



**Government of Jammu and Kashmir
JK Pollution Control Board**

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Parivesh Bhawan, Gladni,
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The Consultant (Judicial),
Hon'ble National Green Tribunal,
New Delhi.

No: PCB/NGT/98/1182

Dt. 13-10-2020.

Sub:- Factual and Action Taken Report in the Hon'ble NGT order dated 08-07-2020 in OA 98/2020 titled Raja Muzaffer Bhat V/s UT of J&K.

Sir,

In terms of order dt. **08-07-2020** of the Hon'ble National Green Tribunal in case of **OA no. 98/2020** titled Raja Muzaffer Bhat V/s UT of J&K and others, received through email dt. **15-07-2020**, the J&K Pollution Control Board coordinated the inspection of the area and directed the team of officers constituted by the Hon'ble NGT to ascertain factual status and furnish the action taken report.

Factual and Action Taken Report is hereby enclosed with the request to kindly place it before Hon'ble NGT for consideration please.

Yours faithfully,

Encls: Report (7 Pages) alongwith enclosures.

Annexures A to N


(B.M. Sharma)
Member Secretary
JK PCB. Jammu.
B



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Factual and Action Taken Report in the matter of “Raja Muzaffer Bhat V/s U.T of Jammu & Kashmir” in Hon’ble National Green Tribunal OA 98/2020 dt. 08-07-2020.

A) Factual Position:

- i) Hon’ble NGT vide its order dt. 08-07-2020 in OA 98/2020 sought factual and Action Taken Report regarding the alleged dumping of Municipal Solid Waste in Wular lake around Ningli Tarzoo area of Baramulla district in J&K from the following authority / officers.
 - a) Member Secretary, Wetland Authority (Chief Executive Director, Wular Conservation and Management Authority (WUCMA).
 - b) Deputy Commissioner / Collector, Baramulla and
 - c) J&K Pollution Control Board (Nodal agency).
- ii) Accordingly, Member Secretary PCB vide no. JKPCB/NGT/52/2020/933-936 dt. 27-07-2020 requested the committee members to submit the factual and action taken report in light of the directions of Hon’ble NGT dt. 08-07-2020.
- iii) Member Secretary, Wetland Authority (Chief Executive Director, WUCMA) submitted a separate detailed and comprehensive factual and Action Taken Report on the matter vide his no. CED/WUCMA/2020-21/65 dt. 27-08-2020 (copy enclosed as **Annexure ‘A’**) This was followed by the submission of joint report by Member Secretary, Wetland Authority (Chief Executive Director, WUCMA) and Regional Director, PCB Kashmir vide no. PCB/ROK/2020/232 dt. 29-09-2020 (copy enclosed as **Annexure ‘B’**) . It is pertinent to mention that Deputy Commissioner / Collector Baramulla

has submitted a separate report vide no. DCB/ARA/PIL-08/178 dt. 24-08-2020 (copy enclosed as **Annexure ‘C’**). The report submitted by Deputy Commissioner, Baramulla is not in conformity with the report submitted by WUCMA and JK PCB and has been summed up in later part of the report.

- iv) The key factual position as highlighted in the report submitted by Member Secretary, Wetland Authority (Chief Executive Director, WUCMA) and the Regional Director, JK PCB Kashmir is as under:
- a) JK Govt. constituted the Wular Conservation and Management Authority WUCMA in 2012 vide SRO 311 and 314 of 2012 under JK Development Act of 1970, with the mandate of conservation and preservation of Wular Lake and its feeder channel as well as treatment of its catchment area.
 - b) The boundary of the Wular Lake has been delineated and the entire length of its boundary (83.6 kms) has been demarcated with the help of **1159 boundary pillars** which have been geo-tagged using GPS /GIS and Remote Sensing technology followed by ground truthing.
 - c) As per the report, Municipal Council, Sopore has illegally dumped Municipal Solid Waste within demarcated area of wular lake and carried out construction through R&B Division, Sopore by publishing tender namely “Fencing of Dumping site at Dharnambal, Sopore” vide NIT no. 02 of R&B Sopore 2020-21. The site plan has been vetted and approved by Chief Executive Officer, Municipal council, Sopore and Executive Engineer, R&B sub-division, Sopore (copy enclosed as **Annexure ‘D’**).
 - d) The construction work has been taken without any formal transfer of land to Municipal Council, Sopore as no formal order has been issued in favour of Municipal Council Sopore in terms of Govt. order no. 33

– Rev of 2019 dt. 05-03-2019, thereby making entire construction illegal and an encroachment on said land.

- e) As per field verification carried out by WUCMA, the construction has been undertaken between boundary pillar 509 and 510 falling in Ningli Tarzoo Plantation block of Ningli Forest Range as per forest / WUCMA records.
- f) As per revenue abstract (record) issued by Tehsildar Sopore, **the land in question is forest land** which is clear proof of ownership of the land in question, which is vested with the forest department/ WUCMA.
- g) Rule 4 (iv) and (v) of Wetland Conservation and Management Rules 2017 explicitly prohibits dumping of Municipal Solid Waste and discharge of untreated water and effluents from industries, cities, towns, village and others human settlement within the wetland. Since, the dumping has been carried out within the demarcated boundary of wular lake, which is also forest land as per the revenue record, as well as forest record, the same is clear violation of Wetland Conservation and Management Rules 2017.
- h) The matter of illegal constructions within the demarcated area of Wular lake had already been settled by the Hon'ble High Court in **PIL no. 345/2006**. Therefore, carrying out of construction activity by Municipal Council, Sopore and R&B division is clear violation of direction of Hon'ble High Court in PIL no. **345 / 2006** titled ***“Kashmir Environmental Protection V/s State of J&K and ors.*** which reads as under :

“we further direct that no construction in the demarcated area shall be permitted by any authority without specific order from this court”.

- i) Deputy Commissioner, Baramulla vide his no. DCB/ARA/PIL-08/178 dt. 24-08-2020 (refer annexure 'C'), has contented that the land identified for the dumping of Municipal Solid Waste falls in village Dharnambal, Teh. Sopore instead of village Tarzoo. He has further asserted that the proposed land is not covered by the notification issued by WUCMA located approx. 1.9 kms downs the western bank of Wular lake. Hence, there is no violation of MSW Rules 2016 and Wetland (conservation and management) Rules 2017.

In light of the joint report submitted by Member Secretary, Wetland Authority (Chief Executive Director, WUCMA) and JK PCB and the separate report **submitted by Deputy Commissioner Baramulla, which have been discussed above, it becomes amply clear that the land in question falls within the demarcated boundary of Wular Lake which has been spatially geotagged and geo referenced. The supporting maps / records submitted by Member Secretary, Wetland Authority (Chief Executive Director, WUCMA) are conclusive and final.** The committee has also submitted irrefutable evidence in the shape of tender floated by Chief Executive Officer, Municipal Council, Sopore through XEN, R&B vide NIT no. 02 of R&B Sopore 2020-21(refer annexure-D). This is a proof of the fact that the construction work has taken place at the site which is forest land both as per the records of forest department / WUCMA as well as revenue department (issued by Tehsildar Sopore). The illegal construction of fencing and dumping of Municipal Solid Waste at the said site is also corroborated by photographs submitted by the committee (copy enclosed as **Annexure 'E'**).

Further, Deputy Commissioner, Baramulla in his report makes no mention of the existing dumping site of Municipal Solid Waste and only makes reference to the identified Municipal Solid Waste site at village Dharnambal, which is not located in village Tarzoo. This assertion of Deputy Commissioner, Baramulla has no bearing on the fact that illegal dumping is being carried out at village at Dharnambal. Hence, whether

the said site falls under the revenue jurisdiction of village Tarzoo or a separate village(i.e. Dharnambal) is purely revenue matter. The fact of the matter remains that the title of land where the municipal solid waste is being dumped is forest land (even as per revenue record) and falls within the demarcated boundary of Wular lake as per WUCMA records (between boundary pillar no. 509 and 510).

This becomes also clear from this communications from Chief Executive Officer Municipal Council, Sopore to Regional Director PCB Kashmir and Member Secretary, JK PCB vide his no. MC/SPR/20/564-67 dt. 24-06-2020 and MC/SPR/20/886-89 dt. 10-07-2020 respectively (copy enclosed as **Annexure 'F & G'**), wherein he has admitted that *“there is no alternate site available as of now to deposit the waste emanating from Municipal council Sopore”* and *“that the site is being fenced to prevent the waste from becoming a nuisance”*. This is a clear admission of offence and violation of MSW Rules 2016 and Wetland Conservation and Management Rules 2017.

It is pertinent to mention that residents of village Tarzoo Dharnambal have filed a **PIL** vide no. **08/2020** titled “Central Aquaf Committee Tarzoo / Dharnambal V/s Union of India and others” before the Hon’ble High Court of J&K. Hon’ble High Court vide its order dt. 14-09-2020 (copy enclosed as **Annexure 'H'**) directed Municipal Council, Sopore to remove the Municipal Solid Waste dumped within the demarcated area of Wular Lake forthwith. Subsequently, Hon’ble High Court vide order dated 08-10-2020 decided to carry out a spot visit on 10-10-2020. The same has been done by the Hon’ble High Court and fresh directions in this regard are awaited.

B) Action Taken:-

- i) On receiving specific inputs from field officials, Coordinator WUCMA vide his no. Coord/WM/WUCMA/2019-20/461-69 dt. **17-03-2020** (copy enclosed as **Annexure 'I'**) issued notice to Chief Executive Officer, Municipal council, Sopore to stop the dumping of Municipal Solid Waste in compartment no. 2 of forest range Ningli which is a part of wular lake falling within the demarcated boundary pillar no. 509 and 510.

