

BEFORE THE NATIONAL GREEN TRIBUNAL, CHENNAI BENCH

APPLICATION NO. 196 OF 2021 (SZ)

IN THE MATTER OF:

T.M.UMASHANKAR
Aged about 65 years
S/o Late Marulasiddappa
Email Id.: velanvela15@gmail.com

: APPLICANT

Vs.

Union of India
Through its Secretary
Ministry of Environment, Forests and Climate Change
Email Id.: secy-moef@nic.in

And 5 Others

: RESPONDENTS

OBJECTIONS TO THE JOINT COMMITTEE REPORT BY
RESPONDENT NO. 4 KIADB

M/s. B. Dhanaraj
Counsel for Respondent No. 4

BEFORE THE NATIONAL GREEN TRIBUNAL, CHENNAI BENCH

APPLICATION NO.196 OF 2021 (SZ)

IN THE MATTER OF:

T.M.UMASHANKAR
 Aged about 65 years
 S/o Late Marulasiddappa
 Somapur (Dobaspet) – 562 111
 Nelamangala Taluk,
 Bangalore Rural District.
 Ph. 8939485510.
 Email Id.: velanvela15@gmail.com

: APPLICANT

Vs.

1. Union of India
 Through its Secretary
 Ministry of Environment, Forests and Climate Change
 Indira Paryavaran bhawan,
 Jor Bagh Road,
 New Delhi – 110 003.
 Ph. 011-24695136.
 Email Id.: secy-moef@nic.in
2. State of Karnataka
 Through the Chief Secretary,
 Department of Forest, Ecology and Environment
 M.S. Building, 3rd Phase, 4th Floor,
 Dr.Ambedkar Veedhi,
 Bangalore – 560 001.
 Ph. 080 22252442.
 Email Id.: cs@karnataka.gov.in
3. Karnataka State Pollution Control Board
 Through the Member Secretary
 Parisara Bhawan, 1st to 5th Floor,
 No.49, Church Street,
 Bangalore – 560 001.
 Ph. 080 25581383.
 Email Id.: memsecy@kspcb.gov.in
4. Karnataka Industrial Areas Development Board
 Through the Chief Executive Officer
 No.49, East Wing, 4th & 5th Floors,
 Khanija Bhavan, Race Course Road,
 Bangalore -- 560 001.
 Ph. 080 22267900.
 Email Id.: ceoem@kiadb.in




 Chief Executive Officer &
 Executive Member
 KIADB, Bangalore

No OF CORRECTIONS 

5. Karnataka Waste Management Project Division of
M/s. Ramky Enviro Engineers Ltd.,
Through its Director
No.6-3-1089/10 & 11, Ramky House, Gulmohar Avenue,
Rajbhavan Road, Somajiguda,
Hyderabad – 500 082.

And Having its Establishment
At Survey Nos.75 to 85 of Temrranahalli
And Survey Nos. 7 & 9 of Thimmanayakana Halli,
Nelamangala Taluk,
Bangalore Rural District.
Ph. 040 2301 5000.
Email Id.: reelinfo@ramky.com

6. Central Pollution Control Board
Through the Member Secretary
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Nagar,
Delhi – 110 032.
Ph. 011 2230 7233.
Email Id.: ccb.cpcb@nic.in

: RESPONDENTS

**OBJECTIONS TO THE JOINT COMMITTEE REPORT BY
RESPONDENT NO. 4 KIADB**

The Respondent No. 4 {Karnataka Industrial Area Development Board (KIADB)}
respectfully submits as follows:

1. That this Respondent has perused the copy of the above referred Joint Committee Report furnished on 29.11.2021, in compliance of this Hon'ble Tribunal's Order dated 06.09.2021 and denies all the allegations, contentions and averments set forth therein save those that are specifically admitted herein.
2. That this Respondent finds it pertinent to submit their defence and clarification as against Point 5.1.1.10 in the Joint Committee's Report on Compliance w.r.t. Escrow Account as well as the Committee's Suggestions on measures to be implemented. It is necessary that post the closure of Treatment, Storage and Disposal Facility (TSDF), it is required that there is a constant monitoring so as to ensure that no adverse impact on the environment as well as health of the public living occurs in the vicinity of the facility. This Respondent has always been vigilant in adhering to the requirements and finds it pertinent to bring to the attention of this Hon'ble Tribunal, the compliances that have been effected till date in co-operation with State Pollution Control Board {SPCB} / Pollution Control Committee {PCC}.



