

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 514/2019**

Applicant(s) : State Level Monitoring Committee

Versus

Respondent(s) : The State of Kerala & others

**VOLUME 1**

Index

Sl.No.	Description	Pages
1.	AFFIDAVIT FILED BY THE CHIEF SECRETARY TO GOVERNMENT OF KERALA AS PER ORDER DATED 16/09/2020 IN OA NO.514/2019	1 - 15

Dated this the 20<sup>th</sup> day of January 2021

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 514/2019**

Applicant(s) : State Level Monitoring Committee

Versus

Respondent(s) : The State of Kerala & others

**AFFIDAVIT FILED BY THE CHIEF SECRETARY TO GOVERNMENT OF KERALA  
AS PER ORDER DATED 16/09/2020 IN OA NO.514/2019**

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 514/2019**

IN RE: REPORT RECEIVED FROM STATE LEVEL MONITORING COMMITTEE, KERALA CONSTITUTED BY HON'BLE NGT VIDE ORDER DATED 16.01.2019 IN OA NO. 606/2018, HEADED BY JUSTICE A.V.R PILLAI, FORMER JUDGE OF KERALA HIGH COURT, TO OVERSEE COMPLIANCE OF DIRECTIONS ON THE SUBJECT OF SOLID WASTE MANAGEMENT

**AFFIDAVIT FILED BY THE CHIEF SECRETARY TO**  
**GOVERNMENT OF KERALA**

I, Dr. Vishwas Mehta, aged 59 years, S/o Dr. P.K. Mehta, residing at Sumanusham, No.5/2653, Palace Road, Kowdiar, Thiruvananthapuram District do hereby solemnly affirm and state as follows:

1. That I am the Chief Secretary to Government of Kerala and as such conversant with the facts of the case as disclosed from the relevant records of the case available and perused by me. The present affidavit is filed in compliance with the directions of this Hon'ble Tribunal dated 16.09.2020.
2. That the Hon'ble NGT as per order dated 16.09.2020 in OA No. 514/2019 has observed that non compliance of Solid Waste Management Rules, 2016 results in damage to the environment and public health. The State of Kerala needs to consider action on the pattern of successful models of other states where meaningful steps to deal with the issue have been initiated in consultation with Central Pollution Control Board. The Hon'ble National Green Tribunal has directed the Chief Secretary, Kerala to take remedial action by constituting a three member team of Secretary, Urban Development Department, Chairman, State PCB and concerned Municipal Commissioner and the Chief Secretary, Kerala may personally monitor the compliance of directions of Hon'ble National Green Tribunal at least on monthly basis and record the proceedings. The Chief Secretary may further direct that if the targeted actions are not taken, the erring officials will not be entitled to draw their salaries from a specified date till compliance. It was further directed that the Chief Secretary, Kerala may file his personal affidavit giving information about commencement of work relating to remediation of legacy waste site(s) and waste processing plant to handle day to day waste generation to avoid creation of legacy waste dump site. Hence,



  
**Dr. VISHWAS MEHTA**  
**Chief Secretary**  
**Government of Kerala**  
**Thiruvananthapuram**

this affidavit is being filed in due compliance to the directions of National Green Tribunal.

3. It is submitted that two consecutive meetings were conducted on 22.09.2020 and 25.09.2020 under the chairmanship of Chief Secretary to discuss the actions to be taken based on the order dated 16.09.2020 of Hon'ble NGT in OA No. 514/2019 and based on the decision of meeting held on 25.09.2020, Government have constituted a three member Committee vide GO(Rt) No. 1767/2020/LSGD dated 28.09.2020 (copy of the G.O is enclosed herewith as **annexure 1**) to monitor the compliance of Solid Waste Management Rules, 2016 in the State, especially at Brahmapuram solid waste processing plant at Ernakulam. In the meeting chaired by Chief Secretary, it has also been decided that the three member committee constituted shall forward an action taken report to the Chief Secretary through Local Self Government Department on the progress/status of setting up of Solid Waste Processing Plant and bio mining of legacy waste dump periodically in a specified format, after convening a meeting on every month.

4. It is submitted that first meeting of three member committee was held on 12.10.2020 under the Chairmanship of Principal Secretary (Urban), Local Self Government Department. In the said meeting it was decided to prepare a template for the collection of data such as solid waste generated in the premises of each Local Self Government Institutions (LSGIs), the quantity of waste that can be managed effectively by LSGIs, the quantity of legacy waste to be removed under each LSGIs and the actions so far taken by the LSGIs for the removal of legacy waste etc. to chalk out an action plan for the implementation of Solid Waste management Rules 2016. The Principal Secretary (Urban), Local self Government Department has convened another meeting on 06.11.2020 to discuss the implementation of Solid Waste management Rules 2016, in compliance with the order of Honble NGT in OA No.514/2019. In the meeting it has been decided to constitute a Waste Management Cell in Directorate of Urban Affairs and Directorate of Panchayat to co-ordinate the waste management activities in Municipalities and Gramapanchayats. In the meeting Suchitwa Mission was also entrusted to submit a proposal to constitute a waste management cell in each LSGIs. Principal Secretary (Urban), Local Self Government Department has also convened another meeting on 13.11.2020 to review the action taken based on the minutes of the meeting held on 06.11.2020.

5. It is submitted that a State Level Meeting was also held on 11.12.2020 chaired by the Chief Secretary to review the action taken for ensuring effective implementation of rules framed under the Environment (Protection) Act, 1986 and relevant orders of Hon'ble NGT in that context. In the said



meeting it has been decided that all the District Collectors shall review the implementation of environment related rules in the State bi weekly as ordered by Hon'ble NGT and may forward the minutes of District Level Monitoring Committee (DLMC) meetings with specific recommendations for effective implementation of the Rules to the Director of Urban Affairs and Director of Panchayats, with copy to the Principal Secretary, Local Self Government Department. The District Collectors shall call for the details from each and every stakeholder concerned who are responsible for getting the project materialized. The issues of legacy waste dump sites may be given high priority and progress of polluted river streches may also be reviewed during DLMC meetings.

6. The meeting held on 11.12.2020 has entrusted the Principal Secretary, Local Self Government Department and the Principal Secretary (Urban), Local Self Government Department to hold monthly disussions with Directorate of Urban Affairs and Directorate of Panchayats, to assess the situation and intervene as needed to sort out any issues for ensuring compliance to the Rules related and orders of Honble NGT. In the meeting it has also been decided that District Planning Committees with the District Collectors as Member Secretaries shall prioritise the projects that need be taken up ensuring compliance to the Rules related to waste management and orders of Honble NGT with respect to safe guarding of environment, in due adherence to the State Policy as envisaged under article 48 A of the Constitution of India.

7. It is also submitted that based on the discussions held in the meeting on 11.12.2020, direction has been given to State Planning Board and State Resource Group to take necessary action to include instructions in the annual plan guidelines to all concerned LSGIs to incorporate projects to ensure that Solid Waste management and Liquid Waste Management interventions are taken up for the compliance of NGT directions in various OAs.

8. As per GO(Rt) No.3122/2017/LSGD dated 23/09/2017 and GO(Rt) No. 499/2018/LSGD dated 21.02.2018 Government have constituted a State Level Advisory Committee (SLAC) under the chairmanship of Chief Secretary with a view to co-ordinate activities towards waste management projects in the State as insisted by Solid Waste Management Rules. It is submitted that 37 meetings of SLAC have already been convened in regular intervals for taking various decisions in implementing various waste management projects in the state and to review the action taken on the said decisions.

9. It is submitted that Government have been continuously endeavouring to find comprehensive solutions to manage the hazardous implications from



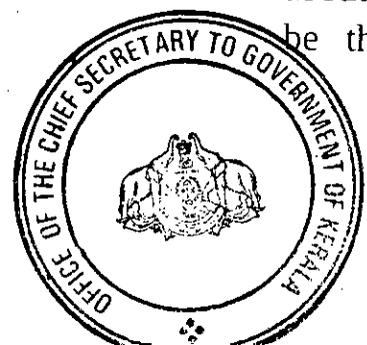
  
**Dr. VISHWAS MEHTA**  
**Chief Secretary**  
**Government of Kerala**  
**Thiruvananthapuram**

accumulation and unscientific disposal of waste and garbage in the State. Scientific management of waste by establishing comprehensive solid Waste-to-Energy (WtE) systems with minimal leachate is a solution to the problem of accumulated garbage/waste. The first meeting of SLAC was held on 04<sup>th</sup> October 2017. The SLAC at its subsequent meetings explored the various options for bringing out a sustainable solution to the solid waste management in the State. The Committee also analyzed the successful models followed by other states as well as in other developed countries. Based on the analysis and studies the Committee observed that Integrated Solid Waste Management projects with Waste to Energy Plants are the sustainable solution to mitigate the issue of waste management in the State.

10. SLAC under the chairmanship of Chief Secretary has identified seven locations in Thiruvananthapuram, Kollam, Thrissur, Palakkad, Malappuram, Kozhikode and Kannur districts for the development of such projects. The SLAC also resolved to identify the private partner for the development of the project through a technology neutral Global Tender process and fixed the Tariff Rate to be quoted by the private partner for sale of the power being generated in the plant as the criteria for the submission of bids. As per GO(Ms)No.82/2018/LSGD dated 11.06.2018 ((copy of the G.O is enclosed herewith as **annexure 2**) Government have accorded sanction to establish 5 MW Solid Waste-to-Energy plants that would generate energy and reduce environmental and health hazards on Design, Build, Finance, Operate and Transfer (DBFOT) basis in Public Private Partnership (PPP) mode at seven identified locations in the State. The project to be implemented by a private partner, to be selected through a Global Tender process and Kerala State Industrial Development Corporation (KSIDC) has been appointed as the nodal agency for coordinating the selection of private partner and for implementing the projects. KSIDC engaged M/s IRG Systems South Asia Pvt Ltd, based in Delhi, as Consultant for preparing RFP for selection of the Concessionaire.

11. As per G.O(MS)No.174/2018/LSGD dtd 22.11.2018 (copy of the G.O is enclosed herewith as **annexure 3**) Government have accorded sanction to the final tender documents for the selection of private partner for the development of the project at the 7 locations. Tipping Fee to be quoted by the private partner for the collection, transportation and processing of 1 tonne of waste is the bidding criterion for selecting the concessionaire. The project will be implemented in each district in a cluster based model. The cluster in each district comprises of the LSGIs participating in the project (a corporation and municipalities in the district within a radial distance of about 35-40 kms). The selected bidder has to incorporate an SPV, who will be the concessionaire for implementing the project. The Concession

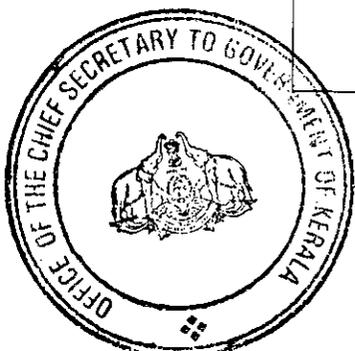
  
**Dr. VISHWAS MEHTA**  
Chief Secretary  
Government of Kerala  
Thiruvananthapuram



Agreement is executed with the Concessionaire by the participating LSGIs, LSGD and KSIDC. The concession period for the project including two years of construction period is 27 years. Land for developing the project will be leased to KSIDC by Corporation/ LSGIs/ Other Departments and the same will be sub leased to the Concessionaire for developing the project, with the right to mortgage the land for raising funds for project implementation. The major roles and responsibilities of the Private partner includes the project development (such as designing, financing and operating the plant as per the existing rules and regulations), setting up of plant within 24 months of obtaining sanctions for setting up the plant, ensure the working of the plant 24 hrs and 365 days, Setting up of secondary bins at suitable locations, transportation of solid waste from the secondary bins to the Processing Facility with minimal handling and limited inter-vehicle transfers, Operation and maintenance of the Processing Facilities and Sanitary Landfills by adhering to the pollution control standards for air, water and land prescribed by KSPCB and CPCB and Treatment of flue gas vented to atmosphere adequately so that the pollutants and dust levels are well within the acceptance level as per statutory requirements of CPCB/KSPCB. The major roles and responsibilities of the participating LSGIs include approval of the operational plan within a week of its submission by the Concessionaire, facilitating the approvals and clearances for the concessionaire for the development of the project, primary collection of the Municipal Solid Waste from the sources by door to door and street sweeping etc and deposit of the same in the designated collection bins. Payment for Power / Energy generated in the plant will be the secondary source of revenue to the Concessionaire. Payment for Power will be paid by Kerala State Electricity Board (KSEB) directly to the concessionaire as per the Power Purchase Agreement (PPA) and Tariff Rate fixed by Kerala State Electricity Regulatory Commission (KSERC).

