

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

**Original Application No.5/2020.
Rita Sharma and Others.**

-----Applicants.

Versus.

State of Himachal Pradesh and Others.

-----Respondents.

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Dated: 11th December, 2021

Shimla


Pr. Secretary (UD&TCP) to the
Govt. of Himachal Pradesh
Shimla-171002

Respondent/ Deponent

Through

**Advocate General.
Himachal Pradesh.**

**BEFORE THE HON'BLE NATIONAL
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NEW DELHI**

Original Application No.5/2020.

Rita Sharma and Others.

-----Applicants.

Versus.

State of Himachal Pradesh and Others.

-----Respondents.

**Compliance Report/Affidavit on behalf of the
Principal Secretary, (Urban Development) to
the Government of Himachal Pradesh in above
O.A in compliance to order dated 01.09.2021**

I, Rajneesh S/o Dr. R.R Garg, aged 48 years presently working as Principal Secretary, Urban Development to the Government of Himachal Pradesh do hereby solemnly affirm state as follows: -

MAY IT PLEASE YOUR LORDSHIPS:-

1. That the aforesaid matter is pending adjudication before this Hon'ble National Green Tribunal.



2. That the said O.A was listed for hearing on 01.09.2021 when this Hon'ble National Green Tribunal has been pleased to direct to ensure further remedial action as directed vide order dated 17.11.2020, especially to provide sufficient funds to Municipal Council, Hamirpur. The operative part of the order dated 17.11.2020 read with order dated 01.09.2021 is reproduced as under:-

“Let the Secretary, Urban Development Department, Himachal Pradesh ensure further remedial action in accordance with law within two months from today and file compliance report before the next date 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.”

3. That in pursuance to above order initially passed on 17.11.2020, the Director ,UD has sanctioned / released funds to the tune of Rs. 55.85 Lac as 2nd installment vide letter dated 29.01.2021 to the Municipal Council Hamirpur under Solid Waste Management Project for Development of material recovery facility for management of Dry Waste and other Solid Waste Management related infrastructure of Municipal



infrastructure of Municipal Council Hamirpur Himachal Pradesh. Copy of above letter dated 29.01.2021 is placed at **Annexure R-1**.

4. That further in compliance to order dated 01.09.2021 passed by this Hon'ble National Green Tribunal as narrated in para 2 supra, necessary instructions dated 14.09.2021 were issued by the Director, Urban Development to the Municipal Council, Hamirpur to speed up the work and ensure the compliance of Hon'ble National Green Tribunal direction, as well as compliance of Solid Waste Management Rules, 2016.
5. That in pursuance to above instructions, the Municipal Council, Hamirpur has submitted the latest status regarding Execution of work at Plant/Project site at Dughneri, Municipal Council, Hamirpur, vide their letter No.1501 dated 28.09.2021. According to aforesaid information following works have been completed at site:-
 - i) Storm drain along the site has been constructed to avoid contamination of water of Hathli Khad;
 - ii) Solid Waste Processing Facility portion of site has been covered with net to avoid the entry of birds into operational area of site.



- iii) Fencing work with adequate height surrounding the Solid Waste Management Project has been completed at site.
- iv) A retaining wall of about twenty meter long and thirteen meter height with foundation has been constructed towards the Hathli Khad to avoid the spillage of Solid Waste from the waste processing facility in the Hathli Khad and remaining work of retaining wall is in progress and which is expected to be completed very soon.
- viii) That as submitted in above para, the Municipal Council Hamirpur i.e Respondent No. 4 has filed detailed reply/compliance report before this Hon'ble National Green Tribunal on 05.10.2021. In para 7 of said reply/compliance report, the Respondent No. 4 i.e. that Municipal Council Hamirpur, has elaborated the steps taken by said Respondent in compliance of Solid Waste Management Rules, 2016. However for the purpose of further detail, contents of the ibid reply/compliance report may be read as part and parcel of this compliance report. Being submitted the replying/respondent copy of the ibid reply /compliance



That in view of submission made herein above, the replying Respondent has initiated steps immediately after passing the order dated 17.11.2020 by releasing the sufficient funds to the tune of the Rs. 55.85 Lac for the completion of Solid Waste Management Plant/ Project at Dughneri, Municipal Council Hamirpur which is evident from letter dated 29.01.2021 placed at **Annexure R-1.**

Through


Respondent / Deponent

Pr. Secretary (UD&TCP) to the
Govt. of Himachal Pradesh
Shimla-171002

Advocate General.
Himachal Pradesh.

