

Date: 30.07.2022

MA-16/2022/EZ

Original Application no. 81/2020/EZ

Arti Sinha vs. Mihijam Nagar Parishad & Ors.

The instant case pertains to the allegation that the solid waste management activities are being carried out illegally in violation of the Solid Waste Management Rules 2016 and Environment (Protection) Act, 1986 within the Mihijam area, District Jamtara, Jharkhand. The case has been disposed off vide order dated 23.02.2022 with the following observation:

"26. However, there are several other violations of Solid Waste Management Rules, 2016 as stated herein above for which certain directions need to be given. For reasons stated hereinabove, we find 58 no merit in the present Original Application and the same is accordingly dismissed with the following directions:-

- a) Seepage of leachate from the fresh dumpsite should be managed as per Solid Waste Management Rules, 2016. Proper drainage and pumping of the leachate to the leachate treatment unit must be given special attention.*
- b) Protective measures against pollution of ground water, surface water (Non-permeable lining system at the base and walls of waste disposal area) and fugitive air dust, wind blown litter, animal menace, bird menace, posts or rodents etc. should be taken up immediately.*
- c) Walls around the dump site be made continuous and Gates should be provided at proper locations. Gaps/leakages in the wall should not be left out in any portion.*
- d) Sprinkling of water on roads and other areas may be carried out to control dust emissions.*
- e) Advance demarcation and declaration of a buffer zone of no new habitation for upto 500 meters needs to be carried out.*
- f) A standard plan addressing the potential risks in the site for any disaster while working needs to be implemented at the earliest.*
- g) Action may be initiated for bio-mining by the authority and to be completed as per Central Pollution Control Board guidelines within three months.*
- h) The aesthetic view of the area should be enhanced by extensive plantation around the boundary.*

A compliance report in this regard be submitted by the Jharkhand State Pollution Control Board after four months i.e., by 30.06.2022 indicating that the recommendations and the directions given in the judgment have been complied with by the Mihijam Nagar Parishad or not."

In this regard, it is submitted that no compliance report has been filed by the Jharkhand State Pollution Control Board pursuant to above mentioned directions as on date.

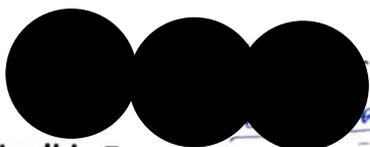
Therefore, if directed, M.A. may be registered in the instant case for the purpose of compliance of the order of the Hon'ble Tribunal as O.A. has already been disposed off.

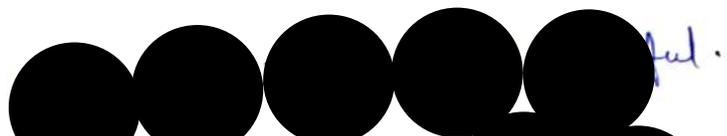
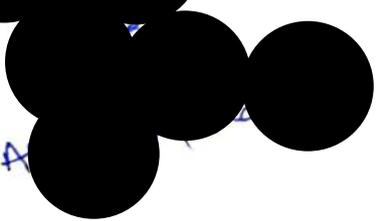
Placed for appropriate order/direction.


Assistant Judicial


Ld. Registrar


Hon'ble Judicial Member 01.8.22


Hon'ble Expert Member 01.8.22

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

.....

ORIGINAL APPLICATION No. 81/2020/EZ

IN THE MATTER OF:

**Arti Sinha,
Secretary of Legal Rights and Social Development
Foundation, an NGO, Registration No.43/10/2018,
Dated 15.03.2018,
Office at Rajbari, Mihijam, P.O. and P.S. Mihijam,
District – Jamtara, Pin – 815354,**

....Applicant(s)

Versus

- 1. The Executive Officer, Mihijam Nagar Parishad,
P.O. and P.S.-Mihijam, District-Jamtara,
Jharkhand – 8145534,**
- 2. The Secretary, State of Jharkhand,
Project Buidling, P.O. and P.S. Dhurwa,
District-Ranchi, Jharkhand,
Pin – 834004,**
- 3. The Principal Chief Conservator of Forests,
Department of Forests, Environment and Climate Change,
Room No.108, B Block, 1st Floor, Van Bhawan,
P.O. and P.S.-Dorando, District-Ranchi,
Pin – 834002,**
- 4. The Chairman, Jharkhand State Pollution Control Board,
HEC Campus, P.O. and P.S. Dhurwa,
District-Ranchi, Jharkhand,
Pin – 834004,**
- 5. The Regional Officer, Jharkhand State Pollution Control
Board,**

**Ashram Road, Tower Chowk, Dudhani Dumka,
Pin – 814101,**

- 6. The Deputy Commissioner, Jamtara,
P.O. and P.S. and District-Jamtara,
Jharkhand – 815351,**
- 7. The Superintendent of Police, Jamtara,
District-Jamtara, Jharkhand,**
- 8. The Secretary, Department of Forest, Environment and
Climate Change,
At A-306, Agni Block, 3rd Floor, Indira Paryavaran Bhawan,
Aliganj, P.O. and P.S.-Jorbagh Road,
New Delhi – 110003,**
- 9. Union of India,
Through Secretary,
Urban Development and Housing Department,
Nirman Bhawan, C-Wing, Dr. Maulan Azad Road,
New Delhi – 110011,**

....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Chhatrapal Saugandh, Advocate

COUNSEL FOR RESPONDENTS :

**Mr. Krishnaraj Thaker, Addl. Advocate General, a/w Ms.
Aishwarya Rajyashree, Advocate for R-3,6 & 9,
Mr. Surendra Kumar, Advocate for R-4 & 5,
Mr. Soumitra Mukherjee, Advocate for R-8,**

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

**Reserved On:- 8th February, 2022
Pronounce On:- 23rd February, 2022**

1. Whether the Judgment is allowed to be published on the net? **Yes**
 2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**
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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

The Applicant has filed this Original Application on the allegation that the solid waste management activities are being carried out illegally in violation of the Solid Waste Management Rules, 2016 and Environment (Protection) Act, 1986 at the site Mouza No. 15, Khata No. 223, Plot No.1865, Rajbari, Mihijam, District-Jamtara, Jharkhand which is about 50 meters from densely populated area. It is also stated that said unauthorized site is a constant threat to the lives of the thousands of local people who reside in the vicinity. It is also stated that at present the total solid waste generation, collection, compilation and storage is about 12-13 MT per day and proper solid waste disposal in compliance with the Solid Waste Management Rules, 2016 and Municipal Solid Wastes (Management and Handling) Rules, 2002, is not being carried out by the Mihijam Nagar Parishad (Respondent No.1) instead the entire waste is being dumped since the last two years at a dump yard situated at Mouza No. 15, Khata No. 223, Plot No.-1865, total area 4.85 acres which is close to the habitation of Rajbari, Mihijam.

2. While issuing notices, this Tribunal constituted a Committee comprising of the following persons:

- (i) *A Senior Scientist of Central Pollution Control Board, Regional Office, Kolkata;*
- (ii) *A Senior Scientist from the Integrated Regional Office of MoEF&CC, Ranchi;*
- (iii) *Regional Officer, Jharkhand State Pollution Control Board; and*
- (iv) *Deputy Commissioner, Jamtara, Jharkhand,*

The Committee was directed to look into the matter and submit its report on the following aspects:-

- (i) *Violation of siting criteria as pwer Solid Waste Management Rules, 2016;*
- (ii) *The amount of legacy waste dumped in the disputed area and the efforts taken by the Mihijam Nagar Parishad, District-Jamtara, Jharkhand, for segregation and removal of the same as per the Solid Waste Management Rules, 2016;*
- (iii) *The Committee shall also identify an alternate site for disposal of the solid waste/biomedical waste which is as per the criteria given in the Solid Waste Management Rules, 2016;*
- (iv) *The Committee is also directed to assess the amount of leachate which may have infiltrated into the soil causing water pollution and accordingly water samples from the nearby lake/pond can be analysed for contamination;*
- (v) *On account of the illegal dumping of solid waste/biomedical waste, the Committee is also directed to assess the Environmental Compensation caused on account of degradation of the environment in this case.*

The Environmental Compensation shall be calculated as per the guidelines issued by the Central Pollution Control Board.

3. A counter-affidavit dated 31.08.2021 has been filed by the Respondent No.4, Jharkhand State Pollution Control Board, stating that no Consent to Establish or Consent to Operate has been issued to the Municipal Waste Treatment Facility located at Mouza No. 15, Khata No. 223, Plot No.-1865, Rajbari, Mihijam, District-Jamtara.

Along with this affidavit a Report has also been filed of an inspection of the site carried out on 07.07.2021 and 08.07.2021. The findings, conclusion and recommendations of the Committee are reproduced herein and read as under:- 86-95

II .Detailed Description of the on-site inspection of Mouza No. 15, Khata No. 223, Plot No. 1865, Rajbari, Mihijam, District Jamtara, and other proposed dump sites in Mihijam and Jamtara, Jharkhand.