The status of each project is as given below

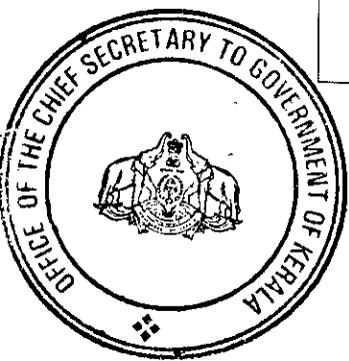
SL. NO	DISTRICT	STATUS
1	Kozhikode 300 TPD processing waste to Energy Plant	Tender process for the project completed and Concession Agreement executed on 04 <sup>th</sup> September 2019. M/s Malabar Waste Management Pvt Ltd, the special purpose vehicle incorporated by M/s Zonta Infratech Pvt ltd, the successful bidder in the tender process is the Concessionaire for the project. The Detailed Project Report (DPR) submitted by the Concessionaire evaluated and approved



		<p>by a technical Committee.</p> <p>The Concessionaire obtained No Objection Certificate from State Environment Impact Assessment Agency for environment clearance for the project. The Concessionaire has also obtained all statutory clearances from concerned departments such as State pollution Control Board, Town &amp; Country Planning Department, Kozhikode Corporation and Factories &amp; Boilers. Statutory clearances from Fire &amp; Rescue Department is being processed. The basic developmental activities at the site such as road construction, clearing of legacy waste dumped at the site, site levelling etc has commenced. Proceedings for the finalization of power tariff for the project is progressing and is expected to be finalized soon. The Concessionaire has also informed that they have achieved the financial closure for the project. The construction activities of the plant is expected to commence by January 2021.</p>
2	Kannur 200 TPD processing capacity waste to Energy Plant	<p>Tender process for the project is completed and Concession Agreement is being executed. M/s Blue Planet Kannur Waste Solutions Pvt Ltd is the Concessionaire for the project. 9.75 acres of land MSW dumpsite of Kannur Municipal Corporation at Chelora is the location identified for the project. As per the directions of SLAC on Waste Management agency for clearing the legacy waste dumped at the site has been identified and Kannur Municipal Corporation has taken steps to execute the work at the earliest. As per Government directions Kannur Municipal Corporation has handed over the 9.75 acres at Chelora on lease basis to KSIDC.</p> <p>The Concessionaire has to commence the preparation of the DPR for the project. On approval of the DPR by SLAC, the concessionaire has to move for obtaining statutory approvals for commencing construction activities and also to take steps to achieve financial closure.</p>



3	Palakkad 200 TPD processing capacity waste to Energy Plant	Tender process for the project is completed and Concession Agreement executed on 24 <sup>th</sup> August 2020. Blue Plant Palakkad Waste Solutions Pvt Ltd is the Concessionaire for the project. The Concessionaire is now in the process of preparation of DPR for the project and has informed that the first draft of the DPR will be submitted soon. On approval of the DPR by SLAC, the concessionaire has to move for obtaining statutory approvals for commencing construction activities and also to take steps to achieve financial closure. The Concessionaire has also informed that steps have been taken to commence the developmental activities of the plant by March 2021.
4	Kollam 200TPD processing capacity waste to Energy Plant	Tender process for the project completed and Concession Agreement executed on 14 <sup>th</sup> October 2020. M/s Venad Waste Management Pvt Ltd is the Concessionaire for the project. The Concessionaire submitted the draft DPR for the project and technical Committee evaluated the DPR and suggested incorporate a few modifications. The final DPR for the project is expected to be submitted by 22 <sup>nd</sup> December 2020. The Concessionaire also taken steps to submit application to Concerned Departments for statutory approvals and clearances. The concessionaire has initiated steps for obtaining statutory approvals for commencing construction activities. Further he has to take steps to achieve financial closure for the project.
5	Malappuram 200 TPD processing capacity waste to Energy Plant	As per directions given District Administration has identified an alternate location for the project in Malappuram district. District Administration has submitted the proposal to Government for approval to hand over the land to KSIDC for the development of the project. Global Tender for the project will be floated on receipt of the land by KSIDC.



6	Thrissur 200 TPD processing capacity waste to Energy Plant	District Administration has identified an alternate location for the project in Thrissur district. State Government has accorded sanction to Thrissur Municipal Corporation to proceed with the purchase of the identified land and to hand over the same to KSIDC. Global Tender for the project will be floated on receipt of the land by KSIDC.
7	Thiruvanantha puram 300 TPD processing capacity waste to Energy Plant	Based on the proposal submitted by M/s ESS Conservatory Inc and as per the directions of SLAC on Waste Management KSIDC floated global tender under swiss challenge method to identify a suitable concessionaire for the development of the project. Since no challenging bids received for the project the project has been re tendered on 27 <sup>th</sup> May 2020. In the second tender process also no challenging bids received for the project. Meanwhile Bid Evaluation Committee chaired by Secretary Power Department evaluated the technical proposal submitted by the proposer. The Committee found the proposal as technically qualified and recommended to proceed with the Financial evaluation of Bid. Results of the technical evaluation was reported to the 37 <sup>th</sup> meeting of SLAC on Waste Management and SLAC directed State Pollution Control Board to review the proposal and report the remarks in the next meeting of SLAC.

12. It is submitted that Kochi Municipal Corporation had identified, constructed, commissioned and is operating a Windrow compost plant at Brahmapuram for treating the biodegradable fraction of the waste since April 2008. It is informed by the Corporation that the Treatment capacity of Brahmapuram plant for treating biodegradable waste is 250 tonnes per day. Total quantity of bio degradable and non bio degradable waste generated per day in Kochi Municipal Corporation area is 326 tonnes per day (Biodegradable waste - 226 TPD, Non-biodegradable waste - 100 TPD). 9.5 TPD bio degradable waste is processed at source by households and about 11 TPD is processed by the real estate builders association, CREDAI. As per the report of Corporation, the remaining 306 TPD of wastes are collected and

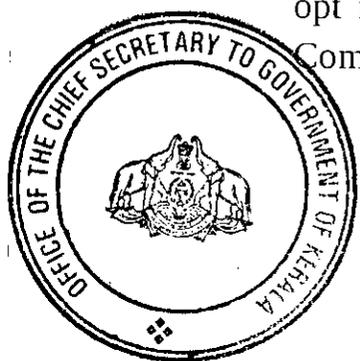


transported to Brahmapuram for processing. Of the 306 TPD, 206 TPD of biodegradable wastes are processed in the Windrow composting plant. To avoid further dumping of waste, portion of the non-biodegradable waste is taken for recycling and recovery by the contractor engaged by the Corporation. It is an admitted fact that the treatment plant at Brahmapuram is in a dilapidated condition.

13. It is submitted that 85% of Households (HHs) in Kochi Corporation area store wastes in segregated form (Biodegradable waste and Non-biodegradable wastes separately). 5% of HHs where source segregation was not practiced belongs to the areas in and around Fort Kochi. To promote source segregation of wastes, under the Cochin Smart Mission (Smart City Project) 30,000 bins were distributed to the HHs in Fort Kochi area. About 59.8% of shops/commercial establishments store wastes in segregated form. Rest of the establishments are either small outlets or shops which do not generate much wastes other than food waste.

14. It is submitted that repair of trommels and many other maintenance works were carried out in the Brahmapuram plant in March 2019. On an average 250 Tonnes of biodegradable wastes are processed in the plant daily and about 20 tonnes of finished 6 mm sieved manure is produced which are sold to planters in Idukki, Theni, Kambam and other parts of Tamil Nadu, Krishi Bhavans. It is also mixed with other fertilizer to increase the nutritional value.

15. It is submitted that construction of leachate collection tank of 1,00,000 litres has been completed at Brahmapuram plant. 5 truck loads (5x5000litres) of leachate are taken to the septage treatment plant situated within the premises and treated there. Though the work for preparation of DPR for leachate treatment plant was awarded after tendering process to the lowest bidder on 29/07/2019, GIZ a German collaboration agency who supports Corporation under the Sustainable Urban Development - Smart Cities project was also engaged to suggest suitable technology for the leachate treatment plant. As the technology proposed by GIZ that of Sequencing Batch Reactor was different from that proposed by Suchitwa Mission of Electrocoagulation, the council that met on 03/03/2020 referred the matter to the Health Standing Committee and the committee wanted to take a suggestion from Suchitwa Mission. The technical committee on liquid waste management constituted by Suchitwa Mission that met on 25/09/2020 in which Chief Environmental Engineer of Regional Office Pollution Control Board Thiruvananthapuram is also a member suggested to opt for treating the leachate in the septage treatment plant. The Technical Committee also assessed that presence of heavy metals will not tamper the



treatment efficiency. Kochi Corporation has earmarked an amount of Rs.1,00,00,000 /- from the plan fund for the year 2020-2021 for the reconstruction of the compost plant shed at Brahmapuram.

16. It is also submitted that tenders are floated to purchase of bailing machines and dusters to be installed in the Material recovery facility (MRFs) constructed at various locations in Kochi Corporation. Rs. 20 Lakh has been allocated under plan fund of Corporation for the year 2020-21, by operating the MRFs the non bio degradable waste can be taken for recovery/recycling directly from the MRFs. It is expected that 20% reduction in the non biodegradable waste taken to Brahamapuram plant can be achieved by this. Kochi Municipal Corporation had identified land for constructing landfill in the 110 acres of land. The Chief Environmental Engineer, Kerala State Pollution Control Board, Regional Office, Ernakulam had informed after inspection that the land identified by Corporation at Brahmapuram for construction of scientific landfill is not suitable as per the guidelines of CPCB as 2m clearance to the ground water table from the bottom liner of the landfill cannot be ensured and to find some other place in the 110 acre land at Brahmapuram. As per G.O (Rt)No.1198/2020/LSGD dated 18/06/2020, Government have accorded sanction to Kerala Enviro Infrastructure Limited and Clean Kerala Company Limited for constructing regional sanitary landfill in the land purchased by KINFRA from FACT near Brahmapuram by utilizing 25 acres of land.

17. It is submitted that Government have made honest interventions for the scientific disposal of legacy waste at Brahmapuram. As per the direction of State Level Monitoring committee of NGT in its meeting held on 06.04.2019, Kochi Municipal Corporation floated tender for bio mining the legacy waste at Brahmapuram. As nobody participated in the tender, the Corporation has re-tendered the work on 26.10.2019 and received only one bid which was approved technically. In the circumstance that the Council of Kochi Municipal Corporation has not taken decision on the matter in a time bound manner and considering the urgent steps to be taken to manage the legacy waste scientifically, as per G.O(Ms)No.08/2020/DMD dated 05/03/2020 (copy of the G.O is enclosed herewith as annexure 4) Government have entrusted Kerala State Industrial Development Corporation (KSIDC) to initiate tender procedure for identifying a suitable agency for carrying out the rehabilitation of Municipal Solid Waste (MSW) dumpsite at Brahmapuram in Ernakulam district after cancelling the tender floated by Kochi Municipal Corporation. Accordingly KSIDC had floated e-tender on 20<sup>th</sup> March 2020 for identifying a suitable agency for the rehabilitation of MSW dumpsite at Brahmapuram in Ernakulam district. 22<sup>nd</sup> April 2020 was the last date for the submission of bids and KSIDC received



two bids in response to the tender. As per G.O(Rt) No.985/2020/LSGD dated 26/05/2020 (copy of the G.O is enclosed herewith as **annexure 5**) Government have constituted a Technical Evaluation Committee chaired by Principal Secretary LSG (Urban) Department to evaluate the technical bids received for the project. The Committee evaluated the Technical Bids submitted by the two agencies and found that both the bids received are not meeting the minimum eligibility criteria for technical and financial qualifications. Subsequently the Committee resolved to cancel the tender process and directed KSIDC to re-tender the project.

