

**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)

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

And

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

Lawyers Environmental Awareness Forum

Versus

SEIAA, Thiruvananthapuram

ADDITIONAL REPORT FILED BY THE CHIEF ENVIRONMENTAL ENGINEER,

REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF THE KERALA

STATE POLLUTION CONTROL BOARD

Adv. Rema Smrithi

STANDING COUNSEL FOR THE RESPONDENT

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Dated this the 17th May 2021

Rema Smrithi, Advocate

STANDING COUNSEL FOR THE RESPONDENT

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M. A. BAIJU
Chief Environmental Engineer

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

I, M.A Baiju, 54 years, S/o M.K Aravindakshan, now working as the Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulam. I am competent to and duly authorized to represent the Board. I know the facts and circumstances of the cases. The factual submissions made here under may be seen as an additional report in continuation to the report submitted on 30.03.2021 in the above mentioned OAs and 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. It is respectfully submitted that already there were two stay orders allowing the Corporation not being proceed with prosecution against the Secretary/remitting penalty or Bank guarantee (WP© No. 24380/2016 & WP© No. 36204/2018 respectively). It is important to note that counter affidavit in WP© No. 36204/2018 has been filed before the Hon'ble High Court against the stay order and is initiating action to proceed with vacation of stay in WP© No. 24380/2016, a case on which the Hon'ble NGT earlier delivered an order directing to initiate prosecution against then Secretary, Corporation. Actually, the Board had not seriously instigated severe actions since the Corporation had proposed waste to energy plant at that stage for which following clearances had been obtained,
 - a. Consent to establish from Pollution Control Board dated 30/08/2018.
 - b. Plan approval from Factories and Boilers Department dated 18/04/2018.
 - c. Permission from Social Forestry Division to cut trees in the site dated 11/06/2018.
 - d. NOC from Aviation Department dated 13/08/2018.
 - e. License from District Medical Officer dated 15/03/2018.
 - f. Clearance from the Chief Town Planner dated 06/07/2018.
 - g. NOC from Fire and Rescue dated 29/12/2018.
 - h. Development permit from Vadavucode-Puthencruz GP dated 07/01/2019.
 - i. Environmental Clearance from SEIAA dated 05/10/2019.
 - j. Building permit from Vadavucode-Puthencruz GP dated 06/11/2019.
2. It is respectfully submitted that though the Corporation obtained such clearances, they were not able to proceed with proposals and the Government at last taken over the projects, updated details of which are reported by the Corporation which are explained as follows,




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a. Biomining of legacy waste(waste lying in Brahmapuram for a prolonged period of time)

A large portion of the dump site was capped in 2011 itself, and on 21/02/2019 Expression of Interest was called for capping the wastes in the dumping yard with closing date on 07/03/2019, later as per the direction of the State Level Monitoring Committee of NGT in its meeting on 06/04/2019 to bio-mine the legacy waste instead of capping, the EOIs obtained for capping were cancelled and fresh tender for bio-mining the legacy wastes was floated on 14/08/2019 after vetting of the tender document by Pollution Control Board and with closing date on 04/09/2019. As nobody participated in the tender the closing date was extended to 20/09/2019. Even then nobody participated in the tender. The work was re-tendered on 26/10/2019 with closing date on 18/11/2019; and was extended till 26/11/2019. Only one bidder participated in the tender, and the council that met on 13/12/2019 approved the bid evaluation report. Financial bid was opened on 24/11/2019 was placed before the council meeting scheduled on 13/01/2020 for approval of the financial bid with quoted rate of Rs. 597/m³. The council deferred its decision. Later when the matter was placed before the special council for Brahmampuram on 03/03/2020 the council again deferred its decision. Government intervened in the matter and took over the work of bio-mining the legacy waste at Brahmapuram from Kochi Municipal Corporation vide G.O(Ms)No.8/2020/DMD dated Thiruvananthapuram 05/03/2020 and assigned KSIDC to float fresh tenders after cancelling the tender floated by Kochi Corporation. On 20/03/2020 KSIDC invited tenders for bio-mining of legacy waste. As only 1 bidder was technically qualified the work was re-tendered on 24/06/2020 with last date for submission on 27/08/2020. Technical bids were opened on 03/09/2020 and after evaluation the financial bid of the responsive tender was opened on 12/10/2020. Vide letter No.238/DC1/2019/LSGD dated 22/10/2020 Principal Secretary LSGD directed Kochi Corporation to examine the quantity of legacy waste assessed and rate quoted by the bidder M/s Zonta Infratech Pvt Ltd for the work of biomining of legacy waste. To examine the quantity of legacy waste, NIT Calicut was engaged as per the approval of the Corporation council held on 21/01/2021 and the survey was done on 9/2/2021. NIT Calicut conducted the survey on 9/2/2021 and has submitted the report on 06/03/2021. The report is being analyzed.

