

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 413/2021**

IN THE MATTER OF:

BIKRAMJIT SINGH SHERGILL

...APPLICANT(s)

VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENT(s)

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Sd. RAJESH DHIMAN

DISTRICT MAGISTRATE, BATHINDA, PUNJAB

FOR RESPONDENT NO. 1

DATE: 06-01-2026

PLACE: Bathinda

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**RESPONSE BY RESPONDENT NO. 1, STATE OF PUNJAB IN
COMPLIANCE OF ORDER DATED 11.11.2025 PASSED BY THE
HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW
DELHI ALONG WITH AFFIDAVIT**

I, Sh. Rajesh Dhiman, aged about 53 years posted as District Magistrate, Bathinda, Punjab, do hereby solemnly affirm and state as under:

1. That I, Rajesh Dhiman, District Magistrate, Bathinda, Punjab, am fully conversant with the facts of the case and I am competent and authorized to swear the present Affidavit.



That in the present matter, the grievance is regarding fire incident which took place on 06.06.2021 at M/s JITF Urban Waste Management (Bathinda) Ltd., Punjab which showed that waste was not being processed as per the agreement by the Project Proponent i.e. Respondent No. 3.

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3. That on the last date of hearing i.e. 11.11.2025 the Hon'ble Tribunal directed the Deponent to file their short responses by the way of affidavit with respect to clauses of the Agreement dated 23.11.2011 giving detail of obligation are being performed by them. The operative paragraph of the order dated 11.11.2025 is as stated below:

"...3. Respondents no. 1, 2 and 3 are directed to file their short responses by way of affidavits with specific reference to clauses of the agreement giving details regarding obligations to be performed by them, whether the obligations are being performed by them, if yes, what are the details, if not, what are the reasons and giving their suggestions for resolution of the issues/ disputes pointed out in their responses..."

BACKGROUND

4. The Bathinda Municipal Corporation (hereinafter referred to as "MCB") is a local governing body responsible for the administration and development of the city of Bathinda, Punjab. The MCB was established in 1952 and covers an area of 146.35 sq km, comprising of 50 wards, with a population of over 3 lakhs.



5. MC Bathinda had executed an agreement dated 23.11.2011 with an Agency namely M/s JITF Urban Waste Management Bathinda Ltd. to manage the MSW of Bathinda city and other 17 ULBs (Abohar, Malout, Gidarbaha, Rampura Phul, Mansa, Bhikhi, Bareta, Budhlada, Sangat, Goniana, Sardulgarh, Kot Fatta, Talwandi Sabo, Maur; Bhucho Mandi; Tappa & Rama Mandi). Accordingly, the Agency had established a waste processing facility

(350 TPD capacity) at Mansa Road, Bathinda of 350 TPD. The Processing Plant is operational since October, 2015.

6. Site authorization, Consent to Establish (CTE) and Consent to Operate (CTO) were already obtained for Waste Processing Plant and the CTO is regularly renewed from time to time from state nodal agency i.e. PPCB.

**COMPLIANCE TO THE CONTRACTUAL OBLIGATIONS OF THE
CONCESSION AGREEMENT BY THE MCB**

7. That the **contractual obligations of the MCB have been listed in Concession Agreement (judicial page no. 1585 to 1898) at Article 6 (judicial page no. 1627 to 1628)**, the same are being reproduced hereunder with its reply against each obligation:

A copy of the relevant portion of the concession agreement i.e. **Article 6** is annexed herewith and marked as **ANNEXURE-1**.



