No. of industries complying: 1616 No. of industries non-complying: 819

35. Some of the grievances pertaining to the protection of environment in the State of Assam are pending consideration by this Tribunal.⁵¹

36. These facts have been brought to the notice of the Chief Secretary so that necessary action is considered and taken.

V. DELIBERATIONS

⁵¹ Order dated 14.08.2018 in Ashwani Kumar v. Union of India, O.A. 432/2015

Order dated 19.02.2019 in Paryavaran Suraksha Samiti & Anr. vs. Union of India & Ors., O.A. No. 593/2017

Order dated 12.04.2019, Chandra Bhal Singh vs. Union of India & Ors., O.A. No. 347/2016

37. Needless to say that improvement in environment is not only inalienable duty of the State, but is also necessary for sustainable development which is essential for the health and well-being of citizens as well as for intergenerational equity. These principles require that all human activities should be conducted in such a way that the rights of future generations to access clean air and potable water are not taken away. At the cost of repetition, it may be mentioned that water is being polluted because of discharge of untreated sewage and effluents. Air pollution is result of failure to manage solid waste and to prevent other causes leading to air pollution. There are also other issues like deterioration in groundwater level, damage to forests and wild life, unscientific and uncontrolled sand mining etc. Unsatisfactory implementation of law is clear from the fact that inspite of severe damage, there is no report of any convictions being recorded against the polluters, nor adequate compensation has been recovered for damage caused to the environment. Steps for community involvement are not adequate. There is reluctance even to declare some major cities as fully compliant with the environment norms. The authorities have not been able to evolve simplified and standard procedure for preparing project reports and giving of contracts. There is no satisfactory plan for reuse of the treated water or use of treated sewage or waste and for segregation and collection of solid waste, for managing the legacy waste or other wastes, etc.
38. Though there are no official figures available, private studies which need to be verified and cross checked have assessed death

attributable to pollution to be 2.51 million in 2015, highest in the world. Air pollution, the number of deaths in India from ambient air pollution was 1.09 million, while deaths from household air pollution from solid fuels were 0.97 million. In the case of water pollution, 0.5 million deaths were caused by unsafe water source, while unsafe sanitation caused 0.32 million deaths. Deaths from air pollution were a result of diseases such as heart disease, stroke, lung cancer, and chronic obstructive pulmonary disease (COPD). Pollution has been responsible for the most non-communicable disease deaths. India ranks a dismal 110 of 149 countries on the Sustainable Development Index. With rapid urbanization, the country is facing massive waste management challenge. Over 377 million urban people live in 7,935 towns and cities and generate 62 million tonnes of municipal solid waste per annum. Only 43 million tonnes (MT) of the waste is collected, 11.9 MT is treated and 31 MT is dumped in landfill sites. An alarming 80% of India's surface water is polluted. Indian cities generate 10 billion gallons or 38 billion litres of municipal waste water every day, out of which only 29% of it is treated.

39. Since we have found huge gap in steps taken and steps required to be taken to remedy the unsatisfactory state of environment, we had an interaction with the Chief Secretary about the way forward. The gap in the mandate of law on the one hand and actual compliance with law on the other has manifested itself in the form of polluted water, air and land. Its actual measurement in terms of monetary value or the loss on account of adverse impact on public health and

environment or otherwise in terms of number of deaths or diseases does not appear to have been duly and exhaustively undertaken by the official machinery so far for the country or for any particular area. The private reports mention number of deaths and diseases. Death by pollution may be comparable to an offence of homicide and any disease on that account may be likewise comparable to attempt to murder or grievous hurt. Polluter is, thus, liable to be dealt with in the same manner as a person committing any other heinous crime as per law of the land. Mere fact that such polluter creates wealth or employment does not make the offence less serious. The statutory framework prohibits polluting activity and provides for penal consequences. Further, the 'Polluter Pays' principle requires compensation to be recovered to meet the cost of remedying the adverse impact of pollution. Governance of such laws can be held to be satisfactory if the magnitude of punishment of law violators corresponds to the extent of violation of law and the compensation recovered is adequate to meet the cost of damage. There is enough evidence of pollution but no data is shown of corresponding convictions or recovery of adequate compensation for restoration of environment. This calls for authentic study of the extent of damage to the environment and to the public health so that policy makers and law enforcers can bridge the gap.

40. In case extent of convictions for the environment related offences do not correspond to the extent of crime, paradigm shift in policies and strategies for implementation of law may need to be considered.

Similarly, the mechanism for recovery of compensation may need to be revised on that pattern. Such review of policy cannot be left to the Local Bodies or the Pollution Control Boards but has to be at highest level in the State and further review at the national level. As noted in some of the studies, the ranking of the country in compliance of environmental norms needs to be brought to respectable higher position which may be possible only if there is change in policies and strategies for implementation of necessary norms at every level in right direction. The scale of compensation needs to be suitably revised so that the same is deterrent and adequate to meet the cost of reversing the pollution.

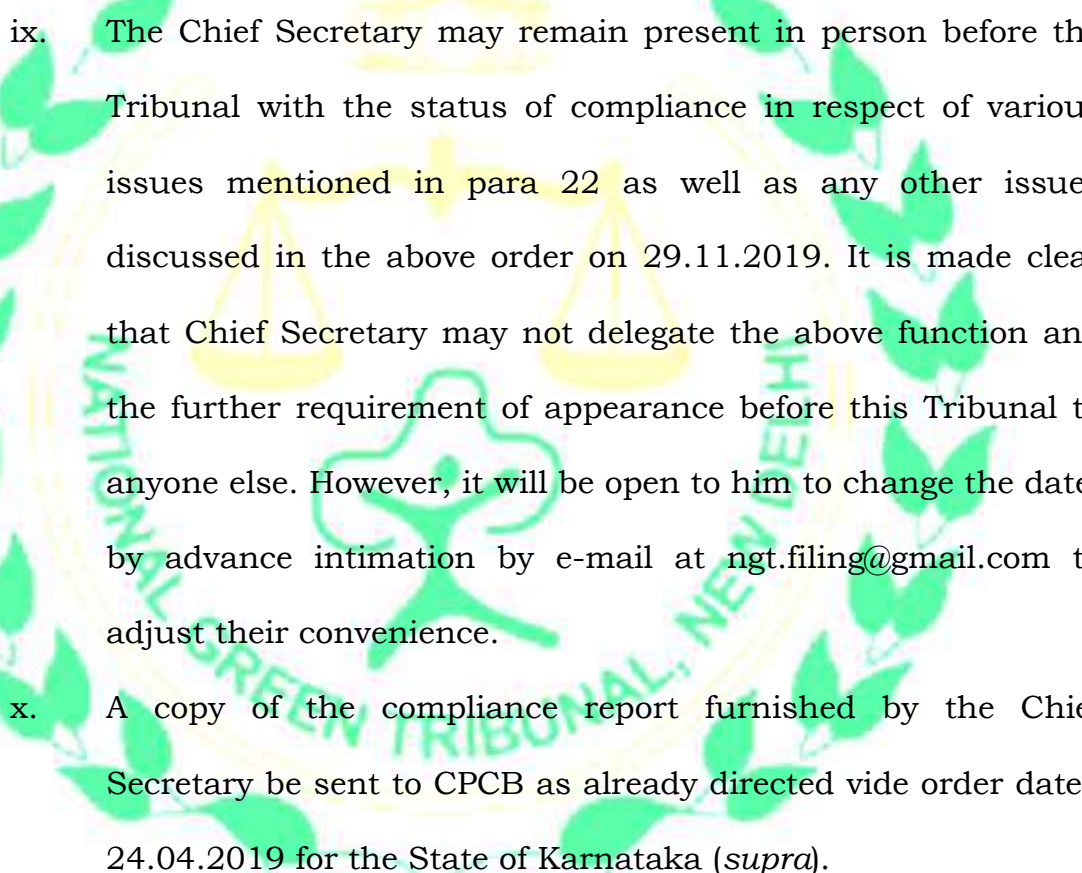
41. Authentic data is required to be compiled which is necessary for proper policy making. The Rules provide for such data to be collected at the state level as well as at the national level. If such data is not furnished timely from ground level with all the requisite details, the policy making remains deficient. Since none of the States is fully compliant with the mandate of statutory waste management rules under various headings, as already noted, remedial measures are necessary. We consider it necessary to observe that at least some major cities/towns/villages be first developed as model and thereafter successful experiment replicated in remaining cities/towns/villages.

VI. DIRECTIONS:

42. In view of above, after discussion with the Chief Secretary, following further directions are issued:

- i. Apart from model towns and cities already notified, atleast three villages in every District may be notified on the website within two weeks from today as model villages which will be made fully compliant within the next six months. Remaining cities, towns and villages of the State may be made fully compliant in respect of environmental norms within one year.
- ii. A quarterly report be furnished by the Chief Secretary, every three months. First such report shall be furnished by August 20, 2019.
- iii. The Chief Secretary may personally monitor the progress, atleast once in a month, with all the District Magistrates.
- iv. The District Magistrates may monitor the status of compliance of environmental norms, atleast once in two weeks.
- v. The District Magistrates or other Officers may be imparted requisite training.
- vi. Estimate of value of environmental degradation and cost of restoration be prepared and compensation be planned and recovered from polluters for environmental restoration and restitution on that basis.
- vii. Performance audit of functioning of all regulatory bodies may be conducted and remedial measures be taken, within six months.
- viii. Introduction of a policy of giving ranking, based on performance on the subject of environment and giving of

rewards or other incentives on that basis to individual areas, localities, institutions or individuals may be considered. This may also include encouraging students or other citizens significantly contributing to the cause of environment. The best practices may be evolved, if necessary, in the light of experiences on the subject. This may help in educating and involving public at large which may help in enhancing of environmental laws.

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- ix. The Chief Secretary may remain present in person before the Tribunal with the status of compliance in respect of various issues mentioned in para 22 as well as any other issues discussed in the above order on 29.11.2019. It is made clear that Chief Secretary may not delegate the above function and the further requirement of appearance before this Tribunal to anyone else. However, it will be open to him to change the date, by advance intimation by e-mail at ngt.filing@gmail.com to adjust their convenience.
- x. A copy of the compliance report furnished by the Chief Secretary be sent to CPCB as already directed vide order dated 24.04.2019 for the State of Karnataka (*supra*).

43. The issue of recovery of damages from the States for their failure to comply with the environmental norms, including the statutory rules and orders of this Tribunal, will be considered will be considered later. The Tribunal may also consider the requirement of performance

guarantee of a particular amount in case progress achieved is not found to be satisfactory.

VII. FURTHER OBSERVATIONS

44. As already noted, we have had personal interaction with the Chief Secretaries of all the States / Advisors to the Administrators of the Union Territories, except two (Jharkhand and Jammu & Kashmir). As already noted, this exercise was undertaken with an expectation that involvement of highest executive functionary will help in remedying the serious situation which has arisen with regard to degradation of the environment in the country. As already noted, the data compiled by the Central Pollution Control Board (CPCB) has shown that 351 river stretches in the country are polluted, 102 cities have been declared as 'non-attainment' and 100 industrial cluster are critically polluted as per Comprehensive Environmental Pollution Index (CEPI). At the same time there is non-compliance of Solid Waste Management Rules, 2016, Bio Medical Waste Management Rules, 2016, Plastic Waste Management Rules, 2016, Construction and Demolition Waste Management Rules, 2016 and Hazardous Waste Management Rules, 2016. There are serious issues of unregulated sand mining, illegal ground water extraction, absence of rain water harvesting, encroachment of catchment areas and lack of adequate safeguards for protection of eco-sensitive zone. While we are not undermining the sincerity and seriousness of efforts of any authority, the fact remains that even after Clean India Mission has been taken up for the last few years, every State/UT remains non-compliant in terms of Waste

Management Rules. Legacy waste dumps continue to be untackled problem to a great extent. Waste disposal, particularly non-biodegradable waste processing still remains a challenge. Plastic waste management, Bio medical waste management are still to be fully implemented. Untreated sewage as well as effluents are still being discharged into rivers and water bodies. Carrying capacity studies and making and implementation of policies based on such studies is still a dream. While situation is so serious, the regulatory regime is inadequate to handle the challenge as observed by the Hon'ble Supreme Court of India⁵² and also noted in some orders of this Tribunal⁵³. Apart from manning of such bodies, by the competent personnel there is no comprehensive training programme for those who are to enforce the regulatory regime. Awareness and community involvement are not adequate. There is no clarity at every level about the right technology and implementation strategies to be used. Pollution continues to be profitable activity in absence of effective and stringent enforcement of law. Convictions are insignificant, when compared to the large scale violation of law, declared to be criminal offences. Compensation recovered is hardly sufficient to restore the environment. The Chief Secretaries, during interaction, expressed lack of clarity about the technical know-how, techno economic viable options and lack of financial and human resources.

⁵² *Techi Tagi Tara v. Rajendra Singh Bhandari & Ors*, (2018) 11 SSC 734.

⁵³ *Aryavart Foundation v. M/s. Vapi Green Enviro Ltd. & ors.* in O.A. No. 95/2018

45. As already noted, the Government of India has initiated significant projects like *Swachh Bharat Mission*⁵⁴ (SBM) which envisages cleaning of the streets, roads, eliminating open defecation, construction of community toilets with a view to ensure that India reaches SDG 6, established by the UN. The Government of India has also initiated *Namami Gange*⁵⁵ to remedy serious threat to human health and environment caused by the pollution of the Ganges. The river Ganges provides 40 % of water in 11 States but it is one of the 6th most polluted rivers in the world. The National Council for Rejuvenation, implementation of rules, for community involvement, Protection and Management of River Ganga (National Ganga Council) has been constituted under the Environment (Protection) Act, vide notification dated 07.05.2016. This envisages five tier structure at National, State and District level for prevention, control and abatement of pollution in river Ganga and to ensure continuous adequate flow of water. The National Ganga Council acts under the Chairmanship of the Hon'ble Prime Minister of India. Empowered Task Force (ETF) is under the Ministry of Water Resources, River Development & Ganga Rejuvenation, National Mission for Clean Ganga⁵⁶ (NMCG), SGC and DGC are under the concerned State

⁵⁴ The Government of India launched "Swachh Bharat Mission (Urban)" on 2nd October, 2014 with the objectives of Eliminating open defecation, Eradication of manual scavenging, 100% collection and scientific processing/disposal reuse/recycle of Municipal Solid Waste. to bring about a behavioural change in people regarding healthy sanitation practices. Generate awareness among the citizens about sanitation and its linkages with public health, strengthening of urban Local Bodies to design, execute and operate systems etc.

⁵⁵ "Namami Gange" Program integrates the efforts to clean and protect the Ganga River in a comprehensive manner. Program also focuses on involving the States and grassroots level institutions such as Urban Local Bodies and Panchayati Raj Institutions in implementation. The program would be implemented by the National Mission for Clean Ganga (NMCG), and its State counterpart organization i.e., State Program Management Groups (SPMGs).

⁵⁶ The National Mission for Clean Ganga (NMCG) is the implementation wing of National Ganga Council which was set up in October 2016 under the River Ganga (Rejuvenation, Protection and Management) Authorities order 2016.

Governments and Districts abutting river Ganga and its tributaries. The NMCG is headed by its Director General, who is the Additional Secretary in the Government of India and is to handle projects upto Rs. 1,000/- Crores. The Namami Gange envisages creation of sewage treatment capacity, river front development, river surface cleaning, bio-diversity and industrial effluent monitoring etc. These projects are significant for environment protection but question is whether these projects can be implemented in isolation without fully implementing the Waste Management Rules, preventing discharge of untreated effluent and sewage in the rivers, drains or other water bodies.

46. We are of the view that integral to the above flagship programmes of the Government of India are the projects for due implementation of rules for waste management and integral plan for remedying pollution of the river stretches, revamping of regulatory enforcement regime, institutional mechanism for training, regulating sand mining, proper utilization of the treated water, and protection of water bodies.

47. In this background, the Tribunal has directed setting up of monitoring committee with high level representatives of the Central Government on the one hand and Chief Secretaries of the State on other to consider remedial action for remedying the polluted river stretches, discuss remedial measures to deal with the gaps in compliance of waste management rules, measures to remedy non-attainment cities, polluted industrial clusters, illegal sand mining,

The order dissolved National Ganga River Basin Authority. The aim is to clean the Ganga and its tributaries in a comprehensive manner.

reuse of treated water, conservation of water bodies in the manner already noted in para 27 above. **We think it necessary to suggest that Ministry of Drinking Water may also be added to the nominees representing Central Government. The deliberations may be preferably presided over by the Cabinet Secretary. If viable, PMO may depute an observer at important deliberations.**

48. The Chief Secretaries of all the States may send their quarterly reports as already directed, after including therein the follow up action of deliberations in the CMC and appear on the dates already fixed.

49. Above directions have become necessary as compliance of the relevant rules and norms is not only necessary for success of of flagship programmes of the Government of India but also public health and environmental rule of law in the country. The issues basically are of governance requiring policy making and implementation strategies. The highest executive authorities can deliberate upon the same and the Tribunal can exercise jurisdiction effectively after such exercise is duly undertaken. In the light of such exercise, the Tribunal can have the benefit of the report of such deliberations and the matter can be considered thereafter within the scope of section 15 of the National Green Tribunal Act 2010 and the parameters laid down section 20 of the National Green Tribunal Act 2010.

50. The Registry may forward quarterly reports received from the Chief Secretaries as and when received to the CPCB so that CPCB may

prepare a gap analysis report and present the same to this Tribunal. The matters may need not be listed on the dates mentioned in the said orders for consideration of quarterly reports but may be listed on the dates Chief Secretaries are to appear.

51. The CMC may send first report of its observations as already directed in earlier orders of this Tribunal for being considered in the said cases preferably by August 31, 2019.

Put up the matter pertaining to the State of Assam for further consideration on 29.11.2019.

A copy of this order be sent by e-mail to all the Chief Secretaries, Cabinet Secretary, PMO, Secretaries of Ministry of Water Resources, Ministry of Urban Development, Ministry of Drinking Water, MoEF&CC, NITI Aayog, NMCG, Finance Commission and CPCB.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 17, 2019
Original Application No. 606/2018

ANNEXURE P-5

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 606/2018

(In respect of State of Assam)In re: **Compliance of Municipal Solid Waste Management Rules,
2016 and other environmental issues**

Date of hearing: 27.01.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**Present: Shri Paban Kumar Borthakur, IAS (Chief Secretary)
Sh Akash Deep, IAS, Commissioner and Secretary, Environment and
Forest Department
Mrs Kavitha Padmanavan, IAS Commissioner and Secretary, Department
of Housing and Urban Affairs
Shri Kailash Karthik IAS MD SBM-R and MD JJM
Shri Bikram Kairi IAS, Commissioner P&RD
Dr Shantanu Kumar Dutta, Member Secretary, Pollution Control Board,
Assam**ORDER****The Issue – Monitoring of compliance of waste in terms of orders of
Hon'ble Supreme Court dated 02.09.2014 and 22.02.2017**

1. The issues of solid as well as liquid waste management are being monitored by this Tribunal as per orders of the Hon'ble Supreme Court order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel vs. Union of India & Ors.*, with regard to solid waste management and order dated 22.02.2017 in W.P. No. 375/2012, reported in (2017) 5 SCC 326, *Paryavaran Suraksha vs. Union of India*, with regard to liquid waste management. Other related issues include pollution of 351 river stretches,

124 non-attainment cities in terms of air quality, 100 polluted industrial clusters, illegal sand mining etc. have also been dealt with separately. We propose to limit the proceedings in the present matter to **two issues of solid waste and sewage management.**

ORDERS OF THE HON'BLE SUPREME COURT TRANSFERRING THE ISSUE OF SOLID WASTE MANAGEMENT AND LIQUID WASTE MANAGEMENT TO THIS TRIBUNAL:

Solid Waste Management

2. While transferring the issue of solid waste management vide Order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors.*, the Hon'ble Supreme Court observed **“handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010. The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions.”**

3. Before transferring the said proceedings, matter was monitored by Hon'ble Supreme Court for about eighteen years and orders passed include *(2000) 2 SCC 679* and *(2004) 13 SCC 538*, directing scientific disposal of waste by setting up of compost plants/processing plants, preventing water percolation through heaps of garbage, creating focused **‘solid waste**

management cells' in all States and complying with the Municipal Solid Waste Management Rules, 2000 (now replaced by SWM Rules, 2016). **It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees.** Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums has multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of "slum clearance" there is "slum creation" in cities which is further aggravating the problem of domestic waste being strewn in the open.** Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks. Further observations in the judgment of the Hon'ble Supreme Court¹are:

"3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

"1. As a result of the Hon'ble Supreme Court's orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92%

¹ (2004) 13 SCC 538

and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.

2. **All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001**, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.
3. **Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.**
4. **States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold.** The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.
5. Unless each State creates a focussed '**solid waste management cell**' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.
6. **The admitted position is that the MSW Rules have not been complied with even after four years.** None of the functionaries have bothered or discharged their duties to ensure compliance. **Even existing dumps have not been improved.** Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."

4. In this regard, reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand*² and *B.L. Wadhera v. Union of India and Ors.*³ laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.** We note that even after 26 years of monitoring, 18 years by Hon'ble Supreme Court and eight years by this Tribunal, ground situation remains unsatisfactory.

Liquid Waste Management

5. Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*⁴ required this Tribunal to monitor directions for proper treatment of sewage to prevent untreated sewage and other effluents being discharged in water bodies by directing "We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional "primary effluent treatment plants", and the setting up of functional "common effluent treatment plants" within the timelines, expressed above, shall be enforced by the Member Secretaries of the Pollution Control Boards concerned. The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. **The Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board**

² (1980) 4 SCC 162

³ (1996) 2 SCC 594

⁴ (2017) 5 SCC 326

concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.”

6. Extracts from the judgement of the Hon’ble Supreme Court in *Paryavaran Suraksha Samiti Vs. Union of India* are as follows:

“7. Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants. **We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks.** The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up “common effluent treatment plants”, according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.

X.....X.....X.....

10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to “public health, sanitation conservancy and

solid waste management”, we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. **In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the “common effluent treatment plants”, within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility. The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). The norms for generating funds for setting up and/or operating the “common effluent treatment plant” shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the “common effluent treatment plants”, which are presently dysfunctional, from their own financial resources.**

11. Just in the manner suggested hereinabove, for the purpose of setting up of “common effluent treatment plants”, the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge **industrial pollutants and sewer, directly into rivers and water bodies.**
12. We are of the view that in the manner suggested above, **the malady of sewer treatment, should also be dealt with simultaneously. We, therefore, hereby direct that “sewage treatment plants” shall also be set up and made functional, within the timelines and the format, expressed hereinabove.”**

7. Expression “Common Effluent Treatment Plants” in para 7 may infact refer to the STPs, as the context shows.

8. On this subject, inspite of deadline of 31.3.2018 fixed by Hon'ble Supreme Court for finalizing funding arrangements and February 2020 for all arrangements for preventing discharge of pollutants and rigorous monitoring by this Tribunal for the last five years, ground situation remains unsatisfactory.

Procedural History of present proceedings before this Tribunal

9. In the light of above, the Tribunal has considered the matter in the last eight years as far as solid waste management is concerned and more than five years as far as liquid waste management is concerned. Main orders on the subject include orders dated 22.12.2016, 31.08.2018, 16.01.2019, 28.8.2019, 12.09.2019, 6.12.2019, 07.01.2020, 28.02.2020, 02.07.2020, 14.12.2020, 22.2.2021, 30.11.2021, 14.12.2020 and 31.05.2022. First two orders - dated 22.12.2016 and 31.08.2018 deal only with solid waste management. Orders dated 28.8.2019, 6.12.2019 and 22.2.2021 deal with only liquid waste management while the remaining orders deal with solid waste as well as liquid waste management. Issue of liquid waste has also been separately dealt with in OA No. 593/2017 which was finally disposed of on 22.02.2021 with direction that further monitoring be undertaken by Central Monitoring Committee constituted by the said order. It was held that monitoring by the Tribunal cannot be for indefinite time and State authorities are primarily responsible for such monitoring after adequate monitoring by the Tribunal. By the same order, the Tribunal also dealt with the issue of 351 identified polluted river stretches in OA 673/2018. This is apart from individual cases dealing with solid and liquid waste management. A brief reference of these orders will be made hereafter.

Orders dated 22.12.2016 and 31.08.2018

10. Vide order dated 22.12.2016, (2016) SCC Online NGT 2981, the issue of Solid Waste Management was disposed of requiring strict compliance of Solid Waste Management Rules, 2016 by all the States/UTs making it clear that if violations continue, the State will be liable to pay compensation. Later, matter was taken up to ascertain compliance status and finding that all the States/UTs were still non-compliant in the matter, the matter was again taken up and fresh directions issued for monitoring by the Tribunal constituted Monitoring Committees vide order dated 31.08.2018. Later, continuance of the committees was left to discretion of the States, depending on their own monitoring mechanism.

Order dated 16.01.2019 requiring personal presence of Chief Secretaries of all States and UTs to explore remedial action after interaction with them and further orders

11. In view of continuing non-compliances, vide order dated 16.01.2019, the Tribunal directed personal presence of Chief Secretaries of all States and UTs for interaction to ensure compliance. The Tribunal held that large scale non-compliance of environmental norms was resulting in deaths and diseases and irreversible damage to the environment, without accountability for such failures. Though violation of the Rules as well as orders of this Tribunal is criminal offence, still there was rampant violation by State authorities practically with no accountability and for which unhappy situation was required to be remedied by involvement of highest functionaries of the State in the interest of public health and to uphold rule of law.

12. In terms of order dated 16.1.2019, the Chief Secretaries of all the States/UTs appeared on different dates till 18.07.2019 and the Tribunal, after reviewing the status of noncompliance on most of the issues, directed

further effective steps to be taken for compliance of the Rules and the environmental norms. The Chief Secretary of Assam appeared on 17.05.2019 and following directions were issued:

“42. In view of above, after discussion with the Chief Secretary, following further directions are issued:

- i. Apart from cities and towns declared as model cities and towns, at least three Villages in every District of the State may be identified within two weeks and made fully compliant in respect of environmental norms within six months. Remaining State may be made fully compliant within one year.*
- ii. A quarterly report be furnished by the Chief Secretary, every three months. First such report shall be furnished by July 20, 2019.*
- iii. The Chief Secretary may personally monitor the progress, atleast once in a month, with all the District Magistrates.*
- iv. The District Magistrates or other Officers may be imparted requisite training.*
- v. The District Magistrates may monitor the status of compliance of environmental norms, atleast once in two weeks.*
- vi. Estimate of value of environmental degradation and cost of restoration be prepared and compensation be planned and recovered from polluters for environmental restoration and restitution on that basis*
- vii. Performance audit of functioning of all regulatory bodies may be got conducted and remedial measures be taken, within six months.*
- viii. Introduction of a policy of giving ranking, based on performance on the subject of environment and giving of rewards or other incentives on that basis to individual areas, localities, institutions or individuals may be considered. This may also include encouraging students or other citizens significantly contributing to the cause of environment. The best practices may be evolved, if necessary, in the light of experiences on the subject. This may help in educating and involving public at large which may help in enhancing of environmental laws.*
- ix. The Chief Secretary may remain present in person before the Tribunal with the status of compliance in respect of various issues mentioned in para 22 as well as any other issues discussed in the above order on 29.11.2019. It is made clear that Chief Secretary may not delegate the above function*

and the further requirement of appearance before this Tribunal to anyone else. However, it will be open to him to change the date, by advance intimation by e-mail at ngt.filing@gmail.com to adjust their convenience.”