The Committee members inspected/visited the site on 07.07.2021 and 08.07.2021.

At first, it is pertinent to mention about some important definitions from the Solid Waste Management rules, 2016 (SWMR, 2016). They are

- a. "Dump sites" means a land utilized by local body for disposal of solid waste without following the principles of sanitary land filling".

- b. "Sanitary land filling" means the final and safe disposal of residual solid waste and inert wastes on land in a facility designed with protective measures against pollution of ground water, surface water and fugitive air dust, wind-blown litter, bad odor, fire hazard, animal menace bird menace, pests and rodents, green house gas emissions, persistent organic pollutants slope instability and erosion.
- c. "Residual solid waste" means and include the waste and rejects from the solid waste processing facilities which are not suitable for recycling or further processing.
- d. "Disposal" means the final and safe disposal of post processed residual solid waste and inert street sweepings and silt from surface drains on land as specified in schedule 1 to prevent contamination of ground water, surface water, ambient air and attraction of animals of birds.

The inspected place at Rajbari in Mihijam, Distt.-Jamtara i.e. Mouza no. 45, Khata 223, Plot no. 1865 is not a sanitary land filling site as per the definition provided in solid waste management rules 2016 because of that site there was dumping of all solid wastes and not the "Residual solid waste and inert wastes"

There were no protective measures against pollution of ground water, surface water (Non-permeable lining system at the base and walls of waste disposal area) and fugitive air dust, wind blown litter, animal menace, bird menace, posts or rodents etc.

In view of the above the inspected site Mauza No. 15, Khata no. 223, Plot no. 1865, Rajbari Mihijam is referred to as dump site in this report as per the definition provided in SWMR 2016.

Description of the sites inspected by the team constituted by Hon'ble NGT in OA 81/2020/EZ.

1. Boundary wall was observed at the site (see photos 1, 2, 13 & 14) but it was not a continuous boundary. There were many areas/places where boundary wall was not provided or there were gaps between the wall, no gates were provided at any place in the boundary wall and it may cause for trespassing (persons, animals, vehicles,

etc.) (see photos 2,19). Also, at many places in the boundary wall gaps/leakage points in the bottom portion was observed i.e. from where fluid/liquid can pass through during rain and flow outside (see photos 8, 9, 15, 16). It should be ensured that the boundary wall is completely sealed and there should not be any gaps, leakages through which liquid/fluid can come out from the waste dumping site.

2. Inside the boundary wall area some solid wastes were observed but over most of the solid waste soil, earth material was put (see photos 1,2). To ensure about the dumping, committee members decided to dig the said ground a few locations on random basis 3-4 locations. However, after digging the soil, earth material, solid waste was observed (see photos 20, 21,22). At some places inside the boundary wall no solid waste dumping could be observed even after digging (see photos 23, 24). It implies that solid waste dumping activity has been carried out in some areas inside the boundary and not in the whole ground area.
3. There were no drains found inside the boundary to collect the overflow/ leachate.
4. Near the dump sites agricultural fields were observed (see photos 03, 04). Thin layer of oil was observed in an agriculture field, and therefore water samples were taken from that place (latitude 24°50'49" N, longitude 26°52'1" E).
5. Water in Maithan dam was observed at some distance from the dump site. From the annexure II (distance of various important places adjacent of dump site superimposed on Google map) it can be seen that closest point of the Maithan dam from dump site is at a distance of 531 m.
6. High tension electric grid transmission lines were observed adjacent to the dump site (both side) (see photos 1,2,7) but no transmission lines were observed passing over on top of the dump site.
7. Just outside the boundary of the dump site in the eastern side there was an another dump site where solid waste was dumped over a large area (see photos 12, 13, 18, 25). There were no drains around that solid waste dump. District authorities informed that solid waste of Mihijam was dumped at that site from earlier times. Adjacent to this dump site (i.e. without any boundary wall) there was a slope and it

was connected to low lying area (see photo 14) agricultural fields and a small nallah (see photos 15). The nallah seemed to be flowing through agricultural fields may be only in rainy season. Since there were probabilities that contaminated water from dump site could reach to low lying areas and subsequently into the nallah (of photo 15) therefore sample of water from there was also collected.

8. There was a small artificial pond/trench like structure near the dump inside the boundary wall (see photo 11). Since it was within 30-35 m of the solid waste disposed place sample of water was collected from that place.

9. Near to the dump site in Mauza 15, Khata no. 223, Plot no. 1865, Rajbari Mihijam there were some prominent building observed. Some of them are:

a. Homeopathic medicine centre (see photo 26)- Approximate distance from dump site is 204 m (see annexure II). There was a well inside the premises of Homeopathic Medicine centre (see photos 27) and water sample from that well was also collected. (see photo 28).

b. Missionaries of charity (see photo 31) – The building/missionary was at further distance from Homeopathic Medicine centre (i.e. more than 210 m from dump site)

c. A temple (see photo 32)- Temple was more than 210 m from dump site

10. Water sample was also collected from an old well near the dump site (see photo 33).

11. Some cows were observed grazing grass adjacent to the dump site (see photo 35).

In the absence of any gate, incomplete boundary these cows could enter the solid waste area.

12. The committee members visited the place at Chandradeepa village (see photos 39) where solid waste dump site /sanitary land filling was earlier planned by distinct authorities/Mihijam Nagar Parishad. It was informed by district authorities that local population of that area/village strongly objected to the solid waste dump site/ Sanitary land filling site there. District authorities informed that there may be law and order problem if they forced solid waste dump site in that area. Local villagers

gathered at the place when committee members were inspecting the area (see photo 39) and they told they will not allow any solid waste dump site in the area (Chandradeepa Village). An artificial pond was observed adjacent to the area (see photo 36). There was a non-operational crushing unit near (within 200-300m) of the area (see photo 38). A state road was observed adjacent to the site (see photo 37).

13. Committee members also visited proposed solid waste dump site at Jamtara. The place was Vaidyanathdih with thana no. 22, Khata no. 61, Khesra no.- 510, 13.61 acre (see photos40). The site was adjacent to a road (see photos 41). District authorities informed that local people are opposing any solid waste dump site/ sanitary land fill site at that place too. The land was flat at that the place and some trenches were observed on the site(see photos 42 & 43)

Note : Photos related to inspection as given above are provided in annexure I

III. Pointwise observations w.r.to objectives of the committee:

- A. Violation of siting criteria as per Solid Waste Management Rules, 2016

;Observations/findings of the committee :

As can be seen in Annexure (Distance – latitude-longitude taken during site inspection superimposed on Google map) the dump site is approx 204 m from nearest habitation approx 250m from nearest well, approx. 531 m from Malthan dam nearest water point that can be seen from Google map. There is no river within 100m from dump site. However a rainy season/seasonal nala flowing between agricultural fields flows within approx 204 m from dump site. It is more than 20 km away from Airport or Airbase.

The Distance of the sensitive location observed by the committee member from the Dump site of Mihijam Nagar Parishad, located In Mouza-15, Khata No.223, Plot No.1865 at Rajbari meets the distance criteria of sanitary landfill mentioned in schedule I, Para (A)& serial no.(vii) of Solid Waste Management Rules,2016 but the dump site/sanitary landfill site of Mihijam Nagar Parishad located in said site does not meet the other specifications as given in Schedule-I , of Solid Waste Management rules,2016.

Landfill allows only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre processing rejects and residues from waste processing facilities. But the dump site/sanitary landfill site of Mihijam Nagar Parishad located in Rajbari dump all the municipal waste without segregation and processing facilities.

There are many non-compliances observed with reference to Schedule I of Solid waste Management Rules 2016. Please refer to annexure III i.e. compliance status given in Schedule I of Solid waste Management, Rules 2016 (Criteria for site selection; Criteria for development of facilities at the sanitary landfills; Criteria for specifications for land filling operations and closure on completion of land filling; Criteria for pollution prevention;).

- B. The amount of legacy waste dumped in the disputed area and the efforts taken by the Mihijam Nagar Parishad, District-Jamtara, Jharkhand for segregation and removal of the same as per the Solid Waste Management Rules, 2016 ;

Observations/findings of the committee : Due to non-installation of MSW plant and without segregation of waste in the said dump site/sanitary landfill site there was continuous dumping of municipal waste being done by Mihijam Nagar parishad for the last few years, resulting in the formation of heaps which can be termed as legacy waste. Based on the survey done by the committee member, about (L=39m, B=38 m, H=0.5 m) 741 cubic meter of waste was found inside the boundary wall of said dump site, as well as about (l=107 m ,B=44 m, H=0.6 m) 2824.8 cubic meter legacy waste was found outside the boundary wall of the said dump site. It was also observed during inspection that most of the waste has been dumped outside the boundary and the waste inside the boundary has been covered with soil.

