

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

IN THE MATTER OF:

VIVEK KAMBOJ & ANR.

...APPLICANTS

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANTS

I, Vaishali Rana, R/o 1403, T-10 Valley View Estate, Gurugram, Haryana, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 2 in the above titled application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the above-titled Original Application was filed bringing to the notice of the Hon'ble Tribunal dumping of municipal solid waste in forest areas of Aravallis and discharging of leachate in surrounding areas of Bandhwari landfill site in District Gurugram, Haryana. It was submitted that this action of dumping of waste and discharging leachate is not only in violation of the Solid Waste Management Rules, 2016, Forest (Conservation) Act, 1980, Punjab Land Preservation Act, 1900 but also in violation of several directions including Order dated 07.04.2021 of this Hon'ble Tribunal passed in O.A. No. 415 of 2015, O.A. No. 514 of 2018 and O.A. No. 606 of 2018. That this act of dumping of waste and discharging leachate is also causing irreversible damage to the ecology and



Vaishali Rana

environment of the Aravallis as well as causing nuisance to the people living in the Bandhwari village.

3. That the Applicants have earlier filed IA No. 757 of 2023 dated 29.09.2023 (Page 361) and an Additional Affidavit dated 06.11.2023 (Page 427) highlighting the mismanagement of waste at Bandhwari landfill leading of leachate discharge into the Aravallis, incidents of fire at the site, encroachment upon forest land which is leading to damage to the environment.
4. That vide the present Additional Affidavit, the Applicant would like to highlight the continuing carelessness and lack of action on the part of the authorities in handling the waste being dumped at Bandhwari landfill and surrounding areas.
5. It is submitted that the authorities have failed in checking waste dumping, which is evident from waste mounds developing in Faridabad Aravallis, which is also forest land under sections 4 and 5 of the Punjab Land Preservation Act, 1900.
6. That such waste dumping is a non-forest activity being undertaken in forest land, as reported in an article titled "*No checks, waste mounds come up in Faridabad Aravalis*" dated 30.03.2024 published in The Times of India. The article read as follows:

"Several waste mounds are coming up in the eco-sensitive Aravalis in Faridabad as dumping of inert materials — by products of municipal waste processing — is going unchecked. The area is protected under sections 4 and 5 of the Punjab Land Preservation Act (PLPA), which prevents all non-forest activities in the wildlife-rich zone. These by products have been found dumped along Mangar road, Pali crusher zone road, Manav Rachna road, Gurgaon-Faridabad road and other areas."

NOTARY PUBLIC APPOINTED BY GOVT. OF INDIA G. S. KHARRANDA		ADVOCATE ENL. No. D.287781
Notary Reg. No. 785	3 APR 2024	
ATTESTED 9899422266		

V. K. Sharma

Copy of article titled "No checks, waste mounds come up in Faridabad Aravalis" dated 30.03.2024 is annexed herewith as **ANNEXURE A-1**.

7. That the statutory authorities have failed in taking any action to set-up waste management and processing facilities, in fact, have only created more hindrances in the process. In an article titled "Teen lakh ki rishwat maangne ki awaz nagar nigam ka swasth अधिकारी गिरफ्तार" dated 29.03.2024 published in Amar Ujala states that the Health Officer of Municipal Corporation, Faridabad has been arrested on account for demanding bribe in exchange for a license to collect garbage from the city. The article reads as follows:

"The Anti Corruption Bureau team on Friday arrested Municipal Corporation Health Officer Nitish Parwal on charges of demanding a bribe of Rs 3 lakh. The accused was demanding money in exchange for a license to collect garbage from the city. Hariom, a resident of Baselwa Colony, had complained to the Bureau that he takes tenders for garbage collection in the city. For this he had to get his permanent license made. He spoke to Municipal Corporation Health Officer Nitish Parwal for the license. It is alleged that the officer demanded a bribe of Rs 3 lakh from him. Hariom informed the bureau about the matter. A team was formed under the leadership of Inspector Rakay. As per the plan, Hariom reached the corporation headquarters with the money in the bag. Nitish made him sit in his car. Meanwhile, the accused became suspicious and refused to take the money. Seeing the team, the accused ran away from the spot and entered BK Hospital. Meanwhile, the Bureau team caught him. Anti Corruption Bureau has registered a case against the accused and arrested him. The matter is being investigated."

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Vishal Kumar

Copy of article titled "*Teen lakh ki rishwat maangne ki awaz nagar nigam ka swasth adhikari giraftar*" dated 29.03.2024 published in Amar Ujala is annexed herewith as **ANNEXURE A-2**.