13. **In short, the Tribunal expected three model cities, towns and villages to be made compliant in six months and the remaining State with one year. It was this target for the State by setting up of environmental cells directly under the Chief Secretaries, regular periodical monitoring by the Chief Secretaries at the State level and by the District Magistrates at the District level.** Further direction also was to take action for non-compliance by recovery of compensation and recording adverse ACRs against erring officers. The Tribunal also directed filing of quarterly reports by the Chief Secretaries. Based on such reports, CPCB was to file consolidated status reports. The Chief Secretaries were to appear again after six months with updated status of compliance.

14. The Tribunal has been receiving progress reports from States as well as monitoring Committees wherever functioning which have been considered by further orders.

Further Review after completing round of interaction with all Chief Secretaries by order dated 12.9.2019

15. The matter was then reviewed on 12.09.2019 in the light of report of the CPCB dated 09.09.2019 **showing wide gaps in compliance of solid waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters and non-attainment cities.** A fresh schedule for appearance of the Chief Secretaries was issued. Vide order dated 07.01.2020, the Tribunal directed CPCB to ascertain Compliance of Solid Waste Management Rules, 2016 in terms of MSW generated, segregated and treated, gaps in the waste processing, enforcement of statutory timelines and orders of this Tribunal,

number of sites remediated, and quantity of legacy waste therein and timelines for completing remediation. It was further directed that on the subject of sewage treatment, CPCB has to ascertain quantity of sewage generated and treated in the State, gap in the sewage treatment and timelines to bridge the gap, including strategy for use of treated water for secondary purpose. CPCB was accordingly directed to redesign its formats for securing relevant quantifiable information.

Order dated 28.02.2020

16. Accordingly, the Chief Secretaries of 18 States/UTs appeared and filed updated status reports. Since there still existed huge gaps in compliance, further directions were issued by way of different orders. Last such order is of 28.2.2020. Other orders are on same pattern. The direction part of the said order is reproduced below:

“41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:

- a. In view of the fact that most of the statutory timelines have expired and directions of the Hon’ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, **interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33***

above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

- b. Legacy waste remediation was to ‘commence’ from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28⁵ even though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.**
- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

⁵ The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

- d. *The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:*
- i. ***Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.***
 - ii. ***Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.***
 - iii. ***Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.***
- e. *Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.*
- f. *An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*
- g. *Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."*

17. Timelines under the Rules referred to in sub para (a) above are :

“22. Time frame for implementation:- *Necessary infrastructure for implementation of these rules shall be created by the local bodies and*

other concerned authorities, as the case may be, on their own, by directly or engaging agencies within the time frame specified below:

Sl. No.	Activity	Time limit from the date of notification of rules
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	Identification of suitable sites for setting up solid waste processing facilities.	1 year
2.	Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more.	1 year
3.	Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities.	2 years
4.	Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source.	2 years
5.	Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.	2 years
6.	ensure separate storage, collection and transportation of construction and demolition wastes.	2 years
7.	setting up solid waste processing facilities by all Local Bodies having 100000 or more population.	2 years
8.	Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population.	3 years
9.	setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules.	3 years
10.	setting up common or regional sanitary landfills by 3 years all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules.	3 years
11.	bio-remediation or capping of old and abandoned dump sites.	5 years

Order dated 02.07.2020

18. The matter was then considered on 02.07.2020. Having regard to the pandemic, appearance of remaining Chief Secretaries was deferred.

Order dated 14.12.2020

19. The matter was further considered on 14.12.2020 for review of progress. Scheduled appearance of remaining Chief Secretaries was dispensed with but it was directed that monitoring at the level of Chief Secretaries may continue and quarterly status reports be filed with CPCB so that CPCB may file a consolidated report every six months before the Tribunal. It was further directed that compensation in terms of earlier orders be recovered and credited to a separate account with the Environment Department of concerned State to be used for restoration of environment. It was also observed that in these proceedings Solid Waste Management also will be monitored, other issues being considered in separate proceedings.

Further review on 30.11.2021 – huge gaps still found and hence, another round of interaction with Chief Secretaries proposed

20. The matter was thereafter taken up on 30.11.2021 to consider the report of CPCB dated 25.10.2020 giving compliance status in 32 States/UTs as follows:-

“3.0 SOLID WASTE MANAGEMENT STATUS

xxxxxx.....xxx

Table:1 Overview of quarterly report on SWM submitted by 29 States/UTs

Sl. No.	ITEM	Status	Remarks
1	xxx	xxx	xxx
2	Over all waste management status in Arunachal Pradesh		

2(a)	Quantity of MSW generated (TPD)	Information provided by 29 States/UTs (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)	<ul style="list-style-type: none"> • Total Quantity of MSW generated: 150858.951 TPD • Maximum waste generation is in five (7) States/UTs (>10000 TPD)- <ul style="list-style-type: none"> ➤ Maharashtra ➤ Uttar Pradesh ➤ West Bengal ➤ Tamil Nadu ➤ Karnataka ➤ Delhi ➤ Telangana
2(b)	Xxx	xxx	xxx
2(c)	Xxx	xxx	xxx
2(d)	Quantity of MSW processed (TPD)	Information provided by 29 States/UTs (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)	<ul style="list-style-type: none"> • Total quantity of MSW processed: 94435.318 TPD • 100% MSW is processing reported in two (2) States: <ul style="list-style-type: none"> ➤ Chhattisgarh ➤ Himachal Pradesh
2(e)	Xxx	xxx	xxx
2(f)	Gap in Solid Waste Management UTs (TPD) [2(a)- 2(d)- 2(e)]	Information provided by 29 States/UTs (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)	<ul style="list-style-type: none"> • Gap in Solid Waste Management: 44651.1792 TPD
xxx	Xxx	xxx	xxx
6	Legacy Waste management		
6(a)	Number of dumpsites (No.)	Information provided by 28 States/UTs (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal) Information not provided by 1 State/UTs: (Chandigarh)	<ul style="list-style-type: none"> • Total Number of dumpsites: 2129 • Max in MP: 378

6(b)	Quantity of Waste dumped at dumpsites (Tons)	<p><u>Information provided by 27 States/UTs</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)</p> <p><u>Information not provided by 2 State/UTs:</u> (Chandigarh, Madhya Pradesh)</p>	<ul style="list-style-type: none"> • Quantity of Waste dumped at dumpsites (Tons): 185558287.3 Tons • Max in Maharashtra – 41683186 Tonnes
6(c)	Number of dumpsites cleared (No.)	<p><u>Information provided by 25 States/UTs</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Nagaland, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)</p> <p><u>Information not provided by 4 State/UTs:</u> (Chandigarh, Meghalaya, Odisha, Puducherry)</p>	<ul style="list-style-type: none"> • Number of dumpsites cleared (No.): 498 Chhattisgarh- 160 Maharashtra- 134 Uttarakhand – 60 M.P.-50 Tamil Nadu - 27 H.P-17 Gujarat- 16
6(d)	Number of dumpsites in which biomining has commenced (No.)	<p><u>Information provided by 26 States/UTs</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)</p> <p><u>Information not provided by 3 State/UTs:</u> (Chandigarh, Odisha, Puducherry)</p>	<ul style="list-style-type: none"> • Number of dumpsites in which biomining has commenced (No.): 496 Tamil Nadu – 117 Maharashtra-76 M.P-73 West Bengal – 64 Telangana - 52 T.N-117 Rajasthan – 23 Haryana – 16 Karnataka – 15 Uttarakhand – 12 HP - 10
6(e)	Time frame for clearing all dumpsites	<p><u>Information provided by 24 States/UTs</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)</p> <p><u>Information not provided by 5 State/UT:</u> (Bihar, Chandigarh, Meghalaya, Nagaland, Telangana)</p>	<ul style="list-style-type: none"> • Timeline exceeding December, 2022 in following States/UTs: Delhi, Goa, J&K, Karnataka, Puducherry and Tamil Nadu

xxx.....xxx.....xxx

Solid Waste Management

4.0 SUMMARY & CONCLUSIONS

a. Total No. of ULBs in 29 States/UTs is 4186.

b. As per information provided by 29 States/UTs - total waste generated is 150858.951 TPD of which 94435.318 TPD is processed, which is 62.6% of the total

waste generated in these States/UT. 11772.4538 TPD (7.8%) of the waste is landfilled and the gap in Solid waste management in 29 States is 45071.771 TPD which is 29.8% of the waste generated in these States/UTs.

- c. Information on MRF has been provided for 28 States/UTs covering 77% of ULBs in these States/UTs.
- d. Information on Recycling facilities have been provided for 22 States/UTs covering 39% of ULBs in these States/UTs
- e. Information on Composting facilities has been provided for all 29 States/UTs covering 70% of ULBs in these States/UTs
- f. Information on WtE has been provided for 25 out of 29 States/UTs covering 1.9% of ULBs in these States/UTs.
- g. Information on RDF has been provided for 24 out of 29 States/UTs covering 12.4% of ULBs in these States/UTs.
- h. Information on Bio-methanation has been provided for 27 out of 29 States/UTs covering 7.1% of ULBs in these States/UTs.
- i. Information on Landfills has been provided in 24 out of 29 States/UTs covering 18.9% of ULBs in the States.**
- j. 498 of 2111 (23%) dumpsites in 25 States/UTs have been cleared and Remediation has been initiated in 23% (496) of the dumpsites.
- k. Model Town/ Cities have been identified in 25 States/UTs.
- l. 16 States /UTs have established environmental cells.
- m. 15 States /UTs have standardised rates for procurement of services/equipment required for solid waste management.**
- n. In view of above, States/UTs need to develop of ULB wise action plan for collection, segregation, transportation and processing of waste and lay down an appropriate governance framework at state and district levels.”

12. xxxxxx.....xxx

13. Based on above data, the State-wise and city-wise summary is as follows:-

“State-wise summary

Sl. No.	States	Number of ULBs	Quantity of MSW generated (TPD)	Quantity of MSW collected (TPD)	Quantity of MSW Processed	Quantity of MSW disposed in	GAP in SWM UTs (TPD)

					(TPD)	secured land fill site (TPD)	
1.	Andhra Pradesh	124	6898	6830	2180	257.5	4460.5
2.	Arunachal Pradesh	02	67	61	8	55	04
3.	Assam	96	1178	1070	389	0	790
4.	Bihar	142	2240.20	2240.20	681	1559.2	0
5.	Chandigarh	01	512.6	512.6	104.5	442.3	0
6.	Chhattisgarh	166	1650	1650	1650	0	0
7.	Delhi	5	11038.335	11038.335	5262.335	400	5776
8.	Goa	14/ 191(RLBs)	226.67/ 317(RLBs)	218.67/ 258(RLBs)	196.67/ 258(RLBs)	NIL	30/ 59(RLBs)
9.	Gujarat	164	9567	9567	8514.63	1052.37	0
10.	Haryana	89	5523	5287 approx.	2696 approx.	30	2797
11.	Himachal Pradesh	54	370	370	370	0	0
12.	J&K	78	1389.1	1303.52	244	923.7	221.4
13.	Karnataka	316	11085	10198	6817	1250	3018
14.	Kerala	93	3472	1261	2502	Nil	970
15.	Lakshadweep	0 (10 Panchayats are existing)	35	10.48	10.48	Nil	24.52
16.	Madhya Pradesh	378	7980	7193	6431	762	787
17.	Maharashtra	396 ULBs + 07 CBs = 403	24410	23234	20319	1626	2465
18.	Meghalaya	7	229.18	191.19	9.64	50.96	168.58
19.	Nagaland	39	331.49	258.49	163.9	8	159.59
20.	Odisha	114	1951	1951	1569	-	382
21.	Puducherry	5	345	345	71	22.5	262
22.	Rajasthan	196	6523	6450	2718	GAP	3805
23.	Sikkim	7	74.7	74.6	12.56	62.032	0
24.	Tamil Nadu	664	13593	13185	9787	0	3806

25.	Telangana	142	10403	10403	7968	1001	1434
26.	Tripura	20	333.906	317.685	214.063	12.8918	106.951
27.	Uttar Pradesh	651	14468	14468	9705	1095	3668
28.	Uttarakhand	91	1255.77	1255.77	645.54	Landfill functional in Dehradun and Haridwar only	310.23
29.	West Bengal	125	13709	13356	2896	1187	9626

21. The data of sewage as per report dated 12.02.2021 filed by the Central Monitoring Committee, headed by Secretary Jal Shakti, Government of India, titled '**3rd QUARTERLY REPORT OF THE CENTRAL MONITORING COMMITTEE (CMC) IN COMPLIANCE OF THE ORDER DATED 21.09.2020**' in O.A. No. 593/2017, Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors. noted in order dated 22.02.2021 is reproduced below:

“Existing Sewage Infrastructure

48,004 MLD of sewage (from urban settlements) is being generated in 31 States/ UTs and 30,001 MLD capacity of STPs (1249 nos.) is existing which approximates to about 62% of sewage generation. Against the existing capacity, only 56% of the capacity is being utilized for treatment of municipal sewage. This leaves a gap of 17,027 MLD in treatment capacity. The details of sewage generation, existing sewage treatment capacity, its utilization and gap thereof is presented in Table-1.

Table-1: Details of Existing Sewage Infrastructure in the 31 States/ UTs

No.	State	Sewage Generation (in MLD)	Existing STP (capacity in MLD and No.)	Capacity Utilization (In MLD)	Gap in Treatment at present (in MLD)
1	Andhra Pradesh	1463.20	515.85 (43 STPs)	473.77 (91%)	947.35
2	Assam	435.53	0	0	435.53
3	Bihar	651.5	230 (6 STPs)	100 (44%)	421.5
4	Chhattisgarh	600	73.1 (3 STPs)	6 (8%)	526.9

5	Daman, Diu And Dadra Nagar Haveli	21.2	17.21 (2 STPs)	6.1 (35%)	3.9
6	Delhi	3273	2715 (35 STPs)	2432 (90%)	558
7	Goa	112.53	78.35 (9 STPs)	29 (37%)	34.18
8	Gujarat	4003	3485 (73 STPs)	2739 (78%)	518
9	Haryana	1267	1892 (155 STPs)	1189 (62%)	-
10	Himachal Pradesh	163.5	120.5 (65 STPs)	76.8 (64%)	43
11	Jammu & Kashmir	523	139 (15 STPs)	82.9 (60%)	383.08
12	Jharkhand	452	108 (14 STPs)	83%	343.8
13	Karnataka	3356.5	2242 (125 STPs)	1513.5 (67%)	1114
14	Kerala	317	124.15 (13 STPs)	91.12 (73%)	192
15	Madhya Pradesh	2183.65	618.23 (23 STPs)	472.6 (76%)	1565.4
16	Maharashtra	9758	7747 (142 STPs)	4207 (54%)	2011
17	Manipur	115	27 (1 STP)	9 (33%)	88
18	Meghalaya	75	1.85 (8 STPs)	1.82 (98%)	73
19	Mizoram	68	10 (1 STP)	0	58
20	Nagaland	44.3	25.4 (1 STP)	0	18.9
21	Odisha	367	91 (5 STPs)	70 (76%)	276
22	Puducherry	88	56 (5 STPs)	35 (62%)	32
23	Punjab	2111	1628.5 (116 STP)	80%	482.5
24	Rajasthan	1551	999 (80 STPs)	694.5 (69%)	552
25	Sikkim	47.68	19.5 (7 STPs)	60%	28
26	Tamil Nadu	3673.3	1616 (66 STPs)	919 (56%)	1320
27	Telangana	2613	888 (31 STPs)	735.8 (82%)	1724.45
28	Tripura	82.5	8 (1 STP)	3 (37%)	74.5
29	Uttarakhand	329.3	379 (63 STPs)	232.9 (61%)	-
30	Uttar Pradesh	5500	3370 (106 STPs)	2630.6 (78%)	2130

31	West Bengal	2758	776.32 (47 STPs) + 910 MLD addl treatment through EKW	289.89 (37%)	1071.68
Total		48,003.69	30,000.96 (1261 STPs)	55.9%	17,026.58

22. From the above, it is seen that there was gap in generation and processing of solid waste to the extent of about 56400 TPD (about 60,000 TPD) and legacy waste figure was mentioned at 18.55 crore tones. On the issue of liquid waste management, the gap shown was 17,026 (above 20,000). The data was however found to be not conclusive requiring further verification. The Tribunal in its order dated 30.11.2021 observed:-

“1to14....xxx.....xxx.....xxx

15. We also find that the report does not capture the entire data and correctness of data is not free from doubt. The same needs to be cross-checked. In particular, data for States of Bihar, Chhattisgarh, Himachal Pradesh, Sikkim and UT of Chandigarh, showing zero gap needs verification. The information is not available for all the million plus and State capital cities, as was required in terms of earlier orders. Information needs to be verified particularly with regard to Aizawl, Kalyan Dombivali, Nagpur, Nasik, Navi Mumbai and Pune where the gap is shown to be zero, which does not prima facie appear to be correct.

16 & 17. xxx.....xxx.....xxx

18. We are of the view that hence forthwith proceedings in this matter need to cover Solid Waste Management and Sewage Management, these issues being crucial and required to be monitored by this Tribunal by the Hon'ble Supreme Court. Absence of management of waste results in adding to air and water pollution in a big way. All the legacy waste dump sites in the country need to be remediated to reduce methane gas, foul smell and leachate and also to release valuable land occupied by such sites which can be used for waste management/plantation or raising funds. Waste collected must be scientifically processed and disposed at the earliest in the interest of hygiene and public health. It needs to be ensured that instead of remediating the legacy waste sites, the garbage is not shifted to new sites which is not a solution to the problem. It only results in shifting the problem from one place to the other without any advancement of environment protection. What is necessary is that the garbage must be finally disposed of and land reclaimed. The authorities must

move towards zero garbage at the end of the day by ensuring that instead of garbage being collected and dumped, it is taken to destination where it is finally processed scientifically and appropriately, except for reused/recycling of such residues as is possible. This is also the mandate of Swachh Bharat Mission, initiated by the Central Government. Similarly, sewage has to be scientifically treated to give effect to the mandate of Water (Prevention and Control of Pollution) Act, 1974 in the interest of availability of clean water in rivers and other waterbodies. Central Governments programmes also provide for initiatives on these subjects. On both aspects, compensation regime has been laid down which is necessary to enforce the rule of law and for protection of environment and public health. The compensation laid down has to be duly collected and utilized for restoration of environment, by being kept in a separate account. Accountability for the failures needs to be fixed by way of ACRs and departmental action as such failures result in crimes under the law of land and damage to public health. Such failure is also breach of Constitutional obligation to uphold the Right to Life. The country is committed to Sustainable Development Goals of providing clean air and safe drinking water.

19. In view of above, continued failure of Rule of Law must be remedied in terms of mandate of orders of the Hon'ble Supreme Court in Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors. and Paryavaran Suraksha vs. Union of India,⁶ followed by orders of this Tribunal. It is necessary that Chief Secretaries continue the monitoring and interact with this Tribunal periodically by video conferencing. Accordingly, we lay down following further schedule for personal appearance of the Chief Secretaries, by Video Conferencing, with the status of compliance in respect of each of the States/UTs on the subject of Solid Waste Management and Sewage Management. The data to be furnished should cover all categories of areas in the State – big cities, towns and villages.

20. The hearing on each of above dates will commence at 10:30 a.m. sharp. The Chief Secretaries may not delegate the responsibility. As far as possible, they may adjust other work for which long advance notice is being given. In case adjustment is found difficult for any unforeseen reason, request for change of date may be mailed by e-mail at judicial-ngt@gov.in.

21. All the States/CPCB may undertake process of verification of data after having interaction on video conferencing with the concerned States/UTs within one month. The Secretaries, Environment, Urban Development Department and Irrigation Department may also coordinate with the Member Secretaries of State Legal Services Authorities in all State/UTs in the light of background mentioned in paras 3 and 4 above for the awareness programmes on the subject."

⁶ (2017) 5 SCC 326

Separate orders dated 28.8.2019, 12.9.2019, 6.12.2019 and 22.02.2021 on the subject of Liquid Waste Management

23. Issue of liquid waste management was separately dealt with in OA 593/2017 on directions of Hon'ble Supreme Court and in suo motu proceedings for restoration of 351 identified polluted river stretches in OA 673/2018. Vide order dated 28.08.2019, the Tribunal directed that 100% sewage treatment must be ensured by all local bodies. Vide further order dated 06.12.2019 in O.A. No. 673/2018⁷, the Tribunal directed that for failure to commence in-situ remediation, compensation will be payable at the rate of Rs. 5 lakh per month per drain after 31.03.2020 and for failure to commence setting up of STPs after 31.03.2020 compensation is to be paid at the rate of Rs. 5 lakh per month per STP. For failure to complete the project, compensation has to be paid at the rate of Rs. 10 lakh per STP per month after 31.03.2021. Relevant part of the order is quoted below:

***“47. (i) 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.*”**

ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. **Rs. 10 lakhs per month per STP.”**

24. Both the matters were disposed of vide order dated 22.02.2021 with a direction that further monitoring be continued at the level of the Chief

⁷ News item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB"

Secretaries in States and Central Monitoring Committee headed by Secretary, Ministry of Jal Shakti at the national level.

Today's hearing in the presence of Chief Secretary, Assam to ascertain compliance status and way forward

Compliance status in Assam presented

25. The presentation filed by the Chief Secretary, Assam on 25.01.2023 shows following data:

SUMMARY OF STATUS

A: <u>Solid Waste Management</u>				
Quantity of waste generation in the State (in TPD)	Waste Processed (in TPD)	Gap in generation and Processing (in TPD)	Quantity of waste being disposed in landfills (in TPD)	Quantity of Legacy waste in the State (Tones)
Wet waste: 611 Dry Waste: 533 Inert: 140 1284.0 (103 ULBs & 1 MC)	532.0	752.0	752.0	32.97 lakh MT

B): <u>Sewage Management</u>					
Quantity of sewage generation in the State (in MLD)	Utilization of Treatment capacity (in MLD)	Current Gap in treatment (in MLD)	Utilization of treated sewage in		
			Agriculture/ Horticulture purpose	Industrial purpose	Any other purpose
435.35	Nil	435.35	---		

Our analysis, findings and Directions

26. It is seen from the data presented by the Chief Secretary that there still exist gap in management of solid and liquid waste. With reference to waste management status reflected in earlier CPCB report in 2020 (para 20 above) analysed by the Tribunal vide order dated 30.11.2021, there is

improvement in waste management. The Chief Secretary, Assam submits that there is improved governance now on the subject and further initiatives are planned which will soon result in bridging the existing gaps in solid and liquid waste management. He submits that adequate funds are going to be allocated for the purpose, in the light of rate of compensation awarded in such cases. On pattern of compensation awarded in respect of other States where gaps have been found in liquid and solid waste generation and management, compensation of Rs. 1000 crores may be liable to be levied on the State but it does not appear to be necessary to do so in view of statement of the Chief Secretary that a sum of Rs. 1043 crore will be credited to a ring fenced account within one month for being spent within one year to bridge the gaps in waste management by a specific action plan to be executed and duly monitored within one year.

27. If necessary, the State may lay down mechanism for raising funds such as by way of user charges by households/contribution of corporate, business sectors, commercial establishments and the tourists who contribute to waste. Further steps have to be taken in a mission mode to comply with MSW Rules without further delay.

Solid Waste Management

28. Apart from collection, segregation and transportation of waste, scientifically handling of waste (processing and disposal) as per SWM Rules 2016 is required. Thus, while addressing the issue of bridging the gap in management of MSW, segregation of the solid waste at source and its earliest processing nearest to the point of generation with defined destination is imperative. In particular, adequate composting/vermicomposting/bio-methanation centers need to be set up

and upgraded nearest to the source of generation of wet solid waste, listing people's involvement. This may also require establishing de-centralized and centralized waste processing facilities. Waste generators can themselves be required to process the waste under guidance and handholding by the Administration, with the assistance of identified empaneled service providers and such details may be posted on State's/Center's GeM portal. This may perhaps reduce planned expenditure.

29. The data shows that out of 1284 TPD of solid waste generated in urban areas, 532 TPD of waste is being processed incorporating material recovery facilities (MRFs), composting facilities and others. This leaves gap of 752 TPD. However, no data on generation of rural waste is given. It is clear that existing waste processing facilities are not optimally utilized. Against the existing waste processing facilities of 270.64 TPD for wet waste, only 169 TPD of waste is processed. With respect to dry waste, 363 TPD of waste is processed against existing facilities of 430 TPD. Further, 140 TPD of inert waste is unprocessed/un-utilized. Legacy waste sites are having 33 lakh MT of legacy waste. The presentation indicates that same works are undertaken at Guwahati and Lakhimpur and at other places remediation works have yet to commence. Such sites must be maintained free from fires and safety of workers engaged should be ensured. Such sites may be fenced with row of trees or wall, as may be viable, for aesthetics, preventing foul smell and safety. Provisions of Schedule-I of the SWM Rules, 2016 may be strictly followed. Water quality in the vicinity of legacy waste dump sites may be periodically monitored. If any contamination is found, remedial action may be taken. Environmental safety aspects associated with legacy waste dump sites be complied with as specified in Schedule I of MSW Rules, 2016.

30. Dump sites in operation as well as the legacy waste dump sites occupy huge area of valuable public lands. They remain source of air, water and land pollution resulting in damage to environment and public health. They emit intolerable smell and cause hazardous and unsafe environment for inhabitants in the vicinity. Their life is hell which is denial of their constitutional and human rights. In terms of money also, huge loss is caused to public health and environment. This situation is not acceptable in a civilized society governed by rule of law. For victims of situation, there is no governance. In recent order of the Tribunal dated 18.08.2022 in RA No. 21/2022 in OA No. 286/2022, two scientific studies on the subject of extent of environmental damage have been referred to. These are reproduced below:

“7. ...Legacy waste dumpsites are serious threat to public health and also source of generation of greenhouse gases. The Tribunal considered the issue of quantification of loss to environment by legacy waste dump sites inter alia in OA 514/2018 and OA 519/2019. Orders passed show that as per expert studies, loss for such failure, due to release of pollutants in air atmosphere, release of leachate into ground / surface water and soil, due to pollution from the landfill site, damage cost associated with climate change due to carbon di-oxide and methane, damage caused due to aesthetics loss, price depreciation due to disamenity cost etc., is huge running in hundreds of crores. Some of the orders showing this are quoted below:

Order dated 23.03.2020 in O.A. No. 519/2019

“xxxx.....xxx.....xxx

18. We may observe that non-compliance of rules relating to waste disposal results in damage to the environment and public health. Any failure needs to be visited with assessment and recovery of compensation for such damage from the persons responsible for such failure. **A study was recently got conducted by CPCB, under orders of this Tribunal requiring such a study by a joint Committee comprising CPCB, NEERI and IIT, Delhi about the monetary cost of damage caused to the environment on account of existence of legacy waste dump site at Gurgaon (Bandhewadi) vide order dated 05.03.2019 in O.A. No. 514/2018. The report of the CPCB filed on 13.02.2020 is that damage on account of the said legacy waste dump site was Rs. 148.46 crore, on account of damage to the air quality, soil and water quality, climate change and disamenity (aesthetic). The damage has been assessed in terms of**

impact on health due to release of pollutants in air atmosphere, release of leachate into ground / surface water and soil, due to pollution from the landfill site, damage cost associated with climate change due to carbon di-oxide and methane, damage caused due to aesthetics loss, price depreciation due to disamenity cost etc.