NO OF CORRECTIONS

[Signature]
Chief Executive Officer &
Executive Member
KIADB, Bangalore

3. That in the present Case, Project Area for consideration of the Facility is 93.18 Acres in which about 26 Acres is earmarked for Secured Land Fill of 5 Phases, planned for 20 years and is well within the KIADB Industrial Area. It is a fact on record that this Land was acquired by KIADB and handed over to the Operator of the TSDF i.e., Ramky Enviro Engineers Ltd. Consortium. Background of Facts are detailed below:

- a) The Department of Forest, Ecology and Environment GoK, and the Karnataka State Pollution Control Board (KSPCB) in collaboration with the German Technical Co-operation took initiative to identify TSDF site in the state of Karnataka.
- b) The Government of Karnataka made an agreement with German Technical Cooperation (GTZ) for evolving an effective Hazardous Waste Management (HAWA) strategy in the State of Karnataka.
- c) Initially two sites i.e., one in Siddalagahatta Taluk in Kolar District and the other in Dobaspet, Bangalore Rural District were shortlisted by the KSPCB for setting up TSDF.
- d) Finally, Dobaspet site was found more suitable and identified for setting up TSDF to cater the need for the entire state. The KIADB acquired land for TSDF site.
- e) The Dobaspet site was notified for the TSDF purpose by the Government of Karnataka on 21.02.2003.
- f) Preliminary Investigations and Environmental Impact Assessment (EIA) was completed in January 2004 under the GTZ-HAWA Project.
- g) The Technical Advisory Committee of KSPCB in their 272nd meeting held on 15.11.2003 recommended for establishment of TSDF at Dobaspet and authorized KSPCB to put up the project for Public Hearing as per the prevalent EIA Notification, 1994.
- h) Intensive Public Awareness Campaign about the project was conducted in the surroundings (5 km radius) of Dobaspet site from June 2003 to January 2004, to appraise the entire stakeholders.
- i) The Deputy Commissioner, Bangalore Rural District has conducted Public Hearing on 20.02.2004, as per the provisions contained in the EIA Notification of 1994. The report of the panel public hearing panel was received by KSPCB vide letter no. CAL CR 369/2003-04 dated 18.03.2004.



NO OF CORRECTIONS *ni*

[Signature]
 Chief Executive Officer &
 Executive Member
 KIADB, Bangalore

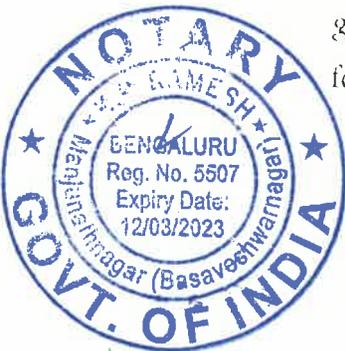
- j) Accordingly, the KSPCB vide letter no. KSPCB/HWMC/AEO-1/EO/2003-04/686 dated 31.03.2004 forwarded the project report including EIA report and details of the public hearing along with its recommendation to the State Government.
- k) The Dabaspeta site has been identified after scientific survey like soil investigation, geo technical analysis, hydro geological investigations and other site specific studies. The Environmental Impact & Risk Assessment (EIRA) also provides information on social, economic and cultural details of the habitations in the study area. The proposed facility did not have any negative impact on these factors.
- l) The suggested design in the EIA report includes composite liners for the proposed landfill in the Treatment, Storage Disposal Facility (TSD). This ensures prevention of pollution of ground water and soil. The design is also safe from the point of stability.
- m) KSPCB recommended to the GoK that the TSD could be set up at the proposed site bearing Sy. No. 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85 of Pemmanahalli village and Sy. No. 7, 8 and 9 of Thimmanayakanahalli village of Nelamangala Taluk.
- n) In the State Level Steering Committee meeting held on 19.11.2003, it was decided that the KIADB shall be the Contracting Authority for the establishment of TSD.

