

43

BEFORE THE HONBLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO 113 OF 2021

IN THE MATTER OF:

BIRANCHI NARAYAN MALLICK

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

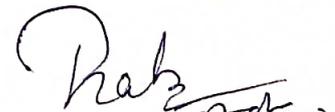
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9 Nakalatnama

PLACE: Kolkata -

DATE-31/01/2022

  
ADVOCATE

~~95~~ 138-139

44

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
EASTERN ZONE BENCH; KOLKATA  
ORIGINAL APPLICATION NO. 113 OF 2021/EZ**

BIRANCHI NARAYAN MALLICK & OTHERS .... APPLICANTS

- V E R S U S -

STATE OF ODISHA & OTHERS .... RESPONDENTS

**COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENT NO.2  
(BHUBANESWAR MUNICIPALITY CORPORATION)**

I, Shri Basanta Kumar Mallick, aged about 56 years, Son of Late Pancharan Mallick, at present working as Environment Officer, Bhubaneswar Municipal Corporation, At- Kalpana Square, Bhubaneswar, Dist. Khurda, do hereby solemnly affirm and state as follows: -

1. That, I have been duly authorized by the Respondent No.2 in the aforesaid Original Application to swear this affidavit on his behalf.
2. That, I have gone through the contents of the original application and have understood the same. I am also otherwise acquainted with the facts of the case.
3. That, in the original application, the applicants have prayed for the following direction:
  - a. Direct the Respondent No. 4 to take necessary legal action against the BMC Commissioner, including the criminal proceeding

*Basanta Kumar Mallick*

**Environment Officer  
Bhubaneswar Municipal Corporation**



*Handwritten initials/signature*

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for willfully violating the Provisions of Forest Conservation Act of 1980 and Order of the Hon'ble Tribunal.

- b. Direct the Respondents to take necessary action against the unauthorized use of forest land for construction of building.
  - c. Direct the Respondent No.1, 2 and 5 to restore the damages caused to the forest land and impose an exemplary penalty against encroachers.
  - d. Fix the accountability of persons concerned responsible for transfer of forest land to various industrial houses without approval from central government.
4. That, the applicants have made the aforesaid prayer on the basis of all misconceived facts and law, which are traversed in view of the averments made herein below, while in course of replying to the averments made in the original application, in view of which the O.A is liable to be dismissed, being not sustainable in the eye of law.

That, at the outset, instead of categorically replying to each of the averments made in the Original Application, the deponent craves leave of this Hon'ble Tribunal to submit the real background of the case, in respect of the allegation made in the original application, and also to submit to the extent of the role of the Bhubaneswar Municipal Corporation in the said O.A is concerned.

- 5.
6. That, the Bhubaneswar Municipal Corporation (In short called B.M.C), in order to implement the Solid Waste Management



*Rasanta Kumar Mallick*

**Environment Officer  
Bhubaneswar Municipal Corporation**

*Rasanta  
Mallick*

~~23~~

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Rule, 2016 and for effective management of solid waste generated in Bhubaneswar city, has identified sites in different parts of the city for establishment of 43 nos. of Micro Composting Centre (MCC) and 11 nos. of Material Recovery Facility (MRF) in BMC area as part of the decentralized solid waste management system.

7. That, accordingly, one of such Material Recovery Facility (MRF) has been constructed over Khata No.491, Plot No.320 (Pt.), having nature of the land as Kisam: "Pathara bania", in an Area of Ac.3.500 Dec. out of Area Ac.62.660 Dec., which area is recorded in the name of General Administration Department, Government of Odisha. The said fact would be evident from the Amin's report dtd.07.01.2022 and R.O.R. after conducting due field enquiry and verifying the relevant records in respect of the aforesaid area and the construction of the said MRF undertaken over the said plot i.e. Plot No.320 (Pt.)

That, it is also pertinent to submit here that, pursuant to the letter of the Zonal Deputy Commissioner (North) B.M.C. vide it's Letter No.5095 dtd.10.12.2021 in reference to one O.H.R.C case No. 2406/2020, had requested to the Tahasildar, Bhubaneswar, the Land Officer, GA & PG Department, Government of Odisha, the Land Officer, Bhubaneswar Development Authority and the Land Officer, Odisha State Housing Board, Bhubaneswar, the Joint Demarcation of Prasanti Vihar, O.S.H.B. Housing Scheme, High School Area near BMC MCC stage A-(I) was conducted by

*Basanta Kumar Mallick*

**Environment Officer  
Bhubaneswar Municipal Corporation**



*K. S. Adhikari*

the aforesaid officials as directed, where after it was verified and ascertained that, the Material Recovery Facility is situated within the area of the Micro Composting Centre at Plot No.320(P) having Kisam : Pathara Bania and the said plot is registered in the name of the G.A. Department, G.o.O, as per the joint demarcation copy and sketch map provided, pursuant to the aforesaid direction of the Zonal D.C. (North), BMC. The said fact has also been referred in the aforesaid Amin report dtd.07.01.2022.

It is further relevant to submit that, it has been also clarified in the said Amin report that, the Plot No.308, Khata No.493, Kisam : Jungle-2 as alleged by the applicants, is registered in the name of G.A. Department, Government of Odisha situated at Mouza: Patia, At- Sikharchandi village area and upon necessary enquiry, it has been found that, over the said Plot No.308, the Government of Odisha has rehabilitated the slum people under its rehabilitation scheme thus, the MRF as alleged has not been constructed over the said plot no.308, but over plot no. 320(Pt.) which is a non-forest land.

Copies of the Amin report dtd.07.01.2022 along with Joint Demarcation Report, Letter No.10.12.2021, Sketch map and R.O.R. are annexed herewith as **Annexures-A/2, B/2, C/2, D/2 and E/2** respectively.

8. That, from the aforesaid detail facts and submission with regard to the construction of the Material Recovery Facility, it would be

Dipankar Kumar Mallik

Environment Officer  
Bhubaneswar Municipal Corporation



Dipankar Mallik

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clearly evident that, the said MRF has not been constructed over Khata No.493, Plot No.308 having Kisam Jungle-2, but rather it has been constructed over Khata No.491, Plot No.320 (Pt.) having Kisam: "Pathara Bania" over an area of AC: 3.500 Dec. out of Area Ac 66.660 Dec., which is registered in the name of G.A. Department. Since the nature of the said plot over which the MRF is being constructed is not having Kisam Jungle, therefore being a non-forest land, prior approval from the Ministry of Environment and Forest Climate Change, Government of India under the Forest Conservation Act, 1980 is not required. Thus, the said allegation made by the applicants in the Original Application is completely false, misconceived, baseless and without any foundation.

9. That, it is further pertinent to mention here for kind consideration of this Hon'ble Tribunal that, a similar case, pertaining to the aforesaid issue with regard to the construction of the MCC and MRF was filed before the Hon'ble High Court of Orissa by one applicant named Ajaya Bada Jena vide W.P.(C) No.235 of 2020, which has been dismissed by the Hon'ble High Court vide it's Order dtd.12.08.2020, upon hearing all the parties and considering the detail averments and counter affidavits of all the parties including the counter affidavit of the BMC wherein the said PIL being held by the Hon'ble Court to be frivolous in nature has dismissed the said petition with heavy cost to the applicant.

*Basanta Kumar Mallick*

**Environment Officer  
Bhubaneswar Municipal Corporation**



*Handwritten signature*

It is pertinent to submit that, in order to give effect to the Order dtd.26.03.2019 passed by the Hon'ble NGT, Principal Bench in O.A. Case No.606/2018 for implementation of various provisions of Solid Waste Management Rule, 2016 in a time bound manner, has identified sites in different parts of the cities for establishment of 43 nos. of Micro Compost Centres and 11 nos. of MRFs in the BMC area as part of the decentralized Solid Waste Management System, as has been also referred in the aforesaid Order dtd.12.08.2020 of the Hon'ble High Court.

A copy of the Order dtd.26.03.2019 passed by the Hon'ble NGT, Principal Bench in O.A. Case No.606/2018 & Order dtd.12.08.2020 of the Hon'ble High Court of Orissa are annexed herewith as **Annexure-F/2** & **Annexure-G/2** respectively.

10. That, the BMC being a responsible public authority, has always taken steps in accordance with law and giving due regards and in compliance of the Order dtd.26.03.2019 in O.A.No.606/2018 of the Hon'ble NGT (P.B.), New Delhi, has taken effective steps for the construction of the MCCs and MRFs over various sites in the BMC area for effective management of the solid waste generated in the Bhubaneswar city under the Solid Waste Management Rule, 2016.

11. That, from the aforesaid facts and circumstances, submissions and detail averments made herein above, it is clear that, the applicants have filed the present original application with ulterior motive by making all false and frivolous allegations, having no



Babanda Kumar Mallick

Environment Officer  
Bhubaneswar Municipal Corporation

Handwritten signature/initials.

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legs to stand and has not come in clean hands for having suppressed the real and relevant facts before this Hon'ble Tribunal. Thus, the original application is liable to be dismissed with cost.

12. That, so far as the case referred by the applicants as to O.A. No. 100 of 2017 is concerned, the BMC has not been party to the case and notice has been also served to the BMC. Be that as it may, the said case being involving a different issue, is not applicable to the present case.

13. That, the rest of the averments which have not been specifically admitted in this affidavit, may be deemed to have been denied.

14. That, in view of the averments made, considering the facts and circumstances of the case, the O.A. being devoid of any merit, is liable to be dismissed with exemplary cost, for filing such frivolous application and wasting the precious time of this Hon'ble Tribunal.



15. That, the deponent craves leave of this Hon'ble Tribunal, to file any such further affidavit, if so required, in the course of hearing, for proper adjudication of the matter.

16. That, the facts stated above are true to the best of my knowledge, belief & materials on record.

*Pradeep*

Advocate

*Baranta Kumar Mallik*

DEPONENT

The above named deponent being duly identified by Sri *P. K. Mohanta* Advocate and appears before me **Bhubaneswar Municipal Corporation** dated *3/11/22* about *AM/PM* on oath that the contents of this affidavit are true to the best of his/her knowledge

Deponent Executed on *3/11/22*  
**NILANAMI BHUDANESWAR**  
**NOTARY PUBLIC**  
**GOVT. OF INDIA**  
**REGD. NO. ON-39/2003**

SI

**VERIFICATION**

I, Shri Basanta Kumar Mallick, aged about 56 years, Son of Late Panchanan Mallick, at present working as Environment Officer, Commissioner, Bhubaneswar Municipal Corporation, At- Kalpana Square, Bhubaneswar, Dist. Khurda, do hereby verify that the contents of the above affidavit are true to my knowledge, belief and materials on record, and nothing has been concealed there from.

Verified at 29, on 31 day of January, 2022.

*Basanta Kumar Mallick*

**VERIFICANT**  
**Environment Officer**  
**Bhubaneswar Municipal Corporation**

**CERTIFICATE**

Due to non-availability of Cartridge Papers, Plain thick white papers have been used in this matter.

Cuttack.

Dt. . 01.2022

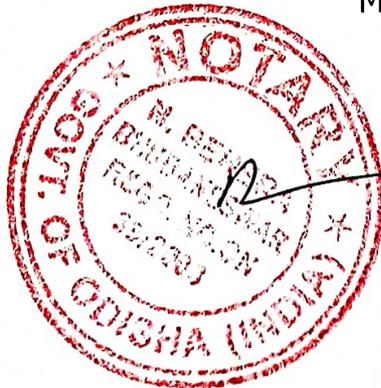
*Pronoy*

**ADVOCATE**

**PRONOY MOHANTY**

**ENROLMENT NO.734/2016**

**MOBILE NO.8658525777**



Z. D. C (N2)

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O.A case No- 113/21 Before the NGT  
 ବାବୁ Smt Binwachi Nanayana Mallik କର୍ମଚାରୀ  
 କେନ୍ଦ୍ର ମୁଖ୍ୟକର୍ମୀ ପୂର୍ବରୁ ଉପସ୍ଥାପନ କରାଯାଇଥିବା  
 ମୋଟା - ସମସ୍ତା ପ୍ରକାଶିତ ହୋଇ ୫ ମେ ୧୯୯୯ କରାଯାଇଥିବା  
 MRF ଓ R.O.R ଦେଖିବାକୁ ଦିଆଯାଇଥିବା ଓଡ଼ିଆ MR  
 ନମ୍ବର - ୫୭୧ , ପୃଷ୍ଠ - ନ - ୩୨୦ (୧), କିମ୍ପା -  
 ଯାହା ଚଳିଥିଲା , ରୁକ୍ଷା - Ac. ୩.୫୦୦ decmil out of  
 Area Ac. 62.660 decmil ଦିଆଯାଇଥିବା ଓଡ଼ିଆ  
 ପତ୍ର ମାଧ୍ୟମରେ - ସମସ୍ତା ପ୍ରକାଶିତ ହୋଇଥିବା  
 ଉପରେ । ଏହି BMC ଉପରେ Nonth zone  
 ଉପରେ order No - 5095 ଓ 10.12.2021 ଦିନ  
 ପ୍ରକାଶିତ ଓ 18.12.2021 ଦିନ ଗ.ା. BDA, BMC,  
 Tahasil, OSHB କର୍ମଚାରୀଙ୍କୁ ମାଧ୍ୟମରେ  
 ଉପରେ ଉପରେ sketch map ପ୍ରକାଶ କରାଯାଇଥିବା ।  
 ଓଡ଼ିଆ ଉପରେ ଉପରେ ଦିଆଯାଇଥିବା sketch map ଓ  
 MCC ଉପରେ ପରିଷା ମଧ୍ୟରେ MRF ଉପରେ ।  
 ଯାହା ପୃଷ୍ଠ - ୩୨୦ (୧) , କିମ୍ପା - ଯାହା ଚଳିଥିଲା,  
 RT - ଗ.ା. ଉପରେ ଉପରେ ।

ଆକାଶ

ୱାସ୍ତୁ ବିଭାଗ N G T case ପ୍ରତିଦାନ R.O.R  
 ଦେଲି ଉପରୋକ୍ତ ତଦ୍ୱାରା ଉପରୋକ୍ତ କାର୍ଯ୍ୟକ୍ରମ ୩୩୮-୩୦-  
 ୫୨୩, କର୍ମ-୩୦-୩୦୪, କିମ୍ପା-କାର୍ଯ୍ୟକ୍ରମ - GA-DEPT.  
 ଦ୍ୱାରା ପଞ୍ଜୀକୃତ ହୋଇଥିବା ବିବରଣୀ ସମ୍ପର୍କରେ ପ୍ରତିଦାନ ।  
 ଉପରୋକ୍ତ ତଦ୍ୱାରା କାର୍ଯ୍ୟକ୍ରମ ୩୩୮-୩୦୪ ଉପରେ  
 କାର୍ଯ୍ୟକ୍ରମର ସମ୍ପର୍କରେ କାର୍ଯ୍ୟକ୍ରମର ମାଧ୍ୟମରେ ପ୍ରତିଦାନ  
 କାର୍ଯ୍ୟକ୍ରମର ।

ଉପରୋକ୍ତ ପ୍ରତିଦାନ Joint Demarcation  
 copy a sketch map, 0.5 HB କି ଅନୁମୋଦିତ ହେବାର  
 ପ୍ରତିଦାନ କାର୍ଯ୍ୟକ୍ରମ, Demarcation order, R.O.R.  
 ଓ NAXA ଦ୍ୱାରା କାର୍ଯ୍ୟକ୍ରମ କାର୍ଯ୍ୟକ୍ରମ ।

କାର୍ଯ୍ୟକ୍ରମ  
 ୭/୧/୨୦୨୨

Ge. Arastha  
 Pradhan



**Bhubaneswar Municipal Corporation**  
North Zone Office, BDA Market Complex, Samanta Vihar, CSPur

Phone: 0674 - 2301002  
Fax : 0674 - 2432895  
Email: zdc-north@bmc.gov.in  
Web : www.bmc.gov.in

No 5095 / Date 10.12.2021

To

The Tahasildar  
Bhubaneswar

The land Officer  
G.A & P.G Dept. Govt. of Odisha  
Bhubaneswar

The land Officer  
Bhubaneswar Development Authority  
Bhubaneswar

The land Officer  
Odisha State Housing Board  
Bhubaneswar

Sub: - Joint demarcation of Prasanti Vihar, O.S.H.B Housing scheme High School area near BMC MCC stage A-(I)

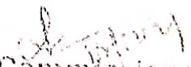
Ref:- G.H.R.C Case No. - 2406/2020

Sir,

With reference to the above cited subject, I am to inform you that the demarcation of Plot No- 320(pt) High School area in MZ- Patia, Prasanti Vihar OSHB scheme and verification of OSHB scheme land possession allotted by G.A Dept. is highly required as per O.H.R.C Case No.2406/2020. Hence a joint demarcation is being scheduled on 18.12.2021 at 11 a.m comprising of RI/Amin to demarcation the said land.

Therefore it is requested to kindly depute your authorised RI/Amin of the area on the scheduled date and time for the said demarcation.

Yours Faithfully,

  
Zonal Deputy Commissioner (North)  
Bhubaneswar Municipal Corporation

Memo No 5096 dt 10.12.2021

Copy to the Addl. Commissioner, BMC Bhubaneswar for receipt of final information.