19. Thus, monetary cost of every legacy dump site is expected to be huge depending upon the location, quantity and quality of waste and area covered, its proximity to water body/ stream and human habitation etc. Needless to say that there is huge cost for non-compliance of provisions relating to waste management – Solid as well as Liquid. Loss to the environment and public health is taking place not only on account of delay in clearing legacy waste but also for not complying with other provisions of the Rules resulting in huge gap in generation and processing of waste. It may be necessary to determine such cost for delay in clearing legacy waste at every dump site as well as for delay in complying with other rules and failure to treat sewage and recover the same from the persons responsible for action in the matter. **Let the Committee comprising CPCB, NEERI & IIT Delhi carry out similar study as mentioned in Para 18 above to assess the amount of damage to environment on account of dump sites in Delhi within two months.**”

Order dated 29.01.2021 in O.A. No. 519/2019

“6. Accordingly, status report dated 28.01.2021 has been filed by the CPCB as follows:-

“2.0 Action Taken :-

In compliance of Para 19 of aforesaid Hon'ble NGT's Order, Joint committee comprising of following members has been formed:

- Dr. S. K. Goyal, Chief Scientist and Head, NEERI Delhi Zonal Center
- Dr. G .V .Ramanna, Professor, Department. of Civil Engg., IIT-Delhi
- Ms D. Sinha, DH- UPC-II, CPCB
- Mr. P. Agarwal, Scientist-E, CPCB

Report on "**Assessment of amount of damage to environment on account of dumpsites in Delhi**" as prepared by Joint committee is placed at **Annexure-A**. Amount of Damage to Environment due to three dumpsites of Delhi to be levied on Municipal Corporations of Delhi is given in the following table:

S. No.	Name of Municipal Corporation	Name of Dumpsite	Damage Cost assessed, (Rupees)
1.	NDMC (North Delhi Municipal Corp.)	Bhalswa	155.9 Crore

2.	EDMC (East Delhi Municipal Corp.)	Ghazipur	142.5 Crore
3.	SDMC (South Delhi Municipal Corp.)	Okhla	151.1 Crore

xxx.....xxx.....xxx

7. Report of inspection conducted by the joint Committee comprising of the CPCB, NEERI and IIT Delhi is filed with following summary and conclusion:

“5.0 SUMMARY & CONCLUSION :

i. Hon'ble NGT in OA No. 519/2019 constituted a Committee comprising of CPCB, NEERI & IIT Delhi to assessment of damage to environment due of dump sites in Delhi within two months.

ii. Baseline information was collected by Committee through Questionnaire sent to three concerned Municipal Corporations (MCs). As per the information provided by the MCs, bio mining is being carried out at all three sites. **However, about 6% of waste has been bio-remediated at the three sites.** Further, fresh waste is being dumped at all three dumpsites.

iii. Potential sources of air pollution at the sites include handling of fresh waste, Bio mining of legacy waste, Methane and other Green House gases from the Dumpsite, transportation of fresh waste & screened fractions, Odour & Fire accidents. Potential sources of water pollution at the sites includes Leachate which is being generated at all the three dumpsites

iv. Air Pollution control measures taken at site includes mainly includes sprinkling of water. It has been informed by the authorities that smog guns are being procured for control of air pollution. **No concrete measures for leachate collection and treatment have being taken at the three dumpsites. Leachate is partially being recirculated for stabilization of waste and the remaining is being discharged into nearby surface water drains. Actual details regarding quantity of leachate used/ discharged not provided by the concerned authorities**

v. Concentration of TDS, TSS, COD & BOD in leachate exceeds the stipulated norms at all the three dumpsites. Concentration of Heavy metals is within the stipulated norms with the exception of lead which has marginally exceeded the permissible limits at Ghazipur. Assessment of Ambient Air, Surface & Ground Water quality is based on monitoring data of CPCB for the past three years. Zone of impact has been considered to be 5 km

and information related to monitored stations located within and beyond this radius has been compiled and analysed. In addition, information provided by Delhi Pollution Control Committee regarding ground water monitoring has been taken into consideration.

vii. As per air quality monitoring data, PM₁₀ & PM_{2.5} concentrations exceeded the prescribed values at all monitored stations upto 5 km distance & beyond from the Dumpsite sites. SO₂ & NH₃ concentrations are within the prescribed values at all monitored stations. Benzene has exceeded the stipulated limit at one station and NO_x has exceeded the permissible limit at 7 monitored stations.

viii. As per the water quality monitoring data, concentration value of Arsenic, Chromium, Copper, Chloride, TDS, Fluoride, Cadmium and Iron exceeded the permissible limits at specified locations of Surface & Ground Water locations. Besides COD was detected at several stations monitored. As heavy metals (except iron) concentration in leachate was within specified norms and Chloride and TDS were within the permissible drinking water limits (BIS 10500) at most stations monitored, further analysis was done in terms of COD & Fe concentration levels and following are the observations:

- **High level of COD & Fe reported in Ground water at all three sites in Ground water which may be due to leachate from the dumpsite**
- **Very High level of COD, Chloride, TDS, TSS, Turbidity reported in surface water body (Bhalswa lake) located within a radius of 0-1 km from Bhalswa site, which may be due to leachate from the dumpsite**
- **High COD values reported in surface water body (Sanjay Lake) located at a distance of 3-5 km from Ghazipur site. Owing to the distance from the site, actual impact due to dumpsite can be confirmed based on the hydrogeology of the region and contaminant transport modelling**
- **Fluctuating trend in Iron & COD concentration in ground water observed within 5 km radius at the three sites. Overall increase in Iron and COD levels observed with increase in distance from the dumpsites, indicating, marginal impact on ground water quality due to dumpsite within 5 km distance from dumpsite**
- **Ground water outside 5 km radius have reported higher value of COD & Fe than stations located within 5 km radius, indicating minimal impact of dumpsite on ground water quality. Local factors are contributing in deterioration in water quality at these stations**

- **As several sources of water pollution including open drains observed in these regions, actual impact of the local sources as well as that of the dumpsite can be confirmed based on the hydrogeology of the region and contaminant transport modelling**

ix. There are currently 37 Continuous Air Quality monitoring locations in Delhi, of which 10 are located within a distance of 5 km from the dumpsites.

x. Range in variation in PM_{2.5} & PM₁₀, NO_x & Benzene concentration levels within 5 km overlaps the range observed for stations located at distance greater than 5 km from dumpsites. Fluctuating trend is observed in NO_x / Benzene concentration levels vis-a-vis distance from the dumpsite.

xi. Several local factors such as drains, road dust, vehicular pollution, C&D waste etc. also contribute towards air & water pollution in the region.

As per analysis of air and water quality carried out, deterioration in environmental quality cannot be attributed directly to the various activities happening at the dumpsites. **As further detailed investigations are required to assess actual impact of the dumpsite related activities on the environment (air, water & soil quality), interim cost of damage to environment is based on the Environmental Compensation to be levied for violation of Solid Waste Management Rules, 2016. Cost of damage to environment has been calculated based on the Environmental Compensation to be levied for violation of Solid Waste Management Rules and has been assessed as Rs.155.9 Crore (for Bhalswa), Rs. 142.5 Crore (for Ghazipur) and Rs. 151.1 Crore (for Okhla).**

xii. Source apportionment studies are required to assess the actual impact of air pollution sources at dumpsite on air quality in the region.

xiii. Detailed hydrogeological investigations and containment transport modelling is required to assess the impact of dumpsites on surface / ground water.”

8. As shown above, in O.A. No. 514/2018, damage to the environment was assessed at Rs. 148.46 crores for Air pollution, Water pollution, Soil pollution, Climatic (GHG emissions) and Aesthetics has been taken into consideration in the report and damage cost to environment is estimated at Rs 148.46 crores. The report has following conclusions:-

“7. Results & Conclusion

The report focuses on identifying and estimating monetary losses (in 2019 Rupees) on the environment due to the operation of Bandhwari municipal dumpsite. The

damage was assessed with a consideration that there is no major polluting industries existing in nearby vicinity other than the dumpsite. The study estimates a total incurred damage of about ₹ 148.46 Crore due to externalities from Bandhwari dumpsite. The breakup is shown in Table 22. The cost for damages includes drivers of externalities like greenhouse gas emissions, air pollution, water pollution, soil pollution and aesthetic loss.

Table 22: Break Up of Monetary Estimation of Damages (reported in 2019 values)

Environment	Estimated Damage Cost in Lakhs, INR
Air	Nil
Water	2900
Soil	31*
Climatic (for last 5 years)	7,000
Aesthetic	4,946
Total	14,846

*Soil value is not considered in total, to avoid double-counting, as it based on total quantum of heavy metal from leachate which is considered in water as well.

The valuation of damages is done for greenhouse gas emissions using social cost of carbon approach recommended by USEPA. The social cost of carbon is indirect measure of loss in economy due to emission of CO₂ and is contributing by 73% of total damage due to Bandhwari municipal dumpsite. Air pollution damages are not valued as the emissions hardly breach the limits and the area in which emissions are higher, no population exposure is there. Further, the leachate contaminated groundwater and soil damages are valued using cost transfer method and Extern report valuations. Groundwater sample analysis shows lead and nickel exceeding the BIS standards at sampling locations near the dumpsite. Groundwater beneath the dumpsite showed high contamination due to heavy metals such as Cr, Cu, Pb & Ni. Physiochemical characteristics such as BOD, COD, SS, N, P of the treated leachate showed higher concentration and have contributed to half of the total damage cost in water environment. The leachate is valued for the damages which it can cause due to contamination of soil and water. The damages to water are considered as overall damages. The total quantum of heavy metals due to leachate is fixed and is used for valuation for both soil and water, however, higher damages are seen for water and hence considered in total. Aesthetic losses due to

dumpsite are valued using hedonic pricing method. GHG emissions are a part and parcel of any dumpsite. If proper control systems are kept in place these emissions can be controlled and may be utilized as well and hence maximum damages can be averted. Leachate also should be controlled and treated scientifically.”

Use of reclaimed land occupied by legacy waste sites

31. As already mentioned earlier, legacy waste dump sites have resulted in huge damage to the environment and population in the vicinity of such dump sites who have suffered in safety, health and comfort. For compensating them for such damage, one third of land occupied by legacy dump sites (on reclamation) needs to be reserved for dense forest and in the process of afforestation, Campa Funds can be utilized in accordance with the provisions of Compensatory Afforestation Fund Management and Planning Authority Act, 2016 (CAMPA Act). One third of reclaimed land out of the said dump site needs to be reserved for integrated waste management facilities. Remaining one third can be used for any other purpose, consistent with the above purposes, including a part of it being utilized for monetizing, if funding is required for tackling the legacy waste. Legacy waste clearance has to be in minimum further time as laid down statutory timelines have already expired and serious damage is taking place. It may be noted that remediation of legacy sites may be one time affair and such situations should not arise in future. Bio-remediation followed by bio-mining has to be executed in accordance with the Guidelines/SoP laid down by CPCB⁸ and the residues/rejects arising out of such processes are to be properly utilized and managed with well-defined destinations. It is also be considered that once, the remediation is executed and demonstrated at one site, repeated tendering may be avoided rather,

⁸ <https://mpcb.mizoram.gov.in/uploads/attachments/6e7c1548449702807cb534c7cf89aafe/pages-207-guidelines-for-disposal-of-legacy-waste.pdf>

on standardized rates, the execution of remediation can be done at other remaining sites. Such execution can also be done through Departmental efforts. User of land, to be reclaimed, needs to be declared in advance so that further steps can be taken in that direction. This is in line with order of this Tribunal dated 11.10.2022 in OA No. 300/2022, *In re: News item published in News 18 dated 26.04.2022 titled "Delhi: Massive Fire at Bhalswa Dump Yard, Fourth This Year; 13 Fire Tenders on Spot"*. Relevant part thereof is quoted below:-

“xxxxxx.....xxx

37. Restoration measures will include scientific disposal of the accumulated garbage as per statutory Rules and environmental norms, fire control and mitigation measures, construction of boundary wall/ bio-fencing by trees and shrubs/ afforestation, plantation, leachate treatment facility. Course of action planned and executed at other places⁹ where legacy waste dumpsites are reported to have been remediated may also be studied. Ground Water Authority may examine the extent of leachate flow into the ground water on which remedial action may be taken.

38. It is to be ensured that current waste is not added to legacy waste dumpsites. After collection, the same be taken to the destination such as Integrated Waste Management Facility or stand alone Waste Management Facilities such as Composting Centres, C&D Waste Centres and RDF Units, Waste to Energy Units, Cement Factories, Road Construction and filling up identified low lying areas, as per norms. This requires careful planning and execution with the involvement of senior level officers instead of leaving the task to junior officers as appears to be currently happening. Precautions in light of report of the Committee headed by Justice S.P. Garg, retired Judge, Delhi High Court need to be taken forthwith. To control foul smell and improve aesthetics, turfing of landfill sites must be done forthwith either in the form of a boundary walls with necessary entry and exit gates or fencing by plantations of at least three rows of native fast growing and tall native trees requiring minimum water in the periphery of landfill sites as well as complying with other criteria for development of facilities at such sites following the provisions under the Schedule I of MSW Rules, 2016. A clear action plan with defined course of action needs to be drawn up after brain storming and studying the remediation processes adopted at other places. Consequences of overshooting timeline against identified officers/ service providers may be specified and enforced. The Committee may consider undertaking visits to appropriate sites.

39. One of the crucial links in management of remediation work based on bio-mining and bio-remediation is the utilization and disposal of rejects like inert, RDF, stabilized bio-earth. Segregated fractions and

⁹ such as Indore and Ahmedabad

components which are in high quantity be safely utilized and disposed. Bulk users of RDF, three waste to energy projects should utilize the RDF and if required enhance their capacity without compromising environmental norms and public safety.

40. To compensate the affected citizens of the area, the authorities are under obligation to develop dense forest in at least on one third of the land occupied by the dumpsite, after the sites are cleared. One third can be utilized for setting up Integrated Waste Management Facilities or other like infrastructure. The remaining one-third can be utilized for any other purpose, including raising of funds consistent with environment concerns without affecting the use of the two-third, as earlier mentioned. The authorities may explore setting up a tourism and recreational centre with the involvement of an appropriate agency on PPP or Hybrid Annuity Model or other mechanism so that investment is made which is allowed to be recovered from the tourists visiting such centres. Creation of an appropriate water body may be considered as part of such recreational centre. Possibility of setting up an Interpretation Centres at all the three sites to facilitate study for creating awareness for the citizens may also be considered.

41. Community involvement including the Welfare Associations, Educational Institutions, Volunteers, corporates, charitable and other social organisations and individuals may be explored. Such involvement may be explored for plantation drives also. There is also need to strengthen the Control Room and set up Grievance Redressal Mechanism accessible to the citizens to extend immediate help in emergencies within a month.”

32. Thus, execution plan relating to management of municipal solid waste may include setting up of new facilities and augmentation of existing waste processing plants (centralized and decentralized) for remaining 752 TPD of waste and remediation of remaining sites. Bio-remediation/bio-mining process need to be executed as per CPCB guidelines and the stabilized organic waste from biomining as well as from compost plants need to comply with laid down specifications. Other material recovered during such processes is to be put to use through authorized dealers/handlers /users. Instead of creating more dumping sites for waste generated on day-to-day basis, waste processing plants of adequate capacity should be set up so that no further legacy waste is generated. Simultaneously, plastic waste and construction and demolition processing plants are also set up and further ensuring that bio-medical, hazardous

and E-waste are not co-mingled and treated with solid waste. It may be worthwhile to take into consideration guidelines on the subject issued by the Ministry of Urban Development, GoI titled “Waste to Wealth” on 2.10.2017 under Swachh Bharat Mission.¹⁰

Sewage Management

33. The data presented by the Chief Secretary shows gap of about 435.35 MLD in generation and treatment of sewage. The sewage generation in rural areas is not taken into account. Appropriate further treatment of such waste has to be undertaken ensuring that no fecal contaminants are discharged into water streams/ponds/rivers. The STPs to be set up need to be properly operated and to remain compliant with the standards. Treated sewage needs be utilized for secondary purposes. It will be desirable that there is Geo-tagging of outfalls and its marking on GIS based maps with unique code and ensuring that these outfalls are intercepted and deviated for proper treatment.

34. Gap in generation and treatment and utilisation of sewage has to be bridged. Compliance status of laid down standards at the outlets of STPs has to be ensured. Timeline for the establishing requisite treatment systems in terms of judgment of Hon’ble Supreme Court in *Paryavaran Suraksha vs. Union of India*, supra has long expired, speedy further action has to be ensured.

35. As already noted and also observed in the judgement of the Hon’ble Supreme Court in *Paryavaran Surakhsha*, supra, quoted earlier, the matter falls in 11th and 12th Schedules to the Constitution. It is constitutional responsibility of the State and the Local Bodies to provide

¹⁰ <http://cpheeo.gov.in/upload/5abc86de40012WastetoWealth2Oct.pdf>

pollution free environment and to arrange necessary funds from contributors or others. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds or other resources such as land (sites for waste management) cannot be plea to deny such right. Such resources have to be found by the State by its policies and according due priority to the subject. Further, while there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext. Free ship or other policies involving State resources cannot take priority over basic need for hygiene and pollution free environment.

36. Sewage can be processed by cost-effective methods at least at several identified locations with least expenses. Decentralized and the prefabricated/modular treatment plants can be explored, apart from imposing condition of ZLD on industries, Group Housing Societies etc. Reduced load can be processed partly with the help of water using commercial establishments requiring water for their processes enforcing consent conditions in CTEs and CTOs whereby State's financial burden can be reduced.

37. In this context, the draft Notification of MoEF&CC dated 25.02.2022¹¹ etc. and the relevant part of the draft Notification in context of sewage and solid waste management is reproduced below:

“xxxxxx.....xxx

C. Management of sewage/waste water, Reuse and recycle of treated wastewater by dual plumbing system

10. Dual Plumbing System shall be implemented - one for supplying fresh water for drinking, cooking and bathing etc. and another for supply of treated water for flushing.

¹¹<http://www.indiaenvironmentportal.org.in/files/file/Building%20Construction%20Environment%20Regulations%202022.pdf>

11. *Only treated water shall be used for flushing.*

12. *In no case, sewage or untreated waste water generated within the project area shall be discharged through storm water drains or otherwise into water bodies nor discharged/injected into the ground water by any mode.*

13. *Subject to Clause (3) of this notification, the project authority may opt or avail to common off-site treatment facility, as feasible, for treatment with reuse & recycle of corresponding quantity of treated water through the dual plumbing system for flushing and other non-potable use.*

A. For projects with built up area of 5,000 sq. mtrs. to 20,000 sq. mtrs. –

i. In areas where there is no municipal sewage network,

a. Either Onsite Sewage Treatment Systems with capacity to treat 100% waste water may be installed with appropriate tertiary treatment system with disinfection for black & grey water. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

OR

b. In case of usage of septic tank, only black water shall be discharged in the septic tank. Grey water may be treated through natural treatment systems or other secondary treatment as feasible. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

The excess treated water should conform to the general discharge norms of CPCB/MoEF&CC.

ii. In areas where there is municipal sewage network

a. Either Onsite Sewage Treatment Systems with capacity to treat 100% waste water may be installed with appropriate tertiary treatment system with disinfection for black & grey water. Such treated water should be used with dual plumbing system for flushing and other non-potable use;

OR

- b. *The project authority may opt to discharge only black water in such municipal sewage network subject to availability of trunk sewer line. For this purpose, two separate pipeline network– one for black water discharge and other for collection of grey water shall be installed. Grey water may be treated through natural treatment systems or other secondary treatment as feasible. Such treated water should be used with dual plumbing system for flushing and other non-potable use;*

B. For projects involving built-up area of 20,000 sq. mts. or more –

14. *Subject to Clause (3) of this notification, Onsite Sewage Treatment Plant with capacity to treat 100% waste water generated within the project area through tertiary treatment shall be installed. Treated waste water shall be reused on site for landscape, flushing, HVAC, fire-fighting, and other end-uses.*

15. *The adequacy of the Sewage Treatment Plant (STP) shall be certified by an independent expert and a report in this regard shall be submitted to the authorized agency.*

16. *Discharge of excess treated wastewater outside the premises, after treatment in STP, should meet the discharge standards as notified by CPCB/MoEF&CC from time to time.*

17. *Wastewater and treated water quantification system through metering/sub-metering shall be installed.*

18. *Sludge from the onsite sewage treatment shall be collected, conveyed and disposed as per the Central Public Health and Environmental Engineering Organization (CPHEEO) Manual, Ministry of Housing and Urban Affairs, on Sewerage and Sewage Treatment Systems.*

19. *Where Common Sewage Treatment Plant facility has been availed, it shall be ensured that treated waste water is recycled back to respective building for reuse.*

D. Solid Waste Management

20. *Subject to Clause (3) of this notification, onsite solid waste management facility should be developed and a formal contractual arrangement shall be ensured with authorized recyclers/concerned municipal agency for disposal of all non-biodegradable waste.*

21. Subject to Clause (3) of this notification, where there is no alternate arrangement for disposal of biodegradable waste, Organic waste composter/Vermiculture pit with a minimum capacity of 1.0 kg/150 sqm. of built-up area/day shall be installed & operated.”

Maintaining sources of clean water (rivers, storm water drains and water bodies – lakes, wetlands etc.) free from treated or untreated sewage, channelizing treated sewage for non potable purposes

38. We also find that sanctity and significance of natural storm water drains needs to be maintained. Storm water drains, if left unpolluted, can be source of drinking water for humans, birds, animals or aquatic life and discharge of sewage or even treated water which is not of standard of drinking water, seriously affects such drinking water resource adversely affecting their health. They are not to serve as sewage carrier. The Tribunal has comprehensively dealt with this issue on 03.08.2022 in OA No. 1002/2018, *Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors.* Thus, in the State, rivers, streams, ponds and lakes should be maintained for their pristine quality.

39. Efforts are also required on utilization of treated sewage such as by establishments like malls, industrial estates, automobile establishments, power plants, playgrounds, railways, bus stands, local bodies, universities etc. to save potable water for drinking. The treated sewage can be utilized for industrial/agricultural/other non-drinking uses like washing railway wagons/yards, buses, roads, water sprinkling and several such models reportedly exist¹². The State may contemplate with prospective plan to

¹² <https://www.newindianexpress.com/cities/chennai/2019/jul/31/chennai-industries-to-now-use-treated-sewage-water-2011837.html>
<https://timesofindia.indiatimes.com/city/surat/surat-water-reuse-model-goes-global/articleshow/85668103.cms>
<https://www.aninews.in/news/national/general-news/surat-generating-massive-revenue-by-selling-treated-water-to-industries20201217051127/>
<https://swachhindia.ndtv.com/surat-generating-massive-revenue-by-selling-treated-water-of-river-tapi-to-industries-54411/>

utilize treated sewage extensively rather than discharging into natural water courses which are very precious. Corporates may be involved to utilize treated sewage and render assistance in sewage and solid waste management utilizing Corporate Social Responsibility (CSR).

40. As already observed, there is need for planning to prevent sewage (treated or untreated) entering the potable water resources. Instead, the same is to be suitably treated and channelized for non-potable purposes – agriculture, industrial or others. By way of illustration, we may refer to certain models which can be considered at appropriate locations. The same have been mentioned in order of this Tribunal dated 11.10.2022 in M.A. No. 43/2022 in OA No. 41/2020, *Pushpendra Kumar vs. Nagarpanchayat, Kadaura & Ors.*, as follows:

“5. In this regard, we have drawn their attention to Seechewal Model¹³, Karnal Technology of sewage treatment and zero discharge and manual on sewerage and sewage treatment systems- 2013 (chapter7), issued by the Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Urban Development, GoI, which provide for inexpensive and simple methods of treatment of waste water, its utilization for irrigation and other secondary purposes. The said models are briefly described as follows:-

Seechewal Model

- *Provides for use of treated waste water for irrigation in order to conserve precious surface fresh water and ground water. The process involves passing waste water through four well for cleaning the waste water and thereafter use of such treated water for irrigation. The process can be undertaken by communities through*

https://m.timesofindia.com/city/ahmedabad/amc-offers-rs43/kl-treated-wastewater-for-industries/amp_articleshow/87169850.cms <https://theprint.in/india/governance/nagpur-to-become-the-first-indian-city-to-treat-and-reuse-90-of-its-sewage/180493/>

https://www.business-standard.com/content/press-releases-ani/india-s-1st-and-largest-ppp-on-waste-water-reuse-completed-in-record-time-during-pandemic-bags-ficci-water-award-2020-121022500841_1.html

https://mpcb.gov.in/sites/default/files/focus-area-reports-documents/NMC_%26_KTPS_success_story_28052019.pdf

<https://cpcb.nic.in/success-stories/upload/1501156301.pdf>

http://cpheeo.gov.in/upload/uploadfiles/files/engineering_chapter7.pdf

¹³ <https://www.civildaily.com/news/seechewal-model-of-wastewater-management/>

collective approach.

Karnal Technology Of Sewage Treatment & Zero Discharge.

- *Involves growing trees/plants on ridges with one meter wide and 50 cm height and irrigated by treated effluent in furrow. The technique utilizes entire bio mass present in waste water and provides nutrient to soil and plants. By this method forest plants/trees can be grown which can be used for firewood and timber. By this technique no chance of pathogen, heavy metals or organic compounds enter the food chain. Tree species like Eucalyptus, Leucaena can be grown.*

Central Public Health & Environmental Engineering Organisation (CPHEEO)

Manual on Sewerage and Sewage Treatment Systems – 2013 (Chapter 7)

- *Provides various case studies of utilization of treated sewage and its reuse as cooling water in power plant, in airport, in petroleum refinery, fish culture (like at Mudiali, Kolkata), road washings, ground cooling, boilers and also in agriculture. In agriculture the suitability of treated sewage is dependent upon soil, salt tolerance of the crop, intake of minerals and climate conditions. Sewage conforming to specified norms can be applied to selected species of food crops into soil by strip, basin or furrow irrigation. Sprinkler irrigation could be used with treated sewage. During rainy and non irrigating seasons, the treated sewage can be held in lagoons or undertaking irrigation in additional land/waste land including resorting to artificial recharge of ground water.”*

We have also come across and low cost options for sewage/sullage treatment for less population at village Sultanpur and Village, Kurak Jagir in District Karnal. These grey water management projects based on waste stabilization and system have been executed under Swachh Bharat Mission Gramin and MG NREGA. These systems are designed for intake of waste water less than 100 KLD allowing waste to stabilize and using wet flow of ponds for irrigation. Such models may help for medium and small towns and the Rural areas as substitute for high cost technology. Central Public Health and Environment Engineering Organization (CPHEEO), Ministry of

Housing and Urban Affairs dealt with the matter in its instructions titled “Municipal Used Water Treatment Technology for Medium and Small Towns”¹⁴ in September 2022.

