

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

**PRINCIPAL BENCH, NEWDELHI**

**IN**

**ORIGINAL APPLICATION No.514/2019**

**Applicant(s): State Level Monitoring Committee**

**Versus**

**Respondent(s): The State of Kerala & others**

**UPDATED STATUS REPORT FILED BY THE CHIEF ENVIRONMENTAL  
ENGINEER, REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF  
THE KERALA STATE POLLUTION CONTROL BOARD AS PER THE ORDER  
DATED 03.07.2020 IN THE ABOVE APPLICATION**

**Adv. Jogy Scaria**

**ADDITIONAL STANDING COUNSEL FOR THE 2<sup>nd</sup> RESPONDENT**

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**VOLUME 1**

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Dated this the 1<sup>st</sup> day of August 2020

**Jogy Scaria**, Advocate  
ADDITIONAL STANDING COUNSEL FOR THE 2<sup>nd</sup> RESPONDENT

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

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THEKERALA STATE POLLUTION CONTROL BOARD AS PER THE ORDER  
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I, M.A Baiju, 54 years, S/o M.K Aravindakshan, now working as Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulam. I am competent to and duly authorized to represent the Board. I know the facts and circumstances of the case. The factual submissions made here under are true and correct to the best of my knowledge, information and belief. In these circumstances, it is just and necessary that this Hon'ble Tribunal may be pleased to accept the accompanying report on file and it is so humbly prayed in the interests of justice in this case.

1. I may humbly submit that the order dated 03.07.2020 in the above application is specifically insisting the Board to initiate prosecution as per the Environment Protection Act 1986 and recover environmental compensation for the committed offences the Corporation of Kochi already made for the mismanagement of solid waste. The specific observation of the Hon'ble Tribunal is read as follows,

*"We find that the steps taken to be inadequate having regard to the serious adverse consequences of acknowledged unscientific handling of waste management. Suggestion 'c' above shows that 1 lakh litre collection capacity for the leachate is nearing completion and the leachate is to be diverted to septage treatment plant. It is doubtful whether leachate can be treated in an ordinary septage treatment plant as it contains heavy metals. The progress appears to be very slow and in disregard to the statutory and constitutional obligation of providing clean environment. It is the responsibility of the KSPCB to initiate prosecution and recover compensation for such failures failing which, the Chairman and the Member Secretary of the KSPCB may be liable for their failure".*

2. It is respectfully submitted that the Board, through the updated status report submitted dated 16.06.2020 explained as follows



*M.A.*  
**M. A. BAIJU**  
Chief Environmental Engineer

"a) As per the details submitted by the Corporation, 89.8% of household and 59.8% of establishments are having door to door collection for dry and wet wastes. It is to be ensured by the Kochi Corporation that dry and wet waste is to be segregated at sources, and only segregated wet waste reach manure plant. This is to be also ensured by nearby 5 Municipalities and Panchayaths, who also dispose waste in Brahmapuram Plant.

b) Currently, entire quantity of non-biodegradable waste is collected and transported from Kochi Corporation and disposed in the two sheds and nearby open yard of in Brahmapuram plant and only 1% of plastic waste is segregated from the above and given to recyclers. In order to minimize the load of non-biodegradable waste reaching Brahmapuram, action may be taken to segregate non bio degradable waste through existing Material Collection Facilities (MCF) and Resource Recovery Facilities (RRF) in Kochi Corporation through the involvement of Haritha Karma Sena, Scrap Merchant Association. Recycling Plastic Association arrangement may be provided to recycle the recyclable plastic in registered recycling units and the remaining non-recyclable plastic through co incineration in cement plant. This may be ensured by nearby Municipalities and Panchayaths who disposed waste in Brahmapuram Plant.

c) As the construction of new leachate collection tank of 1 lakh litre collection capacity is nearing completion, leachate is to be diverted and collected in the new tank and in the same is to be treated in septage treatment plant till the proposed leachate treatment plant is in operation.

d) The retendering of waste to energy plant has been done by Government and its operation the management of solid waste in Brahmapuram can be sorted out.

e) Regarding legacy waste retendering processing has been done by Government and further procedures need to be expedited for the clearing of legacy waste."

3. It is respectfully submitted that these details were explained through the report dated 16.06.2020 after having detailed discussion during hearing conducted on 16.03.2020 with the Secretary, Kochi Corporation and concerned officials of the Corporation at Head Office, Thiruvananthapuram. Though they have presented these details before the Chairman and submitted details of legacy waste remediation proposals initiated by the Government through an order dated 05.03.2020, no submission or information were made with respect to cancellation of the approval already granted to the project of M/s G. J. Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and termination of the Concession Agreement between Kochi Municipal Corporation and M/s G.J. Eco Power Pvt. Ltd. Instead they had presented that the Waste to Energy Plant by GJ Eco Power Private Limited, is about to start after getting financial closure. A Copy of the Government Order with respect to cancel the approval already granted to the project of M/s G. J. Nature Care Consortium is produced herewith and marked as **Annexure R2-(A)**. At this juncture it is with due seriousness observed that the Corporation had proposed in compliance with relevant provisions of the Solid Waste Management Rules 2016, the Waste to Energy plant having capacity 500



