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SL NO.....

BEFORE THE NATIONAL GREEN BENCH TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application no. 15/2020/EZ

Jaba Mukherjee

....Applicant

-Versus-

The state of West Bengal & Ors

....Respondents



ACTION TAKEN REPORT IN THE FORM ON AN AFFIDAVIT ON

BEHALF OF THE KHARAGPUR MUNICIPALITY,

RESPONDENT NO. 4

I, ARUN KUMAR SAMANTA, son of Sri Subrata Samanta, aged about 48 years, by faith Hindu, by Occupation Service, residing at Village, P.O. & P.S. Shyampur, District Howrah, PIN 711314, do hereby solemnly affirm and say as follows :-

1. That I am the Executive Officer, Kharagpur Municipality, respondent No. 4 and I have been duly authorized and I am competent to file this affidavit on behalf of Kharagpur Municipality.
2. That first of all I beg to pray for an unconditional apology for not filling report on the last day of hearing.

18 JAN 2021

3. That Hon'ble National Green Tribunal has pleased to direct to file an action taken report as to what steps have been taken in terms of the provision of SWM Rules, 2016.

4. That in compliance with the order of Hon'ble National Green Tribunal dated 04.01.2021, I beg to state that-

- (a) In compliance of Hon'ble National Green Tribunal order dated 31.07.2020, 15.12.20 and 04.01.21 the legacy waste management has been started. In this connection Bio-mining of legacy waste and land reclamation of dumpsites utilizing scientific method has been started by M/s. Aakanksha Enterprise of C-108, Mahabir Vihar, Sector-1, Dwarka, New Delhi - 110 045. The work order has been issued in favor of to M/s. Aakanksha Enterprise by Kolkata Metropolitan Development Authority of Urban Department and Municipal Affairs Department, Govt. of West Bengal vide Memo no.95/SE(NC)/S&SWM/W&S/KMDA/W-103 dated 01.10.2020. The waste has been processed through window process. The agency has started the work of legacy waste management at the dumpsite by utilizing scientific methods and setting up modern machinery equipments from December 2021.



A photocopy of the said memo. 95/SE(NC)/S&SWM /W&S/KMDA/W-103 dated 01.10.2020 and the photographic work of Legacy Waste management are enclosed herewith and marked as Annexure - R/1 and R/2 respectively.

- (b) That separate arrangement has been made for management of fresh waste and legacy waste. For management of fresh solid waste such as collection, segregation, transportation, processing the following steps have been taken :
- (i) 90MT per day segregated total waste have been segregated into two parts as bio-degradable and non bio- degradable.
 - (ii) 45000 bins have been distributed to household for segregating the waste at door steps and from that collection are being made in segregated ways.
 - (iii) Transportation of segregated waste has been done primarily thorough Tricycle Rickshaw Van / Battery operated Tricycle Van.
 - (iv) 34 Nos. Local rag pickers have also been organized to pick up in non-biodigredable waste from dump site. All waste has been separated in two parts, one is Bio degradable and another is non bio degradable.
 - (v) For installation/Set up SWM plant for fresh waste, being a

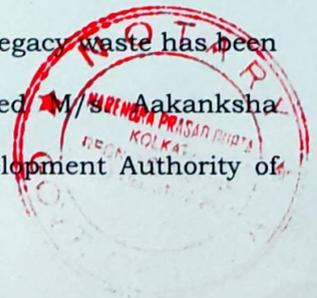


state nodal agency State Urban Development Agency has already been floated tender and last date of submission of tender was 05.01.2021 and that opened on 07.01.2021. The Work Order for implementation of project would be issued within one month.

- (vi) In compliance to solemn order dated 23.12.2020 passed in above stated case, I being Executive Officer, Kharagpur Municipality, respondent No. 4 pray an unconditional apology for dumping garbage in low lying area at the outskirts of this municipality for last few months and assure you that such action on part of municipality would not recur in future. Municipality is now dumping solid wastes at its scheduled dumping ground making an accommodation therein for the said purpose observing all environmental norms in terms of Solid Waste Management Rule 2016.