- ii) Subsequently, on receiving reports of continued and unabated violation from Municipal Council, Sopore Coordinator, WUCMA vide his no. Coord/WM/WUCMA/2020-21/41-42 dt. 29-05-2020 (copy enclosed as **Annexure 'J'**) requested Regional Director, PCB Kashmir to initiate legal action against Chief Executive Officer, Municipal council, Sopore in light of continued dumping of Municipal Solid Waste in site demarcated area of wular lake despite issuance of notice dt. 17-03-2020.
- iii) Accordingly, Regional Director, PCB Kashmir vide his no. PCB/ROK/LS/20/134-38 dt. 15-06-2020 (copy enclosed as **Annexure 'K'**), issued a show cause to Chief Executive Officer, Municipal council, Sopore to show cause as to why **Environmental Compensation** should not be levied under Municipal Solid Waste Rules 2016 and in light of directions of Hon'ble National Green Tribunal.
- iv) Member Secretary, JK PCB vide no. PCB/LSK/489/020/117-123 dt. 26-06-2020 (copy enclosed as **Annexure 'L'**) issued a show cause notice to Municipal Council, Sopore for recovery of **Environmental Compensation** in light of reports submitted by Regional Director, PCB Kashmir.
- v) Chief Executive Officer, Municipal Council, Sopore vide his no. MC/SPR/20/953-56 dt. 18-07-2020 (copy enclosed as **Annexure 'M'**) filed a reply to the show cause notice issued by Member Secretary, JK PCB which was thoroughly examined by the Board and was rejected on the grounds of being contrary to the factual position and the legal status of land in question, hence, being devoid of merit. The same was communicated to Chief Executive Officer, Municipal Council, Sopore by the board vide no. PCB/LSK/489/020/966-968 dt. 10-08-2020 (copy enclosed as **Annexure 'N'**).
- vi) At present, the process of recovery of **Environmental Compensation** on the touch stone of **Polluter Pays Principle** in light of the directions of Hon'ble NGT has already been initiated by the Board against Municipal

Council, Sopore by following due process of law, since the continued violation of Municipal Solid Waste Rules 2016 and Wetland (conservation and management) Rules 2017 has been proven beyond any reasonable doubt.

Hence submitted.

Ann:- A



GOVERNMENT OF JAMMU AND KASHMIR
OFFICE OF THE CHIEF EXECUTIVE DIRECTOR
WULAR CONSERVATION & MANAGEMENT AUTHORITY, KASHMIR

The Member Secretary,
JK PCB, Jammu / Srinagar.

No: CED/WUCMA/2020-21/65

Dated: 27-08-2020.

Sub: Submission of factual and Action Taken Report regarding alleged dumping of Municipal Solid Waste in Wular Lake around Ningli Tarzoo in Baramulla District in J&K.
Ref: Your letter No: JKPCB/5/NGT/2020/933-936 Dated: 27-07-2020.

Sir,

In connection to the above cited subject, kindly find enclosed herewith the factual and action taken report regarding alleged dumping of Municipal Solid Waste in Wular Lake around Ningli Tarzoo Baramulla District for favour of your kind perusal and further necessary action at your end please.

Yours faithfully,

Encl: 44 lmsz

Chief Executive Director,
Wular Conservation and Management Authority
Kashmir.

Factual and Action Taken Report w.r.t illegal Dumping of Municipal Solid Waste in Wular Lake around Ningli Tarzoo in Baramulla District:

1. Wular Lake forms a part of river Jhelum basin which is a sub-basin of Indus river. Wular Lake is one of the largest freshwater lakes of Asia. Wular with its associated wetlands support rich biodiversity and provides habitat to migratory birds within Central Asia flyover. Wular Lake is largest fisheries resource in Kashmir valley supporting livelihoods of large human population living along its fringes. The Wular and its associated wetlands protect the Kashmir Valley from floods as well as maintains the flow to support agriculture and hydro-power generation. Recognizing importance of this wetland for its biodiversity and socio-economic values, the lake was been designated as "**Wetland of International Importance**" under "**Ramsar Convention**" in 1990.

2. The J & K Government formally constituted the "**Wular Conservation and Management Authority**" (WUCMA) in 2012 vide SRO-311 & 314 of 2012 under the J & K Development Act of 1970 and the Authority came into existence in 2012. The Authority has been given the task of conservation and preservation of the Wular lake and its feeder channels as well as the treatment of its catchment area falling under Erin and Madhmuti watersheds in district Bandipora. Prior to the constitution of WUCMA, a Comprehensive Management Action Plan (CMAP) for the conservation and development of Wular lake and its associated ecosystems was prepared by M/s Wetlands International, South Asia, New Delhi in 2007.

3. The Wular Conservation and Management Authority (WUCMA) soon after its creation started consolidation of Wular boundary on priority. The process of Wular demarcation was entrusted to Forest Demarcation Division Srinagar, Jammu & Kashmir Forest Department. Based on satellite imageries obtained from National Remote Sensing Agency (NRSA) and revenue records, the department of Environment, Ecology & Remote Sensing prepared digitized boundary list of Wular lake using GIS/GPS/Remote Sensing technology followed with ground truthing. This boundary line was duplicated in its physical form on the ground in form of concrete boundary pillars by Forest Demarcation Division in accordance with demarcation rules of erstwhile Jammu & Kashmir Forest Act. Accordingly 83.6 Km boundary line was delineated with the help of serially numbered 1159 boundary pillars of which 100% boundary line-demarcation stands completed. The description as well as GPS location of all these 1159 boundary pillars stands recorded and compiled. Survey & Demarcation of Wular has been carried out as per the nine demarcation files and maps and besides "24 Masavies" obtained from Director Survey & Land Records. A demarcation Map has been generated by the Department of Environment & Remote sensing Govt. of J&K based on recorded geo-locations of various boundary pillars. The total area of the Wular lake after demarcation comes out to 130 Sqkm. The abstract of demarcation is given as under and map of geo-tagged boundaries is enclosed herewith as (Annexure-I):-

Details of Boundary Pillars

S.No.	Range	Location/Name of File	Detail of boundary pillars		
			From	To	No's
01.	Ningli	Saderkot Banyari Block	01	92	92
02.	Ningli	Hajin Plantation Block	93	253	161
03.	Ningli	Shahgund Plantation Block	254	361	108
04.	Ningli	Ningli Tarzoo Plantation Block	362	553	192
05.	Ningli	Aadipora Plantation Block	554	664	111
06.	Ningli	Ashtingoo Plantation Block	665	808	144
07.	Ningli	Wular Plantation Zalwan Block	809	1080	272
08.	Ningli	Mangipora Zalwan Block	1	79	79
Total:-					1159
Total demarcation area of Wular Lake----- 130 Sq. Kms.					

4. Municipal Committee Sopore has illegally dumped municipal solid waste within the demarcated area of Wular Lake and also carried out unauthorized construction in the said area. The delinquent department has carried out construction through R & B Division Sopore and published tender namely "Fencing of dumping site of Darnamabal Sopore" vide NIT No: 02 of R&B Sopore of 2020-2021 with site plan for said construction approved and vetted by Chief Executive officer MC Sopore and Assistant Ex. Engineer (R & B) Sub division Sopore. (Copies enclosed as Annexure - II). The said site has been taken up for construction without any formal transfer of land issued to M.C.Sopore. As per Government order No: 30 -Rev(s) of 2019 dated 05-03-2019 (Ref. State Administrative Council Decision No. 44/5/2019 dated 13-02-2019)

proposals for transfer of State/ Departmental land for various public purposes shall have to be processed and various Government authorities have been prescribed for transfer of land to Government departments for carrying out such developmental works. **Copy enclosed as Annexure- III.**

The relevant para of said Government order is reproduced as under:-

In partial modification of Cabinet Decision No. 136/11/2009 dated 01.10.2009, it is hereby ordered that the proposals regarding transfer of State/Departmental land for various public purposes shall be processed for consideration/orders of the authorities as under:-

- a) Government in the Revenue Department shall be competent to decide cases relating to transfer of state/departmental land exceeding 100 Kanals and upto 500 Kanals (free from encumbrances) to the state government department (s) for public purposes/developmental programmes.
- b) The Divisional Commissioner concerned shall be authorised to decide the cases relating to transfer of state/departmental land exceeding 10 Kanals and upto 100 Kanals (free from encumbrances) to the state government department (s) for public purposes/developmental programmes, within his territorial jurisdiction.
- c) The Deputy Commissioner concerned shall be authorized to decide the cases relating to transfer of state land upto 10 Kanals (free from encumbrances) to the state government department (s) for public purposes/developmental programmes, within his territorial jurisdiction.

Pertinent to mention here that no such order has been issued in favour of MC Sopore by any authority in terms of above Government order for carrying out such development work. Therefore, the said construction is illegal and can be treated as encroachment on other departmental land and responsible officers need to be punished for such delinquency with costs recovered from their salaries.

5. As per spot verification carried out by WUCMA field team, the said construction activity has been undertaken between boundary pillar 509 & 510 within the demarcated boundary of Wular Lake. The maps depicting

location of said activity are enclosed herewith as **Annexure-IV**. Further as per the revenue extract issued by the Tehsildar Sopore in respect of land in question, the corresponding revenue entry record recognizes it as Forest Land. The said entry is a clear proof of ownership of same vesting with WUCMA/ Forest Department. Copy of revenue record enclosed herewith at **Annexure -V**

6. The Central Government has notified new rules for conservation and management of wetlands namely "**Wetlands (Conservation and Management) Rules, 2017**" in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) of section 3 and section 23 of the Environment (Protection) Act, 1986 copy of wetland (Conservation and Management) Rules is enclosed herewith as **(Annexure VI)**. These rules are applicable to Wular lake as per section 3 of said rules. The said rule states as under:

3. Applicability of rules.—These rules shall apply to the following wetlands or wetlands complexes, namely:—

(a) wetlands categorised as 'wetlands of international importance' under the Ramsar Convention;

(b) wetlands as notified by the Central Government, State Government and Union Territory Administration: Provided that these rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.