41. Restoration measures with respect to sewage management need to include identification of sites for setting up of sewage treatment and utilization systems, upgrading systems/operations of existing sewage treatment facilities to ensure utilization of their full capacities, ensuring compliance of standards, including those of fecal coliform and setting up of proper fecal sewage and sludge management in rural areas. STPs need to have co-treatment facilities of septage rather than having isolated FSTPs. Guidelines of SBM - U 2.0 may be referred to in this respect. For urban areas, SBM-U 2.0 provides co-treatment of fecal sludge at STPs with sewage for which exclusive funding provisions are made under ringfenced accounts.

Utilisation of already set up STPs

42. We have found that even where STPs of adequate capacity have been set up, the capacity is not fully utilized and standards of water quality not always met. This aspect needs to be looked into on continuous basis by a centralised mechanism which may be set up preferably within a month.

43. Sewage treatment facilities adopted in terms of septic tank/soak pit/FSTP particularly for rural areas and villages may be reviewed in view of health, hygiene and the guidelines of MoUD. In rural areas, proper grey water management practices may be followed as per ‘Tool Kit: Greywater

¹⁴ <https://sbmurban.org/storage/app/media/rr-final-signed.pdf>

Management”¹⁵, July 2021 brought out by Department of Drinking Water and Sanitation, Ministry of Jal Shakti, GoI)

Need to consider change in approach for administrative processes

44. We have suggested change in approach in realizing that remedial action cannot wait for indefinite period nor loose ended time lines without accountability can be a solution. Responsibility of the State is to have comprehensive time bound plan with tied up resources to control pollution which is its absolute liability. If there is deficit in budgetary allocations, it is for the State alone to have suitable planning by reducing cost or augmenting resources. People must be involved in the problem by appropriate awareness and strategies to encourage public participation and contribution. At the cost of repetition, health issues cannot be deferred to long future. Long future dates breach of which has taken place frequently in the past without accountability is not a convincing solution. It is poor substitute for compliance within laid down timelines for long past. This approach may project lack of concern or not realizing the grim ground situation crying for emergent remedial measures on priority. There is no time for leisure, reflected in timelines proposed for bridging the acknowledged gaps.

45. It is the mindset and determination to act in a mission mode which can produce results.

46. Thus, it may be necessary to brain storm with available experts and other stake holders in the State at different levels, evolve models for both solid and sewage management which can be fast replicated, initiate special

¹⁵

<https://swachhbharatmission.gov.in/sbmcms/writereaddata/Portal/Images/pdf/GWMtoolkit.pdf>

campaigns with community/media involvement in the larger interest of protecting environment and public health with determination for prompt action. Such brain storming sessions may enable capacity enhancement of the regulators and the processes. Campaigns and community involvement may result in reducing the financial and administrative load on the administration. The Chief Secretary may also entrust responsibility to Senior Secretaries to monitor waste management for establishments governed by non-municipal entities-

47. Compliance of environmental norms on the subject of waste management has to be on high on priority. It is high time that the State realizes its duty to law and to citizens and adopts further monitoring at its own level. While reviewing the progress in formulation and implementation of District Environment Plan (DEP), as per Articles 243 W and other provisions of the Constitution read with 11th and 12th Schedule, vide order dated 17.01.2023 in O.A No. 360/2018, *Shree Nath Sharma vs. Union of India & Ors.*, the Tribunal noted that in the State of Assam, out of 34 Districts, 30 DEP have been prepared which are to be duly implemented by the District Magistrates through District Level Committees. Waste management is major component of the said plans for all the towns and villages. The operative part of the order is reproduced below:-

“13. We have considered the reports. We are satisfied that further action needs to be taken by the concerned States/UTs in the light of observations and recommendations in the above report. It is well known that there is urgent need for upgrading environmental standards in the country – air, water and land in the interest of public health and in the light of Constitutional goal and mandate. This is not possible without planning. Planning should be at all levels – Districts, States as well as national. This has to be part of ongoing exercise for discharge of State’s Constitutional obligation for providing pollution free environment and protection of natural environmental resources under public trust doctrine in the light of applicable statutory regime and earlier orders of the Tribunal. The District Environment plans must contain all relevant data on different thematic subjects, covering each city, town and village, with identified gaps in compliances and set out

plan for remedial action in measurable terms with requisite budgetary support to meet estimated cost. It must provide for grievance redressal mechanism with review at higher levels. This can be basis for planning at higher level and also enable monitoring and measurement of progress with reference to baseline data. On that basis there can be further policy making and planning. One of the steps is to identify vulnerable districts with respect to specific environmental issues like sand mining, industrial pollution, stone crushers/brick kilns and mining, ground water depletion etc. so as to give due attention to monitor them. The plans may provide for awarding appreciation to best/ model districts/areas which may be then replicated at other places. Plans may also provide for taking on board civil society and creating awareness through educational, social and charitable institutions, including in coordination with Legal Services Authorities. The District Plans as on 31st December of the year must be finalized with respect to remaining 98 districts expeditiously, preferably within three months. CPCB may follow up with concerned States. Progress in implementation of the plan be placed on website by 31st January every year. Likewise, State Environment Plan, taking into account District Environment Plans or any other relevant data may be finalized by 28th February every year and placed on respective State websites. The CPCB may thereafter in coordination with any other Ministry or authority prepare a consolidated plan based on State Environmental Plans by 31st March every year and place the same on its website. Consolidated national plan may also be filed with the Registrar General of this Tribunal by April 30 every year. If found necessary, the same be placed for consideration before the Bench. Let District, State and National Environmental plans be prepared and updated accordingly on continuous basis annually. Subject to such plans being considered as and when necessary and any grievance being separately considered, the application is disposed of.”

Adhering to the timelines

48. Since the issue has been pending since long and there are adverse effects of continuing delay on environment and public health, it cannot be a matter of satisfaction that some steps are taken till the entirety of the problem is tackled on war footing. Planning has to be to resolve the problem without any further delay, in shortest possible time. Whatever timeline is laid down, it should not be breached. If breached, adverse consequences for such failures must follow on the designated accountable officers instead of loose-ended processes.

Community involvement

49. Another important subject is community involvement not only for IEC activities but also for planning and execution of waste management activities. Welfare associations, corporates, religious, educational and charitable institutions can play their role. The District Environment Plans must have authentic and updated database which can be helpful for policy making and execution of projects. Regularly monitor of bridging of gaps in sewage and solid waste management in 24 districts is required by the Chief Secretary through a suitable nodal officer, preferably of the rank of Additional Chief Secretary. Status of sewage and solid waste management with respect to each city, town and village be placed on State's portal and be made part of District environment Plan. This may be done in next two months.

Further observations to explore implementation mechanism

50. In the light of observations in para 26 to 50 above, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a **centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level**. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. **It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments – Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries**. The mechanism should be working on fulltime

basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste management and establishing, continuous interaction with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. Reference is made to recent order of the Tribunal dated 23.01.2023 in M.A. No. 98/2022 in OA No. 180/2021, *Mukul Kumar vs. State of Uttar Pradesh & Ors.* It was held that training must be planned for probationers and in service officers, particularly those who have to serve as District Magistrates to implement DEPs including sewage and solid waste management. The operative part of the order is reproduced below:

“17. The Tribunal noted that while DEPs have been prepared and uploaded on websites in about 640 out of 738 districts (about 90%), execution thereof remains a challenge. There are huge gaps in compliance of environmental norms to the detriment of environment and public health. District Magistrates have to provide leadership on the subject at grassroot level. We are not sure whether the subject is part of training imparted in academies for probationers and in-house officers such as LBS National Academy of Administration, Mussoorie, IIPA, New Delhi and other State Academies. It may be desirable that need for such training is considered. National Judicial Academy at Bhopal has included the subject as part of its training to judicial officers. On that pattern, with such further modifications as found necessary, syllabus of Administrative Training Institutes may need to include the subject. We request the Secretary, DoPT, GoI and Chief Secretaries of all States/UTs to consider this aspect in coordination with the Directors of the Academies in question. Such training programs may include not only academic discussion but also undertaking field visits to places where successful environmental compliance models exist. Infact such training may be required in Police Academies/Public Prosecutors also. In the first instance, training may be imparted to all existing District Magistrates and thereafter to others who may have potential to work as District Magistrates or other positions where they may have to deal with such issues.

18. Let the Secretary, DoPT, GoI and Chief Secretaries of all States/UTs consider the issue and file their respective action taken reports with the Tribunal within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support

PDF and not in the form of Image PDF. CMC may continue its monitoring and file its further report of compliance status as on 31.03.2023 by April 15, 2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

51. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed.

52. Mechanism be considered to engage service providers by due diligent process who may execute work relating to solid and sewage management simultaneously throughout the State – all districts, cities and towns. Selection of service providers may be done taking into account of his past performance and number of projects and capacity to handle successfully.

53. “Integrated Solid Waste Management for local Governments a practical guide”¹⁶ brought out by Asian Development Bank published in 2017 details out solid waste management, planning and segregation of waste categories, waste collection methods, waste processing, waste to energy and diversion land fill development, operation and its management of landfill and also including contract issues by involving public private partnership. The document has been prepared based on the experience and the practices followed in several Asian Countries. The Govt of Assam may look into and consider this report to handle solid waste generated, particularly the cost effective technologies mentioned in the report.

Need for compliance of statutory duties by specified authorities under SWM Rules and monitoring by NMCG and MoUD for centrally assisted/sponsored schemes

¹⁶ <https://www.adb.org/sites/default/files/institutional-document/324101/tool-kit-solid-waste-management.pdf>

54. Under the Solid Waste Management Rules, 2016, statutory authorities for various actions have been specified. **Under Rule 5**, a Central Monitoring Committee (CMC) is to be constituted headed by the Secretary, MoEF&CC with representation from Ministries of Urban Development, Rural Development, Chemicals and Fertilizers, Agriculture, CPCB, State PCBs/PCCs, Urban and Rural Development Departments, Urban Local Bodies and Towns from the of the States, FICCI, CII and subject experts. The CMC is to meet once in a year.

The Ministry of Urban Development has to coordinate with the States/UTs **under Rule 6** for periodic review and formulation of National Policy and strategies and taking other measures. **Under Rule 7**, the Department of Fertilizers, Ministry of Chemical and Fertilizers have to provide market development assistance for compost and promote marketing of such compost. **Under Rule 8**, Ministry of Agriculture has to evolve mechanism for utilization of compost. **Under Rule 9**, Ministry of Power has to decide compulsory purchase and tariff issues. **Under Rule 10**, Ministry of New and Renewable Energy Sources has to facilitate infrastructure creation and provide for subsidy. **Under Rule 11**, the concerned Secretaries of Urban Development have to prepare State Policy and Management strategies and the Town Planning Department has to ensure setting up waste processing and disposal facilities and take other enumerated actions. **Under Rule 12**, the District Magistrates have to identify suitable lands and review performance of local bodies. **Under Rule 13**, the Secretaries of Panchayats have also to perform similar duties. **Under Rule 14**, CPCB is to coordinate with State PCBs and formulate standards of ground water, ambient air quality, noise, etc. **Under rule 15**, local authorities have to prepare solid waste management plans, collection of waste and coordination with the other stakeholders for enumerated

steps. **Under Rule 16**, the SPCBs/PCCs have to enforce the rules and monitor compliances. **Under Rule 17**, there are duties of private bodies, including the manufacturers to be monitored by the State Bodies. **The timelines are provided in Rule 22** for various steps. Last timeline of 5 years from the Rules expires on 7.4.2021. There is also provision for audit and submitting of annual report **under Rule 24**. Since there has been large scale non-compliances of the said rules, all the concerned authorities need to review the progress and perform their responsibility in accordance with law. The MoEF&CC has to finally monitor compliance, as already mentioned.

55. In view of continuing huge gap in solid and liquid waste generation and treatment, it is high time that Ministry of Housing and Urban Development (MoUD) and National Mission for Clean Ganga (NMCG) who have programmes like Swachh Bharat Mission (SBM – Urban 2.0)¹⁷, AMRUT 2.0¹⁸, Swachh Bharat Mission (Grameen)¹⁹ and River Cleaning, appropriately monitor compliance of waste management norms by concerned States/UTs and take remedial action on their part. Central Funding and State budgetary provisions need to be adequately allocated and apportioned keeping in view of environment compensation which is based on the restoration work estimate. While granting/disbursing funds to States/UTs, execution mechanism for centralized tendering at the State level to overcome delays at each city/town level may be considered. This may facilitate timely utilization of funds. MoEF&CC and CPCB may continue monitoring as per MSW Rules and the Water Act. MoUD and NMCG may also note the gaps reported by the States and UTs in solid and

¹⁷ <https://sbmurban.org/storage/app/media/pdf/swachh-bharat-2.pdf>

¹⁸ <https://mohua.gov.in/upload/uploadfiles/files/AMRUT-Operational-Guidelines.pdf>

¹⁹ https://jalshakti-ddws.gov.in/sites/default/files/sbm-ph-II-Guidelines_updated_0.pdf

liquid waste management. MoUD may further consider to render proper financial and technical support to States and UTs and also keeping in view of Environment Compensation (EC) either directed by the Tribunal or States having given statements to ringfenced EC at their own level.

56. In Assam, there are number of armed forces as well as cantonment areas. Administration of such areas, including waste management, is handled by the armed forces themselves under the Defence Ministry. In respect of such areas, the Tribunal has passed order dated 24.05.2021 in OA No. 451/2019, *Air Marshal Anil Chopra*, considering status reports dated 10.09.2020 and 24.5.2021 filed by the Ministry of Defence. Relevant part of the order is reproduced below:

“xxxxxx.....xxx.....xxx

3. Accordingly, further report dated 24.5.2021 has been filed, in the course of hearing, by the Ministry of Defence, giving the status of steps taken for compliance of environmental issues as follows:

“1to3. xxx.....xxx.....xxx.....xxx.....

4. In this regard, it is submitted that a suitable mechanism was existing in the Indian Army for monitoring the ecological issues at each station, Command HQ and at Integrated Headquarter in Land Works & Environment Directorate. The monitoring mechanism at Military Station/ Military Cantonment is as mentioned below:-

Mil Station

Mil Cantt

Station Cdr
AdmComdt
SHO

President Cantonment Board
AdmComdt
SHO

5. The instructions to all Mil Stations/ Cantonments have been issued and all nominated stations authorities are interacting and organizing joint meetings with expert bodies at all levels to seek inputs about best practices and its implementation. Further, the Indian Army has initiated a ‘Best Green Station’ competition wherein the best “Green Station” based on various environment related parameters is acknowledged during the Army Commander Conference by the COAS.

6. *As regards the Indian Navy, the Indian Navy has adopted Indian Navy Environment Conservation Roadmap in 2014. In this regard, Nodal agencies have already been designated. The detailed report on the steps taken by the Indian Navy are being attached as Annexure R-1.*

7. *That in compliance with the order dated 10.11.2020 passed by this Hon'ble Court, an Apex Monitoring Committee under Department of Defence was constituted to undertake the monitoring mechanism in respect of Cantonment Boards, Coast Guard and Armed Forces Medical Services with the following composition:*

- (i) Additional Secretary (NSV), Ministry of Defence – Chairperson*
- (ii) Director General, Defence Estates – Member*
- (iii) Director General, Coast Guard – Member*
- (iv) Director General, Armed Forces Medical Services – Member*
- (v) Rep. of Central Pollution Control Board (CPCB) – Member*
- (vi) Director (Environmental Awareness), The Energy and Resources Institute (TERI) – Member*
- (vii) Joint Secretary (Armed Forces), Ministry of Defence – Member*
- (viii) Joint Secretary (Lands), Ministry of Defence – Member Secretary*

8. *The Terms of Reference (ToRs) of the Apex Monitoring Committee are as under:*

- (i) To facilitate policy development by plugging the gaps in existing mechanism for increased sustainability and ecological well-being.*
- (ii) To examine the reports of monitoring committee at field levels in respective organisations and render advice and issue guidelines for optimal utilisation of resources aimed towards environmental protection, waste management and 'Green initiatives'.*
- (iii) To examine the legal framework applicable to the organisations and suggest mechanism to improve upon the exiting provisions in the interest of public health and environment.*

(iv) To approve annual plans / programmes of the organisations for conducting environment awareness programmes and monitor their impact and outcomes.

9. DGDE, Coast Guard & Armed Forces Medical Services were requested to finalise a monitoring mechanism at various levels within their organisations and furnish the same to this Ministry.

10. Apex Monitoring Committee conducted two meetings dated 19.04.2021 and 06.05.2021 to review the action taken by DGDE, ICG and DG AFMS in creating monitoring mechanism at all levels in their organisations in compliance with order dated 10.11.2020 and measures to be put in place as per terms of references of the Apex Monitoring Committee. Representatives of TERI & CPCB have also participated in the said meetings. Copy of the Minutes of the meeting are annexed as Annexure R-2 and Annexure R-3 respectively. DGDE, ICG and DG AFMS were directed to submit their detailed ATR including monitoring mechanism, targets and timelines based on fixed parameters as per their domain in compliance of NGT order to the Ministry. Valuable inputs on management of different wastes and environmental protection received from CPCB and TERI were also shared with these organizations for their effective implementation.

11. In this context, DGDE vide their ID dated 05.03.2021 has intimated that instructions have been issued to Directorates, DE to take necessary action as per NGT order dated 10.11.2020. Further DGDE vide ID dated 20.05.2021 has further submitted that as far as Monitoring mechanism is concerned, the implementation of directions of this Hon'ble Tribunal is carried out by the CEOs of the 62 Cantonment Boards. The implementation is monitored by a committee headed by a senior officer i.e. Director, Defence Estates, Command, for all commands except Eastern Command, where implementation is monitored by a Joint Director. These officers regularly hold meeting with the CEOs concerned and provide them guidance. At the level of Directorate General, Defence Estates, implementation is monitored by Additional DG (Cantonments) who functions under the supervision of DG. Implementation is monitored through regular review meetings and seeking reports from the CEOs. Copy of the communicated dated 5.3.2021 is annexed as Annexure R-4. Action taken report in this regard is annexed as Annexure R-5.

12. Indian Coast Guard (ICG) Headquarters vide their ID dated 25.02.2021 has informed that they have initiated such mechanisms for protection of marine environment not only at sea but on ICG ships and shore establishments too. They have already initiated a policy to its Regions and a mechanism is underway for solid waste management in accordance with the guidelines issued by Ministry of Environment, Forests and Climate Change (MoEFCC), Solid Waste Management (SWM)

Rules, 2016. The waste management organisation and practises have been laid down in the policy letter alongwith the mandate of such organisation. It includes formation of core group, waste management orders and conduct of progress review meetings. Copy of letter dated 25.02.2021 is annexed as Annexure R-6.

13. Further, ICG vide ID dated 26.04.2021 has submitted their response towards the environmental protection, waste management and green initiatives with respect to mandate, interface with coastal communities and waste management in ICG. Copy of the letter dated 26.04.2021 is annexed as Annexure R-7.

14. Armed Forces Medical Services (AFMS/Coord) vide their ID dated 05.03.2021 submitted that Bio-Medical Waste (BMW) Management in the Armed Forces is laid down under guidelines issued vide DGAFMS letter dated 10.12.2016 and as amended from time to time. DGAFMS is the prescribed authority for enforcement of provisions of BWM rules in Armed Forces. BWM management is controlled by an Advisory Committee. Similarly, there are nodal officers detailed at Service HQs and Command HQs. Copy of letter dated 5.3.2021 is annexed as Annexure R-8.

15. Further, BMW Management Committee is formulated at all Health Care echelons to oversee and monitor implementation of BMW rules and regulations. AFMS vide their ID dated 12.05.2021 has further submitted their feedback / inputs on (i) promulgation of time-frame for action by Hospitals under AFMS and (ii) Check list for inspecting officers while examining Health Care Establishments (HCEs) for BMW Management. Copy of the communication dated 12.05.2021 is annexed as Annexure R-9.”

*4. In view of above, we are of the view that further steps need to be continued and monitored by the concerned authorities. **We hope the authorities will take all necessary measures required for protection of environment at all levels, including proper management of biomedical, domestic, solid, electrical, electronic wastes as per statutory rules. Scientific management of other waste generated in the course of operations of the armed forces like artillery and other ammunition has also to be ensured in the interest of public health, sanitation and environment.***”

57. In the light of above, Secretary, Ministry of Defence, GoI in coordination with DG, MES, DG, Defence Estates and other concerned authorities may ensure that necessary measures are taken for waste management by adequate monitoring in the interest of environment and public health. They may also coordinate with ULBs concerned. Accordingly,

the State may interact with Defense organizations to share work experience.

Conclusion

58. **We hope in the light of interaction with the Chief Secretary, the State of Assam will take further measures in the matter by innovative approach and stringent monitoring, ensuring that gaps in solid (unprocessed 752 TPD and 33 lakh tones of legacy waste) and liquid waste (435 MLD) generation and treatment are bridged at the earliest, shortening the proposed timelines, adopting alternative/interim measures to the extent and wherever found viable.** Restoration plans need to be executed at the earliest simultaneously in all districts/cities/towns/ villages in a time bound manner without further delay. District Magistrates must take ownership for monitoring of sewage and solid waste management and providing report to Chief Secretary and overall compliance be ensured by Chief Secretary for which regular meetings be conducted.

59. As already observed, it will also be open to the State to plan raising of requisite funds from generators/contributors of waste or by any other legal means.

60. In our recent order dated 01.09.2022 in O.A No. 606/2018 (in respect of State of West Bengal), considering scale of compensation adopted in earlier cases including in OA No. 1002/2018, *Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors.*, compensation was determined @ Rs. 2 Crore per MLD for untreated liquid waste and in OA No. 286/2022 for unprocessed legacy waste compensation was fixed @ Rs. 300 per MT to be utilized for restoration measures, including preventing discharge of untreated sewage and solid waste treatment/processing facilities, as per

appropriate mechanism for planning and execution that may be evolved, within three months. Operative part of the said order is reproduced below:-

“Conclusion about quantum of compensation

*49. In the light of above and considering damage to the recipient environment, we hold that apart from ensuring compliance at the earliest, compensation has to be paid by the State for past violations. The amount of compensation is fixed @ Rs. 2 crore per MLD (at which rate compensation has been levied against Noida and DJB in OA No. 1002/2018, Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors, referred to in para 48 above for detailed reasons mentioned therein). As noted earlier, **gap in generation and treatment in West Bengal, as per data furnished is 1490 MLD. Thus, under this head, liability of the State of West Bengal is to pay compensation of Rs. 2980 crores, rounded off to Rs. 3000 crore in view of continuing damage. For failure to process solid waste, unprocessed legacy waste being 1.20 crore MT, compensation is assessed @ Rs. 300 per MT (at which approximate rate compensation has been awarded in OA No. 286/2022 against Municipal Corporation, Ludhiana, for the reasons given therein). This works out to Rs. 366 crore but adding 134 crore for continuing addition of unprocessed waste @ 13469.19 TPD, the total amount is rounded off to Rs. 500 crore. Thus, final amount of compensation under the two heads (solid and liquid waste) is assessed at Rs. 3500 crores which may be deposited by the State of West Bengal in a separate ring-fenced account within two months, to be operated as per directions of the Chief Secretary and utilised for restoration measures, including preventing discharge of untreated sewage and solid waste treatment/processing facilities, as per appropriate mechanism for planning and execution that may be evolved, within three months. If violations continue, liability to pay additional compensation may have to be considered. Compliance will be the responsibility of the Chief Secretary.”***

Reasons for not levying compensation on State of Assam

61. The Chief Secretary Assam fairly accepts that there is gap of about 435 MLD in sewage generation and treatment and legacy waste of 33 Lakh MT. In normal circumstances, the State would be liable to pay compensation of about Rs. 1000 crore at the scale of compensation fixed in other States. However, it is stated in Assam higher amount stands allocated and Rs. 1043 crore will be soon be credited to a separate ring fenced account for the purpose. An undertaking to this effect has been filed

today with the Registrar General of this Tribunal which is reproduced below:-

**GOVERNMENT OF ASSAM
OFFICE OF THE CHIEF SECRETARY, ASSAM
DISPUR, GUWAHATI-06**

From: Dated Guwahati, the 27th January, 2023

The Chief Secretary
Govt. of Assam,
Dispur, Guwahati-6

To,

The Registrar General
Hon'ble National Green Tribunal
Faridkot House, Copernicus Marg,
Near India Gate, New Delhi, Delhi-110001.

Subject: Commitment of fund for management of Solid Waste, Legacy Waste and Liquid Waste in the State of Assam in compliance to Hon'ble NGT's directions in matter of O.A. 606/2018

Sir,

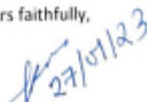
With reference to above and pursuant to the directions received during the personal appearance of the Chief Secretary, Govt. of Assam on 27th of January, 2023 before the Hon'ble National Green Tribunal, Principal Bench, New Delhi, in matter of O.A. 606 of 2018, it is submitted that the Government of Assam has budgeted a sum of Rs. **1043.51 Crores** from the State Fund for Solid Waste, Legacy Waste and liquid Waste management in urban as well as rural areas of the State for the FY 2022-23.

Moreover, a sum of Rs 766.446 Crores from Central Allocation and Rs 2365.00 Crores from Externally Aided projects (EAP) have been earmarked for the management of solid, liquid and legacy waste management in the State.

The State has thus prioritised an amount of Rs **4174.956 Crores** in total from State, Central and EAP allocation for the management of Solid, Liquid and Legacy Waste in the State. Details of the amount is enclosed herewith as Annexure-I. However, as suggested by Hon'ble Chairman, NGT, the cost estimates will be given a second look considering the scope for reduction of cost.

Encl: Annexure-I

Yours faithfully,



Chief Secretary, Assam

62. In view of the undertaking given, we refrain from levying EC on the State of Assam for time being and the ring fenced account will be non-lapsable.

Directions for further follow up

63. Further, six monthly progress reports with verifiable progress may be filed by the Chief Secretary with a copy to the Registrar General of this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of

searchable PDF/OCR Support PDF and not in the form of Image PDF. Copies thereof may be furnished to the NMCG, MoUD and CPCB and also be placed on the website of the State Government.

A copy of this order be forwarded for compliance to the Chief Secretary, Assam, Secretary, Ministry of Housing and Urban Development, MoEF&CC, GoI, National Mission for Clean Ganga, Secretary, Ministry of Defence, GoI, DG, MES, DG, Defence Estates and CPCB by e-mail.

On report being filed with the Registrar General of this Tribunal, the same may be placed before the Bench, if found necessary.

If any grievance survives, it will be open to the aggrieved parties to take further remedies as per law.

