

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

O.A. NO. 199 of 2021 (SZ)

IN THE MATTER OF:

Sri. Shankar Narayanan Bala Krishnan,
Telangana and Ors.

...APPLICANTS

Versus

State of Telangana and Ors.

...RESPONDENTS

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THROUGH



**MATRUGUPTA MISHRA/ SWAGATIKA SAHOO/
RITIKA SINGHAL/ VIGNESH SRINIVASAN/
ISHITA THAKUR/ SANJEEV SINGH THAKUR
ADVOCATES FOR THE RESPONDENT NO. 9**

**M/S RITAM LEGAL,
ADVOCATES AND ADVISORY,
M-15, FIRST FLOOR
SOUTH EXTENSION PART - II
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Tel: (+91) 011-43552390-91
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**PLACE: Hyderabad
DATE: 02.11.2021
Filed on: 19.11.2021**

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**REPLY ON BEHALF OF M/s RAMKY ENVIRO ENGINEERS
LIMITED/RESPONDENT NO. 9**

MOST RESPECTFULLY SHOWETH:

1. That the captioned proceedings have been initiated by the Applicants claiming to raise substantial questions of law relating to the environment, allegedly arising out of the unscientific management and disposal of municipal solid waste in the Jawahar Nagar dumpsite at Hyderabad. The Applicants have claimed that the functioning of the Jawahar Nagar dump site is suffering from the non-implementation of the Municipal Solid Waste Rules, 2016 as well as the directions issued by the Principal Bench of this Hon'ble Tribunal, in O.A. No. 606 of 2018, due to which the residents of Jawahar Nagar are suffering from smell nuisance, pollution of ground water and air pollution.
2. That during the hearing of the captioned matter on 09.09.2021, this Hon'ble Tribunal directed the Respondents to file their independent responses to the application. Accordingly, in furtherance of the said direction, M/s Ramky Enviro Engineers

Limited (hereinafter referred to as the 'Answering Respondent') is filing the instant Reply.

3. That the Answering Respondent is a company incorporated under the Companies Act, 1956, having its registered office at 13th floor, Ramky Grandiose, Ramky Towers, Gachibowli, Hyderabad, Telangana, 500032. The Answering Respondent is carrying out the management of the Integrated Municipal Solid Waste Management ("IMSWM") facility at Jawahar Nagar, through its subsidiary, M/s. Hyderabad Integrated MSW Ltd. (hereinafter referred to as the "Respondent No. 10").
4. That the Answering Respondent is one of Asia's leading providers of comprehensive environment management services. The Answering Respondent is a pioneer in the field of environmental engineering activities including but not limited to municipal solid waste management and is very committed to providing its services in collection, transportation, processing and subsequent disposal of Municipal Solid Waste ("MSW") with extreme care and adherence to the various rules and regulations provided for environmental conservation.
5. That the Answering Respondent was the original concessionaire in the Concession Agreement ("CA"), date 21.02.2009, executed with Greater Hyderabad Municipal Corporation (hereinafter referred to as "Respondent No. 6"), for development of the IMSWM Project at Jawahar Nagar. The CA was executed for establishment of a suitable and scientific mechanism to manage

the collection, transportation, processing and disposal of MSW generated in the city of Hyderabad. *[Please see Annexure A-1 of the captioned application].*

6. Article 5.26 of the CA, empowers the Concessionaire, i.e., the Answering Respondent, to incorporate a SPC as a limited liability company under the Companies Act, 1956, which entity shall undertake and perform the obligations and exercise the rights of the Concessionaire under the CA, upon receipt of permission from Respondent No. 6. Upon creation of such SPC, it shall be treated as a permitted assign of the Concessionaire and shall be bound to adhere all the terms and conditions of the CA.
7. That in exercise of its power under Article 5.26 of the CA, the Answering Respondent incorporated Respondent No. 10, on 23.04.2009, as a limited liability company under the Companies Act, 1956 to undertake and perform all its obligations and exercise the rights of the Concessionaire under the CA.
8. That a Novation Agreement dated 01.02.2012 was executed between the Answering Respondent, Respondent No. 10 and Respondent No. 6. Under the said agreement, Respondent No. 6 agreed that Respondent No. 10 shall duly discharge all the duties, obligations and responsibilities of the Answering Respondent under the CA. The Answering Respondent continues to be principally responsible for all the duties and obligations under the CA, throughout the Concession Period, even though the same

have been assigned in favor of Respondent No. 10. The relevant extracts of the Novation Agreement are provided herein below:

"2. M/s. REEL has promoted and incorporated a SPC "Hyderabad Integrated MSW Limited" on 23.04.2009 as a limited liability company under the Companies Act, 1956 in terms of clause 5.26 of the CA to undertake and perform all its obligations and exercise the rights of the Concessionaire under the CA.