Hence the following order -

GOVERNMENT ORDER NO FEE. 293 ECO 2002, BANGALORE DATED 21.04.2004 {Annexure 1}

"In the circumstances explained in the preamble, the Government accords approval to the recommendation of the KSPCB for the establishment of Treatment, Storage and Disposal Facility (TSD) at the identified lands in Dobbaspeta of Nelamangala Taluk, Bangalore Rural District as per Rule 8 (6) of Hazardous Wastes (Management and Handling) Rules, 1989 as substituted by the Hazardous Wastes (Management and Handling) Amendment Rules, 1989".

- o) As per the decision of the State Level Steering Committee meeting held on 19.11.2003, KIADB acquired the land from the above Sy. Numbers after giving the compensation to land owners and became a Contracting Authority for the TSD.



NO OF CORRECTIONS *m*

[Signature]
 Chief Executive Officer &
 Executive Member
 KIADB, Bangalore

4. That the Joint Committee has recorded its Opinion that the "Super Fund - Dabaspete - KIADB" is operated by KIADB and not as per the Tripartite Agreement between the Operator of the TSDf facility, the Respective SPCB/PCC and the Public Sector Bank acting as Escrow Agent. In view of above, it is recommended to operate the account as per MoEF & CC, O.M. dated April 16, 2009 on Escrow Account to have uniformity across the country. It is submitted that in the context alleged herein, KIADB had submitted a letter to the Principle Secretary, Commerce & Industry Department, Government of Karnataka on 20.11.2019 to accord approval with respect to following:

- For the modification of the existing agreement undertaken with the Operator incorporating the ESCROW and SPV formation along with the incinerator, which is the major component added to the facility.
- For the formation of the ESCROW account, operator of the facility, respective SPCB/PCC and the public sector bank acting as ESCROW Agent. In this matter, KIADB will be relieved of the super fund managing.
- For the formation of SPV as per the conditions set out in the tender /DPR, as already more than 10 years of operation are completed and to take over the Controlling Authority in coordination with KSPCB from KIADB in a complete manner.

A copy of KIADB's Letter dated 20.11.2019, submitted to the Principal Secretary, Commerce & Industry Department, Bangalore, produced herewith as **Annexure 2**, mentions in specific that in the Original Agreement between KIADB and Ramky dated 01.12.2006, issues discussed in the said Letter did not form part and hence, KIADB sought for necessary approvals to suitably modify the said Original Agreement. It would not be out of place to point out that KIADB has already requested in the said Letter that the TSDf shall be directed to conduct an Environment Impact Assessment and to obtain a separate Environmental Clearance Certificate (ECC) only for TSDf and that KIADB has referred to the fact that the NOC given to Ramky to set up Incinerator Plant at the TSDf site, has not given an exemption for obtaining an EC.

5. That this Respondent points further that the TSDf Operator has submitted a Letter dated 09.12.2021 (received by KIADB on 23.12.2021 - **Annexure 3**) stating that they have paid an amount of Rs.4,19,61,736/- towards cumulative ESCROW account for the period from June 2008 till March 2020. However, the role of KIADB is yet to take decision on this, pending the approvals as sought for and mentioned in the paragraph above.



NO OF CORRECTIONS *m*

[Signature]
 Chief Executive Officer &
 Executive Member
 KIADB, Bangalore

For the reasons stated above, it is therefore prayed that the Hon'ble Tribunal may be pleased to dismiss the Application and to pass such or other orders as deemed to be fit in the circumstances of the case and thus render justice.

Dated at Bengaluru on this the 07th day of March 2022



Counsel for Respondent No.4



Respondent No.4
Chief Executive Officer &
Executive Member
KIADB, Bangalore

VERIFICATION

I, Dr. N Shivashankar, designated as CEO & EM, KIADB, Head Office, Bangalore in the Karnataka Industrial Areas Board, located at No.49, East Wing, 4th & 5th Floors, Khanija Bhavan, Race Course Road, Bangalore – 560 001, Karnataka, do hereby solemnly affirm and sincerely declare that the contents of the above Objections are true to the best of my knowledge and belief and based on true facts and events and available records.