18. In accordance with the decision taken at the Technical Evaluation Committee meeting, KSIDC re-tendered the project on 24<sup>th</sup> June 2020 in Government e-tender portal. The pre bid meeting as part of the tender process was held on 16<sup>th</sup> July 2020. 30.07.2020 was the last date for the submission of bids. Considering the request by the prospective bidders the time for the submission of bids extended up to 27.08. 2020. The Technical Bids in e-tender portal were opened on 03.09.2020 and the following are three consortiums that had submitted bids for the project:

1. Consortium of M/s G J Naturecare and Energy Pvt Ltd, Kochi and M/s Equipo, Polland. (M/s G J Nature Care & Energy Pvt Ltd is the lead member and and M/s Equipo is the operator).
2. Consortium of M/s Tholani Clean Energy Pvt Ltd Kochi and M/s Geetanjali Envirotech Mumbai (M/s Tholani Clean Energy Pvt Ltd is the lead member and M/s Geetanjali Envirotech is the operator)
3. Consortium led by M/s Zonta Infratech Pvt Ltd, Bangalore and M/s Bauer GmbH , Germany (M/s Zonta Infratech Pvt Ltd is the lead member and operator of the Consortium and M/s Bauer GmbH is the supporting member).

19. It is submitted that the second meeting of Technical Evaluation Committee chaired by Principal Secretary Local self Government (Urban) Department held on 23/09/2020 evaluated the bids based its responsiveness and minimum eligibility criteria for technical and financial qualification. The Committee after detailed evaluation noted that the two bids submitted by the consortiums led by M/s G J Ecopower Pvt Ltd and M/s Tholani Clean Energy Pvt Ltd are non responsive and does not meet the prescribed minimum eligibility criteria. After detailed discussion, the Committee resolved to declare the two bids submitted by the above consortiums as technically NOT qualified on multiple grounds of shortfalls and insufficiencies. The Committee further observed that the bid submitted by the Consortium led by M/s Zonta Infratech Pvt Ltd is responsive in terms of

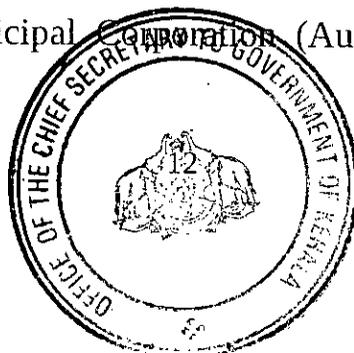


submission of all required formats and supporting documents. The Committee further observed that as per the documentary evidences attached along with the bid such as client certificate and annual reports the Consortium is meeting the technical and financial qualification as stipulated in the tender document. The Committee then awarded scores to M/s Zonta Infratech Pvt Ltd based on the technical scoring criteria detailed in the tender document. Based on the supporting documents attached along with the bid document the Consortium secured 90 marks as technical score. As per the RFP document 70 marks was the qualifying marks for Financial Bid Evaluation. Accordingly the Committee resolved that the Bid submitted by the Consortium led by M/s Zonta Infratech Pvt Ltd. has secured more than the minimum prescribed score and is technically qualified to open the Financial bid submitted.

20. The Financial Bid submitted by the Consortium led by M/s Zonta Infratech Pvt Ltd opened at 11.30 am on 12.10.2020 in e- tender portal. As per the Financial Bid the total cost submitted by the Consortium is Rs. 54,90,36,036/- (Rupees Fifty Four Crores Ninety Lakhs Thirty Six Thousand Thirty Six only) excluding GST. After completing the tender process, KSIDC has submitted the report to Government for taking further steps through Kochi Municipal Corporation and State Pollution Control Board (KSPCB) to examine the quantity of legacy waste assessed by the bidder and the rate quoted by the bidder to under take the rehabilitation, before proceeding further with the project.

21. It is submitted that the Government have directed Kochi Corporation to take urgent necessary action to assess the quantity of legacy waste and justification of the rate quoted by M/s Zonta, the bidder selected for the work, in consultation with Pollution Control Board. To examine the quantity of legacy waste, survey of the area to be biominer is to be conducted and for that Kochi Corporation has requested to NIT Calicut to submit their terms and conditions to conduct the said survey. Kochi Corporation Council is considering the award of the work to NIT Calicut in their Council Meeting on 21.01.2021. The Survey will take 15 days and remediation works by M/s Zonta can start from 10.02.2021.

22. It is submitted that as per G.O.(Ms) 01/2016/LSGD dated 04.01.2016 (copy of the G.O is enclosed herewith as **annexure 6**) Government had approved the project of M/s G.J.Nature Care Consortium submitted by KITCO for the implementation of a Waste-to-Energy project at Brahmapuram, Kochi and allied areas at a total cost of Rs 295 Crore. Accordingly Kochi Municipal Corporation (Authority) and M/s. G.J.Eco



  
**Dr. VISHWAS MEHTA**  
Chief Secretary  
Government of Kerala  
Thiruvananthapuram

Power Pvt.Ltd (Concessionaire) executed a Concession Agreement for the implementation of the project on Design, Build, Finance, Operate and Transfer (DBFOT) basis, on 17<sup>th</sup> February, 2016. The Government had taken all possible support and measures for the implementation of the project and granted time to the Concessionaire from 17.02.2016 to 30.04.2020, to achieve the financial closure of the project. The concessionaire miserably failed to implement the project even after 1400 days elapsed after the signing of the agreement. As per G.O.(Rt.)No.805/2020/LSGD Dated 30.04.2020 (copy of the G.O is enclosed herewith as **annexure 7**) Government have cancelled the approval granted to the project of M/s.G.J.Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and the Secretary, Kochi Municipal Corporation has been directed to take immediate steps to terminate the Concession Agreement executed with M/s G.J.Eco Power Pvt.Ltd for the implementation of the project following the procedure laid down in Article 16 of the Agreement executed between Kochi Municipal Corporation and M/s. G.J.Eco Power Pvt.Ltd.

23. As per G.O.(Rt.)No.1064/2020/LSGD Dated 05.06.2020 (copy of the G.O is enclosed herewith as **annexure 8**), Government have rejected the request of the Chairman and Managing Director, M/s. G.J. Eco Power Pvt. Ltd., for reconsidering the decision taken in G.O.(Rt.)No.805/2020/LSGD Dated 30.04.2020 and the Managing Director, KSIDC was also directed to take immediate steps to float RFP for the selection of a suitable concessionaire for setting up of a Centralized Waste Treatment Plant at Brahmapuram Kochi, with the broad terms and conditions ordered in G.O. (Ms.)No.82/2018/LSGD dated 11/06/2018 and G.O.(Ms.)No. 174/2018/LSGD dated 22/11/2018.

24. KSIDC floated e-tender for the project on 24<sup>th</sup> June 2020. The pre bid meeting as part of the tender process held on 16<sup>th</sup> July 2020 and representatives from more than 10 firms attended the meeting. 31<sup>st</sup> July was the last date for the submission of bids. Considering the request by prospective bidders attended the pre bid meeting the time for submission of bids extended up to 30<sup>th</sup> August 2020 and further up to 14<sup>th</sup> September 2020. The technical bids received in e- tender portal opened on 16<sup>th</sup> September 2020 and the following two agencies submitted bids for the project.

Consortium led by M/s Tholani Clean Energy Pvt Ltd , Kochi  
Consortium led by M/s Zonta Infratech Pvt Ltd, Bangalore



  
Dr. VISHWAS MEHTA  
Chief Secretary  
Government of Kerala

The technical bids submitted by the two agencies were evaluated by the Bid Evaluation Committee on 07.01.2021. It was found that only one bidder was qualified. The Committee recommended for retendering the work in accordance with Government orders. In case of single bid found qualified for a work, a mandatory second bidding is to be done. Accordingly, the bids have been invited again, however, keeping the least 15 working days as the time framework. It is expected that the work for WtoE plant would be awarded by 5<sup>th</sup> February 2021.

25. It is submitted that the following are the challenges faced by the authorities for identifying competent agency for establishing waste to energy projects in the State.

1. Availability of limited players in the sector : Based on the feedback received from the prospective bidders at various discussions the element of risk associated with WtE sector is much high compared to infrastructure development projects in other sectors. Hence only limited players are available in the sector.
2. Collection & Segregation of waste: As per the tender the Participating Local Bodies are responsible for the primary collection of solid waste that is from the households and other establishments within the project cluster. The waste from the primary sources will be deposited in the bins being provided by the Concessionaire at the secondary collection points. The Concessionaire is responsible for the secondary collection from secondary collection points, transportation to the processing facility and the scientific processing of solid waste as per rules. Majority of the players in the sector are not in a position to take the responsibility of collection and transportation of waste. In addition being a DBFOT model project the scope of collection and transportation also impacts on the total project cost.
3. The characteristics of waste – The bidders informed that success of waste to energy projects depends on the characteristics of municipal solid waste in the state. The generation of power mainly depends on the calorific value of the waste. The bidders are under the impression that the calorific value of MSW in Kerala is quite less compared to other states in the country.
4. Quantity of Waste – Modern technologies in waste to energy sector requires uninterrupted feed of municipal solid waste. Though tender provides a commitment from Government side for the supply of



  
**Dr. VISHWAS MEHTA**  
**Chief Secretary**  
**Government of Kerala**  
**Thiruvananthapuram**

minimum quantity of waste the bidders feels that required quantity is not available for the viable operation of the plant.

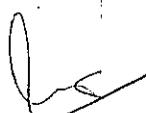
26. It is submitted that monitoring and time bound interventions will be ensured to implement waste management projects for the compliance of NGT directions in various OAs and Solid Waste Management Rules in the State and it is expected that waste management issues of the state can be addressed to a great extent on the commissioning of proposed Integrated Waste Management Projects with Waste to Energy facility.

27. It is submitted that present affidavit is being filed by the State of Kerala in compliance with the orders of this Hon'ble Tribunal and the deponent craves leave of this Hon'ble Tribunal to file further affidavit as and when necessary as required by this Hon'ble Tribunal.

28. All facts stated above are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

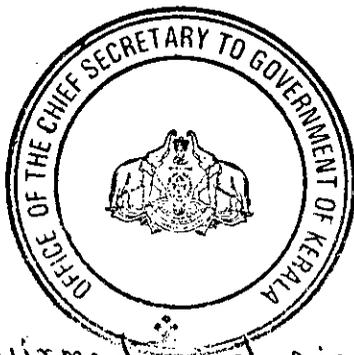


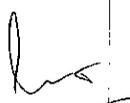
VERIFICATION

  
DEPONENT  
**Dr. VISHWAS MEHTA**  
Chief Secretary  
Government of Kerala  
Thiruvananthapuram

I, Dr. Vishwas Mehta, S/o Dr. P.K. Mehta, residing at Sumanusham, No.5/2653, Palace Road, Kowdiar, Thiruvananthapuram District do hereby verify that the contents of paras 1 to 27 of this affidavit are true and correct to the best of my knowledge and belief and are based on the records of this case.

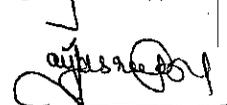
Verified on this 20<sup>th</sup> day of January, 2021 at Thiruvananthapuram, Kerala.



