

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 514 OF 2018

IN THE MATTER OF:

Vivek Kamboj & Anr

.....Applicant(s)

Versus

Union of India & Ors

.....Respondents(s)

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FILED BY:

**Commissioner,
Municipal Corporation, Gurugram
C-1, Info Technology Park,
Sector 34, Gurugram
cmc@mcg.gov.in**

Commissioners of Municipal Corporation Gurugram & Municipal Corporation Faridabad alongwith other related officers of both Corporations and representatives of Concessionaire i.e., M/s Ecogreen Gurgaon Faridabad Private Limited.

3. That a scheduled action plan was prepared in above said meeting for installing 12 trommel machines by clearing required land in stages in coordination with Concessionaire for treating legacy waste in shortest possible time. The action plan is depicted as under:-

Sr. No	Trommel Machine Installation Date	Working Period upto	Qty. of processed waste per day per Trommel Machine (Tons)	Working Days	1st Year Total Treated Waste (Tons)	Waste treated in double shifts (Tons)
1.	17.11.2019	16.11.2020	300	365	109500	219000
2.	17.12.2019	16.11.2020	300	335	100500	201000
3.	16.01.2020	16.11.2020	300	305	91500	183000
4.	15.02.2020	16.11.2020	300	275	82500	165000
5.	17.03.2020	16.11.2020	300	245	73500	147000
6.	16.04.2020	16.11.2020	300	215	64500	129000
7.	16.05.2020	16.11.2020	300	185	55500	111000
8.	16.06.2020	16.11.2020	300	155	46500	93000
9.	16.07.2020	16.11.2020	300	125	37500	75000
10.	15.08.2020	16.11.2020	300	95	28500	57000

11.	15.09.2020	16.11.2020	300	65	19500	39000
12.	16.10.2020	16.11.2020	300	35	10500	21000
1st Year Total Treated Waste by the 12 Trommel Machines					720000	1440000
2nd Year Total Treated Waste 109500 X 12 Trommel Machines (in Tons)					1314000	2628000
Grand Total (in Tons)						4068000
70% of Grand Total (in Tons)						2847600

Estimated legacy waste as per assessment done by Concessionaire and response filed on dated 18.02.2019 before this Hon'ble Tribunal is approx. 27.5 Lakh Tons. Thus considering the quantity of legacy waste submitted by Concessionaire, deployment of twelve (12) Trommels by working in double shift, it will take two (2) years time period to treat legacy waste.

The deployment of 12 Trommel Machines requires around 2.5 acre of land to operate but presently at the site no space is available. Thus above schedule is planned in phased manner so that waste is treated and parallel space will be reclaimed for deployment of next trommel. Since the Concessionaire has deviated from agreed schedule, thus MCG has issued work order to third party agency for deployment of trommel at site at the risk and

cost of Concessionaire. The copy of work order dated 20.01.2020 is attached as **Annexure R - 2.**

4. Methodology for Processing:-

4.1 For processing of legacy waste

The treatment & disposal of Legacy MSW is being done by Bio-remediation and Bio-mining. The first step is to excavate legacy waste, loosen it and make windrows so that the leachate can be dried up through solar exposure and all the entrapped methane is removed from the heap. For excavation, Concessionaire has started processing at two different locations.

Till date 20,000 metric tonne of legacy waste has been scientifically treated through bio remediation and around 35-45% of volume reduction is achieved. Further around 16,000 metric tonne waste is ready for Bio-mining and out of which 1596 metric tons have been processed through trommel.

The process adopted is as per CPCB Guidelines 2019 and SWM Rules 2016. By adopting this process, problem of pathogen, flies, odour and birds are being controlled.



4.2 For processing of fresh waste

Waste of approx 350-400 Tonne is sent to windrows on daily basis for stabilization and drying. Bio-culture solution is sprayed for enhancing the decomposition. After 4-5 weeks and turning of waste at regular intervals, stabilized waste is sent to screening through trommel. Stabilization reduces 40 - 45 % moisture and gases.

Till date 19,000 metric tonne of fresh waste has been scientifically treated through bio remediation and 40-45 % of volume reduction is achieved. Further around 5,000 metric tonne of fresh waste has been screened through trommel into segregated fractions of Refuse - derived fuel (RDF), Inert and compostable material.

For the purpose of screening of fresh and legacy waste two nos. of trommels of capacity 300 Tonne per day each, have been installed and operational at site.