*M. A. Baiju*

**M. A. BAIJU**  
Chief Environmental Engineer

MT/day and obtained necessary approvals (Ten Mandated Clearances) viz. Environmental and other Clearances as mentioned in the **Annexure R2-(A)** and was under the processing from 2016 onwards. But the action now taken by the Government for the cancellation of the project vide its order as shown in the **Annexure R2-(A)** is due to the unscrupulous actions initiated by the Corporation and shall be accordingly addressed. Copy of the Government Order assigning the charge of retendering the legacy waste remediation is produced herewith and marked as **Annexure R2-(B)**. I may humbly submit that, at present the Corporation does not have any proposal for effective management of the waste except collection arrangement as insisted in the Solid Waste Management Rules, 2016. It is respectfully submitted that the Hon'ble Tribunal vide the order dated 03.07.2020 also delivered as follows with special reference to assessment of environmental compensation on Solid Waste Management and Legacy Waste Management as well and are as follows

*"The matter was thereafter considered on 28.02.2020 in the personal presence of Secretary, Urban Development, Kerala and in the light of further report dated 22.02.2020 furnished by Justice A.V Ramakrishna Pillai, former Judge, Kerala High Court pointing out continuing violation of law. The Tribunal referred to earlier order dated 10.01.2020 in a connected matter directing as follows:"*

***a.** 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 etc. who are responsible for compliance of order of this Tribunal.*

***b.** 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 28, 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*



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**M. A. BAIJU**  
Chief Environmental Engineer

*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.*

4. It is respectfully submitted that the order dated 03.07.2020 is specific on imposition of environmental compensation that they are allowed time up to 31.03.2020 for the effective implementation of related Solid Waste Management Rules and 07.04.2021 for the complete remediation of Legacy waste deposited there and scales are fixed. Though slow, the Corporation is continuing its effort to manage legacy waste by way of biomining using trommels. As per the order dated 17.07.2019 in OA 519/2019 the respective local bodies are allowed time up to 07.04.2021(as per serial No. 11 in Rule 22) for the completion of legacy waste remediation by the Hon'ble Tribunal and the present practice of bioremediation using trommels could be considered as a start-up of the remediation of legacy waste accumulated at Brahmapuram. Though the Corporation had also explained during higher level discussions that the measured quantity of accumulated legacy waste is 1 Lakh MT, the same need to be reassessed using total station or drone survey as per the guidelines published by the CPCB under the supervision of the SLMC. It is important to note that the Board is planning to assess the total quantity of legacy waste accumulation in the State with the assistance of these type of surveys.

5. It is also respectfully submitted that the order dated 03.07.2020 in OA 514 of 2019, also discussing as follows,

*"The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health / In-charge 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".*

whereas this is an issue already discussed in detail during the inspection conducted [As per the order of the Southern Zone Bench of the Hon'ble Tribunal in OA 264 of 2017(SZ)] along with responsible official of the Corporation where specific directions were already given to Corporation to submit short term as well as long term action plan for the remediation of different drains which are always found to be sewage carrying water bodies.

6. It is also respectfully submitted that the Board already made environmental compensation assessment considering the fact that the Corporation is continuously failed in the proper management of solid waste



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Chief Environmental Engineer

generated from the Corporation area though they are satisfactorily collecting the waste and transferred to Brahmapuram Plant where dumping of waste alone is taking place. This was already reported to Hon'ble Tribunal Principal Bench as well as South Zone Bench where Original Application Nos 442/2013, OA 20/2017 and OA 276/2017 are under active consideration of the Hon'ble Tribunal. It is pertinent to note that though specific directions were given to Corporation Authorities during various SLMC meetings by the Chairman, SLMC himself from whose inspection report this 'Suo Motu' case actually originated. However, the Board made the assessment of environmental compensation looking into all the aspects with respect to solid waste management practices carried out in the Corporation as well as 5 Municipalities. Copy of assessment of Environmental Compensation is produced herewith and marked as **Annexure R2-(C)**.

7. It is dutifully submitted that obeying the order dated 03.07.2020 of the Hon'ble Tribunal in this application where specific narration of imposition of environmental compensation with respect to solid waste management, especially legacy waste remediation are given where the Hon'ble Tribunal allowed explicit time frame (Up to 31.03.2020) and amount to be imposed for continued violation from the allowed time frame of 31.03.2020 for imposing environmental Compensation against local bodies who are not complying with statutory norms for the effective management of solid waste. Accordingly, the compensation was assessed against the Corporation and five Municipalities complying with norms framed by the Hon'ble Tribunal ie, Compensation from 31.03.2020 up to 31.07.2020 for which the Hon'ble Tribunal fixed special rates of 5 Lakh per month for Local Body having population more than 1 Lakh and others having population below 1 Lakh. Copy of such assessment is produced herewith and marked as **Annexure R2-(D)**. As a secondary step, Environmental Compensation will be assessed against the 3 Panchayaths from where also the Corporation is collecting bio degradable waste. It is pertinent to note that the quantity of waste is considerably less and a request was already sent to CPCB to guide the State Board in the assessment of environmental compensation on local bodies where exorbitant rates are fixed as per the guidelines already issued by the CPCB. Copy of the request sent to CPCB asking advice is produced herewith and marked as **Annexure R2-(E)**. Also, it is respectfully submitted that environment compensation assessment is not done with respect to mis management of legacy waste since the Corporation already started its bio mining activities using trommel machines and allocated Kerala State Industrial Development Corporation (KSIDC) for re tendering of remediation of



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Chief Environmental Engineer

legacy waste and Kalamassery Municipality is started using shredding machine for non-biodegradable wastes. In the case of other local bodies, no such disposals are identified and not done any assessment of environmental compensation obeying the order dated 17.07.2019 in OA 519/2017.