  
DEPONENT  
**Dr. VISHWAS MEHTA**  
Chief Secretary  
Government of Kerala  
Thiruvananthapuram

Solemnly affirmed and signed this before me by the deponent who is known to me on this 20<sup>th</sup> day of January 2021 at Govt. Secretariat, Thiruvananthapuram



  
**JAYASREE P.N.**  
Under Secretary  
Local Self Government Dept.  
Govt. Secretariat, Thiruvananthapuram

**BEFORE THE NATIONAL GREEN TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 514/2019**

Applicant(s) : State Level Monitoring Committee

Versus

Respondent(s) : The State of Kerala & others

**VOLUME 2**

Index

Sl.No.	Description	Pages
1	ANNEXURE 1 - GO(Rt) No. 1767/2020/LSGD dated 28.09.2020	1 - 3
2	ANNEXURE 2 - GO(Ms)No.82/2018/LSGD dated 11.06.2018	5 - 13
3	ANNEXURE 3 - G.O(MS)No.174/2018/LSGD dtd 22.11.2018	15 - 23
4	ANNEXURE 4 - G.O(Ms)No.08/2020/DMD dated 05/03/2020	25 - 29
5	ANNEXURE 5 - G.O(Rt)No.985/2020/LSGD dated 26/05/2020	31 - 33
6	ANNEXURE 6 - G.O.(Ms)01/2016/LSGD dated 04.01.2016	35 - 43
7	ANNEXURE 7 - G.O.(Rt.)No.805/2020/LSGD dated 30.04.2020	45 - 51
8	ANNEXURE 8 - G.O.(Rt.)No.1064/2020/LSGD dated 05.06.2020	53 - 61

Dated this the 20<sup>th</sup> day of January 2021

File No.LSGD-DC1/534/2019-LSGD

**GOVERNMENT OF KERALA****Abstract**

Local Self Government Department- Committee to monitor the compliance of Solid Waste Management Rules, 2016 in the State - Solid waste processing plant at Brahmapuram, Ernakulam in compliance with the order of Hon'ble National Green Tribunal in O.A. No. 514 – constituted - Orders issued.

**LOCAL SELF GOVERNMENT (DC) DEPARTMENT**

G.O.(Rt)No.1767/2020/LSGD

Dated,Thiruvananthapuram, 28/09/2020

Read 1. Order dated 16.09.2020 of Hon'ble National Green Tribunal in O.A. No. 514.

2. Minutes of the meeting chaired by Chief Secretary to develop action plan on the Order dated 16.09.2020 of Hon'ble NGT in the OA.

**ORDER**

Hon'ble National Green Tribunal in O.A. 514/2019 read as 1<sup>st</sup> paper above has observed the non compliance of the provisions of Solid Waste Management rules, 2016 by local bodies in the State. The Hon'ble Tribunal has directed for assessment and recovery of compensation for environmental damage from the persons responsible for the failure of compliance. The State has also been advised to consider action on the pattern of successful models of other states where meaningful steps to deal with the similar issue have been initiated in consultation with Central Pollution Control Board. The Hon'ble National Green Tribunal in the subject matter has directed Chief Secretary, Kerala to take remedial action for ensuring compliance of Solid Waste Management rules, 2016 by local bodies in the State by constituting a three member team comprising Secretary, Urban Development Department, Chairman, State PCB and concerned Municipal Commissioner. The Chief Secretary, Kerala, simultaneously, has been directed to personally monitor the compliance of directions of the Tribunal at least on monthly basis and record the proceedings.

2. In meeting chaired by Chief Secretary to formulate the action plan based on the order of Hon'ble National Green Tribunal read as 1<sup>st</sup> paper above, it has been decided to constitute a three member Committee by Local Self Government Department in compliance with the order dated 16.09.2020 of

File No.LSGD-DC1/534/2019-LSGD

Hon'ble National Green Tribunal in O.A. No. 514.

3. Government have examined the matter and are pleased to constitute a three member Committee to monitor the compliance of Solid Waste Management Rules, 2016 in the State, especially at Brahmapuram solid waste processing plant at Emakulam. in compliance with the order of Hon'ble National Green Tribunal in O.A. No. 514. with following members:

Principal Secretary (Urban), Local Self Government Department -(Chairman )  
Chairman, Kerala State Pollution Control Board  
Secretary, Kochi Municipal Corporation

(By order of the Governor)  
**BISHWANATH SINHA IAS**  
**PRINCIPAL SECRETARY**

To:

The Principal Secretary (Urban), Local Self Government Department  
The Chairman, Kerala State Pollution Control Board  
The Secretary, Kochi Municipal Corporation  
The Principal Accountant General (A&E) Kerala Thiruvananthapuram  
The Accountant General (G&SSA/ E&RSA) Kerala Thiruvananthapuram  
The Information Officer, I&PRD (Web & New Media)  
The Executive Director, Information Kerala Mission.  
Stock File / Office Copy.

Forwarded /By order

*Danigal*  
Section Officer

Copy to:

Private Secretary to Hon'ble Minister for LSGD  
Special Secretary to Chief Secretary  
PA to Principal Secretary, LSGD  
CA to Special Secretary, LSGD

True copy attested:

*B. Harikumar*

**B. HARIKUMAR**  
Section Officer  
LSGD, DC1, Department



## GOVERNMENT OF KERALA

### Abstract

Local Self Government Department- Establishing 5 MW solid Waste-to-Energy(WtE) plants on Design, Build, Finance, Operate and Transfer (DBFOT) basis through Public-Private- Partnership (PPP) - Sanction accorded- Orders issued.

### Local Self Government (DC) Department

GO(Ms) No.82/2018/LSGD

Dated, Thiruvananthapuram 11.06.2018

Read: 1. GO(Rt) No.3122/2017/LSGD dated 23/09/2017.

2. GO(Rt) No. 499/2018/LSGD dated 21.02.2018.

3. Minutes of the meeting convened by Hon'ble Chief Minister with concerned Ministers and Secretaries on 16.05.2018.

### ORDER

Government have been continuously endeavouring to find comprehensive solutions to manage the hazardous implications from accumulation and unscientific disposal of waste and garbage in the State. Scientific management of waste by establishing comprehensive solid Waste-to-Energy (WtE) systems with minimal leachate is a solution to the problem of accumulated garbage/waste. Therefore, it is proposed to establish 5 MW solid Waste-to- Energy plants that would generate energy and reduce environmental and health hazards on Design, Build, Finance, Operate and Transfer (DBFOT) basis in Public-Private- Partnership (PPP) mode. With a view to coordinate further activities towards this end, a State Level Advisory Committee (SLAC) comprising the following members was constituted vide GO read as 1<sup>st</sup> paper above and reconstituted vide GO read as 2<sup>nd</sup> paper above:

Chief Secretary (Chairman)  
 Additional Chief Secretary (Industries)  
 Additional Chief Secretary (Revenue)  
 Additional Chief Secretary (Labour & Skills)  
 Agricultural Production Commissioner  
 Law Secretary  
 Principal Secretary (Finance)  
 Principal Secretary (LSGD)  
 Secretary (Information Technology)  
 Managing Director, KSIDC (Convener)

2. Multiple meetings were held to discuss the modalities involved in setting up modern WtE plants. As a result of the discussions, a process by which a competent and qualified Concessionaire is selected through a transparent tender procedure to set up WtE plants has evolved. The bidder offering the lowest levelized tariff for the power generated from the waste processed will be allowed to set up the plant on a site to be provided by the Government. Waste generated within a radial distance of around 25-35 kms of the plant will be collected and transported by the Concessionaire and treated there; hence there will have to be binding agreements among the Concessionaire and all the local bodies that lie in the hinterland of the plant. Kerala State Industrial

Development Corporation (KSIDC) is designated as the nodal agency to set up the WtE plants in collaboration with the Concessionaire and local bodies. While the Request for Proposal (RFP) will be floated by KSIDC and the contract with the Concessionaire executed by them, there will have to be an agreement between Government and KSIDC to compensate KSIDC for all the liabilities incurred by them on account of this operation.

3. KSIDC engaged M/s IRG Systems South Asia Pvt Ltd, based in Delhi, as Consultant for preparing RFP for selection of the Concessionaire. Feasibility reports on the land plots available with various Government departments in 8 districts were obtained from the Consultant. Reports of the District Collectors were also called for on the sites proposed by the Consultant. These reports were discussed in detail by the SLAC and the following 7 sites were found suitable for setting up WtE plants:

- 3.1. 6.07 hectares (15 acres) of land in the possession of Agriculture department (district agriculture farm and banana nursery) in Peringamala village of Trivandrum district.
- 3.2. 6.07 hectares (15 acres) of land in the possession of Thrissur Corporation at Lalur in Sy.No. 358, 359 and 361 of Aranattukara village in Thrissur district.
- 3.3. 6.07 hectares (15 acres) of land in the possession of Kerala State Electricity Board (KSEB) at Kanjikkode in Block 34, Re Sy No. 459,460, 449/1,2,3,4,5, 444/1,2,3,4,5, 461, 458/1 to 13, 448/1,2,3 & 473/1,2 of Puthussery Central village at Palakkad taluk in Palakkad district.
- 3.4. 5.12 hectares (12.67 acres) of land in the possession of Kozhikode Corporation at Njaliamparambu in Sy.No. 12/1A2 and 13 of Cheruvannur village in Kozhikode district.
- 3.5. 3.93 hectares (9.7 acres) of land in possession of Kannur Corporation at Chelora in Sy. Nos. 6/1A, 6/1B and 6/2 of Chelora village of Kannur district.
- 3.6. 2.85 hectares (7.05 acres) of land in the possession of Kollam Corporation at Kureepuzha in Sakthikulangara, Kollam West & Thrikkadavoor villages of Kollam district which is not covered under CRZ norms.
- 3.7. 4.04 hectares (10 acres) of land in the possession of KSIDC at Panakkad in Sy No. 204/1,2 of Panakkad village in Malappuram district.

4. Government have examined the matter in detail and hereby accord sanction for setting up 5 MW solid Waste-to-Energy (WtE) plants at the above 7 sites in Thiruvananthapuram, Thrissur, Palakkad, Kozhikode, Kannur, Kollam and Malappuram on Design, Build, Finance, Operate and Transfer (DBFOT) basis, in Public-Private- Partnership (PPP) mode as per the proposal at para 2 above. KSIDC is entrusted to float an RFP with the following broad terms and conditions, for the selection of a suitable Concessionaire to set up WtE plants in the above 7 sites:

- 4.1. The RFP may specify the role of the Concessionaire to include collection of waste, transportation to the site, weighing, segregation and processing thereof to produce electrical energy.
- 4.2 The payment to the Concessionaire for their services will be in terms of payment for the energy produced by the WtE plant. The bidder who offers the lowest energy tariff for the entire process that is outlined above will be selected

for the contract. The concession agreement will contain the time period, amount payable, interest payable, terms regarding protection of Concessionaire interest and so forth.

4.3. The Government may ensure, through policy directives, that all power produced in the plant is purchased by Kerala State Electricity Board (KSEB) at the rate fixed by the Kerala State Electricity Regulatory Commission (KSERC).

4.4. It is possible that the amount quoted by the lowest bidder may exceed the rate fixed by the KSERC. This differential amount shall be paid by the KSIDC to the Concessionaire and the same shall be reimbursed to KSIDC by the participating local bodies, and in case they fail to do so, by the State Government.

4.5. Government will keep KSIDC indemnified with such budgetary support so as to ensure that the operations done on behalf of Government do not inflict any liability on KSIDC. Adequate budgetary allocation shall be made in the Plan head of Local Self Government Department-the grant for local bodies, for this purpose each year.

4.6. The RFP will seek offers from bidders or consortium of bidders who have experience in designing and developing and /or operating at least a 1 MW WtE plant for minimum period of one year.