Adarsh Kumar Goel, CP

Arun Kumar Tyagi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

January 27, 2023
Original Application No. 606/2018
AB

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

ORIGINAL APPLICATION NO. 199 OF 2014

IN THE MATTER OF:

1. Mrs. Almitra H. Patel
Convener, INTACH Waste Network
Residing at No. 50, Kothnur
Bangalore 560 077
 2. Capt. J.S. Velu,
Organiser, Exnoraintach Clean India Campaign
Having his address
C/o Anjanappa, No. 2
Oil Mill Road, Satipalya
Lingarajapuram,
Bangalore 560 084
-Applicants

Versus

1. Union of India
Through the Secretary (Health)
Ministry of Health and Family Welfare
Government of India
Having his office at Nirman Bhavan
New Delhi.
2. The State of Andhra Pradesh
Through the Chief Secretary
Having his office at
The Vidhan Sabha
Hyderabad 500 486
3. State of Assam
Through the Chief Secretary
Having his office at
The Secretariat
Dispur 781 005
4. The State of Bihar
Through the Chief Secretary
Having his office at
The Patna Secretariate
Patna – 800 015

5. The State of Gujarat
Through the Chief Secretary
Having his office at the
Vidhan Sabha
Gandhi Nagar - 382010
6. The State of Kerala
Through the Chief Secretary
Having his office at
The Secretariat
Thiruvananthapuram 695 001
7. The State of Madhya Pradesh
Through the Chief Secretary
Having his office at
The Vidhan Sabha
Bhopal 462 003
8. The State of Tamil Nadu
Through the Chief Secretary
Having his office at
The Secretariat
Chennai 600001
9. The State of Maharashtra
Through the Chief Secretary
Having his office at
The Mantralaya
Mumbai 400 032
10. The State of Karnataka
Through the Chief Secretary
Having his office at
The Vidhan Soudha
Bangalore 560 001
11. The State of Orissa
Through the Chief Secretary
Having his office at
The Secretariat
Bubaneswar 751 001
12. The State of Punjab
Through the Chief Secretary
Having his office at
The New Secretariat
Chandigarh 160 001

13. The State of Rajasthan
Through the Chief Secretary
Having his office at
The Secretariat
Jaipur 302 005
14. The State of Uttar Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Lucknow 226 001
15. The State of West Bengal
Through the Chief Secretary
Having his office at
The Secretariat Bldg.
Calcutta 700 001
16. The State of Jammu & Kashmir
Through the Chief Secretary
Having his office at
The Secretariat
Srinagar 190 001
17. The State of Nagaland
Through the Chief Secretary
Having his office at
The Secretariat
Kohima 797 001
18. The State of Haryana
Through the Chief Secretary
Having his office at
The Secretariat
Chandigarh 160 001
19. The State of Himachal Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Shimla 171 002
20. The State of Manipur
Through the Chief Secretary
Having his office at
The Secretariat
Imphal 795 001

21. The State of Tripura
Through the Chief Secretary
Having his office at
The Secretariat
Agartala 799 001
22. The State of Sikkim
Through the Chief Secretary
Having his office at
The Secretariat
Gangtok
23. The State of Mizoram
Through the Chief Secretary
Having his office at
The Secretariat
Aizawl 796 001
24. The State of Arunachal Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Itanagar 791 111
25. The State of Goa
Through the Chief Secretary
Having his office at
The Panaji Secretariat
Panaji 403 001
26. The State of Delhi
Through the Chief Secretary
Having his office at
The Secretariat
New Delhi 110 001
27. The Central Pollution Control Board
Through its Chairman
Dr. Dilip Biswas
Having his office at Parivesh Bhawan
C.B.D.-cum- office complex
East Arjun Nagar, Delhi-110 032
28. The Municipal Corporation of the City of New Delhi,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Delhi Municipal Corporation Offices
New Delhi 110 001

29. The Municipal Corporation of the City of Calcutta,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices
Calcutta.
30. The Municipal Corporation of the City of Chennai (Madras),
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Ripon Bldgs. Periyar EVR Salai
Chennai (Madras) 600003.
31. The Municipal Corporation of the City of Mumbai (Bombay),
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Mahanagar Palika Offices
Mumbai (Madras) 400001.
32. The Municipal Corporation of the City of Bangalore,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices, N.R. Square
Bangalore 560 002
33. The Municipal Corporation of the City of Ludhiana,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Ludhiana 140001.
34. The Municipal Corporation of the City of Agra,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Agra 282001
35. The Municipal Corporation of the City of Mathura,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipality Offices
Mathura 281001.
36. The Municipal Corporation of the City of Varanasi,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipality Office
Varanasi 221001.

37. The Municipal Corporation of the City of Hyderabad,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices
Hyderabad 500486.
38. The Municipal Corporation of the City Of Ahmedabad,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Ahmedabad 380001
39. The Municipal Corporation of the City
Of Rajkot,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Rajkot 360001
40. The Municipal Corporation of the City of Surat,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Muglisara, Surat.
41. State of Telangana
42. State of Chhattisgarh
43. State of Puducherry
44. State of Jharkhand
45. State of Meghalaya
46. State of Uttarakhand
47. U.T. Dadra and Nagar Haveli and Daman & Diu
48. U.T. Lakshadweep
49. Uttar Pradesh Pollution Control Board
50. Rajasthan State Pollution Control Board
51. Andaman and Nicobar Administration
52. Gujarat State Pollution Control Board
53. Punjab State Pollution Control Board
54. Goa State Pollution Control Board
55. Nagaland State Pollution Control Board
56. Maharashtra State Pollution Control Board
57. Tamil Nadu State Pollution Control Board
58. Arunachal Pradesh State Pollution Control Board
59. Odisha State Pollution Control Board
60. Madhya Pradesh State Pollution Control Board
61. Manipur Pollution Control Board
62. Chhattisgarh Environment Conservation Board
63. Puducherry Pollution Control Committee

64. Karnataka Pollution Control Board
65. Jharkhand State Pollution Control Board
66. Mizoram State Pollution Control Board
67. Meghalaya State Pollution Control Board
68. Assam State Pollution Control Board
69. Haryana State Pollution Control Board
70. Kerala State Pollution Control Board
71. Tripura State Pollution Control Board
72. Bruhat Bangaluru Mahanagar Palike

.....Respondents

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COUNSEL FOR RESPONDENTS:

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Mr. Sunny Choudhary, Advocate For M.P. Pollution Control Board

Ms. Preety Makkar, Advocate for Puducherry

Mr. G.M. Kawoosa, Advocate for State of J&K.

Mr. S. Sukumaran, Mr. Anand Sukumar and Mr. Bhupesh Kumar Pathak, Advocates For Municipal Corporation of Greater Mumbai.

Mr. Vijay Panjwani, Advocate with Mr. Bhupender Kumar, LA, CPCB

Mr. E.C. Vidyasagar, Mr. Subhash C. Sagar and Ms. Jenniefer.

Ms. Sakshi Popli, Advocate for NDMC & DJB

Mr. Shibani Ghosh Choudhary, Advocate For State of Maharashtra (Urban Dev. Dept.)

Mr. K. Enatoli Sema, Advocate for State of Nagaland & Nagaland PCB

Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Advocates for the State of Andhra Pradesh

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Ms. Aprajita Mukherjee, Advocate For State of Meghalaya

Mr. Nishe Rajen Shander and Mr. Gajendra Khichi, Advocates for Kerala

Mr. Shubham Bhalla, Advocate

Mr. R. Rakesh Sharma, Advocate for State of Tamilnadu and Mr. M. Marutha Samy, Advocate

Mr. Balendu Shekhar, Advocate For EDMC

Mr. M. Paikaray, Advocate for State of Odisha and Odisha Pollution Control Board

Mr. Shibashish Misra, Advocate for State of Odisha

Mr. Biraja Mahapatra, Advocate with Mr. Dinesh Jindal, LO, Delhi Pollution Control Committee

Mr. Edward Belho, AAG with Mr. K. Luikang Michael and Ms. Elix Gangmei, Advocates for Municipal Corpn. Of Greater Mumbai.

Ms. D. Bharathi Reddy, Advocate for State of Uttarakhand

Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advocate For State of Telangana

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Mr. Debarshi Bhuyan and Mr. Santosh S. Rebelo, Advocates for State of Goa and Goa State Pollution Control Board

Mr. Shantala Sankrit, Advocate For Daman & Diu & Dadra & Nagar Haveli

Mr. Jayesh Gaurav, Advocate for JSPCB

Mr. Gaurav dhingra, Advocate for State of Uttar Pradesh

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Ms. Aruna Mathur and Mr. Avneesh Arputham and Mr. Anuradha Arputham and Mr. Yusuf Khan, Advocate for State of Sikkim

Dr. Abhishek Atrey, Advocate for Lakshadweep

Mr. Rudreshwar Singh and Mr. Gautam Singh, Advocates for Bihar

Mr. Pragyan Sharma, Mr. Ganesh Bapu TR and Mr. Shikhar Garg, Advocates for State of Mizoram and MPCB

Ms. Puja Kalra, Advocate for North & South MCD

Mr. Anchit Sharma and Mr. Satamita Ghosh, Advocate For Delhi Cantonment Board

Mr. Sarthak Chaturvedi, Mr. Rohit Pandey AND Mr. D.N. Tirpathi, Advocates for Andman and Nicobar

Mr. D.K. Thakur, Advocate for M.C. Shimla

Mr. Harish Sharma, Advocates for State of Chhattisgarh

Mr. Tayenjam Momo Singh, Advocate for Meghalaya SPCB

Mr. Shuvodeep Roy and Mr. Sayoj Mohandas, Advocate for State of Assam and Assam Pollution Control Board

Mr. Anurag Kumar and Ms. Sakshi Popli, Advocate for DJB & NDMC

Ms. Priyanka Sinha, Advocate for State of Jharkhand

Mr. Nikhil Nayyar and Ms. Smiti Shah Advocates for AP PCB and Telangana SPCB

Mr. Suryanarayana Singh, Sr. Addl. Advocate General for State of HP

Ms. Aagam Kaur for Ms. Hemantika Wahi, Advocates for the State of Gujarat

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice U.D. Salvi (Judicial Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Hon'ble Dr. Ajay Deshpande (Expert Member)

Reserved on: 25th October, 2016

Pronounced on: 22nd December, 2016

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

Mrs. Almitra H. Patel and another filed a public interest litigation under Article 32 of the Constitution of India before the Supreme Court of India at New Delhi. In this petition, the petitioner/applicant sought orders and directions for urgently taking steps to improve the practices presently adopted for collection, storage, transportation, disposal, treatment and recycling of Municipal Solid Waste (for short, "MSW") popularly known as "garbage" generated in various cities across India. This problem is of gigantic magnitude. Every single day, over one lakh tonnes of raw garbage is thrown along roads, waterways and wetlands just outside the city limits of India's 300 plus Class-I towns and cities. According to the applicant, no city or town takes end-point responsibility for hygienically managing its municipal solid wastes. According to the applicant, it is absolutely necessary that uniform national standards and practices be adopted and remedial steps be taken on most urgent basis to avoid adverse health impacts on the citizens. The applicant has referred to various

main cities of India and the gravity of the problems arising from the indiscriminate dumping of MSW. The issue is of national significance and grave importance. Applicant has referred to the outbreak of plague in Surat in 1994 as well as many annual epidemics of Hepatitis, Gastroenteritis, Malaria and Typhoid in different cities which are caused, inter-alia, by the extremely poor and at times non-existent sanitation and garbage collection and disposal practices employed by the local authorities. The raw garbage is dumped just outside the city limits on panchayat or revenue lands or highway shoulders, lakes, nalas and land of various PWD authorities. Referring to the city of Bangalore of which the applicant is a resident, it is stated that it is a typical example where garbage is dumped on both sides of every major approach road into the city for want of waste yards since 1987. The sites even if notified have not been utilised. Garbage is dumped at different points less than a kilometre beyond an unused waste-yard, garbage thrown on the roadside by municipal trucks spills directly into an adjacent waterway that serves 10 villages before reaching Yellamallappa Shetty tank which was the city's fall back water supply in drought years. The animals eat the waste including plastic. The petitioner who claims to be a lifelong environmental conservationist has further averred that various State Governments and the local authorities are responsible for this extremely poor state of affairs prevailing in the life of citizens, affecting public health and this issue has been neglected for years. The Centre has power and the State Governments have been delegated power and

authority under Section 5 of the Environment (Protection) Act, 1986 and/or under a constitutional duty and obligation to prevent environmental degradation and to ensure that the urban environment and surrounding areas are preserved, protected and improved within their territory. These respondents have to perform their primary duty including taking proper measures to manage the disposal of MSW. Each of the State Governments has failed and neglected to discharge its constitutional and statutory obligation in relation to proper collection, handling, transportation and ultimately in the hygienic disposal or recycling of MSW. The Central Pollution Control Board (for short, "CPCB") which is the apex pollution control authority in the country has to frame guidelines and recommendations for management of the MSW but till date they have failed to do so. Whatever guidelines have been framed even they have not been followed and implemented in the cities and municipalities and the Central and State Boards have not taken any steps to ensure proper implementation. Thus, they have failed to perform their statutory duties. As per the 1991 census, Urban India constitutes about 26% of the country's population. It is stated that by the turn of this century one third of this country's population will reside in urban centres. The rate of urbanisation has gone up from 10.84% in 1901 to 25.85% in 1991. As much as 32.5% of India's urban population resides in just 23 large cities. Heavy collection of MSW, lack of infrastructural services has resulted in poor disposal of the waste. **The applicant has classified the urban solid waste as follows:**

- (a) Household waste: including wastes arising from the preparation and consumption of food, generally termed as “garbage”;
- (b) City waste: all matter accumulated from streets, parks, schools, etc. including paper, animal waste, street and drain waste, slaughter house waste;
- (c) Commercial waste: arising from offices, stores, markets, theatres, hospitals and restaurants. These include a high proportion of paper, cardboard and plastics;
- (d) Human excreta;
- (e) Industrial waste: Wastes generated from industries including metallic waste, construction material, etc;
- (f) Hazardous waste: Toxic substances generated at hospitals, at certain industrial units, etc.;

The deficiencies in dealing with the MSW and the MSW management systems have been pointed out as under:

- (1) Absence of the system for storage of waste at source.
- (2) Lack of facilities where households, commercial establishments and institutions deposit the waste.
- (3) Existence of open, unhygienic and inadequate communal waste storage facilities and inaccessibility due to long distances.
- (4) Streets and public places treated as receptacles of waste by the public, growth of slums, defecations on the street by urban poor and indiscriminate disposal of infectious waste by nursing homes on the street.
- (5) Loading of waste into open trucks manually.
- (6) Land filling operations carried out without any environmental impact analysis, and
- (7) Several areas particularly inhabited by the urban poor are either not served or are under served.”

2. Besides the above, the petitioner has also pointed out that in India well managed sanitary landfill for disposal and treatment of MSW do not exist. Raw garbage is dumped by the municipalities in low lying areas through which there is every likelihood of it percolating and contaminating the groundwater resources of the city and its environs. Most places do not have waste yard sites.

Planning by the authorities is defective as the sites are not provided and maintained properly. The waste is hardly subjected to proper treatment. Slaughter house wastes are subjected to very little or no treatment and these pollute and eutrophicate water bodies and pose serious health risks including diseases such as malaria and filariasis. There is no effective collection and disposal method for toxic hospital waste.

Various studies have been referred to by the applicant in support of her contentions and it is also averred that studies including National Commission on Urbanisation report states that the MSW instead of being just garbage, if properly handled and managed can be a profitable exercise for municipalities who privatise waste management. Garbage can yield revenue by way of compost and with proper management. The CPCB published a report on 19th July, 1994 on good management practices of MSW. The solid waste management is an integral part of the environmental management not only of the city but of the country as a whole. Right of the citizens to clean and healthful environment guaranteed under Article 21 of the Constitution of India embraces the right to clean and well maintained city, streets, highways and environs. The Supreme Court of India years back in the case of *Municipal Council, Ratlam vs. Vardhichand*, AIR 1980 SC 1622 had held that it is not open for the municipalities to plead a lack of funds. Indeed, a responsible Municipal Council constituted for precise purpose of preserving public health and providing better facilities cannot run away from its principal duty by pleading

financial inability. In the light of these facts, the applicant prayed before the Supreme Court of India, inter-alia, but primarily the following reliefs:

“A. That this Hon’ble Court may be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate Writ. Order or direction under Article 32 of the Constitution of India, ordering and directing –

(I) Respondent No. 1 in relation to Union Territories and the States:

(II) Respondent No. 2 to 26 in respect of respective States:

(a) To make budgetary provision for purchase/acquisition, fencing and development of adequate long-term waste-yards for all class-I cities, and annual budgetary provision for end-point MSW management at these waste-yards, in addition to cost-based budgetary funding for MSW collection and transport.

(b) To financially strengthen their Class-I cities by linking penal interest for non-payment of property taxes and similar municipal fees to 2% above prevailing bank rates of interest;

(c) To issue appropriate directions and order under Section 5 of the Environment (Protection) Act, 1986 to each and every Municipal Corporation/Municipality of Class-II cities, (having a population of over one lakh persons) falling within the respective territory/jurisdiction:-

(i) Identify, designate, notify purchase /acquire and operate waste processing sites adequate for use as waste-yards over a rolling 20 years period in respect of management and handling of MSW,

(ii) Forthwith discontinue the dumping of untreated MSW in areas other than designated sites,

(iii) Take appropriate steps and measures for the collection, storage transportation, hygienic disposal, treatment and recycling of MSW including proper transportation to the designated sites and well-managed placement there for conversion into re-useable/recyclable by-products such as compost, bio-gas, fuel pellets, etc.;

- (iv) Operate the MSW sites and ultimate landfills in a sanitary, scientific and nuisance free manner,
- (v) Direct all local bodies to implement the guidelines issued by the Central Pollution Control Board a copy whereof is annexed as Annexure-13 alongwith National Workshop recommendations in Annexure-14,
- (vi) Frame time bound schemes and/or fiscal instruments to organise, encourage, support and facilitate persons working as rag-pickers/waste separators to enable the recovery with dignity and without health hazard of reusable /recyclable material from MSW, along the lines of Ahmadabad's SEWA and similar initiatives in India and abroad.
- (vii) Ensure the exclusion of hospital and nursing home wastes from MSW and monitor or provide safe and sanitary incineration thereof,
- (d) To introduce legislation to regulate and/or ban and/or impose punitive eco-taxes on excessive packaging and on the use of non-recyclable packaging like Styrofoam, foil coated plastic, plastic-coated paper, or to impose take-back/recall conditions on such packaging,
- (e) To introduce or amend Municipal Acts to facilitate anti-littering fines or penalties.”

3. The above Writ Petition was instituted in 1996. During its pendency, the Supreme Court passed various directions and orders requiring the respondents to consider low cost waste sanitization options. They were also directed to seek expert advice in respect of mosquitoes, flies and other vector control and to phase out the routine use of insecticides like DDT and BHC on garbage heaps and dump sites. The Supreme Court appointed Barman Committee and Barman Committee submitted its report on 16th January, 1998 and it was recorded in the order that none of the States appear to have any opposition to the report of the Committee, in fact, with

reference to the said recommendations the CPCB submitted the draft Management of MSW Rules, 1999 before the Supreme Court. Mainly cities of Mumbai, Calcutta, Delhi and Bangalore were the subject matter of these directions issued by the Supreme Court. In the case of *B.L. Wadhera v. Union of India and Ors.*, (1996) 2 SCC 594-595 where it was observed that the capital of India is one of the most polluted cities in the world. The authorities, responsible for pollution control and environment protection, have not been able to provide clean and healthy environment to the residents of Delhi. The ambient air is so polluted that it is difficult to breathe. Directions issued in *B.L. Wadhera's* case were not implemented and certain difficulties were pointed out. The Supreme Court observed that keeping Delhi clean is not an easy task but then it is not an impossible one either. What is required, is initiative, selfless zeal and dedication and professional pride, elements which are sadly lacking here. Thereupon the Supreme Court issued ten directions for compliance by all concerned. These directions primarily were issued to ensure that the streets, public premises, parks etc. shall be surface cleaned on daily basis, including on holidays. Collection of levy, recover charges and costs from any person littering or violating provisions of the diverse Acts, bye-laws and Regulations to ensure proper and scientific disposal of waste in a manner to subserve the common good. Sites for landfills will be identified bearing in mind the requirement of Delhi for the next 20 years within a period of four weeks by the exercise jointly conducted by Ministry of Urban Development, Government of NCT, Commissioner

MCD and Chairman NDMC and other heads of statutory authorities like the DDA etc. Directions were given to take appropriate steps for preventing any fresh encroachment or unauthorized occupation of public land for the purpose of dwelling resulting in creation of slum. Site selection of compost plants initially considering the extent of solid waste which is required to be treated by compost plants was also stated and the number of sites which should be made available will be eight. Again emphasis was laid by the Supreme Court on two interrelated aspects, one dealing with the solid waste and other being clearing of slums. It was noticed that NDMC spends 35 per cent of its revenue on pay, against the world standards of 15 to 20 per cent and vacant lands act as an open invitation to encroachers. By noticing this in its order dated 24th August, 2000 the Court raised a query vide its order dated 21st November, 2001, whether the States mentioned in the order are willing to privatize garbage collection with an object of ensuring cleanliness. In the order dated 4th October, 2004, the Supreme Court noticed that Municipal Solid Waste Rules have been enforced but have not been implemented properly. It also made a reference to the Steps taken by authorities and their failure to comply. The Committee was also constituted to examine the status with regard to the energy project in Lucknow and other projects in that behalf were not to be started till that time. Vide order dated 15th May, 2007, the Supreme Court examined the report of the Committee and modified its earlier orders and permitted the Ministry of Non-Conventional Energy Sources to go ahead with five pilot projects

keeping in view the expert Committee report. Order dated 15th May, 2007 reads as under:

“I.A. No.18 in W.P. (C) No. 888/1996:

Heard learned Solicitor General for Union of India and respective counsel for the parties.

The matter relates to solid waste management by various Municipal Corporations. After hearing parties, this Court on 6th May, 2005, observed that till the position becomes clear as regards the viability of the projects for generation of energy from municipal waste (by the bio-methanation technology), the Government would not sanction any further subsidies to such projects. This Court also directed that the Central Government to constitute a Committee of Experts and include therein Non-Governmental Organisations as well, to inspect the functioning of the project at Lucknow and its record and file a report before this Court. Pursuant to the said order, a detailed report has been submitted by the Expert Committee on 2.1.2006. Chapter IX of the Report contains its recommendations and conclusions. The Committee is of the opinion that the choice of technology for treatment of MSW should be made on the basis of quantity and quality of waste and local conditions. The Committee has opined that operational problems of one plant (Lucknow) should not form the basis to judge the efficacy of the particular technology and therefore, petitioner's objection to providing support (subsidy) to waste to energy projects may not be justified. We extract below some of the relevant conclusions of the Committee:

“...For all the projects in future, the issues such as Project Development including characterization of wastes, sizing of projects, technology selection and project design, management model and operational issues including close co-ordination between Municipal Corporation and the promoters, financial appraisal and approval of project should be adequately addressed.”

“In view of the problems of treatment and disposal of municipal wastes (solid and liquid) in our cities and towns, which are only likely to increase with the growth of population and urbanization, an integrated approach to waste processing and treatment will be necessary, as brought out in the MSW Rules, 2000. Therefore, Instead of focusing on individual

technologies, it would be desirable to take an integrated approach to the management and treatment of MSW, which would necessitate deployment of more than one technology in tandem.”

“The selection of technology for the solid waste management depends upon the quality of waste to be treated and the local conditions. Therefore, for the segregated waste, which is dedicated in nature, the selection of technology is relatively easier and its performance and success is beyond doubt. Therefore, it is desirable to have solid waste segregated at source, which is also required as per the MSW Rules, 2000.”

The Committee has recommended that projects based on bio-methanation of MSW should be taken up only on segregated/uniform waste unless it is demonstrated that in Indian conditions, the waste segregation plant/process can separate waste suitable for bio-methanation. It has opined that there is a need to take up pilot projects that promote integrated systems for segregation/collection/transportation and processing and treatment of waste.

In view of the report of the Committee and having regard to the relevant facts, we modify the order passed by this Court earlier and permit Ministry of Non-conventional Energy Sources (MNES) to go ahead for the time being with 5 pilot projects chosen by them, keeping in view the recommendations made by the Expert Committee and then take appropriate decision in the matter.

List the application for further orders after six months.

I.A.No.12: Permission to file rejoinder is granted.

I.A.NO.17: Petitioner to file its response to the application, if any, within four weeks.”

4. After passing this order vide its order dated 19th July, 2010, the Supreme Court referring to the interim application, which sought directions to the Development Commissioner, Government of NCT and other Authorities to grant allotment of land at Bhatti Mines for development of landfill site in favour of MCD for disposal

of Municipal Solid Waste. It was also noticed that certain NGOs were raising a serious objection and opposing the prayer. For that purpose the Supreme Court transferred the applications (I.A. No. 12/2002, 13/2002 and 17/2002) to the High Court of Delhi, as it felt that at the time the High Court would be in a better position to decide the matter, keeping in mind the local topography and local conditions. The Supreme Court had observed that the High Court may decide the matter expeditiously. However, the matter has not been finally disposed of as yet. Then the Supreme Court vide its order dated 2nd September, 2014 transferred the Writ Petition No. 888 of 1996 to the Tribunal while passing the following order:

W.P.(C) No.888 of 1996:

This petition filed in public interest as early as in the year 1996 prays for the reliefs that are set out in as many as eleven pages of the petition. It is, therefore, unnecessary to extract the same in extenso. Suffice it to say that several orders have been passed by this Court over the past 18 years or so in regard to the prayers made in the writ petition. One significant development that has taken place pursuant to those orders is the framing of the Municipal Solid Wastes (Management and Handling) Rules, 2000 under the Environment (Protection) Act, 1986. The Rules, in turn, came to be framed pursuant to a report submitted by a committee constituted by this Court. With the framing of the Rules all that remains to be done is an effective enforcement of the said Rules and possible upgradation of technology wherever necessary. Enforcement of the Rules and efforts to upgrade the technology relevant to the handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010. The Tribunal, it is common ground, is not only equipped with the

necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions.

In the circumstances we deem it proper to transfer W.P.(C) No.888 of 1996 to the National Green Tribunal for further proceedings in the matter and for disposal in accordance with law after hearing all concerned. We make it clear that we have expressed no opinion on any of the aspects that have been raised by the petitioner or by those seeking to be added as parties to the case including an application made by the residents of Sukhdev Vihar, New Delhi, who are aggrieved by the construction of an incinerator, next to the residential colony, affecting the quality life of those residing there. We leave it open to the Tribunal to examine all pending applications and the prayers made in the same including applications for directions wherever the same are prayed for and to pass appropriate orders in accordance with law. Needless to say that anyone of the parties if aggrieved of any order passed by the Tribunal shall be free to seek appropriate redress by way of an appeal in this Court under the provisions of the relevant statute. In case of any difficulty or clarification as to the scope of the proceedings being transferred by this Court, we reserve liberty to the party concerned to seek appropriate clarification from this Court as and when required. With the above observations, we direct transfer of W.P.(C) No.888 of 1996 to National Green Tribunal, Principal Bench, New Delhi. We request the Chairperson of the Tribunal to bestow his attention to the subject which has been pending in this Court for a long time to ensure that a matter of considerable public importance like management of municipal solid waste does not remain neglected any longer.

