

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

**ORIGINAL APPLICATION NO: 391 OF 2019**

**IN THE MATTER OF**

SND PUBLIC SCHOOL, PALWAL

...APPLICANT

VERSUS

STATE OF HARYANA AND ORS.

...RESPONDENTS

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FILED BY:

*Ritwick Dutta*

**RITWICK DUTTA RAHUL CHOUDHARY MEERA GOPAL  
ADVOCATES**

Counsel for the Applicant  
N-71, Lower Ground Floor, Greater Kailash-I,  
New Delhi- 110048  
Tel: +91 9312407881  
E-mail: litigation.life@gmail.com

New Delhi

Date: 13.07.2020

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**RESPONSE TO JOINT REPORT DATED 17.12.2019 SUBMITTED BY THE  
DEPUTY COMMISSIONER, PALWAL, PALWAL MUNICIPAL COUNCIL  
AND REGIONAL OFFICE, HSPCB**

**MOST RESPECTFULLY SHOWETH:**

1. That the above titled OA has been filed by the Applicant herein under Section 14 and 15 of the National Green Tribunal Act, 2010 raising substantial question relating to environment and which affects the community at large arising out of the illegal dumping of municipal waste by the Nagar Parishad, Palwal on common land in Village Meghpur, in Palwal District which is marked for grazing land and various common purposes including pond in the revenue record. It is pertinent to mention that the dumping of waste has destroyed a water body by completely filling it up and is now polluting not just surface water but also ground water due to leachate. The said water body was an important source of water for residents of the area. The said dumping site is at close proximity to the Applicant School wherein around 2300 students are studying. The issue before this Hon'ble Tribunal is not only of illegal dumping of waste but also of filling up of water body of the village by Municipal Waste.
2. That at the outset it is submitted that the Report of the Deputy Commissioner, Palwal and others are contrary and in violation of direction of this Hon'ble Tribunal. By this report the respondents have proposed Action Plan but for

disposing the waste on site in question. It may be noted that the Solid Waste Management Rules categorically prohibit dumping of waste in close proximity to water bodies. In the present case, the Respondents are dumping waste on the water body which has been completely filled up and destroyed. It is pertinent to note that in 2018, the Respondents had submitted an action plan to process waste at a site in Punhana before this Hon'ble Tribunal. The respondents have been making false statements before this Hon'ble Tribunal again and again. This act of dumping of solid waste on the site in question is in clear violation of the order dated 10.3.2016 in O.A. 551 of 2015, whereby this Hon'ble Tribunal had prohibited illegal dumping on the very same land. Further, the Hon'ble Tribunal, vide order dated 19.01.2017 in Execution Application No. 1 of 2017, directed the concerned authorities to examine the matter at their end and ensure that the Order of the Tribunal is properly obeyed. However, the same is not being complied with and dumping of waste is continuing in violation of this Hon'ble Tribunal's orders.

3. That vide order dated 12.04.2019, this Hon'ble Tribunal had directed as follows:

*"Before considering the matter further, we find it necessary to obtain a factual and action taken report from the Haryana State Pollution Control Board (HSPCB), District Magistrate, Palwal and Palwal Municipal Council within two months by email at ngt.filing@gmail.com. The nodal agency for compliance and coordination will be the HSPCB."*

4. That in purported compliance, the Deputy Commissioner, Palwal and the Regional Office of HSPCB has filed report dated 17.12.2019, a copy of which was received by the Appellant on 28.02.2020 through email.
5. That the Applicant is filing the present reply in response to the said report dated 17.12.2019. At the outset the Applicant states that the contents of the report are denied unless admitted specifically thereto.
6. That before responding to the contents of the report, the Applicant would like to bring to the attention of this Hon'ble Tribunal the fact that this violation of the Solid Waste Management Rules by the Palwal District Administration has been continuing since 2015 and no steps have been taken to ensure strict enforcement

of the law. The following table would clearly show that the violation has been continuing despite several undertakings by the Respondents:-