**8.** I may humbly submit that the Hon'ble Tribunal while discussing about the environmental damage occurred due to the mis management of legacy waste accumulation explained as follows.

*"We may observe that non-compliance of rules relating to waste disposal results in damage to the environment and public health. Any failure needs to be visited with assessment and recovery of compensation for such damage from the persons responsible for such failure. A study was recently got conducted by CPCB, under orders of this Tribunal requiring such a study by a joint Committee comprising CPCB, NEERI and IIT, Delhi about the monetary cost of damage caused to the environment on account of existence of legacy waste dumpsite at Gurgaon (Bandhewadi) vide order dated 05.03.2019 in O.A. No. 514/2018. The report of the CPCB filed on 13.02.2020 is that damage on account of the said legacy waste dump site was Rs. 148.46 crore, on account of damage to the air quality, soil and water quality, climate change and dis amenity (aesthetic). The damage has been assessed in terms of impact on health due to release of pollutants in air atmosphere, release of leachate into ground / surface water and soil, due to pollution from the landfill site, damage cost associated with climate change due to carbon di-oxide and methane, damage caused due to aesthetics loss, price depreciation due to dis amenity cost etc".*

and further advised the State of Kerala as follows

*"The matter is to be considered further in relation to State of Kerala on 20.03.2020 when the Chief Secretary, Kerala is scheduled to appear in person. The State of Kerala needs to consider action on the pattern of successful models of other states where meaningful steps to deal with the issue have been initiated in consultation with CPCB".*

Regarding this, I may humbly submit that the Joint Committee constituted by the Principal Bench of the Hon'ble Tribunal vide order dated 25.01.2019 in OA 585 of 2018(PB) had engaged Two experts in the field of environment for the assessment of Environment Damage occurred due to the operation of unauthorized Health Care Institutions and Local Bodies situated in Idukki District and the discussions are actively progressing.

**9.** It is respectfully submitted that the leachate collection and transfer mentioned after inspection conducted by the Environmental Engineer has been a temporary facility only to manage the leachate generated from permeating into the "Kadambrayar" a water body surrounding the Brahmapuram Dumping yard till the permanent Effluent Treatment Plant is made functional. It is true that the legacy waste sample collected after a serious fire hazard occurred and

  
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the manure, "the City Compost" they produced from bio mining showed heavy metal presence which will be sufficiently addressed during environment damage assessment.

10. I may humbly submit that in compliance with the order dated 03.07.2020 with specific addressing to initiate prosecution against responsible officials of the Corporation, this respondent is authorized vide the proceedings dated 31.07.2020 of the Chairman, a copy of which is produced herewith and marked as **Annexure R2-(F)**.

11. It is respectfully submitted that these practises were carried out diligently by the Board though some restrictions are imposed due to lockdown in view of the outbreak of COVID-19 in the country. Though certain relaxations were allowed in lockdown recently, the pandemic situation is worsened day by day from the middle of May 2020 onwards as the COVID-19 cases are showing increasing trend and the Board is compelled to restrict office works especially the Head Quarters where the Chairman, Member Secretary and concerned legal cells are available. Also, the delay if any occurred to initiate actions are due to time constrains faced in allocating field staffs for conducting detailed verification of the facilities provided by each and every local bodies in the State. It is also pertinent to note that the Chief Secretary has convened a meeting of all the concerned and already formed "Environment Management Cell" to coordinate the activities as per the relevant provisions of the solid waste management rules 2016 as well as other environment related Rules in the State and the committee will function under the supervision of SLMC.

Dated this the 01<sup>st</sup> day of August 2020

  
For and on behalf of the Board

**CHIEF ENVIRONMENTAL ENGINEER**

**M. A. BAIJU**  
Chief Environmental Engineer



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

**PRINCIPAL BENCH, NEW DELHI**

**IN**

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**VOLUME 2**

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Dated this the 1<sup>st</sup> day of August 2020

**Jogy Scaria**, Advocate  
ADDITIONAL STANDING COUNSEL FOR THE 2<sup>nd</sup> RESPONDENT



## GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Cancellation of the approval granted to the project of M/s G. J. Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and termination of the Concession Agreement between Kochi Municipal Corporation and M/s G.J. Eco Power Pvt. Ltd. - Review Petition submitted for reconsidering G.O.(Rt.)No. 805/2020/LSGD dated 30/04/2020 - Rejected - Orders issued.

**LOCAL SELF GOVERNMENT (DC) DEPARTMENT**

**G.O.(Rt)No.1064/2020/LSGD** Dated,Thiruvananthapuram, 05/06/2020

- Read 1. G.O.(Ms.)No.01/2016/LSGD dated 04/01/2016  
 2. G.O.(Rt.)No.805/2020/LSGD dated 30/04/2020  
 3. Representation submitted by the Chairman and Managing Director, M/s. G. J. Eco Power Pvt. Ltd. dated 01.05.2020  
 4. Judgment dated 13/05/2020 in WP(C)No.9872/2020 of Hon'ble High Court.