CONMT. PET. (C) No. 8/2009 In W.P. (C) No. 888/1996:

In the light of the order passed by us in W.P. (C) No.888 of 1996, we do not propose to continue with these contempt proceedings which are dropped and the contempt petition disposed of.

SLP(C) No. 22111/2003:

This special leave petition is delinked from W.P. (C) No.888 of 1996 to be listed separately after four weeks.'

5. Not only the States with capital cities like Chennai, Bangalore, Calcutta, Mumbai and Delhi were respondents in the Writ Petition

but all the States of the Union of India were made respondents in the petition. The State Governments filed their respective stands by way of reply affidavits to the Writ Petition before the Supreme Court and some of them also filed additional affidavits/additional replies before the Tribunal. Before we refer to the pleaded case of the respondents on the material issue one fact needs to be noticed at this stage. In relation to State of Punjab, one *Capt. Mall Singh and Ors* had challenged the order dated 30th August, 2012 vide which Environmental Clearance had been granted for establishment of integrated MSW Management facility and establishment of engineered sanitary landfill facility on Mansa Road, Bhatinda, Punjab. The parties had challenged this by way of an Appeal. The order granting Environmental Clearance to the project came to be registered as Appeal No. 70 of 2012 titled as *Capt. Mall Singh & Ors v. Punjab Pollution Control Board and Ors*. The stand of the Pollution Control Board and other respondents including the States was that it had divided the entire State of Punjab into eight clusters and in each cluster the proposal was to establish a Waste Energy Plant for collection and disposal of the Municipal Solid Waste and to generate energy. According to them, there was proper implementation of the Municipal Solid Waste Rules of 2000. After hearing the parties concerned, by a detailed judgment, the Tribunal disposed of the case. While not setting aside the Environmental Clearance granted to the project, it passed detailed directions with regard to the establishment and operationalization of the Waste Energy Plant as well as for implementation of Municipal Solid Waste

Rules of 2000 including establishment of green belt in a manner in which waste should be disposed off at landfill sites. This judgment was pronounced on 25th November, 2014. In light of the judgment pronounced by the Tribunal, the State Governments were required to file their response and if they had any specific suggestions in addition to the directions contained in the judgment of the Tribunal. In the case of *Capt. Mall Singh (supra)*, directions were given for better implementation of Municipal Waste Rules, 2000 and establishment of Waste to Energy Plants, wherever required. Some but not all the States filed their response in furtherance of the order of the Tribunal.

6. Most of the States filed status report regarding Model Action Plan for Municipal Solid Waste Management. Almost every State is following the cluster based system and are desirous to implement the Model stated in *Capt. Mall Singh (supra)*. Andaman and Nicobar Island is not following the cluster based system since it is not economically viable to them. It is commonly accepted that door to door collection of wastes and its segregation at the source is one of the viable factors of proper management of Municipal Solid Waste. In this regard, public awareness programmes should be encouraged. The State of Haryana in their report submitted that they are also adopting cluster based approach for collection and disposal of waste. They proposed to incinerate waste. There should be greenery around the site, there should be decentralized waste processing and the waste should be composted and primarily used for fertilizer purpose rather than making Refuse Derived Fuel (RDF).

Establishment of such plants would work in favour of the environment as well as the State Government. Site selection for construction of such plants is a serious matter and remains a subject of controversy. The Tribunal vide its order dated 20th March, 2015 had directed that the RDF Plant in Karnal (Haryana), will be operated to its optimum capacity. Some of the States had also prepared Draft Action Plan on Municipal Solid Waste. According to most of the States even the RDF is in the process of being established and some States are working towards establishing bio gas plants in place of RDF.

7. The States were also called upon to specifically state and clarify if there was any MSW disposal plant either RDF or Waste to Energy or any other plants in the state or if even proposals in that behalf were formulated and were at an advance stage. The States of Tamil Nadu, Arunachal Pradesh, Sikkim, Madhya Pradesh, Chandigarh, Odisha submitted that Solid Waste Processing Plants in their State are in operation and consent to establish Waste to Energy plant had been granted. There are three WTE Plants which are operating or/are under trial run. In relation to NCT Delhi, reference can also be made to the recent order of the Tribunal in the case of '*Kudrat Sandhu Vs. Govt. of NCT & Ors.*', Original Application No. 281 of 2016, where the Tribunal has permitted the three WTE Plants to operate, subject to strict provisions and inspection by the High Powered Inspection Team consisting of representatives from CPCB, DPCC, MoEF&CC, IIT etc. In Chhattisgarh, Solid and Liquid Resources Centre has been setup. However, there is a proposal to

set up Waste to Energy Plant in that State. In Lakshadweep Bio gas Plant has been set up and is functioning. Master Plan for Gujarat has been made and a Memorandum of Understanding has been signed with UN Centre for Regional Development, Japan with regard to management of Municipal Waste. In Maharashtra, some Urban Local Bodies (for short, 'ULBs') have put up plants. In Sikkim, there is no Plant for segregation. Andhra Pradesh has 18 vermi composting plants.

8. We may also notice, that in furtherance to the various orders passed by the Tribunal, some of the States submitted the status reports. State of Madhya Pradesh in its report stated that 90% of the population still lingers under the poor waste management system and they have made a long term plan regarding handling of MSW. State of Rajasthan submitted that the municipalities were in the process to develop secure landfill sites for disposal of MSW in accordance with Rules of 2000. Some of the States submitted the action plan for handling Solid Municipal Waste. In furtherance to the order of the Tribunal dated 5th February, 2015, State of Sikkim submitted the MSW Management Action Plan stating that they have adopted cluster based plan for urban centres for management of wastes. They submitted about the standardisation procedure, mobile sanitation courts management plan for institutional strengthening. State of Chhattisgarh submitted a Model Action Plan for disposal of MSW. State of Manipur submitted that there is rapid growth in production of MSW which has not been matched by development of organizational capabilities of ULBs leading to severe

strain on them and deficiencies in execution of this vital function. They have adopted integrated approach which involves all the stakeholders to deal with MSW. They are planning to adopt cluster approach, construct landfill sites and the DPR in that behalf had been submitted. State of Punjab has adopted cluster approach and they are collecting waste and spraying disinfectant. Green belt is being maintained around the landfill sites. State of Gujarat has stated that they are not able to collect and dispose of entire waste in accordance with the Rules of 2000. MSW is being converted to an eco friendly, beneficial end product. Efforts are being made by the corporations to convert MSW into useable material. Plastic is recycled and other waste is being utilized. According to the State of West Bengal, there are 128 Urban Local Bodies and they have taken major steps like adoption of cluster approach with regard to proximity of the ULBs involved in the concerned planning areas. There are serious problems with regard to absence of segregation of wastes at sources, lack of institutional arrangements in ULBs, lack of technical expertise, inadequate resource, lack of community participation, non-availability of sites. State of Bihar has submitted its report along with modified Model Action Plan for implementation of MSW management. Here, the municipal solid waste is not converted in an eco-friendly manner to any beneficial end product. In the annual report 2013-14 State Pollution Control Board Nagaland has published that MSW is not collected in its entirety, neither segregated nor disposed off in accordance with the Rules of 2000. They want to adopt cluster based approach and establish

plants for disposal of waste. They are trying their best to comply with the rules. The State of Telangana has submitted that there is average 85% door to door collection of waste. 25% segregation of waste is done at household level, at primary and secondary collecting points. No specific penalty for littering provided. According to the State of Orissa, total quantity of MSW generated in the State is 2460 tonnes per day out of which ULBs are collecting 2107 tonnes per day. A solid waste management plant is operating. Only 70 ULBs have identified waste processing and disposal facility site but have not developed their sites. There is open dumping of MSW. The District Magistrate has been requested to prepare an action plan. Dadra and Nagar Haveli have submitted that the transportation and dumping of the waste is being done by the Silvassa Municipal Council through outsourced agency. There is a MSW management plan which includes daily door to door collection of waste, segregation of waste at source into bio-degradable and non-biodegradable, Technology involving Refuse Derive Fuel (RDF) compositing to be employed, not more than 20-25% of waste would be allowed to be disposed off in the engineered sanitary land fill sites. In Delhi, there is generation of more than 14100 MT of MSW everyday out of which it contains approximately 9600 MT of MSW which also has an element of inert & even C&D material. Out of 9600 MT of solid waste, even if all 3 WTE Plants operate for optimum capacity, in terms of consent & Environmental Clearance granted to them, the city would be left with 4900 MT MSW per day, besides 600 MT silt from drains and road sweeping & 3900 C&D

and inert waste. The dumping sites/landfill sites are in terrible conditions. State of Jammu & Kashmir, in furtherance to order of the Tribunal, submitted status report showing disposal, segregation and transportation of MSW. The State has also shown cluster approach but from the status report as well as the matters before the Tribunal it is clear that the State is not able to handle its MSW appropriately in accordance with rules. State of Haryana has submitted Management Plan and there is no door to door collection of MSW and they are making efforts to comply with the Rules of 2000. Haryana State Pollution Control has issued directions to ULBs for proper implementation of rules from time to time. The Central Pollution Control Board claims that it is in the process of formulation of national policy with regard to collection and disposal of MSW as a model policy to be adopted in the country. Emphasis has been given in the suggestive/indicative Management Action Plan for cluster approach. Other states have also submitted their Management Plan and indicated that they have approved the Plans and are in the process of taking effective steps for dealing with the MSW in the respective States. Most of the States including Goa is not collecting its entire MSW and cannot dispose of the same in terms of Rules of 2000. State of Goa has also plans for manual/mechanized sorting, material recycling centre organic extrusion press, bio-mechanization plant followed by Bio-gas plan, in vessel composting and sanitary landfill. State of Tamil Nadu has prepared a draft policy on Integrated Solid Waste Management and it is in the process of approval by the Government. Some of the

States including Meghalaya is in the process of preparing Draft Managements Plan even at the District Level; however, the same is at the planning stage.

9. The Tribunal passed a detailed order on 20th March, 2015. Referring to various orders of the Supreme Court of India in the order dated 20th March, 2015, the Tribunal passed detailed directions. The Tribunal also accepted the reports filed by the States adopting cluster approach and establishment of RDF. With regard to the directions related to collection, treatment and disposal of the MSW, the Tribunal rejected the contention raised on behalf of some of the parties, including MoEF&CC, that, a) RDF b) Waste to Energy Plant and c) the site for collection, treatment and disposal of MSW should be de-centralized and that cluster system is not an appropriate remedy. The Tribunal noticed that it cannot overlook the limitation of the State in relation to availability of land, finances and geographical concerns. Economical and environmentally sound centralized operation of plants would not only be in the economic interest of the State and the people but would also serve the purpose of environment at protection and compliance with the Rules. The Central Pollution Control Board and MoEF&CC were also directed to prescribe specific standards for emission for insulators used for power generation. They were directed to prepare a consolidated document.

Vide the same order, the Tribunal also directed all the concerned States to file comprehensive affidavits within four weeks

in light of the judgment of the Tribunal passed in Original Application No. 48/2013, people for transparency through *Kamal Anand vs. State of Punjab* as well as in the present application i.e. 199/2014. It was also directed that in the event of non-compliance of the directions to file comprehensive affidavit, the concerned States would be liable to pay cost of Rs. 50,000/- and the concerned Secretary of the States would be present before the Tribunal, as a consequence thereof.

10. Thus, in furtherance to the order of the Tribunal dated 20th March, 2015, various States and even the Pollution Control Board of the States filed affidavits. According to the Punjab Pollution Control Board, there are a total of 163 ULBs which are generating MSW, 2 garbage treatment plants are operating and the State has formulated program for management of the MSW in the ULBs and the State has been divided into 8 clusters. The State of Goa, submitted that it has formulated its action plan on the lines of the judgment of the Tribunal in the case of *Capt. Mall Singh* (supra). The State of Madhya Pradesh also stated that it has formulated a cohesive policy wherein the cluster based approach for effective solid waste management was adopted. The State of Karnataka filed affidavit stating that the State has introduced the program of “clean our city” with 100% door to door collection of waste with source segregation and State has already procured land for waste processing and disposal of MSW. According to the State of Arunachal Pradesh, MSW treatment plants were being operated for composting and fertiliser practices and efforts were being made to

establish bio-gas plants on anaerobic composting. Necessary policy intervention was proposed to be framed to prevent unauthorized rag pickers and for a total prohibition on minor workers. Chandigarh filed an affidavit to state that the Municipal Corporation manages the waste in 56 sectors. There is door to door collection and proposal for two bio-methanation plants were in the works along with plan to purchase new machineries. State of Orissa claimed that its local authorities had invoked the 'Polluter Pays Principles' and had placed dustbins in 'jhuggy' colonies and policy for rag pickers is awaiting approval from the Government. The State of Kerala took up the stand that there was scarcity of land for setting up MSW management facilities and the model plant proposed by the State of Punjab may not be possible in the State of Kerala and the State is proposing to adopt decentralized facilities and to promote disposal of MSW at source of generation itself. According to the State of Kerala, under the Kerala Municipality Act, 1994, it is the responsibility of the LSGIs to manage the MSW and the State cannot interfere with the same. The State Government is performing as a facilitator for helping the LSGIs to perform their functions. It is providing help for preparing detailed project reports to deal with MSW. In Gujarat, there are 159 ULBs and Nagarpalika Action Plan for 126 municipalities has been prepared, for awareness campaign, training program for safai karmacharis. Andaman Nicobar Island submitted before the Tribunal that it has already established RDF plant which is operational but not performing to its optimum capacity. State Government shall frame its policy with regard to

collection of MSW from sites and then transportation of it to its designated places. State government has not put any restriction on use of RDF for power generation but they prefer that there should be composting of wet waste rather than generation of RDF therefrom. State of Andhra Pradesh has prepared a separate action plan to implement in a befitted manner the program for MSW by the ULBs. The proposal is to plan and execute step by step procedure to achieve 100 % door to door garbage collection at source, segregation of wet and dry waste. State of Tripura submitted that there is scarcity of suitable land/site for cluster approach of MSW plants and even the available lands are inadequate and located geographically far apart from each other. State Government is considering Agartala based pilot project as first step that will cover the neighboring ULBs. State of Rajasthan stated that the Government is making very serious efforts for implementation of the MSW Rules in the entire State and it has incorporated Section-226 to 236 in the Rajasthan Municipalities Act, 2009 for effective and proper enforcement of MSW Rules and for prohibiting littering. Policy guidelines, time-bound action plan envisages five years 2015–19 for all 184 ULBs in the State. They have sought financial assistance from the Central Government under the Swachh Bharat Mission guidelines. State of Himachal Pradesh has framed policy for door to door collection and there is only 1 local body whose population is more than 1 lakh i.e. Shimla. The Municipal Corporation has distributed two waste bins of green and yellow colour to all the households of the city for carrying out the

segregation of waste at source. It may be noticed that in the MSW case relating to State of Himachal Pradesh, it has come on record that for a considerable time plant dealing with MSW was not working for dealing with MSW. In the year 2016, they have again awarded a contract to the project proponent to restart the waste to energy project at Shimla. It is undisputable that Shimla and its surrounding cities are facing acute problems in relation to collection and disposal of MSW which is being dumped anywhere and everywhere.

11. Since some of the States had not filed affidavits, the Tribunal vide its order dated 13th July, 2015 granted further time for filing of affidavits. It was also noticed in the said order that the applicant 'Almitra H. Patel' had submitted suggestions before the Tribunal and here M.A. No. 22 of 2011 which was pending before the Supreme Court of India and had been transferred to this Tribunal should also be dealt with on merits. It was in light of this that States/Union Territories were directed to file compliance reports. The States of Tamil Nadu, Arunachal Pradesh, Sikkim, Madhya Pradesh, Orissa, Delhi and Chandigarh had filed their status reports/submissions. The State of Tamil Nadu submitted that there has been sanction of funds, discussion on the draft rules published by the MoEF, sensitization of Heads of the Departments on various provisions of draft rules. Integrated SWM project is being planned. State of Arunachal Pradesh submitted that rapid increase in generation of MSW has not been matched by development of the organizational capabilities of the ULBs leading to severe strain on

them and deficiencies in the execution of this vital function. Awareness programs were being introduced. The State High Powered Committee for Swachh Bharat Mission has already approved for release of fund to ULBs and proposals for setting up of treatment plants in a phased manner has been initiated. According to State of Sikkim, keeping in view of topography, the door to door collection of the municipal solid waste is difficult and it is being carried out by the waste pick-up vans in most of the wards in the urban areas. Waste is then transported to landfill sites. Further, a compost plant has been designed to handle waste up to 50 Metric Tonnes and no RDF plant has been installed there. It is also stated that there is need to have an integrated project involving all stakeholders i.e. Government agencies, private parties, public sector, corporate and institution to tackle huge piles of MSW that is suffocating the cities and towns in India. Sikkim has proposed setting up of a compost plant to deal with 50 MT of MSW and no RDF or bio-gas plant has been installed. The States are also considering the suggestions made by the Applicant as well as the model plants that have been approved by the different States. State of Madhya Pradesh submitted that it has made a comprehensive action plan for waste management. The local bodies have started 100% door to door collection of waste as well as composting but no scientific disposal is being done as landfill site has not been constructed being financially and operationally unviable. The land has been allotted for landfill facilities in almost all towns having a population of over 50,000. Chandigarh again has a massive issue

in relation to disposal of the MSW, despite having garbage processing plant which generates RDF. It has not been able to deal with the disposal of the waste in accordance with the Rules and there is huge waste generation. In the State of Orissa, there are 111 ULBs which are collecting their waste on its own or by engaging private agencies or combination of both. ULBs spend about 40% of the octroi grant on O&M cost of SWM services. Scientific disposal is not yet practiced by the ULBs. Puri Municipality is generating around 30 TPD of municipal solid waste and bio-compost plant, still the waste is not being handled satisfactorily and in accordance with the Rules. Delhi has prepared an action plan for MSW including plants for disposal of the waste. The corporations and other authorities are holding meetings to effectively deal with the issue.

12. Upon analysis of the above status reports, affidavits and documents placed on record, one fact that becomes more that evident is that all the States are at a planning stage and execution is lacking at all relevant stages, whether it is the beautiful city like Chandigarh or nature's gift to earth-city like Srinagar or be it the capital of our country, nowhere the generated MSW is adequately and appropriately collected, segregated, transported and disposed off in accordance with Rules in force, at all the relevant times. Chandigarh is generating a waste of approximately 370 MT per day whereas its garbage procession plant is procession approximately 270 MT per day which is converted into RDF. Waste from other areas including other adjoining States is being sent there, which causes disputes between the project proponent and the authorities

concerned including Corporations which are unavoidable. The plant is not working effectively and in fact the project proponent proposes to close-down the plant by 31st March, 2017. There is no gradual but rapid increase in generation of waste in all these places including Chandigarh. There is absolute necessity to frame proper planning, mechanism and implementation programs to deal with the waste in accordance with the Rules and to ensure that it does not cause environmental and public health problems. Indiscriminate dumping of waste anywhere including on-site would result in mosquito breeding, odour generation due to methane gas and other allied problems which would directly and adversely affect the environment and public health. Delhi is generating MSW which includes municipal waste, inert, C&D waste and different kinds of dust and ash. As noticed, Delhi generates nearly 14100 MT per day which has 9600 MT of municipal solid waste. Out of this, nearly 4900 MT of waste remains untreated everyday and has to be dumped at one site or the other. The landfill/dumping sites have already exceeded the prescribed limit and height. They have a height of 40 meters as opposed to the permissible limit of 20 meters. These landfill/dumping sites are source of serious air pollution, pollution of ground water by leachate and is a consistent and direct source of various diseases. There is hardly any place at plants to squarely and in accordance with Rules, deal with C&D and inert waste. State of Himachal Pradesh has no functional plant which is capable of dealing with the generated MSW in Shimla alone which is 86.01 MT per day or to even treat a substantial part

thereof. Thus, it is throwing its MSW at the site and/or anywhere and everywhere. It seriously and adversely affects the environment and ecology of eco-sensitive areas. Srinagar is generating 350-360 MT MSW per day and the waste from that area and from the surrounding areas is just being dumped and that too in an unscientific and indiscriminate manner at the site or anywhere and everywhere. The city of lakes, natural beauty has a stinking site for which the public at large is complaining everyday and is genuinely aggrieved by the adverse impacts on public health in that area. Similarly, all other States have prepared action plans that are being sent for approval to the Government. They have prepared DPRs which again are in the decision making process and they are planning to construct/install plants of different kinds. All these are at planning stage now for quite a long period. Though, it may be well intended but it still has to enter into the phase of proper execution. Environment and public health has to be the prime concern of the State and Central Government and limitations of different kinds cannot be said as impediment to the fundamental rights of the citizens as they have the right to clean and decent environment; free of any restrictions or limitation.

13. Almitra H. Patel had filed the writ petition before the Hon'ble Supreme Court of India in the year 1996. Various directions had been passed by the Supreme Court directing the State Governments to take expeditious and effective steps in accordance with law for dealing with the menace of MSW to protect the environment and public health. It is unfortunate that none of the States have

implemented and enforced the direction as directed and intended by Apex Court and the Tribunal. This matter has been pending before the Tribunal since 2014 and till date no State has been able to demonstrate that it has or any part of the State has any place which operates a system or a plant which would segregate, transport and dispose of the MSW in accordance with Rules. There are hardly any plants which have the capacity and are capable of dealing with entire MSW generated in that area by any of the scientific and accepted methodology provided under the Rules i.e. bio-composting, bio-methanation, RDF and WTE. Such a state of affairs cannot be permitted to continue indefinitely and every State Government, the Centre and all the Public Authorities should take immediate steps to ensure proper collection and disposal of MSW. With the increase in population, generation of MSW is going to increase. As per the 2011-12 report of the CPCB, the country generates 133760 MT municipal solid waste per day of which 91152 MT per day is collected and 25884 MT per day is treated. Remnant of it either remains uncollected or untreated. This is a significant indicator of the extent of this serious human and environmental problem. If such a huge quantity of waste remains uncollected or untreated then that obviously would mean that the remnant waste is spread anywhere and everywhere and is bound to result in adverse impacts having far reaching consequences on human health and the environment. What needs to be seen further is that these figures are of 2013 while we are already in 2016. With the passage of time, generation of waste has tremendously increased.

Current data of waste generation in our country has not been placed before us. It may be noticed here that even the data provided by CPCB is not based on any physical verification but in turn is based on the data collected by the ULBs. It was fairly conceded before us during the course of the hearing that none of the Corporations have ever physically verified the quantum and/or quality of the waste generated in any district of any State much less for the entire State. They have proceeded with a presumptive figure that per-capita generation of MSW is nearly 450 grams per day in major towns while per capita MSW generated from small towns is 200-300 grams per day. Again as per annual report of the CPCB for the year 2014-15, the waste generated per year was stated to be 141064 TPD out of which 127531 TPD is collected and only 34752 TPD is subjected to treatment. The CPCB report for the year 2014-15 has revealed that out of 7935 ULBs as per 2011 census only 389 ULBs have established compost/vermi-compost sites. Open dumping continues in 7327 ULBs, which means that practically 92% of the ULBs are dumping its MSW in open area. Having referred to the gravity of the issues relating to MSW and the ineffective and regressive steps taken by the respective State Governments, we would have no hesitation in stating that all concerned need to give up the attitude of laxity and casualness and become aggressive and effective in the implementation of the mechanism and methodology of collection and disposal of MSW for the entire country. The installation of different mechanisms including establishment of plants is the need of the hour as it is

either impractical or not possible to increase the number and size of dumping sites throughout the country. In capital cities of the States and all major towns, land is very scarce and there are financial constraints as well. On the contrary, there is rapid increase in generation of MSW. This means that methodologies which are scientifically acceptable, performable and in consonance with the Rules have to be established without any further delay and this should be the subject of utmost priority for every State. The regulatory authorities like, CPCB, MoEF&CC have to become more aggressive in ensuring that the provisions of law in relation to collection and disposal of MSW are enforced and implemented without default and delay now. They are vested with wide powers including those of punitive nature and time has come to take recourse to such measures and not leave the matters to the sweet will of the implementing agencies. It is evident that any further delay or deferment in enforcing of the Rules would lead to environment and public health disasters resulting from adverse and negative contribution of the public authorities and the officers manning the said authorities. The time has come when the officers/authorities who are persistent defaulters must be dealt with in accordance with the law and be penalized for their attitude and defaults.

14. India is one of the highest generators of MSW in the world. The MSW generated in our country has two very distinguishable features. Firstly, the quantum of waste that is generated and

secondly the composition of waste generated is very typical. The waste generated primarily has the following composition:

- | | | |
|----|--------------------------|-------|
| a. | Organic Waste | 51% |
| b. | Inert and no-organic | 31.5% |
| c. | Recyclable | 17% |
| d. | Average Moisture content | 47% |

15. The Municipal Solid Waste (Management and Handling) Rules, 2000 in practice were found deficient in various aspects. One of the main drawbacks of these Rules of 2000 was that it did not provide for and deal with certain basics of waste management. These rules did not provide for effective implementation and fixation of responsibility in regard to management and disposal of waste. Various improvements and amendments to these Rules were suggested by the Applicant in the present case as well as by the Applicant in other similar cases. All these cases were dealing with the management, collection and disposal of different kind of wastes. MoEF&CC had submitted before the Tribunal from time to time that it was undertaking the exercise for enacting the new set of Rules.

16. The said Ministry on 3rd June, 2015, published in the Gazette of India, Part-II Draft of Solid Waste Management Rules. Objections were invited to these draft Rules and parties were required to file their objection before the expiry of 60 days from the date of publication of the draft Rules. The Applicant in the present case, was also directed amongst others to file her objections/suggestions to the draft Rules before the Ministry which the Applicant did.

Finally, the Solid Waste Management Rules, 2016 was notified on 8th April, 2016. The Rules of 2016 have a very elaborate definition section, inter-alia, but importantly they define domestic hazardous waste to mean discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge, etc. generated at the household level. Waste hierarchy means prior order in which solid waste is to be managed by giving methods for prevention, reduction, recycling, recover and disposal, with prevention being most preferred option and disposal in landfills being the least. These definitions were included for the first time. Rule-4 onwards, the duties of various stakeholders were spelt out. Rule-4 imposed the duty on waste generators. It required the waste generators to segregate waste and dispose of it as provided for, not litter waste and pay user fee. Bio-degradable waste was required to be disposed of at the premises by the prescribed methods. Rule-5 provided for duties of MoEF&CC. It was required to monitor implementation of these rules and constitute a Committee for the same. It had the discretion to co-opt experts, if needed.

17. The Committee constituted under Rule-5(2) shall meet at least once in a year to monitor and review the implementation of these Rules. In our considered view, the period postulated under these Rules is wholly inadequate. The meeting of the Central Committee should be held more often to make the supervisory role of the Committee more effective and result oriented.

