

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 109 OF 2022**

IN THE MATTER OF:-

VIVEK KAMBOJ & ANR.

... APPLICANTS

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

INDEX

S.No	PARTICULARS	P. NO
1.	ADDITIONAL AFFIDAVIT BY THE APPLICANT	54-56
2.	ANNEXURE A/1 (Colly) A copy of the news report published in national daily 'Times of India' titled as "Leachate? Black discharge enters Aravalis from landfill", in 'Hindustan Times' titled as "Leachate spillage in Aravallis worries green activists in Ggm" and in 'Navbharat Times' titled as "Aravalli Ke Johad Tak Fir Pahuncha Jehrila Paani" dated 25.05.2022	57-59
3.	ANNEXURE A/2 A copy of the show cause notice dated 29.12.2021 issued by the State Pollution Control Board	60-68

THROUGH

RITWICK DUTTA

RAHUL CHOUDHARY

ADVOCATES

COUNSEL FOR THE APPLICANTS

N-71, Lower Ground Floor,

Greater Kailash-I, NEW DELHI – 110048

Ph. No. +91 9312407881

Email: litigation.life@gmail.com

PLACE: New Delhi

DATE: 26.05.2022

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 109 OF 2022**

IN THE MATTER OF:-

VIVEK KAMBOJ & ANR.

... APPLICANTS

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

ADDITIONAL AFFIDAVIT

I, Vivek Kamboj, aged about 50 years, S/o Y. P. Kamboj, R/o C-579, Sushant Lok-I, Gurugram, Haryana, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That the Applicant has filed above titled Original Application with respect to dumping of solid waste in forest areas of Aravalli and discharging leachate in surrounding areas of Bandhwari Landfill site in district Gurugram. This Hon'ble Tribunal has passed several directions to the Respondents in O.A. No. 514/2018 (earlier O.A. No. 451 of 2015), for compliance of Solid Waste Management Rules, 2016 and by order dated 07.04.2021 directed Chief Secretary of State of Haryana to personally monitor the compliances. The Hon'ble Tribunal by order dated 17.02.2022 directed the joint committee of State Pollution Control Board, Divisional Forest Officers and District Magistrates of Gurgaon and Faridabad to ascertain the factual position and furnish action taken report.
2. That the Applicant through this Additional Affidavit wants to apprise this Hon'ble Tribunal that the leachate is still continuing to be discharged to the nearby areas in the Aravalli. The fact about the discharge is reported on 25.05.2022 in national daily 'Times of India' titled as "Leachate? Black discharge enters Aravalis from landfill", in 'Hindustan Times' titled as "Leachate spillage in Aravallis worries green activists in Ggm" and in

I, IDENTIFIED THE
 DEONANT WHO HAS
 SIGNED IN MY PRESENCE

NOTARY PUBLIC APPOINTED BY GOVT. OF INDIA G. S. KHARBANDA	
Notary Reg. No. 785	26 MAY 2022
ATTESTED 9899422266	

'Navbharat Times' titled as "Aravalli Ke Johad Tak Fir Pahuncha Jehrila Paani". All these news report mention about pollution of the water body and the Aravalli because of leachate from Bandhwari Landfill.

A copy of the news report published in national daily 'Times of India' titled as "Leachate? Black discharge enters Aravalis from landfill", in 'Hindustan Times' titled as "Leachate spillage in Aravallis worries green activists in Ggm" and in 'Navbharat Times' titled as "Aravalli Ke Johad Tak Fir Pahuncha Jehrila Paani" dated 25.05.2022 is annexed herewith and marked as **ANNEXURE A/1 (Colly)**.

3. That the Forest Department has also wrote a letter dated 11.08.2020 to Municipal Corporation, Gurgaon about pollution of the Aravalli forest area because of the discharge of leachate, which is affecting the wildlife. However, no action has been taken by the Forest Department to stop the flow of the leachate. The copy of letter dated 11.08.2020 is already part of record as Annexure A/4 (at page 46).
4. That the State Pollution Control Board of Haryana has issued show cause notice dated 29.12.2021 to Municipal Corporation, Gurgaon mentioning about the finding about the pollution from Bandhwari Landfill. The show cause also imposed environmental compensation of Rs. 2,10,00,000/-. However, no action has been taken by the Pollution Control Board and from the news report mentioned above the discharge of leachate is still continuing which is polluting the ground water in surrounding area.