4.7. The net worth of the bidder shall be at least Rs.25 crores.

4.8. If the bidder is a single specified entity, the stipulated criteria shall be fulfilled by the bidder either by itself individually, or as a member of a consortium/ Special Purpose Vehicle (SPV) wherein its share of ownership is not less than 26% held directly or through its affiliate, parent or subsidiary.

4.9. The Concessionaire may be permitted to disinvest up to 49% of his/her stakes after 5th anniversary of date of commencement of commercial operation of the plant (COD). A minimum of 51% of his/her stakes shall be held by the bidder till the 10th anniversary, after which further divestment/ disinvestment will be allowed.

4.10. Concessionaire may attempt to maximise their revenue through resource recovery from the collected waste. To this end they shall segregate the waste collected and utilize for resource recovery through reprocessing facilities directly or indirectly within the allotted site. Such activities shall be at the risk and cost of the bidder and they may retain all the income from such activities.

4.11. Construction and Demolition (C&D) waste: There will not be any express ban on collecting C&D waste in the RFP document.

4.12. 10-15 acres of land may be offered on lease for 27 years, including two years for project planning and implementation, on nominal terms.

4.13. The Concessionaire may be permitted to mortgage the leasehold rights on the land for the concession period for raising finance to establish and operate the plant.

4.14. The RFP may not specify that bidders will quote any particular process; instead it will only specify that the process deployed shall be compliant with pollution control standards for air, water and land as per Central Pollution Control Board (CPCB) & State Pollution Control Board (SPCB) rules and norms. The RFP will specify that the process deployed shall not give out leachate beyond a specified level, and that the leachate shall be treated as per CPCB standards. Similarly, it will state that the residual waste from the process that may be used for landfill shall not exceed 10% and the bidder shall try to bring down this percentage to zero.

4.15. The participating local bodies shall sign an undertaking with KSIDC agreeing to make available a minimum amount of solid waste for collection by the Concessionaire from their respective jurisdictions for the concession period, and pay penalty at the rate of Rs.1500/- per tonne, if there is a shortfall of more than 10% from the monthly average of committed quantity.

4.16. The qualification norms for opening of financial bid shall be as under:

4.16.1. Number of years that the bidder has experience in successfully operating WtE plants above the eligibility norms.

4.16.2. Number of WtE projects above the eligibility norms implemented during the past five years.

4.16.3. Energy produced in units in the last financial year from the WtE projects implemented by the bidder

4.17. The dispute resolution mechanism shall be mediation and arbitration. Only courts in Kerala shall have jurisdiction.

4.18. The RFP should specify that it will be the responsibility of the Concessionaire to ensure that the WtE plant is compliant with all laws of the land at all times.

5. Sanction is also accorded to the Municipal Corporations of Thrissur, Kozhikode, Kannur and Kollam to lease the lands in their possession, as mentioned at para 3 above for establishing 5MW solid Waste-to-Energy (WtE) plants on DBFOT basis in Public-Private- Partnership (PPP) mode, through KSIDC and to permit KSIDC to sublease the lands to the Concessionaire for 27 years, with permission to mortgage the leasehold rights on the lands for raising funds for this project only.

6. Sanction is also accorded to the Agriculture department and Kerala State Electricity Board Ltd to transfer fifteen (15) acres of land from the lands currently in their possession at Peringamala in Thiruvananthapuram district and Kanjikode in Palakkad district, respectively, as mentioned at para 3 above, to the Industries Department for

granting it on lease to KSIDC for subleasing to the Concessionaire for 27 years, with permission to mortgage the leasehold rights on the land for raising funds for this project only.

7. Sanction is further accorded to KSIDC to lease out 10 acres of land in its possession at Panakkad in Malappuram district, as mentioned at para 3 above, to the Concessionaire for 27 years, with permission to mortgage the leasehold rights on the land for raising funds for this project only:

(By Order of the Governor)

Tom Jose

Additional Chief Secretary

To

The District Collectors:  
Thiruvananthapuram/Kollam/Thrissur/Palakkad/Kozhikode/Kannur/Malappuram  
The Chairman, Kerala State Electricity Board Limited.  
The Principal Accountant General (Audit)/(A&E), Kerala.  
The Managing Director, KSIDC.  
The Director of Urban Affairs.  
The Director, Agriculture Department.  
The General Administration (SC) department  
The Power Department.  
The Industries Department.  
The Agriculture Department.  
The Revenue Department.  
The Labour and Skills Department.  
The Information Officer, I&PRD (Web & New Media)  
The Executive Director, Information Kerala Mission.  
Stock File / Office Copy.

Forwarded/By Order

*[Signature]*  
Section Officer

True copy attested:

*[Signature]*

**B. HARIKUMAR**  
Section Officer  
L.S.O. (D&T) Department



## GOVERNMENT OF KERALA

### Abstract

Local Self Government Department – Sanction for Establishing 5 MW solid Waste-to-Energy(WtE) plants on Design, Build, Finance, Operate and Transfer (DBFOT) basis through Public- Private- Partnership (PPP) - Modified – Orders issued

---

### LOCAL SELF GOVERNMENT (DC) DEPARTMENT

---

GO(Ms.) No.174/2018/LSGD

Dated, Thiruvananthapuram 22.11.2018

---

- Read :- (1) GO(Rt) No. 3122/2017/LSGD dated 23.09.2017.  
 (2) GO(Rt) No. 499/2018/LSGD dated 21.02.2018.  
 (3) GO(Ms) No.82/2018/LSGD dated 11.06.2018  
 (4) Minutes of the 15<sup>th</sup> meeting of State Level Advisory Committee (SLAC) on Solid Waste Management held on 18.09.2018  
 (5) Minutes of the 16<sup>th</sup> meeting of State Level Advisory Committee (SLAC) on Solid Waste Management held on 29.09.2018

### ORDER

As per the GO read as 3<sup>rd</sup> paper above sanction was accorded for Establishing 5 MW solid Waste-to-Energy (WtE) plants at 7 districts on Design, Build, Finance, Operate and Transfer (DBFOT) basis through Public- Private- Partnership (PPP). State Government had also entrusted KSIDC to float Request for Proposal(RFP) for the selection of suitable concessionaires to set up Waste-to-Energy Plants at the 7 identified sites across the State.

2. Subsequently KSIDC, had floated RFP in Government e-tender portal for identifying suitable implementing agencies for the setting up of Waste-to-Energy Plant at Njaliaparambu in Kozhikkode District. The RFP was floated on 29<sup>th</sup> June 2018 and last date for the submission of bid was 31<sup>st</sup> July 2018. At the pre bid meeting held on 19<sup>th</sup> July 2018 majority of the prospective bidders had requested for extending the last date for the submission of bid. Considering the request by the prospective bidders and to ensure participation of more serious bidders the last date for the submission of bid was extended to 20<sup>th</sup> August 2018 and further up to 15<sup>th</sup> September 2018.

3. Since no bids were received even after extending the last date of submission of bids, the 15<sup>th</sup> meeting of State Level Advisory Committee (SLAC) on Solid Waste Management (constituted as per G.Os. read as 1<sup>st</sup> & 2<sup>nd</sup> paper above) held on 18.09.18 resolved to revise the Project structure and to bring in corresponding revision in the relevant clauses of the RFP document. Accordingly KSIDC had prepared a revised project structure based on the feedback received from several prospective bidders. The revised project structure and the corresponding changes in the relevant clauses of the RFP document were presented in the 16<sup>th</sup> meeting of SLAC held on 29/9/2018. The SLAC resolved to approve the revised project structure and changes proposed in the RFP document. It is also resolved to modify the G.O. read as 3<sup>rd</sup> paper above with suitable modifications in accordance with the changes approved.

o/c

4. Government have examined the matter in detail and are pleased to modify para 4 and its sub paras: 4.2, 4.4, 4.6, 4.8, 4.12 and 4.15 of G.O. read as 3<sup>rd</sup> paper above as follows:

Para No	Existing provision	Modified provision
4	Government have examined the matter in detail and hereby accord sanction for setting up 5 MW Waste to Energy (WtE) Plants at the above 7 sites in Thiruvananthapuram, Thrissur, Palakkad, Kozhikode, Kannur, Kollam and Malappuram on Design, Build, Finance, Operate and Transfer basis in Public - Private Partnership mode as per proposal at Para 2 above. KSIDC is entrusted to float an RFP with the following broad terms and conditions for the selection of a suitable concessionaire to set up WtE plants in the above 7 sites.	Government have examined the matter in detail and hereby accord sanction for setting up Waste-to-Energy (WtE) Plants of solid waste processing capacity of 300 TPD and a power production capacity of 5 MW at the above 7 sites in Thiruvananthapuram, Thrissur, Palakkad, Kozhikode, Kannur, Kollam and Malappuram on Design, Build, Finance, Operate and Transfer basis in Public-Private-Partnership mode as per proposal at Para 2 above. KSIDC is entrusted to float an RFP with the following broad terms and conditions for the selection of a suitable concessionaire to set up WtE plants in the above 7 sites.
4.2	The payment to the concessionaire for their services will be in terms of payment for the energy produced by the WtE plant. The bidder who offers the lowest energy tariff for the entire process that is outlined above will be selected for the contract. The concession agreement will contain the time period, amount payable, interest payable, terms regarding protection of concessionaire interest and so forth.	The payment to the concessionaire for their services will be in terms of Tipping Fee (to be quoted by the concessionaire) in Rupees for per tonne of solid waste collected, transported and processed in the waste to energy plant and payment for the power generated at a rate as fixed by KSERC. The concession agreement will contain the time period, amount payable, interest payable, terms regarding protection of concessionaire interest and so forth.
4.4	It is possible that the amount quoted by the lowest bidder may exceed the rate fixed by KSERC. This differential amount shall be paid by the KSIDC to the concessionaire and the same shall be reimbursed to KSIDC by the participating local bodies and in case they fail to do so the State Government.	The concessionaire shall prepare the Detailed Project Report (DPR) covering technology proposed, cost estimates, capital investment plan and the project financing details and shall file petition to KSERC for fixing the power tariff for their WtE project. State Government shall facilitate the selected bidder to obtain the project specific power tariff for the WtE project

4.6	The RFP will seek offers from bidders or consortium of bidders who have experience in designing and developing and / or operating at least 1 MW WtE plant for minimum period of one year.	The RFP will seek offers from bidders or consortium of bidders who have experience in design & development of at least one Waste-to-Energy Plant of minimum 1 MW in India or abroad in the period of past five years and the relevant plant is currently in operation; OR Successful operation of at least one Waste-to-Energy Plant of minimum 1 MW capacity for a minimum period of 1 year in India or abroad in the period of past five years from the bid due date and the relevant plant is currently in operation;
4.8	If the bidder is a single specified entity, the stipulated criteria shall be fulfilled by the bidder either by itself individually or as a member of a consortium / Special Purpose Vehicle (SPV) where in its share of ownership is not less than 26% held directly or through its affiliate, parent or subsidiary.	If the bidder is a single specified entity, the stipulated criteria shall be fulfilled by the bidder itself. If the bidder is a consortium or joint venture, the stipulated criteria shall be fulfilled by any member of the consortium by itself or through its affiliate or parent or subsidiary, wherein the equity share of that member in the SPV shall not be less than 26%. In case of consortium, the bidder will be considered to have met the stipulated criteria only if the condition for consortium specified against each criterion is fulfilled.
4.12	10-15 acres of land may be offered on lease for 27 years , including two years project planning and implementation on nominal terms.	10-15 acres of land may be offered on lease for 27 years, including project planning and implementation on nominal terms.
4.15	The participating Local Bodies shall sign an undertaking with KSIDC agreeing to make available a minimum amount of solid waste for collection by the concessionaire from their respective jurisdictions for the concession period, and pay penalty at the rate of Rs. 1500/- per tonne if there is a shortfall of more than 10% from the monthly average of committed quantity.	The participating Local Bodies shall sign an undertaking with KSIDC agreeing to ensure generation of minimum of 300 TPD from the identified cluster by the local bodies and to put in place an appropriate mechanism, which will make it mandatory for the participating LSGIs to contribute solid waste based on their population, economic activities, tourism, and other features. In case LSGI fails to ensure the minimum assured quantity, LSGIs, will be liable to pay penalty to SPV calculated at 25% of the corresponding year Tipping Fee per ton

	for each ton of shortfall. The penalty shall be payable only if the monthly average of quantity received at the Site is below 90% of assured quantity.
--	--

There will be no changes in Para No. 4.1, 4.3, 4.5, 4.7, 4.9, 4.10, 4.11, 4.13, 4.14, 4.16, 4.17 and 4.18 of the G.O. read as 3<sup>rd</sup> paper above.

