

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

IN

ORIGINAL APPLICATION NO. 100/2021

Petitioner : Tribunal on its own motion Suo Motu based on the News item published in The Hindu Newspaper, Chennai Edition Dt. 09.04.2021, " Dumping of garbage foiled near Anamalai, trucks Seized".

Versus

Respondent(s) : Chief Secretary to Govt. of Tamil Nadu , & Others

VOLUME 2

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Dated this the 28st day of July 2021

Rema Smrithi, Advocate
ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT



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കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

മജെസ്റ്റിക് സ്ക്വയർ, മൂന്നാം നില, പരവട്ടാനി, ഒല്ലൂക്കര പി.ഒ., തൃശ്ശൂർ - 680655

KERALA STATE POLLUTION CONTROL BOARD

Majestic Square, 3rd Floor, Paravattani, Ollukkara P.O., Thrissur - 680655

PCB/TSR/MSW/3/2002

Date: 10.06.2021

From

The Environmental Engineer

To

The Secretary,
Thrissur Corporation, Thrissur

Sub: - O.A. No. 100/ 2021 of the Hon'ble NGT, Southern Zone, Chennai.

Ref:- 1. Letter no. DCTSR/3694/2021-C4 dated 1/6/2021 of the District Collector
2. That office letter No. PH4/17749/13 dated 2.06.2021

Sir,

This has reference to the letter referred (1) above (copy enclosed) received from the District collector, enclosing the reports of your office dated 19.05.2021 and 22.05.2021 wherein it is stated that one Mr. Raghunath who has entered into a contract with the Thrissur corporation to process non-recyclable waste, transported the waste of Thrissur Corporation and dumped it in a land near Anamalai, Tamil Nadu. Also as per your report, 1225840 kg of waste of the corporation has already been removed by the contractor during the period 3/2020 to 11/2020.

The copy of the agreement between the corporation and Mr. Raghunath was received in this office vide letter referred (2) above. The agreement was made on 14.09.2020 and the same was for processing unsegregated waste and partially burnt waste, in the land owned/ taken on lease by the contractor. The contractor has also submitted an affidavit as to the process adopted for the treatment and disposal of the waste.

It is regretted to note that you failed to seek a consultation with the Board before entering into the agreement. It is understood that the contractor has not provided any facilities for processing the waste, but has taken the waste outside the corporation and has dumped it in various lands. You have not verified whether the waste was being handled as per the provisions of the Solid

Waste Management, Rules, 2016 and also whether the company is having any facility as per the affidavit submitted and also whether it is having the consent from the Board. Moreover the responsibility of the segregation of the waste and the transportation of the waste to the processing facility is vested with the local body as per the rules.

It is observed that the Corporation has violated the rules 15(r) and 15(zh) of the Solid Waste Management, Rules, 2016 by not being responsible for the transport of the waste, not ensuring adequate processing of the waste and hence is responsible for the dumping of mixed waste in the land outside the corporation limits. You are hereby directed to offer explanation for the violation of the above rules within 7 days of receipt of this letter.

Yours faithfully,

SUSEELA NAIR V A

Digitally signed by SUSEELA NAIR V A
Date: 2021.06.10 16:28:26 +05'30'

ENVIRONMENTAL ENGINEER

Enclosure:-As above

Copy to :- (1) The Chairman

(2) The Member secretary

(3)The Chief Environmental Engineer, Regional Office, Ernakulam



THRISSUR MUNICIPAL CORPORATION

THRISSUR -680 001

Email: thrissursecretary@gmail.com

PH4/17749/13

Secretary
Thrissur Corporation

Environmental Engineer,
Kerala State Pollution Control Board
Thrissur

**IN ADDITINAL REPLY TO THE LETTER ISSUED BY KERALA
STATE POLLUTION CONTROL BOARD VIDE PCB/TSR/
MSW/3/2002**

Ref:- 1. Your letter No. PCB/TSR/MSW/3/2002 dt. 10/06/2021
2. PH4/17749/13 Letter Dated 07/07/2021

Sir,

That, this is response for the notice cited above and without prejudice to defences / remedies available to the Thrissur Corporation.

That, Thrissur Municipal Corporation in strict compliance to the environmental protection act of 1986 r/w Solid Waste Management Rules 2016 (for brevity solid waste management Rules) entered into an agreement with concessionaire Mr. M. Reghunath, Director, Wiseland trading (P) Ltd. for the effective and scientific management of solid waste. As per the agreement concessionaire is approved as operator of facility/ service provider, which was strictly and in compliance of solid waste management rules. The condition entered and agreed between concessionaire clearly specifies and mandates the conditions on which the entire agreement lies. As per the clause two of agreement r/w clause four and five first party of the agreement Thrissur Corporation clearly stipulated legal and liability exclusion clauses which have mutually agreed. The legal exclusionary clause clearly states that the concessionaire shall show utmost caution and due diligence while handling, transporting and processing of solid waste as per the agreement. Therefore it is relevant to point out that Thrissur Municipal Corporation cannot be legally held responsible for the breach of contract done by the concessionaire. Moreover the agreement entered between Thrissur Municipal Corporation and concessionaire was well within the jurisdictional ambit of Section 5 r/w Section 216, Section 218 and section 332 to of Kerala Municipality Act of 1994. Also the contractual consideration in above mentioned agreement is the tipping fees fixed as per the Solid Waste Management Rules.

That, as per the clause one of agreement clearly stipulates that, the concessionaire shall manage residuary solid waste in compliance to Solid Waste Management Rules. Therefore clause one of the agreement is well within the scope of Solid Waste Management Rules and therefore valid.

That, there is no legal provisions, directions, orders which mandates to seek consultation with Kerala State Pollution Control Board before entering into an agreement for the effective implementation of Solid Waste Management

Rules. Thrissur Municipal Corporation bonafide, to protect public interest believed that contractor will comply with the terms and condition of contract in its true letter and spirit. Already there exists an effective waste management system at Thrissur Municipal Corporation where in- situ transportation of waste done by Thrissur Municipal Corporation vehicles in compliance to Rule 15 (r) of Solid Waste Management Rules 2016 and ex-situ transportation of solid waste was done strictly in accordance with the provisions of the said Rule.

That, the population of Thrissur Municipal Corporation is 317546 and comes well below 0.5 million mandate. Also the process of setting up of in-situ sanitary landfill is ongoing.

That, in pursuance to the actions taken against concessionaire furnished reply along with an FIR, which nowhere mention the name of Thrissur Municipal Corporation.

Being it is so, Thrissur Municipal Corporation took adequate legal steps/ measures to address the issue at hand in an effective manner. Considering the factual details and provisions mentioned above, it is requested to close the proceeding based on notice cited above.




Secretary
Thrissur Municipal Corporation