

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL**

PRINCIPAL BENCH, NEW DELHI

Original Application No. 397/2022

IN THE MATTER OF:-

Ankit Yaduvanshi.

Applicant

Versus

State of H.P & Others.

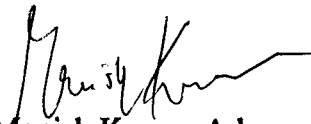
Respondents

S.No	Paticulars	p.no
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Respondent No.03

Through

Place: Delhi
Dated: .03.2023


Manish Kumar Advocate
Panel Counsel
For the State of H.P
S-138, LGF, G.K-1

New Delhi, Ph:9971493975

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BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 397/2022

IN THE MATTER OF:-

Ankit Yaduvanshi.

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Respondents

REPLY/RESPONSE BY WAY OF AFFIDAVIT ON
BEHALF OF RESPONDENT NO. 3 i.e. DISTRICT
MAGISTRATE, KULLU IN COMPLIANCE TO ORDER
DATED 15-11-2022.

May it Please Your Lordships:-

I, Ashutosh Garg, S/o Shri Lekh Ram Garg, aged 32 years,
at present working as District Magistrate, Kullu, District
Kullu do hereby solemnly declare and affirm on oath as
under:-

Deputy Commissioner
KULLU (H. P.)

1. That the afore-cited case is pending adjudication before this Hon'ble Tribunal and was last listed on 13-3-2023 wherein following directions were passed:-


ATTESTED

Executive Magistrate
Kullu

.....In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of

Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, (2) State PCB, (3) District Magistrate, Kullu, and (4) the Project Proponent- M/s. Krich Cleaning Pvt. Ltd. Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, Himachal Pradesh, who stand impleaded as respondents No. 1 to 4. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 4 requiring them to file their reply/response within two months. "

2. That background to the aforesaid direction is that Sh. Ankit Yaduvanshi had filed a complaint before Hon'ble NGT alleging illegal dumping of garbage by the Krich Cleaning Company Pvt. Ltd company opposite to his residence in village Mansari, Post Office Haripur, Tehsil Manali, District Kullu, H.P. It was further alleged that the said company has also encroached upon forest land for dumping garbage. It was further alleged that the said company after collecting debris from buildings and waste from hotels dumps the same in open area and forest land. It was further alleged that the dumping site is just below the temple and dumping of the garbage is, besides emitting foul smell, causing environmental pollution posing serious health hazards to the devotees visiting the temple and also local residents. It was further alleged that the above said company is operating illegally without NOC/CTE/CTO from Pollution Control Board and Local Authorities and that Challan was filed against the above said company by State Pollution Control Board but the above said company is still continuing its operations in collusion with the concerned officials.



Deputy Commissioner
KULLU (H. P.)

ATTESTED

Executive Magistrate
Kullu

3. That the Hon'ble National Green Tribunal vide order dated 07.07.2022 passed following directions:

“.....3. In view of the grievances made in the application, we are of the view that the factual position needs to be verified and remedial action is required to be taken on the basis thereof in case of violation of environmental norms. We accordingly constitute Joint Committee of State PCB, Executive Officer, Municipal Corporation, Divisional Forest Officer and Deputy Commissioner, Kullu and direct the Joint Committee to meet within four weeks, undertake site visits, look into the grievances of the applicant, verify the factual position and take requisite action by following due process of law. The State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.


Deputy Commissioner
KULLU (H. P.)


List the matter for further consideration on 15/11/2022.....”

ATTESTED


Executive Magistrate
Kullu

4. That in compliance of aforesaid order, the meeting of the Joint Committee was held on dated 02.08.2022 under the Chairmanship of the undersigned and it was decided to conduct the spot inspection of the M/s Krich Cleaning Pvt. Ltd Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, H.P on dated 17.08.2022 at 3:00 PM. Accordingly,

the inspection of the aforesaid unit was conducted on dated 17.08.2022 by the Joint Committee comprising of the District Magistrate, Kullu, Divisional Forest Officer, Kullu, Executive Officer, Municipal Council, Manali and Assistant Environmental Engineer, HPSPCB, Kullu, H.P. In addition to the committee members, Sub-Divisional Officer (Civil), Manali, Block Development Officer, Naggar, Secretary and Pradhan, Gram Panchayat, Soyol, the applicant/petitioner i.e. Sh. Ankit Yaduvanshi and Sh. Chet Ram, Director of M/s Krich Cleaning Pvt. Ltd. Village- Mansari, P.O. Haripur, Tehsil- Manali, Distt- Kullu HP and other local residents were also associated in the Joint inspection. The Joint Committee had accordingly submitted the report to the Hon'ble NGT through Member Secretary, HPSPCB incorporating feedback/comments of all stakeholders including petitioner and recommended following conditions be ensured for running of aforesaid facility i.e.


Deputy Commissioner
KULLU (H. P.)

ATTESTED

Executive Magistrate
Kullu

- I. The Krich Cleaning Pvt Ltd shall ensure that only segregated dry waste is stored at facility and shall maintain hygienic conditions at site. It must be ensured that wet waste shouldn't be brought at all to this site as vehicle of wet waste standing at this site can also lead to foul smell/nuisance to the petitioner since the house of petitioner is very close to the facility.
- II. The unit shall bring the dry segregated waste in fully covered vehicle and the company shall ensure that no littering and burning shall takes place at site.
- III. The company shall ensure that no foul smell emits from the site and shall plant aromatic flower/shrubs in the surrounding of plant for odour control.

- IV. The waste shall be scientifically managed without causing air, water and noise pollution and facility shall not be operated during night hours keeping in view the location of the facility in residential area and especially near to the house of petitioner.
- V. The Pradhan/Secretary, Gram Panchayat, Soyol and BDO, Naggar at Patlikuhal, and Regional Officer, HPSPCB, Kullu shall inspect and monitor the facility regularly and ensure that facility shall operate as per aforesaid conditions and in case the company violates the aforesaid conditions or any of the provisions of Solid Waste Management Rules/other Environmental laws the company shall be liable for regulatory/coercive action as per law. (Copy of Factual and Action Taken report is enclosed as Annexure R-1).

5. That further vide order dated 15.11.2022 where the Hon'ble NGT has passed following directions:-

“..... 4. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, (2) State PCB, (3) District Magistrate, Kullu, and (4) the Project Proponent- M/s. Krich Cleaning Pvt. Ltd. Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, Himachal Pradesh, who stand impleaded as respondents No. 1 to 4. The Registry


Deputy Commissioner
KULLU (H. P.)