According to executive officer of Mihijam Nagar Parishad the department has taken initiative for compliance of Solid Waste Management Rules, 2016. For this Patheya Mihijam Waste Management LLP (concessionaire), Nagar Parishad Mihijam has been authorized to comply. But when the said dump site was inspected, it was found that the Mihijam Nagar Parishad, has not taken any

permission whatsoever from Jharkhand State Pollution Control Board for dumping on said site. It was observed that the municipal solid waste received on site was found being dumped in an unscientific manner and same was not being segregated to ensure recovery of reusable and recyclable material. Also, no liner has been put to avoid contamination of sub-surface water in long run due to percolation of leachates.

- C. The Committee shall also identify an alternate site for disposal of the solid waste/biomedical waste which is as per the criteria given in the Solid Waste Management Rules, 2016;

Observations/findings of the committee : The earlier planned solid waste dump site/sanitary landfill site by district authorities/Mihijam Nagar Parishad at Village Chandradeepa was inspected by committee member on 07/07/2021.

The following facts were observed during the site inspection:-

- (i) The above proposed dump site/sanitary landfill site was observed away from the habitation as per the distance criteria of Solid Waste Management Rules, 2016.
- (ii) An artificial pond and district road was observed adjacent the proposed dump site/sanitary landfill site.
- (iii) During the inspection of above site, the local villagers started gathering at that place and they told that they would not allow any solid waste dump site in that place.

As per the information received from district authorities that local population of that area strongly objected to the solid waste dump site/sanitary landfill site there. Also, district authorities informed that there may be law order problem if they forced solid waste dump site in that area.

Committee member also visited proposed solid waste dump site/sanitary landfill site at Valdyanathdih, distt.-Jamtara, on 08/07/2021.

The following facts were observed during the site inspection :-

- (i) The above proposed site is also located away from the habitation as per the distance criteria of Solid Waste Management Rules, 2016.
- (ii) The proposed site was observed near the state road.

(iii) Some trenches were observed at the proposed site.

It was also informed by the district authorities/Mihijam Nagar Parishad that at Viadyanathdih there is a huge protest of local villagers against the proposed dump site.

D. The Committee is also directed to assess the amount of leachate which may have infiltrated into the soil causing water pollution and accordingly water samples from the nearby lake/pond can be analysed for contamination;

Observations/findings of the committee :

- During visit of the area, as observed, the MSW Dumping site is not constructed in Scientific Manner for collection of any type Leachate. Thus, the amount of Leachate flow could not be ascertained.
- Garland drain, to collect the Leachate/ Overflow from the dumping site, was not found.
- As per the direction of Hon'ble NGT, the water samples were collected from 5 locations (Agriculture land (near waste dumping area), Kaccha Pit (Inside the boundary of waste dumping yard), Small stream (Eastern side of dumping), Well(Homeopathic medical college), Old damaged wall (near dumping area)) surrounding to the said Dumping site. The analysed result shows that Water Quality in the Well (Homeopathic Medical College) was not confirming for few parameters (Phenolic Compound, Cu, Pb, Ni Mn and Cr) and Water Quality in the Old damaged wall (near dumping area) was not confirming for few parameters (Fe, Cr, NI and Pb). Surface water quality at Small stream (Eastern side of dumping) was not confirming for parameter Pb.

E. On account of the illegal dumping of solid waste/blomedical waste, the Committee is also directed to assess the Environmental Compensation caused on account of degradation of the environment in this case. The Environmental Compensation shall be calculated as per the guidelines issued by the Central Pollution Control Board.

Observations/findings of the committee :

Committee suggested to impose environmental compensation based on methodology given in "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" formulated in response to OA No. 593/2017(PB), for an Industry can be assessed using the following formulae:

$$EC = PI \times N \times R \times S \times LF \quad \dots\dots\dots(1)$$

where,

EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The above formulae incorporate the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to large habitations. As per CPCB's classification of Industrial Sectors under Red, Orange, Green and White Categories the existing industry can be categorized as red category of industry.

PI is Pollution Index for Red category of industrial sectors having Index score is 60 and above. In the present study it may be considered as 60.

R is a factor in rupees for estimating environmental compensation which as per CPCB guidelines is taken as Rs. 250/-.

N is the number of days of violation, In this case N may be considered as 287 days (considering the duration from Filing date of Original Application OA 81/2020/EZ on 24th September 2020 to Date of Inspection as 7th July 2021).

S is a factor representing the scale of operation of the industry (small scale = 0.5, medium scale = 1.0 and large scale = 1.5). Present operation considered as medium scale.

LF is the location factor depending on the population of the areas per recent census 2011 is below 1 million, so LF may be taken as 1 following CPCB's guidelines.

| S. No. | Population* (million) | Location Factor# (LF) |
|--------|-----------------------|-----------------------|
| 1 | 1 to <5 | 1.25 |
| 2 | 5 to <10 | 1.5 |
| 3 | 10 and above | 2.0 |

*Population of the city/town as per the latest Census of India
 #LF will be 1.0 in case unit is located >10km from municipal boundary
 LF is presumed as 1 for city/town having population less than one million

Now, using formulae (1), environmental compensation is:

Environmental Compensation calculation = $60 \times 287 \times 250 \times 1 \times 1$

= INR 43,05,000/-

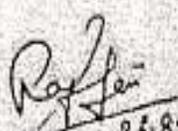
The Environment Compensation may be recovered from Local District Administration, involved in operation of Mihijam MSW Site.

Recommendations:

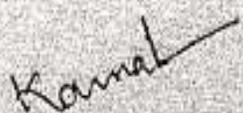
- Specifications provided in Schedule I of Solid Waste Management Rules should be followed. Please refer to annexure III i.e. compliance status given in Schedule I of Solid waste Management, Rules 2016 (Criteria for site selection; Criteria for development of facilities at the sanitary landfills; Criteria for specifications for land filling operations and closure on completion of land filling; Criteria for pollution prevention;).
- Seepage of leachate from the fresh dumpsite should be managed as per SWM rule 2016. Proper drainage and pumping of the leachate to the leachate treatment unit must be given special attention.
- Protective measures against pollution of ground water, surface water (Non-permeable lining system at the base and walls of waste disposal area) and fugitive air dust, wind blown litter, animal menace, bird menace, pests or rodents etc. should be done/taken up.

- Walls around the dump site be made continuous and Gates should be provided at proper locations. Gaps/ leakages in the wall should not be left out in any portion.
- Sprinkling of water on roads and other areas may be actively considered to control dust emissions.
- Ensure advance demarcation and declaration of a buffer zone of no new habitation for upto 500 meters.
- The standard plan addressing the potential risks was not present in the site for any disaster while working there, it is proposed to have that at site at the earliest.
- Action may be initiated for Bio-mining by the Authority and to be completed as per CPCB guidelines and need to be completed at the earliest.
- The aesthetic view of the area should be enhanced by extensive plantation around the boundary.

Signature of committee members


 (Rajeev Ranjan)
 26.8.21
 Scientist-E, Integrated Regional Office, Ranchi
 MoEF&CC, Govt. of India.


 (Sandeep Roy)
 Scientist-D, Central Pollution Control Board,
 Regional Directorate, Kolkata.


 (K.K Pathak)
 Regional Officer,
 Jharkhand State Pollution Control Board, Dumka.

(Sanjay Pandey)
 S.D.M, Jamtara,
 Jharkhand on behalf of Deputy Commissioner,
 Jamtara.

4. Based on the findings noted hereinabove, the Committee has determined the Environmental Compensation at Rs. 43,05,000/- (Rupees Forty Three Lakhs Five Thousand only).

5. A counter-affidavit dated 07.09.2021 has been filed on behalf of the Respondent No.6, Deputy Commissioner, Jamtara, wherein it is stated that as per Solid Waste Management Rules, 2016 for

purposes of carrying out disposal of solid waste, the Deputy Commissioner, Jamtara, selected a site being Plot No. 1865 which is 'Patit' land Mouza-Mihijam vide his letter dated 27.11.2020 and the said plot was transferred to the Jamtara Municipal Corporation. It is also stated that as per information received from the Circle Officer, Jamtara, a huge amount has already been spent on the construction of the dumping of solid waste site, Plot No. 1865 of Mouza-Mihijam. It is stated that the constructing agency is Pathey Mihijam Waste Management L.L.P, New Delhi and it has been instructed to proceed with the scheme as per Solid Waste Management Rules, 2016 and to report regular compliance. It is stated that the said scheme at the solid waste disposal site of Plot No. 1865 of Mouza-Mihijam is still in a primary and premature state. It is further stated that several meetings were held with all the stakeholders who were present in the meeting and who have given their written consent and only thereafter the said Patit land at Rajbari Mohulla has been allotted to the Jamtara Municipal Corporation. It is stated that this site is at a considerable distance away from residential area. The said Respondent has denied the claim of the Applicant that the residential area is within 50 meters of the site in question and it is stated that, in fact, the residential area is more than 500 meters away from the scheme.