Wular lake being designated Ramsar Site and listed up at S.No.26 of Schedule of Wetlands notified under Rule 3(i), therefore comes under the purview of above cited rules. Copy of Schedule enclosed herewith at **Annexure -VII**

The wetland Management and Conservation Rules prohibit certain activities in scheduled and notified Wetlands which are laid down in Rule 4 of said Rules. The said rule states as under:

4. Restrictions of activities in wetlands.—(1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

(2) The following activities shall be prohibited within the wetlands, namely,-

(i) conversion for non-wetland uses including encroachment of any kind;

(ii) setting up of any industry and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;

(iv) solid waste dumping;

(v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;

(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and,

(vii) poaching.

7. In violation of Wetland Rules supra, Municipal Council Sopore started dumping solid waste in the Wular lake and also started construction by tendering work for fencing of dumping site, taking advantage of COVID-19 restrictions. As the said activity was in violation of Rule 4 (i) of Wetland (Conservation & Management) Rules, 2017 read with Section 15 & 17 of EPA 1986 rules, WUCMA took cognizance of said violation and issued Notice to Executive officer Municipal Committee Sopore on 17-03-2020 under Section 19 (b) of Environment Protection Act, 1986 to stop the

illegal activity (copy of Notice enclosed as Annexure- VIII). Despite issuance of notices, the delinquent agency still proceeded ahead with the illegal dumping and construction at the site. Since the municipal committee did not stop the work despite notice and kept violating the provisions of Act Supra, the authority submitted the case to Regional Director Pollution Control Board vide no. Coord/WMM/WUCMA/2020/41-42 Dated: 29-05-2020 Dated: 29-05-2020 to initiate legal action against the violators as an authorized/empowered authority under Environment Protection Act, 1986. (Copy of letter enclosed as Annexure- IX).

8. In pursuance of WUCMA Communication, the Regional Director, Kashmir Pollution Control Board issued Notice to Executive Officer, Municipal Council Sopore to showcase within 15 days as to why the instant case may not be recommended to the competent authority of JKPCB for levying Environmental Compensation on his organization for brazen violation of MSW rules and Hon'ble National Green Tribunal directions (Copy of notice enclosed as Annexure- X). Despite issuance of Notice from Pollution Control Board, the delinquent agency still did not pay any heed and proceeded ahead with its construction activity (Photos of fencing and dumping of Waste are enclosed as Annexure- XI).
9. In PIL No. 345/2006 titled "Kashmir Environmental Protection Vs State of J&K & Ors", Hon'ble High Court has prohibited all types of construction activities within the demarcated area of Wular Lake. The order reads as under:

"We further direct that no construction in the demarcated area shall be permitted by any Authority without specific orders from this Court."

Keeping in view the above, WUCMA vide its letter no.:
Coord/WUCMA/WM/2020-21/118-22 Dated: 07-07-2020 informed
delinquent agencies that the said construction work is a violation of
Hon'ble High Court order Supra and concerned officers viz Director, Urban
Local Bodies, Srinagar, Executive Engineer, R&B Sopore & Chief
Executive Officer, Municipal Committee Sopore were directed to
immediately cease all operations forthwith within the Wular demarcated
area pending further orders from Hon'ble High Court. Copy of Hon'ble
High Court order and relevant Notice issued to violating agencies are
enclosed herewith as Annexure- XII.

10. In the light of the aforesaid, it is submitted that the land in question is a
Wular demarcated Land as revealed from Toposheets, Wular demarcation
records and revenue extract of Tehsildar Sopore. The delinquent agency
namely M.C. Sopore and R&B Division Sopore have encroached upon
Wular Land and have started construction of dumping site in gross
violation of Wetland (Conservation & Management) Rules, Hon'ble High
Court orders, Hon'ble National Green Tribunal orders, and Solid Waste
Management Rules. Therefore it is prayed that the said activity be stopped
forthwith and directions be issued to concerned departments to restore the
said land to WUCMA in its original position.


Chief Executive Director
WUCMA, Kashmir

Ann:- B



Government of Jammu & Kashmir
J&K Pollution Control Board
Office of the Regional Director Kashmir

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Member Secretary,
J&K PCB, Jammu.

No: PCB/ROK/LS/2020/ 939

Date: 29/09/2020

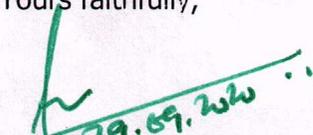
Subject: Submission of Factual and Action Taken Report regarding alleged dumping of Municipal Solid Waste in Wular Lake around Ningli Tarzoo in Baramulla District.

Reference: Your office letter No. PCB/NGT/5/2020/933-36 dated 27-07-2020.

Sir,

Regarding the subject and reference cited above, the report of Chief Executive Director, Wular Conservation and Management Authority (WUCMA) and Regional Director Kashmir, J&K Pollution Control Board, is hereby enclosed along with enclosures for further necessary action at your end please.

Yours faithfully,


29.09.2020
Regional Director
Kashmir

Encls: (64)

LA/Changoo



M
B



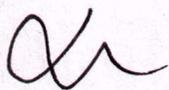
**Factual and Action Taken Report regarding alleged dumping of
Municipal Solid Waste in Wular Lake around Ningli Tarzoo in
Baramulla District in J&K in pursuance to Member Secretary letter
No. PCB/NGT/5/2020/933-36 dated 27-07-2020.**

Regarding the subject and reference cited above, the report of following members of the committee constituted is submitted as under:

i.	Chief Executive Director, Wular Conservation and Management Authority (WUCMA)
ii.	Regional Director Kashmir, J&K Pollution Control Board

1. **Chief Executive Director WUCMA:** Municipal Committee Sopore has dumped municipal solid waste within the demarcated area of Wular Lake and also carried out unauthorised construction in the said area. As per revenue extract, the corresponding revenue entry record recognises it as Forest Land. The said entry is a clear proof of ownership of same vesting with WUCMA/Forest Department. The dumping of solid waste at the site is also against the Wetlands (Conservation and Management) Rules 2017 notified by the Central Government. Taking cognizance of the same, WUCMA issued Notice to Executive Officer M.C. Sopore on 17-03-2020 to stop the illegal activity (enclosed at page No.34 of WUCMA Report). Despite the Notice, the agency has continued with the illegal dumping and construction at the site. Consequently, the WUCMA submitted the case to Regional Director Pollution Control Board for action in the matter (enclosed at page No. 35 of WUCMA Report). Despite this, the agency has proceeded ahead with the construction activity. In PIL No. 345/2006 titled "Kashmir Environmental Protection Vs J&K & Ors", the Hon'ble High Court has prohibited all types of construction activities within the demarcated area of Wular Lake. WUCMA has directed Director Urban Local Bodies, Executive Engineer R&B Sopore and Executive Officer M.C. Sopore to cease all operations forthwith within the Wular demarcated area (enclosed at page No. 39 of WUCMA Report). (Copy of full Report as Annexure-I)

2. **Regional Director PCB Kashmir:** In pursuance to WUCMA communication and in the light of report submitted by D.O. PCB Baramulla, PCB Regional Office Kashmir issued Legal Notice dated 15-06-2020 to Executive Officer



M.C. Sopore to showcase within 15 days as to why the instant case may not be recommended to the competent authority of JKPCB for levying Environmental Compensation for violation of MSW Rules and Hon'ble NGT directions (copy enclosed as Annexure-II A). A visit was also made on the spot alongwith D.O. PCB Baramulla on 18-07-2020 and a report was submitted to J&K PCB Central Office addressed to Member Secretary vide this office No. PCB/ROK/LS/2020/179 dated 22-07-2020. In the report, it was submitted that M.C. Sopore had started fencing of the site with GI sheets and covering the huge dumps of MSW with earth. It was also observed that most of the earlier dumped MSW has been burnt and smoke was coming out of the site. A follow-up report was submitted to MS PCB vide this office No. PCB/ROK/LS/2020/195 dated 21-08-2020 stating that the MSW at the site has not been removed by M.C. Sopore and soil has been laid over the dumped solid waste. Although dumping of waste has been reduced, yet waste-loads of 1-2 tractor trolleys is being dumped during late hours and covered by soil (copy enclosed as Annexure-II B). The D.O. PCB Baramulla has submitted the Environmental Compensation Format in the matter which has been forwarded to the Member Secretary J&K PCB (copy enclosed as Annexure-II C).

In its order dated 14-09-2020 in PIL No. 08/2020 titled Central Auqaf Committee Tarzoo Vs Union of India and Others, the Hon'ble High Court has ordered as under:

"In view of the seriousness of the issue, we direct the Municipal Committee, Sopore, to take steps for removal of municipal Solid waste forthwith which has been dumped within the demarcated area of the Wular Lake. The Municipal Committee, Sopore, shall place on record the site plan, the location of the dumping site before us, before the next date of hearing."

(copy of the Hon'ble High Court Order enclosed as Annexure-II D)

D.O. Baramulla has forwarded his follow-up report in the matter dated 19-09-2020. According to the D.O's report, the solid waste dumped at Ningli has not been removed by MC Sopore.

Two notices have been issued in this regard by the Central Office J&K PCB against Chief Executive Officer, Municipal Council Sopore, dated 26-06-2020 and 10-08-2020.

Chief Executive Officer Municipal Council Sopore has submitted a reply to the legal notice dated 15-06-2020 stating that no alternate site is available to deposit the solid waste and efforts are on to find any alternate suitable location for the same (copy enclosed as Annexure-II E).

Deputy Commissioner Baramulla has submitted his report to this office which is enclosed herewith as Annexure-III.



Chief Executive Director, WUCMA



Regional Director, PCB Kashmir

OFFICE OF THE DEPUTY COMMISSIONER BARAMULLA

**Member Secretary J&K,
Pollution Control Board,
Jammu.**

Subject:- Submission of factual and Action Taken Report regarding dumping of Municipal Solid Waste in Wular Lake around Ningl Tarzoo in District Baramulla of Jammu & Kashmir.