At the central level the Rules provide for duties of Department of Fertilizers, Ministry of Chemicals and Fertilisers, Ministry of Agriculture, Ministry of Power, Ministry of New and Renewable Energy Sources. These duties primarily relate to co-ordination with the State Governments and Union Territory Administration to review the measures taken by the State and Local bodies and help them to improve the steps taken to implement these Rules such as undertaking training for capacity building, formulation of national policy and strategy and scientific guidelines for dealing with MSW, to provide market development assistance on city compost and ensuring promotion of co-marketing of compost with chemical fertilisers, to provide flexibility in Fertiliser Control for manufacturing and sale of compost and propagating the utilisation of compost on farm land, setting up of laboratories to test quality, issuing suitable guidelines for maintaining quality of compost. Ministry of Power should decide tariff or charges for the power generated from the Waste to Energy plants based on solid waste and ensure compulsory purchase of power generated from such WTE plants by the Distribution Company. The Ministry of New and Renewable Energy Sources should provide appropriate subsidy or incentives for such Waste to Energy plants. The Rules also contemplate duties at the State level. The Secretary, State Urban Development Department in the State or Union Territory through the Municipal Commissioner or Director Administration or Director of Local Bodies has to perform the duties stated under Rule-11. It has to prepare policy for waste management and ensure

implementation of the Rules, capacity building for local authorities, registration scheme of rag pickers, notification for buffer zone, issuing directions for town planning authorities for making provisions of SWM, sanitary landfill and directing developers to set-aside area for SWM. The duties and responsibilities under the Rules do not restrict themselves to the State projects but even the District Magistrate or District Collector are obliged to perform the duties which shall help facilitate setting up of SWM facilities in tandem with local authorities and review performance of local bodies. It even goes to the Panchayat level and they are also to perform similar functions.

18. The CPCB and SPCB have also been directed to perform the stated duties and functions under Rules 14 and 16 of the Notification. These primarily relate to enforcement of the Rules, monitoring of environmental standards and their compliance, coordination between the Central and the State Boards, issuance of requisite guidelines. In terms of Rule-15, duties have been cast upon the local authorities and village Panchayats to establish centres for proper and safe disposal of storage of waste and its transportation, etc. Duties have been imposed upon manufacturer or brand owners of disposable products and sanitary napkins and diapers and the industrial units located within one hundred km from the refused derived fuel and waste to energy plants based on solid waste. The industries were required to use the RDF generated from plants. This obligation was to be discharged within six months from the date of the Notification of the Rules which is long over. The

Rules also provided detailed criteria for setting up solid waste treatment and facilities plant. The criteria have been specified for waste processing, waste management in hill areas and waste to energy process. It also gives specifications for landfills and other matters in relation to composting treated leachate insulation, processing treatment and monitoring of solid waste.

19. Rule 22 provides time frame for implementation. The authorities are required to create the necessary infrastructure and perform directly or through engaging agencies in the activities specified in that Rule within the time mentioned therein. This period varies from one year to five years with reference to various activities including setting up of various plants and sanitary landfill sites, etc. The State Level Advisory Committee has to be constituted within six months in terms of Rule 23 which again is long over. The landfill operations should adopt the methodologies which are pollution preventive. Criteria for Ambient Air Quality, monitoring has to be specified. Schedule-I deals with specifications for sanitary landfills, while Schedule-II deals with the standards of processing and treatment of solid waste.

20. The apparent lacuna that emerges from the bare reading of these Rules is that there are no punitive consequences for violation or non-compliance of these Rules. In absence of such provisions, the very purpose of these Rules will stand defeated. Enforcement of such regulatory regime is of essence. If there is no serious and effective implementation of these Rules, then they will not be able to

achieve the noble goal of prevention and control of environmental degradation resulting from MSW. These Rules have been framed in exercise of powers vested in the Ministry under a delegated legislation. The Rules have been enacted under Section 3, 6 and 25 of the Environment (Protection) Act, 1986. The violation of the directions, rules and provisions is made punishable under Section 15 of the Act of 1986. Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued there-under, shall, be liable for punishment with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, or higher punishment in the case of repeated failure. It is for this reason that no specific rule has been framed by the Ministry. It is obvious that the punitive provisions contained in Section-15 of the Act would come into play the moment there is violation, non-compliance or failure to comply with the directions, orders, rules framed and issued under the provisions of the Act of 1986.

21. Rule 21 of the Rules of 2016 provide for criteria for waste to energy process. This rule requires that non-recyclable waste having calorific value of 1500 K/cal/kg or more shall not be disposed of on the landfills and shall only be utilised for generating energy either or through refuse derived fuel or by giving away as feed stock for preparing refuse derived fuel. High calorific waste shall be used for co-processing in cement or thermal power plants. The local bodies or an operator of a facility or an agency designated by them proposing to set up waste to energy plant of more than five TPD

processing capacity has to move an application in Form-I to the Pollution Control Board for authorisation. Such application is to be dealt with and permission granted within sixty days. It is on record before the Tribunal that plastic paper and glass constitute nearly 17% of the waste. Plastic wastes including non-recyclable plastic for a high calorific value are suitable for MSW to energy plant. Of course, some plants have already been set up which are generating energy by mass burning. They do apply some degree of segregation but there are certain problems associated with such mass incineration like:

- Low calorific value, as it is mixed up with organic wet waste.
- High moisture content
- Presence of inerts like stones, sand and soil
- High input of energy for the incineration process to take place at high enough temperature
- Problem of waste streams being heterogeneous resulting in incomplete combustion efficiency of furnace to maintain adequate high and uniform temperature throughout the furnace during the residence period of the waste thereby possibility of release of toxins like dioxins and furans.
- Production of high ash content into burnt residue due to the presence of inerts.

22. However, despite the above, the plants which are having a very effective mechanism for segregation and are putting through boilers the waste as fuel for generating energy can also perform while maintaining requisite standards of emission, etc. The criteria under the Rules of 2016 primarily talks about power generation through

RDF. As already indicated, there are following techniques or processes for effective management of the SMW:

1. Bio-methanation
2. Vermi-composting
3. Waste to RDF, RDF to energy and
4. Direct mass incineration for power generation.

Whichever of the above processes are found to be suitable to the concerned stakeholders, the same could be adopted. There may be cases where more than one of the above processes are collectively utilised for generation of power and/or monitoring the solid waste, for instance, waste to RDF and then using RDF for generation of power. In a plant from waste to RDF, compost and/or bio-methanation may be used. This would depend on a large number of factors. The Rules do provide for the criteria but not comprehensively and in relation to all the processes. On the contrary, there are cases of direct waste to energy plants but in such plants, greater caution has to be taken for preventing pollution of air and the environment. They require better technology and more effective supervision to ensure compliance of the relevant laws. Rule-21 does contemplate that the plastic and non-recyclable waste, etc. which has high calorific value as provided under Rules would be used directly for power generation and/or through RDF.

23. For establishment and operationalization of any process founded on any technology, the first and foremost requirement is a comprehensive criteria for selection of appropriate solid waste

treatment technology. In addition to what has been stated in the Rules, There are various factors. We may herein indicate few of them. They are not exhaustive.

- (i) Availability of land
- (ii) Quantity of waste
- (iii) Quality (characteristics) of waste i.e. inert content, moisture content and more significantly, the calorific value.
- (iv) Financial viability: funding opportunities, viability gap funding (associated technology constraints, if any).
- (v) Segregation practices (efficiency of segregation, particularly to segregate the hazardous and toxic industrial waste, by identification of industrial pockets).
- (vi) Market availability for various products/outputs like biogas, electricity, RDF, fly ash, etc.
- (vii) Availability of buffer zone.
- (vii) Waste management philosophy (centralized/ decentralized, common or regional plant)
- (viii) Capacity (financial and infrastructure) of Local body to collect, segregate and transport the waste.
- (ix) Possibility of establishing dedicated brick manufacturing plant.

24 Generated waste could be converted, upon proper segregation to RDF which has a double advantage. Firstly, the RDF could be used by the project proponent in its own plant for generation of power. The other benefit could be that RDF could be sold as fuel to cement or power plants in the open market.

25. We may also notice here that the Rules of 2016 are in furtherance to the Waste Framework Directive of the European Union. It has a direct relation as well as nexus to International Framework on MSW. Certain definitions and rules relating to imposition of duties are part and parcel of the international regime as well.

In the European Union, the *Thematic Strategy on Waste Prevention and Recycling, 2005* resulted in the revision of the *Waste Framework Directive (2006/12/EC)*, the cornerstone of EU waste policy. The Directive introduces a five-step waste hierarchy where prevention is the best option, followed by re-use, recycling and other forms of recovery, with disposal such as landfill as the last resort. The directive include Extended Producer Responsibility makes producers financially responsible once their products become waste, providing them with an incentive to develop products which avoid unnecessary waste and can be used in recycling and recovery operations. An example of producer responsibility is the 'Green Dot' system currently in operation wherein producers placing material on the market pay a levy for the collection and recycling of a related amount of waste material. This forces them to consider the whole life cycle of the goods they produce. This establishes an encouragement to apply the waste hierarchy in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by

previous holders or by the producers of the product from which the waste came.

Waste prevention is becoming more and more important as the global population increases and we eat away at our finite supply of natural resources. However, this is a very challenging concept as it is difficult to measure something which, by definition, never existed.

One of the key tools being used to encourage waste prevention is eco-design, which focuses on environmental aspects during the conception and design phase of a product. Eco-friendly products should be made using recycled secondary raw materials and should avoid the use of hazardous substances. These products should consume less energy during the use phase and should be able to be recycled once they have been discarded. Waste prevention is closely linked to improving manufacturing methods and influencing consumers so that they demand greener products and less packaging.

Waste management strategies shifted from landfill towards a combination of recycling and incineration, and in some cases also mechanical–biological treatment. Many countries use ‘pay-as-you-throw’ schemes (i.e. fees based on the weight or volume of the waste as an economic incentive for households to recycle their waste). All the countries that show landfill rates well below the EU-28 average of 28 % have either banned landfill of biodegradable or mixed municipal waste, or implemented a ban combined with a landfill tax of at least EUR 30/tonne.

26. As per the Buffer zone specifications in the *National Guidelines for Hazardous Waste Landfills* in Canada, the waste fill area of an engineered hazardous waste landfill facility should be completely surrounded by a buffer area that is established and managed according to the following guidelines provided therein:

- a) At every point, the buffer area should extend beyond the distance calculated for a reasonable contaminant travel time in the groundwater or beyond a reasonable width.
- b) The buffer area should be sufficient to ensure that the land filling operation does not have any unacceptable impacts outside the site (such as surface runoff, the spread of litter or vermin, the escape of leachate, or the subsurface migration of landfill gas).
- c) The buffer area should accommodate all performance monitoring sites and still be able to implement contingency measures inside the property boundary if necessary.
- d) The buffer area should either be
 - (i) not planted with any vegetative screening that would increase the rate of contaminant travel in the buffer area, or
 - (ii) widened to allow for an increase in contaminant travel due to plantings.
- e) Encroachment onto the buffer area should be avoided for a minimum period of time (such as 25 years) following the completion of post-closure care. Jurisdictions of authority may have specific numerical criteria regarding buffer areas and should be consulted regarding their specific requirements.

Within the legal boundary of the engineered hazardous waste landfill facility site, a buffer zone should be provided around the perimeter to act as a visual screen and a noise barrier among other functions. In addition to the above, the following should also be noted:

- The buffer zone should also contain a site access road, site services and buildings, groundwater monitoring wells and landscaping.
- The width of the buffer zone, the visual screen and the noise attenuation features may vary according

to land use, local regulations and the proposed contingency systems

- Access to the site should be strictly controlled. Both incoming and outgoing traffic should pass through a single control point for: manifest, movement document or shipping document verification; waste sampling; and any other regulatory or administrative actions.
- Appropriate signage, signals and lighting should be used to direct the flow of traffic on the site (see Appendix C).

27. The International or Municipal Solid Waste regime in other countries may not be applicable to the municipal solid waste conditions present in our country. As already noticed, the quantum as well as the characteristics of the municipal solid waste in India is quite distinct. The waste collected consists of variety of wastes like the domestic waste, wet waste, green waste, inert C&D waste, dust and ash. Normally, the waste collected is not segregated at source. Proper segregation is a condition precedent to scientific and proper disposal of municipal solid waste in accordance with the Rules in force. Direct incineration of the segregated wastage for power generation is one of the accepted methods of processing the mixed waste. The Rules of 2016 do deal with various aspects of management and disposal of municipal solid waste in greater detail. The Rules of 2016 are still deficient and non-specific in some areas. The success of effectiveness of any regulatory regime is directly dependent upon the extent to which they are implemented at the ground level. After and even prior to the coming into force of the Rules of 2016, the various courts and this Tribunal have issued direction in regard to the management and disposal of municipal solid waste. The Supreme Court of India

in the case of *M.C. Mehta* (Non-Conventional energy and Agra Heritage matter) *v. Union of India and Ors.* (2003) 10 SCC 719 while dealing with the Rules of 2000, directed that the Rules should be strictly complied with. The Court also recommended the States to take appropriate action against concerned officers who fail to discharge their duties in accordance with the Rules and even directed removal and clearing of unauthorized encroachments within a week of the order. Further, in the case of *Lakshmi Narain Modi v. Union of India* (2013) 10 SCC 227, the Supreme Court directed review of the performance of Committees constituted for proper implementation of the provisions of relevant legislations with regard to the transportation of animals, maintenance of slaughter houses, Effluent and solid waste disposal. The guidelines were directed to be framed by the MoEF&CC and to implement the provisions of the Act. In cases of *Irfan Ahmed v. Nawang Regzin Jora*, [2015 (1) ALL INDIA NGT REPORTER Part 2 31] and *Mohali Industry and Commercial Association v. State of Punjab*, [2015 (1) ALL INDIA NGT REPORTER Part 3 124], the Tribunal passed detailed direction in light of the Rules of 2000 with regard to the landfill site. The Tribunal found that presently the site was neither constructed nor maintained nor operationalized in accordance with the Rules. The Court also invoked the Polluter Pays Principle and directed the Corporation to pay compensation for restoration of environment on account of violation of Rules of 2000. The directions were issued in regard to making the plant operational and to create green belt around the plant. The directions were also

passed with regard to the deposit and dumping of waste strictly in accordance with the Rules of 2000. The Jammu and Kashmir Pollution Control Board was directed to grant consent to construct and operate a plant to the Corporation expeditiously and in accordance with law. In the case of *Mohali Industry Commercial Association* (supra), the Tribunal while declining to issue prohibitory orders for closure of the dumping site, issued direction for proper collection and disposal of the waste, in accordance with Rules of 2000. Keeping in view the Principle of Sustainable Development, IT permitted the use of the site in accordance with rules till the Municipal Solid Waste Plant was established and made operational. Besides this, certain regulatory directions were also passed in the judgments.

28. In the case of *Kudrat Sandhu v. Govt. of NCT of Delhi and Ors.*, Original Application No. 281/2016 decided on 2nd December, 2016, the Tribunal observed that the collection and disposal of MSW was one of the material components for keeping the environment decent and clean, which in turn was a Fundamental Right of the citizens within the ambit of Article 21 of the Constitution of India. Noticing that MSW is one of the most serious pollutants in our country, particularly in metropolitan cities like the NCT of Delhi, it was obligatory upon the municipal and other authorities to ensure that the waste is collected, transported and disposed of in accordance with the Solid Waste Management Rules, 2016. In that case, the Tribunal was primarily concerned with the operationalization of the two waste to energy plants which had been set up at Ghazipur and

Narela in Delhi. Out of the total generated waste of 14,100 metric tonnes per day, these two plants have the capacity of 2000 metric tonnes per day. The plant at Ghazipur was receiving waste of only 800 metric tonnes of municipal solid waste while the plant at Narela-Bawana was receiving full capacity waste of 2000 metric tonnes. Out of this, up to 20 per cent was C&D waste, mixed with the municipal solid waste.

29. From the above two factors, it become evident that, firstly, the waste generated is a mixture of variety of other wastes including the waste which may not be acceptable in terms of the installed technology and secondly, that the plant at Ghazipur is underutilized. These plants generate fly as well bottom ash which is presently being dumped at a site within the plant or is being taken to another dumping site. Another important issue that was raised in the case was with regard to mismanagement of MSW in Delhi and the terrible conditions that prevail in relation to landfill/dumping sites. The MSW generated is expected to be 16500 MT per day approximately. The Tribunal by a detailed order and upon considering the necessity for operating waste to energy plants passed the following directions:

1. "We direct all authorities concerned to ensure that the waste to energy plant at Narela and Ghazipur operate to their optimum capacity in accordance with law, in terms of the conditions of consent to operate order granted and the environmental clearances.
2. All the Local Authorities and the Development Authorities shall ensure that segregated municipal solid waste is supplied to the waste to energy

- plants in Delhi in accordance with terms and conditions of their Agreement.
3. The plant at Ghazipur is presently receiving only 1000 MT of mixed municipal solid waste out of which 200 metric tons is excluded as inert and Construction and Demolition debris (in short 'C&D') waste thus, leaving 800 MT of mixed waste to be processed in the plant for generation of energy. This plant is capable of manufacturing Refuse Derived Fuels (in short 'RDF') and then use the same for marketing purposes or entirely and partly for generation of energy within the plant. We direct East Delhi Municipal Corporation to supply immediately, at least 1500 MT, of municipal solid waste, out of which upon exclusion of segregated inert and C&D waste, at least 1300 MT of waste should be available to the plant for the purpose of manufacturing of RDF and generation of energy. The plant in terms of consent to operate can process 1300 MT of municipal solid waste while it has a capacity of 2000 MT of waste.
 4. We grant liberty to the plant owner to approach Delhi Pollution Control Committee for operating with increased capacity of 2000 MT. If such an application is filed, the Delhi Pollution Control Committee shall dispose it with utmost expeditiousness, in any case, not later than two months from the date of filing of such application, in accordance with law.
 5. The C&D waste plant at Shastri Park is ready to operate, in all respect. We direct the Project Proponent to approach all the concerned Authorities and complete all the requirements of law including consent to operate and Environmental Clearance, if required. All the authorities concerned including Delhi Pollution Control Committee and NCT, Delhi shall fully cooperate and ensure that this plant becomes operative at the earliest, in any case, not later than six weeks from today.
 6. We make it clear that we are not issuing directions to any Authority to grant consent/permission if the plant is not entitled to perform in accordance with law.
 7. The plant at Narela is a kind of self-contained plant as it has its own landfill site adjacent to its premises to dump inert waste. It is the exclusive responsibility of the Project Proponent. It has a capacity of 2000 MT/day processing of municipal solid waste and it is presently receiving 2000 MT of municipal solid waste. Out of this, as already noticed, the plant is getting about 20% of inert and

C&D waste which leaves the plant with approximately 1600 MT of municipal solid waste. Thus, we direct the Corporation to permit the Project Proponent to collect waste to the extent of 2400 MT/day so that it can operate to its optimum capacity after segregating inert and C&D waste. The Corporation and the Project Proponent is ad idem that the Delhi Electricity Regulatory Commission has fixed tariff of power charges @ 7.43% per unit. Furthermore, revenue sharing shall be effective between the parties @ 3% but from the date they commission generation of power. This, however, is an interim direction without prejudice to the rights and contention of the parties. Under the agreement between the parties dated 17th July, 2009, clause 12.2 is the arbitration clause for resolving dispute between the parties. The Project Proponent or the Corporation, as the case may be, are at liberty to invoke arbitration proceedings in accordance with the agreement and the rate and date both for revenue sharing would be fixed by the arbitrator and the parties would be entitled to proceed with reference to the interim directions issued by the Tribunal above.

8. The Project Proponent shall start revenue sharing with the Corporation from the date on which plant is commissioned i.e. energy is generated and sold but it will be subject to final award of the arbitration. The Delhi Electricity Regulatory Commission shall deal with the matters of approval of power purchase agreement with utmost expeditiousness, with respect to generation of power and its sale.
9. We expect both these plants to operate to their optimum capacity without causing any pollution either in their process or through their emissions. They shall operate strictly as per the prescribed norms in relation to ambient air quality, stack emissions provided under the Air Act and collect and dispose of waste strictly in terms of Solid Waste Management Rules, 2016.
10. In the event, they are found at default at any one point of time, they shall be liable to pay environmental compensation of Rs. 5 Lakh for each default. The default would be determined by the joint inspection team that we will constitute under these directions.
11. The joint inspection team shall consist of Member Secretary, Central Pollution Control Board; Member Secretary, Delhi Pollution Control Committee; Senior Scientist from Ministry of

Environment, Forest and Climate Change and a member of faculty nominated by the Director, I.I.T., Delhi.

12. The Okhla plant shall continue to operate but it would be subject to the orders of the Tribunal that may be passed in Original Application No. 22 of 2013.
13. This committee shall be Supervisory Committee and would visit the plant in question at least once in two months. The day-to-day working of the plant shall be examined and report be submitted to the supervisory committee by a team selected by the Supervisory Committee consisting of members of the above organizations.
14. We also expect that all the Authorities would cooperate and provide required assistance, help and guidance to the plant owners if they are found to be deficient and not performing as per the prescribed norms. Polluter Pays Principle has to be adhered to but it should not be converted into 'pay and pollute'. The goal of achieving decent and clean environment is possible only with due cooperation of the Authorities, in the position of satisfactory performance by the Project Proponent and full cooperation from the public at large. The public cannot ignore its duty provided by the constitution itself under Article 51(g) of the Constitution of India. There are three landfill sites/dumping sites in Delhi at Ghazipur, Bhalswa and Okhla. Each of these sites is a depiction of mess that can be created adversely affecting environment and health of the people of Delhi.

All the Corporation, Delhi Development Authority and all other public authorities including Government of NCT, Delhi are directed to take immediate steps for reduction and utilization of dumped waste for other purposes. We are informed that an agreement has been entered into with National Highways Authority of India and the Ministry concerned for utilization of the segregated waste from the dumping site for the purpose of road construction including expansion of National Highway No. 24. We direct Corporation and all Authorities to take all appropriate and immediate steps for segregation of waste in terms of the agreement entered into by them. Maximum efforts should be made to utilize segregated waste for road construction of NH-24 in terms of the agreement and even other roads. We hereby direct CPWD, PWD, Delhi to take segregated waste from all the three dumping sites and use the same for construction of the road and embankment,

wherever required. We hereby appoint a High Level Committee under Additional Secretary, Ministry of Urban Development, Govt. of India, comprising of Secretary, Environment; NCT, Delhi, Chairman, CPCB; Chairman, DPCC; DDA and all Municipal commissioners. The Committee shall prepare a clear cut action plan for disposal of entire solid waste generated in Delhi and shall prepare a comprehensive plan for Bio-stabilization of all these sites and submit it before the Tribunal within one month. The Additional Secretary, Ministry of Urban Development would be entitled to co-opt or call any other person besides members that we have directed i.e. Delhi Pollution Control Committee, Central Pollution Control Board, CPWD, PWD, Delhi Development Authority and Corporation.

All the Corporation, Public Authorities, Delhi Development Authority, including Ministry while issuing tender for construction of road in any part of NCT, Delhi would make it compulsory, to whomever the work is awarded, to utilize the usable waste for the said purpose.

15. It is stated that one point of time there were nearly 24 landfill sites for waste management identified in the Master Plan 2021. We direct the Committee constituted above, chaired by Additional Secretary, Urban Development, to identify and submit report to the Tribunal as to the possibility of providing landfill site for waste management in Delhi particularly out of 24 sites stated in the Master Plan. We are informed by the Government about scarcity of land in Delhi, therefore, it has becomes necessary that we should have greater number of Waste to Energy Plant and RDF Plant so that the waste generated can be processed and very limited residue remains. The remaining residue is manageable, possible to store and to dump the same without adversely affecting environment and public health. We further direct Public Authorities, Corporation and Development Agencies to ensure that these dump sites are covered with clay particularly disinfected in terms of Solid Waste Management Rules, 2016 without any further delay.
16. From the entire discussions above, it is evident that none of the authorities whatsoever till today has any correct data of generation of municipal solid waste with all its components in Delhi, upon conducting physical survey. We have no hesitation in observing that the statistics and data furnished

to the court and Tribunal are based on some imaginary figures of questionable authenticity. Everybody relies on data furnished by the other or by some studies to which they were not involved as a party. It is undisputed before us that none of the Corporation, Delhi Development Authority or any other agency responsible for development has ever physically conducted survey to collect primary data even for smaller part of Delhi so as to find out the exact generation of municipal solid waste, per capita, which is formally stated to be adopted by them. Therefore, we direct each Corporation, Development Agencies or Authorities to at least pick up two colonies, one from unauthorized colony and one from authorized colony, under their jurisdiction. They shall engage agencies who shall collect data in their presence or collect data themselves in relation to population as well as municipal solid waste generated in that colony as a whole or per capita and they shall also state the composition of waste. The Corporations will maintain special records in regular course of day-to-day business showing as to how much waste has been collected, its components and how much waste remained uncollected. The Corporation will also ensure that such waste, if collected by the Corporation, it should be at the source or in any case at the Dhalao or point of collection.

17. We direct the Commissioner of each Corporation to submit a scheme before the Tribunal for providing incentive to the people who give segregated waste at source, by way of rebate in property tax and on the other hand to impose penalties on residents, societies, RWAs who do not provide segregated waste. It should be kept in mind that on Polluter Pays Principle, each person would be liable to pay for causing pollution, if the waste is generated. It is the duty of a citizen to ensure that said waste is handled properly and not to cause any pollution or cause inconvenience to other persons. The entire burden cannot be shifted on the state and authorities. It shall be submitted, within one month, to the Tribunal.
18. All major sources of municipal solid waste generation – hotels, restaurants, slaughter houses, vegetable markets etc. should be directed to provide segregated waste and handover the same to the Corporation in accordance with rules. Any such body, person, hotels, residents, slaughter houses, vegetable markets etc. which does not comply with the directions or throw their waste over any drain or public place shall be liable to pay

environmental compensation at the rate of Rs. 10,000/- per default. It is their obligation to segregate the waste at their place and handover the same to the Corporation centres for waste collection or the Agencies appointed.

