

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

IN

ORIGINAL APPLICATION No. O A 77 of 2021(SZ)

IN THE MATTER OF

Suo Motu proceedings initiated

based on letter received

From Justice A.V. Ramakrishna Pillai,

Former Judge, High Court of

Kerala, Chairman,

SLMC, Kerala.

:

Applicant(s)

Verses

The Chief Secretary,

Government of Kerala,

Thiruvananthapuram and Others

:

Respondent(s)And

ORIGINAL APPLICATION No. O A 442/2013(SZ)

Applicant(s) : Jith Kumar, Muthedathu

Versus

Respondent(s) : The State of Kerala & others

And

ORIGINAL APPLICATION No. O A 20 / 2017(SZ)

Abdul Basheer

Versus

Kochi Municipal Corporation & Others

ORIGINAL APPLICATION No. O A 276/2017(SZ)

Lawyers Environmental Awareness Forum

Versus

SEIAA, Thiruvananthapuram

VOLUME 1

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Dated this the 12th day of March 2023

Adv. Rema Smrithi,

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

IN

ORIGINAL APPLICATION No. O A 514 of 2019(PB)

RENUMBERED AS O A 77 of 2021(SZ)

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**REPORT FILED BY THE CHIEF ENVIRONMENTAL ENGINEER,
REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF THE
KERALA STATE POLLUTION CONTROL BOARD**

I, Baburajan P K, 52 years, S/o. Late P A Kuttappan, now working as the Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulum. I am competent to and duly authorized to represent the Board. I know the facts and circumstances of the cases. The factual submissions made hereunder are true and correct to the best of my knowledge, information and belief. In these circumstances, it is just and necessary that this Hon'ble Tribunal may be pleased to accept the accompanying report on file and it is so humbly prayed in the interests of justice in this case.

1. In compliance with the order of the Hon'ble Tribunal dated 13.02.2023, I may humbly report that the bio mining is the process of excavation of old dumped waste and make windrow of legacy waste thereafter stabilization of the waste through bio-remediation i.e. exposure of all the waste to air along with use of composting bio-cultures, i.e. screening of the stabilized waste to recover all valuable resources (like organic fines, bricks, stones, plastics, metals, clothes, rags etc.) followed by its sustainable management through recycling, co-processing, road making etc. As per the Solid Waste Management Rule, 2016 "refused derived fuel"(RDF) means fuel derived from combustible waste fraction of solid waste like plastic, wood, pulp or organic waste, other than chlorinated materials, in the form of pellets or fluff produced by drying, shredding, dehydrating and compacting of solid waste and "residual solid waste" means and includes the waste and rejects from the solid waste processing facilities which are not suitable for recycling or further processing.

2. It is respectfully submitted that for managing legacy waste the SWM Rules 2016 clearly mandate clearing of sites as a first option, by bio-mining and bio-remediation. It is to be noted that the Board had already reported before this tribunal that during the inspection conducted on 06.01.2023 along with the technical committee constituted for monitoring the progress of the Bio mining, it was noticed that segregation of the legacy waste was not proper. Huge sized stones, wood pieces etc. were found mixed up with good earth and large pieces of plastic were seen along with rejects. Hence, instruction was given to the Kochi Corporation to use fine sieve in order to reduce the volume of




BABURAJAN P.K.
 Chief Environmental Engineer

rejects. It was also instructed on 18.01.2023 to dispose rejects as per the Municipal Solid Waste Guidelines. The capping of the residual solid waste as per the Solid Waste Management Rules, 2016 may only be permitted for capping.

3. It is respectfully submitted that a fire outbreak happened on 02.03.2023. The information regarding the fire incident was received by the Board at around 5.30pm on 02.03.2023. Immediately the surveillance team of the Board visited the site and collected a primary information about the incident. It was noticed during the inspection that the fire happened in the legacy waste storage area and the fire was found to be spread to a large area. There were about 8 fire engines operational at that time. It was also understood that though the Kochi Corporation had provided 6 fire hydrants in the legacy waste storage area, based on the suggestion of the Board and State Level Monitoring Committee, none of them were operational.