8. That this shows a deliberate and intentional attempt on the part of authorities to not take any action towards management of waste in Gurguram and Faridabad.
9. That the statutory authorities are liable for failure to take action on the basis of their statutory duty. The Hon'ble Supreme Court in the case of ***M.C. Mehta (Stubble Burning & Air Quality) v. Union of India, (2020) 7 SCC 573*** had held that the every agency is responsible for ensuring compliance with environmental laws and any inaction is clearly tortious and punishable under statutory provisions. The relevant paragraph reads:

"6. Everybody has to be answerable including the top State machinery percolating down to the level of gram panchayat. The very purpose of giving administration power up to the panchayat level is that there has to be proper administration and there is no room for such activities. The action is clearly tortious one and is clearly punishable under statutory provisions, besides the violation of the Court's order. In the circumstances, as widespread stubble burning has taken place, we direct the States of Punjab and Haryana and adjoining State of Uttar Pradesh where there is blatant violation which has taken place, to halt it. We direct the Chief Secretaries of the States of Punjab, Haryana and Uttar Pradesh to be present in this Court on 6-11-2019 including Chief Secretary of the Government of NCT of Delhi."

(Emphasis supplied)



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10. That the Hon'ble Supreme Court had also elaborated on the principle of duty to care on statutory authorities in ***Rajkot Municipal Corpn. v. Manjulben Jayantilal Nakum, (1997) 9 SCC 552*** wherein it was held that:

"39. It can be seen that ordinarily the principle of the law of negligence applies to public authorities also. They are liable to damages because by a negligent act or failure to act when they are under a duty to act or for a failure to consider whether to exercise a power conferred on them with the intention that it would be exercised if and when public interest requires it. Where the public authority has decided to exercise a power and has done it negligently a person who has acted in reliance on what the public authority has done, may have no difficulty in proving that the damages which he has suffered have been caused by the negligence. Where the damage has resulted from a negligent failure to act there may be greater difficulty in proving causation and requires examination in greater detail."

11. That the Hon'ble Supreme Court in ***NHAI v. Aam Aadmi Lokmanch, (2021) 11 SCC 566*** has held that the statutory authorities and government agencies are also liable for the failure to perform the statutory duty. The Hon'ble Court held that NHAI is liable for the accident since, they failed to maintain the same properly. The relevant para reads as follows:

"67. Having regard to the duty imposed on NHAI by virtue of Sections 4 and 5 of the Highways Act, read with Section 16 of the NHAI Act, there can be no manner of doubt that NHAI was responsible for the maintenance of the highway, including the

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stretch upon which the accident occurred. The report of the Sub-Divisional Officer clearly shows that inspection reports were furnished to NHAI shortly before the incident, highlighting the deficiencies; also, NHAI's correspondence with Rathod, and the local administration, reveal that it was aware of the danger and likelihood of risk to human life, and the foreseeability of the event that actually occurred later. Further, letters addressed by the local administration and NHAI to Rathod similarly show that it was incumbent upon him to take remedial action. The failure of NHAI to ensure remedial action, and likewise the failure by Rathod to take measures to prevent the accident, prima facie, disclose their liability."

12. That it is clear that the responsible authorities have failed in taking any step to ensure management of waste. In this light, the Hon'ble Tribunal may be pleased to direct decentralised processing of waste in Gurugram and Faridabad, to ensure that waste is processed in smaller quantities at lower level. This will not only help in scientific processing of waste but also reduce the burden on Bandhwari landfill.

13. That the Solid Waste Management Rules, 2016 also makes provision for decentralised processing of waste and defines it as follows,

"decentralised processing" means establishment of dispersed facilities for maximizing the processing of bio-degradable waste and recovery of recyclables closest to the source of generation so as to minimize transportation of waste for processing or disposal."

14. That the Rules also make it the responsibility of local authorities (under Rule 15 (t)) and Secretary-in-charge, Urban Development (under Rule 11 (g)) to facilitate decentralised processing. Relevant provisions are reproduced below:



"11. Duties of the Secretary-in-charge, Urban Development in the States and Union territories. - (1) The Secretary, Urban Development Department in the State or Union territory through the Commissioner or Director of Municipal Administration or Director of local bodies shall,

...

(g) direct the town planning department of the State and local bodies to ensure that a separate space for segregation, storage, decentralised processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential complex exceeding 200 dwelling or having a plot area exceeding 5,000 square meters;

...

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

...

(t) involve communities in waste management and promotion of home composting, biogas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility."

