

**REPORT OF OVERSIGHT COMMITTEE IN COMPLIANCE OF ORDERS OF HON'BLE
NATIONAL GREEN TRIBUNAL PASSED IN O.A. NO. 209/2019 IN RE: M. FATMI VERSUS
DISTRICT MAGISTRATE GHAZIABAD & ORS.**

Introduction:

1. Hon'ble National Green Tribunal dealing with the matter of OA No. 209/2019 in Re: M. Fatmi Versus District Magistrate Ghaziabad & Ors. regarding the remedial action against illegal dumping of garbage by Nagar Palika, Loni, District Ghaziabad, Uttar Pradesh and the alleged non-compliance of Solid Waste Management Rules, 2016 has taken up this case on multiple occasions, dated 02.04.2019, 08.08.2019, 19.09.2019, 16.12.2019 and 26.02.2020.

Issues:

1. The Hon'ble NGT had taken up this case on 02.04.2019 and a factual report along with action taken report was sought from Uttar Pradesh Pollution Control Board (UPPCB) and District Magistrate, Ghaziabad.
2. On 08.08.2019, the case was again taken up in view of the report of the factual situation of illegal dumping and burning of garbage.
3. This matter was again taken up on 19.09.2019, in view of the compliance report submitted on 13.09.2019 by UPPCB.
 - "In reference to the above-said order and view of non-compliance of Solid Waste Management Rules, 2016, which has led to degradation of environment, recommendation to impose environmental compensation of Rs. 50,000/- for bulk waste dumping and Rs 5,000/- as environmental compensation for transportation of municipal solid waste in open





dumpers have been sent against Nagar Palika, Loni to Officer in Charge, Local Bodies, Collectorate, Ghaziabad”.

- “Also, process for filing prosecution/complaint against Executive Officer, Loni, Ghaziabad and contracted agency for handling municipal solid waste in the area, M/s Aryan Group of Guard Services, Lucknow under relevant sections of Environment (Protection) Act, 1986 has been initiated by Uttar Pradesh Pollution Control Board for gross violation of Solid Waste Management Rules, 2016”.

4. On 16.12.2019, the matter was again taken up and the Tribunal observed:

- “No report has been received from Principal Secretary, Urban Development, even though the matter was adjourned to today”.

5. On 26.02.2020, the matter was again taken up by the Tribunal, in view of the compliance report submitted by the Principal Secretary, Urban Development on 26.02.2020. The Hon’ble NGT also quoted the orders of Hon’ble Supreme Court. The Apex Court vide judgments reported in **(2000) 2 SCC 678 Indian Acrylics versus Union of India and another** and **(2004) 13 SCC 538 Almitra H Patel and another versus Union of India and others, inter alia**, observed as under:

- “It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to a lack of effort on the part of the employees”.
- “Instead of “slum clearance” there is “slum creation” in cities which is further aggravating the problem of domestic waste being strewn in the open”.
- “Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and





Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment".

- "States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitizing/stabilizing, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days".
- "Unless each State creates a focussed 'solid waste management cell' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion".
- "The admitted position is that the MSW Rules have not been complied with even after four years. None of the functionaries have bothered or discharged their duties to ensure compliance. Even existing dumps have not been improved. Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."

Directions of the Hon'ble NGT are as follows:

- 1) "The provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, statutory authorities levy and recover charges from any person violating laws and ensure

A. S. Arora

[Signature]

scientific disposal of waste, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks”.

- 2) “Any State/UT which failed to comply with the Rules shall be liable to be proceeded against under Section 15 of the Environment (Protection) Act, 1986 (EP Act), apart from being required to pay environmental compensation and senior-most officers of the States/Local Bodies being personally liable”.
- 3) “In view of the fact that most of the statutory timelines have expired and directions of the Hon’ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal”.

A. S. Sarda

[Signature]

- 4) "Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 285 even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places. Continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc who are responsible for compliance of order of this Tribunal".
- 5) "Further, with regard to thematic areas listed above in para20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining".
- 6) "The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge

A. Pandey

[Signature]

Department to take action for treatment of sewage in terms of observations in para 31 above will result in liability to pay compensation as already noted above”.

- 7) “Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries’ of the States/UTs”.
- 8) “An ‘Environment Monitoring Cell’ may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs”.

Compliance report of Urban Development Department dated 29.06.2020:

In regard to the order of Hon’ble NGT the Executive officer Nagar Palika, Loni, District Ghaziabad, Uttar Pradesh has submitted the compliance report to the Oversight Committee, Lucknow. The details are as follows:

1. **Old dumping site of Ahmad Nagar Navada site, Nagar Palika, Loni, District Ghaziabad, Uttar Pradesh:** This dumping site in Ahmad Nagar Navada was earlier used by Nagar Palika Parishad, Loni for disposing of waste. However, the dumping on the site has been stopped and no fresh waste is being dumped on the site. The report of UPPCB dated 13.09.19 also concurs with the same that no fresh waste is being found in inspection. For the legacy waste accumulated on the site over past years, the Nagar Palika Parishad Loni was directed to execute plant for the scientific treatment of the legacy waste as per CPCB guidelines of March 2019 related to treatment of legacy waste.