ORDER

As per the G.O. read as 1<sup>st</sup> paper above, Government had approved the project of M/s. G.J.Nature Care Consortium submitted by KITCO for the implementation of a Waste-to-Energy project at Brahmapuram, Kochi. Accordingly the Concession Agreement for the implementation of the project was signed by Kochi Municipal Corporation with M/s. G.J. Eco Power Pvt. Ltd. on 17<sup>th</sup> February 2016. Consequent on the signing of Concession Agreement the concessionaire approached Kochi Municipal Corporation with a request to handover an extent of 8 hectares of land for the implementation of the project. The Kochi Municipal Corporation Council held on 25.07.2016 decided (Resolution No.118) to handover 8 hectares of land to the concessionaire for the purpose of implementation of the project detailed in the Concession Agreement invariably. Formal proceedings No.MoE(2)/6224/2014 dated 10.08.2016 in the matter was also issued by the Secretary, Kochi Municipal Corporation. Besides the survey sketch with survey number based land boundary measurements was also handed over to the concessionaire vide Proceedings of the Kochi Corporation Secretary dated 24.06.2017. Thus the entire process of handing over of the land to the concessionaire was completed on 24.06.2017.

2. Article 3.1(a) of the Concession Agreement clearly specifies that the award



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Chief Environmental Engineer

of the concession shall be subject to satisfaction of the 'Conditions Precedent' mentioned therein. One of the Conditions Precedents [3.1(a)(vii)] to be satisfied is the furnishing of the Concessionaire's Financing Plan and Financing Documents for the project and demonstrating Financial Close. In Article 3.2 it is stated that the conditions precedent shall be complied within 180 days of the date of agreement. Eventhough the stipulated time for furnishing the above documents and demonstration of financial close is 180 days from 17.02.2016, the concessionaire failed to furnish the same as mandated in the agreement even after 1400 days of signing the agreement. Though formal declaration of Project Payment Mechanism is not a condition/clause in the Concession Agreement, Government issued GO(Rt)No.259/2020/LSGD dated 31.01.2020 specifying the mode of payment of the expenses over and above the power tariff fixed by Kerala State Electricity Regulatory Commission, on the basis of the request submitted by the concessionaire. It is only an additional assurance given by Government with an intention to commence the project at the earliest considering the public health aspect involved in the matter. 30 days time was also granted to the concessionaire for achieving the financial closure as per the G.O. dated 31.01.2020. The 30 days time so allowed to the concessionaire for achieving financial closure is the last chance given by the Government which expired on 01.03.2020.

3. Mandated clearances required for the implementation of the Projects and it's date of receipt are given below.

SI No.	Mandated Clearances	Date of receipt
1	Consent to establish from Pollution Control Board	30/08/2018
2	Plan approval from Factories and Boilers Department	18/04/2018
3	Permission from Social Forestry Division to cut trees in the site	11/06/2018
4	NOC from Aviation Department	13/08/2018
5	License from District Medical Officer	15/03/2018
6	Clearance form the Chief Town Planner	06/07/2018
7	NOC from Fire and Rescue	29/12/2018
8	Development permit from Vadavucode Puthencruz GP	07/01/2019
9	Environmental Clearance from SEIAA	05/10/2019
10	Building permit from Vadavukode Pethenkruz GP	06/11/2019



**M. A. BAIJU**  
Chief Environmental Engineer

4. The concessionaire even after obtaining all statutory clearances and permits has not demonstrated the financial close; instead the concessionaire has been asking for further relaxations and modified support like conversion of concession agreement into lease agreement, providing 100% Government guarantee for raising loan etc. which have only served to delay execution and raise questions about the ability of the company to achieve financial closure. Government had taken all possible support and measures for the implementation of the project and granted time from 17.02.2016 to 30.04.2020 to achieve the financial closure of the project. Since the concessionaire miserably failed to achieve the financial closure, Government had cancelled the approval granted to the project, as per G.O. read as 2<sup>nd</sup> paper above.

5. The Chairman and Managing Director, M/s. G.J. Eco Power Pvt. Ltd. has then submitted the representation read as 3<sup>rd</sup> paper above for reconsideration of the decision taken by Government as per G.O. read as 2<sup>nd</sup> paper above. Besides, the Director, M/s.G.J. Eco Power Pvt. Ltd. has filed WP(C)No.9872/2020 before Hon'ble High Court challenging the order read as 2<sup>nd</sup> paper above (Ext. P31). The Hon'ble High Court as per judgment dated 13.05.2020 disposed of the Writ Petition directing the author of Ext.P31 order (Principal Secretary, LSGD) to consider the petition/application submitted by the petitioner for reconsideration of Ext.P31 order within a period of 2 weeks from the date of receipt of copy of the judgment. It is also ordered therein that, the petitioner as well as the concerned officer of the Corporation of Kochi shall be afforded an opportunity of hearing, before orders are passed.

6. Accordingly, the Principal Secretary (Urban), LSGD heard the petitioner and authorities of Kochi Municipal Corporation at 10 am on 26.05.2020. During hearing, the representatives of M/s. G.J. Eco Power Pvt. Ltd. made an introductory description of the project and the events that led to the termination of the project. They informed that, the Government decided to cancel the agreement in the light of the fact that the financial closure did not materialize. When enquired about the status of financial closure, the representatives of the company produced certain documents and informed that the source of investment is not a bank; but an investment firm from Dubai. On further enquiry as to whether concurrence is sought from Reserve Bank of India in bringing so much money as investment to India from overseas, the representatives of the company informed that they have not made such a move. Besides they informed that, the so called investment is done through an Indian subsidiary company of theirs and placed documents in support of their claim. When the documents are examined it is found that, the documents of incorporation allows the subsidiary to bring in the agreed equity in form of viable technology and not in terms of transferring money. The agreement reads that "it does not create anything in their obligation that they will bring in money". The aspects raised by M/s. G.J. Eco Power Pvt. Ltd. in the Writ Petition filed before Hon'ble High Court that they never faulted on any of the obligations set in the concession agreement was also examined. Where there is short fall/lack of obligation there is a



  
M. A. BAIJU  
Chief Environmental Engineer

collateral responsibility that is too included in the agreement which is claimed to be in their favour. The normal termination on account of force majeure / non force majeure is not applicable when the condition precedents are not met. This goes to say that termination clause of the agreement can be invoked only when the concession is in operation. This itself forfeits the claims of the company for a 90 days notice period before cancellation of agreement. The concession agreement hardly gives any scope for supporting the pleas raised by the company. The relaxations allowed by Government in due course is with an aim to start the project.