  
Zonal Deputy Commissioner (North)  
Bhubaneswar Municipal Corporation

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Memo No 5097 / dt 10.12.2024 /

Copy to Niranjana Bahinipati (Amin), BMC North Zone, Bhubaneswar for favour of kind information and necessary action

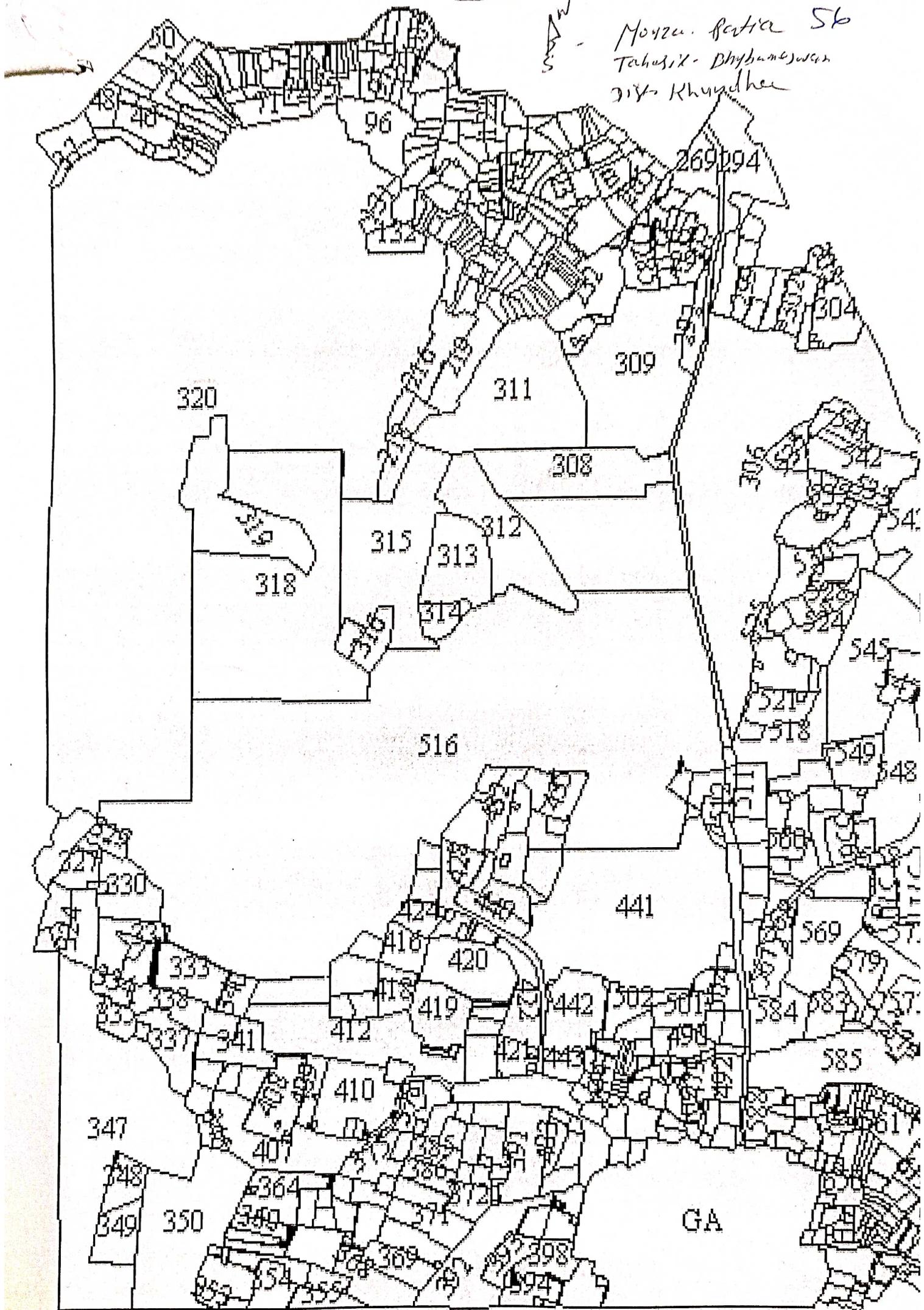


Zonal Deputy Commissioner (North)  
Bhubaneswar Municipal Corporation

G.C. Attested  
Ramesh  
Rev

ANNEXUR - C/2

Mozza. Baria St  
Tahsil - Dhyabeeswar  
Dist - Khyndher



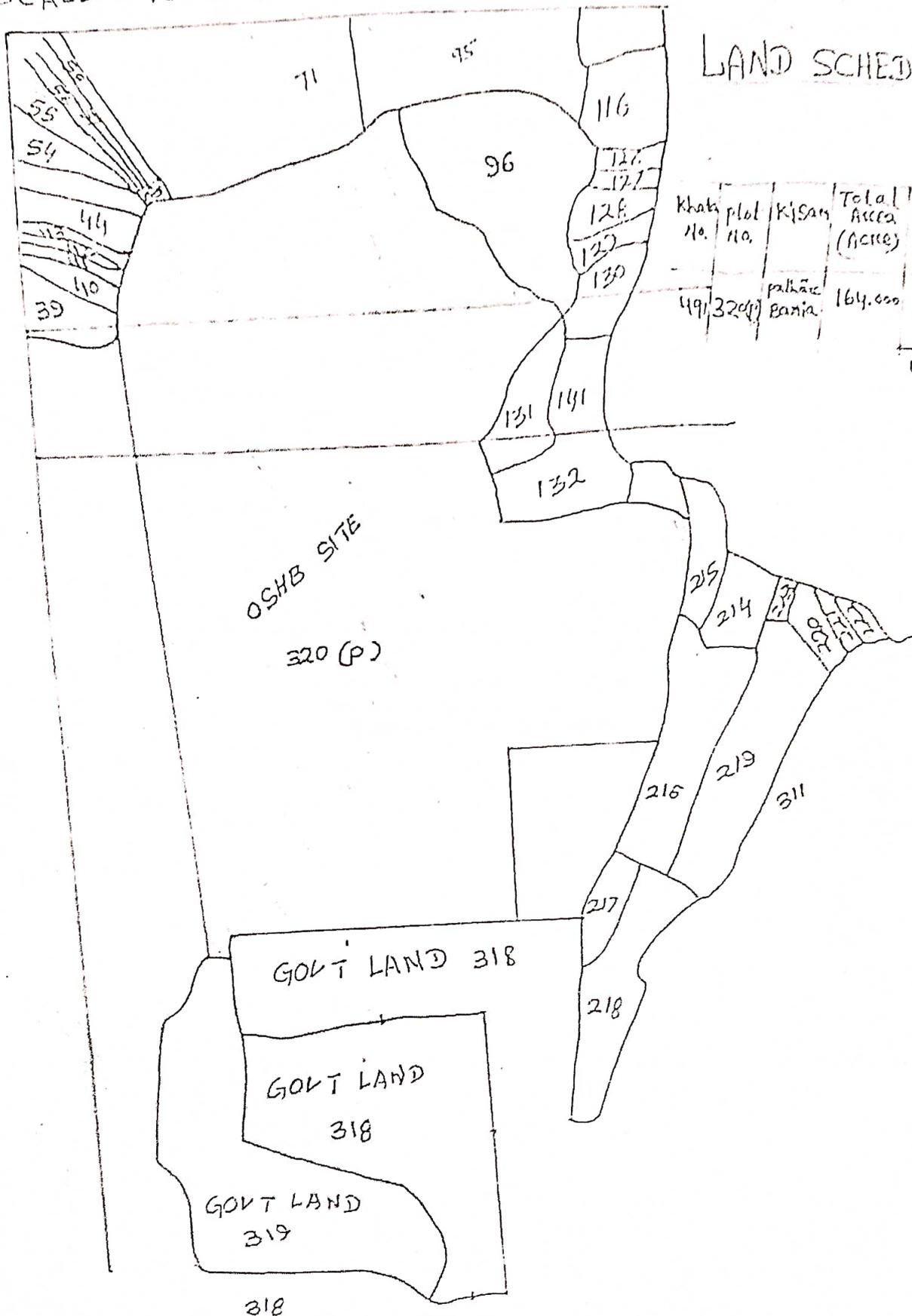
MOUZA - PATIA BHUBANESWAR, PS - CHANDRASEKHARPUR

57

HASHIL - BHUBANESWAR, DIST - KHORDHA

SCALE - 16" = 1 MILE YEAR - 1973-74

LAND SCHEDULE



Khat No.	Plot No.	Kisan	Total Area (Acres)	Scheme Area (Acres)
491	320	Palkhān Bania	164.000	40.480
				40.480

OSHB LAND SHOWN THUS



*[Signature]*  
12/09/2019

*[Signature]*

*[Signature]*

*[Signature]*  
Ramesh  
Adh



# ଭୁଲେଖ

ANNEXURE-D/2

## LAND RECORDS WEB PORTAL OF ODISHA

58

Schedule I Form No.39-A

### ଖତିୟାନ

ଗିଲା : ପଟିଆ  
ନା : ନିଉକ୍ୟାପିଟାଲ  
ନା ନମ୍ବର : 22

ଚହମିଲ : ଭୁବନେଶ୍ୱର  
ଚହମିଲ ନମ୍ବର : 260  
ଜିଲା : ଖୋର୍ଦ୍ଧା

ନିଦାନକ ନାମ ଓ ଖେପାଟ ବା ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		ଓଡ଼ିଶା ସରକାର ଖେପାଟ ନମ୍ବର 1				
) ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		491				
) ପ୍ରକାର ନାମ, ପିତା ନାମ, ଜାତି ଓ ବାସସ୍ଥାନ		ଆବାଦ୍ୟ ଅଯୋଗ୍ୟ ଅନାବାଦି				
) ସ୍ତର						
) ବେଢ଼ :	କଳକର	ଖଜଣା	ସେସ୍	ନିଆର ସେସ୍ ଓ ଅନ୍ୟାନ୍ୟ ସେସ୍ ଯଦି କିଛି ଥାଏ	ମୋଟ	5) କ୍ରମବର୍ଦ୍ଧନଶୀଳ ଖଜଣାର ବିବରଣୀ
) ବିଶେଷ ଅନୁସଙ୍ଗ ଯଦି କିଛି ଥାଏ						

BLANK SPACE FOR STAMPING

କ୍ରିମ ପ୍ରକାଶନ ତାରିଖ - 06/12/1973

କଣା ଧାର୍ଯ୍ୟ ତାରିଖ -

ସ୍ତ୍ରୀୟ ସୂଚନା ବିଜ୍ଞାନ କେନ୍ଦ୍ର 07/01/2022 01:36:10 IP :117.194.8.63



# BHULERH

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## LAND RECORDS WEB PORTAL OF ODISHA



ଖର୍ଚ୍ଚପାତ୍ରଙ୍କ କ୍ରମିକ ନଂ : 491		ନୌଜା : ପଡ଼ିଆ				କିଲା : ଖୋର୍ଦ୍ଧା
ପ୍ଲଟ ନମ୍ବର ଓ ତଲକ ନାମ	ଜିଲ୍ଲା ଓ ପୁରୀର ପାଲଟା	ଜିଲ୍ଲାପାଳ ବିଦ୍ୟାଳୟ ବିଦ୍ୟାଳୟ ଓ ଚୌକିଡ଼ି	ଗଠନ			ମାତ୍ରା
			ଏ.	ଡି.	ଫେଡ଼୍	
7	8	9	10		11	12
1419	ଆଡ଼ି		0	4900	0.1983	ଆମ୍ବ/2 I
520	ପଥର ତଡ଼ାଣ		0	1600	0.0648	
523	ପଥର ତଡ଼ାଣ		0	1400	0.0567	
N1	ପାହାଡ଼		212	5000	85.9956	ଶିଖର ଚଢ଼ି ପାହାଡ଼ I
543	ପଥର ବଣିଆ		4	5900	1.8574	
452	ପଥର ବଣିଆ		4	6500	2.9258	
320	ପଥର ବଣିଆ		62	6600	25.3576	
518	ପଥର ବଣିଆ		0	3400	1.6794	
319	ପଥର ବଣିଆ		8	6300	3.4924	ଆମ୍ବ/34 ଗଛ ଦଖଲ ବାନାମ୍ବର ରାଉତ ରଞ୍ଜାକର ରାଉତ ଶାମ ରାଉତ ମଧୁସୂଦନ ରାଉତ ପି. ନିତ୍ୟାନନ୍ଦ ରାଉତ ଗୁ. ଖଣ୍ଡାୟତ, ସା. ନିଜଗା I
306	ପଥରବାଣି		12	0400	4.8724	
392	ପଥରବାଣି		4	9100	1.9870	
<b>11 plots</b>			<b>311</b>	<b>1100</b>	<b>128.4874</b>	

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*Pre-Advised  
Rend, AD*





Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016  
(Union Territory of Chandigarh)

Date of hearing: 26.03.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

For Respondent (s):

Mr. Manoj Kumar Parida, Advisor, Chandigarh  
Mr. Debendra Dalai, CCF, Chandigarh  
Mr. K. Kr. Yadav, Commissioner, M.C. Chandigarh  
Mr. Shubham Bhalla, Advocate

**ORDER**

1. The issue for consideration is status of compliance of orders of this Tribunal on the subject of solid waste management and allied issues.
- I. PROCEEDINGS IN ALMITRA PATEL:**
2. The matter arose before this Tribunal on transfer of proceedings in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors.*, by the Hon'ble Supreme Court, vide order dated 02.09.2014.
3. We may note that the issue has been subject matter of consideration before the Hon'ble Supreme Court in several proceedings, including in *Municipal Council, Ratlam vs. Vardhichand*<sup>1</sup> and *B.L. Wadhwa v. Union of India and Ors.*<sup>2</sup>. It has been categorically laid down that clean environment is fundamental right of citizens under Article 21 and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. For doing so, financial inability cannot be pleaded.

<sup>1</sup> (1980) 4 SCC 162

<sup>2</sup> (1996) 2 SCC 594

4. The Hon'ble Supreme Court had appointed Barman Committee which gave report on 06.01.1998 and it was duly accepted. The same led to draft for management of MSW Rules, 1999 which were replaced by 2000 Rules and are now succeeded by 2016 Rules. The Hon'ble Supreme Court gave directions for proper management of municipal solid waste, *inter-alia*, vide orders dated 24.08.2000, 04.10.2004, 15.05.2007 and 19.07.2010.
5. All the States were parties before the Hon'ble Supreme Court and draft action plans were prepared which were to be updated, as per revised Rules.
6. It has been observed by the Hon'ble Supreme Court in *Almitra H. Patel and Anr. v. Union of India and Ors.*<sup>3</sup> that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees. Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums of multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. Instead of "slum clearance" there is "slum creation" in cities which is further aggravating the problem of domestic waste being strewn in the open. Accordingly, the Court directed that provisions pertaining to sanitation and public health under the DMC Act, 1957, the New Delhi Municipal Council Act, 1994 and Cantonments Act, 1994 be complied with, streets and public premises be cleaned daily, statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of

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<sup>3</sup> (2000) 2 SCC 678

compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

7. The Hon'ble Supreme Court again in *Almitra H. Patel and Anr. v. Union of India and Ors.*<sup>4</sup> while further reviewing the progress noted the following suggestions for consideration by the State Governments and Central Government and SPCBs/PCCs:-

“1. As a result of the Hon'ble Supreme Court's orders on 26.7.2004, in Maharashtra the number of authorizations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.

2. All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31.12.2001, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off(leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.

3. Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.

4. States seems to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking

<sup>4</sup> (2004) 13 SCC 538

70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitizing/stabilizing, which is always the first step in composting viz. inoculate the waste with cowdung solution or bioculture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.

5. Unless each State creates a focused 'solid waste management cell' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.

6. The admitted position is that the MSW Rules have not been complied with even after four years. None of the functionaries have bothered or discharged their duties to ensure compliance. Even existing dumps have not been improved. Thus, deeper thought and urgent and immediate action is necessary to ensure compliance in future."

8. After transfer of proceedings to this Tribunal on 02.09.2014, the matter was taken up from time to time and several directions were issued. Finally vide order dated 22.12.2016, after noticing that the SWM Rules, 2016 had been notified on 08.04.2016 which laid down elaborate mechanism to deal with the solid waste management, the Tribunal directed as follows:

1. Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.
2. The directions contained in this judgment shall apply to the entire country. All the State Governments and Union Territories shall be obliged to implement and enforce these directions without any alteration or reservation.
3. All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this judgment, within four weeks from the date of pronouncement of the judgment. The action plan would relate to the management and disposal of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and

disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016.

- 4. The period of six months specified under Rule 6(b), 18, 23 of the Rules of 2016 has already lapsed. All the stakeholders including the Central Government and respective State Governments/UTs have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned w.e.f. 1<sup>st</sup> January, 2017. There shall be no extension given to any stakeholders for compliance with these provisions any further.

The period of one year specified under Rule 11(f) 12(a), 15(e), 22(1) and 22(2) has lapsed. The concerned stakeholders have obviously not taken effective steps in discharging their statutory obligations under these provisions. Therefore, we direct that the said period of one year shall commence with effect from 1<sup>st</sup> July, 2017. For this also, no extension shall be provided.

Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

- 5. The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.
- 6. All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.
- 7. Wherever a Waste to Energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the waste.
- 8. It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500

meters wherever there is a land constraint. The purpose of the buffer zone should be to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory.

We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case to case basis.

9. We direct that the Committees constituted under Rule-5 would meet at least once in three months and not once in a year as stipulated under the Rules of 2016. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, local bodies, departments and Project Proponents.
10. The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their respective plants, wherever such plant is located within a 100 km radius of the facility.  
  
In other words, it will be obligatory on the part of the State, local authorities to create a market for consumption of RDF. It is also for the reason that, even in Waste to Energy plants, Waste-RDF-Energy is a preferred choice.
11. In Waste to Energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.
12. The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerised weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.
13. Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at source/collection point and then transport it in accordance with the Rules of 2016 to the identified sites.

14. The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent leachate and generation of Methane. The stabilized waste should be subjected to composting, which should then be utilized as compost, ready for use as organic manure.
15. Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of Direction 13.
16. The deposited non-biodegradable and inert waste or such waste now brought to land fill sites should be definitely and scientifically segregated and to be used for filling up of appropriate areas and for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.
17. The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such other allied items. Hazardous waste, so collected by the centers should be either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.
18. We direct MoEF&CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.
19. The directions and orders passed in this judgment shall not affect any existing contracts, however, we still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under

process, this judgment and the Rules of 2016 shall completely and comprehensively apply.

20. We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple burning, while Rs. 25,000/- (Rs. Twenty Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.
21. All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.
22. We direct the CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such waste burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.
23. That the directions contained in the judgment of the Tribunal in the case of 'Kudrat Sandhu Vs. Govt. of NCT & Ors', O.A. No. 281 of 2016, shall mutatis mutandis apply to this judgment and consequently to all the stakeholders all over the country.
24. That any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986 and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.
25. That the State Governments/UTs, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program

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for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the concerned States/UTs/Districts.

26. We expect all the concerned authorities to take note of the fact that the Rules of 2016 recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.
27. We further direct that the directions contained in this judgment and the obligations contained under the Rules of 2016 should be circulated and published in the local languages.
28. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.
29. Copy of this judgment be circulated to all the Chief Secretaries/Advisers of States/UTs by the Registry of the Tribunal. The said authorities are hereby directed to take immediate steps to comply with all the directions contained in this judgment and submit a report of compliance to the Tribunal within one month from the date they receive copy of this judgment."

## **II. PREVIOUS PROCEEDINGS IN PRESENT MATTER:**

9. The Tribunal in a review meeting on the administrative side with the CPCB and municipal solid waste management experts, on 23.07.2018 considered the matter in the light of annual report prepared by the CPCB in April 2018 under Rule 24 of the MSW Rules and noticed serious deficiencies. Accordingly, it was decided to take up the issue of execution of judgment dated 22.12.2016 in *Mrs. Almitra H. Patel & Anr. Vs. Union of India & Ors (supra)*, by way of interaction with all the States/UTs through video conferencing. For this purpose, meetings were held on 02.08.2018, 07.08.2018, 08.08.2018, 13.08.2018 and 20.08.2018.
10. At the conclusion of the interaction, the Tribunal declared that the mandatory provision of the Rules and directions should be implemented in a time bound manner. Following specific steps were required to be taken:

- i. Action plans were to be submitted by all the States to CPCB latest by 31.10.2018 and executed in the outer deadline of 31.12.2019 which should be overseen by the Principal Secretaries of Urban and Rural Development Departments of the States.
- ii. The States should have Monitoring Committees headed by the Secretary, Urban Development Department with the Secretary of Environment Department as Members and CPCB and State Pollution Control Boards (SPCBs) assisting the Committees.
- iii. They should have interaction with the local bodies once in two weeks.
- iv. Local bodies are to furnish their reports to State Committees twice a month.
- v. The State Committees may take a call on technical and policy issues.
- vi. Local bodies may have suitable nodal officers. Bigger local bodies may have their own Committees headed by Senior Officers.
- vii. Public involvement may be encouraged and status of the steps taken be put in public domain.
- viii. The State Level Committees are to give their reports to the Regional Monitoring Committees on monthly basis.<sup>5</sup>
- ix. Instead of every local body separately floating tenders, the standardized technical specifications be involved and adopted.<sup>6</sup>
- x. Best practices may be adopted, including setting up of Control Rooms where citizens can upload photos of garbage which may be looked into by the specified representatives of local bodies, at local level as well as State level.
- xi. It was directed that mechanism be evolved for citizens to receive and give information.
- xii. CCTV cameras be installed at dumping sites.

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<sup>5</sup> Para 21  
<sup>6</sup> Para 22

- xiii. GPS be installed in garbage collection vans. This may be monitored appropriately.<sup>7</sup>
11. Performance audit was to be conducted for 500 ULBs with population of 1 lakh and above initially, as suggested by the MoHUA as follows:

	<b>Key Parameters/ Indicators</b>	<b>Description of Parameters/Indicators for physical evaluation</b>
1	<b>Door to Door Collection</b>	Door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises. Transportation in covered vehicles to processing or disposal facilities
2	<b>Source Segregation</b>	Segregation of waste by households into Biodegradable, non-biodegradable, domestic hazardous.
3	<b>Litter Bins &amp; Waste Storage Bins</b>	<ul style="list-style-type: none"> <li>• Installation of Twin-bin/ segregated litter bins in commercial &amp; public areas at every 50-100 meters.</li> <li>• Installation of Waste storage bins in strategic locations across the city, as per requirement (Unless Binless)</li> <li>• Elimination of Garbage Vulnerable Points .</li> </ul>
4	<b>Transfer Stations</b>	Installation of Transfer Stations instead of secondary storage bins in cities with population above 5 lakhs.
5	<b>Separate transportation</b>	<ul style="list-style-type: none"> <li>• Compartmentalization of vehicles for the collection of different fractions of waste.</li> <li>• Use of GPS in collection and transportation vehicles to be made mandatory at least in cities with population above 5 lakh along with the publication of route map.</li> </ul>
6	<b>Public Sweeping</b>	<ul style="list-style-type: none"> <li>• All public and commercial areas to have twice daily sweeping, including night sweeping and residential areas to have daily sweeping.</li> </ul>
7	<b>Waste Processing</b> <ul style="list-style-type: none"> <li>• Wet Waste</li> <li>• Dry Waste</li> <li>• MRF Facility</li> </ul>	<ul style="list-style-type: none"> <li>• Separate space for segregation, storage, decentralised processing of solid waste to be demarcated</li> <li>• Establishing systems for home/decentralised and centralised composting</li> <li>• Setting up of MRF Facilities.</li> </ul>
8	<b>Scientific Landfill</b>	<ul style="list-style-type: none"> <li>• Setting up common or regional sanitary landfills by all local bodies for the disposal of permitted waste under the rules</li> <li>• Systems for the treatment of legacy waste to be established.</li> </ul>
9	<b>C&amp;D Waste</b>	Ensure separate storage, collection and transportation of construction and demolition wastes.

