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**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**PRINCIPAL BENCH AT NEW DELHI**  
**ORIGINAL APPLICATION NO. 351 OF 2019**

**IN THE MATTER OF:**

**RAJA MUZAFFAR BHAT**

**...APPLICANT**

**VERSUS**

**STATE OF JAMMU & KASHMIR**

**...RESPONDENTS**

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**THROUGH**

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NEW DELHI

DATE: 26.08.2020

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**RESPONSE ON BEHALF OF THE APPLICANT TO THE RESPONSE TO  
THE FACTUAL AND ACTION TAKEN REPORT DATED 08.12.2019 AND  
PROGRESS REPORT DATED 18.08.2020**

1. That the Applicant has visited the areas of Hokersar, Wullar, Kreetchu and Chandhara in March and June, 2020 with a view to physically verify the position reported by the Committee. It is stated that on the face of it the report is not factually correct as the Applicant saw a number of violations which are detailed as follows:-

**I. Hokersar**

2. The petitioner visited the site at Hokersar on 5<sup>th</sup> March, 2020. It is stated that the Respondent- J&K Wildlife Conservation Department has not put in place any permanent mechanism to avoid dumping of solid waste in the wetland with the result that such garbage dumping has become a continuous process and thus the entire wetland is under severe threat. Wildlife Conservation Department has submitted some photographs

showing its employees having undertaken some kind of sanitation drive in the wetland of Hokersar last year. The photographs have been taken in summer when there is enough vegetation, but when the Applicant went to the area on 5<sup>th</sup> March, 2020, the trash was still dumped in the wetland. Applicant appreciates the move of Wildlife Department for undertaking sanitation drive but there has to be a constant process and for that Department should involve other Govt. organizations that are supposed to do this work like Municipalities and Rural Sanitation Department which is not being done as of date.

3. That further, the local villagers of Hajibagh, Soibugh and other areas constantly bring waste in private vehicles, load carriers and lorries from other residential areas and dump the same on the wetland banks. During his visits, the Applicant learnt that Contractors hired by local Army camps around Sharifabad, also dumps garbage in Hokersar wetland. The Applicant found Bio-medical and other hazardous waste dumped on the banks of Hokersar wetland, during the visit. It is stated that fruit and vegetable waste is also brought from Parimpora Fruit Mandi Srinagar to Hokersar wetland for dumping purposes.
4. That moreover no effective watch and ward system has been made available by J&K Wildlife Conservation Department to prevent dumping of solid waste which by now has become a permanent feature around Hokersar

Copy of the Photograph pertaining to continued dumping in and around Hokersar wetland is annexed herewith as

**ANNEXURE-A13.**

5. It is stated that the Photographs annexed by the Committee in its Progress Report pertain to demolition pictures taken long back in Winters. The big houses of influential people have not been touched in Hokersar (Haji Bagh to Soibugh road). It is stated that some more illegal structures came up in last 7 to 8 months in Hokersar
6. That it is pertinent to submit that not even a single penny so far appears to have been utilized under Solid Liquid Resource Management programme available under Swachh Bharat Mission Gramin (SBM Gramin) Copy of the media report titled "Not a single Penny utilized during last 4 years on Rural Waste Management" is annexed as **ANNEXURE A14.**

**Suggestion**

- That it is in collaboration with Rural Sanitation Department Wildlife Conservation Department could undertake solid waste management around Hokersar wetland and adjoining villages Soibugh, Sharifabad and Hajibagh. There are enough funds available under Swachh Bharat Mission Gramin (SBM Gramin) for such activities but unfortunately the money is not being utilized as no DPRs have been prepared by Govt. nor have been consultant agencies hired by Rural Development Department for this work.
- That effective watch and ward system needs to be made available by J&K Wildlife Conservation Department to prevent dumping of solid waste in and around Hokersar
- Respondents should be directed to spend funds under Solid Liquid Resource Management programme

available under Swachh Bharat Mission Gramin (SBM Gramin).