The photocopies of the work of Fresh Waste Collection are enclosed herewith and marked as Annexure - R/3.

- (c) For management of legacy solid waste the following steps have been taken :
- (i) The execution of work for bio-mining of legacy waste has been awarded to an external agency named M/s Aakanksha Enterprise by Kolkata Metropolitan Development Authority of



Urban Department and Municipal Affairs Department, Govt. of West Bengal vide Memo no.95/SE(NC)/S&SWM/W&S/KMDA/W-103 dated 01.10.2020

- (ii) Window processing of legacy waste has been done.
- (iii) Local rag picker has been engaged and they have started the work of material recovery from the legacy waste.
- (iv) A Trommel Machine has been installed for bio-mining of legacy waste at the existing dumpsite.
- (v) A weighbridge has already been installed for measure the bio-mining waste.
- (vi) A semi-pucca road constructed inside the dumping ground for smooth transportation.
- (vii) Water supply facility and electricity are also adequate at the dumpsite.

The Photocopy of machinery install and dumpsite is enclosed herewith and marked as Annexure 'R/4'.

- (d) In compliance to the previous order of Hon'ble National Green Tribunal in respect of siting criteria, we are trying to follow strictly the SWM rule 2016, In respect of as per Schedule IA (vii) of the SWM Rules, 2016 a landfill site ought to be 100



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 with certain exceptions.

- (e) It has been decided to shift the SLF Plant site in another place. A Land Searching committee has been formed headed by Additional District Magistrate (LR), Paschim Medinipur and committee comprised of the Head of the Dept. of Solid Waste Management, IIT Khargpur Prof. Dr. Makarand M Ghangrekar and also engineer from regional office of WBPCB and engineer also from State Urban Development Agency of State Govt. dealing with Solid Waste Management of all urban local bodies. The first meeting of land searching committee has been done on 13.01.2021

The photocopy of the resolution of first meeting of land searching committee is enclosed herewith and marked as Annexure - R/5.



- (f) The present site is being used for only processing unit form legacy waste regarding Biomining and composting by maintaining SWM Rule 2016 and amendment of rule in 2019.
5. West Bengal Pollution Control Board has imposed

Environmental Compensation upon this Municipality of Rs. 2,00,000/- per month (Rs. 1,00,000/- for non compliance of SWM Rule 22 Sl 1 to Sl 10 and Rs. 1,00,000/- for failure to commence remedial action for legacy waster) the liability of payment of Environmental Compensation starts from 01.07.2020. The liability has been paid up to 30.10.2020 remaining amount of the penalty will be paid within 15 days by Municipality. In this connection, we prayed before the W.B.P.C.B for exemption of Rs. 1,00,000/-, since we have already started the work regarding legacy waste.

6. That the time line for the following work is given below:

Nature of Work:	Bio Mining of legacy waste and land reclamation of the dumpsite	Searching of Separate land for setting up SLF	Set up of Material Recovery Facility	Installation of SWM Plan for fresh waste
Probable date of completion	24.09.2021 As per work order issued by implementing agency i.e. Kolkata Metropolitan Development Authority	15.07.2021	15.08.2021	15.08.2021

7. In this connection, it is humbly submitted before the Hon'ble National Green Tribunal to allow at least six month time period for land setup for SLF. The authority of WBPCB advice to search out the site of land area 2 acre for SLF maintaining sitting criteria as per SWM Rule. 2016.





8. That the Kharagpur Municipality, respondent no. 4 is duty bound to carry out any order, which will be assed by this Hon'ble Tribunal.

That one statements made in paragraphs 1, 2, 3, 4, 5, 6 are true to my knowledge and belief, the statements made in paragraphs 5, 6 are information derived from records, which I verily believe to be true and correct and rests are my respectful submission before this Hon'ble Tribunal.