7. Government have examined the matter in detail in view of the circumstances mentioned above and found that the concessionaire cannot implement the project even if more time is allowed. Therefore the request of the Chairman and Managing Director, M/s. G. J. Eco Power Pvt. Ltd. in the representation read as 3<sup>rd</sup> paper above, for reconsidering the decision taken in G.O(Rt)No. 805/2020/LSGD dated 30.04.2020 (Ext.P31) lacks merits and hence rejected. The direction of Hon'ble High Court in the Judgment read as 4<sup>th</sup> paper above is complied with accordingly.

8. The Managing Director, KSIDC shall take immediate steps to float RFP for the selection of a suitable concessionaire for setting up of a Centralized Waste Treatment Plant at Brahmapuram Kochi, as ordered in G.O. read as 2<sup>nd</sup> paper above.

(By order of the Governor)  
**BISHWANATH SINHA IAS**  
**PRINCIPAL SECRETARY**

To:

The Hon'ble Mayor, Kochi Municipal Corporation(with C/L)  
The Advocate General, Kerala (with C/L)  
The Managing Director, M/s. G. J. Eco Power Pvt. Ltd, 3rd Floor,  
Sarayu Complex, Sea Port- Air Port Road, Kakkanad, Kochi 682 030  
The Managing Director, KSIDC, Thiruvananthapuram  
The Secretary, Kochi Municipal Corporation  
The Principal Accountant General(A&E/G&SSA/E&RSA)Kerala, TVPM  
The Executive Director, IKM  
The Information & Public Relations(Web & New Media Department)  
Stock File/ Office Copy

Forwarded /By order

Section Officer

Copy to

PS to Hon'ble Chief Minister  
PS to Hon'ble Minister (LSGD)



Special Secretary to Chief Secretary  
PA to Principal Secretary, LSGD  
PA to Principal Secretary(Urban), LSGD



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M. A. BAJU  
Chief Environmental Engineer

**GOVERNMENT OF KERALA****Abstract**

Disaster Management Department- Taking over the management of the legacy waste accumulated at Brahmapuram waste dumping yard from Kochi City Corporation by invoking the provisions of Disaster Management Act 2005 – Sanction accorded - Orders issued.

**DISASTER MANAGEMENT (B) DEPARTMENT**

**G.O.(Ms)No.8/2020/DMD** Dated,Thiruvananthapuram, 05/03/2020

Read Minutes of the State Executive Committee meeting of KSDMA held on 02/03/20 and 04/03/2020.

**ORDER**

The management of legacy waste at Brahmapuram was under the supervision of Kochi corporation. It is reported that Brahmapuram waste dumping yard is under smoldering fire and toxic fumes are being released causing threatening disaster situation. The tender procedure for legacy waste management in the Waste Dumping Yard is delayed indefinitely and this situation may lead in fire hazard and consequent environmental and health hazard in the City. As Kochi Corporation has not taken effective steps to abate the threatening disaster situation, the matter has been placed in the State Executive Committee meeting of KSDMA held on 02.03.2020 and the committee took the following decisions:

(i) Call for the records of the entire tendering procedures followed by the city Corporation of Kochi for legacy waste management with immediate effect. A notice to the Secretary, Kochi to produce the files immediately before the Principal Secretary, Local Self Government Dept shall be issued by LSG Department.

(ii) The District Collector, Ernakulam shall prepare a contingency plan for the smolder fire management of Brahmapuram Waste Dumping Yard with the support of BPC Ltd., CHEMREC, Pollution Control Board , Fire & Rescue Services and Health Department.

2. Subsequently the SEC Meeting held on 04.03.2020 perused the records of Kochi Corporation relating to the management of legacy waste at Brahmapuram. The findings of the committee are as follows:

The first tender was floated on 14.08.2019 which was further extended. As nobody participated in the tender, the work was re-tendered on 26.10.2019. There was only one bid which was approved technically and the financial bid was opened and placed



M. A. BAIJU  
Chief Environmental Engineer

for a decision of the Council on 28.01.2020. The same matter has been considered by the Council in subsequent meetings on 06.02.2020, 22.02.2020, 28.02.2020, 02.03.2020 and 03.03.2020 but a final decision has not been taken. It is seen that the single bidder has an experience as a sub - contractor only. His experience does not inspire the confidence that he will be able to complete the work of managing the legacy waste at Brahmapuram. The reports of justice A V Ramakrishna Pillai, the Chief Environmental Engineer of Pollution Control Board and that of the District Collector all indicate that unless urgent steps are taken to manage the legacy waste scientifically and in a time bound manner, the city of Kochi and surrounding areas will be at risk of an impending disaster. The Corporation of Kochi is clearly not in a position to manage this complex matter effectively.