4. The surveillance team of the Board again conducted inspection on 03.03.2023 at 8.30AM. During that time, it was noticed that the fire was extinguished to a great extent, but was continuing at scattered pockets and fuming was continuing. The firefighting operations were found to be intensified. The smoke from the site had spread to a wide area and formed smoke clouds. During the inspection conducted on 04.03.2023 also, the same situation noticed on 03.03.2023 was found to be prevailing. The Board officials are conducting inspections continuously. Inspections on 05.03.2023, 06.03.2023 and 07.03.2023 revealed that the fuming was continuing, but the intensity of smoke was found slightly decreasing. The Chief Environmental Engineer visited the site on 06.03.2023 along with Justice. A V Ramakrishna Pillai, the Chairman of State Level Monitoring Committee and on 07.03.2023 along with the surveillance team of the Board. During the inspection, it was noticed that out of the two-weigh bridge for weighing the quantity of waste, only one was in working condition and the other one was found to be damaged. The windrow composting shed was also in dilapidated condition. The leachate drains leading to the collection tank was found to be blocked. A portion of RDF collected from the bio mining was baled and stacked in the land proposed for waste to energy plant and a portion was found to be stored near the windrow composting plant area.

5. It is also respectfully submitted that Board has 5 numbers of manual ambient air monitoring stations as a part of National Air Monitoring Program (NAMP) at




BABURAJAN P.K.
 Chief Environmental Engineer

Ernakulam South, M G Road, Vyttila, Irumpanam and Kalamassery. This monitoring is regularly done twice in a week. But in the outbreak of fire incident, it was decided to operate the NAMP stations at Kalamassery and Irumpanam continuously. Then the monitoring at Kalamassery was discontinued and started the monitoring at Vyttila on 06.03.2023 onwards as the effect of smoke in the air was noticed more in Vyttila area and more complaints were received from that area. It is also to be noted that the Board had started air quality monitoring at Vadavucode- Puthencruz from 06.03.2023 onwards. Real time monitoring stations of the Board are at Vyttila and Eloor. The Board is closely monitoring the values of various parameters at the real time monitoring stations and the values are shared with the District Administration.

6. In addition to the air quality monitoring carried out by the Board, IIT, Chennai in association with Kerala State Pollution Control Board had started the monitoring activities from 06.03.2023 onwards. It may also be noted that the Board had entrusted National Institute of Inter-disciplinary Science and Technology (NIIST) for the monitoring the presence of dioxin and furan in the air. The surveillance team of the Board is also continuously conducting inspections at Brahmapuram.

7. It is also respectfully submitted that the Hon'ble High Court of Kerala has taken a suo - moto petition based on the current fire outbreak happened on 02.03.2023 vide W P(c) no.7844/2023. The Board has put forward the following immediate, short term and long-term measures to be adopted by the Kochi Corporation before the Hon'ble High Court of Kerala.

IMMEDIATE MEASURES -TO BE COMPLETED ON OR BEFORE 25-03-2023

- a) 100% segregation of solid waste shall be ensured at the source itself for the residences and establishments.
- b) Kochi Corporation shall set up MCFs, preferably at all 22 Health circle level.
- c) Segregate and bale the non-biodegradable waste and shall be transferred to Clean Kerala Company.
- d) Existing fire hydrants shall be made operational and additional firefighting arrangements shall be provided as recommended by the Fire & Rescue Department.




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 Chief Environmental Engineer

- e) All fire extinguishing measures as suggested by the Fire & Rescue Department shall be implemented.
- f) CCTV cameras provided at the site shall be made operational
- g) Onsite emergency plan for fire control and land safety shall be kept handy.

SHORT TERM MEASURES -TO BE COMPLETED ON OR BEFORE 05-06-2023

- a) Non-biodegradable waste shall not be taken to Brahmapuram Plant. Non biodegradable waste shall be collected by authorized collectors and transferred to Clean Kerala Company.
- b) Sanitary napkins/diapers shall be disposed in Common Biomedical Waste Treatment Facility at Ernakulam.
- c) 24 x 7 surveillance shall be done to ensure that no littering of waste is practiced in the Corporation area.
- d) The defects of the existing windrow composting plant shall be rectified and the same shall be made fully operational for processing of bio-degradable waste.
- e) Treatment of bio-degradable waste at source level shall be insisted for flats, gated communities and commercial establishments.
- f) Bio-mining shall be completed and the RDF shall be removed from the site.
- g) The rejects/inert and the good earth shall be disposed as per the guidelines of CPCB.
- h) Internal roads in and around the waste dumping area shall be developed and maintained properly for easy access to the vehicles, especially in emergency situations.
- i) The defects in leachate collection and treatment facility shall be rectified.
- j) CCTV cameras provided at the site shall be made operational.
- k) Weigh bridge shall be made functional and proper records shall be maintained.