<sup>7</sup> Para 23

10	<b>Plastic Waste</b>	Implementation of ban on plastics below <50 microns thickness and single use plastics.
11	<b>Bulk Waste Generators (BWGs)</b>	Bulk waste generators to set up decentralized waste processing facilities as per SWM Rules, 2016.
12	<b>RDF</b>	Mandatory arrangements have to be made by cement plants to collect and use RDF, from the RDF plants, located within 200 kms.
13	<b>Preventing solid waste from entering into water bodies</b>	Installation of suitable mechanisms such as screen mesh, grill, nets, etc. in water bodies such as nallahs, drains, to arrest solid waste from entering into water bodies.
14	<b>User Fees</b>	Waste Generators paying user fee for solid waste management, as specified in the bye-laws of the local bodies.
15	<b>Penalty provision</b>	Prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the byelaws framed.
16	<b>Notification of Bye Laws</b>	Frame bye-laws incorporating the provisions of MSW Rules, 2016 and ensuring timely implementation.
17	<b>Citizen Grievance Redressal</b>	Resolution of complaints on Swachhata App within SLA.
18	<b>Monitoring mechanism</b>	States/ULBs to update month wise targets/action plans on the online MIS.

12. The Regional Committees were to be headed either by former High Court Judges or by Senior Retired Officers and Apex Committees by a former Supreme Court Judge.<sup>8</sup> Common problems faced and suggestions were to be noted in tabular chart.<sup>9</sup> The Committees were to function for a period of one year subject to further orders.<sup>10</sup>
13. The matter was again taken up on 16.01.2019 in light of reports received from some of the Committees, especially from the State of Uttar Pradesh.
14. It was noticed that timeline of two years had expired which was the period prescribed for steps 1 to 7 under Rule 22 and three years is to expire on 08.04.2019 which covers steps upto serial number 10. Since violation of Rules are statutory offences under the Environment (Protection) Act, 1986 and results in deterioration of environment, affecting the life of the citizens, it was noted that the authorities may be

<sup>8</sup> Paras 18 and 20

<sup>9</sup> Para 14

<sup>10</sup> Para 18

made accountable for their lapses and required to furnish performance guarantee for compliance or pay damages as had been directed in some of the cases.<sup>11</sup>

15. The Tribunal noted that solid waste management is of paramount importance for protection of environment, as the statistics paint a dismal picture of the environment in the country. The Tribunal also referred to proceedings before it, relating to 351 polluted river stretches 102 non-attainment cities in terms of ambient air quality and 100 industrial clusters which are critically polluted as per data available with CPCB. The Tribunal took cognizance of such serious environmental issues and required the respective States to prepare time bound action plans and execute the same so as to restore water and air quality, as per prescribed norms.<sup>12</sup>

16. The Tribunal also noted that there was a need to conduct performance audit of statutory regulators so that they are manned by competent as

<sup>11</sup> Para 20. Cases referred to in the said para are as follows:

- (a). All India Lokadhikar Sangathan vs. Govt of NCT Delhi & Anr, E.A No. 11/2017, Date of Order 16.10.2018;
- (b). Sobha Singh vs. State of Punjab & Ors. O.A. No. 916/2018, Date of Order 14.11.2018;
- (c). Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors. O.A No. 110 (THC)/2012, Date of Order 04.01.2019;
- (d). Ms. Ankita Sinha vs. State of Maharashtra & Ors. O.A. No. 510/2018, Date of Order 30.10.2018,
- (e). Sudarsan Das vs. State of West Bengal & Ors. O.A. No. 173/2018, Date of Order 04.09.2018;
- (f). Court on its Own Motion vs. State of Karnataka, O.A. No. 125/2017, Date of Order 06.12.2018.

<sup>12</sup> Para 21. Cases referred to in the said para are as follows:

- O.A. No. 110 (THC)/2012-Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors.
- O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB" dated 20.09.2018: wherein the Tribunal issued directions to prepare and implement Action Plans to rejuvenate and restore the 351 polluted river stretches.
- Original Application No. 681/2018, News Item Published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15" dated 08.10.2018: wherein the Tribunal directed Action Plans to be prepared for the 102 non-attained cities to bring the standards of air quality within the prescribed norms.
- Original Application No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018: wherein the Tribunal directed preparation of time bound Action Plans to ensure that all industrial clusters comply with the parameters laid down in Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.
- Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 dated 31.08.2018: wherein the Tribunal constituted Apex and Regional Monitoring Committees for effective implementation of MSW Rules, 2016.

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well as credible persons and there is a regime of their accountability, as observed by Hon'ble Supreme Court. Failure to do so would be disastrous for the health of the citizens and defeat the very purpose of regulatory regime manned to protect the environment. Accordingly it was held that the issues being interconnected, an integral approach was required in the matter for sustainable development. Coordination was required with different authorities of the State, which was not possible without involvement of the Chief Secretaries.<sup>13</sup>

17. The Tribunal also considered its experience of administrative interaction held on the subject on 04.12.2018 with the Committees appointed and found that the mechanism had not become as effective as expected.<sup>14</sup>
18. The Tribunal accordingly modified the mechanism of Committees. For the States, Member Secretaries of the SPCBs were made the Convener of the Committees. Secretaries of Urban Development, Local Bodies, Local Self-Government, Environment, Rural Development Health and representatives of CPCB, wherever CPCB office is existing were to be Members. The Committees were to work for six months or as may be considered necessary.<sup>15</sup>

<sup>13</sup> Paras 21 to 25. Cases referred to in the said paras are as follows:

- Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors, O.A. No.95/2018.
- [https://niti.gov.in/writereaddata/files/new\\_initiatives/presentation-on-CWMI.pdf](https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf)- India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-andenvironment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>- Most pollution-linked deaths occur in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFT063r7x4Ti8ZbHF7mM.html>- Delhi's most polluted city, Mumbai worse than Beijing as per WHO; [http://www.un.org/waterforlifedecade/pdf/global\\_drinking\\_water\\_quality\\_index.pdf](http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf)- WHO Water Quality Index .
- News Item published in 'The Times of India' Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15" O.A. No. 681/2018- <http://www.greentribunal.gov.in/DisplayFile.aspx>
- <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.
- Sudarsan Das vs. State of West Bengal & Ors. O.A. No. 173/2018 Order dated 04.09.2018
- Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors. O.A. No. 176/2015, order dated 3.1.2019
- Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors O.A. No.95/2018, order dated 11.01.2019.

<sup>14</sup> Para 26.

<sup>15</sup> Para 28. Cases referred to in the said para are as follows:

19. The Committees constituted under the Rules were to work in tandem with the Committees constituted by the Tribunal. The CPCB was to prepare Standard Operating Procedure (SOP) for implementation of Clause J for dealing with the legacy waste. The Collectors were to have monthly meetings, as per Rule 12 and submit reports to State Urban Development Departments, with a copy to State Level Committees.<sup>16</sup>
20. Every State was to constitute a Special Task Force (STF) in each District with four members – one each nominated by the District Magistrate, Superintendent of Police, Regional Officer of the SPCBs and the District Legal Services Authority (DLSA) for awareness by involving educational, religious and social organizations, including local Eco-clubs. This was also to apply with regard to awareness in respect of other connected issues i.e. polluted rivers, air pollution, etc. In this regard, reference was made to directions of the Hon'ble Supreme Court requiring such awareness programmes to be undertaken.<sup>17</sup>
21. The Tribunal also referred to its order dated 19.12.2018, in Original Application No. 673/2018, for laying down scale of compensation to be recovered from each State/UT in failing to carry out directions of this

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- See order dated 19.9.2018 of this Tribunal in O.A No. 606/2018 to the effect that the non-official Chairperson will be paid consolidated amount equal to basic pay of the post held by the incumbent. A former Judge of Hon'ble Supreme Court will be entitled to Rs. 2.50 Lakhs per month. A former Judge of the High Court will be paid Rs. 2.25 Lakhs per month. On same pattern, remuneration may be fixed for any other retired Member.
  - E.A. No.32/2016 order dated 15.11.2018- Clarifying that while the State may provide the logistics and other facilities, the financial aspects may be taken care of by the State Pollution Control Boards/Committees. The financial aspects will include the remuneration or other incidental expenses which may be increased with a view to effectively execute the directions of this Tribunal. Such expenses may include secretarial assistance, travel as well as cost incurred for any technical assistance.
  - Apart from remuneration, all actual expenses incurred in taking assistance for secretarial working will be reimbursed by concerned PCB as already directed vide order dated 17.12.2018 E.A. No.32/2016, Amresh Singh v. Union of India & Ors.

<sup>16</sup> Para 32.

<sup>17</sup> Paras 35 and 36. Cases referred to in the said paras are as follows:

- O.A. No. 138/2016 order dated 27.08.2018
- O.A.No. 673/2018, order dated 20.09.2018
- Suo Moto Application No. 290/2017, order dated 24.10.2018
- O.A. No. 200/2014 order dated 29.11.2018
- (2004)1 SCC 571
- (2005)5 SCC 733

Tribunal on the issue of preparing action plans for river stretches. Similar pattern was proposed in case of failing to carry out directions in the present case.<sup>18</sup>

22. The Chief Secretaries of all the States and UTs were required to appear in person and be ready on the following specific points:

- a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.
- b. Status of functioning of Committees constituted by this order.
- c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).
- d. Status of functioning of Committees constituted in News Item Published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15" dated 08.10.2018
- e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018.
- f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.
- g. Total amount collected from erring industries on the basis of 'Polluter Pays' principle, 'Precautionary principle' and details of utilization of funds collected.
- h. Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State."

23. It was also directed that they may not nominate other officer for appearance before this Tribunal. However, they may seek change of date, with advance intimation.<sup>19</sup>

<sup>18</sup> Para 38. Cases referred to in the said para are as follows:

- Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors O.A. No. 110(THC)/2012.
- News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (O.A. No. 673/2018) vide order dated 19.12.2018- wherein this Tribunal held that compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches.

<sup>19</sup> Paras 40 and 41

24. Further direction was for the State to display on their respective websites the progress made on the above issues.<sup>20</sup> Under Rule 14, the CPCB was directed to coordinate with the Committees.<sup>21</sup>
25. Accordingly, Chief Secretaries of Himachal Pradesh, Haryana, Punjab, Delhi, Bihar, and Odisha have already appeared before this Tribunal on 05.03.2019, 06.03.2019, 07.03.2019, 11.03.2019, 15.03.2019 and 26.03.2019 respectively and their reports were duly considered. Directions have been given for further course of action and they have been directed to appear in person again with status of compliance and progress after six months. This has become necessary to ensure that environment protection and restoration is given highest priority in view of serious challenge posed by deteriorated environment and large scale violations which are not satisfactorily dealt with by the administrative machinery of the Government. The Tribunal hopes and expects that continued involvement of Chief Secretaries will result in improvement of the situation and lead to better protection of quality of air, water and environment and help public health.

### **III. PRESENT PROCEEDINGS:**

26. In pursuance of above, Shri Manoj Kumar Parida, Advisor, Union Territory, Chandigarh is present in person.
27. A status report has been tendered on behalf of the Union Territory, Chandigarh during the proceedings indicating status of compliance of order dated 16.01.2019. The status report indicates some of the steps taken for solid waste management. Status of compliance of Plastic Waste Management Rules, 2016, Bio-medical Waste Management Rules, 2016, polluted river stretches, polluted industrial clusters, air polluted cities

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<sup>20</sup> Para 42

<sup>21</sup> Para 45

and illegal mining have also been mentioned. As per the report, there is complete ban on use of plastic, there is no critically polluted river stretch, Action Plan for ambient air in non attainment cities has been prepared and approved by AQMC and approved by CPCB. There is no critically polluted industrial cluster in the Union Territory.

28. From perusal of the status report and after hearing submissions of the State, we find that steps required to be taken under Rule 22 of the Solid Waste Management Rules, 2016 have not yet been completed. It is not clear whether the local bodies have submitted their annual reports to the State Pollution Control Board (SPCB) under Rule 24 and whether SPCB has submitted consolidated annual report to the Central Pollution Control Board (CPCB) under the said Rules. We have also found the steps taken for plastic waste management and bio-medical waste management to be inadequate.
29. From the status report furnished by the Advisor it is apparent that further steps are required to be taken in terms of the Rules and for ensuring sustainable development. Unless such steps are taken, the unsatisfactory state of environment in the country in general and in Chandigarh in particular may not improve.
30. Failure to segregate garbage at source, open garbage dumping at Dadumajra dumping ground, lack of 100% processing of garbage generated in the city and the non-implementation of the solid waste management plan are the major issues that brought Chandigarh to the 20th place<sup>22</sup> in the Swachh Survekshan 2019<sup>23</sup>. According to a study, waste dumped in landfill sites is contaminating surrounding groundwater in the Tricity. Reports state that non-segregation and unregulated dumping of the garbage has deteriorated the quality with the

<sup>22</sup> Fall from grace: Open dumping, non-segregation bring UT down (Times of India- March 07, 2019)

<sup>23</sup> <https://www.swachhsurvekshan2019.org/Images/SS2019%20Report.pdf>

passage of time, an alarming sign. Experts say that once the groundwater becomes polluted, contamination persists and becomes difficult to treat due to physical inaccessibility<sup>24</sup>. With regard to the water pollution level, according to the Chandigarh Pollution Control Committee (CPCC), most of the sewage treatment plants (STPs) are operating with Biological Organic Demand (BOD) exceeding the limit of 5 PPM or MG/L. As per the newspaper article<sup>25</sup>, 23,716 Industrial Projects Replace Forests Over 30 Years. Currently, up to 25,000 hectares of forests—250 sq km, or more than twice Chandigarh's area—are handed over every year for "non-forestry activities", including defence projects, dams, mining, power plants, industries and roads.

31. We have been informed by the Advisor that air pollution is a serious cause of concern in Chandigarh due to excessive number of vehicles on the roads resulting in high emission level. If it is so, remedial measures have to be planned and executed. We are informed that an action plan has been prepared in this regard which has been approved by the CPCB. Graded Response Action Plan to deal with the vehicular pollution may be necessary on the pattern of such a plan notified by the MoEF&CC on 12.01.2017, referred to in the order of this Tribunal dated 08.10.2018 in Original Application No. 681/2018. Such a plan must be preceded by requisite study.
32. Dealing with such an issue, this Tribunal in Original Application No. 568 of 2016, *Ajay Khera Vs. Container Corporation of India Limited & Ors.* vide order dated 26.10.2018 noted the need to consider the following questions:-

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<sup>24</sup><https://timesofindia.indiatimes.com/city/chandigarh/groundwater-near-landfills-toxic-study/articleshow/66113244.cms>

<sup>25</sup><https://www.thenewsminute.com/article/23716-industrial-projects-replace-forests-over-30-years-44499>

- (a) What would happen to the traffic flow if all roads become parking?
- (b) What happens to the road travelers, if there is no adequate oxygen in the air on account of excessive vehicles and congestion?
- (c) How would unlimited housing be provided to people if the land resources are exhausted at particular place?
- (d) How will waste water and solid waste disposal needs be met, if there is unplanned population density in a particular city?
33. These questions require serious consideration in the present case also in the specific context of the area in question.
34. It is essential to assess the number of vehicles to be permitted proportionate to the capacity of the city in the larger interest of the environment.
35. On behalf of CPCB, following data has been furnished in respect of Union Territory, Chandigarh. The same is reportedly based on report furnished by the PPCB under Rule 24(3) of the SMW Rules or other corresponding provisions:

RULES	DATA
<b>Solid Waste Management</b>	<ul style="list-style-type: none"> <li>• No. of Local Bodies: 01</li> <li>• No. of city: 01</li> <li>• Waste generation: 500 TPD</li> <li>• Waste collection: 463 TPD</li> <li>• Waste treated: 142.87 TPD</li> <li>• Land filling: 319.68 TPD</li> <li>• House to house collection: 100%</li> <li>• Segregation: 80%</li> <li>• Composting: 01</li> <li>• Bio-gas Plant: 02</li> <li>• RDF Plant: 01</li> </ul>
<b>Plastic waste management</b>	<ul style="list-style-type: none"> <li>• Waste generation : 12775 TPA</li> <li>• Use of Plastic: Ban on use of carry bags.</li> <li>• No. of registered units: 126</li> </ul>

<b>Biomedical waste management</b>	<ul style="list-style-type: none"> <li>• No. of hospitals : 788</li> <li>• No. of authorizations: 350</li> <li>• Waste generation : 2503 Kg/D</li> <li>• Quantity of waste treated: 2503 Kg/D</li> <li>• CBMWTF: 01</li> <li>• No. of captive facilities: 03</li> </ul>
<b>Polluted river stretches</b>	<ul style="list-style-type: none"> <li>• Sewage disposal in river Ghaggar.</li> <li>• Action Plan prepared.</li> </ul>
<b>Air quality in Non-attainment cities</b>	<ul style="list-style-type: none"> <li>• Chandigarh.</li> <li>• Action plan prepared.</li> </ul>
<b>Industrially polluted clusters</b>	<ul style="list-style-type: none"> <li>• No cluster identified.</li> </ul>
<b>ETPs CETPs and STPs</b>	<p><b>1. Compliance Status of ETPs (Jan., 2019):</b></p> <ul style="list-style-type: none"> <li>• No. of industries which require ETP: 245</li> <li>• No. of industries having functional ETP: 245</li> <li>• No. of Industries complying: 241</li> <li>• No. of industries non-complying: 04</li> </ul> <p><b>2. Compliance Status of CETPs (Jan., 2019):</b></p> <ul style="list-style-type: none"> <li>• No. of CETPs: 0</li> <li>• No. of under construction/proposed CETPs: 0</li> </ul> <p><b>3. Compliance Status of STPs (Jan., 2019):</b></p> <ul style="list-style-type: none"> <li>• No. of STPs: 60</li> <li>• No. of STPs complying: 57</li> <li>• No. of STPs non-complying: 03</li> <li>• No. of under construction /proposed STPs: 03</li> <li>• Targeted time period: Not specified</li> </ul>

36. Needless to say that improvement in this respect is not only inalienable duty of the State, but is also necessary for sustainable development which is essential for the health and well-being of citizens as well as for intergenerational equity. These principles require that all human activities should be conducted in such a way that the rights of future generations to access clean air and potable water are not taken away. At the cost of repetition, it may be mentioned that water is being polluted because of discharge of untreated sewage and effluents. Air pollution is result of failure to manage solid waste and to prevent other causes leading to air pollution. There are also other issues like deterioration in groundwater level, damage to forests and wild life, unscientific and uncontrolled sand mining etc. Unsatisfactory implementation of law is clear from the fact that inspite of severe damage, there is no report of any convictions being recorded against the polluters, nor adequate compensation has been recovered for damage caused to the environment.

Steps for community involvement are not adequate. There is no satisfactory plan for reuse of the treated water or use of treated sewage or waste and for segregation and collection of solid waste, for managing the legacy waste or other wastes, etc.

37. The presence of Chief Secretary/Advisor to the Administrator before this Tribunal was directed with an expectation that there will be realization of seriousness at the highest level which may percolate in the administration. This may require effective institutional monitoring mechanism and training of all the authorities charged with the duty of overseeing protection of environment and effective schemes for community involvement at every level.