(Emphasis supplied)

15. That this Hon'ble Tribunal in Original Application No. 136 of 2022 vide Order dated 21.02.2022 (at Page 461) and Execution Application No. 31 of 2022 vide Order dated 19.10.2022 (at Page 463) had directed the Municipal Corporation of Gurugram to ensure that bulk waste generators undertake segregation of waste and in-situ composting.



(Handwritten signature)

16. That in light of previous orders of this Hon'ble Tribunal and the provisions of the Solid Waste Management Rules, 2016, this Hon'ble Tribunal may be pleased to pass directions to authorities to facilitate decentralised processing of waste.

Itisha

I, IDENTIFIED THE
DEPONENT WHO HAS
SIGNED IN MY PRESENCE

DEPONENT

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Aravalis: No Checks, Waste Mounds Come Up In Fbd Aravalis | Gurgaon News

timesofindia.indiatimes.com/city/gurgaon/no-checks-waste-mounds-come-up-in-fbd-aravalis/articleshow/108886239.cms

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No checks, waste mounds come up in Faridabad Aravalis

Ipsita Pati / TNN / Updated: Mar 30, 2024, 15:43 IST

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Faridabad's Aravalis face waste mounds violating PLPA, with Bandhwari pollution risking wildlife. Authorities treat 16.5 lakh MT waste. Sunil Dhaka, Vivek Kamboj, MCG address the issue, examining compost waste.



Gurgaon: Several waste mounds are coming up in the eco-sensitive Aravalis in Faridabad as dumping of inert materials — byproducts of municipal waste processing — is going unchecked.

The area is protected under sections 4 and 5 of the Punjab Land Preservation Act (PLPA), which prevents all non-forest activities in the wildlife-rich zone.

These byproducts have been found dumped along Mangar road, Pali crusher zone road, Manav Rachna road, Gurgaon-Faridabad road and other areas.

Sunil Dhaka, district forest officer, Faridabad, said, “We will investigate and accordingly ask MCG to remove the waste from forest land.”

Environmentalists claimed that the Bandhwari waste plant has been polluting the Aravalis and is posing a threat to wildlife and residents of nearby areas. “No non-forest activities,

like dumping sand or other material, is permissible in the Aravalis. But waste residue is still being dumped here,” said Sunil Harsana, an ecologist and wildlife expert.

Around 2,000 tonnes of municipal waste is dumped at Bandhwari daily. Civic authorities have only been able to treat around 16.5 lakh MT of legacy waste so far.

“Dumping of waste and leachate in the Aravalis poses a health threat to residents because the neighbouring areas are at a higher elevation, causing leachate to spread to areas with lower elevation too. It is also destroying wildlife. Even if it is just compost waste, it should not be allowed to be dumped in forest areas,” said Vivek Kamboj, an activist.

Meanwhile, an MCG official said, “Biodegradable waste does not harm the forest or soil. But we will get it examined.”

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Faridabad News: तीन लाख की रिश्वत मांगने की एवज नगर निगम का स्वास्थ्य अधिकारी गिरफ्तार



नोएडा ब्यूरो

Updated Fri, 29 Mar 2024 10:44 PM IST

फरीदाबाद। एंटी करप्शन ब्यूरो की टीम ने शुक्रवार को तीन लाख रुपये रिश्वत मांगने के आरोप में नगर निगम के स्वास्थ्य अधिकारी नीतिश परवाल को गिरफ्तार किया है। आरोपी शहर से कूड़ा उठाने के लिए लाइसेंस बनाने की एवज में पैसे मांग रहा था।

बसेलवा कालोनी निवासी हरिओम ने ब्यूरो को शिकायत दी थी कि वह शहर में कूड़ा उठवाने के टेंडर लेता है। इसके लिए उसे अपना पक्का लाइसेंस बनवाना था। नगर निगम के स्वास्थ्य अधिकारी नीतिश परवाल से उसने लाइसेंस के लिए बात की। आरोप है अधिकारी ने उससे तीन लाख रुपये रिश्वत की मांग की। हरिओम ने मामले की जानकारी ब्यूरो को दे दी। इंस्पेक्टर राकेश की अगुआई में टीम का गठन किया गया। योजना के अनुसार हरिओम बैग में पैसे लेकर निगम मुख्यालय पहुंच गया। नीतिश ने उसे अपनी कार में बिठा लिया। इसी बीच आरोपी को शक हो गया और उसने पैसे पकड़ने से मना कर दिया। टीम को देख आरोपी मौके से भाग कर बीके अस्पताल में घुस गया। इसी बीच ब्यूरो की टीम ने उसे धर दबोचा। एंटी करप्शन ब्यूरो की टीम ने आरोपी के खिलाफ केस दर्ज कर गिरफ्तार कर लिया है। मामले की जांच की जा रही है।