- The Applicant agrees that dredging is being done for removing silt from Hokersar but this is not a permanent solution for Waste and its Management. The Wildlife Dept. must get associated with Rural Sanitation for this purpose. It is stated that this Hon'ble Tribunal should direct Secretary Rural Development J&K Govt. to look into the issue and direct Rural Sanitation Department accordingly
- It is stated that the Waste Management should not be a one or two day show for purpose of taking photos but it should be a continuous process. It is suggested that there be Information Education and Communication (IEC) activities around Hokersar invoking NGOs and panchayats. under SBM Grameen Solid Liquid Resource Management component . In Hokersar area hardly any IEC or waste management work done by Govt.
- Funds remain utilized by District Administration Budgam for Solid Waste Management which needs to be addressed.
- No consultant Agencies have been hired to make DPRs for Solid Liquid Resource Management in rural areas of Kashmir which needs to be done urgently as per Swachh Bharat Mission Gramin (SBM Gramin) program.

## **II. Wullar Lake**

7. This Hon'ble Tribunal may kindly appreciate that at page 38 of the Annexure M para 3 of the Factual and Action Taken Report filed by the Committee, the Divisional Commissioner Kashmir mentioned:-

“3.Ensure that no/solid municipal wastes are dumped in the water bodies/wetlands. In case it is observed that some of the Municipal/Solid waste is dumped in or near the water bodies, the deputy commissioners shall identify the alternate sites outside the peripheries of the water bodies for dumping of the Municipal Solid Waste....”

8. It is respectfully submitted that the submission of the Divisional Commissioner Kashmir is contrary to the position on spot and is also misleading. It is stated that Municipal Committee Bandipora is continuously and intermittently dumping Municipal Solid Waste in the Wullar wetland at Nussu Zalwan area in violation of MSW Rules 2016 and Wetland Conservation and Management Rules 2017. Apart from the photographs a copy communication dated 19.02.2020 from local Municipal Councilor of Ward 7 Nargis Begum and Local Masjid committee jointly addressed to the Hon'ble Chairperson of NGT is annexed as **ANNEXURE-A15 (Colly)**.

9. It is further submitted that Respondent Municipal Committee Bandipora at page 29 of the Factual and Action Taken Report has acknowledged in its response to this Hon'ble Tribunal the dumping of accumulated waste in the trenches created around the wetland, least understanding that such type of dumping is in flagrant violation of MSW Rules 2016 and Wetland Conservation and Management Rules of 2017 Copy communication dated 19.02.2020 from local Municipal Councilor of Ward 7 Nargis

Begum and Local Masjid committee jointly addressed to the Hon'ble Chairperson of NGT annexed as annexure-A15 above may kindly be perused in this regard.

10. That it is re-iterated that the Divisional Commissioner, Kashmir vide Annexure M Page 38 Para 3 affidavit has tendered an unqualified assurance in the minutes of meeting convened by him on Sept 19<sup>th</sup> 2019, that in future no wetland would be allowed to be used for municipal solid waste dumping. In contravention of the assurance as well as the settled legal provisions Instead of sticking to his own commitment, the subordinate agencies like Deputy Commissioner Baramulla and CEO of Municipal Council Sopore have created new garbage dumping site at Ningle Tarzoo area of Sopore sub division in Baramulla district early this year (March 2020). The area is not only a registered wetland but a demarcated Forest area as well under Ninglee Forest Range Sopore. The waste collected from entire Sopore town is brought in trucks to this particular spot located just 200 metres away from Wullar lake and River Jehlum. Local Community members have been protesting against this illegal garbage dumping as the same is hazardous to public health and animal health as well. Pertinently, the said wetland area is a grazing ground for hundreds of cows, horses and sheep. Since garbage dumping began in the area, lots of stray dogs are found in the area threatening lives of little kids and adults as well. The livestock also consumes municipal waste which is threatening their health as well. Municipal Council Sopore has taken undue advantage of COVID 19 Pandemic and started dumping solid waste in the area during National lock-down