Date	Description
December 2015	The Applicant had approached this Hon'ble Tribunal by way of O.A. 551 of 2015 against the illegal dumping by Respondent No. 2 in the same piece of land in close proximity to the water body in question, however the dumping was nearer to the Applicant school.
10.03.2016	<p>On the basis of the undertaking of the Respondent that the dumping shall be stopped immediately, the Hon'ble Tribunal passed the following order:</p> <p><i>“Learned counsel appearing for the Respondents has filed an Affidavit and also states at the Bar that no municipal solid waste or any other waste would be dumped or burnt at the site in question. He further submits that they would identify the proper dumping site and would dump the municipal solid waste in accordance with law and ensure that there is no Environmental degradation resulting therefrom.</i></p> <p><i>The waste if not already removed should be removed positively within two weeks from today.</i></p> <p><i>The Respondents would abide by their statement. The Applicant are at liberty to approach the Tribunal if there is any violation by the Respondents.</i></p> <p><i>In view of the above nothing survives in this Application.</i></p> <p><i>Accordingly, Original Application No. 551 of 2015 stands disposed of without any order as to costs.”</i></p>
January 2017	<p>In violation of the orders and directions of this Hon'ble Tribunal, the Respondent No. 2 restarted dumping of unsegregated waste in the same area, few meters away from the water body.</p> <p>The Applicant immediately approached this Hon'ble Tribunal by filing EA No. 1 of 2017 highlighting said violations.</p>
19.01.2017	This Hon'ble Tribunal was pleased to dispose of the EA No. 1 of 2017 in the following terms:

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	<p><i>“Learned Counsel appearing for the Applicant wishes to withdraw this Application with liberty to file a proper one after stating the complete facts in respect of cause of action on the basis of which the Applicant wishes to raise his claim, and by stating clearly the relief sought. However, the Learned Counsel appearing for the State submits that he would require the concerned authorities to examine the matter at their end and ensure that the Order of the Tribunal is properly obeyed. In view of the above, Execution Application No. 01 of 2017 stands disposed of with no Order as to cost.”</i></p> <p>Emphasis Supplied</p>
31.01.2017	<p>Pursuant to the order dated 19.01.2017, the Applicant immediately filed OA No. 96 of 2017 highlighting the illegal dumping of municipal solid waste in complete violation of the law as well as the orders and directions of this Hon’ble Tribunal.</p>
6.01.2018	<p>Vide order dated 6.01.2018, this Hon’ble Tribunal was pleased to issue notices to Respondent No. 1 to 3. This Hon’ble Tribunal also directed the Respondents to file statement to show cause as to why the orders of this Hon’ble Tribunal and the undertaking given had not been complied.</p>
5.01.2018	<p>This Ld. Tribunal, passed the following orders in OA No. 96 of 2017:-</p> <p><i>“Learned counsel appearing on behalf of Respondent No. 2 – Palwal Municipal Council submits that it is a part of the cluster approach taken for disposal of the solid waste in Almitra H. Patel Case and the waste generated within the limits of the Council is to be disposed of by composting within the cluster of Punhana vide Action Plan at Annexure R (6) to the Affidavit dated 28th February, 2017 of the Respondent No. 2 – Palwal Municipal Council. Action Plan fails to give clear cut timelines for achieving the goal stepwise. We, therefore, direct Respondent No. 1- State of Haryana and Respondent No. 2 Palwal Municipal Council to place before us the time bound action plan regarding collection, segregation, processing and disposal of the solid waste generated within the limits of Respondent No. 2 – Palwal Municipal Council in accordance with Solid Waste Management Rules, 2016. Details of the solid waste generated and its constituents shall be given by Respondent No. 2 – Palwal Municipal Council. The time</i></p>

	<p><i>bound action plan shall also be given for scientific disposal of legacy waste lying at the said site.”</i> (Emphasis Supplied)</p>
7.04.2018	<p>The direction dated 5.01.2018 was never complied with in true letter and spirit by the Respondents and the violation continues till date. In purported compliance of the order, the Respondent filed an status report dated 7.04.2018 which stated that the town of Palwal fell in the Punhana Cluster as per the Haryana’s Action Plan submitted to this Hon’ble Tribunal in the case titled Almitra H Patel v. Union of India &amp; Ors. It was stated that for the said cluster, a site for waste processing unit was identified at Punhana. A vague timeline stating that the plant at Punhana would be made operational only by October 2019. It is pertinent to note that there has been no progress in this regard as per the said timeline. Further, no action plan regarding scientific disposal of legacy waste was prepared or filed by the said Respondent.</p>

Thus, it is clear that the Respondents have not taken any steps towards ensuring proper implementation of the provisions of the Solid Waste Management Rules, 2016. In fact the present report is also highly misleading and ought to be rejected at the outset by this Hon’ble Tribunal.