EXECUTED
Executive Magistrate
Kullu

is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 4 requiring them to file their reply/response within two months at judicial-ngt@gov.in"

".....5. Notice be served on Project Proponent- M/s. Krich Cleaning Pvt. Ltd. through the District Magistrate, Kullu and for this purpose notice issued to the Project Proponent be sent to the District Magistrate, Kullu by E-mail for getting service of the same effected on it and sending his report in this regards....."

6. That in compliance to above, the Notice issued to the Project Proponent i.e. M/s Krich Cleaning Pvt. Ltd has been served to Sh. Chet Ram, Director of aforesaid facility vide No. PCB/RO Kullu(2263) OA No. 397 NGT/2022-4386 dated 06.12.2022 and report of the receiving was sent to the Hon'ble NGT vide letter no. PCB/RO Kullu (2263) O.A. No. 397 NGT/2022-842 dated 23.12.2022 (Copy of the receiving report is enclosed as Annexure R-2).


Deputy Commissioner
KULLU (H. P.)

ATTESTED

Executive Magistrate
Kullu


7. That the Joint Committee has already submitted its factual and Action Taken Report & recommendations along with feedback/comments of Stakeholder Departments and observations of Joint Committee and response of the undersigned is as per report and recommendations of the Joint Committee already submitted before the Hon'ble NGT.

8. That I, the above named deponent do hereby solemnly affirm and declare that the above contents of this affidavit of its paras 1-7 are correct to best of my knowledge based on information derived from official records, no part of the same is wrong and nothing material has been concealed therefrom.

Verified at Kullu on 6th day of March, 2023.

Documents were presented by for
for Attestation today Sh. Ashu Singh Garg
was identified by Sh. Sule
who is personally known to me. the contents of
the documents were read over and explained to
deponent who admit and accepts them to
be true and correct. hence attested

Executive Magistrate
Kullu (H. P.)


DEPONENT
Deputy Commissioner
KULLU (H. P.)

**FACTUAL AND ACTION TAKEN REPORT OF THE JOINT COMMITTEE
CONSTITUTED IN COMPLIANCE TO ORDER DATED 07.07.2022 PASSED BY
HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 397 OF 2022 TITLED AS
ANKIT YADUVANSHI V/S STATE OF H.P.**

Background:

In this matter Sh. Ankit Yaduvanshi filed a complaint before Hon'ble NGT alleging illegal dumping of garbage by the Krich Cleaning Company Pvt. Ltd company opposite to his residence in village Mansri, Post Office Haripur, Tehsil Manali, District Kullu, H.P. It was further alleged that the said company has also encroached upon forest land for dumping garbage. That the said company after collecting debris from buildings and waste from hotels dumps the same in open area and forest land. The dumping sight is just below the temple. Dumping of the garbage is, besides emitting foul smell, causing environmental pollution posing serious health hazards to the devotees visiting the temple and also local residents. The above said company is operating illegally without NOC/CTE/CTO from Pollution Control Board and Local Authorities. Challan was filed against the above said company by State Pollution Control Board but the above said company is still continuing its operations in collusion with the concerned officials.

In this matter, Hon'ble National Green Tribunal vide order dated 07.07.2022 passed following directions:

".....3. In view of the grievances made in the application, we are of the view that the factual position needs to be verified and remedial action is required to be taken on the basis thereof in case of violation of environmental norms. We accordingly constitute Joint Committee of State PCB, Executive Officer, Municipal Corporation, Divisional Forest Officer and Deputy Commissioner, Kullu and direct the Joint Committee to meet within four weeks, undertake site visits, look into the grievances of the applicant, verify the factual position and take requisite action by following due process of law. The State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List the matter for further consideration on 15/11/2022...."

In compliance of aforesaid order, the meeting of the Joint Committee was held on dated 02.08.2022 under the Chairmanship of the District Magistrate, Kullu in his chamber and it was decided to conduct the spot inspection of the M/s Krich Cleaning Pvt. Ltd Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, H.P on dated 17.08.2022 at 3:00 PM (Proceedings of the meeting is enclosed as Annexure-1).

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ATTESTED
Executive Magistrate
Kullu

Accordingly, the inspection of the aforesaid unit was conducted on dated 17.08.2022 by the Joint Committee comprising of the District Magistrate, Kullu, Divisional Forest Officer, Kullu, Executive Officer, Municipal Council, Manali and Assistant Environmental Engineer, HPSPCB, Kullu, H.P. In addition to the committee members, Sub-Divisional Officer (Civil), Manali, Block Development Officer, Naggar, Secretary and Pradhan, Gram Panchayat, Soyal, the applicant/petitioner i.e. Sh. Ankit Yaduvanshi and Sh. Chet Ram, Director of M/s Krich Cleaning Pvt. Ltd. Village- Mansari, P.O. Haripur, Tehsil- Manali, Distt- Kullu HP and other local residents were also associated in the joint inspection.

During course of inspection it was observed that the unit is involved in collection of Solid Waste (partially segregated) from nearby Tourism units and residential houses of nearby Gram Panchayats and same is being manually segregated under enclosed shed in different fractions and being compacted using bailing machine. No wet waste was found stored at the facility and no burning and no foul smell was observed by the Committee at site during inspection. The dry waste was observed segregated and stored properly. **(Photographs of the MRF site is enclosed as Annexure-2)**. The aerial distance between the house of the petitioner and the facility is approx 20.21 meter and distance from the temple of the Sage Jamdagni Rishi and the facility is approx 416.73 meter **(Satellite map through google maps is enclosed for ready reference as Annexure-3)**

During the course of inspection, feedback given by the applicant/petitioner, representatives of Krich Cleaning Pvt. Ltd and representatives of various departments are as under:-

Applicant/petitioner:

The petitioner Sh. Ankit Yaduvanshi, resident of Village Mansari, P.O. Haripur, Tehsil Manali, Distt. Kullu, H.P, apprised the committee that, the unit i.e. M/s Krich Cleaning Pvt Ltd is located very close to his house and he is bringing the mix waste at site and same is causing foul odour and unhygienic conditions in the area.

Representatives of Krich Cleaning Pvt Ltd:

The Director of the facility Sh. Chet Ram apprised the committee that their Material Recovery Facility is a small level facility less than 5 TPD and solid waste at site is brought in segregated form (dry and wet) and only dry waste is being stored at site and further sorted manually at the facility and later sent to Recycler/Cements plants. The wet waste is kept separate drums in vehicle and same is being sent directly to Waste Processing Facility of Municipal Council, Manali.

by

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ATTESTED
Executive Magistrate
Kullu

Municipal Council, Manali:

The Executive Officer, Municipal Council Manali apprised that the unit is located outside of the jurisdiction of Municipal Council, Manali and located in Gram Panchayat area and does not require any NOC from MC, Manali.