11. That the Wullar Conservation and Management Authority (WUCMA) which is an autonomous body created by J&K Govt. for Conservation of Wullar lake has take up the issue against illegal dumping of MSW by Municipal Council Sopore in a proactive manner. It issued a Notice to Municipal Council, Sopore by invoking the provisions of Environment Protection Act 1986 (section 19(b) read with Rule 4 (2) of Wetland Conservation and Management Rules 2017. That however, the CEO Municipal Council Sopore has ignored the said Notice. Copy of a Notice dated 17.03.2020 issued by the Wullar Conservation and Management Authority (WUCMA) to the Municipal Council, Sopore is annexed herewith as **ANNEXURE-A16 (Colly)**.
12. That in violation of the violation of MSW Rules 2016 and Wetland Conservation and Management Rules 2017, yet another garbage dump site has been created by Municipal Committee Hajin in District Bandipora at Gandbal area which is part and parcel of Wullar lake. The latest Photographs collected from the spot at Municipal Committee Hajin in District Bandipora is annexed herewith as **ANNEXURE-A17 (Colly)**.
13. That it is stated that this Hon'ble Tribunal may kindly appreciate that serious threat has been posed to Wullar lake which is the oldest Ramsar site in J&K by sheer negligence of the authorities. The wetland is under severe attack from three sides and violations are continuing. From Eastern Side Municipal Committee Bandipora, From Western Side Municipal Council Sopore and from the Southern shore Municipal Committee Hajin are destroying the Wullar lake by dumping Municipal Solid Waste into it. This is also causing a serious threat to habitat of migratory birds visiting lake in winter months. Even from the Northern side of the

Wullar Lake unorganized dumping of solid and liquid waste continues for last several years. In case the remedial measures are not taken the Wullar wetland will be extinct in the decades to come.

**Suggestion:**

- It would be highly desirable if this Hon'ble Tribunal appoints an independent Non Governmental Expert as Court Commissioner to facilitate the determination of the real questions in controversy and the false statements being made by the Respondents.

**III. Kreentchu Chandhara wetland**

14. That it is stated that the illegal Kucha Road constructed through the wetland has not been dismantled till date. After onspot visit by Petitioner no dumping of MSW was seen around the wetland but the Irrigation canal flowing through the wetland some years back is yet to be restored.
15. That in addition, it is most respectfully submitted that all the Municipal Committees and Local Bodies in the territory of Jammu & Kashmir are substantially insensitive towards implementation of the Municipal Solid Waste Rules 2016, Plastic Management Rules, E Waste, Battery waste, Biomedical Waste etc with the result that Kashmir which was once known as Paradise on Earth has been converted into a Cesspool by the authorities and successive Governments. Almost all the water-bodies (lakes, rivers, streams, irrigation canals) have been turned into garbage dump sites. The Petitioner reasonably apprehends that time is fast approaching when all the natural water resources will perish and

whole valley of Kashmir will be a massive garbage dump if effective remedial measures like In house Composting of Bio Degradable waste, collection / segregation at source, implementation of MSW Rules 2016 , implementation of Swachh Bharat Mission Urban / Gramin are not put into place.

**Suggestion**

- To protect, preserve and conserve Wullar, Hokersar and Kreenchu Chandhara lakes wetlands it would be expedient to associate Srinagar Municipal Corporation, Directorate of Urban Local Bodies Kashmir and Department of Rural Development / Rural Sanitation with all the activities related to the collection, segregation and treatment of solid waste near Wetlands which includes lakes, rivers, streams and Irrigation canals.
  - It is further prayed that in order to ascertain the factual position in the light of submission made herein before some wetland expert may kindly be appointed as Commissioner belonging to any reputed institution or CPCB, NGO at the expense of Union Territory of Jammu & Kashmir through the Department of Environment, Forest & Wildlife Conservation and Housing and Urban Development Department (HUDD)
16. It is also respectfully prayed that this Hon'ble Tribunal may very kindly be pleased to direct to take stringent measures against the erring Respondents/agencies guilty of violation of law, especially in case of Municipal Committee Bandipore, Municipal Council

Sopore District Baramulla and Municipal Committee Hajin district  
Bandipora for having acted negligently.

Pass any other orders as the Hon'ble Tribunal may deem fit and proper in  
facts and circumstances of the case.