5. That Bandhwari Landfill site lies in between Gurugram and Faridabad and is of size of approximately 30 acres, every part of which has been utilized which includes eight (8) leachate collection tanks of 40,000 KL capacity, which further led to space constraints. A leachate treatment

plant of capacity 150 KLD is already in operation for treatment of collected leachate. Additionally to speed up the process of treatment and vacating space covered by the leachate collection ponds/tanks, Concessionaire has installed one Disc Tube Reverse Osmosis (DTRO) of capacity 200 KLD and another DTRO of same capacity will be installed by the end of February, 2020. After installation and operation of both DTRO machines, all leachate ponds will be cleared in 3-4 months which will reclaim approximately 6-7 acres of land.

The earmarked map of plant site with current amenities is attached as **Annexure R/3**.

6. That as stated in interim report dated 20.09.2019 for allotment of 30 Acres land at Village Pali, Faridabad to Concessionaire for storage of segregated fractions, it is submitted in this context that land at Pali under the ownership of Municipal Corporation Faridabad was found to be protected forest land, under Section 4 & 5 of the Punjab Land Preservation Act, 1900.

Similarly, as stated in Compliance Affidavit dated 13.11.2019 for transportation of fresh waste generated from the area of Municipal Corporation Gurugram to Farukhnagar, which also couldn't be initiated due to grant of stay/restraining to dump garbage vide order dated



21.12.2019 in CS No. 647/2019 titled as Rishipal Vs M.C Farrukhnagar by Ld. Civil Judge, Pataudi, Gurugram. The case is listed for hearing on 29.01.2020 before the Ld. Court. The Copy of order dated 21.12.2019 is attached herewith as **Annexure - R/4.**

7. That processed segregated fractions at present are being stored inside plant site by Concessionaire in available space. Concessionaire has requested to allot land around Bandhwari landfill site for storage of Refused Derived Fuel (RDF) & Compost etc., issue of same has been discussed in a meeting held on 14.12.2019 under the Chairpersonship of Principal Secretary to Government of Haryana, Urban Local Bodies Department wherein it has been asked to both Corporations i.e; MCG & MCF to allot 5-8 acres land to Concessionaire on lease basis for storage of Refused Derived Fuel (RDF) & Compost etc. However, due to non-availability/non-existence of land with Municipal Corporation, Gurugram and applicability of Ministry of Environment and Forests - Aravali Notification, 1992 around Bandhwari landfill site, no such land has been earmarked at present. Alternatively Municipal Corporation, Gurugram is approaching other authorities like Gurugram Metropolitan Development Authority (GMDA) and Haryana Shahari Vikas Pradhikaran (HSVP)

to make additional land available to Concessionaire in and around Gurugram.

In view of above, it is submitted that Municipal Corporation, Gurugram is taking sincere efforts for treatment of legacy waste as per direction of this Hon'ble Tribunal. It is further undertaken to comply with the directions passed by this Hon'ble Tribunal.

It is humbly submitted that delay of one day in filing the present report is regretted. It is humbly prayed that delay of one day may kindly be condoned.

The action plan along with progress report as on 15.01.2020 is submitted for kind perusal and consideration of this Hon'ble Tribunal.

Place: Gurugram
Date: 21.01.2020


(Vinay Pratap Singh, IAS)
Commissioner,
Municipal Corporation,
Gurugram.

Item No. 13

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 514/2018
(Earlier O.A. No. 415/2015)
(I.A No. 689/2019)

(With Report dated 13.11.2019)

Vivek Kamboj & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 19.11.2019

CORAM: **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): Mr. Rahul Choudhary, Advocate

For Respondent(s): Mr. Rajkumar, Advocate for CPCB
Mr. Sameer Singh, Advocate
Mr. Anil Grover, AAG with Mr. Rahul Khurna,
Advocate
Mr. Amit Khatri, Commissioner, MCG
Ms. Sonal Goyal, Commissioner, MCF

ORDER

1. This order may be read in continuation of order dated 10.07.2019. The issue for consideration is the remedial action for dealing with the legacy waste at Gurugram which includes waste of Faridabad. The matter has been pending before this Tribunal for the last four years. This Tribunal has repeatedly recorded findings of incapacity and incompetence of the concerned authorities in dealing with the matter for scientific disposal of waste so as to ensure compliance of the statutory procedure under the Solid Waste Management Rules, 2016

and also inability of the contractor hired in producing the results. The dumped waste has resulted in leachate being discharged into the water bodies, contaminating the ground water and polluting the surface water, apart from causing air pollution and hazard to public health.