**IV. DIRECTIONS:**

38. In view of above, after discussion with the Advisor, following further directions are issued:
- i. Steps for compliance of Rules 22 and 24 of SWM Rules be now taken within six weeks to the extent not yet taken. Similar steps be taken with regard to Bio-Medical Waste Management Rules and Plastic Waste Management Rules.
  - ii. Ambient Air Quality information for the city of Chandigarh should be placed in public domain. For this purpose, CPCC should set up CAAQMs in consultation with CPCB within four months and Air Quality Index be displayed.
  - iii. Steps be taken to assess the number of vehicles to be permitted proportionate to the capacity of the area. Based on such study and analysis, an appropriate policy framework be worked out.

- iv. The Union Territory Chandigarh may also develop Graded Response Action Plan (GRAP) to deal with the vehicular pollution.
  - v. Action Plan for restoration of water quality of river Ghaggar with respect to treatment of sewage and its utilization, be implemented in a time bound manner. The Action Plan accordingly for its implementation may be monitored by the Committee constituted by NGT under Justice Pritam Pal.
  - vi. Efforts should be made to ensure treatment and processing of biodegradable and non-biodegradable waste for which the existing plant should be put into operation by resolving the issues. The legacy waste dump sites should not be simply capped but should be bio-minned and then kept and maintained in accordance with MSW rules.
  - vii. The Advisor may personally monitor the progress, atleast once in a month, with all concerned.
  - viii. A quarterly report be furnished by the Advisor, every three months. First such report shall be furnished by June 30, 2019.
  - ix. The Advisor may remain present in person before the Tribunal with the status of compliance in respect of various issues mentioned in para 22 as well as any other issues discussed in the above order on 09.10.2019.
39. It is made clear that Advisor may not delegate the above function and the requirement of appearance before this Tribunal to anyone else. However, it will be open to him to change the date, by advance intimation by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com) to adjust their convenience.

40. Accordingly, vide order dated 05.03.2019 in the present matter (dealing with State of Himachal Pradesh) it has been directed that the Apex Committee is to conclude its proceedings by 30.04.2019 and furnish its final report. Thereafter, monitoring at apex level can be done by MoEF&CC and CPCB in terms of Rules 5 and 14 of the SWM Rules respectively and direction of this Tribunal vide order dated 22.12.2016 [Para 43(9)].
41. Any other Committee or regulatory body will work in tandem with the above mechanism.

Put up the report which may be received on 15.07.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 26, 2019  
Original Application No. 606/2018

*P. C. Mehta  
Rajiv A.S.*

**IN THE HIGH COURT OF JUDICATURE FOR ORISSA  
AT CUTTACK**

**D.B. Writ Petition (Civil) (PIL) No.235 of 2020**

**AFR**

Ajay Bada Jena

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Petitioner

- versus -

Commissioner of Bhubaneswar  
Municipal Corporation and others

.....

Opp. Parties

**Advocate(s) who appeared in this case:-**

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For Petitioner : M/s. Antaryami Swain and  
A.N. Swain, Advocates.

For Opp.Parties: Mr. B.K. Dash, Advocate  
[O.P. No.1]  
  
Mr. M.S. Sahoo,  
Addl. Government Advocate  
[O.P. No.2,3,5 and 6]

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**HONOURABLE THE CHIEF JUSTICE MR. MOHAMMAD RAFIQ**

**AND**

**HONOURABLE DR. JUSTICE B.R. SARANGI**

**J U D G M E N T**

**12.08.2020**

**Per: Dr. B.R. Sarangi, J.**

The petitioner, claiming to be a social worker,  
has filed this public interest litigation with the following  
prayer:-

*"In the premises, it is therefore prayed that your Lordship would be graciously pleased to allow this writ petition, issue a Rule NISI calling upon the opposite parties to file show cause as to why the prayer of the petitioner shall not be granted, if the opposite parties fail to file show cause or give insufficient cause, your Lordship would be graciously pleased to make the rule absolute and issue an appropriate writ to the appopos. Further direction be given directing to the opposite parties to examine the correctness of allegations, after finding at the truth take immediate steps to prevent the dumping yard on the cremation field on plot no.568, khata no.492, mouza-Patia, the area of land Ac.0.650 decimals the status of the land is cremation, to prevent the dumping yard near the human inhabited area near the public road, public office."*

2. The factual matrix of the case, in hand, is that plot no.568 corresponding to khata no.492 measuring Ac.0.650 decimals of mouza-Patia has been recorded in Record of Right (RoR) published on 06.12.1973 as "smaan" (cremation ground). It is alleged in the writ petition that the said land is being utilized by Bhubaneswar Municipal Corporation (BMC) for dumping yard to accumulate waste materials, drain materials, latrine materials, etc. collected from different areas of Bhubaneswar Smart City. Consequentially, the nature and character of the land as cremation ground is being changed. Previously, dead bodies of the locality, including the village Patia and people residing in the apartments, were being cremated in the said land. The authorities with the help of some contractors cleaned the

cremation ground by JCB machines and started construction of dumping yard which is just adjacent to the village road and human inhabited area, where apartments, private buildings, public offices and schools are situated. Since local people as well as outsiders, after making buildings and apartments, are permanently residing around the said land, in the event of construction of any dumping yard, the pungent gas emitted out of accumulated waste materials shall cause inconvenience to human inhabitants in the area. Even though the petitioner represented to the Commissioner, Bhubaneswar Municipal Corporation under Annexure-3, the same was not acceded to. Hence this application.

3. Mr. A. Swain, learned counsel for the petitioner contended that Bhubaneswar Municipality is contemplating to construct a dumping yard over the land in question, which has been described as 'smanan' (cremation ground) in the RoR, by which the nature and character of the land will be changed and it will cause immense difficulties to the local people if such dumping yard would be constructed in the said locality. As such, due to emission of pungent gas, out of accumulated waste materials, drain materials, latrine

materials, etc. in the dumping yard, environmental hazardous would be created which would cause immense difficulties to the human inhabitants in the area. It is further contended that if the land in question is permitted to be utilized for dumping yard, no cremation ground will be available for the local people. Therefore, by way of this public interest litigation, the petitioner, who is a social worker, has approached this Court by filing this writ petition seeking interference of this Court.

4. Mr. B.K. Dash, learned counsel appearing for opposite party no.1, relying upon the preliminary counter affidavit, argued with vehemence and contended that the writ petition is not maintainable at the instance of the petitioner in view of the fact that the petitioner has not approached this Court with clean hand and, as such, the writ petition suffers from suppression of material facts. It is contended that in the name of public interest litigation, the petitioner has tried to vindicate his personal interest. Therefore, the writ petition should be dismissed in limine. It is further contended that the Bhubaneswar Municipal Corporation is not constructing any dumping yard on the case land, rather it is constructing a

Micro Compositing Centre (MCC) for ward no.3 only and, as such, Micro Compositing Centre (MCC) is being constructed as per the direction of the National Green Tribunal and guidelines enumerated in Solid Waste Management Rules, 2016. Therefore, it is contended that the writ petition should be dismissed with cost.

5. Mr. M.S. Sahoo, learned Addl. Govt. Advocate appearing for the State opposite parties contended that since the petitioner sought relief as against opposite party no.1, the State opposite parties have not filed their counter affidavit. As such, he supports the contention raised by learned counsel appearing for opposite party no.1-BMC.

6. This Court heard Mr. A. Swain, learned counsel appearing for the petitioner; Mr. B.K. Dash, learned counsel appearing for opposite party no.1 and Mr. M.S. Sahoo, learned Addl. Government Advocate appearing for State opposite parties through video conferencing, and perused the record. Since pleadings have been exchanged, with the consent of learned counsel for the parties, the matter is disposed of finally at the stage of admission.

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7. Before delving into the core issue involved in this writ petition, it is essential to have a glance over the back-ground facts available on record. It is pleaded that due to conferment of Bhubaneswar Municipal Corporation with the status of Smart City and increase of socio-economic status of surrounding families of mouza Patia, which once upon a time was treated as a village, lost all characteristics of a village. As a result, the people of the area started to lead urban life style and being urbanized no people of the area preferred to cremate the dead bodies in the schedule plot, which has been mentioned in the RoR as "smasan". But for their convenience, on the proposal of the people of the ward and their elected representatives, BMC developed the modern crematorium over plot nos.582 and 583 with an area of Ac.2.00 decimals named as "Patia-Gada Smasan", which situated a few meter away from disputed plot no.568 and, as such, for that purpose the BMC has spent near about Rs.32.39 lakhs and the local people are using the same from the year 2016-17. Furthermore, a proposal was also submitted before the Sub-Collector, Bhubaneswar for change of kissam of plot no.568, khata no.492 from "smasan" to "Unnata Jyojana Joga", which

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is still pending for consideration. The entire endeavour has been taken place by the BMC, in pursuance of the order dated 26.03.2019 passed by the National Green Tribunal, Principal Bench in O.A. No.606 of 2018 for implementation of various provisions of Solid Waste Management Rules, 2016 in a time bound manner. In the said order, the Tribunal has directed the Chief Secretary, Government of Odisha to submit the quarterly reports. To give effect to such direction of the Tribunal, BMC has identified sites in different parts of the city for establishment of 43 nos. of Micro Compositing Centre and 11 nos. of Material Recovery Facility (MRF) in BMC area as part of decentralized solid waste management system. Out of 43 nos. of MCCs, one MCC is going to be functional very soon, six MCCs are in the advance stage of completion and another 19 nos. of MCCs are in different stage of construction. Out of 11 nos. of MRFs, two MRFs are going to be functional very soon and other nine MRFs are in different stage of construction. The household segregated door to door waste collection and street sweeping garbage will be directly transported to MCCs and MRFs where the segregated garbage will be unloaded for MCCs and the dry waste will be unloaded

at the MRFs for further segregation and chanalization to the recyclers.

8. In the above backdrop, it cannot be said that the BMC has constructed any dumping yard on the case land where waste materials, latrines band drain materials and other foul waste materials collected from different areas of Bhubaneswar are being dumped. Rather, BMC is constructing a MCC for ward no.3 only, which is in compliance of the direction given by National Green Tribunal and guidelines enumerated in Solid Waste Management Rules, 2016. In MCC, the wastes are generally segregated and the bio-degradable wastes are processed to compost, which will be used by community people in agriculture and allied activities. The bio non-degradable wastes are taken to MRF centres for processing to produce reusable products and by this process all the wastes generated in the locality will be managed and, as such, all liquid waste will be taken to treatment plant made functional at Basuaghai.

9. At this stage, it is pertinent to mention that there are five plots, such as, plot nos.583, 562, 564, 582 and 568 measuring Ac.1.780 decimals, Ac.0.660 decimals,

Ac.0.080 decimals, Ac.0.220 decimals and Ac.0.650 decimals respectively totaling to Ac.3.390 decimals within 300 meters radius having kissam-"smanan" (cremation ground). These plots are surrounded by high raised buildings and apartments. Mouza Patia, which once upon a time was treated as village, lost all its characteristics of a village due to rapid urbanization and development of BMC to Smart City and Corporation. Mouza Patia included to Corporation area, vide Government notification no.HUD/2205 dated 05.09.1988. The owners of the side plots, including the petitioner, are using these vacant "smanan" lands for their own purposes. Considering the demand of local people and their elected representatives, a cremation ground with modern amenities has been developed over plot nos.582 and 583 measuring Ac.2.00 decimals and rest plots of kissam-"smanan" are not used for the purposes of cremation since long and the local people have encroached those lands. Therefore, BMC proposed to construct the MCC over plot no.568 having area Ac.0.650 decimals after thorough discussion with local people and, as such, BMC has also submitted a proposal for change of kissam and de-reservation of the said plot to the Sub-Collector, Bhubaneswar

to facilitate the execution of MCC, as there was no other feasible land for the said purpose. As per the work order issued in favour of the contractors, when the same was under execution, at this juncture, the petitioner has approached this Court by filing the present application and this Court, vide order dated 09.06.2020, directed the parties to maintain status quo and thereafter the said interim order was continued vide order dated 15.07.2020. Therefore, the work has not been progressed.

10. The above mentioned facts have not been brought on record by the petitioner in his public interest litigation petition, save and except the BMC is going to construct a dumping yard on the schedule plot. Thereby, the background facts, which lead BMC to go for construction of a MCC on the schedule land, have not been placed on record by the petitioner. Thereby, the writ petition suffers from suppression of material facts.

11. It is worthwhile to note that in paragraph-2 of the writ petition, the petitioner has described himself as a social worker and stated that he had not filed any public interest litigation earlier regarding this particular matter. In

paragraph-3 of the counter affidavit filed by opposite party no.1, it has been stated as follows:-

*"That, the present writ petition is not maintainable in view of the fact that the present writ is not all a PIL, rather, it is a Personal Interest Litigation. Therefore, the allegations are based on vested interest of the petitioner and suppression of many material facts."*

To give more emphasis to the contents in paragraph-3 of the counter affidavit, in paragraph-5 of the counter affidavit filed by opposite party no.1, it has been stated as follows:-

*"..... It is most relevant to mention here that the petitioner's objection on the case land is baseless and guided by own vested interest as the petitioner himself has un-authorizedly constructed a Marriage Mandap in name of 'Lal & LAWANS' over plot no.569 and 579 which is Gramya Jungle and Bagayat-II in Kissam and also encroaching a piece of smasan land adjoining plot no.568 and using the case land as parking place. For such illegal use of land, notice has been issued to the owner of Marriage Mandap/Kalyan Mandap in the name of Lal Lawns by the Dy. Commissioner (North Zone) vide Notice under Letter No.2454 dated 20.11.2019. The petitioner has filed this writ petition on his own as self-declared social worker and no other person from the locality has objected on the project. ...."*

12. The petitioner has also filed rejoinder affidavit, paragraph-8 whereof reads as under:-

*"..... It is further alleged by opposite party no.1 that the petitioner had unauthorizedly constructed a marriage Mandap in the name of 'Lal and Lawns' over plot no.569 and 579 which is*

*Gramya Jungle and Bagayat-II in Kissam and also encroaching upon a place of smasan land adjoining plot no.568 and using the case land as parking space, for such illegal use of land notice has been issued to the owner of marriage Mandap, Kalyan Mandap in the name of 'Lal and Lawns' by the Deputy Commissioner, BMC (North Zone) vide notice under letter no.2454 dated 20.11.2019 which allegation by Deputy Commissioner, BMC North Zone are false and baseless. No marriage Mandap has been constructed on the communal land. If it is in the communal land then why action has not yet been done to evict encroachers."*

13. Law is well settled that pleadings and particulars are required to enable the court to decide the rights of the parties in the trial. Thus, the pleadings are more to help the court in narrowing the controversy involved and to inform the parties concerned to the question(s) in issue, so that the parties may adduce appropriate evidence on the said issue. It is also well settled in law that "as a rule relief not founded on the pleadings should not be granted." Therefore, a decision of a case cannot be based on grounds outside the pleadings of the parties.

In ***Narmada Bachao Andolan v. State of Madhya Pradesh***, AIR 2011 SC 1989, the apex Court held that it is a settled proposition of law that a party has to plead its case and produce/adduce sufficient evidence to

substantiate the averments made in the petition and in case the pleadings are not complete the Court is under no obligation to entertain the pleas.

In view of the above principle of law laid down by the apex Court, as it appears from the pleadings available on record, the petitioner has not pleaded nor adduced any evidence to substantiate his claim with regard to construction of dumping yard on the schedule land.

14. Now, it is to be seen whether the present writ petition filed in the guise of public interest litigation is for the betterment of the society at large or for benefiting any individual.

In **Malik Bros v. Narendra Dadhich**, (1999) 6

SCC 552, the apex Court held as follows:-

*"... a public interest litigation is usually entertained by a Court for the purpose of redressing public injury enforcing public duty, protecting social rights and vindicating public interest. The real purpose of entertaining such application is the vindication of the rule of law, effect access to justice to the economically weaker class and meaningful realization of the fundamental rights. The direction and commands issued by the courts of law in a public interest are for the betterment of the society at large and not for benefiting any individual. But if the Court finds that in the garb of a public interest litigation actually an individual's interest is sought to be carried out or protected, it would be the bounden-duty of the Court*

*not to entertain such petitions as otherwise a very purpose of innovation of public interest litigation will be frustrated. It is in fact a litigation in which a person is not aggrieved personally but brings an action on behalf of the downtrodden mass for the redressal of their grievance."*

In view of the law laid down by the apex Court, in our considered opinion, on Public Interest Litigation (PIL), redressal of public injury, enforcement of public duty, protection of social rights and vindication of public interest must be the parameters for entertaining a PIL. The Court has a bounden duty to see whether any legal injury is caused to a person or a cluster of persons or an indeterminate class of persons by way of infringement of any Constitutional or other legal rights while delving into a PIL. The existence of any public interest as well as bona fide are the other vital areas to come under the Court's scrutiny. In absence of any legal injury or public interest or bona fide, a PIL is liable to be dismissed at the threshold. It is to be borne in mind that ultimately it is the rule of law that is to be vindicated. As such, there is a need for restraint on the part of the Public Interest Litigants when they move courts. The Courts should also be cautious and selective in accepting PIL as well.

15. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be 'publicity interest litigation' or 'private interest litigation' or the latest trend 'paise income litigation'. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke ones nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration.

16. In ***Ashok Kumar Pandey v. State of West Bengal***, 2003 (9) Scale 741, the apex Court held as follows:

*"Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil and public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique consideration. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserves to be thrown out by rejection at the threshold and in appropriate cases with exemplary costs."*

Laying down certain conditions on which the Court has to satisfy itself it was observed:

*"The Court has to be satisfied about-*

- (a) the credentials of the applicant;*
- (b) the prime facie correctness or nature of the information given by him;*
- (c) the information being not vague and indefinite;*

*The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interest;*

- (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and*
- (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive action. In such case, however, the Court cannot afford to be liberal."*

The apex Court, on the point of exercising restraint, held that that it has to be very careful that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to be executive and legislature. The Court hardening its stand said:-

*"The court has to act ruthlessly while dealing with imposters and busy-bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono public, though they have no interest of the public or even of their own to protect."*

17. In **T.N. Godavarman Thirumulpad v. Union of India**, (2006) 5 SCC 28, the apex Court, relying upon the judgments of **S.P. Gupta v. President of India**, AIR 1982 SC 149 : 1981 Supp. SCC 87, **Janata Dal v. H.S. Chowdhary**, AIR 1993 SC 892, after noticing that lakhs of rupees had been spent by the petitioner to prosecute the case, held as under:

*"it has been repeatedly held by the Court that none has a right to approach the Court as a public interest litigant and that Court must be careful to see that the member of the public who approaches the Court in public interest, is acting bona fide and not for any personal gain or private profit or political motivation or other oblique consideration.*

*..... while the Court has laid down a chain of notable decisions with all emphasis*

*at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow their process to be abused by a mere busybody, or a meddlesome interloper or wayfarer of officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."*

18. Applying the test as laid down by the apex Court in the aforesaid judgments to the present context, it appears that the forum of public interest litigation is being misused and become hindrance for carrying out developmental activities in the villages, towns and cities including BMC and there is a procedure prescribed for carrying out the developmental activities, which in this case in order to implement the direction given by the National Green Tribunal and to give the benefit of Smart City to the local people if BMC is constructing a MCC for ward no.3, it cannot be said that illegality or irregularity has been committed by the authority so as to cause interference by this Court.

19. Undisputedly, the petitioner has approached this Court of equity invoking jurisdiction under Articles 226 and 227 of Constitution of India.

In **Ramjas Foundation v. Union of India**, AIR 1993 SC 852, the apex Court held that who seeks equity must do equity. The legal maxim "*Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiolem*", means that it is a law of nature that one should not be enriched by the loss or injury to another.

Similar view has also been taken in **K.R. Srinivas v. R.M. Premchand**, (1994) 6 SCC 620, where the apex Court held that when a person approaches a Court of Equity in exercise of its extraordinary jurisdiction under article 226/227 of the Constitution, he should approach the Court not only with clean hands but also with clean mind, clean heart and clean objective.