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Annexure-1

Sr. No.	Clause (CA)	Obligation of MC Bathinda	Status / compliance (brief)	Key challenges / reasons for gaps
1.	Article 2.2.2.1 - Conditions Precedent for Concessioning Authority - CTD (Collection, Transportation & Dumping)	A. Obligation - creation and funding of Tipping Fund	<ul style="list-style-type: none"> • MCB created a specific bank account styled as "Solid Waste Management Fund / Tipping Fund" with Oriental Bank of Commerce (now Punjab National Bank), Branch Railway Road, Bathinda, on 09.12.2011 and initially deposited Rs. 50 lakhs, as also noticed in the arbitral award clause no. 224 page no. 108. • Payments of tipping fee to the Concessionaire have been routed from this fund from time to time. 	<ul style="list-style-type: none"> • The balance of the fund varied depending on inflows from the cities in the cluster and financial support from the State Government. On certain occasions, the fund did not maintain the required reserve equivalent to three months' expenses (as required as per the clause D of Annexure-13; <i>judicial page no. 1790</i>). This occurred primarily due to (i) the raising of substantial disputed payment claims by the Concessionaire and delays, and (ii) defaults in payments by other local bodies within the Bathinda Cluster. • The arbitral record indicates disputes regarding reconciliation of tipping fee and unilateral calculations.

		<p>B. Obligation – notification of Door-to-Door Policy / User Charge framework</p>	<ul style="list-style-type: none"> • MCB notified a Door-to-Door collection and user-charge policy, including the category-wise user charges, and published the same in local newspapers (e.g. Dainik Jagran dated 23.11.2011, as referred to in the award; para no. 187 page no. 89. • MCB also intervened periodically to support field-level collection of user charges by adding new categories of some commercial establishments and resident groups. 	-
		<p>C. Obligation – allocation/maintenance of dumping sites during CTD period</p>	<ul style="list-style-type: none"> • MCB designated dumping site and allowed continued use of existing dump for CTD operations prior to commissioning of processing facilities. (annexure of handover of designated dumping site) • MCB has, at its own cost, developed and maintained dumping site on approx. 5 acres land, as noted in the Award, to ensure continuity of disposal even when the Concessionaire did not construct SLF in the allotted time of 12 months, as per the agreement. 	<ul style="list-style-type: none"> • Legacy waste existed at the dump site when it was handed over to Concessionaire on 01.02.2012. Site was to be handed over on “as is where is basis” as per Agreement. Legacy waste from site has been cleared by the Municipal corporation.

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2.	Article 2.2.3.1 - Conditions Precedent for Concessioning Authority - PD (Processing & Disposal)	A. Obligation - handing over vacant, unencumbered land for Processing Facility	<ul style="list-style-type: none"> • MCB had written to the concessionaire to execute the land lease agreement and take over the possession of unincumbered land at mansa road and village mandi khurd vide its letter no 5302 dated 02.12.2011, subsequent reminder was issued vide letter no 214 dated 19.01.2012. • Concessionaire executed Land Lease Agreement only on 01.02.2012 for 20 acres at Mansa Road for the Processing Facility and 36.81 acres at Mandi Khurd for SLF, and possession was handed to the Concessionaire on 01.02.2012, as recorded in the Award. • Environmental Clearance for both Mansa Road (processing plant) and Mandi Khurd (SLF) was obtained on 30.08.2012. MCB supported subsequent processes before NGT in Appeal No. 70/2012 (Capt. Mall Singh v. State of Punjab & Ors.), which upheld the EC while extending time limit for construction and commissioning of Processing Facility till 30.06.2015. The first CTO was obtained on 23.03.2016. 	<ul style="list-style-type: none"> • Land at Mandi Khurd which was required for construction of SLF (for 25 years of leftover material) became subject to status quo order dated 08.08.2012 by Hon'ble Punjab & Haryana High Court in CWP No. 21960/2011 (<i>Jarnail Singh & Ors. v. State of Punjab & Ors.</i>), which prevented construction of SLF at that site. • Alternative additional 10 acres of land at Mansa Road were handed over to concessionaire in compliance of Hon'ble NGT orders dated 24.11.2014 in appeal no 70 of 2012 and leased on 14.07.2016; however, concessionaire did not construct any SLF on this land and neither applied for the EC required under the agreement. • A temporary SLF of 100 x 150 x 11 ft was made to facilitate deposit of inert/leftover materials. • Further MC Bathinda has passed a resolution for constructing a new SLF in 3 acre land vacated from remediation of legacy waste. Regarding which an EC application has already been applied to SEIAA vide application number SIA/PB/INFRA2/555464/2025.
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3.	<p>Article 6.1 – Specific Obligations of Concessioning Authority</p>	<p>A. Obligation – timely approvals and facilitation of statutory clearances</p>	<ul style="list-style-type: none"> MCB facilitated approvals for building plans of Processing Facility, approach roads, and utility connections and coordinated with PPCB and other agencies. MCB supported the Concessionaire before Hon'ble NGT and Hon'ble High Court in respect of EC and compliance directions, including orders dated 11.07.2017, 04.08.2017 and 16.01.2018 of Hon'ble NGT requiring payments and directions to power/cement/biomass plants to use RDF. 	<ul style="list-style-type: none"> Some EC-related modifications (e.g. shifting/expansion of SLF to additional 10 acres) took longer than originally planned because they involved State-level environmental authorities and litigation constraints.