Reference:- JKPCB/NGT/52/2020/933-936 Dated 27-07-2020.

Sir,

Kindly refer to the subject and reference cited above. In this connection it is submitted that the identified site for dumping of Municipal Solid Waste falls in the Village Dharnambal Tehsil Sopore and not in Village Tarzoo (copy of the Extract is enclose as annexure A for ready reference). Furthermore the Village Tarzoo of Tehsil Khoie and Village Dharnambal of Tehsil Sopore are two different Villages of separate jurisdictions of two Tehsils having adjacent boundaries. It is further submitted that the proposed land for dumping site is not covered by the notification issued by the WUCMA, notifying the area's around the Wular Lake as its catchment area,(Copy of notification is annexed as Annexure B). The land in question is located down the stream approximately 1.9 KMs down western bank of the Wular Lake. As such under no circumstances can run-off water from this spot find its way to the lake, which is physically impossible. It is admitted fact that the Lake in question (Wular Lake) is a wet land and Ramsar site and is eco-sensitive area, but the dumping Site for disposal of Municipal Solid Waste falls in Estate Dharnambal which is far away from the catchment area of Wular Lake. Thus the Municipal Solid Waste Management Rules 2016 and Wet Land Conservation and Management Rules, 2017 are not violated.

The residents of Village Tarzoo/ Dharnambal have filed a Public Interest Litigation under No. 08/2020 Titled CentralAuqaf Committee Tarzoo/ Dharnambal Versus Union of India & others before the Hon'ble High Court of J&K at Srinagar. While adjudication upon the case the Hon'ble High Court of J&K at Srinagar passed an order dated 15-07-2020 directed that :-

" Mr. Chashoo Ld Addl. Advocate General, appears for respondent No's 2 to 13 and prays for time to file status report. The same shall be filed before the next of hearing. List on 13 August 2020. In compliance of the aforementioned Hon'ble Court Order objections stand filed before the Court of law.

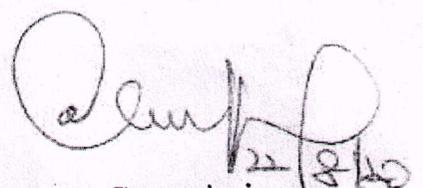
Hence report is submitted for information & necessary action.

Yours faithfully

NO:- DCB/ARA/PIL-08/178
DATE:- 24-08-2020

Enclosure (4) Power only

24.8.20


Deputy Commissioner
Baramulla

استاذ محترم / سربراہ / ممبر / ...

II	I	III		IV	V	VI	VII	VIII
		IX	X					
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		8	9	10	11	12	13	14
		15	16	17	18	19	20	21
		22	23	24	25	26	27	28
		29	30	31	32	33	34	35
		36	37	38	39	40	41	42
		43	44	45	46	47	48	49
		50	51	52	53	54	55	56
		57	58	59	60	61	62	63
		64	65	66	67	68	69	70
		71	72	73	74	75	76	77
		78	79	80	81	82	83	84
		85	86	87	88	89	90	91
		92	93	94	95	96	97	98
		99	100	101	102	103	104	105

Handwritten notes and signatures in the center of the page, including a signature and the text "2020 - 2021" and "KMS".

Annexure B

85

Annexure to SRO 344 dated: -25-09-2012
Wular Lake and the following adjoining villages:

S. No.	Name of Village	Tehsil	District
1.	Bandipora	Bandipora	Bandipora
2.	Nadihal	Bandipora	Bandipora
3.	Gund Dachna	Bandipora	Bandipora
4.	Brar	Bandipora	Bandipora
5.	Malangam	Bandipora	Bandipora
6.	Quil Muqam	Bandipora	Bandipora
7.	Ishtaingoo	Bandipora	Bandipora
8.	Qazipora Patushai	Bandipora	Bandipora
9.	Kelinpoosa	Bandipora	Bandipora
10.	Watpora	Bandipora	Bandipora
11.	Mangnipora	Bandipora	Bandipora
12.	Shahpora	Bandipora	Bandipora
13.	Lawdora	Bandipora	Bandipora
14.	Garpora	Bandipora	Bandipora
15.	Aloosa	Bandipora	Bandipora
16.	Hajan	Sonawari	Bandipora
17.	Shah Gund	Sonawari	Bandipora
18.	Gund Jahangir	Sonawari	Bandipora
19.	Seri Hari Karan Gund	Sonawari	Bandipora
20.	Gund Prang	Sonawari	Bandipora
21.	Sadhunara	Sonawari	Bandipora
22.	Saderkoot	Sopore	Baramulla
23.	Rakhishayan	Sopore	Baramulla
24.	Tarzo	Sopore	Baramulla
25.	Janwara	Sopore	Baramulla
26.	Warpora	Sopore	Baramulla
27.	Adipora	Sopore	Baramulla
28.	Magraypora	Sopore	Baramulla
29.	Hathlangoo	Sopore	Baramulla
30.	Watlab	Sopore	Baramulla

(Mond. Mumtaz Ali), KAS
Deputy Secretary to Government
Forest Department

Amint-kant 10

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT, FOREST DEPARTMENT
SRINAGAR/JAMMU

Notification

Srinagar, the 25th Sept., 2012

SRO: 311 - In exercise of powers conferred by sub-section (1) of section 3 of the Jammu and Kashmir Development Act, 1970 (XIX of 1970) Government hereby declare the area specified in "Annexure" to this notification, to be the 'local area' for the purpose of the said Act and constitute therefor an Authority to be known as "Wular Conservation and Management Authority (WUCMA)" for the preservation and conservation of Wular Lake.

By order of the Government of Jammu and Kashmir

Sd/-
(Sheikh Ghazalqbal), IAS
Commissioner/Secretary to Government
Forest Department

Dated: 25-09-2012

EST/Plan-05/2005-II
Copy to the:-

- 1. Chief Secretary, J&K
- 2. All Principal Secretaries to Government
- 3. P.C. Chief Conservator of Forests, J&K
- 4. All Commissioner/Secretaries to Government
- 5. Addl. P.C.C./ Chief Executive Director, WUCMA
- 6. Divisional Commissioner, Kashmir, Srinagar
- 7. Chief Conservator of Forests, Jammu/Kashmir
- 8. All H.O.s
- 9. Deputy Commissioner, Bandipora/Baramulla
- 10. Additional Secretary/Private Secretary to Hon'ble Chief Minister for the information of Hon'ble Chief Minister
- 11. All OSDs/ Special Assistants to Hon'ble Dy. Chief Minister/ Hon'ble Ministers
- 12. General Manager, Government Press, Jammu/Kashmir
- 13. Private Secretary to Commissioner/Secretary Forest Deptt.
- 14. Order file (w.2.sc)

(Mhd. Mumtaz Ali), IAS
Deputy Secretary to Government,
Forest Department

Notification

Srinagar, the 25 th September, 2012

SRO: 311:- In exercise of powers conferred by sub-section (1) of section 3 of the Jammu and Kashmir Development Act, 1970(XIX of 1970), the Government hereby declare the area, specified in "Annexure" to this notification, to be the 'local area for the purpose of the said Act and constitute therefore an Authority to be known as "Wular Conservation and Management Authority (WUCMA)", for the preservation and conservation of Wular lake.

By order of the Government of Jammu and Kashmir

Sd/

**(Sheik Ejaz Iqbal), IAS
Commissioner/Secretary to Government,
Forest Department.**

Annexure to SRO 311 dated: – 25-09- 2012

Wular lake and the following adjoining villages:

Name of village Tehsil District

1. Bandipora Bandipora Bandipora
2. Nadihal Bandipora Bandipora
3. Gund Dachna Bandipora Bandipora
4. Brar Bandipora Bandipora
5. Malangam Bandipora Bandipora
6. Quil Muqam Bandipora Bandipora
7. Ishtaingoo Bandipora Bandipora
8. Qazipora Bandipora Bandipora Patushai
9. Kehnoosa Bandipora Bandipora
10. Watpora Bandipora Bandipora
11. Mangnipora Bandipora Bandipora
12. Shahpora Bandipora Bandipora
13. Lawdora Bandipora Bandipora

14. Garoora Bandipora Bandipora
15. Aloosa Bandipora Bandipora
16. Hajan Sonarwari Bandipora
17. Shah Gund Sonarwari Bandipora
18. Gundi Jahangir Sonarwari Bandipora
19. Seri Hari Karan Sonarwari Bandipora
20. Gund Prang Sonarwari Bandipora
21. Sadhunara Sonarwari Bandipora
22. Saderkoot Sonarwari Bandipora
23. Rakhi Hayan Sopore Baramulla
24. Tarzoo Sopore Baramulla
25. Janwara Sopore Baramulla
26. Warpora Sopore Baramulla
27. Adipora Sopore Baramulla
28. Magraypora Sopore Baramulla
29. Hathlangoo Sopore Baramulla
30. Watlab Sopore Baramulla

Ann: D

Annexure - D

OFFICE OF THE EXECUTIVE ENGINEER, R&B DIVISION SOPORE.

The Assistant Executive Engineer,
R&B Sub-Division Sopore

No:
Date:-

655-57

20/05/2020

Subject:- Fixation of contract for "Fencing of Dumping site of Darnambal Sopore.

Reference: This office NIT No: 02 of R&B/Sopore of 2020-2021 e-tendering issued under endorsement No:- 22-42 dated: 04.04.2020 and this office letter No: 530-31 dated: 12.05.2020

Major head of Account

Allotted Cost:

Time for completion.

14th FC

29,80,874/-

35 days

For and on behalf of the Governor of J&K State, the Executive Engineer, R&B Division, Sopore hereby fix the contract for the above noted work in favour of Raman Kumar S/o: Kamal Dass R/o: D-283-Shi Nagar Jammu Regd card No: RTC/PS/2027-18/AAY/02 Tin No: 01BKCP5514NIZB on the terms and conditions as stipulated in the NIT and on the rates as indicated against each item in the enclosed quantity schedule containing on page forming Annexure (A) to this allotment.