b. Waste to Energy project

As the concessionaire could not demonstrate and submit the financial closure or financial plan for funding the project even after 1400 days of signing the agreement, Government vide G.O (Rt) No.805/2020/LSGD Dated 30/04/2020 cancelled the approval granted to the concessionaire M/s GJ Ecopower Pvt Ltd and directed Kochi Corporation to terminate the concession agreement. KSIDC was directed to float fresh tenders for the waste to energy project. The concession agreement was terminated by Kochi Corporation accordingly. The concessionaire was also heard by the Government as directed by Hon'ble High Court and Vide G.O (Rt)No.1064/2020/LSGD dated 05/06/2020 Government affirmed that the concessionaire would not be able to implement the project even if more time is granted and directed KSIDC to go ahead with tendering of the work. New tenders for waste to energy plant were invited by MD, KSIDC on 24/06/2020(as the concession agreement signed in February 2016 was cancelled by the Government as the concessionaire could not submit the financial close) with last date for submission of bids on 04/09/2020. As only one bidder got qualified retenders were invited on 08/01/2021 with closing date on 23/01/2021. Bidder has been selected. Evaluation and finalization of the tender is being done at the Government level.




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3. It is respectfully submitted that the Corporation has submitted a reply dated 09.04.2021 to show cause notice issued dated 16.03.2021 for which clarification was sent on 01.05.2021 to the Secretary for his immediate response. Copy of reply from the Secretary, Kochi Corporation dated 09.04.2021 and clarification from the Board are produced herewith and marked as **Annexure 1 & Annexure 2** respectively.

4. It may also be noted that apart from the monitoring conducted by this respondent on 22.09.2020, sampling was done at Brahmapuram solid waste plant (Leachate) on 03.03.2021 during inspection conducted along with the Chairman, SLMC and statutory sample was collected on 06.03.2021 from the outlet portion of septage treatment plant as a prelude step for initiating prosecution as per the order dated 03.07.2020 by the Principal Bench of the Hon'ble Tribunal and as per the authorization issued by the Chairman, SPCB. Copy of the Analysis report of effluent collected on 03.03.2021 from the leachate drain and Copy of Analysis report of statutory sample collected on 06.03.2021 from the outlet portion of septage plant are produced herewith and marked as **Annexure 3**. From the reports it is evident from the analysis report of the statutory sample collected from the outlet portion of septage treatment plant that there are exceedance for BOD [135 mg/L (Limit 30 mg/L)], COD [448 mg/L (Limit 250 mg/L)] etc and a coliform count of 620000 CFU/100 ml. It may also note that monitoring conducted on 03.03.2021 also showed that the results show concentration exceedance for BOD [4269 mg/L (Limit 30 mg/L)], Nitrate as Nitrogen [61.98 mg/L (Limit 10 mg/L)] , Sulphide [59.6 mg/L (Limit 2 mg/L)] etc.

5. It is respectfully submitted that the Hon'ble Tribunal also directed as follows,

"The Kerala State Pollution Control Board (KSPCB) is also directed to incorporate in their report apart from Bharampuram, whether there are any other dumping grounds available in Ernakulam District and what is its status regarding the legacy waste and the disposal mechanism that is being adopted in such waste management facilities while submitting the report for consideration of status report by the respective local bodies and also by the State of Kerala regarding the review mechanism that is being adopted by them as directed by the Principal Bench of National Green Tribunal in O.A. No. 606 of 2018 in respect of such issues for appreciation of the case".

and this respondent has taken serious initiatives to collect evidences from other LSGDs that are transferring their bio degradable fraction of solid waste to Brahmapuram dumping yard. These include surveys at Corporation and 5 Municipality areas. Here, it is pertinent to note that a checklist was prepared to easily assess the percentage achievement by each local body in the management of solid waste generated by them. Copy of the checklist with scoring pattern is produced herewith and marked as **Annexure 4**. During surveys certain details




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were collected from each household (Decentralized Methods) as to whether they are managing solid waste generated and methods adopted for such management. Though the local bodies were directed to submit specific details with evidence on MCF, MRF, number of workers engaged in door to door collection/seggregation of waste, centralized/decentralized facilities as mentioned in the checklist shown in Annexure 4, no local bodies are satisfactorily/convincingly reporting such details which adversely affect data collection from such local bodies. However, to get convincing data with respect to solid waste management of respective local bodies in a uniform manner a format is prepared and will be forwarded to every local bodies. At this juncture, it is respectfully submitted that due to severe spread of second wave of COVID-19, complete lockdown is declared from 09.05.2021 which adversely affected direct data collection from filed.

6. It is respectfully submitted that the Board shall take necessary follow up on initiating legal action against the Corporation for their failure to implement the SWM Rules, 2016 properly and the delay if any occurred to initiate actions are due to time constrains faced in allocating field staffs for conducting detailed verification of the facilities provided by each and every local bodies in the State. It is also pertinent to note that the Chief Secretary has convened a meeting of all the concerned and already formed "Environment Monitoring Cell" for the strict implementation of the Solid Waste Management Rules 2016 as well as other environment related Rules in the State. Copy of the minutes of the meeting is submitted herewith as **Annexure 5** and the matter is followed up closely at Government level.

Dated this the 17th day of May 2021



CHIEF ENVIRONMENTAL ENGINEER

M. A. BAIJU
Chief Environmental Engineer