In **Noorduddin v. K.L. Anand** (1995) 1 SCC 242, the apex Court held that Judicial process should not become an instrument of oppression or abuse of means in the process of the Court to subvert justice for the reason that the interest of justice and public interest coalesce. The Courts have to weigh the public interest vis-à-vis private interest while exercising their discretionary powers. Easy access to

justice should not be misused as a licence to file misconceived and frivolous petitions.

Similar view has also been taken in **Dr. Buddhi Kota Subbarao v. K. Parasaran**, AIR 1996 SC 2687, and **Ramniklal N. Bhutta v. State of Maharashtra**, AIR 1997 SC 1236.

20. Considering the facts of the present case vis-à-vis the law laid down by the apex Court, this court is of the considered view that the writ petition suffers from suppression of material facts and, as such, the entire endeavor made by the learned counsel for the petitioner to pursue the Court for grant of relief by wasting the valuable time of the Court amounts to abuse of process of Court. Thus, we condemn the filing of such frivolous and vexatious litigation at the instance of the present petitioner.

21. In view of filing of such misconceived and frivolous petition, the petitioner has abused the process of Court and in that case, such litigant is not required to be dealt with lightly.

In **Dr. Budhi Kota Subbarao v. K. Parasaran**, AIR 1996 SC 2687, the Supreme Court observed as under:-

*"No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a licence to file misconceived and frivolous petitions."*

Similar view has also been reiterated by the apex Court in **K.K. Modi v. K.N. Modi**, AIR 1998 SC 1297, **Ashok Kumar Pandey v. State of West Bengal**, AIR 2004 SC 280, **T.N. Godavarman Thirumulpad v. Union of India**, AIR 2006 SC 1774, **B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association**, AIR 2006 SC 3106, **Holicow Pictures Pvt. Ltd. v. Prem Chandra Mishra**, AIR 2008 SC 913 and **Chaman Lal Saraf (dead thr. LRs.) v. State of Haryana**, (2015) 3 SCC 552.

22. In **Sabia Khan v. State of Uttar Pradesh**, AIR 1999 SC 2284, the apex Court held that filing totally misconceived petition amounts to abuse of process of the Court and such litigant is not required to be dealt with lightly.

23. In **Indian Council for Enviro-Legal Action v. Union of India**, (2011) 8 SCC 161, the apex Court held as under:-

*"In consonance with the principle of equity, justice and good conscience judges should ensure that the legal process is not abused by the litigants in any manner. One way to curb this tendency is to impose realistic costs, which the Respondent or the Defendant has in fact incurred in order to defend himself in the legal proceedings. The courts would be fully justified even imposing punitive costs where legal process has been abused."*

Accordingly, in that case, the applicant-industry was directed to pay costs of litigation on account of enormous court's time which had been wasted for all those years. The apex Court directed the applicant-industry to pay costs of Rs.10 lakhs in both the interlocutory applications.

24. In view of the facts and circumstances, as well as settled position of law, as discussed above, this Court is of the considered view that the writ petition is devoid of any merit and thus dismissed.

However, for wasting Court's time, which amounts to abuse of the process of Court, this Court imposes cost of Rs.10,000/- (rupees ten thousand) against the petitioner so as to give a caution to the litigants not to file

such frivolous application in future seeking blanket relief from this Court. The aforesaid cost so imposed shall be deposited by the petitioner in the Advocate's Welfare Fund of the Orissa High Court Bar Association within a period of one month hence, failing which recovery will be made by following due process of law.

As Lock-down period is continuing for COVID-19, learned counsel for the petitioner may utilize the soft copy of this judgment available in the High Court's official website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No.4587 dated 25.03.2020.

**(DR. B.R. SARANGI)**  
**JUDGE**

**(MOHAMMAD RAFIQ)**  
**CHIEF JUSTICE**

Ashok Jagdeb, P.A/  
G.D.Samal, APS.

P.C. Adesha  
D. Adesha  
A.S.



**Government of Odisha  
Housing & Urban Development Department,  
Odisha Secretariat, Sachivalaya Marg, Bhubaneswar-751001**

\*\*\*

File No.: HUD-SANT-SCH-0026-2019 Letter No.: 13408 Date: 30/7/19

From

**Sangramjit Nayak, IAS**  
Director, Municipal Administration &  
Ex-officio Additional Secretary to Government

To

**The Municipal Commissioners, Bhubaneswar, Berhampur, Cuttack,  
Rourkela and Sambalpur**  
**The Executive Officers of all Municipalities and NACs**

Sub: SOP on decentralised solid waste management

Madam/Sir,

I would like to draw your attention to the subject and in this connection I am to say that in Letter No. 13089 Dated 24.07.2019 of this Department draft SOP was circulated amongst the ULBs inviting suggestions thereon if any. In the meantime valuable suggestions have been received which have been examined. Taking into consideration the suggestions received, the **Standard Operating Procedure on decentralised solid waste management** has been approved by Government which is enclosed herewith for implementation immediately. The timeline prescribed therein for different stages of operation should be strictly adhered to.

It may be pertinent to mention here that, "solid waste management" has been included as one of the ingredients in the action plan of this Department under "5-T" for which special focus may be given to roll out the plan timely. This activity is being very keenly watched by the Hon'ble NGT and the State Level Committee headed by Hon'ble Justice Shri P.K.Mohanty, former Judge, High Court of Orissa.

Yours faithfully,

*Sangramjit Nayak*  
30/7/2019

Director, Municipal Administration &  
Ex-officio Additional Secretary to Government

Enclosures: As above

11211

Memo No. 13409 /HUD Date: 30/7/19

Copy along with copy of the enclosures forwarded to the P.S. to the Hon'ble Minister, Panchayati Raj & Drinking Water, Law, Housing & Urban Development for kind information.

rcs  
30.7.2019  
Deputy Secretary to Government

Memo No. 13410 /HUD Date: 30/7/19

Copy along with copy of the enclosures forwarded to the OSD to the Chief Secretary / P.S to the Principal Secretary to Government, H&UD Department for kind information.

rcs  
30.7.2019  
Deputy Secretary to Government

Memo No. 13411 /HUD Date: 30/7/19

Copy along with copy of the enclosures forwarded to the Director, (Environment), Forest & Environment Department / Member Secretary, State Pollution Control Board, Odisha for kind information and necessary action.

rcs  
30.7.2019  
Deputy Secretary to Government

Memo No. 13412 /HUD Date: 30/7/19

Copy along with copy of the enclosures forwarded to all the Collectors / Project Directors, District Urban Development Agency for kind information and necessary action. They are requested to ensure IMPLEMENTATION OF THE DIRECTIVES ISSUED IN THE SOP within the stipulated timeline.

rcs  
30.7.2019  
Deputy Secretary to Government

Memo No. 13413 /HUD Date: 30/7/19

Copy along with copy of the enclosures forwarded to the Team Leader, PMU, SBM (Urban) for information and necessary action.

rcs  
30.7.2019  
Deputy Secretary to Government

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# Standard Operating Procedure

for

## Decentralised Solid Waste Management in the State of Odisha

July, 2019

Housing & Urban Development Department  
Government of Odisha

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The Solid Waste Management Rules, 2016 (herein after referred to as "The Rules") came into force with effect from 8<sup>th</sup> April, 2016. In order to facilitate implementation of various provisions of the Rules, this Standard Operating Procedure (SOP) has been prepared for implementation by the Urban Local Body (ULB).

**1. Collection of Basic Statistics:**

- i. Map of ULB with ward boundary, roads, parks, bulk waste generators, commercial areas and other important land masses, etc.
- ii. Demographic details:

Sl. No.	Ward No.	No. of Households	Population
1	Ward - 1		
2	Ward - 2		

**2. Quantification of Waste Generation:**

- i. ULBs are required to conduct quantification of waste through sample survey for a duration of ten days as mentioned below:
  - a. Select a few households in each ward which have to be representative in nature
  - b. Record the number of family members of each households
  - c. Collect segregated waste for consecutive 10 days from the same households
  - d. Weigh the dry and wet waste separately every day and record in a register
  - e. Calculate Average per capita waste generation for ULB based on the above Sampling.

**3. Assessment of Human Resources:**

**3.1 Engagement of Swachha Sathi:**

Swachha Sathi would be the Community Link & act as a change agent to bring about collective behavioural changes in the household level in the ward areas towards door-to-door collection of segregated waste and to ensure decentralised composting of wet waste & collection of dry waste.

### 3.2 Who could be a Swachha Sathi?

- (i) One of the Dynamic WSHGs of that locality will nominate suitable members as Swachha Sathi for different areas in the assigned wards having educational qualification not below +2 level (preferably). However, the educational qualification may be relaxed in case of non-availability of suitable candidate.
- (ii) WSHG member having experience in community mobilisation and keen interest to work towards Solid Waste Management may be given preference by the WSHG.
- (iii) Persons having criminal track records, political affiliation should not be used as Swachha Sathi.
- (iv) ULB may also explore the possibility of engaging the services of Area Level Federation (ALF) wherever they are active & dynamic for performing this.

### 3.3 Role and Responsibilities of Swachha Sathi:

- (i) Swachha Sathi should sensitise all households in the locality to do the source segregation at household level itself.
- (ii) If people are not doing source segregation at home, she must demonstrate the source segregation before the family members in the premises of the house while collecting the garbage.
- (iii) Swachha Sathi must sensitise local markets/Schools / institutions / Parks regarding Source segregation and demonstrate the same for better understanding.
- (iv) She must generate awareness regarding various method of composting preferably Micro Composting in the locality.
- (v) She must explain and sensitise people about Micro Composting and may provide handholding support and guide the people for undertaking Micro Composting Centre (MCC) facilities by the individual households / bulk waste generators.
- (vi) She has to assist ULB in undertaking IEC activities in the locality.
- (vii) The ULB will have dealing only with the WSHG & not with any individual Swachha Sathi.

- (viii) The incentive will be given directly to the Bank Account of the WSHG and not to the Swachha Sathi (Member of the WSHG). The Groups are free to use one or more members for performing the assigned responsibilities.

### 3.4 Coverage & incentive to Swachha Sathi:

An incentive of Rupees 4000/- per month may be paid to the WSHG / ALF for every 600 households by the ULB on the basis of the work done by it.

### 3.5 Capacity Building of Swachha Sathi / WSHG / ALF:

ULB will organise orientation sessions/meetings for Swachha Sathi / WSHG / ALF to make them aware about different components of Solid Waste Management to improve their performance.

### 3.6 Assessment of performance:

The ULB authority must assess the performance of Swachha Sathis and may take needful action for better result either by replacing the existing Swachha Sathi / WSHG / ALF or through proper reorientation of the approach.

### 3.7 Sanitation Workers

Existing Sanitation workers shall be redeployed keeping in view of the revised strategy of decentralised MCC for smooth and effective collection of segregated waste. The ULB should make an **Action Plan** indicating the street, no of households, vehicle number, time of collection of waste, delivery of wet waste in the MCC/OCC, time and location for unloading of saleable and non- saleable dry waste , supervision mechanism etc. with an ultimate objective of **Zero discharge to the Land fill site.**

### 3.8 Engagement of Supervisors:

- (i) The ALF / WSHG may identify one Supervisor to monitor, support & supervise the functioning and performance of Swachha Sathis engaged for every 2400 households (roughly four Swachha Sathis).
- (ii) Incentive for Supervisors will be paid at the rate of up to Rs. 8000/- per month for every 2400 households to the ALF / WSHGs.

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- (iii) The Supervisors may also be from among the Women Self-help Group members / ALF functioning in those wards/clusters having graduation as minimum qualification (subject to availability).
- (iv) For the aforesaid purpose, wards / cluster of wards as deemed suitable taking in to consideration various factors such as: density of population, geographical extension, etc. may be assigned.

### 3.9 OSD, Sanitation:

In case of Municipal Corporations and other large ULBs another tier of Officers designated as **OSD, Sanitation** may be identified from among the existing staff of ULBs and exclusive responsibility may be given with job chart and other logistics.

### 4. Identification of suitable land for establishment of Micro Composting Centre (MCC) and On-Site Composting Centre (OCC)

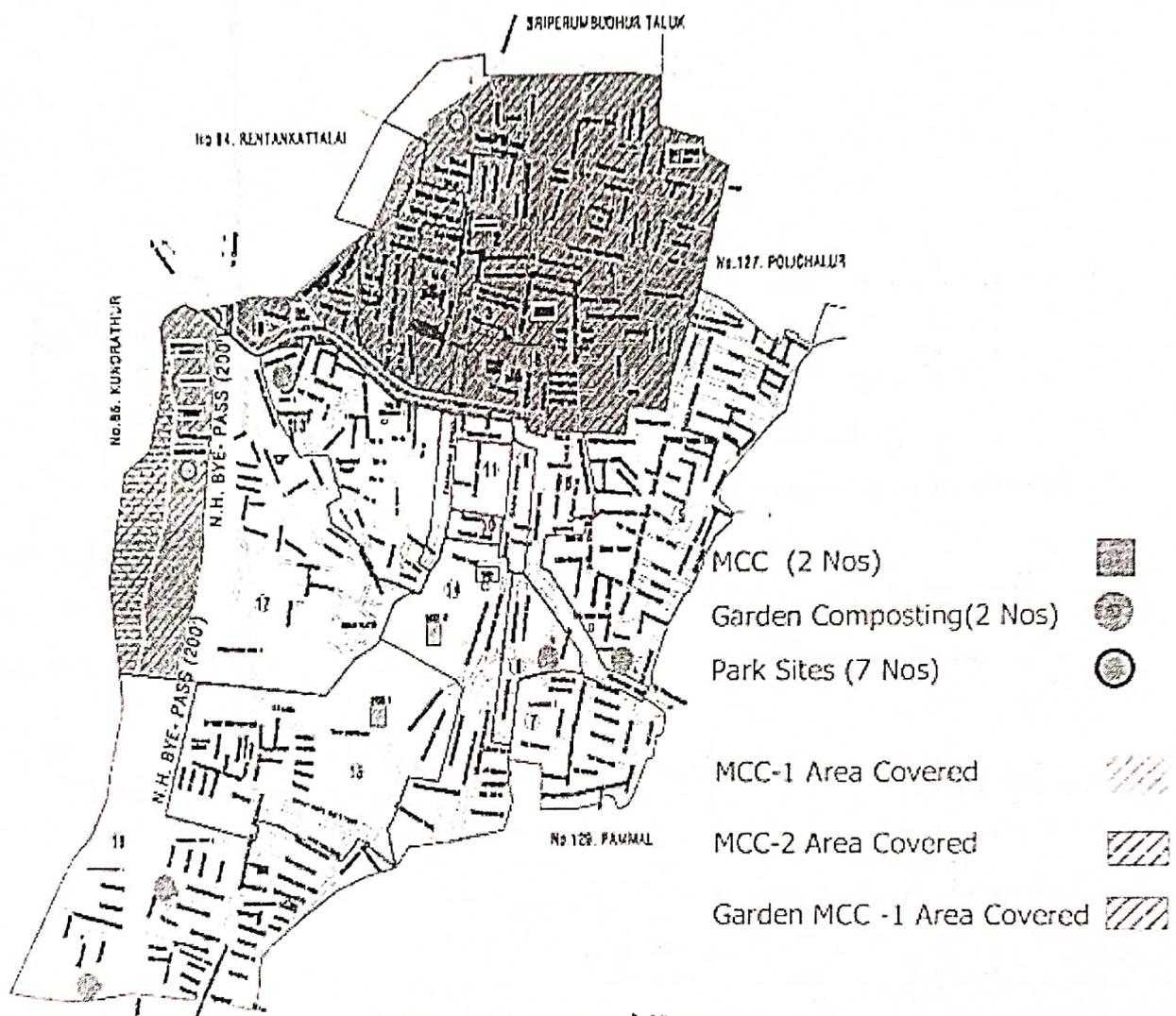
- i. In consonance with provisions contained under rule 12(a) of the Rules the Collector shall facilitate identification and allocation of suitable land (including advance possession) at various locations in the ULB as per the table below. The instructions issued by Revenue & Disaster Management Department in Letter No. 17241 Dated 20.06.2019 may be followed.

Processing Capacity of Bio-degradable waste in Tons Per Day	No. of Tubs	Size of Each Tub	Required Area for Processing Centre in Square Meter*
5	14	3.9mx 1.8m x 1.0m	600
4	14	3.0m x 2.0m x 1.0m	410
3	14	3.0m x 1.5m x 1.0m	360
2	14	2.4m x1.2m x 1.0m	260
1.5	14	2.0m x1.2m x 1.0m	200

\* Facilities for provisioning of shredding machine with conveyor belt, sieving machine, weighing machine, office room, wash rooms (for men and women separately), etc. should be provided.

- ii. Based on the extent of land available, capacity of Micro Composting Centre (MCC) may be determined and suitably located.

- iii. For example, a land parcel of 410 square meter can be used for establishing MCC of 4 Tons per Day (TPD) capacity.
- iv. Based on the capacity of MCC, the coverage area comprising ward(s) can be determined.



- v. Map of the ULB clearly defining ward(s) attached to MCC shall be prepared in different colours and legends.
- vi. For example, a 1.5 TPD MCC can get waste from 10,000 people that is about 2,220 households. Hence, the coverage area of 2,220 households shall be delineated.

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Calculation:  
 Capacity of MCC = 1.5 TPD = 15,00,000 grams per day  
 Per capita waste generation (assumed) = 300 grams per day  
 Bio-degradable per capita waste generation (assumed 50%) = 150 gram per day  
 The MCC can cover (15,00,000 grams per day / 150 gram per day) = 10,000 population  
 10,000 population = 10,000/4.5 = 2,222 Households (Assumed population per Household = 4.5)  
 Hence, a 1.5 TPD MCC can cater to 10,000 population that is about 2,220 households.

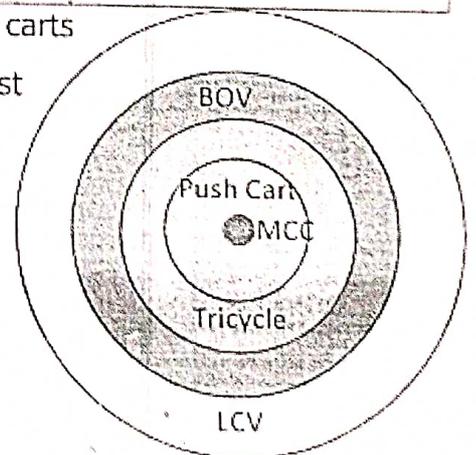
vii. It should be ensured that for each MCC/OCC at least three numbers of Sanitation Workers are tagged and accordingly, requirement should be assessed & job responsibility should be shared.

**5. Assessment of Vehicles**

i. After wards are being tagged with MCC (duly reflected in the ULB map) number of vehicles required for door-to-door collection (for 5 hours duration) and for transportation to MCC can be assessed as per the table below.

Vehicle Type	Number of Households to be covered	Staff Required
Push Cart	150 - 250	1 person per push cart
Tricycle	200 - 300	2 persons per Tricycle
Battery Operated Vehicles (BOV)	400 - 500	2 persons per BOV
Light Commercial Vehicles (LCV) having 500 to 700 kg capacity	1,000	3 persons per LCV

ii. For optimum utilization of resources, push carts shall be engaged for the households nearest to the MCC, tricycles to the households a little farther from MCC. Similarly, BOVs and LCVs should be assigned to households in that sequence which may be assumed in shape of four concentric circles.