A copy of the show cause notice dated 29.12.2021 issued by the State Pollution Control Board is annexed herewith and marked as **ANNEXURE A/2**.

5. It is submitted that even after several directions the Respondents including Municipal Corporation of Gurugram and Faridabad and Ecogreen Energy who is managing the municipal waste on behalf of Municipal Corporation,



Gurugram has miserably failed to comply with the Municipal Solid Waste Rules and direction of this Hon'ble Tribunal.

6. I say that the facts stated in this Affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.



DEPONENT

VERIFICATION

I the above-named deponent, do hereby verify that the contents of the above Affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 26 day of May, 2022.



DEPONENT



ATTESTED

NOTARY PUBLIC

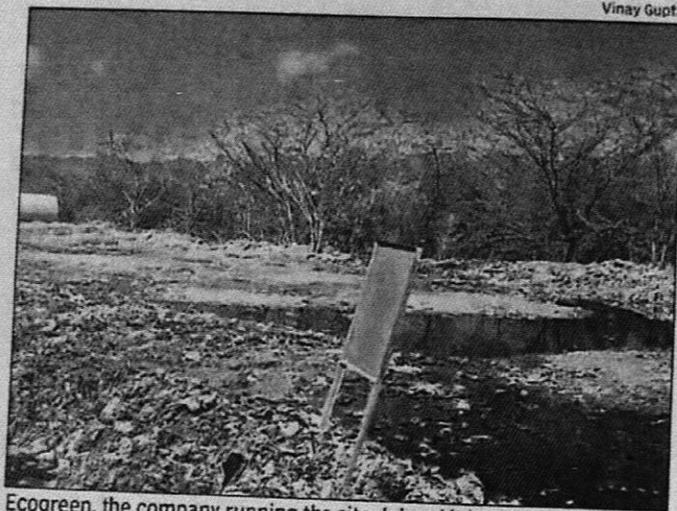
Leachate? Black discharge enters Aravalis from landfill

Ecogreen Says It's Rainwater, Pollution Board To Test Toxicity

Ipsita.Pati@timesgroup.com

Vinay Gupta

Gurgaon: A black-viscous discharge from the Bandhwari landfill site has been flowing into the Aravalis since the Monday showers, forming small puddles in the forested area over a spread of 1km and emanating a pungent smell. After environmentalists complained that the discharge was leachate, the pollution control board on Tuesday said it would collect samples to test for toxic substances. Ecogreen, the company running the site and in charge of waste management in Gurgaon, claimed it has been treating leachate in the Bandhwari plant, and the discharge is rainwater.



Ecogreen, the company running the site, claimed it has been treating leachate in the Bandhwari plant, and the discharge is rainwater

Talking to **TOI**, environmentalists claimed leachate from the plant has been leaking into the Aravalis after every shower, polluting the groundwater and posing a health hazard to wildlife and people living in the vicinity. "Every time it rains, several new ponds come up, which collect leachate, and thus lead to groundwater contamination," said Sunil Harsana, an environmental activist who lives in a nearby village. Ecogreen, however, insisted that is not the case. "We are taking care of the Bandhwari plant. Its design ensures that no leachate can spill out. After the rain this time, rainwater collected around the plant. It is dark in colour so has been mistaken for leachate," an Ecogreen representative told **TOI**.

Environmentalists alleged their requests to authorities to take action has gone

unheeded. "We repeatedly inform the civic bodies about spillage, but there has been no strict action against Ecogreen. Only the amount of waste at the landfill has grown over the years," said Vaishali Rana Chandra, an activist.

She also stressed that the dumping of leachate and solid waste in the Aravalis poses a health hazard to people in Gurgaon and Faridabad because the cities are at a lower elevation along natural water drainage and groundwater recharge areas. "Ecogreen's contract should be suspended immediately. Its CEO and MCG (Municipal Corporation of Gurgaon) should be prosecuted for environmental genocide committed against the local population of the surrounding five villages of Bandhwari, Mandi, Mangar, Gwal Pahari and Baliawas," she added.

Haryana State Pollution

Control Board (HSPCB) officials said they would test samples from the area concerned for quality of leachate and presence of toxic substances. "We will get it checked immediately," said Kuldeep Singh, regional officer, Gurgaon.

In 2021, HSPCB collected samples from ponds created in the Aravalis and confirmed it is leachate. Similarly, 2021 survey of the area by the wildlife department revealed that Ecogreen was "intentionally" spilling thousands of litres of leachate from the Bandhwari landfill onto mining pits in the eco-sensitive Aravalis leading to continued contamination of groundwater of the five nearby villages.