- For the treatment of the legacy waste accumulated on the site over past years, an advertisement for calling e-tender was published on 23.03.2020 (Annexure 1).
 - On 01.04.2020, Muskan Jyoti Samiti quoted the minimum price and got the tender. On 17.04.2020, the Executive officer issued a letter for the estimation of the legacy waste on-site on 20.04.2020 (Annexure 2).
 - The legacy waste was estimated to be 72072 MT on the site (Annexure 3).
 - On 4.05.2020, Muskan Jyoti Samiti was asked to submit a time-bound action plan through a letter by Executive officer (Annexure 4).
 - On 20.05.2020, Principal Secretary, Urban Development in his letter to Managing Director, Jal Nigam requested for the re-estimation of the legacy waste within 15 days (Annexure 5).
 - Urban Development Department assured the Oversight Committee in the meeting on 30.6.20 that the legacy remediation work will be completed in 6 months.
2. **Current Waste Dumping on Site Nithora Road: The current waste dumping is taking place at Nithora Road site.** However, permission from the State Pollution Board is pending. On 20.02.2020, Nagar Palika Parishad Loni has applied for the permission to UPPCB (Annexure 6).
- It was also informed that the waste lying at the **Nithora Road site** will be treated at the Material Recovery Facility (MRF) proposed at Kasim Vihar Pani ki Tanki, Loni. The tender details are annexed as Annexure 7, the treatment facility is likely to be functional within three months as informed by EO, Nagar Palika Parishad, Loni, Ghaiabad.
3. **Sanction of Scientific Landfill Management and Processing Facility at Mirpur Hindu:** The state government has already sanctioned Rs. 5.31 Crore of fund for

A. K. Sankar

[Signature]

development of scientific landfill site and processing facility for Nagar Palika Parishad Loni. The Fund has been released in the year 2009 to the executing agency CNDS, UP Jal Nigam.

- There were objections from the nearby residents on the construction of the scientific landfill site and Solid waste processing facility at the selected site. So possession of the said land could not be taken for so many years. However, now the District Magistrate with the help of police force has managed to get the land on 12/June/2020 (Annexure 8, 9). The site photos are annexed in Annexure 10.
 - Earlier Jal Nigam had prepared a DPR of 125TPD which they are revising to 300 TPD. They will be able to do it by 15.07.2020.
 - The work of construction of boundary wall around this land is in progress. During the meeting of the Oversight Committee held on 30.06.2020, it was informed that after completing the work of boundary wall they shall make efforts to start the processing facility within 8 months.
4. **Transportation of Solid Waste in open vehicles:** It is submitted by the Nagar Palika Parishad that the waste is being collected and transported in covered vehicles. Nagar Palika Parishad, Loni has contracted out the work of door to door collection and transportation to an agency. The geo-tagged photos are annexed in Annexure-11.
5. **Prosecution:** During the meeting of Oversight Committee it was informed that:
- UPPCB has granted sanction for prosecution against M/s Aryan Group of Guard Services, Lucknow and the file is in process.
 - The Member Secretary, UPPCB, informed that on 22nd May 2020, letter for according sanction under section 197 of CrPC for prosecution of the



erring officers has been sent to the Urban Development Department and permission from the appropriate authority is awaited.

Recommendations

In the view of above, we recommend as follows:

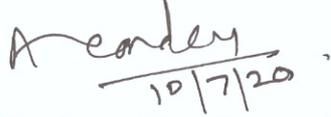
- 1. Principal Secretary will personally monitor the timelines given both for setting up of the dumping site cum processing facility and remediation of Legacy Waste.**
2. The Authorities should be vigilant in future while selecting the sites for construction of the landfill site so that there should be no objections from the nearby residents leading to undue delay as has happened in this case.
3. Keeping in view the direction of Hon'ble Apex Court and Hon'ble NGT in O.A. No. 606/2018 dated 07.01.2020, and O.A. No. 209/2019 on 26.02.2020, the Chief Secretary is required to submit a quarterly compliance report in respect of significant environmental issues to Hon'ble NGT with a copy to CPCB.
4. The Chief Secretary may be asked to send a copy of the quarterly compliance report to the Oversight Committee for proper monitoring.

The Oversight Committee has considered the issue of illegal dumping of garbage by Nagar Palika, Loni, District Ghaziabad, UP in this report. This issue has been elaborately dealt with also in the order of Hon'ble NGT dated 10.01.2020 passed in OA No. 606/2018 in re: Compliance of Municipal Solid Waste Management Rules, 2016. The Committee report on OA No. 606/2018 is being sent separately.

The Member Secretary, UPPCB is directed to send this report to the Registrar General, National Green Tribunal, Principal Bench, New Delhi for placing the same before the



Hon'ble Tribunal with a copy to the Chief Secretary, Government of Uttar Pradesh for necessary action. The report also be uploaded on the website of the Committee.



(Dr. Anup Chandra Pandey)
Member, Oversight Committee



(Justice S.V.S. Rathore)
Chairman, Oversight Committee

July 10, 2020

Please visit our website: oscngt.upsdc.gov.in for more information.