Verified at Bengaluru on this the 07th day of March 2022.



Respondent No.4

Chief Executive Officer &
Executive Member
KIADB, Bangalore



ATTESTED BY ME



K. P. RAMESH B.A.LL.B.,
ADVOCATE & NOTARY
GOVT. OF INDIA
No. 798, 9th Main, 3rd Stage, 3rd Block,
Basaveshwaranagar, Bengaluru - 560 079.

- 7 MAR 2022

10 OF CORRECTIONS 

Government of Karnataka site clearance order for Dobbasapete**PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA**

Sub: Approving the recommendations of the Karnataka State Pollution Control Board for the establishment of the Treatment, Storage and Disposal Facility (TSDF) of hazardous wastes at Dobbaspet in Nelamangala taluk of Bangalore Rural district.

Read: 1. Hazardous Wastes (Management and Handling) Rules, 1989 vide Notification, S.O.594 (E) dated: 28.07.1989, and subsequent amendment vide Notification, S.O. 24(E) dated 06.01.2000 & S.O.593(E) dated 20.05.2003

2. Proceedings of the Public hearing held on 20.02.2004 furnished by the DC, Bangalore (R) district, vide letter dated 18.03.2004

3. Letter No.KSPCB/HWMC/AEO-1/EO/2003-04/686 dated 31.03.2004 from KSPCB.

PREAMBLE:

In exercise of the powers conferred by sections 6, 8, and 25 of the Environment (Protection) Act, 1986, the Central Government has issued the Hazardous Wastes (Management and Handling) Rules, 1989 vide Notifications S.O.594 (E) dated: 28.07.1989, S.O. 24(E) dated 06.01.2000 & S.O. 593(E) dated 20.05.2003. The types of wastes and their management and handling of hazardous wastes are specified in the Rules.

The Department of Forest Ecology and Environment and the Karnataka State Pollution Control Board in collaboration with the German Technical Co-operation (GTZ) have inventorised the hazardous waste generated in the State and identified suitable sites for the establishment of TSDF for hazardous wastes. For this purpose the identified sites are in Pemmanahalli and Thimmanayakanahalli at Dobbaspet in Nelamangala taluk of Bangalore Rural district and in Ajjakadirenahalli and Muddenahalli at Shidlaghatta taluk of Kolar district.

The Karnataka State Pollution Control Board vide its letter dated: 31.03.2004 read at (3) above has reported that the Technical Advisory Committee of the Board in its 272nd meeting held on 15.11.2003 had detailed deliberation on the proposed land fill site at Dobbaspet and recommended for establishing the Treatment, Storage and Disposal Facility (TSDF) at Dobbaspet and authorised the Board to put up the project for public hearing.

In accordance with the guidelines of the CPCB and as per the provisions contained in the EIA Notification of 1994, the Deputy Commissioner, Bangalore Rural district has conducted the public hearing on 20.02.04. The report of the panel has been received by the Karnataka State Pollution Control Board vide letter No. CAL CR 369/2003-04 dated 18.03.04. In terms of sub rule (5) of Rule 8 of Hazardous Wastes (Management and Handling) Rules 1989 as amended by 2003 Rules, Karnataka State Pollution Control Board has forwarded to the State Government, the project report including EIA report and details of the Public Hearing along with its recommendation vide letter read at (3) above.

The Dobbaspeta site has been identified after scientific survey like soil investigation, geo technical analysis, hydro geological investigations and other site specific studies. The REIA also provides information on social, economic and cultural details of the habitations in the study area. The proposed facility does not have any negative impact on these factors.

The suggested design in the EIA report includes composite liners for the proposed land fill in the Treatment, Storage and Disposal Facility (TSDF). This ensures prevention of pollution of ground water and soil. The design is also safe from the point of stability.

The Karnataka State Pollution Control Board has recommended to the State Government that the Treatment, Storage and Disposal Facility (TSDF) could be set up at the proposed site bearing Sy No 75,76,77,78,79,80,81,82, 83,84 and 85 of Pemmanahalli village and Sy No 7,8 and 9 of Thimmanayakanahalli village of Nelamangala taluk of Bangalore Rural district measuring about 108.18 acres.