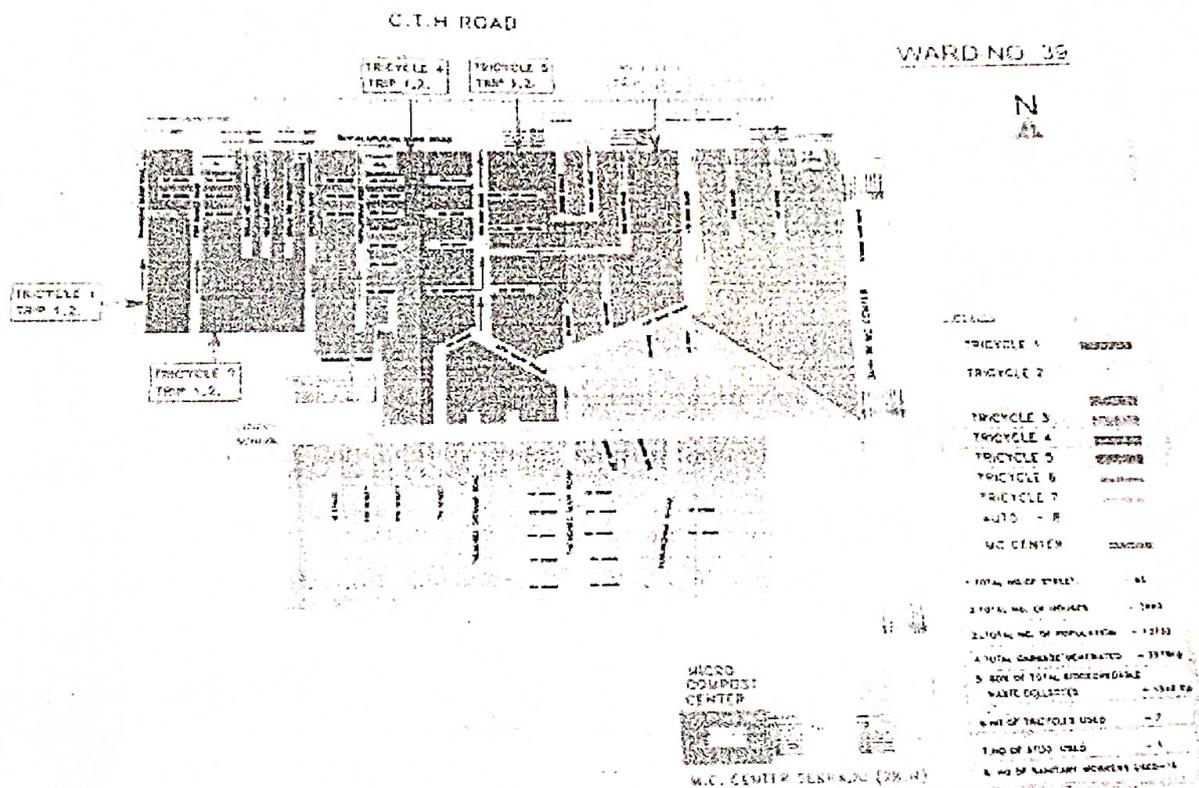
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- iii. Proper assessment has to be made for procurement of small vehicles to cover all category of streets by following due procedure. The assessment should take the available vehicles and other transporting machineries into consideration.

### 6. Preparation of Route Maps

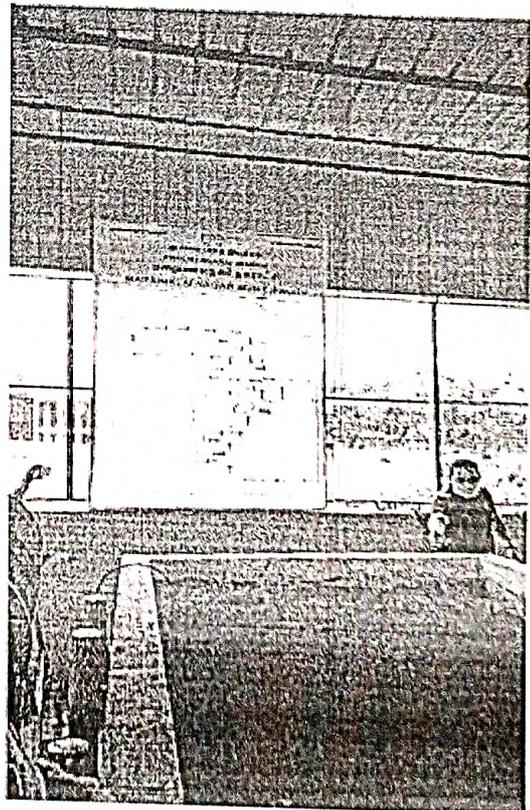
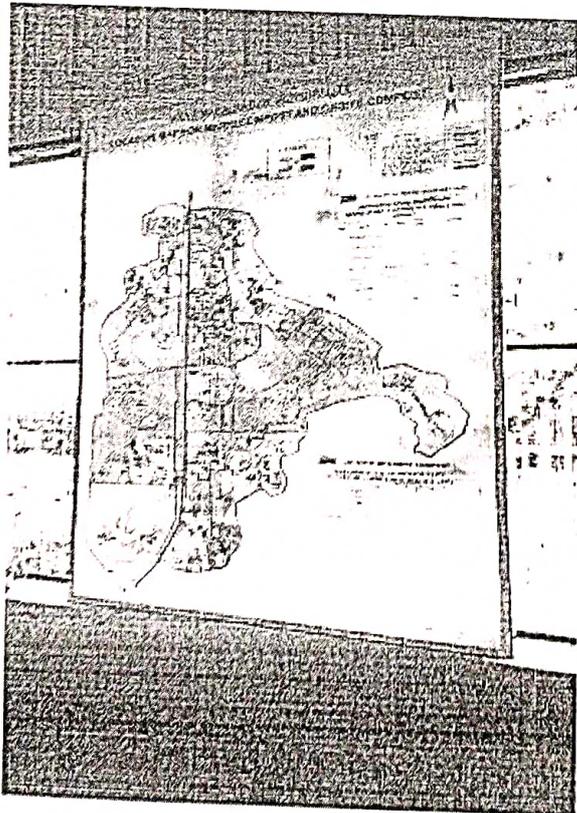
- i. Assign vehicles to collect segregated waste from specific areas for each trip to MCC. Prepare vehicle-wise Route Maps and fix the target of solid waste to be collected by every vehicle.



- ii. A register with title "Vehicle Deployment and Waste Collection Register" shall be maintained as per format mentioned below in every MCC. This register will help to ascertain amount of solid waste that should have been collected vis-à-vis the amount actually reached the MCC, thereby analysing the gap for the shortfall quantity. It will help in evaluating performance of each staff attached to the MCC concerned in collecting solid waste from household level on day-to-day basis.

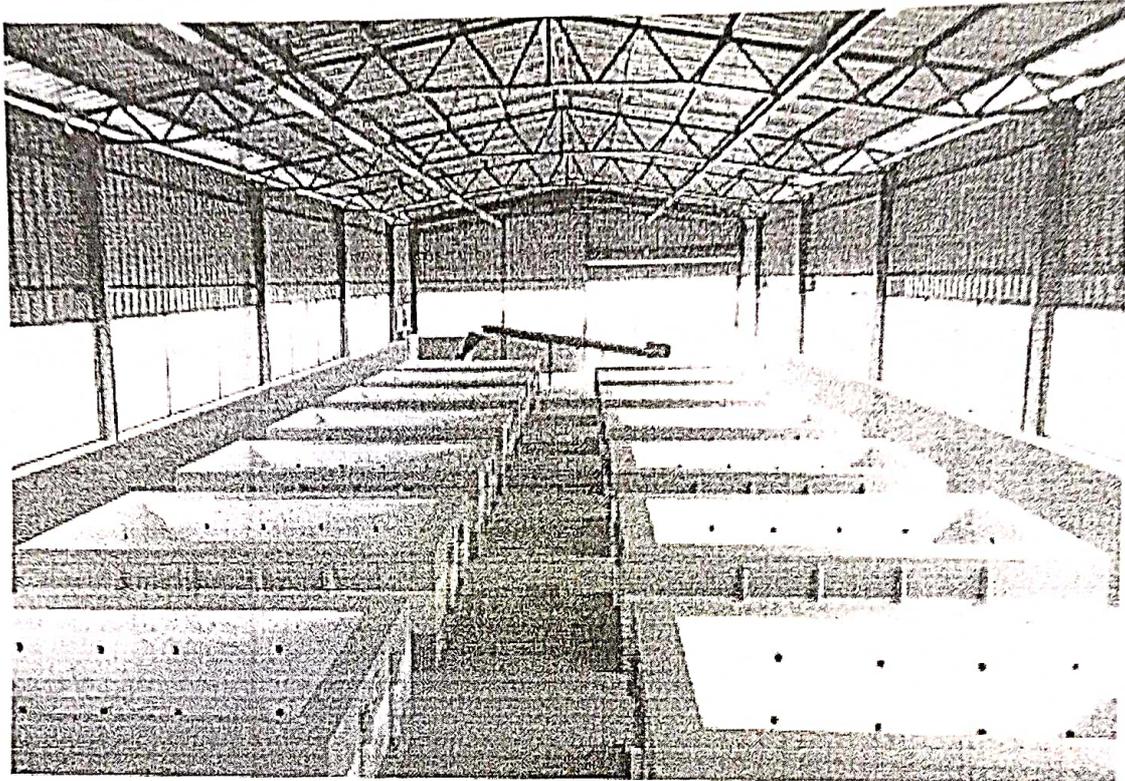
Trip No.	Location of MCC	Vehicle Registration No. & Type	Name of the Driver & Mobile No.	Streets / Area covered	No. of Households covered(Through Swachh-Sathi survey)	No. of Population covered(Household x 4.5) (Col.6x4.5)	Quantity of MSW generation (Population x per capita waste generation)(Col. 7 x 0.3kg)	Quantity of organic waste (50% of total quantity of waste generation) (Col. 8 x 0.50) in kg	Remarks
1	2	3	4	5	6	7	8	9	10
Trip 1									
Trip 2									

iii. The vehicle-wise Route maps to be displayed on the wall of MCC.



### 7. Layout of Micro Composting Centre

- i. Roofing - Truss with corrugated sheets for roofing may be used
- ii. Side Wall - For proper ventilation and protection, wire mesh with appropriate gapping may be used.



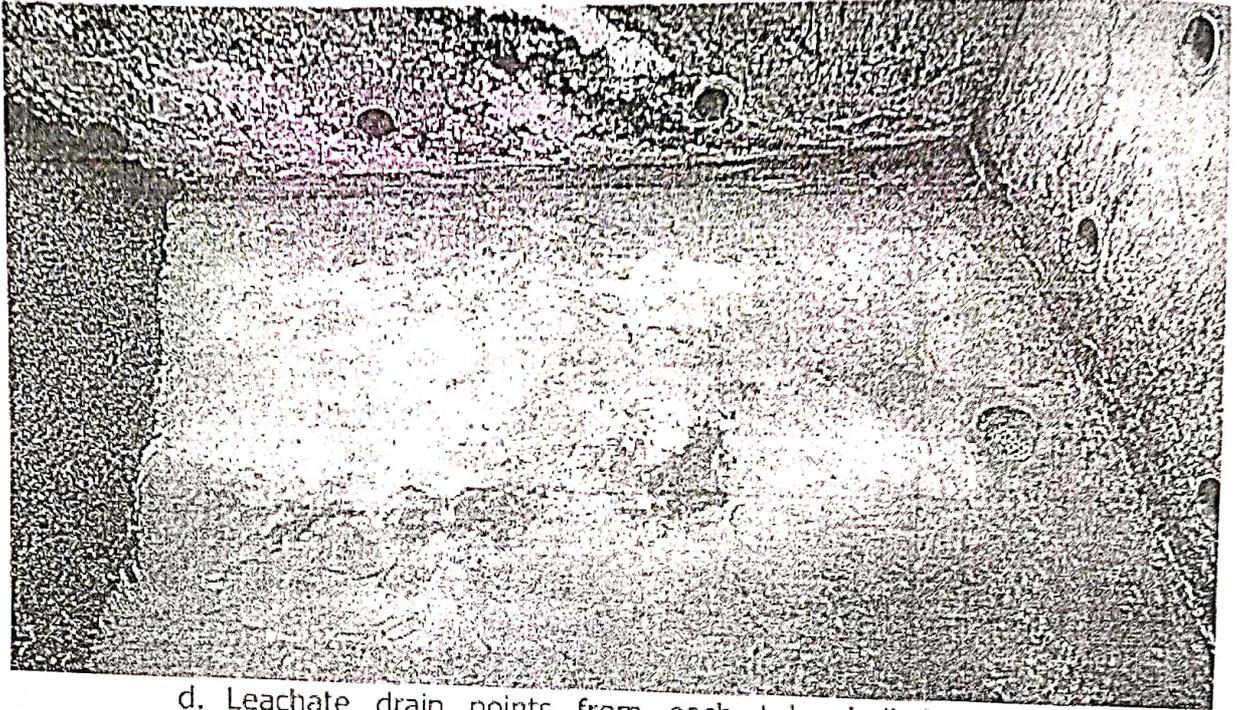
- iii. Flooring - Concrete floor (anti-skid) with proper slope at the main entrance of the MCC may be constructed.
- iv. Tubs:
  - a. The MCC will have 14 tubs in two trains of 7 tubs in each train.
  - b. Each Tub may have dimensions as indicated below

Processing Capacity of Bio-degradable waste in Tons Per Day	No. of Tubs	Size of Each Tub	Required Area for Processing Centre in Square Meter
5	14	3.9m x 1.8m x 1.0m	600
4	14	3.0m x 2.0m x 1.0m	410
3	14	3.0m x 1.5m x 1.0m	360
2	14	2.4m x 1.2m x 1.0m	260
1.5	14	2.0m x 1.2m x 1.0m	200

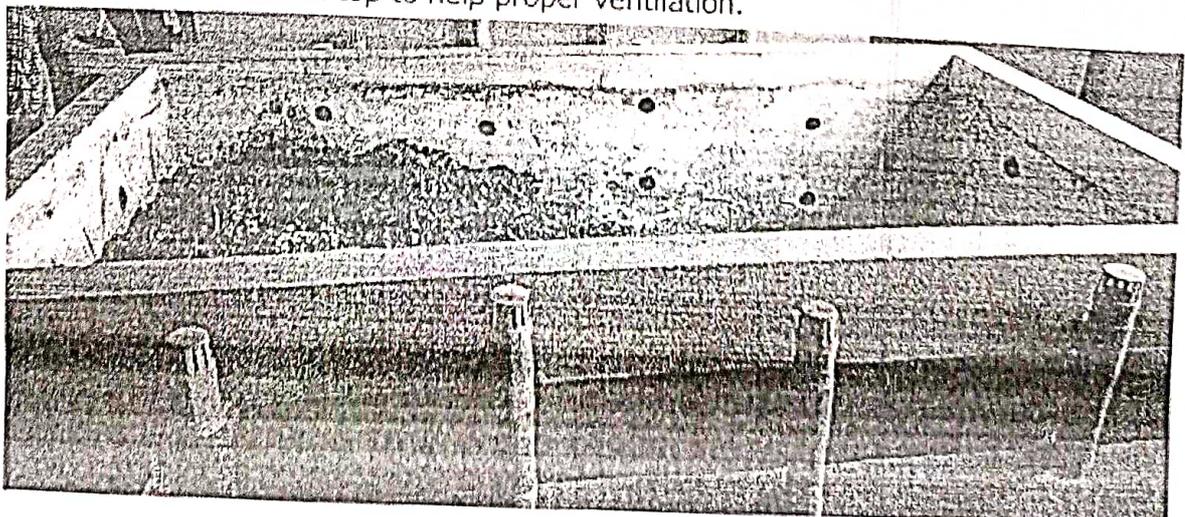
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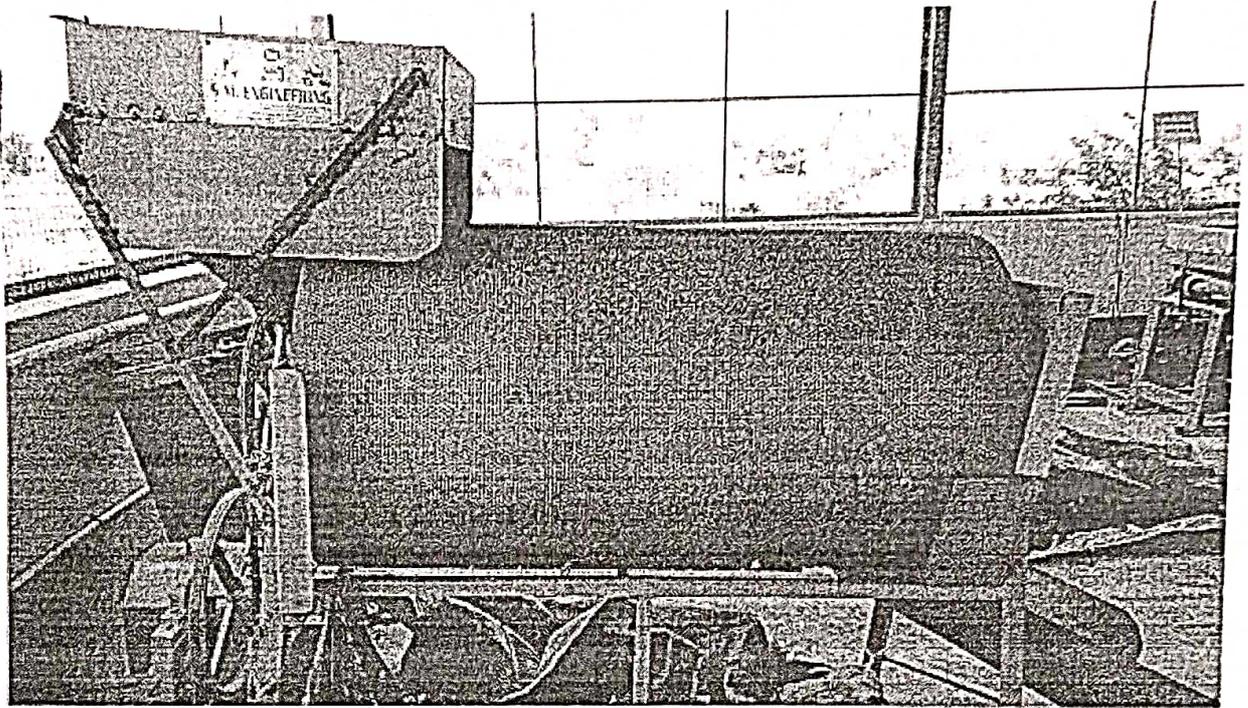
- c. The floor of each tub shall be sloped to one side and have a drain point with jalli to collect leachate.



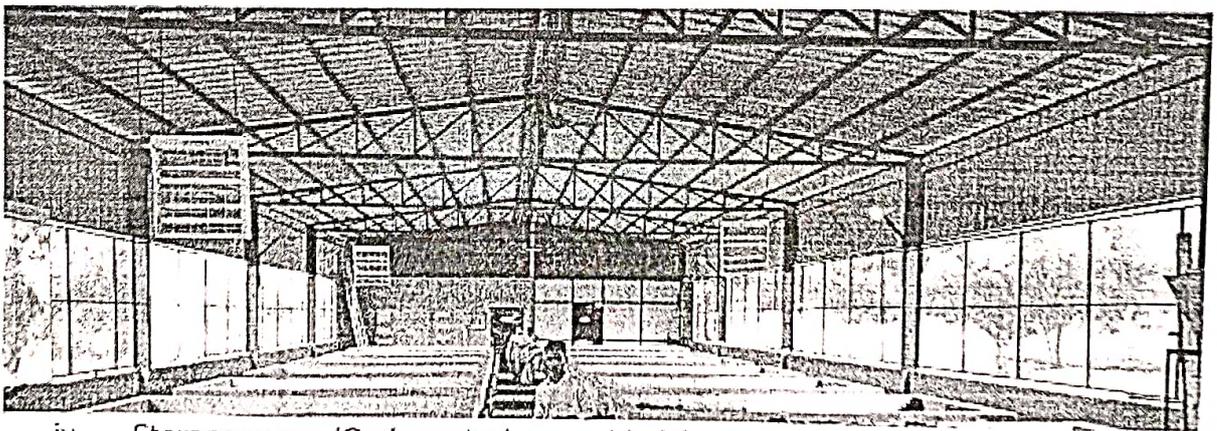
- d. Leachate drain points from each tub shall be connected to underground pipes to form a leachate drainage network and connected to a chamber for safe collection.
- e. The accumulated leachate will be rich in bacterial consortium and can be used as inoculum. The leachate can be sprinkled a little on the waste in tubs. But too much of liquid may block the pores that will create anaerobic condition in the tubs.
- f. Each tub will have sufficient number of holes on the side walls. The holes will be connected through pipes and will have a cowl installed on the top to help proper ventilation.