7. That the Applicant would like to make the following submissions in response to the report:-
  - i. That it is denied that the Municipal Council, Palwal is dumping at a site at a distance of 500 m away from the school. In fact it is submitted that the entire area admeasuring 9.5 acres is being used by the Municipal Council to dump the waste. Further, it is pertinent to note that the water body wherein the dumping was ongoing has been completely filled up and concretised by the

Respondents. Further, it is submitted that while the site may be in compliance with the distance criteria from habitation, the same is in gross violation of the distance criteria from waterbodies. The MC, Palwal is obligated to be in compliance with all siting criteria under the Solid Waste Management Rules, 2016.

Photographs showing the dumping in the entire land and concretised water body is annexed herewith as **ANNEXURE-1**

- ii. That while the Respondent Authorities have provided an action plan for disposal of present waste at Para 4 of the report, the same is completely misleading and false. There is no material recovery centres wherein segregation of waste is taking place. As of on date, only unsegregated waste is being dumped on the site, there is no compost pit or any step that has been taken in this regard. In fact, the Report merely states that tenders have been issued. However, it is not clear as to whether any further developments have happened in this regard.
- iii. That the contents of Para 5 are denied as misleading. It is submitted that no steps have been taken to deal with the legacy waste at the site. In fact, the Report itself admits that till date, no entity has applied for the tender for the bioremediation process of the legacy waste at the site. Further, it is submitted that covering unsegregated waste with sand, is a highly unscientific method of dealing with legacy waste. It is submitted that such actions would only lead to increase in ground water pollution and contamination.
- iv. It is pertinent to note that this Hon'ble Tribunal had directed for disposal of the legacy waste vide order dated 5.01.2018 in OA No. 96 of 2017. The relevant part of the order is reproduced hereunder:-

*“Learned counsel appearing on behalf of Respondent No. 2 – Palwal Municipal Council submits that it is a part of the cluster approach taken for disposal of the solid waste in Almitra H. Patel Case and the waste generated within the limits of the Council is to be disposed of by composting within the cluster of Punhana vide Action Plan at Annexure R (6) to the Affidavit dated 28th February, 2017 of the Respondent No. 2 – Palwal Municipal Council. Action Plan fails to give clear cut timelines for achieving the goal stepwise. **We, therefore, direct Respondent No. 1-***

*State of Haryana and Respondent No. 2 Palwal Municipal Council to place before us the time bound action plan regarding collection, segregation, processing and disposal of the solid waste generated within the limits of Respondent No. 2 – Palwal Municipal Council in accordance with Solid Waste Management Rules, 2016. Details of the solid waste generated and its constituents shall be given by Respondent No. 2 – Palwal Municipal Council. The time bound action plan shall also be given for scientific disposal of legacy waste lying at the said site.”*

(Emphasis Supplied)

- v. That even though more than two years have passed from the passing of such directions, the Respondent Authorities have completely failed to ensure compliance with the same. It is submitted that exemplary cost may be imposed on the Respondents for neglecting their statutory duties as well as the directions of this Hon’ble Court. Further, it is submitted that the errant officers may be held accountable for such violations and non-compliance.
- vi. That in response to the contents of Para 7, it is submitted that the establishment of the waste disposal plant at Punhana was part of the action plan submitted to this Hon’ble Court in the *Almitra H Patel* case in 2018. of Palwal fell in the Punhana Cluster In the said report, it was stated that for the said cluster, a site for waste processing unit was identified at Punhana. A vague timeline stating that the plant at Punhana would be made operational only by October 2019. It is pertinent to note that there has been no progress in this regard as per the said timeline as has been clearly admitted by the Respondents in the Report.
- vii. That the contents of Para 8 are denied as completely false and misleading. The Applicant would like to respond to each of these issues in detail:-
  - a. That in response to contents of Para 8 (i), it is submitted that while the land may be under the ownership of MC, Palwal. It is submitted that the MC, Palwal is not the absolute owner of the land which has been reserved for a specific purpose by the Gram Panchayat. Further, functions of the MC Palwal have to be discharged in accordance with law, in this case the Solid Waste Management Rules, 2016 and the siting criteria made thereunder.