As regards the imposition of Environmental Compensation of Rs. 43,05,000/- (Rupees Forty Three Lakhs Five Thousand only) is concerned, it is stated by the Deputy Commissioner, Jamtara, that the same is not correct.

6. Another affidavit dated 05.10.2021 has been filed on behalf of the Respondent No.6, Deputy Commissioner, Jamtara, in which it is stated that cost of Rs. 25,000/- (Rupees Twenty Five Thousand only) imposed upon him has been deposited by him through Demand Draft No. 368503 dated 04.10.2021 drawn on the State Bank of India in favour of the Registrar, National Green Tribunal, New Delhi.

7. The Deputy Commissioner, Jamtara, Respondent No.6, has filed another affidavit on 06.12.2021 bringing on record his reply to the findings of the Committee constituted by the Tribunal, which reads as under:- (page 142 to 174)

| NGT Committee Report | Reply to the NGT Committee Report |
|--|--|
| <p>1. Boundary wall was observed at the site (see photos 1, 2, 13 & 14) but it was not a continuous boundary. There were many areas/places where boundary wall was not provided or there were gaps between the wall, no gates were provided at any place in the boundary wall and it may cause for</p> | <p>1. The approval of Solid Waste Management (SWM) scheme of Mihijam was given by Urban Development Department on 26.08.2016.</p> <p>The said Letter is annexed as</p> |

trespassing (persons, animals, vehicles etc.) (see photos 2,19). Also, at many places in the boundary wall gaps/leakage points in the bottom portion was observed i.e. from where fluid/liquid can pass through during rain and flow outside (see photos 8, 9, 15, 16). It should be ensured that the boundary wall is completely sealed and there should not be any gaps, leakages through which liquid/fluid can come out from the waste dumping site.

Annexure-A3.



2. Earlier the site for this scheme was selected at Chandradeepa and Sabdiha village in the year 2017-18. Due to protest of the villagers and local inhabitants of Chandradeepa and Sabdiha village it became necessary to find alternative site and the present site of Rajbari was found suitable in reference to Solid Waste Management Rules, 2016. During this process it was noticed that some persons wanted to illegally capture the said land of Rajbari. A Jamabandi Case was started by Circle Officer, Jamtara on 10.04.2019 and after hearing, S.D.M., Jamtara passed an order and confirmed the order passed by Circle Officer, Jamtara regarding the illegal Jamabandi which was created in the name of C.P. Singh on 04.11.2019.

The said Letter is annexed as Annexure-A4.

3. During the selection of the present site the consent of the respective stake holders were taken after meeting with the villagers and other public



representatives. Nearly twelve meetings were held and after the consent of the villagers and implementing the due process the land was transferred by the Deputy Commissioner, Jamtara to Urban Development and Housing Department by letter- No- 1012/Revenue, dated- 27.11.2020.

The said Letter is annexed as Annexure-A5.

4. Since the site was changed from Chandradeepa-Sabdiha to Rajbari Mihijam it was necessary to rectify the Detailed Project Report (DPR). The DPR was prepared and vetted by Regional Centre for Urban and Environmental Studies (RCUES), the Project Management Consultant (PMC), Lucknow and after the due process the technical approval of DPR was given by the Chief Engineer Urban Development and Housing Department (UDHD), Ranchi on dated- 10.08.2021.

The said Letter is annexed as Annexure-A6.

5. In the meantime, some



anti-social elements tried to encroach upon the land and were also successful in entering into some part of this land which was observed by the Committee also. Therefore, it was necessary to take possession of the land as soon as possible for the benefit of this project. And in order to secure the said plot of land, the construction work of boundary wall had been started as per the decision of the Municipal Council Board in the month of April, 2021.

The said Letter No.-397 Dated-07.05.2021 is annexed as Annexure-A7.

6. The Executive Officer, Mihijam Nagar Parishad has reported through his Letter No.-835 dated-25.09.2021 that a substantial portion of the work of the boundary wall is now completed and after the completion of the boundary wall the main gate will be installed. This will eliminate the possibility of any gap, leakage and entrance of animals etc.

The said Letter No. - 835 Dated – 25.09.2021 is annexed as

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|  | <p>Annexure-A8.</p> <p>7. Some stray incidents of causing damage to boundary wall have been noticed and it is suspected that it is the handiwork of the antisocial elements who are attempting to encroach upon the vacant plot.</p> |
| <p>2. Inside the boundary wall area some solid wastes were observed but over most of the solid waste soil, earth material was put (see photos 1,2). To ensure about the dumping, committee decided to dig the said ground on random basis 2-3 locations. However, after digging the soil, earth material, solid waste was observed (see photos 20, 21,22). At some places inside the boundary wall no solid waste dumping could be observed even after digging (see photos 23, 24). It implies that solid waste dumping activity has been carried out in some areas inside the boundary and not in the whole ground area. Dumping activity has been carried out in some areas inside the boundary and not in the whole ground area.</p> | <p>Previously, the said site and the peripheral areas were low lying areas, and after the formation of Nagar Panchayat, solid waste was dumped separately in small quantities at different places as well as the peripheral area of this site but after the site selection and consent of the villagers, the Municipal Council has taken a decision to dump the solid waste in the said site. Since, apart from the said site, there is no such land available in the vicinity for dumping any garbage. In the DPR this site is described as Integrated Municipal Solid Waste Processing Facility and Engineered Sanitary Landfill Facility and as such partial part of this site is being used for the dumping solid wastes.</p> |
| <p>3. There were no drains found inside the boundary to collect the overflow/ leachate.</p> | <p>As stated in third paragraph the DPR was approved only on 10.08.2021 and the work of boundary wall was started prior to this date only to take possession of that land. Therefore, the drain/</p> |

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|  | <p>construction work of drains, was not found/started during the visit of the Committee constituted by the Hon'ble Tribunal. As reported by the Executive Officer, Mihijam Nagar Parishad the drain work is to be completed within six months.</p> <p>The said Letter No. 835 Dated 25/12/21 is annexed as Annexure-A9.</p> |
| <p>4. Near the dump sites agricultural fields were observed (see photos 03, 04). Thin layer of oil was observed in an agriculture field, and therefore water samples were taken from that place (latitude 24°50'49" N, longitude 26°52'1" E)</p> | <p>The Committee has reported that the dump site has not been commissioned. It is proven that leachate does not form oil-film unless it contains specific oily material along with solid waste. Therefore, thin layer of oil observed/found there looks like has developed from agricultural activity.</p> |
| <p>5. Water in Maithan dam was observed at some distance from the dump site. From the annexure II (distance of various important adjacent of dump site superimposed on Google map) it can be seen that closest point of the Maithan dam from dump site is at a distance of 531m.</p> | <p>No Comment.</p> |
| <p>6. High tension electric grid transmission lines were observed adjacent to the dump site (both side) (see photos 1,2,7) but no transmission lines were observed passing over on top of the dump site.</p> | <p>No Comment.</p> |
| <p>7. Just outside the boundary of the dump site in the eastern side there was an another dump site where solid</p> | <p>The land referred to in this land is a private land. It appears that this</p> |

waste was dumped over a large area length 107m and width 44m and depth 0.5m dimension.) see photos 12, 13, 18, 25). There were no drains around that solid waste dump. District authorities informed that solid waste of Mihijam was dumped at that site from earlier times. Approximately 5372 m³ (length x breadth x depth) volume of solid waste was observed on that dump site.

Adjacent to this dump site (i.e. without any boundary wall) there was a slope and it was connected to low lying area (see photo 14) agricultural fields and a small nallah (see photos 15). The nallah seemed to be flowing through agricultural fields may be only in rainy season. Since there were probabilities that contaminated water from dump site could reach to low lying areas and subsequently into the nallah (of photo 15) therefore sample of water from there was also collected.

8. There was a small artificial pond/trench like structure near the dump inside the boundary wall (see photo 11). Since it was within 30-35 m of the solid waste disposed place sample of water was collected from that place.

land is lying vacant and waste is been dumped in small quantities by local population for many years used to be dumped on different places from last many years. Once the subject dumping site becomes operational, any dumping at the adjacent site will be stopped and actively prevented.

The site will be used for solid waste dumping. Once construction of the boundary wall is complete, there will be remote possibility of any seepage from the dump site to the adjoining areas and all precaution will be taken to avoid any seepage.