Prepared in my office

Arjun Kumar Samanta
Arjun Kumar Samanta

Advocate

Arjun Kumar Samanta

DEPONENT

Identified by me

Arjun Kumar Samanta

Advocate

Date: 18.01.2021

Place : Kolkata

N
NARENDRA PRASAD GUPTA
NOTARY
GOVERNMENT OF INDIA
REGN. NO.-13823/2019
&
ADVOCATE, HIGH COURT CALCUTTA
9, Old Post Office Street (Ground Floor)
'n Front of F-Gate (High Court)
MOB.-8910596574
9883135090

[Signature]
L.T.I. (S) Signatures (S) of the
Executive attested by me on identification

NARENDRA PRASAD GUPTA, NOTARY
Advocate, HIGH COURT, KOLKATA
Regd. No. 13823/2019



18 JAN 2021



Annexure R1

**Kolkata
Metropolitan
Development
Authority**

OFFICE OF THE SUPERINTENDING ENGINEER
NORTH CIRCLE
SANITATION & SOLID WASTE MANAGEMENT WING, WATER AND SANITATION SECTOR
KOLKATA METROPOLITAN DEVELOPMENT AUTHORITY
BLOCK - A, 5TH FLOOR, URNATKAN BHAWAN, SALT LAKE, KOLKATA - 700 093
0661 8000 & 0661 8000 (ext. 4000) & 0661 8000 (ext. 4000)
URBAN DEVELOPMENT AND MUNICIPAL AFFAIRS DEPARTMENT
GOVERNMENT OF WEST BENGAL

Date: 01.10.2020

Memo No.: 95/SE(NC)/S&SWM/W&S/KMDA/W-103

From: The Superintending Engineer (Civil)
North Circle, Sanitation & Solid Waste Management Wing
Water and Sanitation Sector
Kolkata Metropolitan Development Authority

To: **AAKANKSHA ENTERPRISES**
C-108, Mahabir Vihar, Sector-1, Dwarka, New Delhi - 110 043
e-mail: aakankshaproperties77@gmail.com

Subj: Letter of Intent (LOI) for the work of Bio-mining of legacy waste and land reclamation of
dumpsites utilizing scientific method located at Midnapore & Kharagpur Municipality in
West Medinipur District, West Bengal on turnkey basis - Regd.

Ref: 1. Memo No.: JB/SE(NC)/S&SWM/W&S/KMDA/D-27 dated: 16.03.2020
2. e-RTP no.: 06/SE(NC)/S&SWM/W&S/KMDA of 2019-20 (Sl. No. 23) dated: 16.03.2020

3. Tender ID: 2020_KMDA_280108_23
4. Initial Earnest Money Deposit: ₹ 10,00,000.00
5. Accepted Offered Rate: @ ₹ 511.00 (Rupees five Hundred Eleven) per
Metric Ton (MT) of input legacy waste processed
through bio-mining at the dumpsite as per the
scope of work, inclusive of GST, if any

6. Approximate quantum of legacy waste
to be Bio-Mined utilizing scientific method
and be removed to reclaim the land of
dumpsite at Midnapore & Kharagpur Municipality
in West Medinipur District:

2,00,731 MT

7. PROJECT COST/TENDERED AMOUNT: ₹ 10,25,73,541.00
(Rupees Ten Crore Twenty-five Lakh
Seventy-Three Thousand Five Hundred
Forty-One only)

8. Additional Earnest Money Deposit: ₹ 10,51,471.00
(Rupees Ten Lakh Fifty-One Thousand Four
Hundred Seventy-One only)

Letter of Intent: 2020_KMDA_280108_23

[1]



9. Administrative Approval of the Urban Development and Municipal Affairs Department, Government of West Bengal: GO2021001350UM dated 24.09.2020