Forest Department:

The Divisional Forest Officer, Kullu apprised that no encroachment of forest land has been done by the owner of facility and no dumping of waste has been carried out by the unit in adjoining forest land. The demarcation of the site was subsequently conducted by the Revenue Department officials in presence of the officials of the Forest Department. (The demarcation report is enclosed as Annexure-4).

H.P. State Pollution Control Board:

The Assistant Environmental Engineer-cum-Regional Officer, HPSPCB, Kullu apprised that there is no requirement of Consent to Establish/Operate for small MRF site (Material Recovery Facility) however, the facility has to ensure that waste shall be segregated scientifically and there is no violation of environmental laws and maintain hygienic conditions. He also apprised that earlier notices were issued to the unit for violations and was also challaned for littering amounting to Rs. 5000/- under the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995 but now the company has provided fully covered facility and is segregating the solid waste properly.

Gram Panchayat, Soyul:

The Gram Panchayat, Pradhan apprised that the aforesaid carrying out its operational activities without the permission/ authorisation of the Gram Panchayat, Soyul.

Recommendations & Action Taken:-

In view of above, the Joint Committee has observed that there is no specific distance criteria framed for location of MRF (Material Recovery Facility) however the concern of the petitioner is genuine keeping in view the location of the facility near to his house and the problem which he may face if the facility handles the wet/mix waste. On the other hand, collection and processing of the solid waste is also equally important failing which the whole catchment area from where collection is done would get littered with garbage. Considering the factors that no violation has been observed at site during the visit, there is an urgent need of establishing properly managed solid waste management sites at decentralised level so that waste is managed effectively at local level and in order to avoid inconvenience to petitioner

by





ATTESTED

 Executive Magistrate
 Kullu


and unhygienic conditions, the Joint Committee recommended following conditions be ensured for running of aforesaid facility:-


1. The Krich Cleaning Pvt Ltd shall ensure that only segregated dry waste is stored at facility and shall maintain hygienic conditions at site. It must be ensured that wet waste shouldn't be brought at all to this site as vehicle of wet waste standing at this site can also lead to foul smell/nuisance to the petitioner since the house of petitioner is very close to the facility.
2. The unit shall bring the dry segregated waste in fully covered vehicle and the company shall ensure that no littering and burning shall takes place at site.
3. The company shall ensure that no foul smell emits from the site and shall plant aromatic flower/shrubs in the surrounding of plant for odour control.
4. The waste shall be scientifically managed without causing air, water and noise pollution and facility shall not be operated during night hours keeping in view the location of the facility in residential area and especially near to the house of petitioner.
5. The Pradhan/Secretary, Gram Panchayat, Soyol and BDO, Naggar at Patlikuhai, and Regional Officer, HPSPCB, Kullu shall inspect and monitor the facility regularly and ensure that facility shall operate as per aforesaid conditions and in case the company violates the aforesaid conditions or any of the provisions of Solid Waste Management Rules/other Environmental laws the company shall be liable for regulatory/coercive action as per law.

The above recommendations/conditions have accordingly been conveyed by the Regional Officer, HPSPCB, Kullu (Nodal Officer in the matter) vide letter no.2242-46 dated 30-09-2022 to the Krich Cleaning Pvt Ltd, Village-Mansari, P.O- Haripur, Tehsil & Distt-Kullu for strict compliance as per condition no. 1 to 4 and to the Pradhan/Secretary, Soyol and to Block Development Officer, Naggar at Patlikuhai for inspection and monitoring of MRF site regularly as per condition no.5. The State PCB shall also keep vigil in the matter. (Copy of letter is enclosed as Annexure-5).


Sunil Sharma
Regional Officer,
HPSPCB, Kullu


B.R. Negi
Executive Officer,
MC Manali


Angel Chauhan
Divisional Forest
Officer, Kullu


Ashutosh Garg, IAS
District Magistrate,
Kullu, H.P

ATTESTED

Executive Magistrate
Kullu

(11)

Proceedings of the meeting held on dated 02.08.2022 at 04:00PM under the Chairmanship of Sh. Ashutosh Garg, Deputy Commissioner, Kullu in his Chamber, in compliance of the order dated 07.07.2022 of the Hon'ble NGT in O.A. No. 397 of 2022 titled Ankit Yaduvanshi V/s State of H.P.

At the outset, the worthy Deputy Commissioner, Kullu welcomed all the members and stakeholder Departments and directed the AEE-cum-Regional Officer of Himachal Pradesh State Pollution Control Board (HPSPCB) Kullu, to brief the matter to all the members. Following were present during the meeting;

Sr No.	Name of the Officer/Official	Designation and Department
1.	Dr. Surendra Thakur	Sub-Divisional Magistrate, Manali.
2.	Sh. Manoj Kumar	Assistant Conservator of Forests, H.P. Forest Department, Kullu.
3.	Sh. Sunil Sharma	Assistant Environmental Engineer-cum-Regional Officer, HPSPCB R.O. Kullu.
4.	Sh. Love Thakur	Junior Environmental Engineer, HPSPCB R.O. Kullu.

Thereafter, the AEE-cum-Regional Officer, HPSPCB, Kullu has informed that the applicant Sh. Ankit Yaduvanshi has registered the complaint before the Hon'ble NGT regarding illegal dumping of garbage opposite to his residence in Village Mansari, P.O. Haripur, Tehsil Manali, Distt. Kullu (H.P.) by the M/s Krich Cleaning Pvt. Ltd Company and applicant has following complaints as per contents of the orders of the Hon'ble NGT in O.A. No. 397 of 2022 dated 07.07.2022; “

1. The above said company has also encroached upon forest land for dumping garbage.
2. The above said company after collecting debris from buildings and waste from hotels dumps the same in open area and forest land.
3. The dumping sight is just below the temple.
4. Dumping of the garbage is, besides emitting foul smell, causing environmental pollution posing serious health hazards to the devotees visiting the temple and also local residents.
5. The above said company is operating illegally without NOC/CTE/CTO from Pollution Control Board and Local Authorities.
6. Challan was filed against the above said company by State Pollution Control Board but the above said company is still continuing its operations its operations in collusion with the concerned officials.....”

He further apprised that, the Hon'ble NGT has passed following orders in the matter;

..... We accordingly constitute Joint Committee of State PCB, Executive Officer, Municipal Corporation, Divisional Forest Officer and Deputy Commissioner, Kullu and direct the Joint Committee to meet within four weeks, undertake site visits, look into the grievances of the applicant, verify the factual position and take requisite action by following due process of law. The State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/MS Word PDF and not in the form of Image PDF.”