3. M/s. REEL hereby undertake to hold at least 51% (fifty one percent) of the paid-up capital of the SPC throughout the Concession Period.

4. M/s. REEL undertakes to hold itself principally responsible for all the duties and obligations under the CA throughout the concession period though the same is assigned in favour of the SPC.

5. GHCM agreed that the SPC is a permitted Assign who shall do and cause to be done the implementation of CA duly discharging all the duties, obligations and responsibilities of M/s. REEL, and claiming the rights reserved for the Concessionaire.

6. The Novation Agreement is only to facilitate the principal to execute the CA through its associate/assigns. It is not a contract for substitution of M/s. REEL with the assign and discharge the from its obligations."

A copy of the Novation Agreement, dated 01.02.2012, executed between Greater Hyderabad Municipal Corporation, Ramky Enviro Engineers Limited and Hyderabad Integrated MSW Limited is annexed hereto and marked as **ANNEXURE R-1**.

9. That the scope of work of the CA is being entirely carried out by Respondent No. 10 since the execution of the above Novation Agreement and no separate task for the management of the facility at Jawahar Nagar has since been performed by the Answering Respondent.
10. That in the Application filed by the Applicants, the Answering Respondent and Respondent No. 10 have been collectively referred to as the "Private Respondents" and have been subjected to the same allegations and contentions. It is pertinent to mention that no separate allegations, other than the ones also made against Respondent No. 10, have been made against the Answering Respondent.
11. The Respondent No. 10 in its Reply, dated 07.10.2021 has, in a Para-wise manner, replied to all the allegations made by the Applicants in relation to the functioning of the facility at Jawahar Nagar.
12. That by virtue of the conferment of the concession upon Respondent No. 10, and the fact of Respondent No. 10 carrying out the scope of work under the CA in its entirety, the Answering Respondent submits that no independent response from it is warranted in the captioned matter. The Answering Respondent is, thus, adapting the submissions made by the Respondent No. 10 in its Reply.

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13. In light of the aforesaid, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the captioned application.

Through



**MATRUGUPTA MISHRA/SWAGATIKA SAHOO/
RITIKA SINGHAL/ VIGNESH SRINIVASAN/
ISHITA THAKUR/ SANJEEV SINGH THAKUR
ADVOCATES FOR M/s RAMKY ENVIRO ENGINEERS
LIMITED/RESPONDENT NO. 9**

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...APPLICANTS

VERSUS

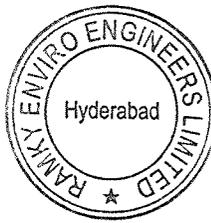
State of Telangana & Ors

...RESPONDENTS

AFFIDAVIT

I, Thota Krishna Rao, S/o Late Sri Thota Manik Rao, aged about 49 years, R/o Flat No. 201, Carcherla Castle, Gagan Mahal Colony, Hyderabad – 500 029, do hereby solemnly affirm and state as follows:

1. That I am the authorized representative of the Respondent No. 9 in the abovementioned matter, I have been dealing with the matters relating to the above-mentioned case and I am conversant with the facts of the case.
2. I have read the accompanying Reply and I say that its contents are true to my knowledge and belief and based on records which are believed to be true and correct.
3. The annexures filed along with Reply are true copies of their respective originals.



For RAMKY ENVIRO ENGINEERS LIMITED
S. Krishna Rao
Authorised Signatory
...DEPONENT

VERIFICATION:

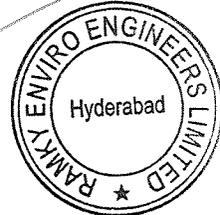
I, the deponent above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at ^{Hyderabad} on this 2nd day of November, 2021.

For RAMKY ENVIRO ENGINEERS LIMITED
S. Krishna Rao
Authorised Signatory
... DEPONENT

**Sworn before Me
ATTESTED**

S. LAXMI NARAYANA
B.Com, LL.B
NOTARY
Flat No.204, Lumbini Towers,
6-3-666/A/204, panjagutta, Hyd-82
(Appointed by Govt. of India)



NOTARIAL

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Annexure R-1



ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

S. Lakshminarayana AN 123814

S.No: 2277 Date: 31/1/12 Rs. 100/-

Name: M. Ramy S/D/W/O: Shankar. P/O H/O

For Whom: Hyderabad Integrated MSW Limited Regd: 063407

S. LAXMI NARAYANA
 Licensed Stamp Vendor
 Lic. No 16-11-02/06. Ren.No:16-11-02/09
 No. 202, 203, behind Panjagutta Police Station
 Panjagutta, Hyderabad (South) District
 Phone No: 9989062579

NOVATION AGREEMENT

This Novation Agreement is made on 1st day of February, 2012.