10. Project ID (UD & MA Department, Government of West Bengal): UA2021284565000

11. Project Code (KMDA): 09/Water & Sanitation/KMA/99
12. Tender No. assigned: 08/SE(NC)/S&SWM/W&S/KMDA of 2020-21

Dear Sir,

In inviting response to your tender (Part- II) opened on 09.07.2020 for the work as mentioned along with all the references as above, this is to inform you that your offered rate @ ₹511.00 (Rupees Five Hundred Eleven) per Metric Ton (MT) of input legacy waste processed through bio-mining at the dumpsite, as per the scope of work, has been accepted by the undersigned after getting the concurrence of Finance Department, Government of West Bengal, vide its U.O. no. AA2021006778FDGRR dated 18.09.2020 and subsequent Administrative Approval of the Urban Development and Municipal Affairs Department, Government of West Bengal, vide no. GO2021001350UM dated 24.09.2020 with recommendation of the 22nd meeting of reconstituted Works and Tender Committee (WTC) held on 25.08.2020, for and on behalf of Kolkata Metropolitan Development Authority. Total value of this work against the approximate quantum of dumpsite at to be bio-mined utilizing scientific method and be removed to reclaim the land of dumpsite at Midnapore & Kharagpur Municipality in West Medinipur District, West Bengal, of 2,00,731 Metric Ton (Two Lakh Seven Hundred Thirty-One Metric Ton) put to tender, stands at ₹ 10,15,73,541.00 (Rupees Ten Crore Twenty-Five Lakh Seventy-Three Thousand Five Hundred Forty-One only).

Your offered rate has been accepted strictly as per terms and conditions stipulated in the electronic-tender document and KMDA Form No - I, subject to the following terms & conditions:

1. That you are to execute the Tender Agreement with Kolkata Metropolitan Development Authority (KMDA) in 5 (Five) sets of Tender Documents including KMDA Form No - I, as will be available from Office of the Executive Engineer, East Bank Division, Sanitation & Solid Waste Management Wing, Water and Sanitation Sector, KMDA, on non-refundable cash payment of ₹ 600.00 (Rupees Six Hundred only) per set. All the formalities are required to be completed within 10 (ten) working days from the date of issue of this letter, failing which your tender will be liable to be treated as CANCELLED including forfeiture of the Earnest Money deposited with the tender without giving any further intimation to you.
2. That your offered rate, i.e. ₹511.00 (Rupees Five Hundred Eleven) per Metric Ton (MT) of input legacy waste processed through bio-mining at the dumpsite, as per the scope of work, as accepted by the undersigned for and on behalf of Kolkata Metropolitan Development Authority, shall remain firm throughout the period of execution of the contract till completion of the work. Nothing extra as price escalation shall be paid to you.
3. That the amount already deposited as Initial Earnest Money Deposit, i.e. ₹ 10,00,000.00 (Rupees Six Lakh only), will be converted as a part of Initial security deposit.
4. That you are to submit the balance amount of 2% of the tendered amount, that is the additional Earnest Money Deposit (EMD), i.e. an amount of ₹ 10,51,471.00 (Rupees Ten Lakh Fifty-One Thousand Four Hundred Seventy-One only), in the form of Demand Draft drawn in

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favour of "KMDA" from a nationalised/scheduled Bank in India payable at Kolkata, that will also be converted as balance part of initial security deposit.

5. That the amount of Security Deposit will be 10% of the contract value. The amount of 2% of the estimated amount, submitted initially as initial EMD and at the time of execution of formal agreement as additional EMD, will be converted as Initial Security Deposit. Balance security of 8% of the amount of each running account bill, will be recovered from each and subsequent bill OR the balance of the amount of security deposit is realized.
6. Release of normal security deposit shall be made after 3 (three) months from the date of handing over of reclaimed clear land in all respect, i.e. successful completion of the project, as per utmost satisfaction and instruction of the Engineer-in-Charge. It supersedes the clause 17 of Tender form No.-1.
7. That, if the quantum of legacy waste to be bio-moved utilizing scientific method and be removed is less than the amount as mentioned, any claim with regard to shortfall of waste, will not be entertained by the undersigned, under any circumstances.
8. That you are to obtain all necessary permissions and/or No Objection Certificates (NOCs) from authorities like West Bengal Pollution Control Board (WBPCB) etc., in order to process the existing legacy waste dumped at the respective dumpsite/L, before initiation of the work. KMDA may only assist in obtaining these permissions and provide requisite NOCs wherever required without any delay.
9. That the Tender No. has been assigned as 08/SE(NE)/S&SWM/W&S/KMDA of 2020-21. This Tender No. may please be referred to all further correspondences.
10. The Executive Engineer (Civil), East Bank Division, Sanitation & Solid Waste Management Wing, Water and Sanitation Sector, KMDA, Block A, 5th Floor, Udayan Bhawan, Salt Lake, Kolkata - 700 093, shall be the Engineer-in-Charge of the above work.
11. That the time of completion of the work is 12 (twelve) months [3 (three) months for machineries installation + 9 (nine) months for bio-mining], from the date of issuance of Formal Work Order.
12. That you are to abide by your commitment to reclaim 100 % of the land as mentioned in the Request for Proposal for Midnapore and Kharagpur Municipality.
13. No Departmental material shall be issued to the contractor in connection with the said work.
14. That you are to produce documents of Labour License from the Labour Department, Government of West Bengal, and under Contract Labour Regulation & Abolition Act 1970 and West Bengal Contract Labour Abolition & Regulation Rules 1972, with time to time amendment thereof.
15. That you are to engage engineering personnel as per provision of the tender agreement and submit the evidence in this respect.
16. That you are to comply the Provisions of Apprentices Act 1961 and the Rules & Orders issued from time to time.

