

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 606/2018

In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues (Arising out of directions of the Hon'ble Supreme Court in W. P. No. 888/1996 and W. P. No. 375/2012)

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Through



Abhimanyu Garg

Standing counsel

Government of Puducherry

C-15, Lower Ground Floor

Geetanjali Enclave,

New Delhi - 110017

9811092113/ abhimanyu.legal@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O. A. NO. 606/2018
(I.A.No.163/2021 and I.A.No.299/2024)

In re: Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues.

REPLY FILED BY THE UNION TERRITORY OF PUDUCHERRY IN RESPONSE TO THE SHOW CAUSE NOTICE DATED 16.08.2024 ISSUED IN OA NO. 606/2018 (I.A.No.163/2021 and I.A.No.299/2024)

I, Dr. Jayanta Kumar Ray, I.A.S., Secretary to Government (Works), Government of Puducherry having office in the complex of the Chief Secretariat, Puducherry, do hereby solemnly affirm and sincerely state as follows:-

1. I am the **2nd Respondent** herein and I am fully conversant with the facts and circumstances of the case.
2. I respectfully submit that there is no post of Secretary / Principal Secretary / Additional Chief Secretary, Urban Development in the U.T. of Puducherry. However all the works of STPs, their maintenance and operation are looked after by the Secretary, Public works department. Hence I am filing this reply in the place of Secretary / Principal Secretary / Additional Chief Secretary, Urban Development.
3. At the outset, I respectfully submit that this Administration has been striving hard to meticulously adhere to the Orders passed by this Hon'ble Tribunal. I tender my unconditional apology to this Hon'ble Tribunal, if

Jayanta Ray

(Dr. JAYANTA KUMAR RAY, IAS)
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this Hon'ble Tribunal considers that the Respondent(s) herein have been amiss in not achieving satisfactory progress in complying with the Orders of this Hon'ble Tribunal which is neither willful nor wanton. I submit that we neither have nor have we ever had any intention of disobeying the Order of this Hon'ble Tribunal at any point of time, much less willful and knowingly.

4. I respectfully submit that by way of e-mail dated 17.08.2024, the Deputy Registrar, National Green Tribunal (in short NGT) has communicated the Show Cause Notice dated 16.08.2024 (hereinafter referred as "SCN") issued to the Principal Secretary / Additional Chief Secretary, Urban Development, Government of Puducherry. The said SCN seeks to show cause as to why action for committing offences under Section 24 read with Section 43 and 48 of Water Act, 1974 and for non-compliance of the Tribunal's order under Section 26 of NGT Act, 2010 be not initiated in appropriate forum.
5. I respectfully submit that I make all the submissions hereunder, with utmost reverence and sincerity towards the Hon'ble National Green Tribunal, Principal Bench, New Delhi, understanding the strenuous efforts of this Hon'ble Tribunal to resolve the decades old issues of waste management and I look up to this Hon'ble Tribunal for further indulgence, guidance and overall leadership on this front.
6. I respectfully submit that this Respondent is filing a Review Application (vide IA reference No. 0701102003392018/RA/35) with reference to the Order dated 25.07.2024, seeking review to redress the findings of the Hon'ble NGT in relation to Solid and Liquid Waste Management by the Government of Puducherry. Therefore, it is respectfully requested that the

said Review Application may be read in consonance with this present reply in order to arrive at fair and just appreciation of the matter.

7. I respectfully submit that in compliance with Hon'ble NGT's order passed on 28.07.2022 in O. A. No. 606/2018, the Government of Puducherry has been making continuous, sincere and utmost possible efforts towards disposal of the legacy waste, setting up of facilities for processing of the solid waste, and bridging the gap in sewage management by constructing the required treatment plants.
8. I respectfully submit that an affidavit was filed by the Chief Secretary, Govt. of Puducherry on 04.11.2022 before the Hon'ble NGT (PB) in O.A. No. 606/2018 outlining the actions taken and initiated towards solid and liquid waste management and the Hon'ble NGT in its Order dated 24.11.2022 directed the U.T. of Puducherry to submit six monthly progress reports towards solid and liquid waste management.
9. I respectfully submit that the 1st Six-Monthly Progress Report was filed on 08.06.2023, the 2nd Six-Monthly Progress Report was filed on 23.01.2024 and the 3rd Six-Monthly Progress Report was filed on 19.07.2024.
10. I respectfully submit that during the hearing held on 24.11.2022, the then Chief Secretary has stated that a total of Rs. 178.92 crores has been made available from various sources for disposal of legacy waste, Solid Waste processing and for establishing Sewage Treatment Plants (in short STPs) for the treatment of the Liquid Waste.
11. I respectfully submit that the Hon'ble NGT in its Order dated 24.11.2022, directed this Administration to ensure the availability of Rs. 178.92 crores