**THROUGH**



**RITWICK DUTTA RAHUL CHOUDHARY SAURABH SHARMA**  
**ADVOCATES**

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N-71, Lower Ground Floor, Greater Kailash-I,  
New Delhi- 110048

New Delhi

Date: 26.08.2020

Annexure A-13

383



T.C.  
9

## Not a single penny utilized during last 4 years on Rural Waste Management !

greaterkashmir.com/news/opinion/not-a-single-penny-utilized-during-last-4-years-on-rural-waste-management/

May 19, 2018



**The funds allocated for rural waste management have even not been requisitioned as not even a single Detailed Project Report (DPR) has gone to Union Rural Development Ministry from J&K.**

Municipal Corporations, Councils and Committees have been entrusted to undertake waste management work in big cities, smaller cities and towns. In Jammu & Kashmir we have two Municipal Corporations (Jammu / Srinagar), half a dozen municipal councils and more than 90 municipal committees who do this job. Due to increase in population villages too are facing the menace of solid and liquid waste, but due to unavailability of any services from Government this issue remains unaddressed. In-fact there are schemes and programmes for managing solid waste in rural areas, but it seems rural waste management is not a priority for our Government and thus our villages are becoming filthier day by day. The funds allocated for rural waste management have even not been requisitioned as not even a single Detailed Project Report (DPR) has gone to Union Rural Development Ministry from J&K. How could the DPRs go, Govt failed to even hire consultants who would prepare these DPRs ?

### Source Segregation & collection

Solid Waste Management Rules 2016 (SWM-2016) has a special focus on source segregation of waste, its door to door collection plus creating behavioral change through Information Education and Communication (IEC) programmes. These activities were earlier prerogative of urban areas but now rural areas can also avail these facilities under Swachh Bharat Mission Gramin (SBM Gramin). The SBM Gramin guidelines issued on October 2nd 2014 has a clear policy on Solid Liquid Waste Management (SLWM) in Rural areas at halqa panchayat level. From last almost 4 years, SBM Gramin guidelines are not being implemented in J&K. Our villages have been converted into garbage dumps and cesspools. Majority of our rural irrigation canals, Khuls, streams and small rivers have been choked with polythene and solid waste. Lavatories enter into water bodies in majority of villages. If SBM Gramin guidelines will be implemented by the Rural Sanitation Department, I am sure all the villages in our state will look neat and clean within 6-8 months. Facilities like door to door waste collection, its segregation at source and making organic compost from the bio degradable waste material and processing of plastic and polythene can be undertaken at village level or by making village clusters. In addition to it villagers can be educated regularly about waste management through IEC programmes. From October 2014 till date SBM Gramin programme is only focusing on construction of lavatories to address open defecation which actually is not a serious issue in J&K like other states. We abided by Amitabh Bacchan's Darwaza Bandh slogan way back in 1970s or 80s. Even our desi lavatories in villages have closed doors or at least jute-mat curtains. On the other hand solid waste management which is a serious issue is not being addressed in spite of having funds for it.

### SBM Gramin

Under the Swachh Bharat Mission Gramin (SBM Gramin) following activities are to be undertaken under Solid Liquid Waste Management :

1. For Solid Liquid Waste Management (SLWM) Govt has to decide the technologies suitable to states. Collection, segregation and safe disposal of household garbage, decentralized systems like household composting and biogas plants shall be permitted. Activities related to maximum reuse of organic solid wastes as manure should be adopted. Till date J&K state hasn't identified any technology for rural waste management .

2. Government can hire professional organisations for undertaking Solid Liquid Waste Management at village level. Under SBM Gramin guidelines Government has been asked to appoint consultants at District and State level who would guide the department of Rural development. From last almost 4 years now Government has not hired any professional organizations who could guide the Govt in preparing DPRs etc for the project.

3. Under SBM-Gramin all the State Governments have been advised to post a Government officer as a full time Block Sanitation Officer (BSO) in each block of district. Till that is not made operational, the State Governments may specifically officially assign BSO activities to a senior official posted at the Block level. He may be assisted by a Block Coordinator and a Data Entry Operator engaged on contract basis. One cannot find any Block Sanitation Officer (BSO) in any of the blocks across J&K, nor has the work been assigned to any other official ?

### Conclusion

Under SBM Gramin programme each village gets a one time grant from centre for creating Solid Liquid Waste Management facilities like making compost units, buying push carts, machines etc. Government of India provides Rs.7 lakh for a village Panchayat having a population up to 150 households, Rs.12 lakh up to 300 households, Rs.15 to 17 lakh up to 500 households and Rs.20 lakh for village panchayats having more than 500 households. Funding for these projects under SBM(G) is provided by the Central and State Government in the ratio of 60:40. MP LAD ,MLAs CDF can also be utilized for this work. Earlier it was 75 : 25 for 3 years (until October 2017) , but J&K state failed to utilize these funds for 3 long years. Swach Bharat Mission (SBM) is a 5 year flagship programme and almost 4 years have elapsed and we have done nothing vis a vis rural waste management. I personally met with Chief Minister Mehbooba Mufti on January 23rd 2017 at Jammu in this regard. She even called and directed the then Rural Development Minister to start the work in around one dozen villages, but that work never took up till date. I hope newly appointed Rural Development Minister Mr A R Veeri will be serious about rural waste management and would implement the Solid Waste Management scheme under SBM Gramin without any delay.