In the State Level Steering Committee meeting held on 19.11.2003 it has been decided that the Karnataka Industrial Area Development Board (KIADB) shall be the Contracting Authority (CA) for the establishment of the Treatment, Storage and Disposal Facility (TSDF) at Dabaspeta.

Hence the following Order,

GOVERNMENT ORDER NO FEE 293 ECO 2002, BANGALORE DATED 21.04.2004.

In the circumstances explained in the preamble, the Government accords approval to the recommendation of the Karnataka State Pollution Control Board for

the establishment of Treatment, Storage and Disposal Facility (TSDF) at the identified lands in Dobbaspeta of Nelamangala taluk, Bangalore Rural district as per Rule 8 (6) of Hazardous Wastes (Management and Handling) Rules, 1989 as substituted by the Hazardous Waste, (Management & Handling), Amendment Rules, 2003.

By order and in the name of the
Governor of Karnataka

V.R. Gaikwad
(V.R. Gaikwad)

Under Secretary to Government
Forest, Ecology and Environment Department.

28/2/14

To the Compiler, Karnataka State Gazette with a request to publish in the next issue.

Copy to.

1. Accountant General, Karnataka, Bangalore
2. Secretary to Government, Government of India, Ministry of Environment and Forests, Government of India, Paryavana Bhavan, CGO Complex, Lodhi Road, New Delhi
3. Principal Secretaries/Secretaries of all the departments
4. Chairman, Karnataka State Pollution Control Board, Parisava Bhavana, Church Street, Bangalore.
5. Chief Executive Officer, Karnataka Industrial Area Development Board
6. Deputy Commissioner, Bangalore Rural district, Bangalore.
7. S G F / Spare copies.

Land details of TSDF Dobbaspete site

SL. No.	Name of the Village	Sy. No.	Land break -up details (in acres)	Total Extent in acres.	Taluk/RF
1.	Thimmanayakanahalli	7	7/1 = 3.11 7/2 = 1.34	5.05	Nelamangala
2.	Thimmanayakanahalli	8	8/1 = 1.15 8/2 = 4.11 8/3 = 1.38	7.24	Nelamangala
3.	Thimmanayakanahalli	9	13.24	13.24	Nelamangala
4.	<i>Pemmanahalli</i>	79	79/1 = 1.31 79/2 = 3.21	5.12	Nelamangala
5.	<i>Pemmanahalli</i>	80	80/1 = 2.12 80/2 = 1.20	3.32	Nelamangala
6.	<i>Pemmanahalli</i>	81	81/1 = 1.05 81/2 = 0.33 81/3 = 0.33 81/4 = 0.33 81/5 = 0.35	5.19	Nelamangala
7.	<i>Pemmanahalli</i>	82	82/1 = 4.01 82/2 = 2.36	6.37	Nelamangala
8.	<i>Pemmanahalli</i>	83	83/1 = 4.05 83/2 = 2.16	6.21	Nelamangala

SL. No.	Name of the Village	Sy. No.	Land break -up details (in acres)	Total Extent in acres.	Taluk/RF
9.	<i>Pemmanahalli</i>	78	6.11	6.11	Nelamangala
10.	<i>Pemmanahalli</i>	77	77/1 = 1.32 77/2 = 1.27 77/3 = 3.05	6.24	Nelamangala
11.	<i>Pemmanahalli</i>	76	6.38	6.38	Nelamangala
12.	<i>Pemmanahalli</i>	84	5.05	5.05	Nelamangala
13.	<i>Pemmanahalli</i>	85	85/1 = 3.17 85/2 = 2.38 85/3 = 0.25 85/4 = 0.14	7.14	Nelamangala
14.	<i>Pemmanahalli</i>	75	6.32	6.32	Nelamangala
	Total	-	90.18	90.18	
	KIADB Land	-	15.00	15.00	
	Grand Total		105.18	105.18	

ಕರ್ನಾಟಕ



KARNATAKA INDUSTRIAL AREAS DEVELOPMENT BOARD

(A Government of Karnataka Undertaking)

49, 4th & 5th Floors, 'East Wing', Khanija Bhavan, Race Course Road, Bengaluru - 560 001

Phone : 080-22265383 Fax : 080-22267901

Website : www.kiadb.in email: ceoemkiadb@gmail.com

No.KIADB/CDO&CE-1/FCN:10051/12/2019-20

Date:20-11-2019

RPAD 20/11

To,

The Principal Secretary,
No. 106, 1st Floor,
Commerce and Industries Department,
Govt. of Karnataka, Vikas Soudha,
Bangalore - 560001.