LONG TERM MEASURES

- i. The implementation of the proposal for Waste to Energy Plant and Bio-methanation/composting shall be expedited.
- ii. Leachate Treatment Plant shall be provided.




BABURAJAN P.K.
 Chief Environmental Engineer

- iii. Green belt around the waste treatment plant shall be developed and bio-mined area shall be properly landscaped, with suitable species of plants.
- iv. Four (4) Nos of Permanent Ambient Air Quality Monitoring Stations shall be provided at all four directions of the plant.

Short term measures to be complied on or before 05.06.2023

The above case was heard on 10.03.2023 and passed order directing to inspect the area in question by a committee comprising, (1) The Chief Engineer, Local Self Government Department, (2) Director, Solid Waste Management Swachhatha Mission (3) The District Collector, Ernakulam (4) Joint Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulam (5) Mr.Babu Abdul Khader, Secretary, Cochin Municipal Corporation (6) Secretary, District Legal Services Authority, Member-Convenor within 24 hrs and report to the Hon'ble High Court of Kerala. The case is posted on 13.03.2023 and 14.03.2023 for further formalities.

8. It is also humbly submitted that the Board has issued a show cause notice for the levying of Environmental Compensation of Rs.180lakh for non-compliance of solid waste management Rules,2016 on 04.03.2023. A copy of the show cause notice dated 04.03.2023 is produced herewith and marked as **Annexure 1**. The Board has decided to constitute a technical committee for assessing the damage occurred due to the fire hazard at Brahmapuram.

All the facts stated above are true to the best of my knowledge, information and belief.

Dated this the 12th day of March 2023




CHIEF ENVIRONMENTAL ENGINEER
BABURAJAN P.K.
Chief Environmental Engineer

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Dated this the 12th day of March 2023

Adv. RemaSmrithi,
ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

ANNEXURE 1



☎: General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.kspcb@gov.in FAX: 0471 – 2318134, 2318152 web: www.kspcb.kerala.gov.in

KERALA STATE POLLUTION CONTROL BOARD
കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram – 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

KSPCB/20/2021-SEE2 VOL II (1)

Date:04.03.2023

Regd. with A/D

**SHOWCAUSE NOTICE FOR THE LEVYING OF COMPENSATION FOR
NON-COMPLIANCE OF SOLID WASTE MANAGEMENT RULES, 2016**

Sub: Non-compliance of Solid Waste Management Rules, 2016.

- Ref: 1. Solid Waste Management Rules 2016
2. The Hon'ble NGT order dated 16.01.2019 in OA No.606/2018
3. Letter No. PCB/HO/RULES/SWM-EKM/2018(VOL II) dated 16 /03/2022
4. Letter No.PCB/ESC/GEN/MSW/12 dated 12.05.2022 from ESC, Ernakulam
5. Letter No. PCB/RO-EKM/GEN/258/ao dated 04.03.2023 from the Chief Environmental Engineer, Regional Office, Ernakulam

WHEREAS the Central Government notified the Environmental (Protection) Act, 1986 for the protection and improvement of environment and for matters connected therewith;

WHEREAS as per Section 3, 6, and 25 of the Environment (Protection) Act, 1986, the Central Government re-notified the Solid Wastes Management Rules, 2016 (hereinafter referred as SWM Rules) vide notification S.O. 1357(E) dated 8-4-2016;

WHEREAS the duties and responsibilities of local authorities are prescribed under Rule 15 of the SWM Rules for the management of solid waste;

WHEREAS the Rule 22 of the SMW Rules prescribes the time frame for the implementations by the local bodies ;

WHEREAS as per Rule 22 (1) of the SWM Rules, suitable sites for setting up solid waste processing facilities are to be identified by 8-4-2017;

WHEREAS as per Rule 22 (2) of the SWM Rules, 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 by 8-4-2017;