Verification

I, the above named deponent, do hereby solemnly declare that the contents as contained in paras 1 to 7 of above Compliance Report to Original Application are true and correct to the best of my personal knowledge and information as derived from official record. No part of it is false and nothing material has been concealed therefrom.

Verified at Shimla on this day of 11th December, 2021


Deponent

Pr. Secretary (UD&TCP) to the
Govt. of Himachal Pradesh
Shimla-171002

No: UD-H(F)-(2)-15/15 (SWM)-II- 1649-50
Directorate of Urban Development,
Himachal Pradesh

Dated: Shimla-2, the 29 Jan, 2021.

From Director,
Urban Development,
Himachal Pradesh.

To Executive Officer,
Municipal Council Hamirpur,
Distt. Hamirpur, H.P.

Subject: Request to release of funds for Solid Waste Management Project

Sir,

In continuation to the funds sanctioned to MC Hamirpur under various component of Solid Waste Management vide sanction order dated 27.06.2019 and with reference to your letter No. 18-B/Estimate (SWMP)/3172/MCH/2020 dated 09.12.2020 funds to the tune of Rs. 55.85lacs as 2nd installment, have been released to you under Solid Waste Management component of SBM, as per details below:

Name of component	Amount released (INR)	Date of release	Remarks
Solid Waste Management	Rs. 55,85,000/-	02.01.2021	Funds released for development of Material Recovery Facility for management of dry waste & other SWM related infrastructure at SWM site of MC Hamirpur

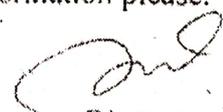
You are therefore, requested to utilize the funds accordingly and submit Utilization Certificates for same to this office.

Yours faithfully,



(R K Gautam)
Director,
Urban Development,
HP, Shimla
Dated:

Enclst. No.: As above
Copy to the Secretary (UD) to the Govt. of H.P. for information please.



Director,
Urban Development,
HP, Shimla

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

ORIGINAL APPLICATION NO. 5 OF 2020

IN THE MATTER OF:

RITA SHARMA & ORS....APPLICANTS

VERSUS

STATE OF HIMACHAL PRADESH & ORS....RESPONDENTS

REPLY IN COMPLIANCE OF ORDER DATED
01.09.2021 ON BEHALF OF RESPONDENT NO.4.

MOST RESPECTFULLY SHOWETH:

1. That the Respondent No.4 had previously filed a detailed reply vide email on 02.06.2020 and is filing this additional reply to assist this Hon'ble Authority which is necessitated in terms of Order passed on 01.09.2021 by this Hon'ble Authority.
2. That this Hon'ble Authority taking note of various violations in village of Dughneri, District Hamirpur, passed an Order on 14.01.2020, calling the Deputy Commissioner of Hamirpur, the Municipal Council of Hamirpur and the Himachal Pradesh State Pollution Control Board to submit report with the State PCB to be the nodal agency. The Respondent No.4 honouring the Order filed its counter affidavit on 02.06.2020 vide email which was also taken note of by this Hon'ble Authority in its Order dated 11.08.2020. However, this Hon'ble Authority did not find the said Counter Affidavit filed by Respondent No.4 of much

assistance and directed the State PCB to coordinate and file a joint Committee report.

3. That this Hon'ble Tribunal taking note of the Report dated 13.11.2020 submitted by the nodal agency i.e. State PCB recorded in its Order dated 17.11.2020 that deficiencies still persist and lack of funds cannot be a ground for denying the citizens the basic fundamental right of clean environment. With this observation, this Hon'ble Tribunal directed the Secretary, Urban Development Department, Himachal Pradesh to take remedial action within two months and posted the case for apprising the status on 24.03.2021.

4. That the Respondent No.4 has been making continuous effort to comply with the directions of this Hon'ble Authority within the framework of law and its own authority. The answering Respondent has been able to complete almost all the work which were broadly divided into four work areas. The only work now which remains to be achieved is 3rd phase work for retaining wall which is going on and will be shortly completed. The execution of work got delayed partly because of the various restrictions due to pandemic and partly due strike by stone crushers. The Respondent No.4 has prepared a status report dated 26.09.2021 detailing the work carried out so far in compliance of directions passed by this Hon'ble Tribunal alongwith photographs which are annexure to the Status Report and other photographs are also placed on record to show the work that is being carried out at the Solid Waste Management Project at Dughneri. As per the Status Report, a joint inspection

is to be carried out by everyone concerned in the Department which is scheduled for 04.10.2021. Copy of the Status Report dated 26.09.2021 bearing no. 30-F/Part Court Case/1495/MCH/2021 is Annexure – R1.