- g. There shall be adequate space for movement (approximately 1 meter) around each tub.
- v. Digital Weighing machine shall be installed to record the received waste.
- vi. Shredding Machine with conveyor belt shall be placed at the receiving bay to shred the waste to 20-40 mm size.



- vii. Sieving Machine shall be installed to screen the compost after 40 days.
- viii. Fly traps should be installed to control fly nuisance.



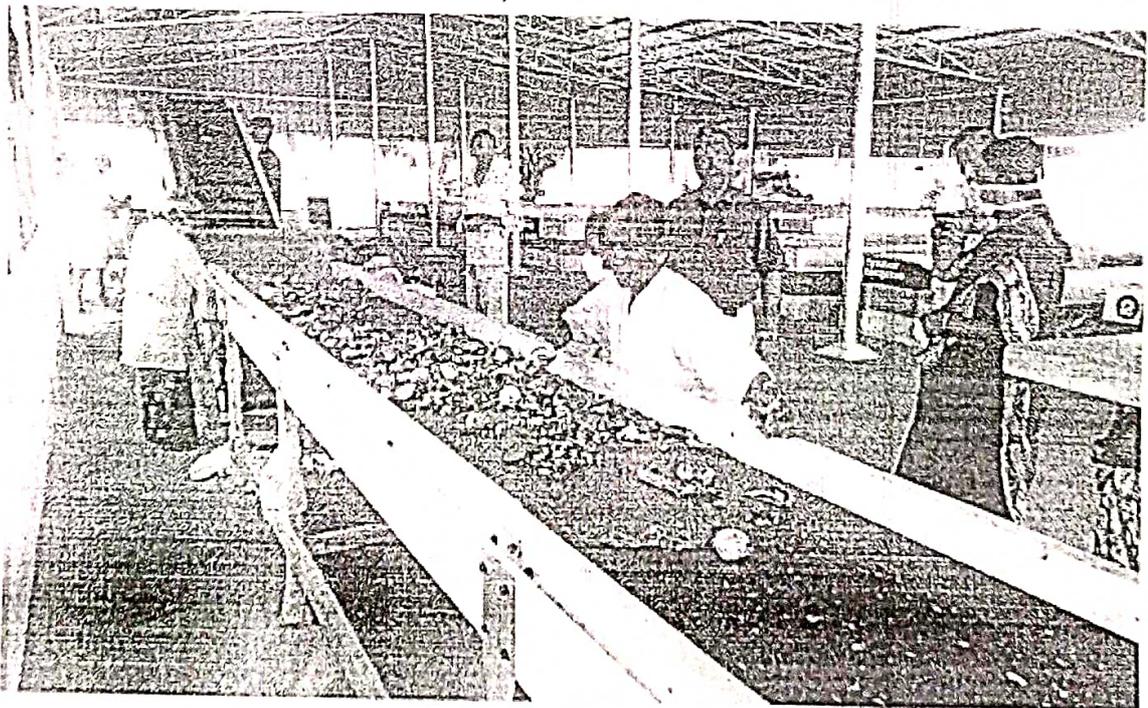
- ix. Storage room /Godown to be provided for storing finished product.
- x. Napkin Incinerator should be placed for disposal of sanitary napkins.
- xi. Attached toilets should be provided separately for men and women.
- xii. Adequate Water supply and Electrical arrangements to be provided.
- xiii. Biometric attendance system to be installed.

## 8. Preparation of Bio-degradable Waste

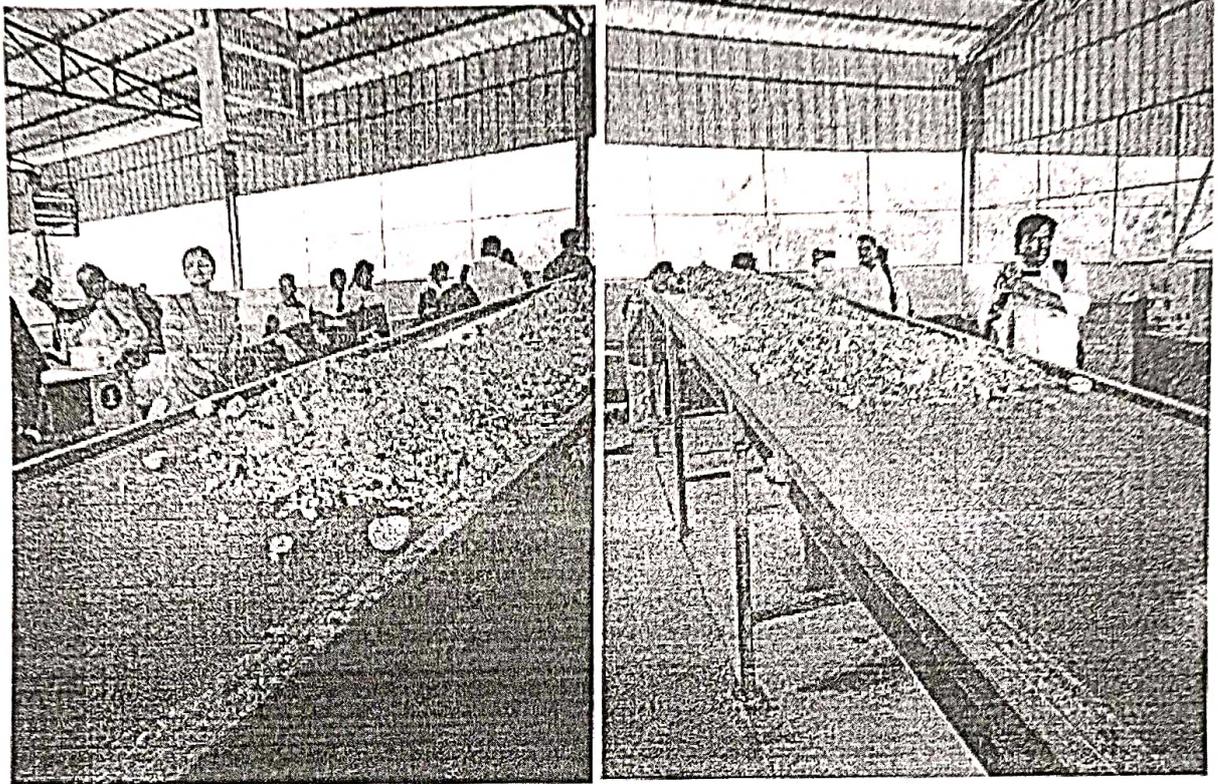
- i. Unload the bio-degradable waste in waste receiving yard after noting down the weight.



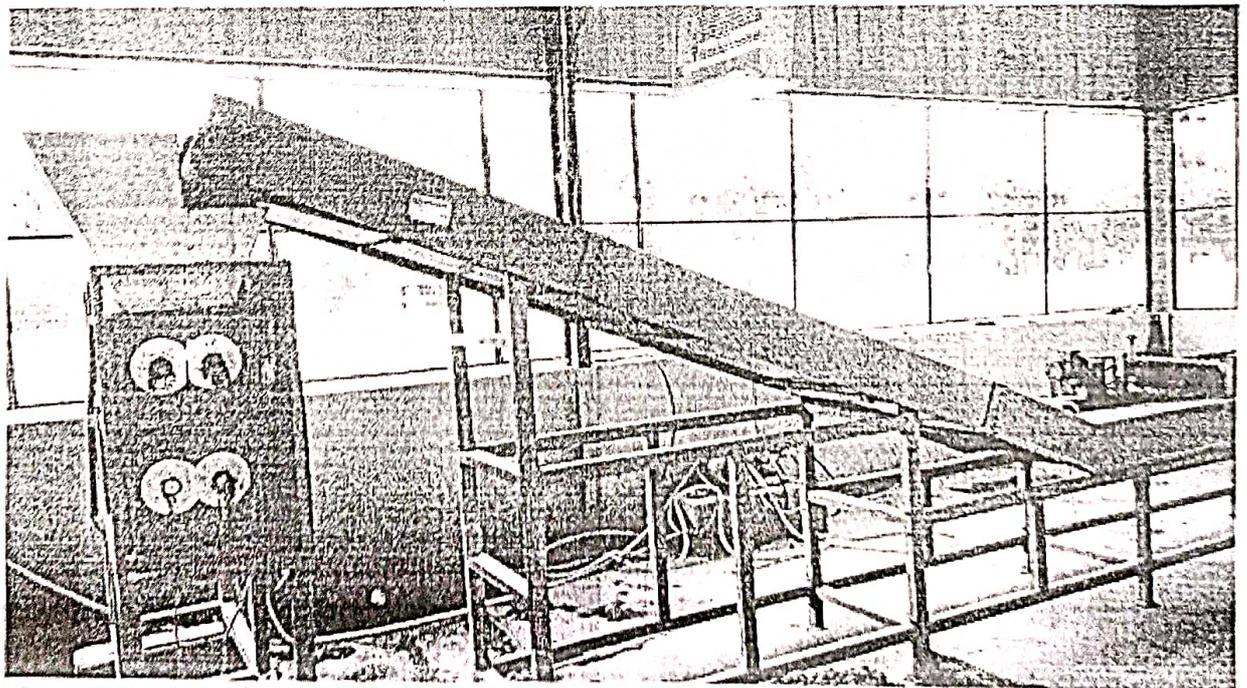
- ii. Transfer the waste to conveyor belt



- iii. Spread the waste manually across width of the conveyor belt and segregating the waste further to ensure all non-biodegradable wastes are removed



- iv. Sprinkle rice-husk-mixed-EM-solution evenly on the top of waste.  
v. While passing through the shredder, the biodegradable waste will get shredded to 20-40mm size and mixed with the rice-husk-mixed-EM-solution.



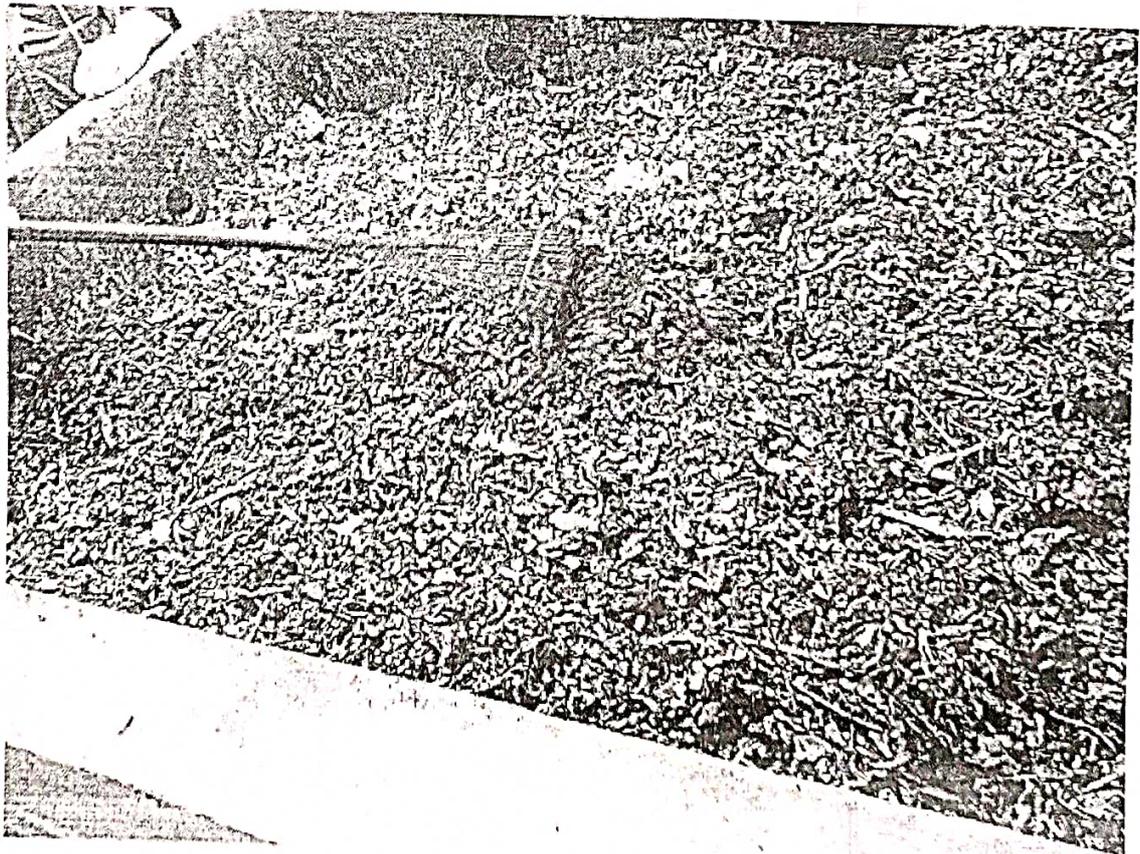
- vi. Collect the shredded waste that is ready to be put inside composting tubs.

### 9. Preparation of Compost Tub to Receive Shredded Waste for First Time

- i. Before putting waste in the compost tub for 1<sup>st</sup> time, bio-dozing has to be done by placing a layer of 2-inch-thick dry cow dung at the floor of each tub.
- ii. The tub is now ready to receive the shredded biodegradable waste mixed with the rice-husk-mixed-EM-solution.
- iii. Place the waste inside the tub and carry on the same process for next tub on next day.

### 10. Composting Process

- i. On 1<sup>st</sup> day, put the shredded waste mixed with prepared media in 1<sup>st</sup> tub.
- ii. On 2<sup>nd</sup> day, put the shredded waste mixed with prepared media in 2<sup>nd</sup> tub.
- iii. This method is to be continued till 7<sup>th</sup> day, on which the shredded waste mixed with prepared media will be put in 7<sup>th</sup> tub.
- iv. The sequence of putting waste in tubs is: 1<sup>st</sup> day - 1<sup>st</sup> tub, 2<sup>nd</sup> day - 2<sup>nd</sup> tub, 3<sup>rd</sup> day - 3<sup>rd</sup> tub, 4<sup>th</sup> day - 4<sup>th</sup> tub, 5<sup>th</sup> day - 5<sup>th</sup> tub, 6<sup>th</sup> day - 6<sup>th</sup> tub, 7<sup>th</sup> day - 7<sup>th</sup> tub.
- v. Turn the waste up and down once in every five days for better aeration.

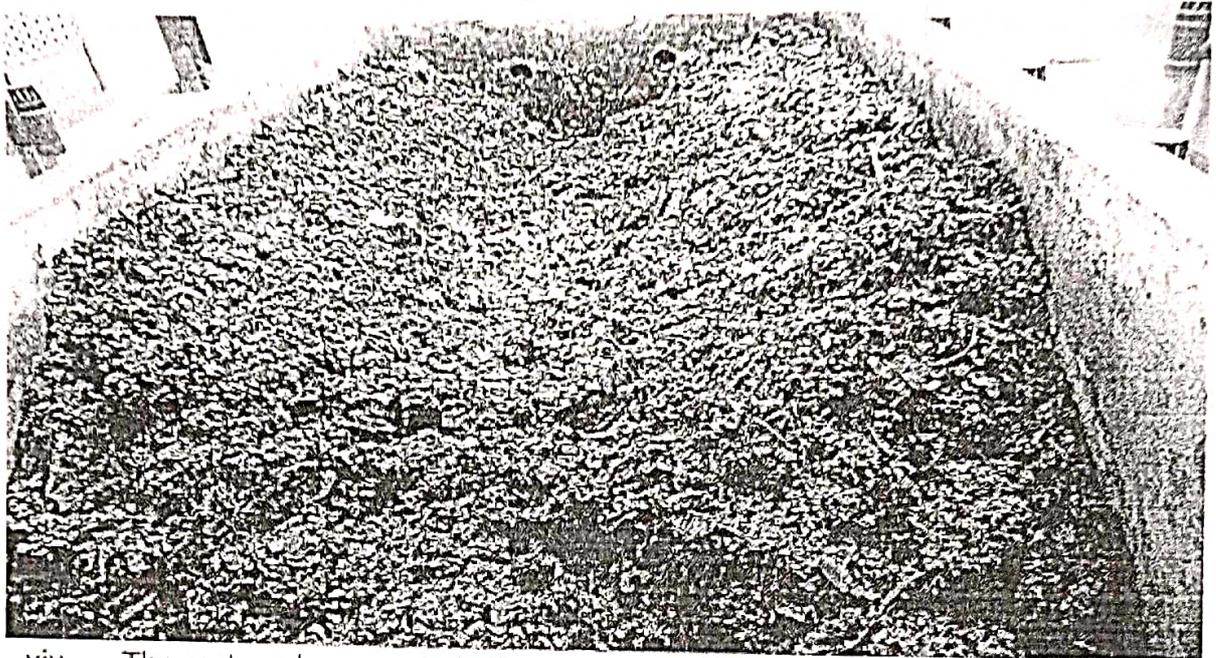


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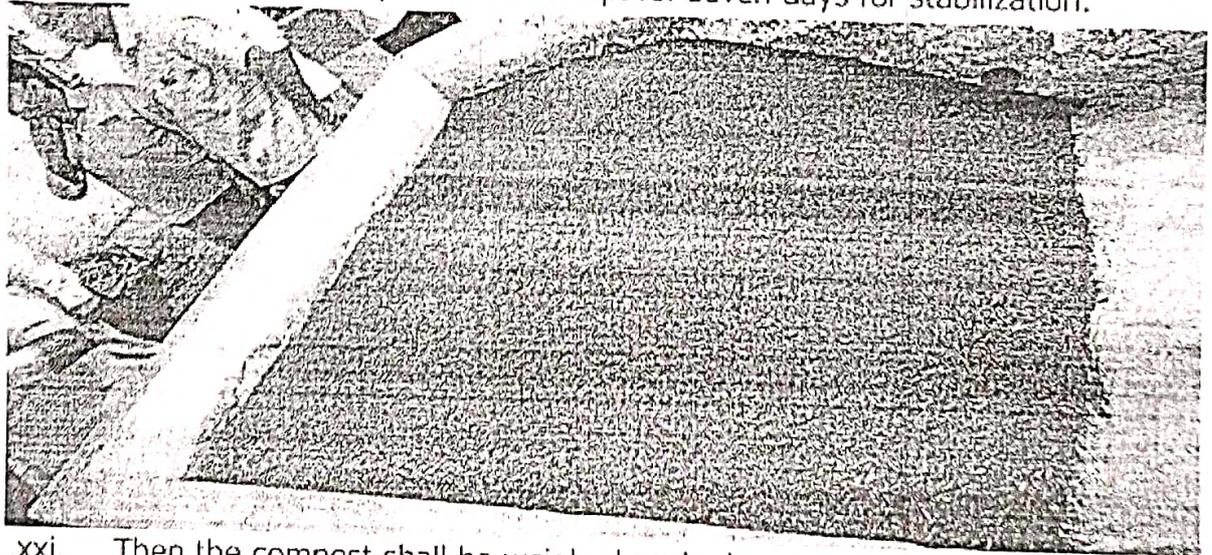
- vi. With each passing day, the waste will degrade due to bacterial activity and there will be reduction in volume of waste. The colour of the waste will slowly turn brown and ultimately become black in final stage.
- vii. On 8th day, the waste in 1st tub would have degraded with considerable reduction in its volume. Put the freshly shredded waste mixed with prepared media again in 1st tub, on the top of 7-days-old waste.
- viii. On 9th day, the freshly shredded waste mixed with prepared media will be put again in 2nd tub, on the top of 7-days-old waste.
- ix. This method is to be continued till 14th day, on which the shredded waste mixed with prepared media will be put in 7th tub.
- x. The sequence of putting waste in tubs is: 8th day - 1st tub, 9th day - 2nd tub, 10th day - 3rd tub, 11th day - 4th tub, 12th day - 5th tub, 13th day - 6th tub, 14th day - 7th tub.
- xi. On 15th day, the waste in 1<sup>st</sup> tub would have degraded with considerable reduction in its volume. Put the freshly shredded waste mixed with prepared media again in 1<sup>st</sup> tub, on the top of 14-days-old waste.
- xii. On 16<sup>th</sup> day, the freshly shredded waste mixed with prepared media will be put again in 2nd tub, on the top of 14-days-old waste.
- xiii. This method is to be continued till 21st day, on which the shredded waste mixed with prepared media will be put in 7th tub.
- xiv. The sequence is: 15th day - 1st tub, 16th day - 2nd tub, 17th day - 3rd tub, 18th day - 4th tub, 19th day - 5th tub, 20th day - 6th tub, 21st day - 7th tub.
- xv. After 21st day, the 2nd train of seven tubs will be put to use in the same manner.
- xvi. The sequence of putting waste in tubs is: 22nd day - 8th tub, 23rd day - 9th tub, 24th day - 10th tub, 25th day - 11th tub, 26th day - 12th tub, 27th day - 13th tub, 28th day - 14th tub, 28th day - 14th tub, 29th day - 8th tub, 30th day - 9th tub, 31st day - 10th tub, 32nd day - 11th tub, 33rd day - 12th tub, 34th day - 13th tub, 35th day - 14th tub, 36th day - 8<sup>th</sup> tub, 37<sup>th</sup> day - 9<sup>th</sup> tub, 38<sup>th</sup> day - 10<sup>th</sup> tub, 39<sup>th</sup> day - 11<sup>th</sup> tub, 40<sup>th</sup> day - 12<sup>th</sup> tub, 41<sup>st</sup> day - 13<sup>th</sup> tub, 42<sup>nd</sup> day - 14<sup>th</sup> tub.