As stated in previous paragraph, the DPR was approved on 10.08.2021. The Pit which was reported by the committee in this paragraph is not an artificial pond but it is the foundation work of weighbridge which is integral part for the Solid Waste Management Project. The Executive Officer Mihijam Nagar Parishad has reported through his Letter No. 835 Dated-25.09.2021 that the

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|  | <p>weighbridge work will be completed in next two months.</p> <p>The said Letter No. 835 Dated 23/1/21 is annexed as Annexure-A10.</p> |
| <p>9. Near to the dump site in Mauza 15, Khata no. 223, Plot no. 1865, Rajbari Mihijam there were some prominent building observed. Some of them are:</p> <p>a. Homeopathic medicine centre (see photo 26)- Approximate distance from dump site is 204 (see annexure II). There was a well inside the premises of Homeopathic Medicine centre (see photos 27) and water sample from that well was also collected. (see photo 28).</p> <p>b. Missionaries of charity (see photo 31) – The building/missionary was at further distance from Homeopathic Medicine Centre(i.e. more than 210m from dump site)</p> <p>c. A temple (see photo 32) – Temple was more than 210m from dump site.</p> | <p>According to the Solid Waste Management Rules, 2016 Page No. 20, Para-A (sub-para-vii of the criteria for site selection), the land fill site should be 100 meters from the river, 200 meters from the pond, highways, housing sites, public parks and the land fill site should be 200 meters from the wells and 20 kilometers from the airport. The site selection was done following the said rules.</p> |
| <p>10. Water sample was also collected from an old well near the dump site (see photo 33).</p> | <p>No Comment</p> |
| <p>11. Some cows were observed grazing grass adjacent to the dump site (see photo 35). In the absence of any gate, incomplete boundary these cows could enter the solid waste area.</p> | <p>As already stated earlier, the construction work for the boundary wall was started by the Patheya Mihijam Waste Management LLP, Concessionaire</p> |

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|  | <p>in the month of April, 2021 and substantial portion of the work of this boundary wall was completed. As directed by the Committee the Concessionaire/Agency has deputed guards in this site.</p> |
| <p>12. The committee members visited the place at Chandradeepa village (see photos 39) where solid waste dump site /sanitary land filling was earlier planned by distance authorities/Mihijam Nagar Parishad. It was informed by district authorities that local population of that area/village strongly objected to the solid waste dump site/ Sanitary land filling site there. District authorities informed that there may be law and order problem if they forced solid waste dump site in that area. Local villagers gathered at the place when committee members were inspecting the area (see photo 39) and they told they will not allow any solid waste dump site in the area (Chandradeepa Village). An artificial pond was observed adjacent to the area (see photo 36). There was a non-operational crushing unit near (within 200-300m) of the area (see photo 38). A state road was observed adjacent to the site (see photo 37).</p> | <p>No Comment.</p> |
| <p>13. Committee members also visited proposed solid waste dump site at Jamtara. The place was Vaidyanathdih with thana no. 22,</p> | <p>No Comment.</p> |



Khata no. 61, Khesra no.- 510, 13.61 acre (see photos40). The site was adjacent to a road (see photos 41). District authorities informed that local people are opposing any solid waste dump site/ sanitary land fill site at that place too. The land was flat at that the place and some trenches were observed on the site(see photos 42 & 43)

c) The tabulated point wise reply of observations made by committee with respect to the provisions mentioned in SCHEDULE I, [see rule 15 (w), (z), 16 (1) (b) (e), 16 (4)], Specifications for Sanitary Landfills of SWM Rule, 2016 are tabulated below:

(A) Criteria for site selection: –

| Sl. No. | CONDITIONS | STATUS AS ON 07.07.2021 | REMARKS | REPLY |
|---------|--|--|---------|---|
| (i) | The department in the business allocation of land assignment shall provide suitable site for setting up of the solid waste processing and treatment facilities | Dump site has been provided at Rajbari but setting up of solid waste processing and treatment facilities have not been initiated. On notification–District Admin may | | Solid Waste Management (SWM) scheme of Mihijam Nagar Parishad was sanctioned in 2016 by the Urban Development Department through Resolution No. 4796/26.08.2016 after lots of discussion with all stake holders, that particular land has been allotted for setting up an |

| | and notify such sites. | comment. |  <p>Integrated Solid Waste Processing and Disposal Facility by the District Authority in 2020. District authority has handed over the land to Mihijam Nagar Parishad Vide Letter No. – 1012/Revenue, dt. – 27.11.2020 to setup solid waste processing and treatment facilities. Technical Approval of DPR related to said scheme has been given by Department on 10.08.2021.</p> <p>This scheme comprises Door to Door Collection, Transfer, Transportation, Developing and operating an Integrated Municipal Solid Waste Processing Facility and Engineered Sanitary Landfill Facility.</p> <p>The Departmental Sankalp is attached as Annexure-A11;</p> <p>The Sanction letter of District authorities is attached as Annexure-A12.</p> |
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| (ii) | <p>The sanitary landfill site shall be planned, designed and developed with proper documentation of construction plan as well as a closure plan in a phased manner. In case a new landfill facility is being established adjoining an existing landfill site, the closure plan of existing landfill should form a part of the proposal of such new landfill.</p> | <p>There is an existing solid waste dumpsite near the prepared dump site at Rajbari but no closure plan of that adjoining dump site is made. No proper documentation of construction plan as well as closure planning done.</p> | <p>Not complied</p> | <p>The said scheme is not only dumping site, but also a waste to compost unit and a sanitary landfill site for disposal of post processing residual inert material. The department has approved the DPR for the said scheme which consist of:-</p> <p>Development of grading plan (phasing of landfill facility) showing sequence of cell development over time, including the necessary earthwork to accomplish the same.</p> <p>Estimating and preparing drainage plans for the leachate and surface runoffs as a part of site development measures that minimize leachate generation.</p> <p>Design of leachate collection and conveyance system, together with method for determining effectiveness of the system so as to ensure that the landfill will be</p> |
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| | | <p>functioning properly.</p> <p>Designing system for disposal of leachate and surface runoffs, including likely drop inlets, piping, holding tanks and connection to the inlet/sumps of physical - chemical treatment system within main facility area.</p> <p>Design of bottom liner system.</p> <p>Recommending suitable construction techniques and materials.</p> <p>Developing waste placement and handling plan.</p> <p>Designing suitable cover system to minimize infiltration of surface runoff and check sub-surface contamination.</p> <p>Estimation of landfill gas generation and detail plan for extraction and utilisation of landfill gas.</p> |

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| | | | <p style="text-align: center;">GOVT. OF INDIA</p> <p>Designing monitoring well system.</p> <p>Design of closure, post closure plan and landscaping plan.</p> <p>This DPR was duly vetted by RCUES, Lucknow and was approved by UDHD Ranchi. The work for preparation of DPR for Bio-remediation and Bio-mining of legacy waste is already initiated. DPR will be ready within 01 month and the process of Bio-remediation will be completed within 06 months.</p> <p>The work order to concessionaire is issued on dated 02.12.2020 by Nagar Parishad, Mihijam and is attached as Annexure-A13.</p> <p>Adjacent site issue has already been addressed in paragraph 7 above.</p> |
| (iii) | The landfill sites | There is no waste | As stated in last paragraph, it is also |

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| | <p>shall be selected to make use of nearby wastes processing facilities. Otherwise, wastes processing facility shall be planned as an integral part of the landfill site.</p> | <p>processing facility near the Rajbari dump site.</p> | <p>needful to mention that for the said scheme which consists of waste processing facility in the said site, Mihijam Nagar Parishad through due procedure of Tendering have already selected Concessionaire for setting up Integrated Solid Waste Processing and Disposal Facility.</p> <p>The NIT and LOI to concessionaire are collectively attached as Annexure-A14.</p> |
| (iv) | <p>Landfill sites shall be set up as per the guidelines of the Ministry of Housing and Urban Affairs, Government of India and Central Pollution Control Board.</p> | | <p>Proposed Landfill sites is designed as per the guidelines of the Ministry of Urban Development, Government of India, CPHEEO Manual & EPA, and Central Pollution Control Board.</p> <p>Page Number 109 to 134 of Volume -1 of approved DPR may be referred.</p> <p>Copy of DPR is attached as Annexure-A15.</p> |

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| (v) | The existing landfill sites which are in use for more than five years shall be improved in accordance with the specifications given in this Schedule. | Not applicable. | | No Comment |
| (vi) | The landfill site shall be large enough to last for at least 20-25 years and shall develop 'landfill cells' in a phased manner to avoid water logging and misuse | The site inspected at Rajbari is a dumpsite and not a landfill site. Landfill cells were not provided in the site. | Not complied | During the visit of the Committee, the DPR was in process of approval. It was communicated to the Committee by the Executive Officer by Letter No. – 553/MNP, Dated - 19.06.2021. The proposed Sanitary Landfill Site (SLF) is designed to accommodate post processing residual inert for 16 years. Page 115 of approved DPR may be referred. |
| (vii) | The landfill site shall be 100 | As can be seen in Annexure (Distance –latitude- | | As observed by the Committee Members, |