5. Government are also pleased to order the following additional provisions in connection with the setting up of 5 MW solid Waste-to-Energy(WtE) plants on Design, Build, Finance, Operate and Transfer (DBFOT) basis through Public- Private- Partnership (PPP).

Sl. No	Additional provisions
1	Will facilitate in obtaining any eligible financial assistance as per the prevailing guidelines of Swatch Bharat Mission (SBM) – Urban 2017, or any prevailing schemes of Ministry of Housing & Urban Affairs, GoI, at the time of execution of the concession agreement. The concessionaire shall prepare and submit to the Authority for approval, a DPR, covering the collection mechanism, technology for processing, detailed project costing and the capital investment plan. The financial assistance as approved and released by SBM, MoH & UA and the corresponding State share if any will be released as reimbursement to the Concessionaire based on the progress of project development and on recommendation of the PMU.
2	The responsibility to undertake the door to door collection, collection from public spaces, street cleaning and delivering to the bins provided by the Concessionaire at the designated collection points shall be vested with the participating LSGIs. The location of bins and concessionaire's collection points will be decided depending on area and population with mutual-consultation between LSGI and Concessionaire.

6. GO read as 3<sup>rd</sup> paper above stands modified to the above extend.

By order of the Governor,  
**T.K Jose**  
Additional Chief Secretary

To

The District Collectors:  
Thiruvananthapuram/ Kollam/ Enakulam/ Idukki/ Thrissur/ Palakkad/  
Kozhikode/ Malappuram/ Kannur/ Wayanad  
The Secretary:  
Thiruvananthapuram/ Kollam/ Kochi/ Thrissur/ Kozhikode/ Kannur  
Corporations.  
The Chairman and Managing Director, Kerala State Electricity Board Limited.  
The Principal Accountant General (Audit)/(A&E), Kerala, Tvpm.  
The Managing Director, KSIDC  
The Director of Urban Affairs.

The Director, Agriculture Department.  
 The General Administration (SC) Department  
 The Finance Department.  
 The Power Department.  
 The Industries Department.  
 The Agriculture Department.  
 The Revenue Department.  
 The Information Officer, I&PRD (web & New Media)  
 The Executive Director, Information Kerala Mission.  
 Stock File / Office Copy.

Forwarded/By Order

*[Signature]*  
 Section Officer

Copy to :- PS to Hon'ble Chief Minister.  
 PS to Minister LSGD.  
 PS to Minister Industries.  
 PS to Minister Power.  
 PS to Minister Agriculture.  
 PS to Minister Revenue.  
 Special Secretary to Chief Secretary.  
 PA to Additional Chief Secretary, Local Self Government  
 Department.  
 PA to Additional Chief Secretary, Revenue.  
 PA to Principal Secretary, Finance.  
 PA to Law Secretary.  
 PA to Agriculture Production Commissioner.  
 PA to Principal Secretary, Industries.  
 PA to Secretary, IT

True copy attested!

*[Signature]*

**B. HARIKUMAR**  
 Section Officer  
 LSGD (D.C.) Department

4660768/2020/LSGD(OS)

File No.DMB2/71/2020-DMD

Annex - W

## GOVERNMENT OF KERALA

### Abstract

Disaster Management Department- Taking over the management of the legacy waste accumulated at Brahmapuram waste dumping yard from Kochi City Corporation by invoking the provisions of Disaster Management Act 2005 – Sanction accorded - Orders issued.

### DISASTER MANAGEMENT (B) DEPARTMENT

G.O.(Ms)No.8/2020/DMD Dated, Thiruvananthapuram, 05/03/2020

Read Minutes of the State Executive Committee meeting of KSDMA held on 02/03/20 and 04/03/2020.

### ORDER

The management of legacy waste at Brahmapuram was under the supervision of Kochi corporation. It is reported that Brahmapuram waste dumping yard is under smoldering fire and toxic fumes are being released causing threatening disaster situation. The tender procedure for legacy waste management in the Waste Dumping Yard is delayed indefinitely and this situation may lead in fire hazard and consequent environmental and health hazard in the City. As Kochi Corporation has not taken effective steps to abate the threatening disaster situation, the matter has been placed in the State Executive Committee meeting of KSDMA held on 02.03.2020 and the committee took the following decisions:

(i) Call for the records of the entire tendering procedures followed by the city Corporation of Kochi for legacy waste management with immediate effect. A notice to the Secretary, Kochi to produce the files immediately before the Principal Secretary, Local Self Government Dept shall be issued by LSG Department.

(ii) The District Collector, Ernakulam shall prepare a contingency plan for the smolder fire management of Brahmapuram Waste Dumping Yard with the support of BPC Ltd., CHEMREC, Pollution Control Board, Fire & Rescue Services and Health Department.

2. Subsequently the SEC Meeting held on 04.03.2020 perused the records of Kochi Corporation relating to the management of legacy waste at Brahmapuram. The findings of the committee are as follows:

The first tender was floated on 14.08.2019 which was further extended. As nobody participated in the tender, the work was re-tendered on 26.10.2019. There was only one bid which was approved technically and the financial bid was opened and placed

4660768/2020/LSGD(OS)

File No.DMB2/71/2020-DMD

for a decision of the Council on 28.01.2020. The same matter has been considered by the Council in subsequent meetings on 06.02.2020, 22.02.2020, 28.02.2020, 02.03.2020 and 03.03.2020 but a final decision has not been taken. It is seen that the single bidder has an experience as a sub - contractor only. His experience does not inspire the confidence that he will be able to complete the work of managing the legacy waste at Brahmapuram. The reports of justice A V Ramakrishna Pillai, the Chief Environmental Engineer of Pollution Control Board and that of the District Collector all indicate that unless urgent steps are taken to manage the legacy waste scientifically and in a time bound manner, the city of Kochi and surrounding areas will be at risk of an impending disaster. The Corporation of Kochi is clearly not in a position to manage this complex matter effectively.

3. In the above circumstances, the committee decided that Government in LSG Department shall take over the task of scientific management of the legacy waste accumulated at Brahmapuram waste dumping yard from the Corporation of Kochi by invoking the provision under Section 24 (e) of Disaster Management Act, 2005.

4. Government have examined the matter in detail and are pleased to order that the task of scientific management of the legacy waste accumulated at Brahmapuram waste dumping yard will henceforth be under the supervision of Government in Local Self Government Department and the work will be carried out under the provision of Sn 24 (e) of Disaster Management Act, 2005. The tender process initiated by the Corporation of Kochi to dispose the legacy waste is hereby cancelled.

5. The Kerala State Industrial Development Corporation (KSIDC), the nodal agency identified by the Government for managing the process relating to solid waste disposal and management, will be entrusted with the task of initiating an urgent, transparent and competitive bidding process to identify an experienced and technically competent agency to manage and dispose of the legacy waste at Brahmapuram strictly according to the provisions prescribed in the Solid Waste Management rules. KSIDC will undertake this project under the supervision of the Local Self Government Department in Government.

6. The District Collector, Ernakulam shall render all assistance to KSIDC in furtherance of the above instructions.

(By order of the Governor)  
**VENU V**  
**PRINCIPAL SECRETARY**

To:  
 The Principal Accountant General (Audit) Kerala, Thiruvananthapuram  
 The Accountant General (A&E) Kerala, Thiruvananthapuram  
 The Land Revenue Commissioner, Thiruvananthapuram  
 The Local Self Government Department  
 The Member Secretary, KSDMA, Observatory Hills, Vikas Bhavan P. O., TVPM  
 The District Collector, Ernakulam

J/LSGD(OS)

File No.DMB2/71/2020-DMD

The Secretary, Kochi Corporation, Kochi  
Stock File/Office Copy.

Forwarded /By order

*[Signature]*  
Section Officer

Copy to : SEC Members of Department Concerned  
PA to Principal Secretary (Revenue and DMD)  
CA to Additional Secretary, DMD

True Copy attested :

*[Signature]*

**B. HARIKUMAR**  
Secy B. HARIKUMAR  
Section Officer  
LSG(LDC) Department





## GOVERNMENT OF KERALA

## Abstract

Local Self Government Department - Kochi Municipal Corporation -  
Technical Evaluation of bids received for the rehabilitation of MSW  
Dumpsite at Brahmapuram- Technical Evaluation Committee constituted -  
Orders issued

## LOCAL SELF GOVERNMENT(DC)DEPARTMENT

**G.O.(Rt)No.985/2020/LSGD** Dated,Thiruvananthapuram, 26/05/2020

Read 1 G.O.(Ms.)No:08/2020/DMD dated 05/03/2020

2 Letter No KSIDC/TVM/2E/2020/05 dated 24/04/2020 from the  
Managing Director, KSIDC

## ORDER

As per the G.O read as 1<sup>st</sup> paper above, the task of initiating competitive bidding process to identify suitable agency to manage and dispose of the legacy waste at Brahmapuram (rehabilitation of MSW Dumpsite at Brahmapuram) was entrusted to KSIDC. Accordingly KSIDC has floated e-tender for identifying a suitable agency for the purpose. The Managing Director, KSIDC as per letter read as 2<sup>nd</sup> paper above has requested to constitute a Technical Evaluation Committee for carrying out the technical evaluation of bids received.

2. Government have examined the matter and are pleased to constitute a Technical Evaluation Committee with the following officials for carrying out the technical evaluation of bids received for the rehabilitation of MSW Dumpsite at Brahmapuram.

- i. Principal Secretary(Urban)- Chairman
- ii. Special Secretary II, LSGD
- iii. Member Secretary, Kerala State Pollution Control Board
- iv. Project Director, PMU -Waste to Energy Projects, KSIDC

(By order of the Governor)  
**R S KANNAN**  
**SPECIAL SECRETARY**

To:

All Members of Technical Evaluation Committee(Through  
MD,KSIDC)  
The Managing Director, KSIDC  
The District Collector, Ernakulam  
The Secretary, Kochi Municipal Corporation  
The Principal Accountant General (A&E/GSSA/ERSA) Kerala,  
Thiruvananthapuram  
The Executive Director, Information Kerala Mission  
The Director, I &PRD/Web&New Media  
Stock File/Office Copy

Forwarded /By order

Signature Not Verified  
Digitally signed by SMITHA B CHANDRA  
Date: 2023.05.27 10:51:30 IST  
Reason Approved

Section Officer

*True copy attested.*

*B. Harikumar*

**B. HARIKUMAR**  
**Section Officer**  
**LSGD(C.D.G.) Department**

DC/1201/2015/LSGD  
 (41679/DC/13/LSGD)



GOVERNMENT OF KERALA  
 Abstract

Local Self Government Department - Implementation of a Waste to Energy Project at Brahmapuram, Kochi and allied areas- The project of M/s.G.J.Nature Care Consortium submitted by KITCO - Approved - Orders issued.

LOCAL SELF GOVERNMENT (DC) DEPARTMENT

G.O.(Ms)No. 1/2016/LSGD.