Following this, National Green Tribunal (NGT) in February 2022 directed HSPCB, district forest department and district magistrates of Gurgaon and Faridabad to

form a joint committee and submit a factual and action taken report (ATR) within three months on the dumping of solid waste and leachate in the fragile ecosystem of the Aravalis from the Bandhwari landfill. HSPCB is the nodal agency for coordination and compliance. The next hearing is on May 27.

The Bandhwari waste plant, spread across 30 acres, has a 37.2m-high mountain of waste. Earlier, it used to get 1,800 tonnes waste from Gurgaon and Faridabad daily, which has now increased to 2,000 tonnes. The problem, environmentalists said, is that local segregation is still not 100%. During an event on air quality in March, MCG claimed to have achieved 100% door-to-door garbage collection in Gurgaon, but only 70% of the waste gets segregated at the source. "For a city like Gurgaon, segregating waste at source could greatly impact overall waste management. Electronic items are composed of toxic substances and heavy metals, if not carefully segregated at the source, could easily result in contamination of soil, air and waterways. So, e-waste should get handled by a certified haulier or recycler who takes adequate measures to nullify its threat to humans, animals and the environment. Roping in authorised professionals would ensure segregation and even recycling of e-waste," said Raj Kumar, the founder and CEO of Deshwal Waste Management Pvt Ltd. The firm works on recycling e-waste, battery waste, and plastic in India.

...which is...
...now...
...what...
...before the...
...judge fol-
...by ASI...
...for the...
...adding that...
...worshipped...
...anywhere...
...since the...
...protected...
...cannot be

The Qutub Minar in New Delhi
...in violation of any status of the land. The basic principle of protection/conservation is not to allow starting of any new practice in a monument declared and notified as a protected one," the ASI told the court.
ASI's reply was filed in response to a petition filed by advocates Hari Shankar Jain and Ranjana Agnihotri on behalf of Jain irthankar Rishabh Dev and

...like Shri Ganesha...
...Yaksha" and several symbols like kalash and sacred lotus, along with temple wells, which suggest a "Hindu origin of the building".
In November, a civil judge dismissed the suit, saying that wrongs of the past cannot be used as the instruments to oppress in present and future. However, the plaintiffs filed appeals against the order before an additional district court, and a notice was issued in February

...section 16 of the AMASR Act, a monument can be restored into a place of worship.
Qutub Minar is not a place of worship, nor can it be revived as one under the laws of the land, the ASI told a Delhi court, which reserved its order for June 9 on pleas seeking to restore the right to worship for Hindus and Jains at the Quwwat-ul-Islam mosque in the monument's premises.

...comment from Ja...
...back...
...thrice...
...& Satu...
...flight...
...to Bh...
...5 and...
...four...
...Wed...
...The...
...ous...
...to c...

POV
cro...
Pot...
Lit...
ha...
of...
of...
is...
T...
w...
B...
P...
t...

P to
est

why we sug-
on is because
the suspect
team com-
ph test. The
ere will the
scheduled
rawat.
(popularly
tector test)
ds several
s such as
, respira-
vity while
series of
ement in
se came
of a con-
le by an
re theft
s regis-
he Pre-
and he
ber 10
anted
b and
ruary

Leachate spillage in Aravallis worries green activists in Ggm

HT Correspondent

htreporters@hindustantimes.com

GURURGAM: Environmentalists on Tuesday alleged that toxic leachate is seeping into the ground in Aravallis and several pleas to the pollution control department and the civic agencies have failed to move authorities to action.

The green activists alleged that leachate was not being treated at Bandhwari waste-to-energy plant properly and the situation now is more critical after heavy rainfall lashed the city on Monday, as the leachate gets mixed with rain water and flows further down the hills.

Environmentalists said the leachate has formed several ponds over a 1km area near the waste-to-energy plant and was slowly seeping into the ground, thereby contaminating underground water.

Vaishali Chandra Rana, a city-based activist, said leachate from the Bandhwari waste-to-energy



Pools of leachate have been formed at the Bandhwari waste-to-energy plant.

plant contaminated underground water in five villages, making the water unfit for consumption.

"We have repeatedly raised the matter with civic agencies, pollution department and the government but nothing has been done," she said.

Another environmentalist said that they have written a letter on Tuesday to the state government seeking its intervention in the matter.