Sir,

Sub: Hazardous Waste Treatment Storage Facility (TSDF) /Landfills of M/s Ramky Enviro Engineers Limited at Dabaspete - Regrading approval to key Issues relating to TSDF.

With reference to the subject, it is brought to your kind notice several pressing issues in respect of the Ramky TSDF at Dabaspete which are pending for quite some time for your kind perusal and approval.

1. Karnataka Waste Management Project at Dabaspete, Nelamangala Taluk has been established as per the approval accorded by the Govt of Karnataka for the disposal of the Hazardous waste generated in the state. The project was conceived by KSPCB with the technical assistance of German Technical cooperation and consultancy by ERM.
2. Treatment Storage and Disposal Facility (TSDF) established to comply with the Directions of Honourable Supreme Court of India. In the State Level Steering Committee meeting held on 19.11.2003, it was decided that the KIADB shall be Contracting Authority for the establishment of TSDF at Dabaspete. Based on this, KIADB invited National Competitive Bid on 22.06.2005 for establishment of TSDF. Ramky consortium was selected and the Work Order letter was released by KIADB on 08.08.2006.
3. The land required for establishing TSDF of 93.18 acres was allotted by KIADB, which was handed over to Department of Forest and Ecology Bangalore on 01-02-2006. Ramky Consortium and DFEE entered into Lease Deed Agreement on 01.12.2006. Ramky Consortium and KIADB entered Contract Agreement on 01.12.2006 for Design, build, Own, Operate and Transfer (DBOOT). DPR, Tender, Contract Conditions are the part of the above Contract Agreement. The project life is 51 years, which includes 1 year of construction, 20 years of landfill operation and 30 years of post-closure monitoring. The installed capacity is about 40,000 MT per annum and is in operation.

O/C.

4. As per Section 3.7 of the KIADB Tender states that "The Project during its life time of nominal 51 years will be overseen by the CA and a Steering Committee under the Government of Karnataka. The TSDF will be regulated under the Hazardous Waste (Management and Handling) Rules 1989 (as amended from time to time) by the Karnataka State Pollution Control Board (KSPCB). The Tenderer will be required to obtain an environmental authorization from KSPCB before commencing operations. For the Operations and Maintenance, the Private Operator is required to operate the TSDF for a nominal 20 year operational period. This period may be shorter or longer than 20 years depending on the rate of fill of the hazardous waste landfill. The facility is designed for a 20 year operational period based on average inputs of 40,000 tons per annum. TSDF which has the capacity to process 40,000 MT/Annum, since its commissioning (11 years) has processed about 260,000 MT against 440,000 MT.
5. Further as per Rule 2 of the Environmental Impact Assessment Notification-2006, clearly mandates the Projects / activities require Prior Environmental Clearance, before establishing / even before starting any construction work of the Projects I Activities. Also the Hon'ble NGT Principal Bench, New Delhi in Original Application No. 654/2019 (WP. No51509/2016& 52176-52179/2016) in Judgement Dated: 26-09-2019 has ordered " The TSDF must comply with the law and the requisite EC may be obtained. The project proponent may apply for EC within two months. The Appellate Authority may deal with the appeal said to be pending for about three years expeditiously in accordance with law". In view of this, it is appropriate to direct the facility to conduct EIA and to obtain separate EC only for TSDF. The Environmental Clearance (EC) issued by MoEF & CC as integrated facility (incinerator & landfill) may not hold good". TSDF authorities (operator) will be directed to immediately comply with the EIA RULE 2 to obtain the EC for the facility adopting the required procedures.
6. In the Government Order No. FEE 277 ENV 2014 Bengaluru Dated: 04.09-2015, NOC has been issued for M/s Ramky Enviro Engineers Ltd., Hyderabad to set up Incinerator plant of capacity 1.5MT/hr at the TSDF site. For which MoEF & CC has given EC as per rule 8(7) of Hazardous waste (Management & Handling) Rules 1989. However it has not given exemption for obtaining the EC for the TSD facility. Terms & Reference of NOC for the work of the Incineration facility at TSDF site states that 'In respect to Superfund and residual liability fund, an undertaking shall be made by the M/s Ramky groups to open an account and the fund shall be managed by the KSPCB'.
7. The TSDF will be in operation for a period of about 20 years, wherein the operation and maintenance cost will be met through the 'gate fee'. However, the post closure period of 30 years, requires finance for maintenance and monitoring activities. A separate fund (Super Fund) set aside from the gate fee could be used during the post closure as there is no other source of