by transferring the amount in a separate Ring-fenced account to be operated as per the directions of the Chief Secretary.

12. I respectfully submit that the UT of Puducherry is a small Union Territory with the annual budget outlay of Rs. 12,700 crores for the financial year 2024-25. Out of this, the UT's own revenues are projected at approximately Rs. 6,900 crores only. The remaining part of the budget outlay resources come from the Government of India in the form of Grants, Loans or Central Assistance. Despite this meagre financial position, it is respectfully submitted that an amount of Rs. 167 crores was allocated from the UT's own revenue receipts during the financial years 2022-23, 2023-24 and 2024-25. During 2022-23, 2023-24 and 2024-25, an amount of Rs. 40 crores, Rs. 60 crores and Rs. 67 crores have been so allocated respectively. These funds are in addition to the funds provided by the Government of India under AMRUT 2.0 and SBM 2.0 and loan component.
13. I respectfully submit that apart from the above, under Urban Development Major Head 2217, a separate Head of Account as 05/191(04) – Other Urban Development – Assistance to Local Bodies, Corporations, Urban Development Authorities, Town Improvement Boards etc. – Disposal of Legacy Waste and ISWM Programmes under NGT in the budget has been exclusively created for compliance with NGT directions from Revised Estimate (RE) 2023 – 24.
14. I respectfully submit that the Hon'ble NGT in its order dt. 24.11.2022 directed the administration to transfer the amount to a separate ring fenced account. During the hearing held on 25.01.2024, it was informed that a sum of Rs. 178 crores has been ring fenced and the same will be disclosed. I respectfully submit that I sincerely apologize for the UT Administration

not opening a single separate ring-fenced account and/or for not outlining the details of the sums so ring fenced in separate accounts, exclusively for the purpose of solid and liquid waste management in the 3rd Six-Monthly Progress Report, which was filed on 19.07.2024. However, it is respectfully submitted that this administration opened two separate ring-fenced accounts to make sure that the sum of money is put aside, protected, and only used exclusively for a particular purpose, ie specifically for construction of STP's, respectively, as detailed below:

Sl. No.	Name of the project	A/c No & Bank Details	Date of opening the Bank Account
1.	STP – Puducherry (15 MLD + 3 MLD)	7558639554 Indian Bank, Puducherry.	21.07.2023
2.	STP – Karaikal (11 MLD)		
3.	STP – Mahe (0.5 MLD) and STP – Yanam (6 MLD)	1230197000000045 Karur Vysya Bank, Puducherry.	22.06.2023

15. I respectfully submit that during the hearing held on 24.11.2022, the then Chief Secretary has stated that an amount of Rs. 80.65 crores was earmarked from various sources for construction of STPs in Puducherry, Karaikal, Mahe and Yanam. However, at present the revised estimates work out to Rs. 109.92 crores. I respectfully submit that till date an amount of Rs. 26.16 crores has been deposited in A/C No 7558639554 of Indian Bank, Puducherry and in A/C No. 1230197000000045 Karur Vysya Bank, Puducherry. An amount of Rs. 67 crores is earmarked in BE 2024-25 for this purpose. The construction of STPs have been taken up under AMRUT 2.0, and SBM (Urban) 2.0 schemes of Government of India. The AMRUT 2.0 is 100 % Centrally Sponsored Scheme. The SBM 2.0 has a ratio of 80:20 for Central and State Share of funds.