Rana further said garbage dumping and leachate contami-

nation in the Aravallis will lead to major problems in the long run as both underground water and forest will get polluted. "Aravallis are a major source of water retention and harvesting for the city and the leachate will destroy the acquifiers. The authorities must take action against the concessionaire Eco-green, which is looking after the waste-to-energy plant," she said.

A spokesperson of Ecogreen strongly refuted the allegations. "Due to rainfall, water has accumulated around the plant and since the boundary wall is broken, a lot of it has entered inside the premises. We have got it checked by local staff and there is no leachate seepage into the Aravallis," he said.

Meanwhile, officials from the Haryana State Pollution Control Board said they will collect the samples and check the quality of leachate.

"It will be checked on priority," said Kuldeep Singh, regional pollution officer, Gururgam.

p University



DSEU

अरावली के जोहड़ तक फिर पहुंचा जहरीला पानी

■ एनबीटी न्यूज, गुड़गांव : मंगलवार रात वरसात के बाद अरावली पर्वत श्रृंखला के जोहड़ में बंधवाड़ी स्थित सॉलिड वेस्ट प्लांट से जहरीला पानी (लीचेड वॉटर) निकलकर पहुंच गया। पर्यावरणविदों ने ऐतराज जताते हुए इस मामले में हरियाणा प्रदूषण नियंत्रण बोर्ड को शिकायत दी है। नेशनल ग्रीन ट्रिब्यूनल में इस मामले की सुनवाई 27 मई तक है। पर्यावरणविद् वैशाली राणा चंद्रा का कहना है कि सॉलिड वेस्ट प्लांट को अरावली पर्वत श्रृंखला में गलत बनाया गया है। नगर निगम इस प्लांट का संचालन करने में फेल साबित हुआ है।

मॉनसून में इस कूड़े से दूषित पानी निकलकर अरावली के जोहड़ों में चला जाता है। पानी प्रदूषित होने की वजह से जीव जंतुओं में बीमारी फैलने का खतरा बना रहता है।

उन्होंने कहा कि इस गंदे पानी की वजह से भूमि और भूजल प्रदूषित हो रहा है। इसकी



पर्यावरणविदों ने इस मामले में टीसीपी डिपार्टमेंट में दी शिकायत

वजह से बंधवाड़ी प्लांट के साथ लगते गुड़गांव, दिल्ली और फरीदाबाद के कई गांवों का पानी खराब हो रहा है। भविष्य में इसके भारी दुष्प्रभाव देखने को मिलेंगे। उन्होंने बताया कि इस मामले में नेशनल ग्रीन ट्रिब्यूनल में याचिका दायर की हुई है। एनबीटी ने नगर निगम को इस प्लांट में

पड़े हजारों मिट्टिक टन कचरे को ट्रीट करने के आदेश जारी किए हुए हैं, लेकिन नगर निगम के अधिकारी अब तक असफल साबित हुए हैं। पर्यावरणविद् ने कहा कि हरियाणा प्रदूषण नियंत्रण बोर्ड में शिकायत दी जाती है, लेकिन वे सिर्फ नोटिस देकर अपनी जिम्मेदारी को खत्म कर लेते हैं।

“ मुझे अभी बंधवाड़ी सॉलिड वेस्ट प्लांट से लीचेड वॉटर निकलकर अरावली में पहुंचने से संबंधित शिकायत नहीं मिली है। यदि ऐसा मामला है तो मौके पर एक टीम भेजकर सैंपल लिए जाएंगे। नियमानुसार विभागीय कार्यवाही की जाएगी।
- कुलदीप सिंह, क्षेत्रीय अधिकारी, हरियाणा प्रदूषण नियंत्रण बोर्ड

एयर और वॉटर एक्ट के तहत नगर निगम के अधिकारियों या एजेंसी के खिलाफ कोई सख्त कार्रवाई नहीं की जा रही है। उन्होंने बताया कि बंधवाड़ी प्लांट की वजह से आसपास लगते गांवों में रह रहे ग्रामीण भयंकर बीमारियों की चपेट में आ सकते हैं। ऐसे में इस तरफ जल्द सुध लेने की आवश्यकता है।

T.C.
@

Regional Office, Gurugram (N)
Haryana State Pollution Control Board

Vikas Sadan, Opposite- New Court, Gurugram

Website: - www.hspcb.gov.in Tel: 0124-2332775, 2972341

Email ID: - hspcbrogrn@gmail.com

Dated:-29/12/2021

To

Sh. Sunder Sheron, Executive Engineer,
 Municipal Corporation, Gurugram
 (Common Municipal Solid Waste Management Facility at
 Village Bandhwari, Distt. Gurugram),
 Email ID:- EE.sbm@mccg.gov.in , ee5@mccg.gov.in