BETWEEN

- (A) **Greater Hyderabad Municipal Corporation**, established under the Hyderabad Municipal Corporation Act, 1956 and having its registered office at Tank Bund, Hyderabad acting through the Commissioner ("GHMC") of the first part ;
- (B) **Ramky Enviro Engineers Limited**, a company incorporated under the Companies Act, 1956 and having its registered office at Ramky House, Opposite Necklace Road Railway Station, Rajbhavan Road, Somajiguda, Hyderabad – 500 082 ("**Concessionaire**") of the second part, and
- (C) **Hyderabad Integrated MSW Limited**, a company incorporated under the Companies Act, 1956 and having its registered office at 6-3-1089/G/10 & 11, Gulmohar Avenue, Rajbhavan Road, Somajiguda, Hyderabad – 500 082 ("**SPC**") of the third part.

For Ramky Enviro Engineers Limited

A. Jayaraman
Authorized Signatory for

HYDERABAD INTEGRATED MSW LTD
 Authorized Signatory

Navin Kulkarni

11/2/12

T.C.

WHEREAS :

1. Pursuant to the Concession Agreement (CA) made on 21st day of February, Two Thousand and Nine at Hyderabad between Greater Hyderabad Municipal Corporation (GHMC) and M/s.Ramky Enviro Engineers Limited (REEL), the Concessionaire.
2. Pursuant to the provisions of Clause 5.26 of the CA, upon fulfillment of conditions, GHMC agreed that upon incorporation of the SPC, SPC shall undertake and perform the obligations and exercise the rights of the Concessionaire under the CA.

Now this Agreement witness as follows:

1. In this Agreement, except to the extent that the context requires other wise : "Effective Date" means, 21.05.2009 being the date of commencement of business for SPC.
2. M/s.REEL has promoted and incorporated a SPC "Hyderabad Integrated MSW Limited" on 23.04.2009 as a limited liability company under the Companies Act, 1956 in terms of clause 5.26 of the CA to undertake and perform all its obligations and exercise the rights of the Concessionaire under the CA.
3. M/s. REEL hereby undertake to hold at least 51% (fifty one percent) of the paid up capital of the SPC throughout the Concession Period.
4. M/s.REEL undertakes to hold itself principally responsible for all the duties and obligations under the CA throughout the concession period though the same is assigned in favour of the SPC.
5. GHCM agreed that the SPC is a permitted Assign who shall do and cause to be done the implementation of CA duly discharging all the duties, obligations and responsibilities of M/s.REEL, and claiming the rights reserved for the Concessionaire.
6. The Novation Agreement is only to facilitate the principal to execute the CA through its associate/assigns. It is not a contract for substitution of M/s.REEL with the assign and discharge the M/s.REEL from its obligations.
7. This Agreement shall be governed by and construed in accordance with the laws of India. The Parties hereto agree to submit to the exclusive jurisdiction of the Courts of Hyderabad.

M/s. Ramky Enviro Engineers Limited
A. Satyanarayana
 Authorised Signatory

HYDERABAD INTEGRATED MSW LTD
[Signature]
 AUTHORIZED SIGNATORY

[Signature]
 12/12
 SPECIAL COMMISSIONER
 GREATER HYDERABAD MUNICIPAL CORPORATION

[Signature]

IN WITNESS WHEREOF this agreement has been executed by the authorized representatives of the Parties on the day and year first above written.

Navin Mittal
1/2/12

Signed by : Navin Mittal, I.A.S., Special Commissioner, GHMC
for and on : Authorized by Commissioner, GHMC
behalf of : No.589/EE(SWM)/AC(H&S)/GHMC/2010 dt.30.01.2012
Commissioner, GHMC

S. Aleem Basha
1/2/12

In the presence of : 1) S.Aleem Basha, Addl. Commissioner (H&S)

N. Ashok Samrat
1/2/12

2) N.Ashok Samrat, Jt. Commissioner (H&S)

For Ramky Enviro Engineers Limited

A. Satyanarayana
Signed by : Adamala Satyanarayana, Authorised Signatory
for and on behalf of :
Ramky Enviro Engineers Limited

I.W. Vijaya Kumar
Signed by : I.W. Vijaya Kumar, Director & Chief Financial Officer
for and on behalf of :
Hyderabad Integrated MSW Limited

V.S. Venkatesan
1/2/2012

In the presence of : 1) V.S.Venkatesan, Head - C & T

R. Srikanth Reddy

2) R.Srikanth Reddy, Executive Accounts

T.C.
[Signature]