T. C.  
P





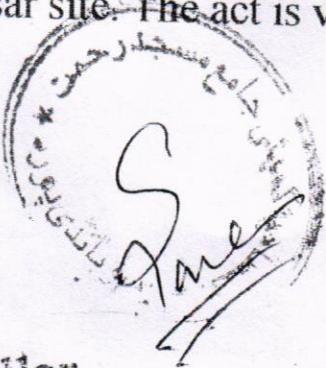
The Honorable Chairman  
National Green Tribunal  
New Delhi

Subject:- Dumping of municipal solid waste near Wullar lake Bandipora Kashmir.

Sir,

We would seek your personal intervention in addressing the serious problem of our area where local municipal committee of Bandipora is dumping the municipal solid waste at our area called Zalwan Nussu.

This is very dangerous as the area is located on the banks of wullar lake which is a Ramsar site. The act is violating the municipal solid waste rules 2016.



Councillor  
Nargis Begum  
Ward No - 07  
J.C. Bandipora

Yours sincerely

NARGIS BEGUM  
(Councillor)  
Ward no. 07 Nusoo Bandipora  
Municipal committee Bandipora

16 Feb 2020

T.C.  
Ⓟ

Annexure - A 16

Government of Jammu & Kashmir, (U.T)  
Wular Conservation and Management Authority J&K, Silk Factory Road Rajbagh, Srinagar, 190008  
Officer of the Coordinator Water Management, WUCMA.

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Form-IV  
(See Rule 11)

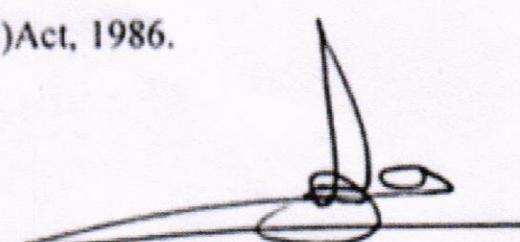
**Form of Notice**

The Executive Officer,  
Municipal Council, Sopore.

Subject: Notice under section 19(b) of the Environment (Protection) Act, 1986.

1. An offence under the Environment (Protection) Act, 1986 has been committed by you in dumping of solid waste in compartment No. 02 of Forest Ningli Range Sopore which is a part of Wular Lake falling within the delineated peripheral boundary pillar No: No 509/510. The said dumping site has been selected without the prior consultation of the Wular Conservation and Management Authority. The dumping of Solid Waste within the Wular Demarcation is an offence under rule 4(2) (i) of Wetland (Conservation & Management) Rules 2017 read with Section 15 and Section 17 of Environment Protection Act, 1986.
2. I hereby give notice of 60 days under Section 19(b) of Environment (Protection) Act, 1986 of my intention to file a complaint in the Court against you for violation of sections referred above under the Environmental (Protection) Act, 1986.
3. In support of my notice, I am enclosing the statement of imputation, rough sketch and report as evidence of proof of violation of the Environment (Protection) Act, 1986.

Place: Srinagar.  
Date: 17/03/2020

  
Coordinator Water Management  
Wular Conservation and Management Authority  
Kashmir

Ref: Coord/WM/WUCMA/2019-20/461-69  
Date: 17/03/2020

**Copy to the;**

1. Chief Executive Director, Wular Conservation and Management Authority, Kashmir for information.
2. Deputy Commissioner, Baramulla for information and necessary action.
3. Director Urban and Local Bodies for information and necessary action.
4. Nodal Officer, NGT with Worthy Chief Secretary J&K Govt. Jammu for information and necessary action.
5. Addl. Deputy Commissioner Sopore for information and necessary action.
6. District Officer, Soil & Conservation Department for information and follow up action.
7. Khilafwarzi Officer/ Block Officer West, WUCMA for follow up action.

T.C.  
①



T.C.  
BA