revenue at that time. As per agreement dated: 01-12-2006 the KIADB is the Contracting Authority and M/s. Ramky Infrastructure Ltd & Ramky Enviro Engineers Ltd (Consortium) is the Private operator. Superfund established to take care of the eventualities and remediation measures during the 30 years maintenance period, will be maintained by the KIADB.

8. MoEF & CC has issued an Office Memorandum dated 16-04-2009 regarding post closure monitoring of the Hazardous waste Treatment, Storage and Disposal Facility remedial measures. During the post-closure period, adequate amount of funds to be deposited in a common account called 'ESCROW account'. This account would be a tripartite agreement between the operator of the facility, respective SPCB/PCC & a Public Sector Bank acting as ESCROW Agent. Considering the precautionary principle and polluter pays principle approach, it is recommended that 5% of the annual turnover of the landfill waste should be deposited by the operator of the facility towards the ESCROW Account.
9. In the GO no. FEE 277 ENV 2014 Bengaluru dated 04-09-2015 issued NOC for M/s Ramky Enviro Engineers Ltd to set up incinerator plant of capacity 1.5 MT/hr at the TSDF site and for which MOEF&CC has given the Environmental clearance as per rule 8(7) of Hazardous waste (management and handling) rules 1989. The facility has established the HW Incinerator with the required APCD.

In the original agreement between KIADB and M/s Ramky Enviro Engineers Limited some of the issues discussed above are not the part of the original agreement and hence necessary approval is required by the GoK. As per Terms & reference of NOC of Government Order NO. FEE277 ENV2014 Bengaluru dated 04.09.2015, the existing agreement to be suitably modified to include the establishment of Incinerator and others:

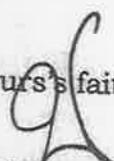
1. There is no mention of ESCROW account which is now mandatory as per MoEF & CC Office Memorandum to be abide by strict adherences to the provisions of the Act. In this KIADB will not be in the picture, as it will only be between Operator, KSPCB and a Public Sector Bank acting as ESCROW Agent.
2. As per section 1.2.1 of the lease agreement, the KIADB is the Contracting Authority, i.e. the administrative monitoring authority for the initial phase of TSDF. Special Purpose Vehicle (SPV) to be established to take over the controlling Authority from KIADB after the completion of Initial phase of the TSDF project as per DPR. Potential membership of the SPV shall be as per DPR are given below:
 1. Secretary DEE - Chairman of SPV
 2. CEO & EM KIADB - Member
 3. Member Secretary KSPCB - Member

- 4. President CII - Member
- 5. DFEE Representative - Member
- 6. Director HWM Cell KSPCB - Member
- 3. M/s Ramky Enviro Engineers Ltd has established incinerator plant of capacity 1.5 MT/hr at the TSDF site which was not the part of the original agreement and for which MOEF has given the Environmental clearance as per rule 8(7) of Hazardous waste (management and handling) rules 1989.
- 4. All the above matter will be included in the Contract modifying the original agreement to facilitate the smooth operation and transfer of TSDF along with operating the ESCROW account. For this necessary government order is required for logical conclusion of the TSDF issues.