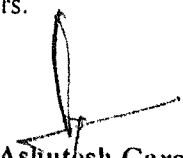
Executive Magistrate
Kullu

In view of above and after due deliberations following directions are issued;

1. The AFE-cum-Regional Officer, HPSPCB, R.O. Kullu shall issue letter to all the members of the Joint Committee and stakeholder Departments for attending Joint Inspection of the aforesaid company at Village Mansari, P.O. Haripur, Tehsil Manali, Distt. Kullu (H.P.) on dated 17.07.2022 at 03:00 PM.
2. All the members of the Joint Committee and other stakeholder Department shall attend the spot inspection personally on aforesaid date and time.
3. The SDM, Manali shall conduct demarcation of forest land through the Tehsildar, Manali before the visit of the Joint Committee.
4. The Block Development Officer, Naggar and the Executive Officer, Municipal Council, Manali were not present during the meeting and also not deputed any official despite of letter issued well in time and shared through e-mail as well as Whatsapp group of District Administration, Kullu. The above officer shall attend the spot inspection personally on aforesaid date, time and venue being an urgent Court matter.

All concerned Officers/Departments shall comply with the aforesaid directions and ensure their presence, being a Hon'ble NGT matter. Any laxity shall be viewed seriously and Officer concerned shall be liable for any adverse order by the Hon'be NGT.

The meeting ended with the vote of thanks to the Chair and members.



(Ashutosh Garg, IAS)
Deputy Commissioner, Kullu
District-Kullu, H.P.


No. PCB RO Kullu (2263) OA No. 3972022/-2022- 1752-57

Dated: 6-08-2022

Copy forwarded to the following for information and compliance:

1. The Sub-Divisional Magistrate, Manali, Distt. Kullu -175131 (H.P.)
2. The Divisional Forest Officer, Kullu -175101 (H.P.)
3. The Block Development Officer, Naggar, Distt. Kullu-175130 (H.P.)
4. The Tehsildar, Manali, Tehsil Manali Distt. Kullu-175131 (H.P.)
5. The Executive Officer, Municipal Council Manali-175131 (H.P.)
6. The Secretary/ Pradhan Gram Panchayat, Soyal PO Haripur Tehsil Manali & Distt. Kullu (H.P.)

ATTESTED

Executive Magistrate
Kullu


(Ashutosh Garg, IAS)
Deputy Commissioner, Kullu
District-Kullu, H.P.

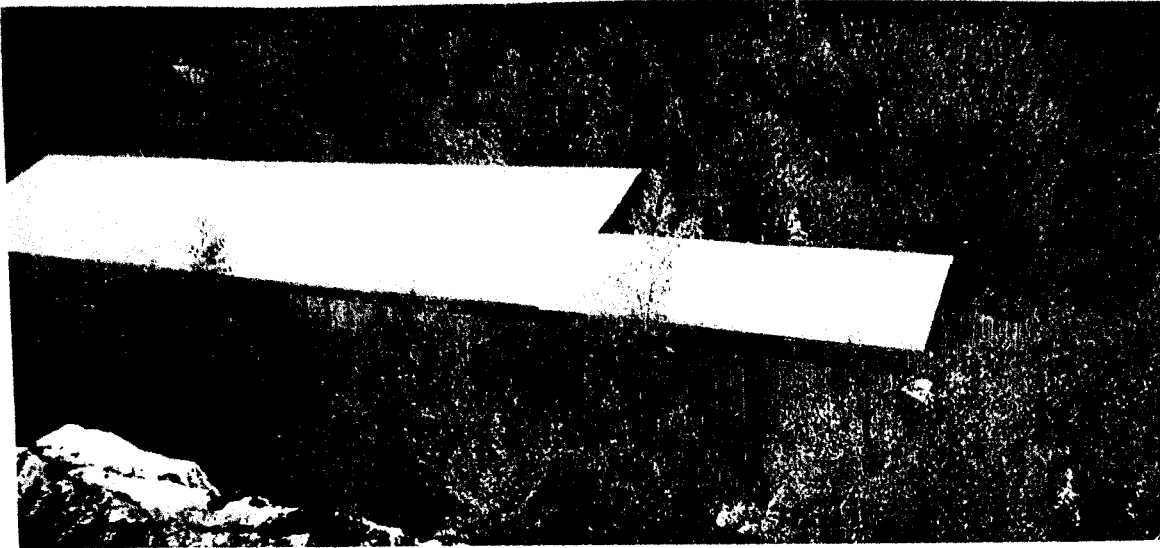


Fig: MRF site of M/s Krich Cleaning Pvt. Ltd. Village Mansari, Distt. Kullu.



Fig: Entrance of MRF site of M/s Krich Cleaning Pvt. Ltd. Village Mansari, Distt. Kullu.



Fig: Properly stacked segregated waste for further disposal.

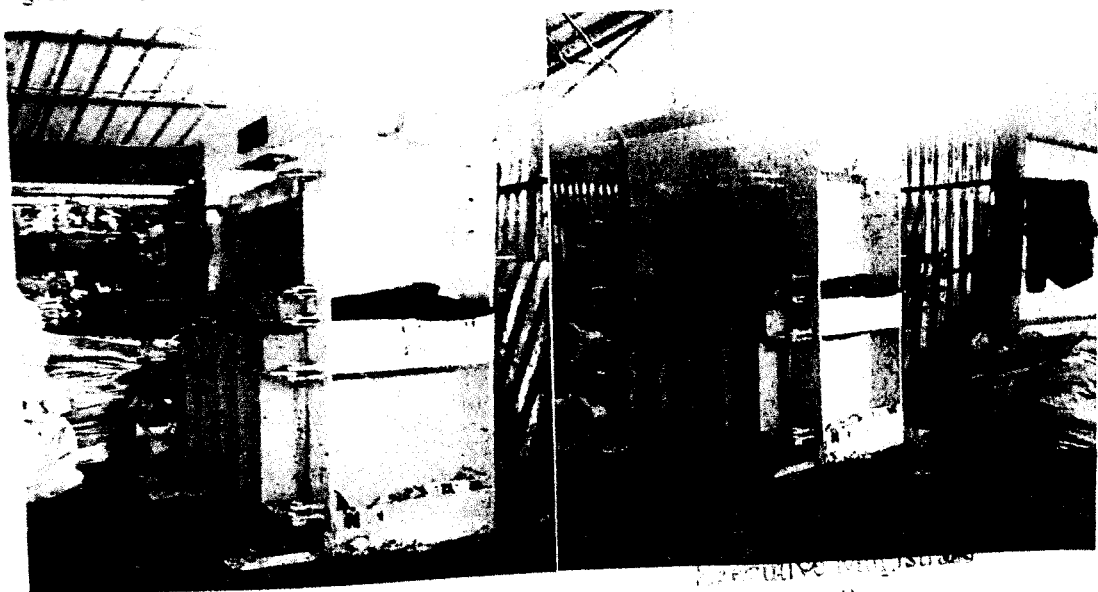
ATTESTED
[Signature]
Executive Magistrate
Kullu



Fig: Side view of the MRF site of M/s Krich Cleaning Pvt. Ltd.