2. We may briefly note the factual background and proceedings which have taken place so far. The application was originally filed on 16.09.2015 with the grievance of unscientific disposal of solid waste causing leachate, contamination of ground water and pollution of surface water. The Tribunal directed necessary steps to be taken and report to be furnished by the CPCB. The matter was then considered on 18.01.2018 in light of the report of the CPCB. It was noted that the Municipal Corporation of Gurugram (MCG), Municipal Corporation of Faridabad (MCF) and the Urban Local Bodies, Haryana had entered into an agreement with M/S Ecogreen Energy Gurugram Faridabad Pvt. Ltd. (hereinafter referred to as Concessionaire) on 14.08.2017 to establish an Integrated Solid Waste Management Plant to cater for collection, transportation, processing and disposal of waste generated from Gurugram-Faridabad Cluster, comprising Municipal limits of Gurugram and Faridabad for a period of 20 years. In September 2017, the MCG handed over Bandhwari landfill site to the Concessionaire and the latter was responsible for establishment of Waste-to-Energy Plant at the landfill site and for management and treatment of the legacy waste at landfill site. The construction for the Waste-to-Energy plant is said to have begun in April 2018 in accordance with the SWM Rules and NGT orders to eliminate unscientific open dumping and burning of wastes at the landfill site. The Concessionaire pleaded

that the Bandhwari dumpsite was already 20-25 meters above the ground level, and the land allotted to them was already 60% covered in legacy wastes.

3. After considering the report of the CPCB, vide order dated 10.07.2018 the application was disposed of with the following directions:

- (i) Concessionaire will start working on management of legacy waste as per the suggestions made by CPCB;
- (ii) Concessionaire will implement segregation of municipal solid wastes as per the rules;
- (iii) Concessionaire will address the issue reports in Hindustan Times, dated 29.06.2018; and
- (iv) State of Haryana will also be responsible for the above as the Concessionaire is merely an agency.

4. The compliance report, furnished in pursuance of above, was considered on 21.08.2018 and since the same was found to be unsatisfactory, a further inspection was directed to be conducted. Accordingly a report dated 04.10.2018 was submitted showing unsatisfactory state of affairs which was noticed in the order dated 01.03.2019 and 05.03.109 when the Tribunal *inter alia* directed formation of a joint committee of CPCB, IIT Delhi and NEERI to determine the monetary cost of damage caused to the environment. Again on 14.03.2019, directions were issued as follows:

“An action plan has been filed which proposes setting up of segregation unit for the incoming waste and inviting experts for scientific treatment of legacy waste and leachate. Since most of the remedial actions mentioned in action plan are proposed to be undertaken in future, in the light of serious past failures, it will be appropriate that the Municipal Corporation, Gurgaon is required to furnish performance guarantee in the sum of Rs. 25 lakhs to the satisfaction of CPCB within one month undertaking to comply with the steps mentioned in the action plan, within the timelines proposed. We order accordingly. It is made clear that the amount of Rs. 25

lakhs will stand forfeited in the case of default and may be recovered from the erring officers of the Corporation.”

5. The matter was thereafter reviewed on 10.07.2019 as follows:

“

9. *Though the Expert Committee constituted vide order dated 05.03.2019 required assessment of damage to the environment in monetary terms and the cost of restoration, the report did not deal with this aspect. We are informed that the said assessment is yet to be done which work stand assigned to the National Environmental Engineering Research Institute (NEERI) by the Central Pollution Control Board (CPCB). Let the same be expedited and report furnished to this Tribunal before the next date.*

10. *The joint interim report dated 25.05.2019, filed in pursuance of order dated 23.04.2019, submitted by Commissioner, MCF and Additional Municipal Commissioner, MCG is to the effect that the Director General, Urban Local Bodies Department, Haryana visited the landfill site at Bandhwari on 04.05.2019 and evaluated the steps taken by the Concessionaire on the site. Thereafter issues were discussed in meetings with the Commissioner, MCG and Additional Municipal Commissioner, MCF. Chief Secretary reviewed the progress through video conferencing while Commissioner, MCG visited the site on multiple occasions. The following are the salient featured appearing from the interim report dated 25.05.2019 and the supplementary report dated 07.07.2019:*
 - (i) *Three leachate storage tanks were functional at the time of filing the interim report dated 24.05.2019 and now all five leachate storage tanks are functional and leachate is being pumped out in those tanks.*
 - (ii) *Leachate treatment plant with the capacity 150 KLD has been installed but to attain the required parameters, additional DAF unit of 50 KLD fixed at the outlet of existing LTP on pilot basis. Current leachate of 13000 KL in the collection tanks is expected to be treated by 31.07.2020*
 - (iii) *Treatment of Legacy waste and fresh waste at the site: Installation of conveyor belt is in process and the Ballistic separator of capacity 500 TPD is going to be functional very shortly.*
 - (iv) *Waste accumulated at the landfill site has been reshaped and is being with HDPE lining so that rain water does not perforate within MSW to the excessive leachate. The covering of the waste by Concessionaire is likely to be completed by 15.07.2019.*

11. **Since unfortunately, the unsatisfactory state of affairs in dealing with the legacy waste is continuing not only at Gurugram and Faridabad but also at several places in the country which is one of the causes of large number of deaths and diseases, damage to the flora & fauna and the**

environment. Pending prosecution of the polluters or the erring officers for their inaction or collusion and recovery of damages on 'Polluter Pays' principle, emergent measures are required to deal with the problem to prevent further damage.