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16. I respectfully submit that the Government of Puducherry is making all sincere and utmost possible efforts in implementation of treatment facilities for liquid waste to comply with the direction of Hon'ble NGT. In order to bridge the gap of 32.5 MLD of untreated sewage, Two STP's with a total capacity of 26 MLD at Puducherry and Karaikal are expected to be completed and commissioned by the year 2025. The STP at Yanam has been tendered 5 times, but there has been no response till date. 6th call tender has been invited on 14.08.2024 after revision of the project cost. Tender for the construction of 3 MLD capacity STP at Sankarabarani river, Puducherry was floated two times and the same has been rejected on account of there being a single bid. The tender will again be invited after modification of the project. In respect of 0.5 MLD capacity STP at Mahe, the tender is under finalisation. All the 3 STPs which are at tendering stage are expected to be completed and commissioned by 2025.
17. I respectfully submit that I assumed charge as Secretary (works), Government of Puducherry on 7th February 2024. Subsequently, Model Code of Conduct was imposed on 16th March 2024 and lifted on 6th June 2024.
18. I respectfully submit that I have periodically reviewed the progress of the solid and liquid waste management in the U.T. of Puducherry and the implementing agencies are committed to complete the construction of STPs, within given project timelines, without time and / or cost overruns.
19. I respectfully submit that due to a Public Interest Litigation filed before Hon'ble Madras High Court (W. P. No. 5012/2024) by Thiru. A.M.H. Nazeem, MLA and imposition of the Model Code of Conduct (MCC) in view of conduct of the 18th Lok Sabha Election from 16 March to 6 June,

2024, the process of setting up of STPs got delayed for reasons beyond the control of the UT Administration of Puducherry.

20. I respectfully submit that given the distinct nature of the projects in question, different implementing agencies and resources being earmarked under different central sector schemes and U.T. Budget Heads, the Government of Puducherry, opened four separate ring-fenced accounts, each of which was meant to put an amount of money aside for a specific purpose and since the administrative control of the account was with the implementing agency itself, the sum so set aside was protected and only able to be used for the particular project purpose. A single ring-fenced account for the different projects would add another layer of withdrawal and transfer of monies to the implementing agencies' accounts when milestones are reached. As such, separate accounts were opened to be operated by the implementing agency, each exclusively dedicated to a specific project, to adhere to the spirit of the Hon'ble NGT order. This approach ensured effective fund segregation and avoided any delays which could arise due to another layer of processing and approval.
21. I respectfully submit that based on the Hon'ble Tribunal directions, Govt. of Puducherry has been taking earnest and committed action towards scientific disposal of solid waste and adequate treatment of liquid waste by allocating sufficient and earmarked funds, which are used for such specific purposes.
22. I respectfully submit and reiterate that four ring fenced accounts with A/c No. 007001000223344 in Indian Overseas Bank, Puducherry, A/c No. 007001000445566 in Indian Overseas Bank, Puducherry, A/c No. 7558639554 in Indian Bank, Puducherry and A/c No. 1230197000000045

in Karur Vysya Bank, Puducherry were opened for disposal of legacy waste, processing of solid waste, construction of STPs at Puducherry and Karaikal and construction of STP in Mahe and Yanam. These accounts are exclusively meant for the works mentioned and as such project wise accounts were ring fenced. As on date an amount of Rs. 139.27 crores was spent from these accounts for these projects only. However, as directed by Hon'ble NGT a separate Ring-fenced account in the name of "Green W2W Ring Fenced" has been opened on 20.08.2024 in the Indian Bank, Kamaraj Salai Branch, Puducherry with Account Number :7848651197. An amount of Rs. 52.10 crore has been deposited together in the said account for disposal of legacy waste, liquid and solid waste management. Thus, I respectfully submit that an amount of Rs. 191.37 crore has already been ring-fenced, instead of the stated Rs.178.92 crore, by the UT Administration of Puducherry.