Subject: Show Cause Notice for closure & prosecution under section 33-A & 43/44 of water (Prevention & Control of Pollution)Act, 1974 for violation of Section 25/26 of Water (Prevention & Control Of Pollution) Act, 1974 & under section 31-A & 38/39 of Air (Prevention & Control Of Pollution) Act , 1981 for violation of Section 21/22 Air (Prevention & Control of Pollution)Act, 1981 for not obtaining Consent to Establish and Consent to Operate under water Act,1974& Air Act, 1981 and Environmental Compensation as per orders of Hon'ble NGT.

Ref:- Head office letter No. I/15240/2021 dated 13/01/2021.

Whereas, subject to the provision of section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974, no person shall without the previous consent of the State Pollution Control Board;

(a) operate or take any step to operate any industry, operation or process or any treatment & disposal system or an extension or addition there to which is likely to discharge sewage or trade effluent into stream or well or sewer or on land;

(b) Bring into use any new or altered outlet for the discharge of sewage;

(c) Begin to make any new discharge or sewage;

Whereas, as per the provision of section 21/22 of Air (Prevention and Control of Pollution) Act, 1981, no person shall without the previous consent of the State Pollution Control Board, establish or operate any industrial plant in any Air Pollution Control Area.

Whereas, as per notification/policy orders dated 15.04.2014, 14.07.2016, 26.02.2018 & 04.12.2020, your unit (Common Municipal Solid Waste Management Facility (CMSWMF)) is covered under consent management and required to obtain prior Consent to Establish & Consent to operate for CMSWMF from the board under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981.

Whereas, you have obtained consent to establish from the

board vide letter No. HSPCB/TAC(A) -335/2008/1210-15 dated 08.07.2008 for establishment of solid waste management treatment plant at Village Bandhwari, Gurugram for Nil/KLD discharge for domestic effluent and Nil/KLD for cooling and Nil/KLD for trade effluent and same should not exceed the mentioned herein and same should be used for horticulture after treatment.

Whereas, as per the condition of Consent to Establish dated 08.07.2008, you have to obtain consent before commissioning of the project.

Whereas, you have not obtained consent to operate under section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 and under section 21/22 of Air (Prevention & Control of Pollution) Act, 1981 for CMSWMF since its operation (2010) which is in gross violation of the above said acts and have rendered yourself liable for action under Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981.

Whereas, MoEF, New Delhi vide No. 10-34/2007-IA-III dated 22.01.2008 has granted environmental clearance for setting up of Solid Waste Treatment Plant in abandoned mines (Around 30 Acres of land - Plot area = 120864 Sqm) of village Bandhwari, Distt. Gurugram, wherein it is mentioned that *'the total quantity of MSW generated in Gurgaon City including Municipal Area, HUDA Sectors, Private Colonies and urban villages is 725 Ton/Day and the average per capita generation is about 410 gm/day and it is anticipated that the total solid waste generation will be 600 Ton/Day by the year 2010'*

Whereas, as per the Commission, Municipal Corporation, Gurgaon report vide No. MO/MCG/11/1058 dated 17.11.2011, approximate 800 Ton/Day MSW of Gurgaon and Faridabad was dumped on the said site.

Whereas, Show Cause Notice for taking legal action was issued vide this office letter No. HSPCB/GR/2012/9603 dated 28.12.2012 that Environmental Clearance from the concerned authority and NOC from the Board for expansion of facility for disposal of MSW i.e. increase the Municipal Waste from 500-600 Ton/Day to more than 900 Ton/Day.

Whereas, through final Show Cause Notice for refusal of authorization under Municipal Solid Waste (Management & Handling) Rules, 2000 for the year 2012-13 which was issued by the Board vide letter No. HSPCB/2012/1957-1958 dated 30.01.2013, it was emphasized that the board was of the view that *'Municipal Corporation, Gurugram was failed to take corrective measures as per the detailed given below:-*

1. *To submit the scheme for obtaining the fresh EIA Clearance.*
2. *NOC for expansion of the facility for disposal of Municipal Solid Waste'.*

Whereas, Show Cause Notice for initiating legal action under the provisions of EP Act, 1986 for violation of conditions of

021
Environmental Clearance and for de-gradation of environment was issued by the Board, vide letter No. HSPCB/2013/2202-03 dated 27.06.2013.