12. *In the last week, on 05.07.2019, dealing with an identical problem from the State of Haryana (at Gohana, District Sonipat), the Tribunal observed¹:*

“ 3. The timeline proposed is in conflict with the statutory timelines under the SWM Rules, 2016. Such leisurely timeline is not only in conflict with the Rules but also at the cost of the environment. If such longer timeline is permitted unconditionally, the result will be that damage to the environment will continue. The timeline is also in violation of order of this Tribunal in O.A. No. 606/2018 passed in the presence of the Chief Secretary, Haryana on 06.03.2019, requiring that the entire State be made fully compliant with the Rules in maximum period of one year.

4. Accordingly, we direct the Chief Secretary, Haryana to take remedial steps so that timeline of December 2021 for waste to energy plant is appropriately preponed. The Chief Secretary may indicate progress in this regard in the next report to be furnished to this Tribunal in O.A. No. 606/2018.”

13. *Consistent with the above direction, the present matter may also be dealt with by the Chief Secretary of Haryana accordingly. In the said monitoring, the issues inter alia to be considered may include steps to prevent burning of wastes particularly in the new sectors where collection of waste facility is not adequate, testing of samples of underground water to explore contamination and remedial steps required.*

14. *However, in view of continued damage to the environment and public health and long delay which has taken place in scientifically handling the legacy waste in question, we consider it necessary to give further direction in light of development which have come to light while dealing with other similar cases. There are reports that legacy waste has been successfully handled at Indore which fact was noticed in a recent order of the Tribunal dated 02.07.2019²:*

“In this regard, we have been informed during the hearing by Dr. A. B Akolkar, former Member Secretary, CPCB how the situation at Indore was

¹ O.A 1011/2018

² O.A 113/2019

tackled. He has informed that 15 lakh MT old waste was dumped at Devguradiya in 100 acre area during 2016-17, (First Phase) 50,000 cum old waste was bio-mined and green belt developed in bio-mined area. Subsequently, in the second phase, 5,50,000 cum waste during 2017 was bio-mined. In the third phase, 9,00,000 cum of work was bio-mined in 2018 by employing more machinery. The machinery used for operations include; Trommels, Horizontal screens, excavators, back hoe loaders and dumpers. The recyclables recovered from the biomining process was sent for recycling, recyclable polythene was sent to cement plants and also for road making. The soil recovered was used for refilling the ground on the same site where greenery is developed. The recovered construction and demolition waste was recovered and sent to C&D processing facility to produce building materials. The leftover of the legacy waste was sent to secured landfill. Valuable land (80%) has been recovered by bio-remediation process of legacy waste.”

15. In view of the above, the Tribunal directed that legacy waste issue of Pirana landfill site in Ahmadabad city in Gujarat be dealt with on the Indore pattern.
16. We are of the view that present situation has also to be dealt with on the said pattern.
17. **Accordingly, we direct the State of Haryana to transfer a sum of Rs. 20 Crores to an ESCROW account with liberty to the State to recover the said amount from the concerned stakeholders in accordance with the Solid Waste Management Rules, 2016.**
18. **We direct constitution of the following Committee to deal with the matter:**
 - (1) **Chief Secretary, Haryana, Chairman;**
 - (2) **Finance Secretary, Haryana, Member;**
 - (3) **Urban Local Bodies Secretary, Haryana, Member;**
 - (4) **Commissioner, Municipal Corporation, Faridabad, Member;**
 - (5) **Commissioner, Municipal Corporation, Gurugram, Member;**
 - (6) **Representative, CPCB, Member;**
 - (7) **Member Secretary, SPCB, Haryana, Member.**

The Secretary, Urban Local Bodies, Haryana, will be the nodal officer for coordination and compliance.

19. The Committee may co-opt any other technical persons/agencies. After removing of legacy waste from the entire or part of the land, the State may consider using part of the recovered land for

*Integrated Waste Processing and Treatment Facility and also for Treatment, Storage and Disposal Facility (TSDF) for hazardous waste. At the periphery a bio-diversity park can be developed to improve the air quality and ambience. The Committee may have the Commissioner, Municipal Corporation, Indore ***or his nominee** as special ***invitee**. The Committee may meet preferably within two weeks and after taking stock of the situation, plan to start further action within one month from today.*