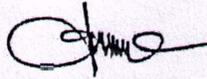
Terms and conditions:

1. The work should be executed in accordance with the terms and conditions as laid down in the NIT.
2. The cost of work shall not exceed Rs= 29,80,874/- (Rupees Twenty Nine lac Eighty thousand Eight hundred and seventy four) only against an adv. Cost Rs. 36.15 lacs
3. These rates shall be applicable only for this work and shall be co-related or inferred for similar nature of work.
4. The work should be executed strictly as per plans, proposals and specifications approved by competent authority. No item, outside NIT be executed and no increase in quantity of individual items and over all cost is allowed.
5. Technical sanction of competent authority should be obtained on allotted rates as is required under rules
6. The Assistant Executive Engineer, will ensure the safety stability and durability of the structure is consistent with the overall economy while setting the structure and while proportioning the section of the various components.
7. The Assistant Executive Engineer will ensure that the codal requirements are fulfilled well before the start of work.
8. The work shall be entered into the valid registration card of the contractor before start of work/ drawal c agreement.
9. The contractor shall be directed to draw the agreement with the department within 07 days after issue c allotment.
10. All the concerned documents/ reference of the allotment will constitute a contract document and will b binding upon the contractor.

Executive Engineer,
R&B Division Sopore

Subject:- Fixation of contract for "Fencing of Dumping site of Darnambal Sopore.

11. The CDR bearing No:- ^u155458 dated: ^u20.04.2020 for an amount of Rs. ^u72300/- and Addl. Performance security Rs; 1,81,000/- vide CDR No: 155478 dated: 29.04.2020 J&K Bank ~~CDR~~ Budgam is retained in the Divisional office chest till work is completed and DLP is over.
12. The Assistant Executive Engineer, will ensure that the contractor does not stand either black listed or debarred from taking any contract in any wing of the PWD.
13. The work should be restricted to approved amount/ comparative cost, which ever is less.
14. The date of start of work shall be reckoned ^u14.05.2020 and shall be completed within 35 days


Executive Engineer,
R&B Division Sopore.

1. Superintending Engineer, PWD (R&B) Circle Baramulla for information.
2. Contractor of Raman Kumar S/o: Kamal Dass R/o: D-283-Shi Nagar Jammu for information and necessary action. The contract for the allotted amount of work should not exceed in any case. For any excess the department is not responsible for making the payments. This may please be noted.



Illegal Fencing at Wular Lake



Illegal dumping and attempted removal of MSW



Dumping site enclosed with CGI sheets after attempted removal of dumped MSW, inspection dt. 16-08-2020

MUNICIPAL COUNCIL SOPORE

Regional Director
J&K Pollution Control Board
Srinagar

No: - MC/SPR/20/ 564-67

Dated:- 24-06-2020

Subject: - Dumping of solid waste within Wular Lake demarcation area at Ningli Sopore, initiation of legal action thereof.

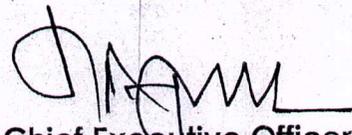
Reference: - Your Letter No: - PCB/ROK/LS/20/134-38 Dated: - 15/06/2020.

Apropos to the subject and reference cited above it is to convey that:-

01. There is no alternate site available as of now to deposit the waste emanating from Municipal Council Sopore.
02. Efforts are on to find out any alternate suitable location for the same.
03. This is a temporary arrangement. However arrangements are being made to prevent the waste from becoming a nuisance. For this the site is being fenced.

Currently this council has no option but to use the land which is quite away from the Wular Lake on the downstream due to which even during any flood situation the waste will not find way into the lake. Moreover, a number of constructions have been carried out in the area under question which surely could not have been allowed had the area been falling in the buffer zone for the lake.

Hence submitted.


Chief Executive Officer
Municipal Council
Sopore

Copy to the:-

01. Director Urban Local Bodies Kashmir for information.
02. Deputy Commissioner Baramulla for information.
03. Additional Deputy Commissioner Sopore for information.

*Pertains
to legal
sections.
As:
22/9*

*J/c MSW
K*



OFFICE OF THE CHIEF EXECUTIVE OFFICER
MUNICIPAL COUNCIL SOPORE

The Member Secretary,
 J&K Pollution Control Board
 Srinagar

No: - MC/SPR/20/ 886 - 89

Dated:- 10.07.2020

Subject:- Dumping of solid waste within Wular Lake demarcation area at
 Ningli Sopore, initiation of legal action thereof.

Reference:- Your Letter No: - PCB/LSK/489/20/117-123 Dated: - 26/06/2020.

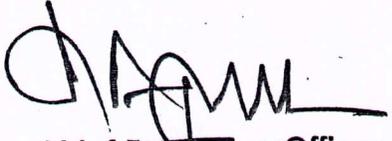
Apropos to the subject and reference cited above it is to convey
 that:-

01. There is no alternate site available as of now to deposit the waste emanating from Municipal Council Sopore.
02. Efforts are on to find out any alternate suitable location for the same.
03. This is a temporary arrangement. However arrangements are being made to prevent the waste from becoming a nuisance. For this the site is being fenced.

Currently this council has no option but to use the land which is quite away from the Wular Lake on the downstream due to which even during any flood situation the waste will not find way into the lake. Moreover a number of constructions have been carried out in the area under question which surely could not have been allowed had the area been falling in the buffer zone for the lake.

Hence submitted.




 Chief Executive Officer
 Municipal Council
 Sopore

Copy to the:-

01. Director Urban Local Bodies Kashmir for information.
02. Deputy Commissioner Baramulla for information.
03. Additional Deputy Commissioner Sopore for information.

LA/canyod
 Sr. Shah for draft reply
 negating his reply

m.s
 B

1 (M) 24/7

S. No. 209
Advance List

Ann:-H

IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

WP (C) PIL No. 08/2020
CM Nos. 2162/2020, 2778/2020

(Through Video Conferencing)

Central Auqaf Committee Tarzoo

.... Petitioner

Through: Mr. Shafaqat Nazir, Advocate.

v.

Union of India and others

.... Respondents

Through: Mr. T.M. Shamsi, ASGI, for R-1
Mr. B. A. Dar, Sr. AAG, for R-2, 3, 7 & 8.
Mr. M. A. Chashoo, AAG, for R-4 to 6 & 11 to 13
Ms. Asifa Padroo, AAG, for R-9 & 10.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER
14.09.2020

1. Reply dated 01.09.2020 has been filed by respondent no. 8. The Respondent No. 8 in its reply has stated as follows:

"1. Wular Lake forms a part of river Jhelum basin which is a sub-basin of Indus river. Wular Lake is one of the largest freshwater lakes of Asia. Wular with its associated wetlands support rich biodiversity and provides habitat to migratory birds within Central Asia flyover. Wular Lake is largest fisheries resource in Kashmir valley supporting livelihoods of large human population living along its fringes. The Wular and its associated wetlands protect the Kashmir Valley from floods as well as maintain the flow to support agriculture and hydro-power generation. Recognizing Importance of this wetland for its biodiversity and socio-economic values, the lake was been designated as "Wetland of International Importance" under "Ramsar Convention" in 1990.

2. The J & K Government formally constituted the Wular Conservation and Management Authority (WUCMA) in 2012 vide SRO-311 & 314 of 2012 under the J & K Development Act of 1970 and the Authority came into existence in 2012. The Authority has been given the task of conservation and preservation of the Wular Lake and its feeder channels as well as the treatment of its catchment area falling under Erin and Madhmuti watersheds in district Bandipora. Prior

to the constitution of WUCMA, a Comprehensive Management Action Plan (CMAP) for the conservation and development of Wular Lake and its associated ecosystems was prepared by M/s Wetlands International, South Asia, New Delhi in 2007.

3. The Wular Conservation and Management Authority (WUCMA) soon after its creation started consolidation of Wular boundary on priority. The process Wular demarcation was entrusted to Forest Demarcation Division Srinagar Jammu & Kashmir Forest Department Based on satellite imageries obtained from National Remote Sensing Agency (NRSA) and revenue records, the department of Environment, Ecology & Remote Sensing prepared digitized boundary list of Wular lake using GIS/GPS/Remote Sensing technology followed with ground truthing. This boundary line was duplicated in its physical form on the ground in form of concrete boundary pillars by Forest Demarcation Division in accordance with demarcation rules of erstwhile Jammu & Kashmir Forest Act. Accordingly 836 km boundary line was delineated with the help of serially numbered 1159 boundary pillars of which 100% boundary line- demarcation stands completed. The description as well as GPS location of all these 1159 boundary pillars stands recorded and compiled. Survey and Demarcation of Wular has been carried out as per the nine demarcation files and maps and besides "24 Masavies" obtained from Director Survey & Land Records. A demarcation Map has been generated by the Department of Environment & Remote sensing Govt of J&K based on recorded geo-locations of various boundary pillars. The total area of the Wular Lake water demarcation comes out to 130sqkm. The abstract of demarcation is given as under and map of geo-tagged boundaries is enclosed herewith as (Annexure-I).

Details of Boundary Pillars

			From	To	Nos.
01.	Ningli	Saderkot Banyari Block	01	92	92
02.	Ningli	Hajin Plantation Block	93	253	161
03.	Ningli	Shahgund Plantation Block	254	361	108
04.	Ningli	Ningli Tarzoo Plantation Block	362	553	192
05.	Ningli	Aadipora Plantation Block	554	664	111
06.	Ningli	Ashtingoo Plantation Block	665	808	144
07.	Ningli	Wular Plantation Zalwan Block	809	1080	272
08.	Ningli	Mangipora Zalwan Block	1	79	79
		Total			1159
Total demarcation area of Wular Lake : 130 Sq. Kms.					