23. I respectfully submit that this Hon'ble Tribunal may consider the above respectful submissions which would have an impact on the ultimate conclusion reached by the Hon'ble Tribunal in impugned Order dated 25.07.2024.
24. I respectfully submit that the Hon'ble NGT has invoked Sections 24, 43, and 48 of Water Act, 1974 for committing offences, along with Section 26 of the NGT Act, 2010 for non-compliance of the Hon'ble Tribunal's Order, much against the submissions made supra and earnest appeal made for indulgence in recognition of exercising all due diligence and utmost possible efforts on the part of the UT Administration, including provision of specified resources and allocations, to attain the targeted outcomes towards liquid waste management. I therefore most respectfully submit that given the sincere and utmost possible efforts by myself and my subordinate

officers in the respective implementing government departments and agencies, it is pleaded with utmost respect that this Hon'ble Tribunal would be pleased to review the above said SCN related to offences being purportedly committed by the Officers of this UT Administration under Section 24 read with Section(s) 43 and 48 of Water Act, 1974 and for non-compliance of the Tribunal's order under Section 26 of NGT Act, 2010 and condone not having created a single Ring-fenced account until 20.08.2024 taking into account the fact of having separate such accounts instead, which were exclusively opened for purposes of disposal of legacy waste, processing of solid waste, construction of STPs at Puducherry and Karaikal and construction of STP in Mahe and Yanam.

25. It is humbly and respectfully reiterated that the undersigned and the Officers of the UT Administration are making all sincere and utmost possible efforts and exercising all due diligence to implement projects and programs, within the given project timelines, to attain solid and liquid waste management objectives as per laid down standards, let alone knowingly causing or permitting to cause disposal of polluting matter in stream or well or sewer or on land.
26. I respectfully submit that the problem of less than ideal or inefficient Solid and Liquid Waste Management in Puducherry has been a long-standing issue for the last several decades, as is true for the rest of the country. However, the officers of the UT Administration and I, personally, have been making earnest efforts to attain the desired progress in resolving these issues, including in the short tenure ever since my taking over charge of this Administration of the Union Territory of Puducherry with effect from 20.02.2024. During this period, I have made myself aware of the impediments obstructing the path to efficient Liquid and Solid Waste

management and exercised all due diligence to rectify/remove such impediments. Hence, any such prosecution as envisaged in the SCN on the anvil of the aforementioned provisions may not meet the interest of fairness and justice.

27. I therefore most humbly pray that this Hon'ble Tribunal may be pleased to dispense with and rescind the Show Cause Notice dated 16.08.2024 issued to Principal Secretary / Additional Chief Secretary , Urban Development, Government of Puducherry in the interest of fairness and justice.

Jayanta Kumar Ray
Dr. Jayanta Kumar Ray

Secretary to Government (Works)

Government of Puducherry

Chief Secretariat, Puducherry-1

secypwd@py.gov.in

(Dr. JAYANTA KUMAR RAY, IAS)

SECRETARY TO GOVERNMENT

PUDUCHERRY.

Place: New Delhi

Date:

BEFORE THE NATIONAL GREEN TRIBUNAL
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AFFIDAVIT

I, Dr. Jayanta Kumar Ray, I.A.S., S/o. Panchanan Ray, aged 59 years, Secretary to Government (Works), Government of Puducherry, with office at Chief Secretariat, Puducherry-1, do hereby solemnly affirm and state as under: -

1. I am the Secretary to Government (Works), Government of Puducherry and thus competent and conversant with the case to depose this affidavit. The contents of this Reply to Show Cause are taken from the available official records of the Government of Puducherry and are true and correct to my knowledge.
2. That I have read and understood the contents of the accompanying Reply to Show Cause Notice dated 16.08.2024 and state that statements made therein are true and correct to my knowledge and belief and based on the records available with me.

Jayanta Kumar Ray
DEPONENT

(Dr. JAYANTA KUMAR RAY, IAS)
SECRETARY TO GOVERNMENT
PUDUCHERRY.

VERIFICATION

Verified at Puducherry on 23rd of August, 2024 that the contents of the above Affidavit are true and correct to the best of my knowledge and information as derived from the official records and nothing material has been concealed there from.



SIGNED BEFORE ME

M.S. 23/08/2024
M. SIVAPRAKASH, B.L.
ADVOCATE & NOTARY PUBLIC
 Govt of India
 Regn. No. 205/2010
 40 G, IIIrd CROSS, LANGO NAGAR
 PUDUCHERRY - 605 011

Jayanta Kumar Ray
DEPONENT

(Dr. JAYANTA KUMAR RAY)
SECRETARY TO GOVERNMENT
PUDUCHERRY.