Whereas, as per the report submitted by CPCB before the Tribunal on 04.10.2018, approx. 1500 Ton/Day of MSW is added on approx 4 Lac Ton of legacy waste accumulated at site.

Whereas, you have not complied with the conditions of Environmental Clearance dated 22.01.2008 and consent to establish dated 08.07.2008.

Whereas, leachate treatment facility was not provided and sample of leachate were collected from MSW site and as per analysis report No. 399-400 dated 27.05.2015, 983 dated 24.09.2015, 2264 Dated 31.08.2016 & No. 2585 Dated 09.01.2017, parameters are exceeding the permissible limits. As per leachate sampling done by the team of Central Pollution Control Board on 27.07.2017, parameters like TSS, TDS, BOD, COD, Arsenic and Chloride are not complying the discharge standards of the leachate.

Whereas, you have not complied with the provisions of amended EIA Notification dated 14.09.2006, Municipal Solid Waste (Management & Handling) Rules, 2016, Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981.

Whereas, repeated Show Cause Notices have been issued for violating Environmental Act, Rules & Laws.

Whereas, you have not obtained prior consent to establish for the said expansion of project under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981. You have neither obtained consent to operate for the incepted project during 2010-11 nor for the complete project including expansion under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 and thus liable yourself for legal action under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981.

Whereas, the Additional Advocate General, Haryana at NGT, New Delhi vide his letter dated 15.09.2018 have already requested to the Municipal Corporation, Gurugram/ Department Urban Local Bodies, Haryana to comply with the Tribunal's order dated 10.07.2018 passed in OA No. 415/2015 and order dated 21.08.2018 in OA No. 514/2018 in its true letter and spirit.

Whereas, the Additional Advocate General, Haryana at NGT, New Delhi vide his email dated 08.01.2019 received in this office that HSPCB may take steps against defaulter(s) in accordance with the provisions of Water Act 1974, Air Act 1981, SWM Rules 2016, CPCB directions/recommendations, NGT judgment and/or any other law in force.

Whereas, this office has received Legal Notice through Head

I/85430/2021

Office vide Letter No. HSPCB/WMC/SWM-28/2018/2770 dated 13.12.2018 which was given by Sh. Love Lohiya, House No. 119, Gali No. 9, Bhikam Colony, Ballabgarh, District Faridabad to the Chief Secretary Govt. Of Haryana regarding illegal disposal of garbage in Village Bandhwari.

Whereas, show cause notice for prosecution for non-compliance of Municipal Solid Waste (Management & Handling) Rules 2016, Plastic Waste Management Rules, 2016 was issued to the Joint Commissioner, Municipal Corporation, Sector-34, Gurugram vide this office letter No. 3793-96 dated 21.11.2017 and reply dated 11.12.2017 submitted by the Commissioner, MCG was not found satisfactory.

Whereas, show cause notice for prosecution for non-compliance of Municipal Solid Waste (Management & Handling) Rules 2016, Plastic Waste Management Rules, 2016 and Construction and Demolition Waste Management Rules, 2016 was issued to the unit vide this office letter No. 1175-1178 dated 27.07.2018, but no reply has been received.

Whereas, directions of Hon'ble National Green Tribunal, New Delhi in the matter of OA No. 514 of 2018 was issued to the unit vides this office letter No. 1802-1804 dated 18.09.2018.

Whereas, Show Cause Notice for closure & prosecution under section 33-A & 43/44 of water (Prevention & Control of Pollution)Act, 1974 for violation of Section 25/26 of Water (Prevention & Control Of Pollution) Act, 1974 & under section 31-A & 38/39 of Air (Prevention & Control Of Pollution) Act , 1981 for violation of Section 21/22 Air (Prevention & Control of Pollution)Act, 1981 for not obtaining Consent to Establish and Consent to Operate under water Act,1974& Air Act, 1981 for establishment and operation of Common Municipal Solid Waste Management Facility (CMSWMF) at village Bandhwari Distt Gurugram was issued to MCG vide this office letter No. 4425-4429 dated 18.01.2019 and reply dated 05.02.2019 submitted by the Commissioner, MCG is not found satisfactory.

Whereas, show cause notice for prosecution for non-compliance of Municipal Solid Waste (Management & Handling) Rules 2016, Plastic Waste Management Rules, 2016 and Construction and Demolition Waste Management Rules, 2016 was issued to the Commissioner, MCG & the Administrator, HSVP vide this office letter No. 2938-2939 dated 25.07.2019.