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- xvii. During these 21 days from 22nd day to 42nd day, the waste in all seven tubs in 1st train will be turned up and down for aeration but no fresh waste will be added.
- xviii. After 40 days of adding waste in any tub, the waste in the tub would have turned black colour indicating matured compost.



- xix. The matured compost shall be removed from the tub and sieved for uniform size. The rejects from the sieving shall be put again in the tub for further decomposition.
- xx. The screened compost shall be kept for seven days for stabilization.



- xxi. Then the compost shall be weighed packed to standard size of bags.
- xxii. The stock register and sale register are to be maintained.

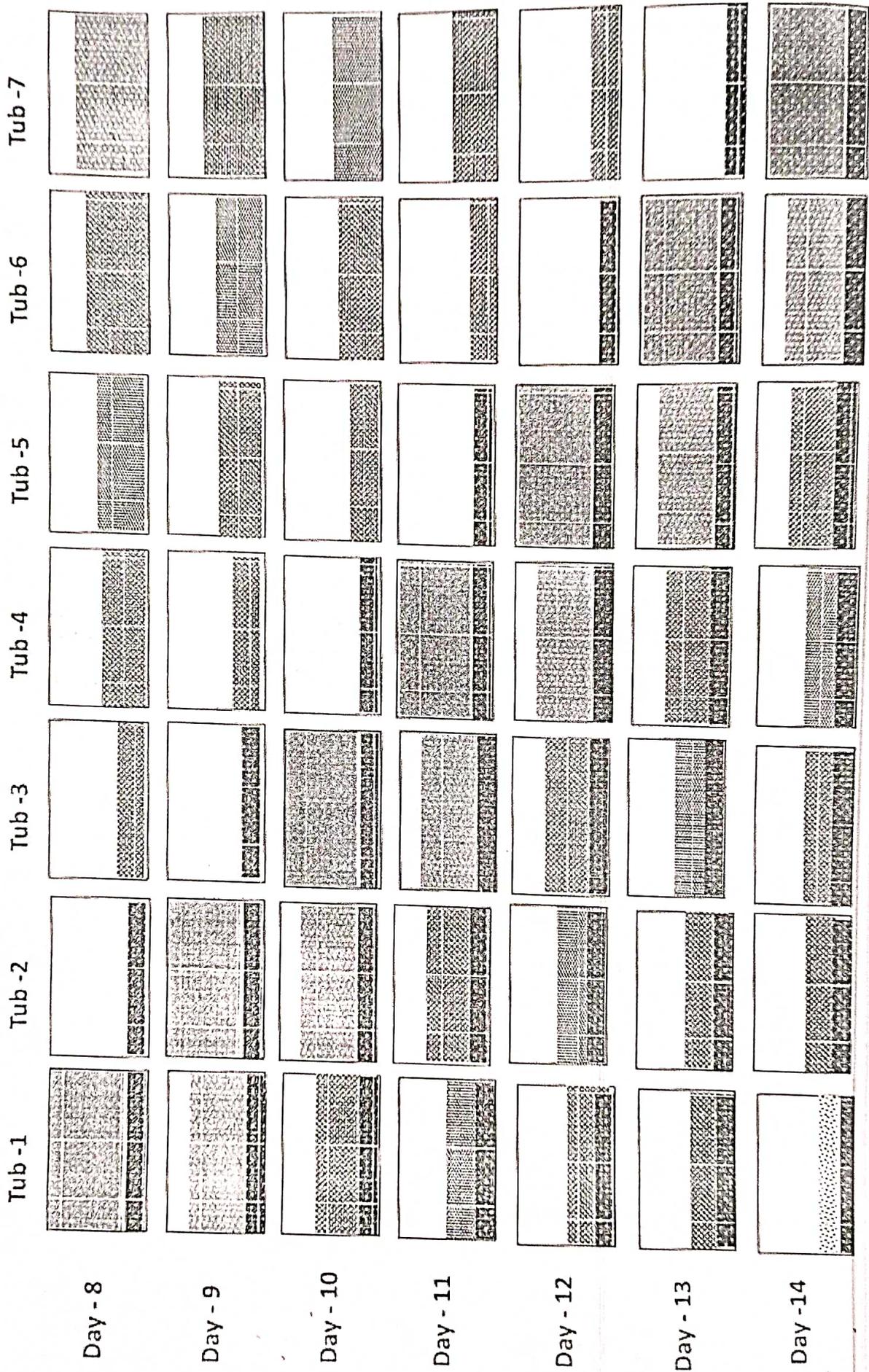
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Micro Composting Process of Train-1 Comprising Seven Tubs (1/3)

	Tub -1	Tub -2	Tub -3	Tub -4	Tub -5	Tub -6	Tub -7
Day - 1							
Day - 2							
Day - 3							
Day - 4							
Day - 5							
Day - 6							
Day - 7							

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Micro Composting Process of Train-1 Comprising Seven Tubs (2/3)



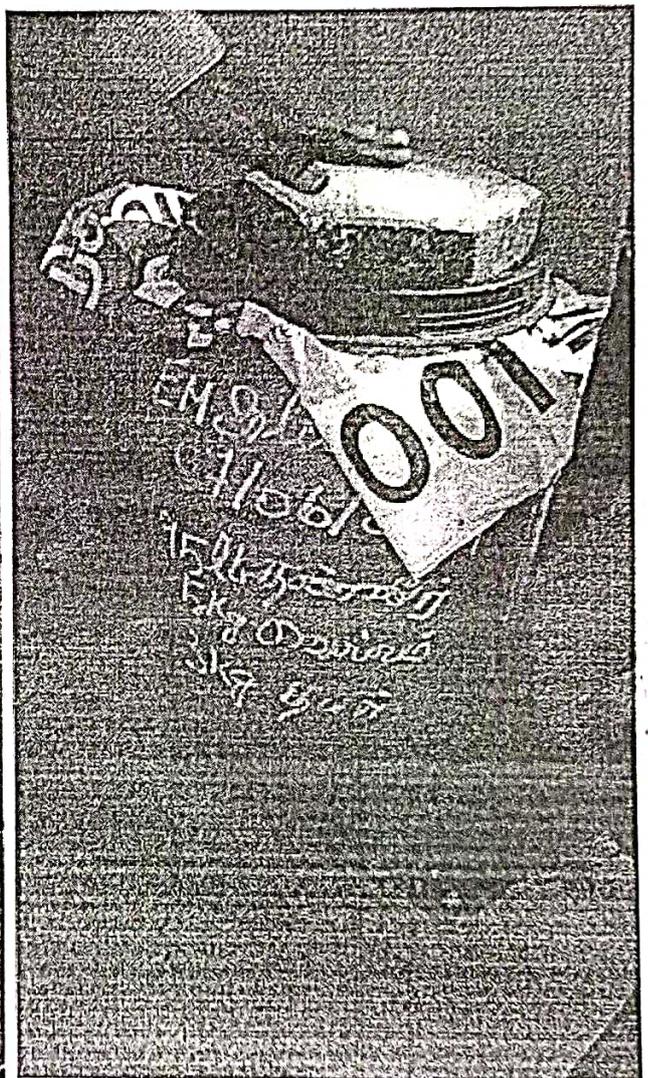
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Micro Composting Process of Train-1 Comprising Seven Tubs (3/3)

	Tub -1	Tub -2	Tub -3	Tub -4	Tub -5	Tub -6	Tub -7
Day - 15							
Day - 16							
Day - 17							
Day - 18							
Day - 19							
Day - 20							
Day - 21							

## 11. Preparation of Effective Microorganism (EM) and Media

- i. EM stands for "Effective Micro-organisms". EM consists of a wide variety of effective, beneficial and non-pathogenic microorganisms produced through a natural process and not chemically synthesized or genetically engineered.
- ii. Take a barrel of 100 litres capacity.
- iii. Fill 90 litres of water.
- iv. Add 3 litres of curd and 5 Kgs of jaggery. Mix it to form a homogeneous solution.



- v. Close the barrel and keep it fermented for 7 days.
- vi. After 7 days, open the barrel and the EM Solution is ready to use.

- vii. Take some EM solution in a jar and mix it with equal proportion of Rice bran and Rice husk. The quantity of EM solution should be such that the mixture can be turned into balls of the size of a coconut without breaking. If it crumbles, add a little more EM solution to the mixture. If it is too much of watery, add more Rice bran and Rice husk.

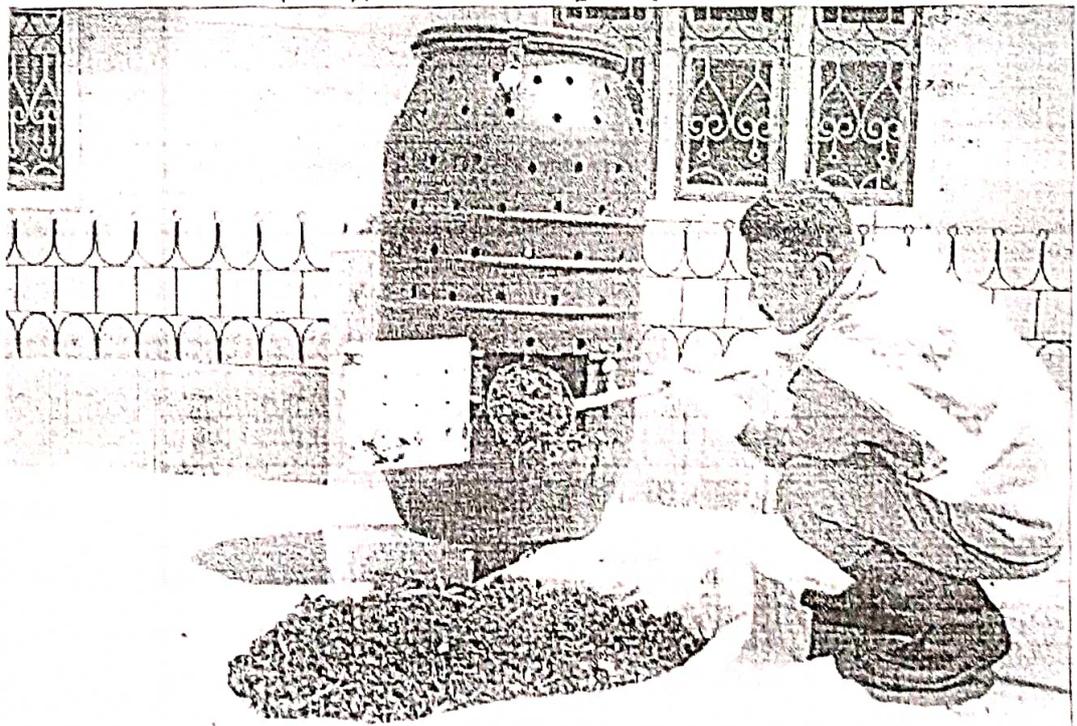


- viii. Keep the mixture ready to add on fresh waste.

- ix. The EM solution should be used within 3 days of preparation.

## 12. On-site Composting Centres (OCC)

- i. OCC may be established with seven tubs following the process adopted in MCC to obviate the difficulties in finding adequate space.
- ii. For wards having further space crunch, composting can be taken up using bins of 200 litre capacity, unused damaged syntax tanks, etc.



- iii. The bin shall have holes on its sides for effective aeration.

- iv. There shall be post box size opening with door at the bottom for removal of compost.



- v. The fresh wet waste shall be shredded on-site by mobile shredding machine and be fed from top after mixing it with EM Solution.
- vi. After around 40 days the waste will be converted to compost that can be removed through the bottom gate and may be distributed among the households concerned or may be disposed of in any other manner as deemed proper by the ULB.

### 13. Sale of compost in local market

- i. A suitable mechanism may be developed by the ULB in consultation with District Magistrate and other stakeholders of the District for timely and proper selling of the compost generated from MCC/OCC.

### 14. Disposal of dry waste

- i. The Municipal Solid dry waste may be divided into two categories:
  - a. Recyclable - that can be sold out and
  - b. non-recyclable - that cannot be sold out
- ii. The recyclable dry waste to be collected, segregated and sold to the empannelled agencies at the rates approved by the ULB. Sale proceeds

thereof shall be distributed amongst the sanitation workers which shall be over and above their salary / remuneration.

- iii. The details of the transaction shall be recorded in a register for future reference with signature of the sanitation workers as a token of receipt of the received amount.
- iv. The non-recyclable solid waste to be brought to the Material Recovery Facility adjacent to the MCC. The unutilized tubs (if any) of the MCC may be utilised for the purpose.
- v. The non-recyclable solid waste shall be baled using a baling machine to reduce the volume and transported to cement factories having kilns for co-processing as intimated by this Department from time to time.
- vi. A register shall be maintained depicting the details thereof for future reference.

#### **15. Bulk Waste Generator (BWG)**

- i. As per SWM Rules, 2016 the BWGs shall segregate their waste and process the bio-degradable waste within their premises using any of the methods such as: vermi-composting, bio-digester, mechanical composting, etc.
- ii. The non-bio-degradable waste shall be handed over to sanitation worker for which user fee shall be collected as per provisions made under the Bye-Laws.
- iii. Periodical meetings with BWGs should be made to create awareness and take stock of efficiency in handling waste.

#### **16. Information, Education and Communication (IEC)**

- i. Each and every household shall be effectively impressed upon to segregate the solid waste by themselves and handover the same to the waste collectors during door-to-door collection.
- ii. Competitive attitude amongst the households shall be generated by adopting naming and shaming technique.
- iii. In respect of households handing over segregated waste continuously shall be recognized by affixing sticker / sun-board on the outer wall of the house to that effect.

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- iv. Token mementos may be distributed to such households during periodical ward sabha
- v. Households not adopting the practice of handing over segregated waste shall be requested to do so. In case of repeated failure, such waste may be placed on a sheet in front of the house and the sanitation worker shall impart on the spot training to the members of the household present as to how to segregate the waste.

**17. Technical advice:**

In case of technical difficulties / advice for furtherance in Solid Waste Management, the ULB may refer / consult the PMU of the SBM / SWM.

**18. Funds**

Housing & Urban Development Department will provide required funds on receipt of **Action Plan for capital investment** and the ULBs will take care of O&M from either their own funds or from the permissible grants received from Government.

**19. Timeline:**

Sl. No.	Deliverable	Activity	Month				
			1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
1	Basic Statistics	Sample survey for quantification of per capita waste generation (segregated: wet and dry)					
2		Map of ULB with ward boundary, roads, parks, etc.					
3		Identification of Bulk Waste Generators					
4	Availability of Land	Identification of Suitable Land for MCC/OCC					
5		Advance possession					
6	Cluster Demarcation	Households to be tagged to the MCC/OCC					
7		Demarcation of the area					
8	Vehicles	Assessment of vehicles required for door-to-door collection					
9		Arrangement of required number of Tricycle, LCV, BOV					
10	Human Resources	Identification of WSHG / ALF and selection of Swachh Sathi					
11		Identification of Sanitary Workers					
12		Selection of Supervisor					

Sl. No.	Deliverable	Activity	Month				
			1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
13	Route Map	Preparation of Route map tagging vehicle - sanitation worker - households - MCC/OCC					
14	Establishment of MCC	Civil Construction					
15		Procurement of machinery and installation					
16	Disposal of Recyclable Waste	Identification of Rag Pickers and agencies dealing with recyclable dry waste					
17		Approval of rate for recyclable waste					
18	Establishment of MRF for Dry Waste	Civil Construction					
19		Procurement of machinery (Baling Unit) and installation					
20	Disposal of Non-recyclable Waste	Identification of Cement Factories					
21		Sending the baled non-recyclable waste for co-processing					
22	IEC	IEC Activities by Swachh Sathi					

**20. Independent Evaluation**

The H&UD Department may take steps to conduct independent evaluation in the manner as deemed proper at appropriate time.

**21. Conclusion**

The sense of **"My Waste, My Responsibility"** may be inculcated in every waste generator (Individual household / Bulk Waste Generator) to ensure "Swachh Odisha Susth Odisha".

\* \* \*

**VAKALATNAMA**  
**BEFORE THE NATIONAL GREEN TRIBUNAL EASTERN ZONE**  
**BENCH, KOLKATA**  
**ORIGINAL APPLICATION NO-113/2021/EZ**

**Between:** Applicants  
**Biranchi Narayan Mallick & Others** .....

-Versus-

**State of Odisha & Others** ..... Respondent(s)

Know all men by these presents, that by this Vakalatnama

I, Sri Sanjay Kumar Singh, aged about 50 years, Son of Sri Braj Kishore Prasad, at present working as Commissioner, Bhubaneswar Municipal Corporation, District- Khurdha

(Respondent) in the aforesaid case, do hereby appoint and retain Sri

PRANOY MOHANTY ..... Advocate (s)  
 (CENRL No. 0-734/2016) P.K. NAYAK  
 (CENRL No. 0-917/2009)

to appear for me, in the above case and to conduct and prosecute (or defend) the same and all

proceedings that may be taken in respect of any application connected with the same or any

decree or order passed therein including all applications for return of documents or receipt of

any moneys that may be payable to me in the said case and also in applications for review, and

in appeals under Orissa High Court order and in applications for leave to appeal to Supreme

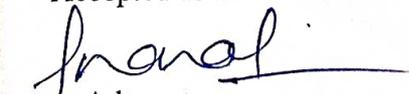
Court. I, authorize my Advocate (s) to admit any compromise lawfully in the said case.

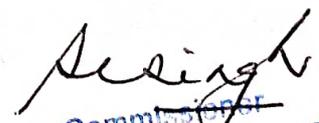
Dated 31/01/ 2021

Received from the executant(s).  
 Satisfied and accepted as, I hold  
 no brief for the other side .

  
 Advocate

Accepted as above

  
 Advocate

  
 SIGNATURE OF THE EXECUTANT(S)  
 Commissioner  
 Bhubaneswar Municipal Corporation

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BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE,  
BENCH, KOLKATA

**MEMORANDUM**

..... OA Case No. 113 ..... of 20.2.1 /EZ

..... Biranchi Narayan Mallick & Ors. Appellant(s)  
Petitioner(s)

**VERSUS**

..... State of Odisha & Others Respondent(s)  
Opp. Party(ies)

To  
The Registrar,  
NGT, EZ, Kolkata.

Sir,

I have the honour to authorize **SRI PRADIPTA KUMAR MOHANTY, Senior Advocate** to plead on behalf of the Pranoy Mohanty in the above mentioned case and request that the fact may kindly be noted.

Yours faithfully,

  
**ADVOCATE**

Date 31/01/2022

I agree

  
**Pradipta Kumar Mohanty**  
**SENIOR ADVOCATE**