4. Municipal Committee Sopore has illegally dumped municipal solid waste within the demarcated area of Wular Lake and also carried out unauthorized construction in the said area. The delinquent department has carried out construction through R & B Division Sopore and published tender namely "Fencing of dumping site of Darnamabal Sopore" vide NIT No: 02 of R&B Sopore of 2020-2021 with site plan for said construction approved and vetted by Chief Executive Officer MC Sopore and Assistant Ex Engineer (R & B) Sub division Sopore. The said site has been taken up for construction without any

formal transfer of land issued to M. C. Sopore. As per Government order No: 30 -Rev(s) of 2019 dated 05-03 2019 (Ref. State Administrative Council Decision No. 44/5/2019 dated 13-02- 2019) proposals for transfer of State/ Departmental land for various public purposes shall have to be processed and various Government authorities have been prescribed for transfer of land to Government departments for carrying out such developmental works. The relevant para said Government order is reproduced as under:-

In partial modification of Cabinet Decision No. 136/11/2009 dated 01.10.2009, it is hereby ordered that the proposals regarding transfer of State/Departmental land for various public purposes shall be processed for consideration/orders of the authorities as under:-

- a) Government in the Revenue Department shall be competent to decide cases relating to transfer of state/departmental and exceeding 100 Canals and upto 500 Canals (free from encumbrances) to the state government department(s) for public purposes developmental programmes.
- b) The Divisional Commissioner concerned shall be authorized to decide the cases relating to transfer of state/departmental land exceeding 10 Kanals and upto 100 Kanals (free from encumbrances) to the state government department(s) for public purposes/ developmental programmes, within its territorial jurisdiction.
- c) The Deputy Commissioner concerned shall be authorized to decide the cases relating to transfer of state and upto 10 Kanals (free from encumbrances) to the state government department (s) for public purposes/developmental programmes, within his territorial jurisdiction.

Pertinent to mention here that no such order has been issued in favour of MC Sopore by any authority in terms of above Government order for carrying out such development work. Therefore, the said construction is legal and can be treated as encroachment on other departmental land and responsible officer need to be punished for such delinquency with costs recovered from their salaries.

5. As per spot verification carried out by WUCMA field team, the said construction activity has been undertaken between boundary pillar 509 & 510 within the demarcated boundary of Wular Lake. Further as per the revenue extract issued by the Tehsildar Sopore in respect of land in question, the corresponding revenue entry record recognizes it as Forest Land. The said entry is a clear proof of ownership of same vesting with WUCMA/ Forest Department.

6. The Central Government has notified new rules for conservation and management of wetlands namely "**Wetlands (Conservation and Management) Rules, 2017**" in exercise of the powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub section (3) of section 3 and section 23 of the Environment (Protection) Act, 1986. These rules are applicable to Wular Lake as per section 3 of said rules. The said rule states as under:

3. Applicability of rules.-These rules shall apply to the following wetlands or wetlands complexes, namely:-

(a) Wetlands categorised as 'wetlands of International importance' under the Ramsar Convention;

(b) wetlands as notified by the central Government, State Government and Union Territory Administration: Provided that these rules shall not

apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification 2011 as amended from time to time,

Wular lake being designated Ramsar Site and listed up at S.No 26 of Schedule of Wetlands notified under Rule 3(i), therefore, comes under the purview of above cited rules.

The Wetland Management and Conservation Rules prohibit certain activities in scheduled and notified Wetlands which are laid down in Rule 4 of said Rules. The said rule states as under:

4. Restrictions of activities in wetlands.- (1) The wetlands shall be conserved and managed in accordance with the principle of wise use as determined by the Wetlands Authority. (2) The following activities shall be prohibited within the wetlands, namely,-

- (i) Conversion for non-wetland uses including encroachment of any kind;
- (ii) Setting up of any industry and expansion of existing industries;
- (iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules 2016, hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture Use, Import, Export and Storage of Hazardous Microorganisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management Handling and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;
- (iv) Solid waste dumping;
- (v) Discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;
- (vi) Any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and
- (vii) poaching.

7. In violation of Wetland Rules supra, Municipal Council Sopore started dumping solid waste in the Wular Lake and also started construction by tendering work for fencing of dumping site, taking advantage of COVID-19 restrictions. As the said activity was in violation of Rule 4(i) of Wetland (Conservation & Management) Rules, 2017 read with Section 15 & 17 of EPA 1986 rules, WUCMA took cognizance of said violation and issued Notice to Executive officer Municipal Committee Sopore on 17-03-2020 under Section 19 (b) of Environment Protection Act, 1986 to stop the illegal activity. Despite issuance of notices, the delinquent agency still proceeded ahead with the illegal dumping and construction at the site. Since the municipal committee did not stop the work despite notice and kept violating the provisions of Act Supra, the authority submitted the case to Regional Director Pollution Control Board vide no Coord/WM/WUCMA/2020/41-42 Dated: 29-05-2020 Dated: 29-05-2020 to initiate legal action against the violators as an authorized/empowered authority under Environment Protection Act, 1986.

8. In pursuance of WUCMA Communication, the Regional Director, Kashmir Pollution Control Board issued Notice to Executive Officer, Municipal Council Sopore to showcase within 15 days as to why the instant case may not be recommended to the competent authority of JKPCB for levying Environmental Compensation on his organization for brazen violation of MSW rules and Hon'ble National Green Tribunal directions (Copy of notice enclosed as

Annexure- X). Despite issuance of Notice from Pollution Control Board, the delinquent agency still did not pay any heed and proceeded ahead with its construction activity (Photos of fencing and dumping of Waste are enclosed as Annexure-XI).

9. In PIL No. 345/2006 titled "**Kashmir Environmental Protection Vs State of J&K & ors**", Hon'ble High Court has prohibited all types of construction activities within the demarcated area of Wular Lake. The order reads as under:

"We further direct that no construction in the demarcated area shall be permitted by any Authority without specific orders from this Court."

Keeping in view the above WUCMA vide its letter no. Coord/WUCMA/WM/2020-21/118-22 Dated: 07-07-2020 informed delinquent agencies that the said construction work is a violation of Hon'ble High Court order Supra and concerned officers viz Director, Urban Local Bodies Srinagar, Executive Engineer, R&B Sopore & Chief Executive Officer, Municipal Committee Sapporo were directed to immediately cease all operations forthwith within the Wular demarcated area pending further orders from Hon'ble High Court. Copy of Hon'ble High Court order and relevant Notice issued to violating agencies are enclosed herewith as Annexure-XII.

10. In the light of the aforesaid, it is submitted that the land in question is a Wular demarcated Land as revealed from Toposheets, Wular demarcation records and revenue extract of Tehsildar Sopore. The delinquent agency namely M.C. Sopore and R&B Division Sopore have encroached upon Wular Land and have started construction of dumping site in gross violation of Wetland (Conservation Management) Rules, Hon'ble High Court orders, Hon'ble National Green Tribunal orders, and Solid Waste Management Rules. Therefore it is prayed that the said activity be stopped forthwith and directions be issued to concerned departments to restore the said land to WUCMA in its original position. Besides, delinquent offices be awarded exemplary punishment for violating environmental legislations so that Wular Lake which is a Lake of International importance and one of the Ramsar site is preserved please."

2. In view of the seriousness of the issue, we direct the Municipal Committee, Sopore, to take steps for removal of municipal Solid Waste forthwith which has been dumped within the demarcated area of the Wular Lake. The Municipal Committee, Sopore, shall place on record the site plan, the location of the dumping site before us, before the next date of hearing.

3. We shall also be informed with regard to the notification of the Solid Waste Management Bye-Laws by the Municipal Committee and the fines collected thereunder.

4. The respondent no. 8 shall inform this Court about the steps which can be taken for earmarking the boundary of the Wular Lake in the manner in which it is required to be done and shall inform us before the next date. The respondent no. 8 shall examine the steps taken for marking the boundaries of

the Dal Lake in Srinagar and to see whether similar steps are required to be taken and could be replicated *qua* the Wular Lake as well.

5. Let copy of the writ petition, reply filed by respondent no. 8 be made available to Mr. Faizan-ul-Haq Iqbal, Secretary, District Legal Services Authority, Baramulla, within three days from today as also a copy of the order passed today, who shall verify the position and submit a report before us before the next date of hearing.

6. Mr. B. A. Dar, learned Sr. AAG, and Mr. M. A. Chashoo, learned AAG, shall coordinate with the Registrar General with regard to Court visit.

7. The Registry shall send copy of this order to all learned counsel for the parties through electronic mode.

8. List on 23rd September, 2020.

(PUNEET GUPTA) (GITA MITTAL)
JUDGE CHIEF JUSTICE

SRINAGAR

14.09.2020

TASADUQ

SAB:

Government of Jammu & Kashmir, (U.T)
Wular Conservation and Management Authority J&K, Silk Factory Road Rajbagh, Srinagar, 190008
Officer of the Coordinator Water Management, WUCMA.

Form-IV
(See Rule 11)

Form of Notice

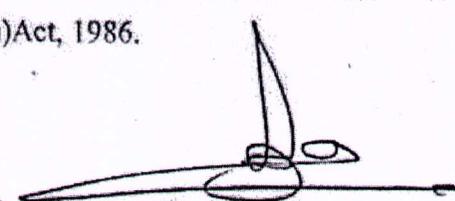
The Executive Officer,
Municipal Council, Sopore.

Subject: Notice under section 19(b) of the Environment (Protection) Act, 1986.