WHEREAS as per Rule 22 (3) of the SWM Rules, suitable sites for setting up solid waste processing facility and sanitary landfill facilities are to be procured by 8-4-2018;

WHEREAS as per Rule 22 (4) of the SWM Rules, the practice of segregation of biodegradable, recyclable, combustible, sanitary waste, domestic hazardous and inert solid waste shall be ensured at source for waste generators at source by 8-4-2018;

WHEREAS as per Rule 22 (5) of the SWM Rules, door to door collection of segregated waste and its transportation in covered vehicles to processing or disposing facility shall be ensured by 8-4-2018;

WHEREAS as per Rule 22 (6) of the SWM Rules, separate storage, collection and transportation of construction and demolition waste shall be ensured by 8-4-2018;

WHEREAS as per Rule 22 (7) & Rule 22(8) of the SWM Rules, solid waste processing facilities for the complete quantity of waste generated from the local body at 0.4 to 0.5 kg/person/day, shall be set up by 8-4-2019;

WHEREAS as per Rule 22 (11) of the SWM Rules, bio-remediation or capping of old and abandoned dump site shall be ensured;

WHEREAS repeated instructions were issued to the local body for the compliance of the SWM Rules;

WHEREAS you were directed to implement the SWM Rules by providing waste management facilities for collection, treatment and disposal, based on the judgment of the Hon'ble NGT in O.A 606/2018;

WHEREAS the Hon'ble National Green Tribunal vide dated 02/07/2020 in OA 606/2018 laid down compensation scale for continued failure in implementation of Solid Waste Management Rules 2016, after 31-3-2020 and reiterated that the compliance of the Rules requires taking of several steps in Rule 22 and the Court directed that any such continued failure will result in liability of every local body to pay compensation at the rate of Rs. 10 lakhs per month per local body for population above 10 lakhs; Rs. 5 lakhs 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 and final compensation may be assessed and recovered by the State PCB/PCCs in the light of the above order;

WHEREAS as per the above the local body shall be liable to pay compensation if there is any failure in the implementation of in the SWM Rules;

WHEREAS legacy waste remediation had to be commenced from 01.11.2019 in compliance with the order of Hon'ble NGT dated 17.07.2019 in O.A. No. 519/2019 even though statutory

timeline for completing the said step is over (as per serial no. 11 in Rule 22), the direction remains unexecuted at the dump site of Brahmapuram;

WHEREAS you have not carried out biomining in a time bound manner and thereby violating orders of Hon'ble NGT and statutory Rules;

WHEREAS huge fire hazard happened in the dump site of Brahmapuram on 02.03.2023 due to not carrying out bioremediation of the legacy waste on time at the site and due to the failure on your part in the implementation of SWM Rules;

WHEREAS it was reported by the Regional Office vide letter 5 that smoke from the site has spread to a wide area causing huge air pollution problems and it was also reported that the fire hydrants provided in the legacy waste storage area were not operational;

WHEREAS though the Board had given several directions for preventing and controlling such incidents it is observed that the Kochi Corporation has not taken any preventive measures for avoiding such fire hazards;

AND WHEREAS Environmental Compensation for an amount of Rs. 180 lakhs (Rupees One Eighty Lakhs) for the period from 01.04.2020 to 04.03.2023 @ Rs 5 lakh per month for non compliance as per the order dated 02/07/2020 of the Hon'ble NGT in OA 606/2018 is assessed hereby;

NOW THEREFORE, in exercise of the powers vested under section 5 of the Environment Protection Act, 1986, read with Government of India notification S.O. 327 (E) dated 10/04/2001 you are directed to show cause reasons within 15 days as to why the Board shall not recover Environmental compensation of Rs.180 Lakhs (Rupees One Eighty Lakhs) calculated for a period from 01.04.2020 to 04.03.2023 against the Corporation for the non-compliance of the SWM Rules 2016.


CHAIRMAN

To

The Secretary,
Kochi Corporation

Copy to:

1. The Chairman
State Level Monitoring Committee (with covering letter)
2. The Additional Chief Secretary
Environment Department (with covering letter)
3. The Additional Chief Secretary
Local Self Government Department (with covering letter)
3. The District Collector, Ernakulam
4. The Director, Urban Directorate
5. The Chief Environmental Engineer, Regional Office, Ernakulam
6. The Environmental Engineer, District Office-2, Ernakulam