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(3)



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17. That you are to abide by all the terms and conditions as stipulated in the Tender Agreement and the Request for Proposal as accepted.
18. That the works should not be executed beyond the permissible limit of the contract without prior approval in writing of the appropriate authority.
19. That any additional work, if required, beyond the tendered amount, should be taken up strictly with the concurrence of the Tender Inviting Authority (TIA).
20. That you shall have to submit a Work Programme Chart in the form of Bar Diagram using PERT/CPM method before starting of the work.
21. That you are hereby directed to go ahead with the work immediately in consultation with the Executive Engineer (Civil), East Bank Division, Sanitation & Solid Waste Management Wing, Water and Sanitation Sector, KMDA, Block - A, 5th Floor, Udayan Bhavan, Salt Lake, Kolkata - 700 091, who will issue the Formal Work Order.
22. That as per the statutory order of the Labour Department, Government of West Bengal, 1% (one percent) cess on the cost of construction will be deducted from the contractors' progressive bill in any building or other construction works under Section - 7 of the Building & Other Construction Workers (RECS) Act, 1996 and Building & Other Construction Workers Welfare Cess Act, 1996 and the rule framed hereunder. This cess will be deducted from all the running bills and the final bill.

Yours faithfully,

P. S.
 01.10.2020
 Superintending Engineer (Civil)
 North Circle
 Sanitation & Solid Waste Management Wing
 Water and Sanitation Sector, KMDA

Letter of Intent: 2020_KMDA_280108_23 (4)



Annexure - R/2 (Photographic work of Legacy Waste management)













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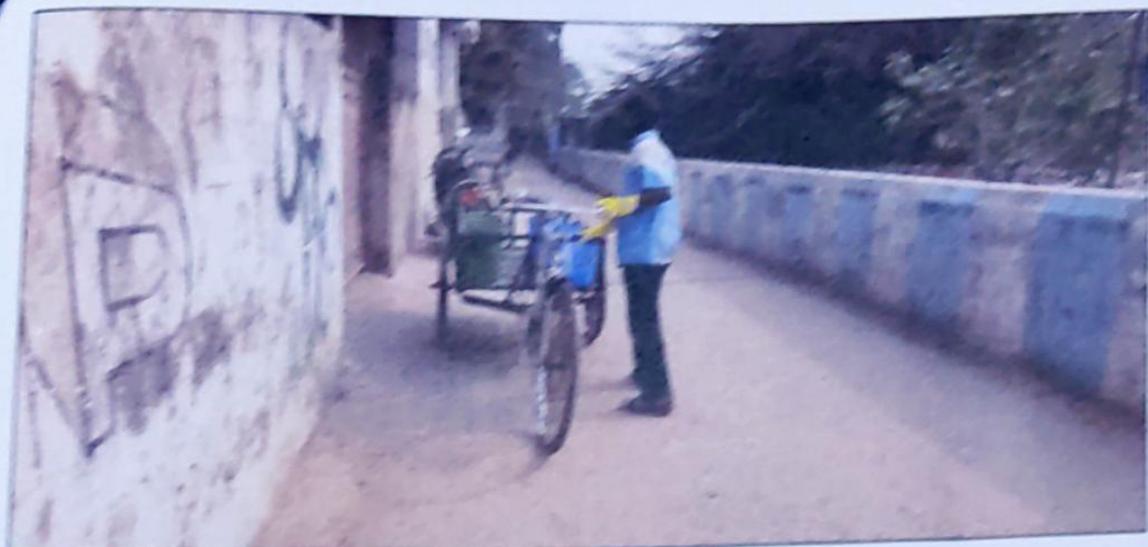


Annexure – R/3. The photocopies of the work of Fresh Waste Collection.