3. In the above circumstances, the committee decided that Government in LSG Department shall take over the task of scientific management of the legacy waste accumulated at Brahmapuram waste dumping yard from the Corporation of Kochi by invoking the provision under Section 24 (e) of Disaster Management Act, 2005.

4. Government have examined the matter in detail and are pleased to order that the task of scientific management of the legacy waste accumulated at Brahmapuram waste dumping yard will henceforth be under the supervision of Government in Local Self Government Department and the work will be carried out under the provision of Sn 24 (e) of Disaster Management Act, 2005. The tender process initiated by the Corporation of Kochi to dispose the legacy waste is hereby cancelled.

5. The Kerala State Industrial Development Corporation (KSIDC), the nodal agency identified by the Government for managing the process relating to solid waste disposal and management, will be entrusted with the task of initiating an urgent, transparent and competitive bidding process to identify an experienced and technically competent agency to manage and dispose of the legacy waste at Brahmapuram strictly according to the provisions prescribed in the Solid Waste Management rules. KSIDC will undertake this project under the supervision of the Local Self Government Department in Government.

6. The District Collector, Ernakulam shall render all assistance to KSIDC in furtherance of the above instructions.

(By order of the Governor)  
**VENU V**  
**PRINCIPAL SECRETARY**

To:  
 The Principal Accountant General (Audit) Kerala, Thiruvananthapuram  
 The Accountant General (A&E) Kerala, Thiruvananthapuram  
 The Land Revenue Commissioner, Thiruvananthapuram  
 The Local Self Government Department  
 The Member Secretary, KSDMA, Observatory Hills, Vikas Bhavan P. O., TVPM  
 The District Collector, Ernakulam



  
**M. A. BAIJU**  
 Chief Environmental Engineer

## Annexure R2(C)

## ASSESSMENT OF ENVIRONMENTAL COMPENSATION (KOCHI CORPORATION AND 5 MUNICIPALITIES)

City	Kochi Corporation	Kalamassery Municipality	Aluva Municipality	Angamaly Municipality	Thrikakkara Municipality	Thripunithura Municipality
Population (2011)	677,381	71,038	22,428	33,465	77,319	69,390
Class	Class I	Class II	Class III	Class III	Class II	Class II
Waste Generation (kg. per person per day)		0.3	0.3	0.3	0.3	0.3
Waste Generation (TPD)	315.96	21.31	6.73	10.04	23.20	20.82
Waste Disposal as per Rules (TPD)	31.60	2.13	0.67	1.00	2.32	2.08
Waste Management Capacity Gap (TPD)	284.36	19.18	6.06	9.04	20.88	18.74
Calculated EC (capital cost component) in Lacs. Rs.	682.47	46.03	14.53	21.69	50.10	44.96
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 100 Max. 1000	Min. 100 Max. 1000	Min. 100 Max. 1000	Min. 100 Max. 1000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	682.47	100.00	100.00	100.00	100.00	100.00
Calculated EC (O&M Component) in Lacs. Rs./Day	5.69	0.38	0.12	0.18	0.42	0.37
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	1.00	0.32	0.10	0.15	0.35	0.31
Calculated Environmental Externality (Lacs Rs. Per Day)	0.01	0.00	0.00	0.00	0.00	0.00
Minimum and Maximum value of Environmental Externality recommended by the Committee (Rs. per day)	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Rs. per day)	0.05	0.05	0.05	0.05	0.05	0.05
Total EC (in Lakhs)	1331.37	277.6	172	196	292	272.8



M. A. BAJU  
Chief Environmental Engineer

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Municipal Solid Waste Management Capacity Gap (TPD)	Environmental Externality (Rs. per ton per day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Rs.per day)	
Upto 500	5	Min. 5000 Max. 10000	
500-5000	10	Min. 10000 Max. 15000	
5000-10000	15	Min. 20000 Max. 30000	
Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0

1. No. of days calculated from 22.11.2018 for Kochi Corporation (Order dated 22.11.2018 in OA No.353/2016) to 31.07.2020 : 618 days (Where population is more than 1 Lakh)

2. No. of days calculated for other 5 Municipalities from 09.04.2019 to 31.07.2020 (As per the Solid Waste Management Rule 2016) : 480days (Where population is below 1 Lakh)

\*3. Eventhough waste generation as per CPCB guideline is 0.3 x population(203.21 T/day), average waste quantity collected at Brahmapuram obtained from the registers kept at the Plant for the months of May, June & July 2019 is 315.96 T/day and waste disposal quantity assumed through random check as 10 % of waste generated(through decentralised facilities).



*Cr*

**M. A. BAIJU**  
Chief Environmental Engineer

## Annexure R2(D)

**ASSESSMENT OF ENVIRONMENTAL COMPENSATION AS PER ORDER DATED 03.07.2020 IN  
OA 514/2020**

1. Kochi Corporation - Rs. 20 Lakhs (From 01.04.2020 to  
till date- Rs 5 Lakhs x 4 Months)
2. Aluva Municipality - Rs. 4 Lakhs (From 01.04.2020 to  
till date- Rs 1 Lakh x 4 Months)
3. Thrikkakkara Municipality - Rs. 4 Lakhs (From 01.04.2020 to  
till date- Rs 1 Lakh x 4 Months)
4. Thrippoonithura Municipality - Rs. 4 Lakhs (From 01.04.2020 to  
till date- Rs 1 Lakh x 4 Months)
5. Angamaly Municipality - Rs. 4 Lakhs (From 01.04.2020 to  
till date- Rs 1 Lakh x 4 Months)
6. Kalamassery Municipality - Rs. 4 Lakhs (From 01.04.2020 to  
till date- Rs 1 Lakh x 4 Months)



A handwritten signature in blue ink, appearing to be 'M. A. Baiju'.