Dated, Thiruvananthapuram, 04/01/2016

- Read:- (1) G.O.(Ms)No.260/2013/LSGD Dated 20/07/2013.  
 (2) G.O.(Rt)No.1985/13/LSGD dated 29/07/2013.  
 (3) Letter No.41679/DC1/2013/LSGD dated 08.11.2013  
 (4) Letter No.3115/C4/2013/SM dated 12/03/2014 and 04/07/2014  
 from the Executive Director, Suchitwa Mission  
 (5) Letter No.41679/DC1/2015/LSGD dated 11.03.2015.  
 (6) Letter No.CM/102/Energy purchase/2015 dated 17/08/2015 of the  
 Chairman & Managing Director, KSEB Ltd.  
 (7) Letter No. 41679/DC1/2013/LSGD dated. 03.12.2015

ORDER

Waste management is one of the major problems faced by the State of Kerala now a days. There is lack of an effective model for waste management. Traditional models are not suitable for the state as land is scarce and costly and population is dispersed. Moreover, finding a location is nearly impossible due to resistance from people.

2. Government as per G.O. Read as 1<sup>st</sup> paper above, accorded sanction to install Solid Waste Management Plants at Brahmapuram, Kozhikode and Kannur based on thermal technologies viz. Incineration, thermal gasification (using pyrolysis) or Plasma Gasification under public private partnership mode (PPP).

Government had constituted a committee under the Chairmanship of Secretary, LSGD for the selection of Transaction Adviser for advising preparing draft project documents and scrutiny of RFP documents received etc. for the establishment of modern Municipal Solid Waste Treatment plant at Brahmapuram, Kochi under PPP model vide G.O. Read as 2<sup>nd</sup> paper above.

4. Government, as per letter read as 3<sup>rd</sup> paper above appointed KITCO as the Transaction Advisor for the implementation of the Waste to Energy Project at Brahmapuram, Kochi.

5. The Executive Director, Suchitwa Mission had forwarded final RFQ documents submitted by M/s KITCO vide letter read as 4<sup>th</sup> paper above. KITCO submitted the feasibility report for the project in February 2014. Accordingly, the draft RFQ was prepared by KITCO in consultation with Suchitwa Mission and the same was placed before the BOT cell of Government of Kerala. After approval of the RFQ document, RFQ was called for. Six firms applied and only the under mentioned two applicants complied with the technical and financial criteria of RFQ:

- 1 M/s.G.J.Nature Care Consortium (G.J Nature Care & Energy Pvt. Ltd., Ernakulam (Lead Member), Biomass Power Ltd, UK, London Investment Ltd., UK)
- 2 M/s.Nrich Inc Consortium (Nrich Inc., Canada (Lead Member), Chamco Inc, USA and Chamco US Ventures LLC, USA)
6. As per letter read as 5<sup>th</sup> paper above, the Kochi Municipal Corporation was

given direction to issue the RFP documents to the two short listed firms. Out of the two bidders, only one bidder i.e., M/s.G.J Nature Care Consortium submitted the bid.

7. Initially, the cost of the proposed project was Rs.500 crore. After optimising the plant components and based on indigenous procurement shortage, the bidder has submitted the modified proposal with a project cost of Rs. 295 crore. The estimate contains a provision of Rs.20 crore towards customs duty and Rs.27 crore towards interest during construction.

8. As the bid, the plant can process upto 300 tonnes of waste per day. It is claimed that about 430 units of electric energy can be generated from one metric ton waste. The company should be paid Rs.15/-per unit for electricity generated upto 250 units and net electricity excess above 250 units will be sold at the tariff fixed by the KSERC and 20% of the share will be given to the Corporation of Cochin. The KSEB has given the consent for the purchase of power up to 10 MW from the proposed MSW plant as per the letter read as 6<sup>th</sup> paper above.

9. The power tariff rate as per the RFP is Rs.15 per unit, considering 3.95% projected annual increase in WPI (based on last 2 years) for the project operation period, the levelized value of the payable rate, as per RFP (WPI adjusted quoted rate), works out to Rs.18.42 / unit. Accordingly, there will be additional financial commitment to the tune of Rs. 6.34 crore to the Municipal Corporation of Cochin. The Bharat Petroleum Corporation Ltd. has agreed to provide Rs.25 crore from the CSR fund to fill this ability gap, subject to the final approval by the company's board of directors. It

was also proposed to bridge gap from the funds of Suchitwa Mission. As per letter read as 7<sup>th</sup> paper above Government have given direction to the Secretary, Kochi Corporation to submit an application in the prescribed format to the Chairman, KSERC for obtaining the guidelines for fixing the tariff for the power to be generated from the plant.

10 Government have examined the matter in detail and are pleased to approve the Project of M/s.G.J.Nature Care Consortium submitted by KITCO for the Implementation of a Waste to Energy Project at Brahmapuram, Kochi and allied areas at a total cost of Rs. 295 crore subject to the condition that if the rate of power tariff of the energy produced from the waste treatment plant at Brahmapuram is higher than the average rate fixed by the Electricity Regulatory Commission then the additional amount will be provided by Government through Suchitwa Mission as subsidy.

11. Sanction is also accorded to the nearby Municipalities of Brahmapuram subject to the conditions fixed by Government to supply waste to the Waste to Energy Plant at Brahmapuram.

(By Order of the Governor)

A P M MUHAMMED HANISH  
SECRETARY

To

The Principal Accountant General (Audit),(A&E)/  
(LBA&A), Kerala, Thiruvananthapuram.

The Secretary, Kochi Municipal Cooperation.

The Chairman, Kerala State Electricity Regulatory Commission.

The Chairman, & Managing Director, Bharat Petroleum Corporation Ltd,  
Mumbai.

The Executive Director, Suchitwa Mission.

The Managing Director, KITCO

M/s.G.J.Nature Care Consortium (G.J Nature Care & Energy Pvt. Ltd.,  
Ernakulam

The General Administration (SC) Department (vide item No.7982 dated  
29/12/2015).

The Finance Department

Stock File/ Office Copy.

Copy to:- PS to Hon'ble Minister ,Urban Affairs

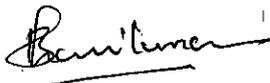
PA to Principal Secretary (LSGD)

PA to Secretary (LSGD Urban)

Forwarded/By order

Section officer

True copy attested:



**B. HARIKUMAR**  
Section Officer  
L.S.G.(U.D.).Department

Signature valid

Digitally signed by  
MOHAMMED HANIF APM  
Date: 2015.01.05 15:01:55 IST  
Reason: I am the author of this document.



File No.LSGD-DC1/192/2020-LSGD



## GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Cancellation of the approval granted to the project of M/s.G.J.Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and termination of the Concession Agreement between Kochi Municipal Corporation and M/s.G.J. Eco Power Pvt. Ltd. - Orders issued.

**LOCAL SELF GOVERNMENT (DC) DEPARTMENT**

**G.O.(Rt)No.805/2020/LSGD Dated,Thiruvananthapuram, 30/04/2020**

- Read:- 1. G.O.(Ms.) 01/2016/LSGD dated 04.01.2016  
 2. Order dated 06/03/2018 of Kerala State Electricity Regulatory Commission in Petition No.OP 7/2017.  
 3. G.O.(Rt.) 144/2020/LSGD dated 16.01.2020  
 4. G.O.(Rt.) 259/2020/LSGD dated 31.01.2020  
 5. Letter No.KW2E- Equity participation dated 27/02/2020 from the Chairman & Managing Director, M/s. G.J.Eco Power Pvt.Ltd  
 6. Minutes of the 34<sup>th</sup> meeting of the State Level Advisory Committee on Waste Management chaired by Chief Secretary held 13/03/2020.

**ORDER**

As per G.O read as 1<sup>st</sup> paper above Government had approved the project of M/s G.J.Nature Care Consortium submitted by KITCO for the implementation of a Waste-to-Energy project at Brahmapuram, Kochi and allied areas at a total cost of Rs 295 Crore. Accordingly Kochi Municipal Corporation (Authority) and M/s G.J.Eco Power Pvt.Ltd (Concessionaire) executed a Concession Agreement for the implementation of the project on Design, Build, Finance, Operate and Transfer basis, on 17<sup>th</sup> February, 2016.

2. Subsequent to the signing of Concession Agreement, Kochi Municipal Corporation, on 20/01/2017, filed Petition No.OP 7/2017 before Kerala State Electricity Regulatory Commission for determining the Tariff for Electricity generated from the Waste-to-Energy Project at Brahmapuram. As per the Order read as 2<sup>nd</sup> paper above Kerala State Electricity Regulatory Commission approved the levelised tariff for the entire electricity generated from the proposed Waste-to-Energy Project at Brahmapuram at Rs.6.17/Unit, with

accelerated depreciation, for a period of 20 years from the date of commercial operation of the project. It was also ordered therein that, KSEB Ltd. shall purchase the entire electricity generated from the proposed Project at Brahmapuram @ Rs.6.17/Unit, irrespective of the merit order dispatch.

3. The Director, M/s. G.J.Eco Power Pvt.Ltd as per the letter dated 11/10/2018 requested that the company requires the balance payment mechanism to meet the expenses over and above the power tariff fixed by Kerala State Electricity Regulatory Commission (KSERC), in order to overcome the hurdles for achieving the financial closure. Accordingly Government issued the G.O read as 4<sup>th</sup> paper above specifying the mode of payment of the expenses over and above the power tariff fixed by KSERC. It was also ordered therein that, M/s G.J.Eco Power Pvt.Ltd shall achieve the financial closure within 30 days from the date of order i.e. 31.01.2020, failing which necessary action will be initiated to terminate the Concession Agreement in accordance with the relevant clauses therein. The time limit so allowed to M/s. G.J.Eco Power Pvt.Ltd to achieve the financial closure expired on 01.03.2020. But the Concessionaire has not demonstrated the financial closure till date.

4. In the meanwhile, the 97<sup>th</sup> meeting of the State Environment Impact Assessment Authority (SEIAA) held on 24<sup>th</sup> September, 2019 had accorded environmental clearance to M/s. G.J.Eco Power Pvt. Ltd. for the proposed Waste-to-Energy Project at Brahmapuram.

5. Even though the Concession Agreement for the setting up of Waste-to-Energy Project at Brahmapuram was executed on 17<sup>th</sup> February, 2016, the Company has not taken any fruitful steps for achieving the Financial Closure as mandated in Article 3.1(a)(vii) of the Concession Agreement; instead as per letter read as 5<sup>th</sup> paper above, the Chairman & Managing Director, M/s. G.J.Eco Power Pvt.Ltd has informed that, 100% State Government Guarantee is needed for debt fund approval from NABARD. The 34<sup>th</sup> meeting of the State-Level Advisory Committee (SLAC) on Waste Management chaired by Chief Secretary held on 13/03/2020 discussed the matter and called for details from the Concessionaire regarding their financial capability. But the Concessionaire was unable to produce satisfactory evidence for the same. Therefore the SLAC decided to proceed further as the Concessionaire has not yet achieved the financial closure for the project.

6. Government have examined the matter in detail. Article 3.1(a) of the Concession Agreement clearly specified that, the award of the Concession shall be subject to the satisfaction of the "Conditions Precedent" mentioned therein. One of the Conditions Precedent [3.1(a)(vii)] is the furnishing of the Concessionaire's Financing Plan and Financing Documents for the project and demonstrating Financial Close. In Article 3.2 it is stated that, the Conditions Precedent shall be complied with within 180 days of the date of Agreement. But the Concessionaire has not yet furnished the Financing Plan and Financing Documents for the project and demonstrated the Financial Close even 1400

days after the signing of the agreement, and has been asking for relaxations and modified support like converting the concessionaire agreement into lease agreement, providing 100% Government guarantee etc, which have only served to delay execution and raise questions about the ability of the company to achieve financial closure.. There is really no extenuating circumstance on account of which the inordinate delay from the part of M/s G.J.Eco Power Pvt.Ltd in achieving the financial closure and commencing the construction works of the project can be justified. Neither Government Guarantee nor conversion of Concession Agreement into Lease Agreement were conditions of the Agreement executed.