20. *The work already awarded may be taken into account and if necessary reviewed having regard to urgency of the situation. If Indore model is to be adopted, wholly or in part, no further tender process is necessary.*
21. ***The legacy site may be cleared within six months. If the satisfactory progress is not made, the amount of the ESCROW account may be directed to be forfeited. The ESCROW account will be operated by the representative of CPCB. These directions will also be applicable to handling of ESCROW account directed to be created in terms of order dated 02.07.2019 in the State of Gujarat where the amount is Rs. 75 Crores and the same timeline will apply to Pirana also.***
22. ***An interim report of the steps taken may be furnished to the Tribunal by the Secretary, Urban Local Bodies, Haryana within one month by e-mail at judicial-ngt@gov.in.***

6. Accordingly, we have further considered the matter in the light of affidavit filed on behalf of Municipal Corporation, Gurgaon on 13.11.2019 with the effect that two trommels machines are being installed with the capacity of 300 TPD each which will work in double shifts. More machines will be installed as soon as more space will be available.

7. We are of the view that there is need to take further meaningful and prompt action by preparing an appropriate action plan and executing it so as to clear the legacy waste in shortest possible time but within six months. This timeline is being fixed in view of long time which has already gone in the process. It may be ensured that bio-remediation is carried out rather than mere mechanical separation. Failure to

comply may result in coercive action, including stoppage of salaries and entries in ACRs of concerned Municipal Commissioners. Municipal Commissioner, Gurgaon may file progress report as on 15.01.2020 by 20.01.2020 by e-mail at judicial-ngt@gov.in. CPCB may evaluate whether clearance of legacy is being done as per applicable guidelines and furnish a report before the next date by e-mail at judicial-ngt@gov.in.

8. Response to I.A No. 689/2019 filed by the applicant may also be furnished before the next date by the concerned authority.

A copy of this order be sent to CPCB by e-mail.

List for further consideration on 19.02.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 19, 2019
Original Application No. 514/2018
(Earlier O.A. No. 415/2015)
AK



From

Commissioner,
Municipal Corporation,
Gurugram

To

M/s Daya Charan & Company,
D-2/96, Janakpuri,
New Delhi-110058 (Mob. 9871698969).

Memo No. MCG/EE(S)/2020/2655

Dated:20.01.2020

Subject: -

Work order for hiring for the treatment of Legacy waste as well as fresh waste at Bandhwari Land fill site.

Ref:-

Your reference No. DCC/MCG/1003 dated 01.10.2019.

Approval for & on behalf of Ld. Commissioner, Municipal Corporation, Gurugram of acceptance to your lowest quoted rates as per the Public Notice issued on dated 03.10.2019, which inter-alia contains the terms & conditions conveyed hereby as follows:

Sr. No.	Description	Unit	Rate (Rs.)
1.	Work as per CPCB guideline 300 TPD treatment legacy waste through Trommel, Belt, Conveyor, Ballistic Separator and landfill management services, C&D waste recycling, Legacy waste Bio mixing.	Per Month	27,90,000/- (Rs. Twenty Seven Lakhs Ninety Thousand Only)
2.	Work will be executed as per the guidelines of CPCB.		

Time Period: One year, from the date of commissioning of plant.

Installation Period: Maximum 30 days from date of issue of this work order.

- You are requested to sign the contract/agreement for detailed terms & conditions on stamp paper of Rs. 100/- within 15 days of issue of this letter with Municipal Corporation, Gurugram.
- The performance guarantee is to be deposited for a sum of Rs. 2.00 lakhs (Rs. Two lakhs) within 07 days in the shape of Demand Draft in favour of Commissioner, Municipal Corporation, Gurugram.
- Work Order can be cancelled without any prior information/Notice on the order of Commissioner, Municipal Corporation, Gurugram if any time it is found that the work is being carried out without following CPCB guidelines for treatment of legacy waste issued in February, 2019.
- Performance guarantee shall be refunded after successful completion of work with the certificate from Assistant Engineer (Sanitation).
- The rates of M/s Ecogreen Energy Gurgaon Faridabad Pvt. Ltd. (Concessionaire) and its engaged firm (M/s SINOBAY Engineering Pvt. Ltd.) which are yet to be finalized, shall also be binding on you if these rates are quoted by them for similar technology as is being provided by you.

Note:-

- Plant will be operated in double shifts for treatment of legacy waste (300 TPD X 2) and rates of shifts will be decided later on the mutual agreed terms & conditions.
- The agency shall have to treat minimum 300 TPD in one shift and in case of any breakdown the agency has to meet out the target of 300 TPD per shift by working additional hours without any charges.



for Assistant Engineer (S),
Commissioner,
Municipal Corporation
Gurugram.