**M. A. BAIJU**  
Chief Environmental Engineer



General: 0471-2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151  
E-mail: ms.kspcb@gov.in FAX: 0471-2318134, 2318152 web: www.keralapcb.nic.in

**KERALA STATE POLLUTION CONTROL BOARD**  
കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004  
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/RULES/SWM - IDUKKI /2018

Date: 07/05/2020

From: The Chairman  
To: The Chairman  
Central Pollution Control Board



Sub: Order of the Hon'ble NGT in OA No. 395/2013 (SZ) dated 04/02/2020

- Ref: 1. Order of the Hon'ble NGT in OA No. 606/2018 dated 16/01/2019.
- 2. This Office notice even No. dated 03/09/2019.
- 3. Joint Committee report submitted dated 03/02/2020
- 4. Order of the Hon'ble NGT in OA No. 585/2018 dated 25/01/2019 & 08/04/2019.

Sir,

The Hon'ble NGT vide Order dated 04/02/2020 in OA 395/2013 (SZ) directed the Kerala State Pollution Control Board to complete the follow up action taken on the basis of notification issued to come with complete action taken report.

In this regard, it may kindly be noted that the Hon'ble NGT passed an Order on 25/01/2019 in OA 585/18 regarding rampant dumping of hospitals and slaughter house waste into River Periyar. The Hon'ble NGT directed to constitute a joint committee of Central Pollution Control Board, Kerala State Pollution Control Board and District Magistrate to prepare an action plan for compliance of law particularly the Biomedical Waste Management Rules, 2016 and Solid Waste Management Rules, 2016. On 08/04/2019, the Hon'ble NGT directed the joint committee to complete its exercise within a period of two months and submit a detailed action plan with timeline for compliance and assess the damage caused to the environment and amount to be collected from defaulting units.

O/c



**M. A. BAIJU**  
Chief Environmental Engineer

The Board assessed environment compensation of those local bodies and issued notice to urban Directorate and Directorate of Panchayath to show cause why environment compensation shall not be levied. A copy of which is enclosed as Annexure-1.

In this context, it may kindly be noted that there are two municipalities and 52 panchayaths in Idukki district. These municipalities are having population 52045 and 42646. The panchayaths are having population in the range of 2300 to 45047. Environment compensation is calculated based on the sum of capital cost, operational cost and environment externalities. While calculating the capital cost for class I cities capital cost recommended by the committee is 100 lakhs. Capital cost recommends for other class cities are not mentioned in the committee guidelines. The guidelines further refers that the solid waste generation percapita for class II towns are 0.3-0.4 kg/day and for class III is 0.1 kg/day only and the guidelines is not mentioning anything about Class IV and class V cities.

The local bodies have taken efforts for door to door collection and formation of Haritha Karma Sena. A total score 100 is given for different activities and percentage achievement is calculated based on data sheet. Solid waste management score chart is enclosed as Annexure-2. The achievement is calculated based on the score calculated. Since the local bodies of the Idukki district are not included in the Class I cities, kindly provide the capital cost component for the cities other than Class I cities for the calculation of environment compensation of the local bodies in Idukki District.

Yours faithfully

  
CHAIRMAN

Encl: as above



**M. A. BAIJU**  
Chief Environmental Engineer



**PROCEEDINGS**

(Present: Prof. (Dr.) K.P. Sudheer, Chairman)

**Sub: Prosecution against Kochi Corporation –sanction under Water (Prevention and Control of Pollution) Act 1974 and Environment Protection Act, 1986–orders issued****KERALA STATE POLLUTION CONTROL BOARD**

PCB/HO/SEE2/KOCHICORPN/2019

31-07-2020

- Read: 1. Order dated 23-10-2018 of the Hon'ble NGT in O.A. 533-535/2018  
 2. Order dated 9-11-2018 of the Hon'ble High Court in WP(c) No. 36204/2018(A)  
 3. Letter no. PCB/RO-EKM/GEN-221/19 dated 18-10-2019 from the Chief Environmental Engineer, Regional Office, Ernakulam  
 4. Notice No. PCB/HO/SEE-2/KOCHICORPN/2019 dated 11-12-2019 to the Secretary, Kochi Corporation  
 5. Order dated 30.01.2020 of the NGT in OA 442/2013, 20/2017 & 276/2017  
 6. Order dated 28.02.2020 of the NGT in OA 514/2019  
 7. Minutes of the meeting on 16-3-2020 with the Secretary, Kochi Corporation  
 8. Minutes of the meeting on 17-3-2020  
 9. Order dated 03.07.2020 in OA 514/2019  
 10. Direction of Chairman to the Chief Environmental Engineer, Regional Office Ernakulam through e-mail dated 14-7-2020  
 11. Letter No. PCB/RO-EKM/GEN-258/19 dated 16-7-2020 from the Chief Environmental Engineer, Regional Office, Ernakulam to the Member Secretary

**ORDER**

The Hon'ble NGT vide order read first above, ordered to complete the new integrated solid waste treatment processing plant in six months to commence the treatment of legacy waste, impose a penalty of Rs. 1 crore on Kochi Corporation and to deposit a performance guarantee of Rs. 3 crore with Kerala State Pollution Control Board. The Hon'ble High Court vide the order read 2<sup>nd</sup> above, ordered to place bank guarantee of Rs. 50 lakh each to Central Pollution Control Board and Kerala State Pollution Control Board and to exempt them from depositing Rs. 3 Crore towards bank guarantee.