1. An offence under the Environment (Protection) Act, 1986 has been committed by you by dumping of solid waste in compartment No. 02 of Forest Ningli Range Sopore which is a part of Wular Lake falling within the delineated peripheral boundary pillar No: No 509/510. The said dumping site has been selected without the prior consultation of the Wular Conservation and Management Authority. The dumping of Solid Waste within the Wular Demarcation is an offence under rule 4(2) (i) of Wetland (Conservation & Management) Rules 2017 read with Section 15 and Section 17 of Environment Protection Act, 1986.
2. I hereby give notice of 60 days under Section 19(b) of Environment (Protection) Act, 1986 of my intention to file a complaint in the Court against you for violation of sections referred above of the Environmental (Protection) Act, 1986.
3. In support of my notice, I am enclosing the statement of imputation, rough sketch and report as evidence of proof of violation of the Environment (Protection) Act, 1986.

Place: Srinagar.

Dated: 17/03/2020


Coordinator Water Management,
Wular Conservation and Management Authority,
Kashmir

No: Coord/WM/WUCMA/2019-20/461-69
Dated: 17/03/2020

Copy to the:

1. Chief Executive Director, Wular Conservation and Management Authority, Kashmir for information.
2. Deputy Commissioner, Baramulla for information and necessary action.
3. Director Urban and Local Bodies for information and necessary action.
4. Nodal Officer, NGT with Worthy Chief Secretary J&K Govt. Jammu for information and necessary action.
5. Addl. Deputy Commissioner Sopore for information and necessary action.
6. District Officer, Soil & Conservation Department for information and follow up action.
7. Khilafwarzi Officer/ Block Officer West, WUCMA for follow up action.

Government of Jammu & Kashmir, (U.T)
Wular Conservation and Management Authority J&K, Silk Factory Road Rajbagh, Srinagar, 190008
Officer of the Coordinator Water Management, WUCMA.

Subject Statement of Imputations.

Whereas, a Khilafwarzi report has been laid before undersigned by Block Officer West WUCMA followed by another report submitted by District Officer Soil & Water Conservation Department Baramulla vide his no: DSCOB/Nry/2019-20/675-77 Dated: 09/03/2020 reporting therein that Municipal Council Sopore has started encroaching Wular demarcated land at Co. No; 02, Ningli Sopore and have started dumping of solid waste.

Whereas, the dumping site is falling within the delineated periphery boundary pillar No: 509/10 of Wular Lake.

Whereas, the wular lake is a lake of International Importance specified in the schedule of Wetland (Conservation & Management) Rules, 2019.

Whereas, the Wetlands (Conservation & Management) Rules, 2017 have been notified by the Central Government for Conservation and Management of Wetlands in exercise of powers conferred under section-25, read with sub-section (i) and clause V of sub-section (3) of section 3 of the Environment (Protection) Act, 1986.

Whereas, the said rules prohibit reclamation of Wetlands and Conversion of non-wetland uses under rule 4(2) (i) without prior approval of the Central Government.

Whereas, sec 17 of Environmental (Protection) Act provides for offense by government departments and provides for holding guilty head of the department under whose control such offences / breaches are committed by the said department.

Whereas, sec 15 of Environment (Protection) Act provides for penalty for contravention of the provisions of the Act and the Rules, order and directions which provides for imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees. or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

Whereas, Hon'ble National Green Tribunal Principal Bench New Delhi in its order dated: 16-12-2019 (copy enclosed) has ordered that "*All the concerned departments shall ensure that there is no scope of ingress of solid waste in and around the water bodies*".

Now, therefore, keeping in view the above facts, as intention is hereby pronounced under sec 19 (b) of EPA by this Authority to lodge a formal complaint before Hon'ble Court against the violation / contraventions of provisions supra and hence this statement of imputation is framed for proceeding further in the matter.


Coordinator Water Management,
Wular Conservation & Management Authority,
Kashmir

Annr- J

Government of Jammu & Kashmir
WULAR CONSERVATION & MANAGEMENT AUTHORITY (WUCMA)
SILK FACTORY ROAD, RAJBAGH SRINAGAR, 190008.

Regional Director,
Pollution Control Board,
Srinagar.

No. Coord/WM/WUCMA/2020-21/41-42

Dated: 29-05-2020

Subject: - Dumping of Solid Waste inside the demarcated area of Wular Lake by Municipal Committee Sopore and issuance of notice under section 19 (b) of EPA-1986-reg.

Sir,

On the above cited subject, the undersigned has received a report from field staff regarding dumping of Solid Waste within the Wular demarcation, which is an offence under rule 04(2) (i) of Wetland (Conservation & Management) Rules 2017 read with Section 15 & Section 17 of EPA, 1986. Accordingly, a notice was issued to to delinquent officer of Municipal Committee Sopore by undersigned vide No.Coord/Wm/WUCMA/2019-20/461-69, Dated:- 17-03-2020 regarding my intention to file the complaint. However, the field staff has reported that Municipal Committee Sopore has not stopped the work despite issuance of said notice and continues to violate the provision of Act *Supra*.

Therefore under the provisions of Section 19 (b) of EPA- 1986, I hereby submit this case with all details to your Authority for taking further legal action in the instant matter please.


Coordinator, Water Management
Wular Conservation & Management Authority,
Kashmir.

Copy for information and necessary action to the:

1. Chairman Pollution Control Board, Jammu & Kashmir, Jammu.
2. Chief Executive Director, WUCMA, Srinagar.
3. Divisional Forest Officer, Bandipora Forest Division.


Coordinator, Water Management
Wular Conservation & Management Authority,
Kashmir

Ann: K



Government of Jammu & Kashmir
J&K Pollution Control Board
Office of the Regional Director Kashmir

Sheikh-ul-Alam Complex, Rajbagh, near Government Silk Factory, Srinagar-190008
www.jkspcb.nic.in (email: regionaldirectorkmr@gmail.com) (Tel 0194-2135911/telefax 2311842)

Executive Officer,
Municipal Council Sopore.
District Baramulla.

Legal Notice

No: PCB/ROK/LS/20/134-38

Dated: 15-06-2020

Subject: Dumping of solid waste within Wular Lake demarcation area at Ningli Sopore, initiation of legal action thereof.

Reference: Coordinator Water Management, Wular Conservation & Management Authority letter No. Coord/WM/WUCMA/2020-21/41-44 dated 29-05-2020.

Whereas, municipal solid waste is to be collected, transported and disposed in accordance with Solid Waste Management Rules 2016, framed by the Government in exercise of the powers conferred under Environment Protection Act 1986.

Whereas, under Rule 15 of the above mentioned Rules, it is the duty of the municipal body to ensure temporary storage, transportation and disposal of the solid waste within its jurisdiction on scientific lines.

Whereas, vide the above mentioned letter dated 29-05-2020, WUCMA has brought into the notice of this Board that you are dumping the solid waste within Wular Lake demarcation area at Ningli Sopore.

Whereas, this practice is in contravention to the Solid Waste Management Rules 2016, directions of Hon'ble National Green Tribunal and such disposal of municipal solid waste is a serious threat to the water body.

Whereas, under Rule 15 of the Environment Protection Act 1986, whosoever fails to comply with or contravenes any of the provisions of the said Act, or Rules made thereunder, shall be liable for punishment. (Read with Rule 17 (1) (2) of Environment Protection Act 1986), and also liable to Environmental Compensation on the basis of Polluter Pays Principle.

Now, therefore, you are called upon to show cause within 15 days as to why the instant case may not be recommended to the competent authority of JKPCB **for levying Environmental Compensation** on your organisation for brazen violation of MSW Rules and Hon'ble National Green Tribunal (NGT) directions.



[Signature]
15.06.2020
Rafi Ahmad Bhat (SFS)
Regional Director Kashmir

Copy to:

1. Member Secretary JK PCB Jammu for information.
2. Deputy Commissioner Baramulla for information and necessary action.
3. Coordinator Water Management, Wular Conservation & Management Authority. This is in reference to his office letter No. Coord/WM/WUCMA/2020-21/41-44 dated 29-05-2020.
4. D.O. SPCB Baramulla for necessary follow-up action. This is in reference to his report No. PCB/Bla/MSWM/2020/164 dated 06-06-2020.

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Government of Jammu and Kashmir
JK POLLUTION CONTROL BOARD

Ann: L

Winter Office: November-April
Parivesh Bhawan, Gladni
Transport Nagar, Narwal,
Jammu (J&K) 180006
Ph/Fax : 0191-2476925

Summer Office: May - October
Sheikh Ul Alam Campus
Behind Govt. Silk Factory,
Rajbagh Srinagar (J&K) 190008
Ph/Fax 0194-2311165

Email: membersecretaryjkspcb@gamil.com.

Executive Officer,
Municipal Council Sopore,
District Baramulla.

No.: PCB/LSK/489/20/117-123

Dated: 26-06-2020.

Sub :- Unscientific disposal and illegal dumping of Municipal Solid Waste at Nigli Sopore area of Wullar Lake by Municipal Council Sopore- **Show Cause Notice, thereof**

Whereas, on account of persistent reports about illegal, unscientific and **environment unfriendly** manner of handling and disposal of the Municipal Solid Waste at **Nigli Sopore** by Municipal Council Sopore, a legal notice was served upon you vide No. **PCB/ROK/LS/2020/134-38** dated **15-06-2020** for initiation of legal action against you as warranted under law.

Whereas, fresh report dt. **25-06-2020** about illegal and unscientific handling and disposal of Solid Waste by Municipal Council Sopore, has been received from the Regional Director, JK Pollution Control Board Kashmir with photographic evidence.

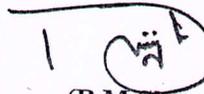
Whereas, the unscientific and illegal dumping of municipal solid waste is in blatant violation of laws and in brazen defiance of the directions of the Hon'ble National Green Tribunal in O.A.No.606/2018 and Municipal Solid Waste Rules 2016.

Whereas, the *modus operandi* adopted by you by way of unscientific and illegal dumping of municipal solid waste at *Nigli Sopore of District Baramulla* and adjoining areas has put the environment of the area to grave threat, besides the irreversible damage done to flora, ecology and surface/ground water and ecosystem of the area.