Dated: 20.01.2020

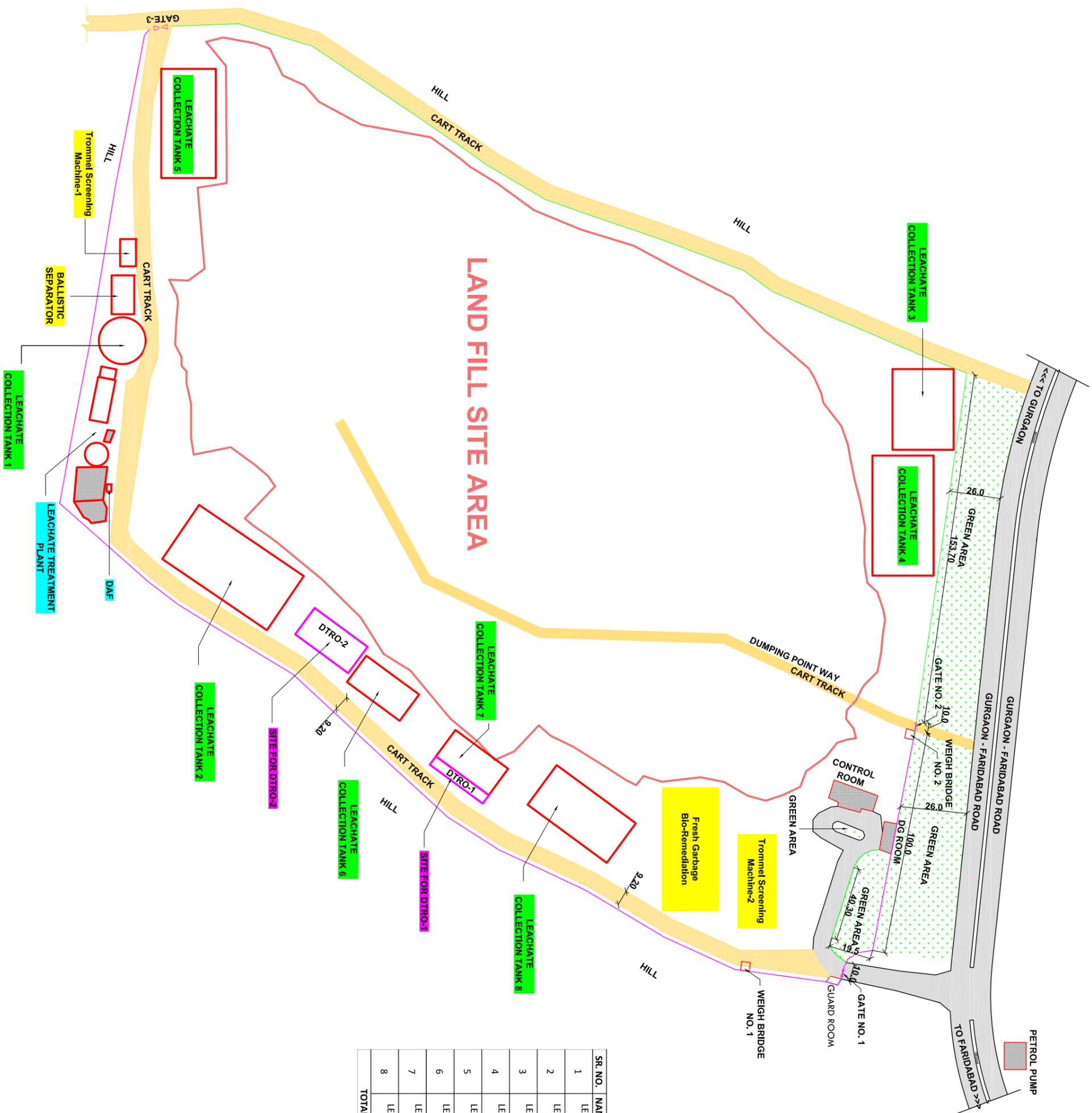
Endst. No. MCG/EE(S)/2020/2656

A copy is forwarded to the following for information please.

1. Joint Commissioner-I,II,III, IV, Municipal Corporation, Gurugram.
2. Chief Account Officer, Municipal Corporation, Gurugram.
3. Deputy Director (Audit), Municipal Corporation, Gurugram.
4. Executive Engineer-(S), Municipal Corporation, Gurugram.
5. Ms. Sonia Duhan, Independent Expert, PMU, ISWM Plant, Bandhwari.
6. PA to Commissioner/Addl. CMC/ Addl. MC, Municipal Corporation, Gurugram.
7. M/s Ecogreen Energy Gurgaon Faridabad Pvt. Ltd., 228-236, Tower-A, 2nd Floor, Spaze I-Tech Park, Sector-49, Sohna Road, Gurugram.


for Assistant Engineer (S),
Commissioner,
Municipal Corporation
Gurugram.