As per the letter read third above, the Chief Environmental Engineer, Regional Office, Ernakulam reported regarding the improper functioning of solid waste plant including no action taken to install proper leachate treatment plant at the site. The Board issued notice vide notice read fourth

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**M. A. BAIJU**  
Chief Environmental Engineer



above to the Secretary, Kochi Corporation to show cause why the Environmental compensation of Rs. 1.122 Crore shall not be levied for not providing leachate treatment plant. The Chief Environmental Engineer, Regional Office, Emakulam in the report dated 20/02/2020 to the Chairman, State Level Monitoring Committee, reported that the Corporation is not taking earnest steps to solve the issue which is a long pending case from the Corporation side and to assess environmental compensation as done on 18-10-2019. The Hon'ble National Green Tribunal vide the order read fifth above on 30-1-2020 directed that, on receipt of the explanation from the Corporation to the notice issued by Board, the Pollution Control Board is to pass appropriate orders and complete the proceedings initiated on the basis of their inspection and dispose of the same in accordance with law and come with compliance report before the Tribunal.

Based on the hearing conducted with the Secretary, Kochi Corporation on 16-3-2020 and as per the minutes read seventh and eighth above and the details submitted by the Corporation, 89.8% of household and 59.8% of establishments are having door to door collection for dry and wet wastes in Kochi Corporation and the Corporation as well as nearby municipalities and panchayaths, who dispose waste in Brahmapuram Plant are to segregate dry and wet waste at sources, and only segregated wet waste reach manure plant. Entire quantity of non biodegradable waste is collected and transported from Kochi Corporation and disposed in the two sheds and nearby open yard of Brahmapuram plant and only 1% of plastic waste is segregated from the above and given to recyclers and action is required to minimize the load of non-biodegradable waste reaching Brahmapuram through existing MCF and RRF through the involvement of Haritha Karma Sena, Scrap Merchant Association and Recycling Plastic association to recycle the recyclable plastic in registered recycling units and the remaining non recyclable plastic through co incineration in cement plant. New leachate collection tank of 1 lakh litre is nearing completion and the same is to be disposed in septage treatment plant till the proposed leachate treatment plant is in operation. The retendering of waste energy plant and legacy waste has been done by the Government.

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**M. A. BAIJU**  
Chief Environmental Engineer



The Hon'ble NGT on 3-7-2020 in OA514/2019 observed the delay in setting up of waste to energy plant and was doubtful whether leachate can be treated in an ordinary septage treatment plant as it contains heavy metals. The tribunal also observed that the progress appears to be very slow and in disregard to the statutory and constitutional obligation of providing clean environment. The tribunal specified that it is the responsibility of the KSPCB to initiate prosecution and recover compensation for such failures.

Direction was issued on 14-7-2020 vide email read 10 above to the Chief Environmental Engineer, Regional Office, Ernakulam entrusting him to initiate the process for prosecution as suggested in the NGT order and to get assistance of the concerned Environmental Engineer. The Chief Environmental Engineer was also asked to make computations for the Environmental Compensation.

Meanwhile the Chief Environmental Engineer, Regional Office, Ernakulam vide the letter read 11 above commented in Annexure 2 that, it was identified that Kochi Corporation is collecting waste from their area and also from other local bodies (An average quantity of 365.19TPD of waste out of which 234.91TPD is biodegradable fraction for the months of May, June, and July 2019) and the Corporation is simply practicing land disposal of the waste including non-biodegradable waste. It is also reported that nothing was seen during recent visits to manage fresh waste also, which are simply disposed above legacy waste heaps. That too in the case of non-biodegradable waste which was seen disposed at another place, where fire accident occurred twice a year. It was also reported that, temporary leachate treatment facility installed by the corporation during the visit of Regional Monitoring Committee of Hon'ble NGT was for on a trial basis for two months and the agency who installed the plant for free was not willing to operate it further due to heavy operational cost and not functional at present.

Considering the above, the Chief Environmental Engineer, Regional Office, Ernakulam is

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**M. A. BAIJU**  
Chief Environmental Engineer



authorized under section 19 of Environment (protection) Act 1986 and Section 49 of the Water (Prevention & control) of pollution Act 1974, to initiate prosecution and make complaint in the respective magistrate court against Kochi Corporation for the violations of the provisions under Solid waste Management Rules 2016 and Section 24 of the Water (Prevention and Control of Pollution) Act, 1974 respectively. The concerned Environmental Engineer shall assist the Chief Environmental Engineer in the legal proceedings.

Sd/  
CHAIRMAN

To

1. The Chief Environmental Engineer, RO, Ernakulam
2. The Environmental Engineer, DO2, EKM

Copy to

1. Standing Counsel, Principal bench
2. Standing Counsel, Southern bench
3. The EE, DO-1/ESC
4. CA to Chairman
5. CA to MS

FORWARDED BY ORDER

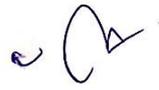
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SENIOR ENVIRONMENTAL ENGINEER-2

4



  
M. A. BAIJU  
Chief Environmental Engineer