7. Moreover as per Article 6.4 (Obligation of the Concessionaire) of the Concession Agreement the Concessionaire shall give written notice to the Authority (Kochi Municipal Corporation) within 7 days, of any material modification or change to any of the Financing Document and/or **any Equity Documents**, provided that, no such modification/amendment will be made, if it in any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without prior written consent of the Authority.

8. In the above circumstance, the approval granted to the project of M/s.G.J.Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi as per G.O. read as 1<sup>st</sup> paper above, is hereby cancelled. The Secretary, Kochi Municipal Corporation shall take immediate steps to terminate the Concession Agreement executed with M/s G.J.Eco Power Pvt.Ltd for the implementation of the project following the procedure laid down in Article 16 of the Agreement.

9.The Managing Director, KSIDC (the Nodal Agency for the implementation of Urban Solid Waste Management Initiative) is authorized to take immediate steps to float an RFP for the selection of a suitable Concessionaire to set up a Waste-to-Energy Plant at Brahmapuram, Kochi with the broad terms and conditions ordered in G.O.(Ms.)No. 82/2018/LSGD dated 11/06/2018 and G.O.(Ms.)No. 174/2018/LSGD dated 22/11/2018.

(By order of the Governor)

**SARADA MURALEEDHARAN IAS**  
**PRINCIPAL SECRETARY**

To:

The Hon'ble Mayor, Kochi Municipal Corporation (With C/L)

The Managing Director, KSIDC, Thiruvananthapuram

The Managing Director, GJ Ecopower Pvt Ltd, 3rd Floor, Sarayu Complex, Sea Port-Air Port Road, Kakkanad, Kochi 682 030

Director of Urban Affairs, Thiruvananthapuram  
Secretary, Kochi Municipal Corporation  
Accountant General (A&E/ Audit), Kerala, Thiruvananthapuram  
The Executive Director, IKM  
The Information & Public Relations (Web & New Media) Department  
Stock File/ Office Copy

Forwarded /By order  
Signature valid

Digitally signed by SMITHA B CHANDRA  
Date: 2020.04.30 14:26:48 IST  
Reason: Approved

Section Officer

Copy to:

PS to Hon'ble Minister (LSGD)  
Special Secretary to Chief Secretary  
PA to Principal Secretary (LSGD)  
CA to Special Secretary (LSGD)  
CA to Joint Secretary (LSGD)

*True copy attested:*

*B. Harikumar*

**B. HARIKUMAR**  
Section Officer  
LSGD (C.D.C.) Department



**GOVERNMENT OF KERALA**

**Abstract**

Local Self Government Department - Cancellation of the approval granted to the project of M/s G. J. Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and termination of the Concession Agreement between Kochi Municipal Corporation and M/s G.J. Eco Power Pvt. Ltd. - Review Petition submitted for reconsidering G.O.(Rt.)No. 805/2020/LSGD dated 30/04/2020 - Rejected - Orders issued.

**LOCAL SELF GOVERNMENT (DC) DEPARTMENT**

**G.O.(Rt)No.1064/2020/LSGD Dated,Thiruvananthapuram, 05/06/2020**

- Read 1. G.O.(Ms.)No.01/2016/LSGD dated 04/01/2016  
 2. G.O.(Rt.)No.805/2020/LSGD dated 30/04/2020  
 3. Representation submitted by the Chairman and Managing Director, M/s. G. J. Eco Power Pvt. Ltd. dated 01.05.2020  
 4. Judgment dated 13/05/2020 in WP(C)No.9872/2020 of Hon'ble High Court.

**ORDER**

As per the G.O. read as 1<sup>st</sup> paper above, Government had approved the project of M/s. G.J.Nature Care Consortium submitted by KITCO for the implementation of a Waste-to-Energy project at Brahmapuram, Kochi. Accordingly the Concession Agreement for the implementation of the project was signed by Kochi Municipal Corporation with M/s. G.J. Eco Power Pvt. Ltd. on 17<sup>th</sup> February 2016. Consequent on the signing of Concession Agreement the concessionaire approached Kochi Municipal Corporation with a request to handover an extent of 8 hectares of land for the implementation of the project. The Kochi Municipal Corporation Council held on 25.07.2016 decided (Resolution No.118) to handover 8 hectares of land to the concessionaire for the purpose of implementation of the project detailed in the Concession Agreement invariably. Formal proceedings No.MoE(2)/6224/2014 dated 10.08.2016 in the matter was also issued by the Secretary, Kochi Municipal Corporation. Besides the survey sketch with survey number based land boundary measurements was also handed over to the concessionaire vide Proceedings of the Kochi Corporation Secretary dated 24.06.2017. Thus the entire process of handing over of the land to the concessionaire was completed on 24.06.2017.

2. Article 3.1(a) of the Concession Agreement clearly specifies that the award

of the concession shall be subject to satisfaction of the 'Conditions Precedent' mentioned therein. One of the Conditions Precedents [3.1(a)(vii)] to be satisfied is the furnishing of the Concessionaire's Financing Plan and Financing Documents for the project and demonstrating Financial Close. In Article 3.2 it is stated that the conditions precedent shall be complied within 180 days of the date of agreement. Eventhough the stipulated time for furnishing the above documents and demonstration of financial close is 180 days from 17.02.2016, the concessionaire failed to furnish the same as mandated in the agreement even after 1400 days of signing the agreement. Though formal declaration of Project Payment Mechanism is not a condition/clause in the Concession Agreement, Government issued GO(Rt)No.259/2020/LSGD dated 31.01.2020 specifying the mode of payment of the expenses over and above the power tariff fixed by Kerala State Electricity Regulatory Commission, on the basis of the request submitted by the concessionaire. It is only an additional assurance given by Government with an intention to commence the project at the earliest considering the public health aspect involved in the matter. 30 days time was also granted to the concessionaire for achieving the financial closure as per the G.O. dated 31.01.2020. The 30 days time so allowed to the concessionaire for achieving financial closure is the last chance given by the Government which expired on 01.03.2020.

3. Mandated clearances required for the implementation of the Projects and it's date of receipt are given below.

Sl No.	Mandated Clearances	Date of receipt
1	Consent to establish from Pollution Control Board	30/08/2018
2	Plan approval from Factories and Boilers Department	18/04/2018
3	Permission from Social Forestry Division to cut trees in the site	11/06/2018
4	NOC from Aviation Department	13/08/2018
5	License from District Medical Officer	15/03/2018
6	Clearance form the Chief Town Planner	06/07/2018
7	NOC from Fire and Rescue	29/12/2018
8	Development permit from Vadavucode Puthencruz GP	07/01/2019
9	Environmental Clearance from SEIAA	05/10/2019
10	Building permit from Vadavukode Pethenkruz GP	06/11/2019

4. The concessionaire even after obtaining all statutory clearances and permits has not demonstrated the financial close; instead the concessionaire has been asking for further relaxations and modified support like conversion of concession agreement into lease agreement, providing 100% Government guarantee for raising loan etc. which have only served to delay execution and raise questions about the ability of the company to achieve financial closure. Government had taken all possible support and measures for the implementation of the project and granted time from 17.02.2016 to 30.04.2020 to achieve the financial closure of the project. Since the concessionaire miserably failed to achieve the financial closure, Government had cancelled the approval granted to the project, as per G.O. read as 2<sup>nd</sup> paper above.

5. The Chairman and Managing Director, M/s. G.J. Eco Power Pvt. Ltd. has then submitted the representation read as 3<sup>rd</sup> paper above for reconsideration of the decision taken by Government as per G.O. read as 2<sup>nd</sup> paper above. Besides, the Director, M/s.G.J. Eco Power Pvt. Ltd. has filed WP(C)No.9872/2020 before Hon'ble High Court challenging the order read as 2<sup>nd</sup> paper above (Ext. P31). The Hon'ble High Court as per judgment dated 13.05.2020 disposed of the Writ Petition directing the author of Ext.P31 order (Principal Secretary, LSGD) to consider the petition/application submitted by the petitioner for reconsideration of Ext.P31 order within a period of 2 weeks from the date of receipt of copy of the judgment. It is also ordered therein that, the petitioner as well as the concerned officer of the Corporation of Kochi shall be afforded an opportunity of hearing, before orders are passed.

6. Accordingly, the Principal Secretary (Urban), LSGD heard the petitioner and authorities of Kochi Municipal Corporation at 10 am on 26.05.2020. During hearing, the representatives of M/s. G.J. Eco Power Pvt. Ltd. made an introductory description of the project and the events that led to the termination of the project. They informed that, the Government decided to cancel the agreement in the light of the fact that the financial closure did not materialize. When enquired about the status of financial closure, the representatives of the company produced certain documents and informed that the source of investment is not a bank; but an investment firm from Dubai. On further enquiry as to whether concurrence is sought from Reserve Bank of India in bringing so much money as investment to India from overseas, the representatives of the company informed that they have not made such a move. Besides they informed that, the so called investment is done through an Indian subsidiary company of theirs and placed documents in support of their claim. When the documents are examined it is found that, the documents of incorporation allows the subsidiary to bring in the agreed equity in form of viable technology and not in terms of transferring money. The agreement reads that "it does not create anything in their obligation that they will bring in money". The aspects raised by M/s. G.J. Eco Power Pvt. Ltd. in the Writ Petition filed before Hon'ble High Court that they never faulted on any of the obligations set in the concession agreement was also examined. Where there is short fall/lack of obligation there is a

collateral responsibility that is too included in the agreement which is claimed to be in their favour. The normal termination on account of force majeure / non force majeure is not applicable when the condition precedents are not met. This goes to say that termination clause of the agreement can be invoked only when the concession is in operation. This itself forfeits the claims of the company for a 90 days notice period before cancellation of agreement. The concession agreement hardly gives any scope for supporting the pleas raised by the company. The relaxations allowed by Government in due course is with an aim to start the project.

7. Government have examined the matter in detail in view of the circumstances mentioned above and found that the concessionaire cannot implement the project even if more time is allowed. Therefore the request of the Chairman and Managing Director, M/s. G. J. Eco Power Pvt. Ltd. in the representation read as 3<sup>rd</sup> paper above, for reconsidering the decision taken in G.O(Rt)No. 805/2020/LSGD dated 30.04.2020 (Ext.P31) lacks merits and hence rejected. The direction of Hon'ble High Court in the Judgment read as 4<sup>th</sup> paper above is complied with accordingly.

8. The Managing Director, KSIDC shall take immediate steps to float RFP for the selection of a suitable concessionaire for setting up of a Centralized Waste Treatment Plant at Brahmapuram Kochi, as ordered in G.O. read as 2<sup>nd</sup> paper above.

(By order of the Governor)  
**BISHWANATH SINHA IAS**  
**PRINCIPAL SECRETARY**

To:

The Hon'ble Mayor, Kochi Municipal Corporation(with C/L)  
The Advocate General, Kerala (with C/L)  
The Managing Director, M/s. G. J. Eco Power Pvt. Ltd, 3rd Floor,  
Sarayu Complex, Sea Port- Air Port Road, Kakkanad, Kochi 682 030  
The Managing Director, KSIDC, Thiruvananthapuram  
The Secretary, Kochi Municipal Corporation  
The Principal Accountant General(A&E/G&SSA/E&RSA)Kerala, TVPM  
The Executive Director, IKM  
The Information & Public Relations(Web & New Media Department)  
Stock File/ Office Copy

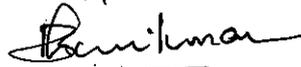
Forwarded /By order  
Signature valid

Digitally signed by SMITHA S CHANDRA  
Date: 2020.06.05 17:40:37 IST  
Reason: Approved

Section Officer

Copy to  
PS to Hon'ble Chief Minister  
PS to Hon'ble Minister (LSGD)

True copy attested:



**B. HARIKUMAR**  
Section Officer  
L.S.G.D. Department

Special Secretary to Chief Secretary  
PA to Principal Secretary, LSGD  
PA to Principal Secretary(Urban), LSGD