LAYOUT PLAN OF BANDHWARI LANDFILL SITE



Sr. NO.	NAME OF CONSTRUCTION	Capacity in KL	STATUS
1	LEACHATE COLLECTION TANK-1	1400	OPERATIONAL
2	LEACHATE COLLECTION TANK-2	7200	OPERATIONAL
3	LEACHATE COLLECTION TANK-3	3700	OPERATIONAL
4	LEACHATE COLLECTION TANK-4	4500	OPERATIONAL
5	LEACHATE COLLECTION TANK-5	3200	OPERATIONAL
6	LEACHATE COLLECTION TANK-6	6000	OPERATIONAL
7	LEACHATE COLLECTION TANK-7	6000	OPERATIONAL
8	LEACHATE COLLECTION TANK-8	8000	OPERATIONAL
TOTAL CAPACITY KL		40000	

Rishipal vs M.C Farrukhnagar
CS-647-2019
CNR No. HRGRB0-000853-2019

UID No. HR0413
1

APPLICATION UNDER ORDER 39 RULE 1 & 2 CPC

Present: Smt. Poonam Yadav, counsel for plaintiff.
Sh. Sumit Sharma, Counsel for defendant, assisted by
Sh. K.K.Yadav, Secretary, M.C. Farrukhnagar.

ORDER:-

1. Vide this order I shall decide an application filed by plaintiffs under Order 39 Rule 1 & 2 CPC.
2. Brief facts necessary to decide the present application as stated in plaint are that defendant is owner in possession of land comprised in khewat/khata no. 1312/1407, rect. no. 168, killa no. 1(8-0), 2(8-0), 3(8-0), 4(8-0), 5/1(7-16), 6/2(7-16), 7(8-0), 8(8-0), 9(8-0), 10(8-0), 11(8-0), 12(8-0), 13(8-0), 14(8-0), 15/1(7-16), 16/2(7-18), 17(8-0), 18(8-0), 19(8-0), 20(8-0), 21(8-0), 22(8-0), 23(8-0), 24(8-0), 25(8-0) total field 25 measuring 199 kanal, 6 marla situated in revenue estate of village Farrukhnagar(ward no. 11 Dhani Chand Nagar road), District Gurugram which is recorded in the revenue record as makabuja charagah(pastrure land) since the time of consolidation. On the suit land many tubewell bores of Public Health Department Farrukhnagar are installed and residents of Farrukhnagar and nearby villagers are getting the water supply from these tubewells. Defendants are dumping garbage waste of drains,

21.12.2019
Saroj Kumari
Stenographer-III

Garima Yadav,
CJ(JD)/Pataudi,
UID HR0413

Rishipal vs M.C Farrukhnagar
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CNR No. HRGRB0-000853-2019

UID No. HR0413
2

polythene etc of all the 13 wards of Farrukhnagar on this land. It is further stated that it was published in newspaper that land of charagah is converted in the dumping ground. Plaintiff and other persons of the area visited the office of defendant and requested to intervene in the matter to save the people, animals and birds but defendant did not pay any heed. It is further stated that the land in question was left during the consolidation for grazing cattle and the defendant has no authority to change the nature of land without any authority. Suit land is near to abadi, temple, gas godown, Sultanpur Bird Sanctuary. Because of the dumping of garbage on the suit property problems are faced by the residents of area. Moreover, the act of defendant is also in violation of Solid Waste Management Rules, 2016. It is further submitted that defendant is dumping the garbage without approval of National Board of Wild Life, Forest Ministry and Animal Welfare Board of India and necessary environment clearance is not obtained by respondent. So it is prayed that defendant be restrained to dump the garbage on the pasture land illegally.

3. Reply to the application not filed. However, the counsel for defendant suffered a statement that the written-statement given

21.12.2019
Saroj Kumari
Stenographer-III

Garima Yadav,
CJ(JD)/Pataudi,
UID HR0413

Rishipal vs M.C Farrukhnagar
CS-647-2019
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by him be read his reply of the application under order 39 rule 1 & 2 CPC. In brief it is stated that the defendant has authority for collection and disposal of municipal solid waste from municipal area for maintenance of healthy and proper environment. It is further submitted that an amount of Rs. 92.69 lacs is granted under CM announcement work for construction of boundary wall around the land. A weigh bridge is also installed at the site for weighing the municipal solid waste and same are recycled. It is further submitted that government has appointed environment impact authority consultant for preparing a viable project report for disposal of municipal solid waste at MC Farrukhnagar. The said Environment Impact Assessment Authority Haryana has granted its assent for disposal and maintenance of municipal solid waste on the suit property. Defendant is maintaining ecological balance by plantations etc. Denying other averments prayed for dismissal of the application of the plaintiff.