Whereas, CMSWMF at Village Bandhwari, Distt. Gurugram was inspected on 23.01.2020 and during inspection sample from landfill site at Bandhwari plant, Gurugram was collected and sent to HSPCB Laboratory, Gurugram for testing. As per analysis report No.1568-69 dated 01.02.2020 issued by HSPCB, Lab., Gurugram North, the results found exceeding the prescribed limits.

Whereas a letter for Non-Compliance by CMSWMF At village Bandhwari Distt Gurugram under Water (Prevention & Control of

Pollution) Act, 1974 & Municipal Solid Waste (Management & Handling) Rules 2016. was issued to the unit vide this office letter No7601-03 dated 16.02.2020. Reply dated 02.03.2020 submitted by M/s Ecogreen Energy Gurgaon Faridabad Pvt. Ltd. 603-607, ILD Trade Centre, Sector-47, Sohna road, Gurgaon was not found satisfactory.

Whereas, the CMSWMF at Village Bandhwari, Distt. Gurugram was inspected on 12.07.2020 and during inspection sample from Pond near Common Municipal Solid Waste site at Bandhwari, Gurugram was collected and sent to HSPCB Laboratory, Gurugram for testing. As per analysis report No.440 dated 18.07.2020 issued by HSPCB, Lab., Gurugram North, the results were found exceeding the prescribed limits.

Whereas, the CMSWMF at Village Bandhwari, Distt. Gurugram was inspected by team of officers on 05.08.2020 and during inspection sample from Pond side by Bandhwari landfill site Gurugram to Faridabad road, village Bandhwari, Gurugram was collected and sent to HSPCB Laboratory, Panchkula for testing. As per analysis report No.3502-3 dated 14.08.2020 issued by HSPCB, Lab., Panchkula North, the results were found exceeding the prescribed limits.

Whereas, the CMSWMF at Village Bandhwari, Distt. Gurugram was inspected on 20.08.2020 and during inspection sample from Pond A next to boundary wall of LTP Bandhwari was collected and sent to HSPCB Laboratory, Gurugram for testing. As per analysis report No.747 dated 26.08.2020 issued by HSPCB, Lab., Gurugram North, the results were found exceeding the prescribed limits.

Whereas, as a Executive Engineer, MCG, you are responsible for CMSWMF at Village Bandhwari as per office order issued by Commissioner, MCG.

Whereas, as per ULBD Notification dated 20.04.2018, Chief Engineer in case of Municipal Corporation or in his absence other senior most Engineer/Executive Officer/Secretary shall mean as officer in-charge of the municipality as defined in The Haryana Municipal Act, 1973 and The Haryana Municipal Corporation Act, 1994.

Whereas, the CMSWMF at Village Bandhwari, Distt. Gurugram was inspected on 12.08.2021 alongwith complainant Ms. Vaishali Rana & Jyoti Raghavan and during inspection sample from final outlet of the DTRO Plant & Leachate Treatment Plant was collected from forest land adjacent to Bandhwari plan and outlet of Leachate Treatment Plant and sent to HSPCB Laboratory, Gurugram for testing. It was also found that 1 No. of DTRO Plant and Leachate Treatment Plant was not operational at the time of inspection. As per analysis report No.658 -659 dated 21.08.2021 issued by HSPCB, Lab., Gurugram North, the results found exceeding the prescribed limits.

Whereas, the CMSWMF at Village Bandhwari, Distt. Gurugram was inspected on 17.09.2021 and during inspection Leachate samples were collected from forest land adjacent to Bandhwari landsite 1. Right side of revenue rashta East (28.404465, 77.174837), 2. From the pond

I/85430/2021

behind the landfill (28.403578, 77.174018) & adjacent to the wall of the landfill site (28.410159, 77.168738). Treatment Plant was collected and sent to HSPCB Laboratory, Gurugram for testing. As per another analysis report No.659 dated 21.08.2021 issued by HSPCB, Lab., Gurugram North, the results found exceeding the prescribed limits.

Whereas, in compliance of NGT order dated 19.07.2021 in OA No. 172/2021 Poonam Yadav Vs. M/s Ecogreen Energy Pvt. Ltd. & Others a joint committee comprising of officials of CPCB, HSPCB & representative of District Magistrate, Gurugram visited the site on 18.10.2021 and collected the leachate samples from inlet and outlet of the leachate plant and as per Analysis Report No. 1024 Dated 27.10.2021 issued by HSPCB, Lab., Gurugram North, the results found exceeding the prescribed limits.