Fig: Joint inspection conducted by the Joint Committee along with petitioner.



REPRESENTATIVE SIGNATURES
Kullu

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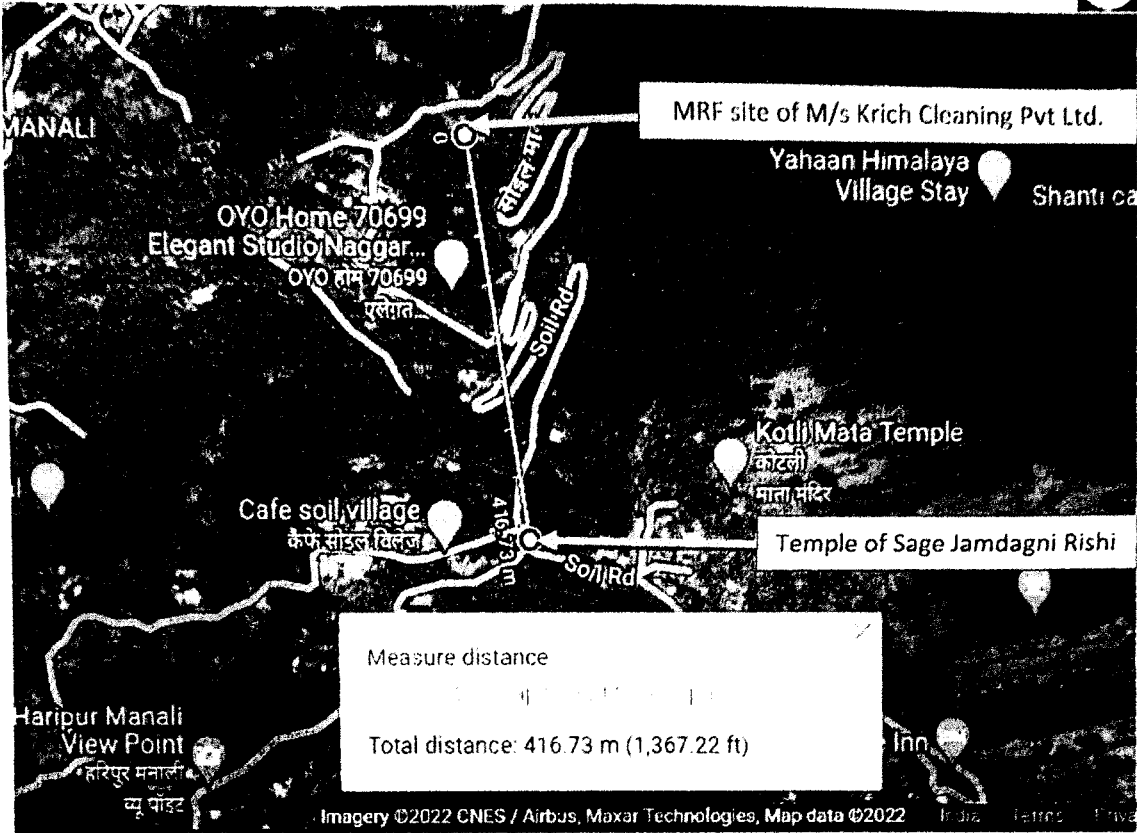


Fig: Satellite view of the distance of MRF site of M/s Krich Cleaning Pvt. Ltd, Mansari from the temple of Sage Jamdagni Rishi.

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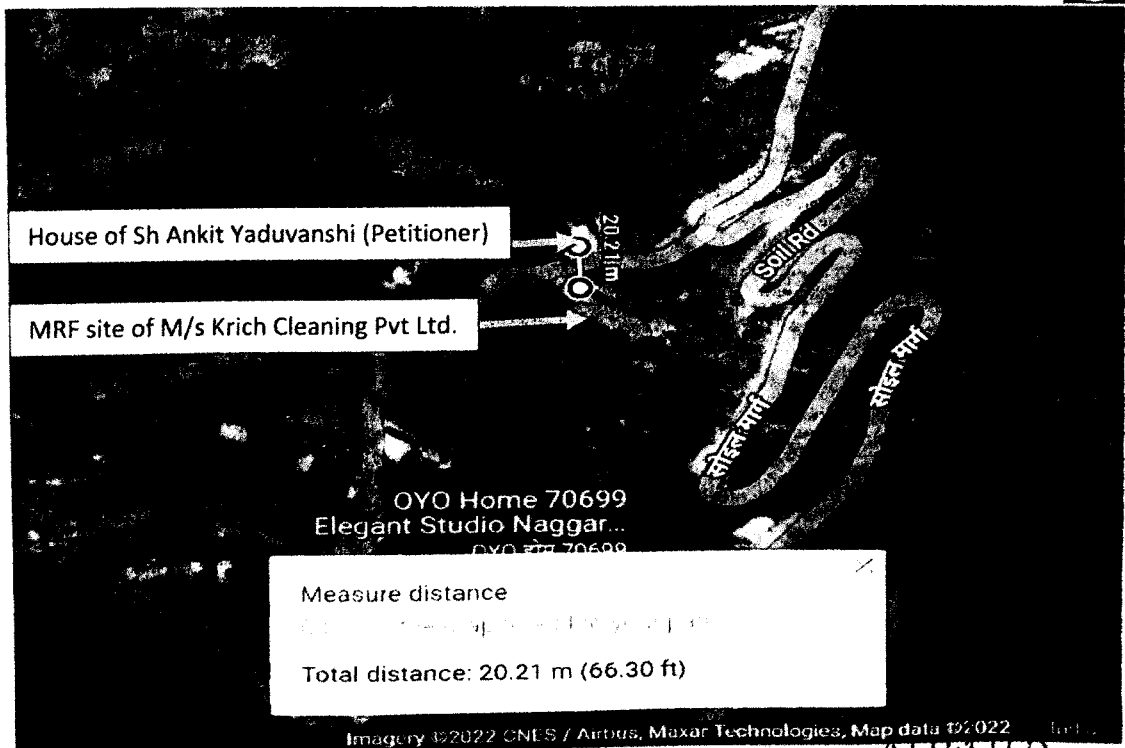


Fig: Satellite view of distance of MRF site from the house of the petitioner.