- b. That in response to contents of Para 8 (ii)- (iv), it is submitted that the site is in violation of the siting criteria under Solid Waste Management Rules, 2016. It is pertinent to note that the Village Meghpur is socially and economically backward and a majority of the population have no personal agricultural land in their name rather villagers have only this patch of 9.5 acre land in this village for their common use i.e. grazing land for animals, pond for drinking water for animals, cremation grounds etc. However, the Municipal Council Palwal in complete violation of the provisions of the Solid Waste Management Rules, 2016 has been dumping unsegregated waste on the entire 9.5 acre land which has adversely impacted the community rights of the villagers and residents of the Village Meghpur.
- c. That the contents of Para 8 (v)- (viii) is denied as false and misleading. It is submitted that the MC Palwal is now dumping in the entire 9.5 acre land in Khasra No. 27. Therefore, they are violating their undertaking before this Hon'ble Tribunal recorded in the order dated 10.03.2016. Further, it is submitted that the report of the Local Commissioner in OA No. 96 of 2017 clearly admits the existence of the water body.
- d. That in response to the contents of Para 8 (x), it is clear that the TDS content in the samples is far exceeding the limits. In fact, the iron content is also high in one of the samples. Thus, the possibility of ground water cannot be completely negated.
- e. That the contents of Para 8 (xi) is completely denied as false and misleading. It is submitted that the existence of the water body cannot be questioned at this stage. It is submitted that the Applicant has already put on record the Scheme Istemal of the land in question wherein it is clearly mentioned in revenue records that the pond pre-existed the year 1956-57 and there was no official order or record to change the status of pond into cremation ground the same had been recorded as pond since then. Further, this fact has also been accepted by the Additional District Judge in the

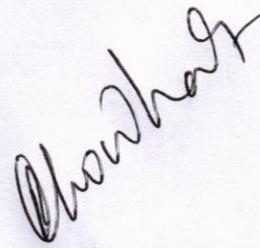
judgment dated 9.04.2018. Moreover, the Local Commission Advocate Raman Yadav appointed in OA No. 96 of 2017 has given a clear finding in his report to this Hon'ble Tribunal that there is a water body, the source of water of which is not known.

Thus, it is clear that the Report is highly misleading and that on ground, the fact remains that the MC Palwal is dumping unsegregated waste on the entire 9.5 acre land in complete violation of the provisions of the Solid Waste Management Rules, 2016 Further, the water body has been completely filled up and concretised. It may be noted that the said water body was the only waterbody in the entire Village of Meghpur. Therefore, it is submitted that this Hon'ble Tribunal may grant the prayers made in the above titled Original Application.



APPLICANT

THROUGH



**RITWICK DUTTA RAHUL CHOUDHARY MEERA GOPAL  
ADVOCATES**

Counsel for the Applicant

N-71, Lower Ground Floor, Greater Kailash-I,  
New Delhi- 110048

Tel: +91 9312407881

E-mail: litigation.life@gmail.com

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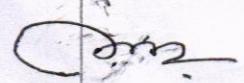
STATE OF HARYANA & ORS

...RESPONDENTS

**AFFIDAVIT**

I, Jagdev Dagar, S/o Late Tej Singh, aged about 39 years, R/o Village Jharsently, Tehsil Balabgarh, District Faridabad, Haryana do hereby solemnly affirm and declare as under:

1. That I am the authorized representative of the Applicant School in the above titled Application and duly authorized to swear this affidavit and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying response are true and correct and nothing material has been concealed therefrom.



**DEPONENT**

**VERIFICATION**

Verified on this \_\_\_ day of July 2020 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.



**DEPONENT**

Water body completely filled due to dumping of waste by Respondents

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