4. It is argued by counsel for plaintiffs that suit property is reserved for the purpose of charagah as per jamabandi for the year 2011-2012. But defendant is dumping the waste of drain, polythene, garbage etc on this land. He further argued that there are five

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tubewell bores on the land and water supply to the residents of Farrukhnagar is made from here. Defendant is converting this charagah into a dumping ground. Defendant has not obtained necessary permission from the National Board of Wild Life, Forest Ministry and Animal Welfare Board of India.

5. On the other hand, it is argued by counsel for defendant that defendant is setting up a project for disposal of municipal solid waste on this land and they have obtained necessary sanction. They have been granted permission by the Environment Impact Assessment Authority Haryana. He admitted at the time of arguments that there are five tubewell bores on the land but denied that water supply is made from these tubewell bores. Lastly prayed that the application of the plaintiff be dismissed.

6. I have heard the learned counsel for both the parties and perused the case file carefully. The contention of counsel for plaintiff is that defendant is changing the nature of the suit property. The suit property is reserved for charagah. But defendant is using it as dumping ground of garbage. On the other hand, contention of counsel for defendant is that they are setting up one municipal solid waste processing facility on the suit land and it is environment

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friendly and they have also obtained necessary permission from the required authorities. Perusal of jamabandi for the year 2011-2012 shows that the suit property is reserved for the purpose of 'charagah' and defendant is owner of the suit property. It has been observed by this court that the contention of defendant is that they have obtained necessary sanction from the State Environment Impact Assessment Authority Haryana. They have also placed an order dated 06.09.2019 passed by State Environment Assessment Authority Haryana along-with written-statement. Perusal of this order dated 06.09.2019 shows that defendant is directed to consider additional point of reference mentioned in that order. Further perusal of this order shows that the directions are issued to project proponent i.e. the defendant that they will submit their environment assessment report by incorporating the terms of reference within a time schedule and only after receiving that information their project will be considered as complete information. Order dated 06.09.2019 of State Environment Impact Assessment Authority, Haryana is clear about considering the other reference points mentioned in the order and direction is given to defendant to submit their report. But defendants failed to show to this court whether compliance of the

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above said order is made or not. Further it has been observed by this court that counsel for the plaintiff has also placed one copy of proposal of the ingraded municipal solid waste processing facility for Farrukhnagar in the Form-1 submitted by defendant with State Environment Impact Assessment Authority Haryana for obtaining sanction. Counsel for plaintiff stated that this copy is available at the website of defendant and this fact is not disputed by the counsel for defendant that this information is available on website of defendant. Perusal of this document 'Form-1' shows that suit property has been shown as 'barren land' in this proposal. It is nowhere mentioned in this proposal that this land is reserved for charagah. Further perusal of the order dated 05.03.2018 passed by the Animal Welfare Board of India placed by counsel for plaintiffs shows that if the land which is reserved for the purpose of charagah is required for public purpose, in that case jurisdictional District Commissioner shall prepare report that why the 'gochar' land has been identified for any non grazing public purpose and will also record non-availability of other suitable land and he will send the proposal of dereservation of the land to the state government for its previous sanction and after that government will consider the request and the state government

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will grant the permission and after that Deputy commissioner will proceed to make the order of dereservation of the gochar land and of making entry in the record of rights. But this sanction is missing in this case.

7. Further the Hon'ble Court in the case of Hinch Lal Tiwari vs Kamla Devi 2001(6) SCC 496 observed that “ *it is important to notice that the aterial resources of the community like forests, tanks, ponds, hillock, mountain etc are nature's boundty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The government including the Revenue Authorities i.e. Respondents no. 11 to 13 having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non abadi sites.*” Thus to the mind of this court it is the duty of the defendant to maintain open space i.e. charagah and they can not be

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allowed to change its nature. Thus on the basis of above discussions the stay application of plaintiff is allowed and defendants are restrained to dump garbage on suit land.

6. My observations herein shall not be taken as expression of my opinion on the merits of the case.

Dated: 21.12.2019
Saroj Kumari, Stenographer-II

(Garima Yadav)
Civil Judge (Jr. Division)
Pataudi/UID HR0413

Note: This order contains eight pages and all pages have been seen and signed by me.

Saroj Kumari, Stenographer-II

(Garima Yadav)
Civil Judge (Jr. Division)
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Present: Smt. Poonam Yadav, counsel for plaintiff.
Sh. Sumit Sharma, Counsel for defendant, assisted by
Sh. K.K.Yadav, Secretary, M.C. Farrukhnagar.

Arguments heard on stay application. Vide my separate order of even date, the stay application of the plaintiff is hereby allowed. Now to come up on 29.01.2020 for filing replication, if any, otherwise for consideration on framing of issues.

Dated: 21.12.2019

(Garima Yadav)
Civil Judge (Jr. Division)
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