The photographs taken at the Solid Waste Management Project regarding the work of retaining wall to avoid spillage is Annexure – R2 (colly), the photographs of storm drain for water is Annexure – R3 (colly), the photographs of fencing and net facility to avoid entry of birds is Annexure – R4 (colly), the photographs of road maintenance work is Annexure – R5, the photograph of trommel machine and shredder machine is Annexure – R6 (colly), the photograph of bailing machine is Annexure – R7, the photograph of composting machine and unit is Annexure – R8, the photograph of park is Annexure – R9, the photograph of chowkidar hut is Annexure – R10 and the photograph of toilet and bathroom is Annexure – R11.

5. The Respondent No.4 was undertaking the developmental work in furtherance of achieving the objective and comply with the directions of the Order passed by this Hon'ble Tribunal. There were various tenders floated from time to time inviting bids for restoration of path, construction of retaining wall and U shape drainage. In the meantime, vide Order dated 01.09.2021, this Hon'ble Tribunal took note of the deficiencies which still persisted, whereafter, the Respondent No.4 wrote a letter to the Deputy Commissioner, Hamirpur dated 10.09.2021 bearing no. 30-F/Part Court Case/1378/MCH/2021 requesting for joint inspection of the Solid Waste Management Project. Copy of the

letter to the Deputy Commissioner, Hamirpur dated 10.09.2021 bearing no. 30-F/Part Court Case/1378/MCH/2021 is Annexure – R12.

6. That the Respondent No.4 has communicated with the Director, Urban Development vide its letter dated 28.09.2021 bearing no. S.W.M. Project/1501/MCH/2021 informing about the current status of work in compliance of the directions passed by this Hon'ble Tribunal. The four broad areas of work which needed attention have been achieved. (i) The storm drain work is completed. (ii) The covering of part of the Solid Waste processing facility with net and segregation work carried out at initial stage to avoid entry of birds is completed. (iii) The fencing work of adequate height surrounding Solid Waste Management Project completed and (iv) The 1st phase and 2nd phase work of retaining wall is completed with 3rd phase work pending and about to get completed. The photographs reflecting the completed work is being filed with this reply. The copy of letter dated 28.09.2021 bearing no. S.W.M. Project/1501/MCH/2021 to the Director, Urban Development is Annexure – R13. The Respondent No.4 also wrote letter dated 28.09.2021 bearing No.30-F/Pat Court Case/1510/MCH/2021 to the Deputy Commissioner, Hamirpur intimating about submission of status report with a copy to Member Secretary, H.P. State Pollution Control Board and Assistant Environmental Engineer, H.P. State Pollution Control Board. Copy of the letter dated 28.09.2021 bearing No.30-F/Part Court

Case/1510/MCH/2021 to Deputy Commissioner is Annexure – R14.

7. The Respondent No.4 has been diligently working to achieve the goals set out under the Solid Waste Management Rules, 2016 framed under Environment Protection Act, 1986. The Respondent No.4 carries out door to door collection of garbage in all wards and segregates the collected garbage into dry waste and wet waste on daily basis. There is trammel machine installed for segregating/screening of waste. The composting machine is used at the site to make bio-degradable waste into manure and the bailing machine is used to compress plastic waste material which in turn is sent to cement kiln of M/s Ultra Tech Ltd and Baga Cement Works, district Solan for final disposal. A list is prepared and annexed showing the amount of plastic collected month wise and handed over to Ultratech and Baga as Annexure – R15.
8. The delay caused in completing the work was on account of the contractor not completing the work in time due to which his contract was cancelled and fresh tender awarded. Also, in between due to rise in covid cases, the work was halted for some time. Another reason for delay was strike called by stone crushers due to which raw material for construction was not available to the contractor. Now the 3rd phase of retaining wall is under progress which will be completed shortly. Online tender was floated for retaining wall work on 30.07.2020 which was awarded to Government Contractor Pankaj Minhas vide