19. The NCT, Delhi, all Authorities and concerned Ministries will ensure complete implementation of the notification 1999 as amended by 2016, in all respect. The Delhi Development Authority and Corporation shall collectively consider and submit a proposal to the Tribunal for establishment of brick manufacturing plant with mixtures of fly ash. We direct that all the construction activity in Delhi should be preferably done, to the extent notified in the notification, by bricks produced from such plant rather than clay bricks. The Government has already issued directions thus it will be the obligation of NCT, Delhi to see that direction is implemented in its spirit and substance. The possibility of establishing more such plants should be comprehensively examined. We may notice that there are at least 3 or 4 thermal power plants within 300 Kms. which are generating considerable fly ash/bottom ash. The Government and Authorities concerned should ensure that the fly ash/bottom ash generated or collected in ash ponds shall be utilized for the purpose of manufacturing blocks etc. and is not merely dumped. We further direct that wherever fly ash or bottom ash is dumped, should be sprinkled on regular intervals and should be particularly covered by all the Agencies, Corporation, Project Proponent and other concerned stakeholders.
20. We direct that Corporations, Development Agencies and Fire Departments of Delhi should ensure that none of the dumping site is ever seen at fire. It shall be a collective responsibility and Fire Department shall, in consultation with the Commissioner of Corporations, fix responsibility and dedicated fire vehicles would be made available for each site, in addition to their normal duties.
21. Wherever it is feasible, the waste shall be composted or biomethanated near to the point of its generation and collection and in that case it may not be necessary for transporting the compostable waste to the landfill site or waste processing plant. We direct that the Corporation shall make every attempt to segregate compostable and C&D waste out of 4900 MT municipal solid waste that they receive. That segregated C&D waste along with 3900 MT C&D waste collected

shall be utilized henceforth for construction activity, particularly in relation to road embankment wherever needed and other allied construction project. Every Public Authority, all Corporations, Cantonment Board and Delhi Development Authority should immediately stipulate such a condition in their tender documents.

22. The High Level Committee constituted under this order shall be at liberty to require NCT, Delhi and even the Government to provide fund for compliance of these directions and implementation of the project prepared there under. The Corporation and Public Authorities would also be at liberty to invoke Polluter Pays Principle and require the public at large to pay for that purpose.
23. We further direct that the use of disposable plastic glasses is prohibited in entire NCT, Delhi at hotels, restaurants and public as well as private functions. The NCT, Delhi shall take appropriate steps against storage, sale and use of such plastic material at above places and it shall stand prohibited w.e.f. 01st of January, 2017.
24. There should be segregation of waste at source. In order to ensure that the waste segregated at source is transported, stored and processed separately, the existing Dhalaos wherever constructed within the limits of NCT, Delhi should be compartmentalized, one chamber for bio-degradable waste, the second for non-biodegradable and recyclable waste and the third for the hazardous & other wastes. Even, wherever Dhalaos are not provided the concerned Corporation should provide/construct three separate bins as indicated above, of proper sizes which can be mechanically handled and are in accordance with Solid Waste Management Rules, 2016.
25. The planning and municipal authorities shall, while approving the layout plan for new housing colonies where the area exceeds 5000 sqms, mandate provision for decentralised processing of segregated, biodegradable and compostable waste of the colony within its premises in terms of the Solid Waste Management Rules 2016. Even in respect of the existing Colonies/Group Housing Societies/ Residential Welfare Associations, the Planning and Municipal Authorities should identify areas within the premises of colony / RWA where such decentralised processing of biodegradable/ compostable waste could be carried out either by bio-methanation or composting.

26. Recognising that the waste generated in Delhi will have to be processed within its territory, all the Municipal authorities, other public authorities including DDA and State of NCT Delhi should draw up an integrated waste management plan for city of Delhi identifying landfill sites, improvement of existing landfill sites as also the efficiency and functioning of waste processing units. Such integrated action plan shall be prepared within a period of two months. The Committee Constituted, under para 14 of this order, should examine and submit the Action Plan to the Tribunal, within the period specified above.
27. We direct that all the concerned Authorities, Corporation, Delhi Development Authority, Cantonment Board, NDMC, all Boards, Project Proponents, Railway, NCT, Delhi should co-operate with each other to comply with these directions in their true spirit and substance. In the event of default the person, irrespective of status in hierarchy of the Government or Department, shall be liable to be proceeded against personally in accordance with law. Both the Committees constituted under this order shall submit their reports to the Tribunal within the specified time, in any case, not later than six weeks from today. Report as and when submitted shall be numbered separately by the Registry and matter be placed before the Tribunal for appropriate orders. We grant liberty to the applicant to approach the Tribunal in the event of non-compliance of the directions contained herein.

The above judgments of the Supreme Court and the Tribunal are illustrative of the fact that the Courts or Tribunals have issued appropriate directions for ensuring environmental protection. The right to decent and clean environment should not remain illusory but should be a right which is enforceable and benefits of which should accrue to the citizens of the country. The gaps in the Rules or directions issued by the executives have to be supplied by judicial pronouncement, if it is necessary to do so. The Rules of 2016 do have certain gaps or they do not comprehensively deal with the requirements of the Act of 1986. For instance, clause (i) of

Schedule-I limits utilisation of inert and non-biodegradable waste to be used for building up of roads but only in the hills. It does not provide for why such waste and particularly non-recyclable plastic be not used for actual construction of roads in all parts of the country. For instance, in a place like Delhi, the generation of non-biodegradable and non-recyclable waste is huge and it could easily be used for construction of roads and/or embankments.

30. There is no punitive provision in the Rules. However, in terms of Rule-15, a duty has been cast upon local authorities and village Panchayats to form bylaws and formulate a criteria for levying spot fine for persons who litter or fail to comply with the provisions of these Rules. The Rule could safely provide for applicability of the punitive provisions of the Act of 1986, as afore-indicated. The Rules are silent as to whether the specified purpose in the Rules and the Schedules is extendable, and if, they are mandatory or directory. The Rules are also silent with regard to management of domestic hazardous waste collected along with domestic or other waste under the Rules of 2016.

31. Upon placing on record, the Notification of the Rules, 2016, the parties were given opportunity to put on record their suggestions or additional factors that need to be added to the Rules of 2016. This was primarily directed to ensure that there were no linguistic or practical deficiencies or gaps in the Rules of 2016 and they should be enforced without exceptions effectively and purposefully. The Applicant her filed suggestions to the Rules of

2016 on 6th May, 2016. To these suggestions, CPCB, MoEF&CC and other parties were required to respond. These Respondents filed their response to the suggestions made by the Applicant for effective implementation of the Rules.

32. The Applicant proposed the following four aspects which require deliberation and decision by the Tribunal. They are:

- a) Ban on short life PVC and chlorinated plastics
- b) RDF to Cement Plants
- c) Buffer Zone
- d) Tipping Fee

Applicant has sought following directions from the Tribunal;

1. *WTE projects be approved on the following conditions:*
 - a. *Energy balance, Mass balance and Water balance shall be submitted with the initial proposal for consideration and form part of the agreement.*
 - b. *No commitment in the agreement shall be made for mixed waste or waste of any specific calorific value.*
 - c. *No unprocessed wet waste or recyclables shall form part of the feedstock.*
 - d. *No commitment for guaranteed supply of waste in excess of 85% of their current total waste generation as minimizing residual waste is a key objective of SWM.*
 - e. *Incinerator ash shall be sent to haz. waste landfill at the operators cost.*
2. All SPCBs/PCC shall not only permit but encourage supply of combustibles including mixed plastics as RDF to nearby industries, power plants and cement plants.
3. Union of India, Respondent No.1 herein shall phase out with clear timelines the use of PVC in all packaging, hoardings/banners, use-and-throw and short-life items.

CPCB by affidavit dated 20th September 2016 has generally concurred with these suggestions particularly related to short life plastic and RDF for cement plants. As far as Buffer zone is considered, the CPCB informs that it is in the process of preparing the *'National Guidelines for Buffer Zone around waste processing and Disposal Facilities'*. CPCB further submits that the applicant is correct in submitting that though the term 'Tipping Fee' has been defined in the SWM Rules 2016, but the same is not mentioned in Para/Rule for its application, and MoEF needs to take a view in this regard.

The MoEF&CC has filed its affidavit on the suggestions of the applicant on 18th October 2016 and submits that as far as PVC and Chlorinated Plastics are concerned the MoEF&CC is open to such consideration but only after necessary examination of the issue by formation of group of experts. MoEF&CC further states that in any case, the incinerators for solid waste incineration have been prescribed with emission criteria which include standards for toxic emissions i.e. Hydrochloric Acid, Heavy Metals, Total Dioxins and Furans. Further, the Bio- Medical Waste Rules, 2016 also stipulate phasing out the use of chlorinated plastic bags within 2 years.

As regards the suggestions related to use of RDF in Cement plants the Ministry has elaborated the present legislative framework and submits that the National Policy and State Policy as envisaged in the SWM Rules 2016 will consider such aspect. Ministry further submits that the CPCB is in process of formulating the guidelines

for buffer zone which will be duly considered and examined by the Ministry. The Ministry also undertakes to examine the issue relating to the Tipping Fee to the output in consultation with the stake holders.

It is a matter of record that the Municipal Solid Waste Management Rules 2000 were notified after the effective intervention of the Hon'ble Apex Court, in the present matter which is under consideration, transferred by the Apex Court to this Tribunal. The MSW Rules, 2000 also contained elaborate time bound action plan and also details of various technologies and procedure for segregation, collection, transport, treatment and disposal of the MSW. It is also a matter of record that all the cities in the country including major metropolitan cities have failed to achieve the benchmarks and objectives of the MSW Rules, 2000. As per CPCBs report maximum 27% of the municipal solid waste generated in the country is treated. It is also well established that improper collection, treatment and disposal of the MSW has serious implications on the human health and has direct correlation with the health burden of the respective cities.

It would therefore have been prudent if the Ministry had carried out a critical analysis of the reasons for non-implementation of the MSW Rules, 2000 by identifying the concerns/issues/weaknesses in the said Rules while framing the new rules. This is relevant because though in the Rules of 2000, three years' time period was given for implementation of the rules, even after 16 years, there is

abysmal progress in the implementation of the Rules. Moreover, the SWM Rules 2016, further gives a time frame spanning over six months to five years for implementation of various provisions of the Rules. It is, therefore, reasonably apprehended that such a time frame for implementation of the Rule will further aggravate the problems of public health impacts and nuisance in mainly urban areas of the country where the poor and weaker sections of the society are predominantly affected.

As regards the Buffer Zone, it is to be noted that this term also existed in Notification of 2000. In the last, 16 years, this term has not been comprehensively defined with any objective criteria. It is true that the nature and the extent of the buffer area will vary based on specific site conditions.

In most of the cities, the waste processing plants are located outside the city limits, in the rural areas. This is typically in line with the ill famed “not in my backyard” principle. The waste generated by the cities is practically dumped in the rural areas and the surrounding population faces the adverse impacts of such indiscriminate and unscientific disposal. Providing of buffer zone can have an impact on the rights of the owners of the adjacent properties and impose limitations on the use of the land as well. This is one of the main reasons that the rural population is opposing the waste processing plants located outside the city. On the other hand, if the waste processing plants are designed and operated strictly as per the provision of the Rules, there may not be

any compelling need of having larger buffer area. In fact, if the population or development is allowed near the waste processing plant, it will directly put the plant operator and the city authorities on notice, to operate their plant scientifically on continuous basis. One of the demands, the Tribunal has received in many cases is that if the city authorities are keen to have buffer areas, they should also acquire the proposed buffer area as a part of the project which will reduce the hardship of the local residents. In other words, the buffer area shall be part and parcel of the waste processing facility.

Applicant has stressed segregation of waste at source, even in case of provision of incineration/ waste to energy plant. The Rules are very clear on this aspect, and stipulate the waste segregation as mandatory, irrespective of the technology or process of waste processing. There seems to be no ambiguity or any scope for the misinterpretation of Rules related to segregation of waste at source.

33. Incineration of MSW involving combustion in a furnace which converts waste into ash, gaseous and particulate emissions and heat energy. In the process the volume reduction is of the order of 90-95% and recovery of heat to produce steam which in turn produces power through steam turbines. The efficiency of the technology is linked to the waste characteristics and properties such as moisture content and calorific values. It requires high temperature of the 800-1000 degrees Celsius and sufficient air and mixing of waste.

34. A waste to energy plant based on mass incineration, besides having low efficiency of waste to energy conversion, is contrary to SWM Rules 2016 which requires segregation at source.

35. A Waste to RDF plant offers an alternative use as fuel for cement plant in case not used in power generation in the Waste to energy plant. The RDF once pelleted and briquetted has a long shelf life and can be transported over long distance for use as fuel. However what is critical is the calorific value of the RDF and moisture content. SMW Rules 2016 require a minimum calorific value of 1500 K/cal/kg.

36. Considering low percentage of non-recyclable and combustible organic and inorganic waste in the waste generated in most cities, and recovery of recyclable plastics from the mixed waste by the rag pickers, clusterization of urban civic bodies has been started in some states like Punjab and Haryana pursuant to the *Capt. Mall Singh's judgment* by the Tribunal. However what is essential is that only waste that is proposed to be used in Waste to RDF or Waste to Energy plants, and the waste that is non-recyclable and combustible should alone be transported to the WtE or WtRDF plant after segregating the biodegradable and compostable waste to be composted or bio-methanated at the level of the Municipality. Similarly recyclable waste also should be segregated before transporting non-recyclable waste to the WtE plant. This will minimise expenditure on transportation and saving on diesel fuel and reduce emissions. Additionally, the civic agency will be required

to do segregation at the house hold as well as at the municipal level. This will also be in conformity with the SWM Rules 2016.

37. Thus while segregation of inert (C&D), biodegradable and non biodegradable and combustible waste needs to be organized in a decentralised manner as prescribed even in the new SWM Rules, setting up of the WtE and WtRDF Plants needs to be organized in a centralised approach so that the plant receives a certain minimum quantity of usable waste to make it economically viable. The Task Force on Waste to Energy Plant Report (2014) has recommended a minimum of 300 MT of combustible waste for setting up a WtE or WtRDF Plant.

38. The Applicant has pointed out that the cement companies are asking for payment to incinerate hazardous waste besides requiring the municipal authorities to transport the Hazardous waste and the RDF to the cement plants. The Applicant has suggested that the RDF should be supplied to the Cement/thermal power plants at a price based on the calorific value and they should also bear the cost of transportation of RDF. While this is a welcome suggestion the financial viability of this need to be worked out between the agency producing RDF and the Cement company/thermal power plant and this will obviously depend upon the calorific value as well as the transportation cost involved. She has sought a direction from the NGT in this behalf. This argument has merit and calls for issue of direction to the State Governments and the agencies operating

thermal plants and cement companies to pay for the RDF based on the calorific value and also undertake transportation at its cost.

39. SWM Rules require the CPCB to formulate citing guidelines for locating SWM facilities. The Manual on SWM brought out by MoUD has suggested that a SWM facility for 300 MT per day may require about 6 ha of land for composting and RDF. It has also been suggested that a buffer zone of about 500 metres be provided around the SWM facility.

40. Similar guidelines were prescribed in the earlier Manual brought out by the Ministry of Urban Development though the MSW Rules did not prescribe any quantitative figure of buffer zone. By way of illustration, identifying a buffer zone of 500 metres around a MSW site measuring about 6 ha will require more than 100 Ha around the MSW site if a buffer zone of 500 metres all around is insisted upon. Such a huge chunk of land free from habitations in urban settlement is an impossibility. What is required is creating green belts around the plant by prescribing very high environmental standards to be maintained.

41. As already stated for establishing WTE plant, availability of auxiliary/supporting fuels such as high calorific value bio-mass or solid/liquid fuel like coal, liquid fuel is necessary. All relevant material on the subject has emphasised reuse, recycle of the waste and also for improving the capacity of local bodies for segregation, recycling and reuse of MSW, recognizing inter alia the positive impacts which it may have on the welfare of the stakeholders. The

approach of local authorities and other stake holders should be very objective and rational in making decisions for site selection, establishment of the plant/processing facilities and welfare of the public at large. The buffer zones to be provided should have a direct nexus with the area available and the green belt should be created so that no land is wasted unnecessarily. The relation between the activity of the plant and the green barriers should be practical and necessary for proper functioning of the plant in accordance with the Rules of 2016. Keeping in view the scarcity of land, even 20 metres buffer zone would be sufficient, provided it has rich green belt to serve the requisite purposes. Another aspect in our considered view that needs consideration is the biostabilization of the new and existing landfill sites. The biodegradable waste mixed with other wastes or otherwise when piled in heaps releases highly polluting leachate during decomposition which irreversibly contaminates ground and surface water around large dumps. It may even render the wells and borewells entirely unfit for drinking and agricultural purposes and besides, the decomposition in the absence of oxygen also releases Methane, a toxic gas and Hydrogen Sulphide which produces bad odour. Therefore, the mixed waste when unloaded in an orderly fashion in long parallel heaps called windrows, could be turned weekly four to five times to expose all parts to the air. The waste then stops releasing leachate and methane and is then called stabilised. The heaps also need to be kept moist with the addition of fresh cow dung to speed up the digestion of cellulose in the food

waste. The stabilised waste then be subjected to vermicomposting, which can be utilized as compost ready for use as organic manure. The concept of adoption of technologies for waste handling stabilisation is referred to in Rule 15 (v) of the Rules of 2016. The Hon'ble Supreme Court of India as early as 28th July, 1997 passed an order and directed all the States to submit their plan for waste-stabilisation, and that order does not appear to have been complied with even as of now. Providing separate bins at the 'dhallaos' where the waste is dumped again would be necessary. In fact, the Resident Welfare Associations should be required to segregate the waste within the colonies before the same is dumped at the 'dhallaos'.

Tipping fees is one of the important factors for operating WTE plants. Rule 3(50) defines, 'tipping fee' to mean a fee or support price determined by the local authorities or any State Agency authorised by the State Government to be paid to the concessionaire or operator of the waste processing facility or for disposal of residual solid waste at the landfill. Besides this definition, the Rules of 2016 are completely silent as to the manner in which such tipping fee should be paid. The criteria for such determination, is conspicuous by its absence. The tipping fee is generally charged by the plant operators based on the quantity of the mixed waste received at the plant. This practice does not prescribe any relation or dependency with the output of such plant, that is the efficiency and also the availability of operation of the plant. The plant's performance, efficiency and availability are

relevant for compliance with the Waste Management Rules, as the generation of waste will be on a day to day basis without any break and any outage of the plant, even for few days will create waste disposal crisis. Therefore, it may be relevant to link the tipping fee to the efficient and regular operation of waste processing plant along with the load of waste provided to the plant for actual processing. The definition clause is also suggestive of the fact that the concessionaire or operator of the waste processing facility is to be paid. This fee is the support price, to be determined by the local authorities and is payable to the operator of the facility for processing the waste or for disposal of the residual solid waste at the landfill. In other words, the concessionaire who is just dumping the waste at the landfill site be entitled to tipping fee. The essence appears to be the handling of the waste by the concessionaire or operator of the facility, but that waste should not merely be determined with reference to the load given but should be the actual waste which the concessionaire or operator of the facility actually uses in its plant for processing. To put it simply, the efficiency and better availability of the plant along with the waste provided or collected by the concessionaire or operator of the facility should be the criteria for determination of the tipping fee and payment thereof. Of course, we are not oblivious of the fact that these rights and obligations are to be governed by a specific contract entered into between the concerned stakeholders/parties. This is merely the criteria that we have indicated to. If the tipping fee is to be paid to the concessionaire/operator of the facility then

the waste sent to that plant or collected and brought to the plant should be weighed mechanically by installing computerised weighing machines which are directly linked by an online system to the local authorities or any stakeholder who is responsible for performance of such activity. It is difficult to develop an analytically objective criteria for determination and payment of tipping fee model but it is an incentive for an operator to operate the systems efficiently, effectively and to deal with the waste in consonance with the Rules. It will be ideal if the operator of such plant is also responsible for collection, treatment and disposal of waste. This will give appreciable results. Even where the local authority is responsible for providing the waste to the operator at his plant, every effort should be there to segregate the waste at source and provide the operator with the waste which would directly be usable in the plant. This would be beneficial to both the parties. The operator would be able to deal with the waste without causing pollution while the local authority would be able to save undue expenditure which would be caused by sending heavy load of mixed un-segregated waste. The tipping fee has relevancy to all the techniques for processing and dealing with the waste. RDF and WTE are the safest routes which are in consonance with economic principles as well as the techniques for environmental protection.

42. All the States should at least now, comply with the Rules of 2016 without any further delay and demur. The Rules of 2016 provide time limits which have already expired. None of the States or UTs have taken action in accordance with such Rules. In other

words, the time frame postulated under the Rules of 2016 already stands defeated. The period of six months stated under Rule 6(b) has expired on 8th October, 2016 and none of the State Governments or the local authorities have prepared any action plan, constituted committee or submitted their reports to the Central Government or the Central Committee for finalization thereof. It is a matter of record that SWM is one of the greatest challenges that our country is facing. Not only that, the State Government and the local authorities have failed to perform their statutory and constitutional obligations and even the people at large who generate waste, have also failed to perform their constitutional duty. Environment cannot be kept decent and clean if we continue to dump MSW anywhere and everywhere. The plants meant to process the waste do not perform effectively and to the prescribed standards in law. The landfill or dumping sites are so ill maintained that they have not only gone beyond the permissible heights but are continuously polluting the underground and ground water through leachate pollution. They produce Methane and Hydrogen Sulphide which are a continuous source of pollution for the environment and cause public health hazards. Besides all this, it is an eyesore be it located in the beautiful city of Chandigarh, gift of nature Srinagar or the capital of the country, Delhi. All stakeholders, particularly, the local authorities upon whom burden lies to ensure proper collection, segregation, transportation and disposal of solid waste should act in complete coordination and coherence to ensure that the country tackles this menace of MSW

objectively, effectively and ensures that there is no pollution of the environment and consequent adverse impacts on public health. The Rules of 2016 need to be adhered to in entirety and without exception. All the bodies, officers and citizenry who have failed to adhere to and/or have violated these precautionary and preventive measures in any form whatsoever, should have punitive action initiated against them by the concerned authorities.

43. The present application relates to the management of solid municipal waste in the entire country. We have already noticed that the country is generating 133760 MT of waste/day as in 2012-2013 which apparently has increased rapidly with the passage of time. A city like Delhi alone generates approximately 14100 MT of waste per day. Hardly any land is available for creation of land fill sites. Indiscriminate dumping of such huge quantity of mixed waste would inevitably have adverse impacts on environment and public health. The only possible solution is to treat this waste in accordance with the Rules of 2016 to ameliorate this situation. We have to convert this health hazardous humongous waste to a source of power, fuel and benefit for society at large, in consonance with the Principles of Circular Economy. Processing of waste by adopting bio-methanation, composting, conversion to RDF and converting waste to power generation, is the only solution which must be adopted by all stakeholders without wasting any further time. Immediate attention to preparation of action plan and effective execution thereof is the need of the day and is the essence of the only solution. It is neither possible nor even prudent to

provide unequivocally a certain criteria for adoption of any or more of the technologies for management, processing and disposal of SMW by the respective States. The factors that are required to be taken into consideration for site selection and establishment of a particular plant, have been mentioned above which are not exhaustive but merely illustrative. It would depend primarily on geographical, financial and other conditions as stipulated above. Irrespective of the fact that which technology is adopted by a State, it is absolutely essential that the State should prepare complete and comprehensive action plan for management, for processing and for disposal of its solid municipal waste in accordance with the Rules. Every State has spent considerable money and manpower but without any desired results. Any further delay in proper enforcement of such action plans in accordance with the Rules is likely to prove disastrous for environmental protection and public health. It is, therefore, necessary for this Tribunal to issue comprehensive directions to ensure effective and expeditious implementation of the Rules of 2016 and which would also bridge the gaps in these Rules. Thus, we issue the following directions in the interest of the environment and public health:

1. Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.
2. All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this Judgment, within four weeks from

the date of pronouncement of the judgment. The action plan would relate to the management and disposal of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016.

3. The period of six months specified under Rule 6(b), 15 of the Rules of 2016 has already lapsed. The State Governments have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned w.e.f. 1st January, 2017. There shall be no extension given to any State for compliance with these provisions any further.

The period of one year specified under Rule 11(a), 11(f), 15 (e) and 22 for compliance of the prepared plans and directions issued by the Committees shall, therefore, commence with effect from 1st July, 2017. For this also, no extension shall be provided.

Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986.

Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

4. The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.
5. All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.
6. Wherever a waste to energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the waste.
7. It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be to segregate the plant by means of a green belt from

surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory.

We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case to case basis.

8. We direct that the Committees constituted under Rule-5 would meet at least once in three months and not once in a year. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, local bodies, departments and Project Proponents.
9. The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their respective plants, wherever such plant is located within a 100 km radius of the facility.

In other words, it will be obligatory on the part of the State, local authorities to create a market for

consumption of RDF. It is also for the reason that, even in waste to energy plants, Waste-RDF-Energy is a preferred choice.

10. In waste to energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.
11. The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerised weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.
12. Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at source/collection point and then transport it in accordance with the Rules to the identified sites.
13. The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent, leachate and generation of Methane. The

stabilised waste should be subjected to composting, which should then be utilized as compost, ready for use as organic manure.

14. Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of clause-12.
15. The non-biodegradable waste and non-recyclable plastic should be segregated from the landfill sites and be used for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.
16. The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such

other allied items. Hazardous waste, so collected by the centers should be either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.

17. We direct MoEF&CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.
18. The directions and orders passed in this judgment shall not affect any existing contracts, however, we still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under process, this judgment and the Rules of 2016 shall completely and comprehensively apply.
19. We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs.

5,000/- (Rs. Five Thousand only) in case of simple burning, while Rs. 25,000/- (Rs. Twenty Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.

20. All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.
21. We direct the CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.
22. That the directions contained in the judgment of the Tribunal in the case of '*Kudrat Sandhu Vs. Govt. of NCT & Ors*', O.A. No. 281 of 2016, shall *mutatis mutandis* apply to this judgment and consequently to all the stakeholders all over the country.
23. That any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste

and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986 and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.

24. That the State Government/UT, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the concerned States/UTs/Districts.
25. We expect all the concerned authorities to take note of the fact that the Rules recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.
26. We further direct that the directions contained in this judgment and the obligations contained under the Rules

of 2016 should be circulated and published in the local languages.

27. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.

28. Copy of this judgment be circulated to all the Chief Secretaries/Advisers of States/UTs by the Registry of the Tribunal. The said authorities are hereby directed to take immediate steps to comply with all the directions contained in this judgment and submit a report of compliance to the Tribunal within one month from the date they receive copy of this judgment.

44. With the above directions, this application and all other miscellaneous applications shall stand disposed of without any order as to cost.

Swatanter Kumar
Chairperson

U.D. Salvi
Judicial Member

Bikram Singh Sajwan
Expert Member

Ajay Deshpande
Expert Member

New Delhi
22nd December, 2016

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN BENCH AT KALKATA

NO. _____ OF 2024

IN THE MATTER OF:

NITYENDU SHEKHAR BHATTACHARJEE

Applicant/ Appellant

-VERSUS-

THE STATE OF ASSAM & ORS.

Respondent/Defendant(s)

VAKALATNAMA

Know all to whom these present shall come that I/We

NITYENDU SHEKHAR BHATTACHARJEE

, the above-named APPELLANT do hereby appoint.

Madhumita Bhattacharjee
D/2674/1999
9811785211

Srija Choudhury
JH/499/16
8877577304

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him to act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross. objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

The deposit, draw and receive money, cheques, cash, and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my / our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And J /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid, I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my / our hand to these presents the contents of which have been understood by me/us on this 31 day of January 2024.

Accepted subject to the terms of fees,

MB

Madhumita Bhattacharjee
D/2674/1999
+9811785211

Srija Choudhury

Srija Choudhury
JH/499/16
+8877577304

Nityendu shekhar Bhattacharjee

Client