ATTESTED
Executive Magistrate



H.P. STATE POLLUTION CONTROL BOARD

Regional Office: HIMUDA, Shopping Complex, Hall No-5,

Kullu, Pin-175101 (H.P) Phone: 01902-223149

Website: <http://hppcb.nic.in> e-mail: pcbrokekullu@gmail.com

o. PCB/RO Kullu(2263) OA No. 397 NGT /2022- 2442-46

Dated: 30-09-2022

To

Sh. Chet Ram, Director,
M/s Krich Cleaning Pvt Ltd,
Village Mansari, PO Haripur, Tehsil & Distt. Kullu (H.P.).

Sub: Regarding conditions/ recommendations of the Joint Committee constituted in O.A. No. 397 of 2022 title Ankit Yaduvanshi v/s State of HP.

This is in reference to the Hon'ble NGT order dated 07.07.2022 in O.A. No 397 of 2022 titled Ankit Yaduvanshi V/s State of HP and inspection of your Material Recovery Facility conducted by the Joint Committee on dated 17.08.2022. In this context, as per the observation of the Joint Committee, you are directed to ensure the following conditions to maintain hygienic conditions at your MRF site:

1. The Krich Cleaning Pvt Ltd shall ensure that only segregated dry waste is stored at facility and shall maintain hygienic conditions at site. It must be ensured that wet waste shouldn't be brought at all to this site as vehicle of wet waste standing at this site can also lead to foul smell/nuisance to the petitioner since the house of petitioner is very close to the facility.
2. The unit shall bring the dry segregated waste in fully covered vehicle and the company shall ensure that no littering and burning shall takes place at site.
3. The company shall ensure that no foul smell emits from the site and shall plant aromatic flower/shrubs in the surrounding of plant for odour control.
4. The waste shall be scientifically managed without causing air, water and noise pollution and facility shall not be operated during night hours keeping in view the location of the facility in residential area and especially near to the house of petitioner.

You are hereby directed to ensure strict compliance of the aforesaid conditions in letter and spirit. In case of non-compliance of the aforesaid conditions or any provisions of the Solid Waste Management Rules, 2016/other Environment Laws the company shall be liable for regulatory/coercive action as per law.

o/c

(Er. Sunil Sharma),
Regional Officer, HPSPCB R.O. Kullu.

Copy to:

1. The Member Secretary, HPSPCB Shimla-09 for kind information please.
2. The District Magistrate, Kullu for kind information please.
3. The Block Development Officer, Naggar at Patlikuhai, Tehsil Manali Distt. Kullu HP to inspect and monitor the facility regularly and ensure that facility shall operate as per aforesaid conditions please.
4. The Pradhan/ Secretary, Gram Panchayat, Soyal, Distt. Kullu HP to inspect and monitor the facility regularly and ensure that facility shall operate as per aforesaid conditions please.

ATTESTED

Executive Magistrate
Kullu

o/c

(Er. Sunil Sharma),
Regional Officer, HPSPCB R.O. Kullu.

**Office of the Deputy Commissioner, Kullu
At Kullu HP**

No. PCB/RO Kullu(2263) OA No. 397 NGT /2022- 4386

Dated: 06-12-2022

To

Sh. Chet Ram, Director,
M/s Krich Cleaning Pvt. Ltd.,
Village Mansari, P.O. Haripur, Tehsil & Distt. Kullu (H.P.).

Sub: Order dated 15.11.2022 passed in Original Application No. 397/2022 titled Ankit Yaduvanshi V/s State of H.P.

This has reference of the orders of the Hon'ble NGT dated 15.11.2022 in aforesaid matter. In this context, it is informed that, the Hon'ble National Green Tribunal vide order dated 15.11.2022 passed following directions:

".....we consider it appropriate to have response of (1) State of Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, (2) State PCB, (3) District Magistrate, Kullu, and (4) the Project Proponent- M/s. Krich Cleaning Pvt. Ltd. Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, Himachal Pradesh, who stand impleaded as respondents No. 1 to 4. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 4 requiring them to file their reply/response within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. Notice be served on Project Proponent- M/s. Krich Cleaning Pvt. Ltd. through the District Magistrate, Kullu and for this purpose notice issued to the Project Proponent be sent to the District Magistrate, Kullu by E-mail for getting service of the same effected on it and sending his report in this regard....." (Copy of the order dated 15.11.2022 is enclosed).

In view of above, you are hereby served upon the Notice dated 25.11.2022 as issued by the Hon'ble NGT to file your reply/ response within the two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF for requisite compliance as sought by the Hon'ble NGT in a time bound manner (copy of the Notice is enclosed).

Received

07/12/2022

(Signature)

ATTESTED

Executive Magistrate
Kullu

(Signature)
(Ashutosh Garg, IAS)
District Magistrate, Kullu

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"BY EMAIL & SPEEDPOST A.D."
BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI
ORIGINAL APPLICATION NO. 397 OF 2022
Ankit Yaduvanshi Vs State of Himachal Pradesh & Ors.

- To
1. State of Himachal Pradesh,
Through: Chief Secretary,
Government of Himachal Pradesh,
Multi Purpose Projects and Power,
Non Conventional Energy Sources,
Chairman Himachal Pradesh
State Electricity Board Limited
Email Address: eshp@nic.in (RESPONDENT NO.1)
 2. Himachal Pradesh State Pollution Control Board
Him Park, Phase 2, New Shimla
Shimla, Himachal Pradesh 171009,
Email Address: pebpsa@gmail.com (RESPONDENT NO.2)
 3. District Magistrate, Kullu
DC Office Rd, Dhaipur, Kullu, Himachal Pradesh 175101
Email Address: de-kat-hp@nic.in (RESPONDENT NO.3)
 4. M/s. Krieh Cleaning Pvt. Ltd.
(Project Proponent)
Village Mansari, P.O. Haripur,
Tehsil Manali, District Kullu, Himachal Pradesh (RESPONDENT NO.4)

NOTICE

Whereas the above titled Application was listed before the Hon'ble Tribunal on 15.11.2022 (copy of order, petition and report are enclosed), when the Tribunal inter-alia passed the following order (reproduced relevant extracts only):-

"4. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, (2) State PCB, (3) District Magistrate, Kullu, and (4) the Project Proponent- M/s. Krieh Cleaning Pvt. Ltd, Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, Himachal Pradesh, who stand impleaded as respondents No. 1 to 4. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 4 requiring them to file their reply/response within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. Notice be served on Project Proponent- M/s. Krieh Cleaning Pvt. Ltd. through the District Magistrate, Kullu and for this purpose notice issued to the Project Proponent be sent to the District Magistrate, Kullu by E-mail for getting service of the same effected on it and sending his report in this regard.