		B. Obligation - ensure peaceful use of processing and project sites	<ul style="list-style-type: none"> • MCB ensured continuous access and avoided forcible disruption of operations, except where statutory orders so required. 	<ul style="list-style-type: none"> • Since 2012, the site is in peaceful possession of the Concessionaire.
		C. Obligation - declare and maintain no-development zone around plants	<ul style="list-style-type: none"> • This site was kept reserved for the waste Management Facility in the Notified Master Plan of Bathinda city of Year 2008 with no development zone around the site. This aspect was duly considered by the PPCB, SEAC and SEIAA. The site authorization, EC, Consent to Establish (CTE) and Consent to Operate (CTO) were granted considering this fact. Hon'ble NGT also upheld the selection of site in Appeal no. 70 of 2012. 	-----
4.	Article 7.3, 7.4 & Annexure 13 - Tipping Fee & Post-Closure Performance Account	A. Obligation - payment of tipping fee & management of deductions	<ul style="list-style-type: none"> • MCB has paid the monthly tipping fees as claimed by the concessionaire from time to time. • MCB has also incurred substantial expenditure by taking over door-to-door collection from 01.05.2018 and carrying out other obligations when the Concessionaire curtailed CT operations, which forms part of its counterclaims in arbitration. 	<ul style="list-style-type: none"> • The Arbitral Tribunal has already analysed claim and counterclaim on tipping fee, penalties and excess payment. No payment is due as of now. • Respondent Corporation requests Hon'blr NGT to issue directions to Concessionaire to Collect & Transport the MSW as per original Scope of the Agreement.

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		B. Obligation - Post-Closure Performance Account	<ul style="list-style-type: none"> Being in mid-concession and with processing/disposal still operational under Court directions. 	-----
5.	Article 9.8, 10, 11 & 15.15 - Termination, Dispute Resolution and Indemnification (MCB perspective)	A. Termination notice and continuation of operations	<ul style="list-style-type: none"> Upon issuance of termination notice by Concessionaire w.e.f. 19.01.2019, MCB initiated Section 9 proceedings before District Court, Bathinda (ARB-05/2019), resulting in interim directions dated 15.01.2019 directing both parties to continue performing obligations till arbitral award. In compliance of Court and Tribunal directions, MCB has ensured continued waste collection and disposal for Bathinda city including by taking over CT work at its own cost from 01.05.2018 while allowing the Concessionaire to continue operating the processing facility. 	<ul style="list-style-type: none"> Termination payment, debt due, and indemnity issues under Articles 9.8(d) & (e) and 15.15(c) are complex and have been extensively contested in arbitration by all parties, including Respondent No. 2; aspects of unconscionability and enforceability have been argued and denied by the Hon'ble Arbitral Tribunal.

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