letter no. MCH/Tender/Award/Estimate/Vol-I/2020-21 dated 25.08.2020. The said contractor was supposed to complete the work within six months, however he could not adhere to the time line for various reasons including the covid situation. Owing to delays, the contract of Pankaj Minhas was cancelled vide office letter no. Gen. Work/Award Work/3215/MCH/2020 dated 15.12.2020. Fresh online tender process was completed vide letter no. MCH/Tender-Est/Awd/-3559/2021 dated 27.01.2021 and same tender was opened on 10.02.2021 and negotiation letter was issued to the Contractor vide letter No. MCH/Tender-Est/Awd/Vol-I/3708/2021 on 12.02.2021. The work was awarded to Contractor vide letter no. MCH/Tender-Est/Awd/Vol-I/2020-21/3763 dated 22.02.2021 and under this contract the Contractor completed the 2nd phase of retaining wall work. For the 3rd phase of retaining wall work, the tender was called on 27.08.2021 vide office letter no. MCH/Tender/Award/Estimate/V-3 2020-21 which was opened on 18.09.2021 and was awarded to Anil Shyam, Government Contractor vide MCH/Tender/Award/Estimate/Vol-III 2020-21/1480/dated 23.09.2021. Copy of letter no. MCH/Tender/Award/Estimate/Vol-I/2020-21 dated 25.08.2020 is Annexure - R16, copy of the cancellation letter no. Gen. Work/Award Work/3215/MCH/2020 dated 15.12.2020 is Annexure - R17, copy of letter no. MCH/Tender-Est/Awd/-3559/2021 dated 27.01.2021 is Annexure - R18, copy of negotiation letter to the Contractor vide letter No. MCH/Tender-Est/Awd/V-I/3708/2021 on 12.02.2021 is Annexure - R19, copy of award letter no. MCH/Tender-

Est/Awd/V-I/2020-21/3763 dated 22.02.2021 is Annexure – R20, copy of the notice inviting tender dated 27.08.2021 bearing letter no. MCH/Tender/Award/Estimate/V-3 2020-21 along with newspaper advertisement is Annexure – R21 (Colly), copy of the tender award letter bearing no. MCH/Tender/Award/Estimate/Vol-III 2020-21/1480/dated 23.09.2021 is Annexure – R22.

9. There is no violation of the Solid Waste Management Rules, 2016 framed under Environment Protection Act, 1986, by Respondent No.4, therefore the present O.A is without any cause of action liable to be dismissed.

P R A Y E R

IN THE PREMISES STATED ABOVE, IT IS, THEREFORE, RESPECTFULLY PRAYED, THAT THIS HON'BLE TRIBUNAL MAY BE PLEASED TO PASS/GRANT AN ORDER: -

- a) Dismissing the present O.A as being devoid of merit with heavy costs;
- b) such further orders or directions as this Hon'ble Tribunal may deem fit, appropriate and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, THE RESPONDENT NO.4, AS IN DUTY BOUND, SHALL EVER PRAY.


 RESPONDENT NO.4
 REPRESENTED BY EXECUTIVE OFFICER

THROUGH:

Y.K. SINGH & ASSOCIATES,
COUNSELS FOR THE RESPONDENT NO.4
CHAMBER NO. 429, LAWYERS' BLOCK,
SAKET COURT COMPLEX,
NEW DELHI 110 017
M :- 9711001124, 9871353080
EMAIL: pnjadvocatus@gmail.com

DELHI
DATED: __.09.2021

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

ORIGINAL APPLICATION NO. 5 OF 2020

IN THE MATTER OF:

RITA SHARMA & ORS.

...APPLICANT

VERSUS

STATE OF HIMACHAL PRADESH & ORS. ...RESPONDENTS

AFFIDAVIT

I, SH. K.L. THAKUR, S/O SH. MOHAR SINGH, AGED ABOUT 56 YEARS, AVAILABLE AT: MUNICIPAL COUNCIL, HAMIRPUR, HIMACHAL PRADESH, PRESENTLY AT DELHI, DO HEREBY SOLEMNLY AFFIRM AND STATE AS UNDER:-

1. I say that I am the Executive Officer of Municipal Council, Hamirpur, representing the Municipal Council, Hamirpur, Respondent No.4 in the above matter, and being the Executive Officer I am well conversant with the facts and circumstances of the present case based on the records maintained by Respondent No.4, and am competent to file this affidavit.
2. I say that the accompanying additional reply in compliance of Order dated 01.09.2021 has been drafted under my instructions. I say, that I have perused the same, and I say, that except for the contents of the legal averments contained therein, the contents thereof are true and correct to the best of my knowledge and belief. I say, that the contents of the legal averments contained therein are true and correct, on the basis of the legal advice,

received by me and believed by me to be true and correct. I say, that the contents of the accompanying reply may be read as a part of this affidavit, and the same are not being reproduced herein in order to avoid prolixity.

3. I say, that no part of this Affidavit is false and nothing has been concealed therefrom.


(DEPONENT)

VERIFICATION:

I, K.L. Thakur, the DEPONENT named hereinabove, do hereby solemnly affirm and verify, that the contents of the above Affidavit are true and correct to the best of my knowledge and belief. No part of it is false, and nothing material has been concealed therefrom.

Verified at Delhi on this ____ day of September 2021.


(DEPONENT)