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| <p>meter away from river, 200 meter from a pond, 200 meter from. Highways, Habitations, Public Parks and water supply wells and 20 km away from Airports or Airbase. However in a special case, landfill site may be set up within a distance of 10 and 20 km away from the Airport/Airbase after obtaining no objection certificate from the civil aviation authority/ Air force as the case may be. The Landfill site shall</p> | <p>longitudetaken superimposed on Google map) during inspection the dump site is approx 204 m from nearesthabitation approx 250m from nearestwell, approx. 531 m from Maithandamnearest water point that can be seen from Google map. There is no river within 100m from dump site. However in rainy season/seasonal nala flowing between agricultural fields flows within approx. 204m from dump site. It is more than 20 km away from Airport or Airbase.</p> | <p style="text-align: center;">JANTARA GOVT. OF INDIA</p> <p>Mihijam Nagar Parishad that the site selected for setting up an Integrated Solid Waste Processing and Disposal Facility fulfil the site selection criteria as mentioned in SWM Rule, 2016.</p> |
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| | not be permitted within the flood plains as recorded for the last 100 years, zone of coastal regulation, wetland, Critical habitat areas, sensitive eco-fragile areas.. | | | |
| (vii) | The sites for landfill and processing and disposal of solid waste shall be incorporated in the Town Planning Department's land-use plans. | Town planning departments land use plan was not available to committee members. It is not known whether dumpsite is incorporated in land use plans. | | Previously, the population of Nagar Parishad Mihijam was below 15 thousand and there were 03 Wards only. Due to Urbanization, in the year 2014 it was elevated as Nagar Parishad consisting of 20 wards and a population of nearly 40463. The adjoining land with the said site are generally non-transferable as per Santhal Parganas Tenancy Act and there is very rare chances of erection of any buildings in adjoining land. The Solid Waste Management Scheme Site is selected with |

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| | | | <p style="text-align: center;">  GOVT. OF INDIA </p> <p> due approval of District Authority and is notified for this purpose only vide Letter No. - 1012/Revenue, Dated - 27/11/2020. By the Notification No. 6562, Ranchi/Dated 20/10/2017 the Master Plan of Mihijam Nagar Parishad has been notified by UDHD, Ranchi and 05 acre Land in Chandradipa Village which is 07 KM away from ULB has been mentioned in Page No. 66 of the Master Plan for the SWM Scheme at that time. But now land has been allocated in Rajbari. So, Executive Officer, Nagar Parishad Mihijam vide Letter No. - 849/MNP, Dated- 29/09/2021 has requested UDHD, Ranchi to do necessary amendment on Page No. 66 of Master Plan of Nagar Parishad Mihijam with current land details as handed over by DC, Jamtara for SWM Scheme. regarding Land-use plan. </p> |
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| | | | Letter for handing over of land is attached as Annexure-A16. |
| (ix) | A buffer zone of no development shall be maintained around solid waste processing and disposal facility, exceeding five Tonnes per day of installed capacity. This will be maintained within the total area of the solid waste processing and disposal facility. The buffer zone shall be prescribed on case to case basis by the local body in consultation with concerned | Just outside the Rajbari dump site there is another solid waste dump site. There is no consultation with JSPCB in relation to maintaining any buffer zone around dump site. | Not complied Proposed Solid Waste Processing and Disposal Facility have Green Buffer all around the periphery of site. A green barrier with three layer of plantation is proposed. The Layout Plan of proposed facility is shown in the page no. of the Volume III of DPR. The adjacent site issue has been addressed in paragraph 7 above. As stated in earlier paragraph during the visit of the committee, the DPR for the said Scheme was in process of approval which was communicated to the Committee. After approval of DPR, Nagar Parishad Mihijam has given direction to the Concessionaire to take EC and CTE from the concerned office and authority by Letter No. |

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| | State Pollution Control Board. | |  <p>776/MNP, Dated-04.09.2021 and earlier with Letter No. – 257/MNP, Dated-18.03.2020.</p> <p>The Letter No. 776/MNP, Dated-04.09.2021 and earlier with Letter No. – 257/MNP, Dated-18.03.2020 are annexed hereto and collectively marked as Annexure-A17.</p> |
| (x) | The biomedical waste shall be disposed of in accordance with the Bio-medical Waste Management Rules, 2016, as amended from time to time . The hazardous waste shall be managed in accordance with the Hazardous and Other Wastes | | No bio medical waste is to be dumped at this site but all care will be taken and extant Rules complied with. |

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| <p>(Management and Transboundary Movement) Rules, 2016, as amended from time to time.</p> <p>The E waste shall be managed in accordance with the e-Waste (Management) Rules, 2016 as amended from time to time.</p> | |  |
| <p>Temporary storage facility for solid waste shall be established in each landfill site to accommodate the waste in case of non- operation of waste processing and during emergency or natural calamities</p> | <p>There is no provision of waste processing in the Rajbari solid waste dump site.</p> | <p>Approved DPR has provision of waste receiving platform and windrows that can accommodate waste for 35 to 40 days.</p> <p>The Volume-I Page No. 101, 102, 106 of the DPR may be referred.</p> |

(B) Criteria for development of facilities at the sanitary landfills. -

| SL.NO. | CONDITIONS | STATUS AS ON 07.07.2021 | REMARKS | REPLY |
|--------|--|---|--------------|---|
| I. | Landfill site shall be fenced or hedged and provided with proper gate to monitor in coming vehicles, to prevent entry of unauthorized persons and stray animals | There is a discontinuous boundary wall around the dump site at Rajbari. No gate was provided and anybody, any animal can enter the dump site. | Not complied | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR have provision of continuous boundary wall. Substantial portion of work related to boundary has already been completed. There is a provision of Rs. 45.61 lacs. DPR Vol - II Page No. 1 may be referred |
| II. | The approach and / internal roads shall be concreted or paved so as to avoid generation of dust particles due to vehicular movement and shall be so designed to ensure free movement of vehicles and | Approach and /internal road are neither concreted nor paved. | Not complied | There is a provision of Rs. 22.17 lacs for internal road. The approach road will be taken up by the 15 th Finance Commission Fund and the proposal has been sent to the department and the same will be completed within six months. DPR Vol- II Page No. 1 may be referred. |

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| | other machinery. | | | The said Letter is attached as Annexure -A18 |
| III. | The landfill site shall have waste inspection facility to monitor waste brought in for land filling office facility for recordkeeping and shelter for keeping equipment and machinery including pollution monitoring equipment. The operator of the facility shall maintain record of waste received, processed and disposed. | There is no office facility at dump site nor any shelter for keeping machinery or pollution monitoring equipment. | Not complied | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR have provision of waste inspection facility to monitor waste brought in at Landfill Facility. DPR Vol. - I, Page-112 may be referred. |
| IV. | Provisions like weigh bridge to measure quantity of waste brought at landfill site, fire protection equipment and | Weighbridge was not provided at the dump site so measurement of quantity of waste brought cannot be done. | Not complied | The work related to weigh bridge has been started and it was in progress. This is reported by committee in Committee report on page no. 03 of 05 as |

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| | other facilities as may be required shall be provided. | | OF INDIA | there was a small artificial pond/trench like structure near the dump inside the boundary wall. Page No. - 80, 112, 106 of the DPR Vol. - II may be referred. |
| V. | Utilities such as drinking water and sanitary facilities (preferably washing/bathing facilities for workers) and lighting arrangements for easy landfill operations during night hours shall be provided | Utilities such as drinking water and sanitary facilities (preferably washing/bathing facilities for workers) have not been provided | Not complied | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR have provision of utilities such as drinking water and sanitary facilities. DPR Vol-II Page No.- 112 may be referred. |
| VI. | Safety provisions including health inspections of workers at landfill sites shall be carried out made. | No information about health inspection of workers at dump site made available to committee members. | Not complied | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR have provision Safety provisions including health inspections of workers. DPR Vol. - I Page No.- 112 may be referred. |