Now, therefore, take notice and show cause within **15 days** from its issuance as to why:

- Environmental Compensation on the basis Polluter Pays' Principle (PPP) in terms of directions of the Hon'ble National Green Tribunal not be recovered from you.*
- You may not be prosecuted under Environment (Protection) Act 1986 for blatant violation of the provisions of Municipal Solid Waste Rules 2016 and Hon'ble Tribunal orders.*

In the event of not receiving a tenable response within **15 days** of issuance of this notice, the recovery of **Environmental Compensation**, as per prescribed and approved guidelines by Hon'ble NGT, shall become imperative along with initiation of prosecution proceedings in the court of law against you without further notice.


(B.M.Sharma) IFS
Member Secretary
JK PCB

Copy to the following for information and necessary action:

- Principal Secretary to Govt, Housing & Urban Development Deptt. Civil Secretariat Jammu.
- Chief Conservator of Forests, Kashmir for information and has refer to his no. Coord/WM/WUCMA/2019-20/461-69 dt. 17.03.2020.
- Deputy Commissioner /District Magistrate Baramulla.
- Regional Director, Pollution Control Board , Kashmir.
- Director, Urban Local Bodies, Kashmir.
- P.A. to Chairman, JK PCB for information of the Chairman.

OFFICE OF THE CHIEF EXECUTIVE OFFICER
MUNICIPAL COUNCIL SOPORE

(B.M.Sharma) IFS
Memer Secretary
JK PCB

No:- MC/SPR/20/953-56

Dated:- 18.7.2020

Subject:- Reply to your notice No:- PCB/LSK/489/020/117-123 Dated:- 26/06/2020 regarding dumping of Municipal Solid Waste at Dharnambal Sopore.

Sir,

Apropos to the above subject and reference, it is to state that:-

- 01. The spot where the waste is being dumped is state land not forest land and the Govt. has the right to use the land for public purposes. Since the spot is far beyond the buffer zone (200 meters from the bank of the lake is taken as its buffer zone), therefore, there is nothing wrong in using the spot for public interest.
- 02. As already stated the land in question is not forest land. It does not fall in the notification issued by WUCMA notifying the areas around the lake as catchment areas. The area in fact is not in the catchment area of the lake as it is located downstream at approximately 1.9 Km's down the western bank of the lake under no circumstances can run-off water from this spot ever enter the lake as that is physically impossible.
- 03. The apprehension of the J&K Pollution Control Board is not physically possible because the water from the spot in question nor any run-off water from the spot can ever find its way into the lake nor in the Jhelum River simply because it's not physically possible.
- 04. This is an admitted fact that the Wular Lake is a Ramsar site and needs to be protected and preserved in every ecological aspect. However, as already stated the MC Sopore is not dumping the waste in the lake at all nor does the garbage being dumped at the spot in question can ever have any chance of getting carried into the lake simply due to the natural non-breachable barrier.
- 05. Any direction to compel the MC Sopore to stop the use of the said land for the said purpose will lead to untold problem and suffering for the people of Sopore town as there is no alternate suitable land available for the said inescapable necessity. Therefore, any such directions will jeopardize the genuine and perfectly legal interest of the people of Sopore Town.

Further, it is to state that:

- 1) The area where the said spot is located is an extensively built-up area though all such premises are sufficiently away from the site in question. Besides two army camps, a PDC office, a school building and many forest huts and tourist huts, there are large

mail rec. 18/7

L.A. Mr. Shah
P.C. draft reply. look at the justification by Mr. M.C. Sopore. Put up with file
1 Aug 2020

sized habitations existing much more closer to the lake and the Jhelum river. These habitations include Sheer Colony and Ningli where hundreds of houses have been built and are being built. It is very strange that the WUCMA authorities and other departments have had no objection to such construction activities and the resultant fall out on the local area which they are now projecting as very eco-fragile one only to prevent the administration from one of the most inevitable and imperative use of the said land. It is to wonder that if the area is so eco-fragile as is being presented by WUCMA and forest authorities now, how such extensive building up of the area has been allowed to happen.

- ii) The spot in question is low lying besides being sufficiently away both from the Wular Lake and the Jhelum River. The spot is also located on the downstream from the Wular Lake. Therefore, there is no chance of the garbage being dumped at the spot ever finding its way into either the said lake or the said river. Even during the catastrophic flood in 2014 water from the river did not spill over into the said spot nor does water from the said spot ever get spilled over into the river. Therefore, the premise that the Mc Sopore is converting the wetland into a dumping spot is totally whimsical and misleading.
- iii) The spot in question does not fall in the catchment area of the lake as it is located downstream from the lake and consequently any run-off from this spot can never enter the lake.
- iv) Further the catchment area of Wular Lake is very vast and includes major chunks of district Bandipora and sizeable part of district Baramulla. The said area is also densely populated and accordingly among other things these areas are also inescapably in need of proper spots for dumping the waste as is getting regularly generated from these habitations. Obviously land for such purpose is also to be found in the same localities/ areas and it can neither be expected nor would it be possible to shift the waste of these areas at anywhere far and out.
- v) It is, however, admitted that the disposal of the waste has to be done in a scientific and eco-friendly manner. The efforts for the same are afoot. The area is being fenced and also a preliminary detailed proposal for the scientific disposal of the waste including setting up of the necessary machinery and other facilities at the site has been framed.

Currently, the waste at the site is being properly buried underground as the spot otherwise also needs filling up as it is very low-lying and water gets often stagnated in it and can become a breeding ground for various pests and vectors. The disposal of the waste is being done in such a way that there is no nuisance being caused on this account.

Therefore, it is prayed that no coercive directions may be passed as the same would hinder the administration and the MC Sopore from the legitimate and inevitable use of the said

land and may subject the public of Sopore to grave inconvenience and trouble.

Yours Faithfully,


Chief Executive Officer
Municipal Council
Sopore

Copy to the:-

01. Deputy Commissioner Baramulla for favour of kind information.
02. Director Urban Local Bodies Kashmir for favour of kind information.
03. Regional Director Pollution Control Board Srinagar for favour of kind information.



Government of Jammu and Kashmir
JK POLLUTION CONTROL BOARD

Ann: N

Winter Office: November-April
Parivesh Bhawan, Gladni
Transport Nagar, Narwal,
Jammu (J&K) 180006
Ph/Fax : 0191-2476925

Summer Office: May - October
Sheikh Ul Alam Campus
Behind Govt. Silk Factory,
Rajbagh Srinagar (J&K) 190008
Ph/Fax 0194-2311165

Email: membersecretaryjkpcb@gamil.com.

Sh. Sameer Jan,
Chief Executive Officer,
Municipal Council,
Sopore-Baramulla.

No.: PCB/LSK/489/020/966-968

Dt. 10-08-2020

Subject : Unscientific disposal and illegal dumping of Municipal Solid Waste at Nigli Sopore area of Wullar Lake by Municipal Council Sopore-Show Cause Notice, thereof.

Ref. : i) Show cause Notice No. PCB/LSK/489/020/117-123 dt. 26-06-2020
ii) Municipal Council Sopore response No. MC/SPR/20/886-89 dt. 10/07/2020 and No. MC/SPR/20/953-56 dt. 18-07-2020.

Sir,

Both the responses from your office to show cause notice issued by JK Pollution Control Board, which are under reference, have been examined on the touch stone of laws governing environmental protection, rules related to Municipal Waste Management and different directions of Hon'ble National Green Tribunal (NGT), issued in this regard. Main grounds taken in responses are summoned up here in as below :-

- i). *Dumping site is a State land and not forest land.*
- ii). *Location of the Site is away from the water body and being low lying area as against the water body, and other chances of dumped waste getting into the water body are less.*
- iii). *No alternate suitable site for dumping of municipal solid waste is available to Municipal Committee Sopore.*
- iv). *The dumping spot is an extensively built up area which is sufficiently away from the site in question, and justification given on account of habitations.*
- v). *Though presently no scientific land fill is available, but measures are a foot to develop a scientific land fill, while as deep burial is being practised.*

Above assertions and position taken by Municipal Committee Sopore do not stand the test of law and fall flat on ground for subjoined reasons:-

It is immaterial whether the dumping site is a forest land, State land, Private land or even proprietary land of the Municipal Committee, as Municipal Waste cannot be disposed of in the manner in which Municipal Committee Sopore is currently doing. Municipal Committee Sopore has failed to obtain mandatory and statutory permission from the Board viz consent under Section 25 of the **Water (Prevention and Control of Pollution) Act 1974** and mandatory Environmental Clearance under EIA notification(G.O.I) 2006 has also not been obtained. With respect to the

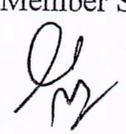
assertion that the dumping site is low lying, it is emphasize that same is all the more objectionable as contamination of ground water by adopting crude methods of waste disposal is for gone conclusion in such cases. It is for the Municipal Committee Sopore to find out alternate and suitable land fill site, develop it on scientific lines and operate the same only with due permission of the Board. Rest habitation and built up area around the water body cannot be considered as permission by the Municipal Committee Sopore to dump the waste in the near vicinity of the water body.

Methods of disposal of the waste at present site of dumping is pathetic and detrimental for the ecology of the area and cannot be permitted by any stretch of imagination on any compelling grounds that Municipal Committee may put forth.

Since your response is tacit admission of the commission of offence by the Municipal Committee Sopore under laws governing environmental protection and no legally tenable justification/ cause has been put forth for dumping of the waste at given site, and thus both the responses fade into insignificance, which are accordingly dismissed.

Necessary orders for levying of Environmental Compensation shall accordingly follow as warranted under rules and approved guidelines of Hon'ble National Green Tribunal in this regard.

Yours sincerely,


(B. M. Sharma), IFS
Member Secretary
JKPCB


Copy to the :-

1. Regional Director, PCB Kashmir to immediately submit the details of violation including quantification of Municipal Solid Waste dumped illegally by fax / email immediately.
2. Director, Urban Local Bodies Kashmir for information.