6. List the matter for further consideration on 13.03.2023."

2. Now, take further notice that the above matter will be listed for further consideration before the Hon'ble Tribunal on 13th March, 2023, at Faridkot House, Copernicus Marg, New Delhi-110001 through physical hearing (with hybrid option), when you may appear before the Hon'ble Tribunal either in person or by a pleader duly instructed, and file responses replies, as per directions of the Hon'ble Tribunal vide Order dated 15.11.2022.

3. Take further notice that in default of your appearance on the date above mentioned, the said Application will be heard and determined in your absence.

4. Given under my hand and the seal of this Tribunal, on this 25th November, 2022.

Note: For Orders, Cause Lists & other information, please visit our website www.ngttribunal.gov.in

Consultant (Judicial), NGT

Received

07/12/2022
[Signature]

ATTESTED

[Signature]
Executive Magistrate
Kullu

Item No.2

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 397/2022

Ankit Yaduvanshi

Applicant

Versus

State of H.P.

Respondent

Date of hearing: 15.11.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Application is registered based on a complaint received by E-mail.

ORDER

1. The grievance of the applicant in the present application is regarding illegal dumping of garbage opposite to his residence in village Mansri, Post Office Haripur, Tehsil Manali, District Kullu (H.P.) by the Krich Cleaning Company Pvt. Ltd Company. The applicant has complained that the above said company has also encroached upon forest land for dumping garbage. The above said company after collecting debris from buildings and waste from hotels dumps the same in open area and forest land. The dumping sight is just below the temple. Dumping of the garbage is, besides emitting foul smell, causing environmental pollution posing serious health hazards to the devotees visiting the temple and also local residents. The above said

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Executive Magistrate
Kullu

company is operating illegally without NOC/CTE/CTO from Pollution Control Board and Local Authorities. Challan was filed against the above said company by State Pollution Control Board but the above said company is still continuing its operations in collusion with the concerned officials.

2. Vide order dated 07.07.2022, this Tribunal constituted a Joint Committee comprising of the State PCB, Executive Officer, Municipal Corporation, Divisional Forest Officer and Deputy Commissioner, Kullu and directed the same to submit factual and action taken report within three months.

3. In compliance thereof, the report of the Joint Committee has been filed by Member Secretary, Shimla vide letter dated 14.10.2022 through email dated 14.10.2022. The relevant part of the report is reproduced as under:-

"FACTUAL AND ACTION TAKEN REPORT OF THE JOINT COMMITTEE CONSTITUTED IN COMPLIANCE TO ORDER DATED 07.07.2022 PASSED BY HON'BLE NATIONAL GREEN TRIBUNAL IN OA NO. 397 OF 2022 TITLED AS ANKIT YADUVANSHI V/S STATE OF H.P.

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In compliance of aforesaid order, the meeting of the Joint Committee was held on dated 02.08.2022 under the Chairmanship of the District Magistrate, Kullu in his chamber and it was decided to conduct the spot inspection of the M/s Krich Cleaning Pvt. Ltd Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, H.P on dated 17.08.2022 at 3:00 PM (Proceedings of the meeting is enclosed as Annexure-1).

Accordingly, the inspection of the aforesaid unit was conducted on dated 17.08.2022 by the Joint Committee comprising of the District Magistrate, Kullu, Divisional Forest Officer, Kullu, Executive Officer, Municipal Council, Manali and Assistant Environmental Engineer, HPSPCB, Kullu, H.P. In addition to the committee members, Sub-Divisional Officer (Civil), Manali, Block Development Officer, Naggar, Secretary and Pradhan, Gram Panchayat, Soyal, the applicant/petitioner i.e. Sh. Ankit Yaduvanshi and Sh. Chet Ram, Director of M/s Krich Cleaning Pvt. Ltd. Village- Mansari, P.O. Haripur, Tehsil- Manali, Distt- Kullu HP and other local residents were also associated in the joint inspection.

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Executive Magistrate
Kullu

During course of inspection it was observed that the unit is involved in

collection of Solid Waste (partially segregated) from nearby Tourism units and residential houses of nearby Gram Panchayats and same is being manually segregated under enclosed shed in different fractions and being compacted using bailing machine. No wet waste was found stored at the facility and no burning and no foul smell was observed by the Committee at site during inspection. The dry waste was observed segregated and stored properly. **(Photographs of the MRF site is enclosed as Annexure-2)**. The aerial distance between the house of the petitioner and the facility is approx 20.21 meter and distance from the temple of the Sage Jamdagni Rishi and the facility is approx 416.73 meter **(Satellite map through google maps is enclosed for ready reference as Annexure-3)**.

During the course of inspection, feedback given by the applicant/petitioner, representatives of Krich Cleaning Pvt. Ltd and representatives of various departments are as under:-

Applicant/petitioner:

The petitioner Sh. Ankit Yaduvanshi, resident of Village Mansari, P.O. Haripur, Tehsil Manali, Distt. Kullu, H.P, apprised the committee that, the unit i.e. M/s Krich Cleaning Pvt Ltd is located very close to his house and he is bringing the mix waste at site and same is causing foul odour and unhygienic conditions in the area.

Representatives of Krich Cleaning Pvt Ltd:

The Director of the facility Sh. Chet Ram apprised the committee that their Material Recovery Facility is a small level facility less than 5 TPD and solid waste at site is brought in segregated form (dry and wet) and only dry waste is being stored at site and further sorted manually at the facility and later sent to Recycler/Cements plants. The wet waste is kept separate drums in vehicle and same is being sent directly to Waste Process j. Facility of Municipal Council, Manali.

Municipal Council, Manali:

The Executive Officer, Municipal Council Manali apprised that the unit is located outside of the jurisdiction of Municipal Council, Manali and located in Gram Panchayat area and does not require any NOC from MC, Manali.

Forest Department:

The Divisional Forest Officer, Kullu apprised that no encroachment of forest land has been done by the owner of facility and no dumping of waste has been carried out by the unit in adjoining forest land. The demarcation of the site was subsequently conducted by the Revenue Department officials in presence of the officials of the Forest Department. **(The demarcation report is enclosed as Annexure-4)**.


Executive Magistrate
Kullu

H.P. State Pollution Control Board:

The Assistant Environmental Engineer-cum-Regional Officer, HPSPCB, Kullu apprised that there is no requirement of Consent to Establish/Operate for small MRF site (Material Recovery Facility) however, the facility has to ensure that waste shall be segregated scientifically and there is no violation of environmental laws and maintain hygienic conditions. He also apprised that earlier notices were issued to the unit for violations and was also challaned for littering amounting to Rs. 5000/- under the Himachal Pradesh NonBiodegradable Garbage (Control) Act, 1995 but now the company has provided fully covered facility and is segregating the solid waste properly.