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| VII. | Provisions for parking, cleaning, washing of transport vehicles carrying solid waste shall be provided. The wastewater so generated shall be treated to meet the prescribed standards | No provision for cleaning, washing of transport vehicles carrying solid waste has been provided at the dump site. | Not complied | Approved DPR has provision for cleaning, washing of transport vehicles. DPR Vol - I and Volume - II, Page No. - 01 may be referred. |
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(C) Criteria for specifications for land filling operations and closure on completion of land filling: -

| SL.NO. | CONDITIONS | STATUS AS ON 07.07.2021 | REMARKS | REPLY |
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| I. | Waste for land filling shall be compacted in thin layers using heavy compactors to achieve high density of the waste. In high rainfall areas where heavy compactors cannot be used, alternative | No heavy compactors could be observed at the dump site for solid waste compaction | Not complied. | There is no need of heavy compactors in this plan although. Operation Plan proposed in DPR as well as in Concession Agreement has the provision of compacting Landfill waste. DPR Vol. -I Page No.- 112 may be referred. |

| | measures shall be adopted. | | | |
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| ii. | Till the time waste processing facilities for composting or recycling or energy recovery are set up, the waste shall be sent to the sanitary landfill. The landfill cell shall be covered at the end of each working day with minimum 10 cm of soil, inert debris or construction material | At the Rajbari dump site soil/earth material was observed covering the solid waste. However it was unknown that such covering by soil, inert debris etc. is done at the end of each working day. | Not complied. | Provision of daily cover is already there in DPR and is also being carried out although the dump site is yet to be commissioned DPR Vol. -I Page No. - 112 may be referred. |
| iii. | Prior to the commencement of monsoon season, an intermediate cover of 40-65 cm thickness of soil shall be placed on the landfill with proper compaction and grading to prevent infiltration during | Intermediate cover of 40-65 cm thickness of soil was not placed on solid waste dump site, though inspection was done during monsoon. No drainage was constructed | Not complied. | Provision is made for intermediate cover and same will be duly carried out before dump site is commissioned. There is also provision for drainage in DPR and it will be completed within six month with a cost of Rs. 7.46 Lakhs as allocated. |

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| | <p>monsoon. Proper drainage shall be constructed to divert run-off away from the active cell of the landfill.</p> | <p>inside the dump site.</p> |  | <p>DPR Vol. -II Page No. - 01 may be referred.</p> |
| IV. | <p>After completion of landfill, a final cover shall be designed to minimize infiltration and erosion. The final cover shall meet the following specifications, namely:--</p> <p>(a) The final cover shall have a barrier soil layer comprising of 60 cm of clay or amended soil with permeability coefficient less than 1×10^{-7} cm/sec.</p> <p>(b) On top of the barrier soil layer, there shall be a drainage layer of 15 cm.</p> <p>(c) On top of the</p> | <p>Not applicable now.</p> | | <p>No Comment.</p> |

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| drainage layer, there shall be a vegetative layer of 45 cm to support natural plant growth and to minimize erosion. |  | |
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(D) Criteria for pollution prevention.-In order to prevent pollution from landfill operations, the following provisions shall be made, namely:-

| SL.NO. | CONDITIONS | STATUS AS ON 07.07.2021 | REMARKS | REPLY |
|--------|---|--|---------------|--|
| 1. | The storm water drain shall be designed and constructed in such a way that the surface runoff water is diverted from the land filling site and leachates from solid waste locations do not get mixed with the surface runoff water. Provisions for diversion of storm water discharge drains shall be made to minimise leachate generation and prevent pollution of surface water and also for avoiding flooding and creation of marshy conditions. | No storm water drain constructed at the dump site. | Not complied. | There is a provision of storm water drain in DPR and it will be completed within six month and a cost of Rs 7.46 Lakhs is allocated. DPR Vol. -II Page No.- 01 may be referred. |

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| II. | <p>Non-permeable lining system at the base and walls of waste disposal area. For landfill receiving residues of waste processing facilities or mixed waste or waste having contamination of hazardous materials (such as aerosols, bleaches, polishes, batteries, waste oils, paint products and pesticides) shall have liner of composite barrier of 1.5 mm thick high density polyethylene (HDPE) geo-membrane or geo-synthetic liners, or equivalent, overlying 90 cm of soil (clay or amended soil) having permeability coefficient not greater than 1×10^{-7} cm/sec. The highest level of water table shall be at least two meter below the base of clay or amended soil barrier layer provided at the bottom of landfills.</p> | <p>Non-permeable lining system at the base and walls of waste disposal area not provided.</p> | <p>Not complied.</p> | <p>Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR has provision of putting non-permeable lining system at the base and walls of waste disposal area.</p> <p>DPR Vo.I – IPage No.- 120 may be referred.</p> |
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| | | OF INDIA | | |
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| III. | Provisions for management of leachates including its collection and treatment shall be made. The treated leachate shall be recycled or utilized as permitted, otherwise shall be released into the sewerage line, after meeting the standards specified in Schedule- II.. In no case, leachate shall be released into open environment. | No provisions for management of leachate (including its collection and treatment) made. | Not complied. | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR has provision of management of leachates including its collection and treatment. DPR Vol - I Page No. - 116, 125 may be referred. |
| IV. | Arrangement shall be made to prevent leachate runoff from landfill area entering any drain, stream, river, lake or pond. In case of mixing of runoff water with leachate or solid waste, the entire mixed water shall be treated by the concern authority | There were gaps in the boundary wall and there were many places at the bottom of boundary wall from where leachate can come out and flow into low lying areas, agriculture fields. | Not complied. | Proposed Solid Waste Processing and Landfill Facility is under construction and the approved DPR has provision of management of leachate including its collection and treatment. A proper leachate collection system will be provided to carry the leachates into leachate pit. The leachates will travel through the gravel into the lateral pipes. These will carry the leachates to the header pipe |

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| | |  | <p>from where it will be taken with the pit. The leachates will then be sprayed on to windrows along with Bio-culture.</p> <p>DPR Vol. -I Page No. -125 may be referred.</p> <p>Boundary wall is under construction.</p> |
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(E) Criteria for water quality monitoring:-

| SL.NO. | CONDITIONS | STATUS AS ON 07.07.2021 | REMARKS | REPLY |
|--------|--|--|----------------------|--|
| 1. | <p>Before establishing any landfill site, baseline data of ground water quality in the area shall be collected and kept in record for future reference. The ground water quality within 50 meter of the periphery of landfill site shall be periodically monitored</p> | <p>Baseline data of groundwater quality in the area not made available to committee members.</p> | <p>Not complied.</p> | <p>Process of obtaining Environment Clearance has been started by concessionaire and a base line study will be conducted to create the baseline data of water quality. There is a provision of Rs. 20.00 Lakhs in DPR Proposed Solid Waste Processing and Landfill Facility.</p> <p>DPR Vol. – II Page No. 05 may be referred.</p> |

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| <p>covering different seasons in a year that is, summer, monsoon and post-monsoon period to ensure that the ground water is not contaminated.</p> | |  | |
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8. Another affidavit dated 12.12.2021 has been filed on behalf of the Respondent No.6, Deputy Commissioner, Jamtara, in which it has been stated that disinfectant and bleaching powder is being spread on the waste deposit site as it is a low lying area and hollow in nature, which is then being covered with layers of top soil. It is also stated that Patheya Mihijam Waste Management L.L.P. has initiated process for obtaining Forest Clearance. The application for grant of Forest Clearance has also been applied on 10.07.2021, however, the Forest Department sought authorization letter for seeking Forest Clearance which has also been provided by the Nagar Parishad Mihijam on 25.09.2021. The concessionaire has also filed application for grant of Consent to Establish with the Jharkhand State Pollution Control Board, Ranchi and request fee of Rs. 39,000/- (Rupees Thirty Nine Thousand only) has also been deposited on 09.12.2021. The Terms of Reference (ToR), Pre-Feasibility Report (PFR) and Executive Summary have also been prepared for Environmental Clearance by the concessionaire. It is

also stated that the process for Environmental Clearance takes about one year.

9. One more affidavit dated 07.02.2022 has been filed on behalf of the Respondent No.6, Deputy Commissioner, Jamtara, stating therein that e-tender dated 08.01.2022 has been floated with a timeline of six months for disposal of solid waste. Application for seeking Environmental Clearance in Form-1 i.e., Terms of Reference (ToR) has been applied with the Ministry of Environment, Forest and Climate Change on 13.01.2022 and the same is pending approval with the Ministry of Environment, Forest and Climate Change.

10. We have heard the learned Counsel for the parties and perused the documents on record.

11. The main contention of the Applicant is that the waste dumping site is situated very close to a residential area. It is also alleged that there are other renowned and reputed public service institutions which are working near the dumping yard area of Mouza No.15, Khata No. 223, Plot No. 1865, Rajbari, Mihijam such as:-

- (a) Missionaries of Charity where more than 50 TB patients are under isolation and getting treatment,
- (b) Homeopathic Hospital of Mihhijam,
- (c) Basudeb Mission, an NGO,
- (d) LRSDF, an NGO,
- (e) Maria Montessori School for Children,

(f) Badlao Foundation, and

(g) Temples of worship,

12. According to the Applicant, initially in February, 2018, a Pre-Feasibility Report was prepared by an independent organization by the Mihijam Nagar Parishad (Respondent No.1 herein) for Environmental Clearance of the proposed Common Municipal Solid Waste Management Facility at Chandradeepa village, Thana No.10, Khasra No. 1422/3788, Jamabandi No. 102, Mihijam, Jharkhand, but due to objection from the residents of that place the said site was shifted to the present site at Mouza No.15, Khata No. 223, Plot No. 1865, area 4.80 acres at Rajbari, Mihijam. It is also stated that as per Solid Waste Management Rules, 2016, the solid waste dumping area should not be constructed within 100 meters of any river or nalia and should be at least 500 meters away from the nearest habitation. It is also stated that in the present case, the Maithon Dam Reservoir/Damodar Valley Corporation (DVC) is hardly 100 meters away from the proposed dump site which will result in contamination of the reservoir water.