Whereas, an affidavit was submitted before Hon'ble NGT by the Commissioner, Municipal Corporation, Gurugram that MCG will undertake processing of legacy waste on its own through assistance of solid waste management experts instead of relying just on the concessionaire.

Whereas, by doing so you are polluting the Environment and failed to comply Solid Waste Management Rules, 2016, Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981.

Whereas, such large scale non compliance of Environmental laws is resulting in death and deceases and irreversible damage to the Environment.

Whereas, most of the stationary timelines have expired and directions of the Hon'ble Supreme Court and NGT to comply with Solid Waste Management Rules, 2016 remains unexecuted and there remains wide gap in compliance of Solid Waste Management Rules, 2016 which causing both Water and Air Pollution.

Whereas Hon'ble NGT has time to time directed State Pollution Control Boards to assess and recover Environmental Compensation from urban local body for non-compliance of Solid Waste Management Rules, 2016.

Whereas, relevant portion of NGT order dated 14.02.2020 in OA No. 606/2018 is reproduced as under:-

"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, 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 42 functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal".

Whereas, relevant portion of NGT order dated 28.02.2020 in OA No. 606/2018 is reproduced as under:-

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 59 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.

Whereas, relevant portion of NGT order dated 14.12.2020 in OA No. 606/2018 is reproduced as under:-

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

U/85430/2021

File No.HSPCB-260001/251/2021-Region Gurugram North-HSPCB

509

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.

Whereas, relevant portion of NGT order dated 07.04.2021 in OA No. 514/2018 is reproduced as under:-

Thus, it is established on record that so far there has been serious failure of the authorities in performing their responsibility under the Solid Waste Management Rules, 2016 to effectuate the right of the citizens to clean environment. Though an action plan has now been filed, whether the Municipal Corporations concerned and the Urban Development Department of the State of Haryana execute the same in a mission mode and within reasonable time remains a moot question. The objections of the applicant that forest land is being used in violation of law may also be looked into and compliance of law ensured. M.C. Gurgaon may continue the biomining work as well as setting up of waste processing plants as proposed.

Whereas, the population of Gurugram is 11.5 lakh as per the last census.

In view of above mentioned facts and in compliance of NGT orders dated 14.02.2020, 28.02.2020 & 14.12.2020 in OA No. 606/2018 and directions of Board in this regard, you are hereby given show cause as to why Environmental Compensation of Rs. 2,10,00,000/- (10 lakh per month from April, 2020 to December, 2021) for the above stated non compliances may not be imposed on you without giving any further notice.

In view of above you are also liable to pay Environmental Compensation in terms of direction of the board issued vide office order no. 6043-6075 dated 29-04-2019 and order no. 742- 763 dated 20.12.2019 as assessed by the board in the methodology defined therein.

In case you fail to comply with the observations/incompletion/deficiencies mentioned above within the above mentioned stipulated time period, it will be presumed that you have nothing to say in this regard and accept the status as above, which will warrant action under section section 31-A/38/39 of Air (Prevention & Control of Pollution) Act, 1981 & 33-A/43/44 of Water (Prevention &

Control of Pollution) Act, 1974 alongwith imposition of Environmental Compensation as per orders of Hon'ble NGT at first instance in compliance of said orders.

Explanations: For the avoidance of doubts, it is hereby declared that the power to issue directions under section 31-A of Air Act, 1981 & 33-A of Water Act, 1974 includes the power to direct:

- a. The Closure, prohibition or regulation of any industry operation or process or
- b. The stoppage or regulation of supply of electricity, water or any other service.

Section 43/44 of Water (Prevention & Control of Pollution) Act, 1974 & 38/39 of Air (Prevention & Control of Pollution) Act, 1981 reads as under as follows:-

"Who so ever contravenes the provisions is punishable with imprisonment or a term which shall not be less than one year and six months, but which may extend to six years and with fine".

CC:

A copy of above is forwarded to the following for information and necessary action, please:-

1. The Chairman, Haryana State Pollution Control Board, Panchkula.
2. The Commissioner, Municipal Corporation, Gurugram.

Signed by Kuldeep Singh
Date: 29-12-2021 14:16:21
Reason: Approved

REGIONAL OFFICER GURUGRAM NORTH

T.C.