In the above context, it is requested to accord approval in respect of the following:

- ✓ 1. For the modification of the existing agreement undertaken with the operator incorporating the ESCROW and SPV formation along with the incinerator, which is the major component added to the facility.
- ✓ 2. For the formation of the ESCROW account, operator of the facility, respective SPCB/PCC and the public sector bank acting as ESCROW Agent. In this matter KIADB will be relieved of the super fund managing.
- ✓ 3. For the formation of SPV as per the conditions set out in the tender/DPR, as already more than 10 Years of operations are completed and to take over the controlling Authority in coordination with KSPCB from KIADB in a complete manner.

Thanking You

Yours faithfully

 Chief Executive Officer
 & Executive Member,
 KIADB

KARNATAKA WASTE MANAGEMENT PROJECT

(A Division of Ramky Enviro Engineers Ltd.)

Towards Doddaballapur Road, NH-207,
 KIADB Industrial Area, Dabaspet,
 Nelamangala Tq, Bengaluru Rural Dist - 562 111.
 Phone No. 080-27735400 Fax No. 080-27735399
 Email: mbdkwmp@ramky.com

Towards Sustainable growth

Ref: KWMP/KIADB/2112-04

Date: 9th December, 2021

To

Chief Executive Officer & Executive Member
 Karnataka Industrial Area Development Board
 No. 49, 4th & 5th Floors, East Wing, Khanija Bhavan,
 Race Course Road, Bengaluru – 560 001, Karnataka



Sir,

Sub: Payment of second and final instalment of Rs. 21, 20,372/- towards Escrow amount for the Financial Year 2020 -21 (1st April 2020 to 31st March 2021) – Reg.

With reference to the above, Karnataka Waste Management Project (A Division of Ramky Enviro Engineers Ltd), had to pay Rs. 44,15,951/-. As an Escrow amount for FY 2020-21. We have already paid Rs. 22,95,603/- through Axis Bank NEFT dated 23.09.2021 as first installment (Please refer the enclosed Annexure-I). We are herewith submitting the second and final instalment paid details for Rs. 21,20,372/- through NEFT-State Bank of India dated 18.11.2021 (Pls. refer the enclosed paid details as Annexure-II).

Total Escrow paid details from the beginning.

Sl. No.	Transaction Date	Period	Amount transacted
1	21.12.2017	June 2008 to Oct. 2017	Rs. 3,20,00,000.00
2	13.12.2018	Nov 2017 to Nov 2018	Rs. 11,61, 011.00
3	06.02.2020	Dec 2018 to March 2019	Rs. 7,12,809.00
4	10.09.2020	April 2019 to March 2020	Rs. 36,71,941.00
5	23.09.2021	April 2019 to March 2020 (First Instalment)	Rs. 22,95,603.00
6	18.11.2021	April 2019 to March 2020 (Second Instalment)	Rs. 21, 20,372.00
Total Amount paid			Rs. 4,19,61,736.00

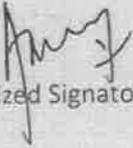
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KIADB
 27/12/2021
 898
 12/12/2021

Therefore, Cumulative Escrow amount paid from 2008 till FY 2020-21 is Rs. 4,19,61,736/- (Rupees Four Crores, Nineteen Lakhs, Sixty One Thousand, Seven Hundred Thirty Six Only)

This is for your kind information and necessary records

Thanking You
Yours faithfully
For Karnataka Waste Management Project,



Authorized Signatory

- CC: 1. Additional Chief Secretary (Environment & Ecology), Dept. of Forest, Environment & Ecology, Government of Karnataka, M.S. Building, Bengaluru
2. Zonal Officer, CPCB, Thimmaiah Road, Shivanagar, Bengaluru, Karnataka
3. The Chairman, KSPCB, Parisara Bhavan, 5th Floor, # 49, Church Street, Bengaluru
4. Environmental Officer, Regional Office – Nelamangala, KSPCB, Urban Eco Park, 1st Floor, Peenya Industrial Area, Bangalore – 58

BEFORE THE HON'BLE NGT (SZ),
CHENNAI BENCH

Application No. 196 of 2021

T.M.Umashankar

Appellant

Vs.

Union of India
Through its Secretary
Ministry of Environment, Forests and
Climate Change
& 5 Others

Respondents

OBJECTIONS TO JCR
BY RESPONDENT NO.4
(KIADB)

M/s. B. Dhanaraj
Counsel for Respondent No. 4