13. The learned Counsel for the Applicant has referred to Annexure A-16 (page no. 68 of the paper book), which is a letter of the Deputy General Manager (Admn.) & Sr. Additional Director (HR), DVC, Maithon, dated 29.07.2021 addressed to the Deputy Commissioner-cum-District Magistrate, District-Jamtara, stating therein that such a dump site in an open area would adversely affect the health and hygiene of the residents of Chittaranjan

Township and lead to contamination of water on the banks of the Maithon Dam.

14. The learned Counsel has also referred to Annexure A-17, (page no. 69 of the paper book), which is another letter of the Engineer, Power Grid Corporation Limited dated 14.08.2020 addressed to the Deputy Commissioner-cum-District Magistrate, District-Jamtara, stating therein that the solid municipal garbage has been dumped below and in the vicinity of bare conductor of Kahalgaon Maithon Transmission line between location 451-452 and it is stated that as per Gazette of India: Extraordinary Part-III, Page 232, Point-64-3: no material shall be dumped below or in the vicinity of bare conductor lines. Reference has also been made to the Gazette of India: Extraordinary Part-III, Sec-4, Page-233, Point-65-4: that no person shall construct polluting unit near the installation of transmission line of 2120 KV and above within a distance of 500 meters.

15. The Inspection Report of the Committee has noted that:-

A. Boundary wall was observed at the site but it was not a boundary and in many areas and places where there was no boundary wall, there were gaps between walls and no gates were provided which may expose the site for trespass by persons or animals. In the boundary wall gaps/leakage points in the bottom portion was observed where fluid/liquid can pass through during rain and flow outside. No drains were found inside the boundary to collect overflow/leachate. The closest

point of the Maithon Dam from the dumping site is at a distance of 531 meters. High tension electric grid transmission lines were observed adjacent to the dump site but no transmission lines were observed passing over the top of the dump site.

B. The Committee also noted that just outside the boundary of the dump site in the eastern side, there was another dump site where solid waste was dumped over a large area and there were no drains adjacent to this dump site. There was a slope and it was connected to low lying area leading to agricultural fields and a small nallah flowed through the agricultural fields (only in rainy season). Sample of water was also collected from there considering that there was a probability of contaminated water sweeping from the dump site into the low lying areas and then into the nallah.

C. The Committee has also noted that a Homeopathic medicine centre was situated at a distance of about 204 meters from the dump site and there was a well inside the Homeopathic premises. A building of the Missionaries of Charity was also situated at a distance of about 210 meters from the dump site. There was a temple at a distance of about 210 meters from the dump site. Water samples were also collected from all these places.

D. The Committee also has also noted that the dump site is approximately 204 meters away from the nearest habitation,

531 meters from the Maithon Dam nearest to the water point but there was no river within 100 meters of the dump site. It was also noted that the dump site/sanitary landfill site of Mihijam Nagar Parishad located in Rajbari dump site does not meet the other specifications as given in Schedule-I of the Solid Waste Management Rules, 2016, though it meets the distance criteria mentioned in Schedule-I para (a) sl. no. (vii) of the Solid Waste Management Rules, 2016.

E. The Committee has also noted that all municipal waste was dumped at the dump site/sanitary landfill site without segregation and processing facilities. 741 m³ of legacy waste was found inside the boundary wall of the dump site whereas 2824.8 m³ of legacy waste was found outside the boundary wall of the dump site and the waste inside the boundary has been covered with soil.

F. The Committee has also observed that the amount of legacy leachate flow could not be ascertained. Garland drain, to collect the leachate/overflow from the dumping site was not found and the water samples showed that the water quality did not conform to the norms of Phenolic Compound, Cu, Pb, Ni, Mn, Cr & Fe.

16. Mr. Krishnaraj Thaker, learned Additional Advocate General, representing the Deputy Commissioner, Jamtara, however, submitted that the Environmental Compensation of 43,05,000/- (Rs. Forty Three Lakhs Five Thousand only) was excessive and

beyond the capacity of the Municipal Corporation to pay and in any case there was no justification for the same.

17. However, considering the exhaustive report submitted by the Committee and the fact that the water around the area was contaminated and that there was no garland drain and the water was dripping into the low lying agricultural fields and nallah thereby contaminating the same and that 741 m³ of waste dumped inside the boundary wall of the dump site, 2824.8 m³ of legacy waste was found outside the boundary wall of the dump site, we definitely find the Mihijam Nagar Parishad to have been negligent in management of the solid waste at the concerned dump site.

18. Further in Original Application No. 606 of 2018 vide National Green Tribunal, Principal Bench, order dated 14.12.2020, the Tribunal has clearly mentioned that since the statutory timelines have expired and directions of the Hon'ble Supreme Court and the Tribunal to comply with the Solid Waste Management Rules, 2016 remained unexecuted, interim compensation scale was laid down for continued failure after 31.03.2020. It is further stated that any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take

remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.

19. We are of the view that in the facts and circumstances of the case the imposition of Environmental Compensation at 43,05,000/- (Rs. Forty Three Lakhs Five Thousand only) does not call for any interference by the Tribunal and we direct the Mihijam Nagar Parishad, Respondent No.1 to deposit the same with the State Pollution Control Board, Jharkhand, within a period of one month.

20. We also find that the Environmental Clearance has not been granted till date before starting the project, though it is stated that the Environmental Clearance has been applied and is pending with the Ministry of Environment, Forest and Climate Change.

21. We, therefore, direct the Respondent No.1, Ministry Environment, Forest and Climate Change to direct SEIAA, Jharkhand, to pass appropriate orders in accordance with law with regard to the question of grant of Environmental Clearance to the Mihijam Nagar Parishad for the dumping site in question within a period of one month.

22. So far as the concern of the Power Grid Corporation India Limited in its letter dated 14.08.2020 (Annexure A-17 to the Original Application), is concerned, we find that the Committee in

its report has noted that no transmission line passes over the dump site. In fact, the letter of the Power Grid Corporation itself revealed that the dump location no. 451-452 to Kahalgaon Maithon 400 KV Transmission line is passing through Rajbari, Mihijam Nagar Parisahd, District-Jamtara, but it does not state in the letter that it is passing over the dumping site.

23. We also find from the report that the solid waste dump site in question is nowhere within 204 meters from the nearest habitation which is approximately 250 meters from the nearest well, approximately 531 meters from Maithon Dam (the nearest water point), and there is no river within 100 meters from the dump site.

24. **Solid Waste Management Rules, 2016:-**

Schedule I (A) of the Solid Waste Management Rules, 2016 provides that the landfill site shall be situated at least 100 meters away from the river, 200 meters from pond, 200 meters from highways, habitations, public parks and water supply, wells and 20 kilometers away from the airports or air base.

25. Thus, from the report of the Committee, we find that the location of the landfill site in question/dumping site as per the findings of the Committee fulfills the parameters laid down in Schedule I (A) of the Solid Waste Management Rules, 2016.

26. However, there are several other violations of Solid Waste Management Rules, 2016 as stated herein above for which certain directions need to be given. For reasons stated hereinabove, we find

no merit in the present Original Application and the same is accordingly dismissed with the following directions:-

- a) Seepage of leachate from the fresh dumpsite should be managed as per Solid Waste Management Rules, 2016. Proper drainage and pumping of the leachate to the leachate treatment unit must be given special attention.
- b) Protective measures against pollution of ground water, surface water (Non-permeable lining system at the base and walls of waste disposal area) and fugitive air dust, wind blown litter, animal menace, bird menace, pests or rodents etc. should be taken up immediately.
- c) Walls around the dump site be made continuous and Gates should be provided at proper locations. Gaps/leakages in the wall should not be left out in any portion.
- d) Sprinkling of water on roads and other areas may be carried out to control dust emissions.
- e) Advance demarcation and declaration of a buffer zone of no new habitation for upto 500 meters needs to be carried out.
- f) A standard plan addressing the potential risks in the site for any disaster while working needs to be implemented at the earliest.
- g) Action may be initiated for bio-mining by the authority and to be completed as per Central Pollution Control Board guidelines within three months.
- h) The aesthetic view of the area should be enhanced by extensive plantation around the boundary.

A compliance report in this regard be submitted by the Jharkhand State Pollution Control Board after four months i.e., by 30.06.2022 indicating that the recommendations and the directions given in the judgment have been complied with by the Mihijam Nagar Parishad or not.

27. There shall be no order as to costs.

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B. AMIT STHALEKAR, JM

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SAIBAL DASGUPTA, EM

Kolkata,
February 23, 2022,
Original Application No. 81/2020/EZ
AK

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