Gram Panchayat, Soyal:

The Gram Panchayat, Pradhan apprised that the aforesaid carrying out its operational activities without the permission/ authorisation of the Gram Panchayat, Soyal.

Recommendations & Action Taken:-

In view of above, the Joint Committee has observed that there is no specific distance criteria framed for location of MRF (Material Recovery Facility) however the concern of the petitioner is genuine keeping in view the location of the facility near to his house and the problem which he may face if the facility handles the wet/mix waste. On the other hand, collection and processing of the solid waste is also equally important failing which the whole catchment area from where collection is done would get littered with garbage. Considering the factors that no violation has been observed at site during the visit, there is an urgent need of establishing properly managed solid waste management sites at decentralised level so that waste is managed effectively at local level and in order to avoid inconvenience to petitioner and unhygienic conditions, the Joint Committee recommended following conditions be ensured for running of aforesaid facility:-

- 1 The Krich Cleaning Pvt Ltd shall ensure that only segregated dry waste is stored at facility and shall maintain hygienic conditions at site. It must be ensured that wet waste shouldn't be brought at all to this site as vehicle of wet waste standing at this site can also lead to foul smell/nuisance to the petitioner since the house of petitioner is very close to the facility.
2. The unit shall bring the dry segregated waste in fully covered vehicle and the company shall ensure that no littering and burning shall takes place at site.
3. The company shall ensure that no foul smell emits from the site and shall plant aromatic flower/shrubs in the surrounding of plant for

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Executive Magistrate
Kullu

odour control.

4. *The waste shall be scientifically managed without causing air, water and noise pollution and facility shall not be operated during night hours keeping in view the location of the facility in residential area and especially near to the house of petitioner.*

5. *The Pradhan/Secretary, Gram Panchayat, Soyol and BDO, Naggar at Patlikuhal, and Regional Officer, HPSPCB, Kullu shall inspect and monitor the facility regularly and ensure that facility shall operate as per aforesaid conditions and in case the company violates the aforesaid conditions or any of the provisions of Solid Waste Management Rules/other Environmental laws the company shall be liable for regulatory/coercive action as per law.*

The above recommendations/conditions have accordingly been conveyed by the Regional Officer, HPSPCB, Kullu (Nodal Officer in the matter) vide letter no.2242-46 dated 30-09-2022 to the Krich Cleaning Pvt Ltd, Village-Mansari, P.O- Haripur, Tehsil & Distt-Kullu for strict compliance as per condition no. 1 to 4 and to the Pradhan/Secretary, Soyol and to Block Development Officer, Naggar at Patlikuhal for inspection and monitoring of MRF site regularly as per condition no.5. The State PCB shall also keep vigil in the matter. (Copy of letter is enclosed as Annexure-5)."

4. In view of the averments in the application and observations in the report of the Joint Committee, we consider it appropriate to have response of (1) State of Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, (2) State PCB, (3) District Magistrate, Kullu, and (4) the Project Proponent- M/s. Krich Cleaning Pvt. Ltd. Village Mansari, P.O. Haripur, Tehsil Manali, District Kullu, Himachal Pradesh, who stand impleaded as respondents No. 1 to 4. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 4 requiring them to file their reply/response within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. Notice be served on Project Proponent- M/s. Krich Cleaning Pvt. Ltd. through the District Magistrate, Kullu and for this purpose notice issued to the Project Proponent be sent to the District Magistrate, Kullu by E-mail for

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Executive Magistrate
Kullu

O.A No. 397/2022

Ankit Yaduvanshi Vs. State of H.P

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getting service of the same effected on it and sending his report in this regard.

6. List the matter for further consideration on 13.03.2023.
7. A copy of this order be sent to the District Magistrate, Kullu by E-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November, 15 2022

ATTESTED

Executive Magistrate
Kullu

To

Hon'ble Mr. Justice Adarsh Kumar Goel
Chairperson, National Green Tribunal, Delhi

Subject: Application regarding calling attention respect of dumping of garbage illegally adjacent to residential area by Krich Cleaning Private Limited Company, Village Mansari, Post Office Haripur, Tehsil Manali, District Kullu Himachal Pradesh

Respected Sir


I would like to draw your attention to a very long standing issue regarding illegal disposal of garbage opposite to my residence of Village Mansari, Post Office Haripur, Tehsil Manali, District Kullu, Himachal Pradesh by the Krich Cleaning Private Limited Company. The abovesaid Company collects the garbage right from Manali to Nagar and dumps the same in the abovesaid area around which there is residences of the villagers which is causing nuisance to residents. Also debris from buildings and waste from hotels are dumped in the open area. Throwing garbage by the abovesaid Company in the open area will not only dirt the surroundings and pollute the environment making it very unhygienic but also causes bad odours and encourages the infestation of cockroaches, flies and other insects. The abovesaid Company dumped collected a heaped garbage there in the open area adjacent to residences so that there has been a fear of causing serious illness. Just above the dumping site there is a temple of Sage Jamdagni where hundreds of deities visit every year and thousands of devotees come to the temple to seek the blessings of Sage Jamdagni where people are fed Bhandara in the courtyard of temple.

That the Mr. Han Lal S O Sh. Dharam Chand has been given his land on lease to Mr. and Mrs. Chet Ram for the abovesaid Company which is operating illegally. And also these are outsiders and they don't have any NOC from the local bodies like Gram Panchayat Soyol, B.D.O. and Pollution Control Board.

That the Challan has been issued from Pollution Control Board for abovesaid Company. But they are still working and constructing at the land. Abovesaid Company also using a Forest land as a dumping site without any permission.

Due to the dumping site being just below the temple the religious works of temple are being hampered. There is so much foul smell from the dumping site that the fear of disease has arisen in the devotees gathered in the temple. On the one hand the Government has launched a Clean India Campaign on the other hand these people are spreading filth by disregarding the rules. Villagers went to the Company executives several times and requested them not to throw garbage at the said place but they did not listen and refused to do the same. Knowing that throwing garbage adjacent to the residences is an offence by law yet the abovesaid Company is repeatedly throwing garbage at the abovesaid area by ignoring the rules.

ATTESTED


Executive Magistrate
Kullu

Therefore an FIR is required to be registered against the concerned persons of the abovesaid company with the Police Station. We had also made several requests to the higher authorities in this regard but they have turned a deaf ear to all requests. We therefore through this representation request that the matter is of grave concern which needs to be looked into and necessary steps may kindly be taken in this behalf against the executives of abovesaid Company and they be stopped from throwing garbage in the said area and an FIR be registered against executives of the abovesaid Company.

Applicant

Ankit Yaduvanshi

Village Mansari, Manali, Dist. Kullu

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Executive Magistrate
Kullu

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ATTESTED

Executive Magistrate
Kullu