Annexure R/4 photocopy of machinery install at dumpsite





Annexure - R/5 (The photocopy of the resolution of first meeting of land searching committee)

MINUTES OF THE FIRST MEETING OF THE MEMBERS OF THE LAND SEARCHING COMMITTEE CREATED BY ADDL SECRETARY TO THE GOVT. OF WEST BENGAL, ENVIRONMENTAL DEPARTMENT AND DIRECTOR SUDA HELD ON 13.01.2021 AT 2.00 P.M. IN THE CONFERENCE HALL OF THIS MUNICIPALITY.

<u>Members Present.</u>	<u>Designation.</u>
1. Sri Tushar Singla, I.A.S, ADM(LR), Paschim Medinipur	- Chairman
2. Sri Pradip Sarkar, Chairperson, Board of Administrator, Kharagpur Municipality	- Vice Chairman
3. Prof. Dr. Makarantd M Ghengrekar, Head of Department of Solid Waste Management, IIT-Khargpur	- Member
4. Sri Arun Kumar Samanta, Executive Officer, Khargpur Municipality	- Conveynor
5. Dr. Prasun Kumar Mondal Asst. Engineer, Regional Office, WBPCB	- Member
6. Sri Surya Mishra, Asst. Engineer, SUDA	- Member
7. Sri Pijush Kanti Jana, B.L.&L.R.O, Khargpur - 1	- Member

Sri Tusher Singla, IAS, ADM(LR) and Chairman of this committee presided over the meeting and request the representative of Pollution Control Board to brief this matter in the light of SWM rule 2016

The representative of WBPCB elaborately discuss about the siting criteria as laid down in Schedule IA (vii) of the SWM Rules, 2016. He also emphasis on the urgent need of land for settling up a Sanitary Land Filling (SLF) site for Khargpur Municipality.

The Chairperson, Khargpur Municipality presents various National Green Tribunal Order in connection with O.A No. 15/2020/EZ (Jaba Mukherjee Vs. State of West Bengal & Ors.) before the committee and explain that he is bound to follow the SWM Rule 2016. He also pray before the committee to arrange a suitable land maintaining siting criteria as per SWM rule, so that we may comply the order of Hon'ble National Green Tribunal.

B.L.&L.R.O, Khargpur - 1 is requested to find out suitable land measuring 2 Acre or more as advised by the WBPCB for setting up SLF and placed the information regarding land details before the next meeting.

The meeting is ended with thanks from Chairman of the committee.

[Signature]
13/01/2021
Addl. District Magistrate (LR)

Chairman of the Committee

Memo No. 81(6) /KM

Dated: 13/01/2021

Copy forwarded for information and taking necessary action to:

1. The ADM (LR), Paschim Medinipur - Chairman.
2. The Chairperson, Board of Administrator - Vice Chairman.
3. Prof. Dr. Makarantd M Ghengrekar, Head of Department of Solid Waste Management, IIT-Khargpur - Member
4. The Asst. Engineer, Regional Office, WBPCB - Member
5. The Asst. Engineer, State Urban Development Agency - Member
6. The B.L.&L.R.O, Khargpur - 1 - Member

[Signature]
13/01/2021
Addl. District Magistrate (LR)

Chairman of the Committee

BEFORE THE NATIONAL GREEN
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PRINCIPAL BENCH, NEW DELHI

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RESPONDENT NO. 4

MR. MRINAL KANTI GHOSH
Advocate
High Court, Calcutta
Bar Association, Room No. 11

(M) 9830874095 / 9836375095