

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT 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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THROUGH



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Date: 02.06.2021

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RESPONSE TO THE REPORT FILED BY MUNICIPAL COUNCIL, PALWAL IN

COMPLIANCE WITH ORDER DATED 14.07.2020 PASSED BY THE HON'BLE

TRIBUNAL

MOST RESPECTFULLY SHOWETH:

1. That the Original Application is filed raising issue of illegal dumping of municipal waste on common land which is marked as a grazing land and next to a water body (Johar), which is almost filled up because of dumping of waste.
2. That the Hon'ble Tribunal vide order dated 14.07.2020 passed an order directing the respondents to comply with the Solid Waste Management Rules, 2016:

“4. The fact remains that there is failure of the local and State authorities in discharging their statutory and Constitutional obligation of ensuring clean environment and complying with binding directions in earlier proceedings. Mere proposed steps are not a valid defence to the criminal failure of the authorities when stringent punishments are contemplated under the law for such failure as there is continued damage to the public health by such failure. There appears to be apathy and lack realisation of duties in dealing with the matter without a sense of urgency and allowing damage to the environment and public health. It is disappointing to see such lapses and failures. As held by the Hon'ble Supreme Court, if there is any constraint of funds, the same can be recovered from the people contributing the waste but waste management has to be promptly ensured. The authorities are trustees of the people for this management and their incompetence should not result in damage to public health as is happening in the present case. Their accountability has to be fixed.

5. Accordingly, we direct the Additional Chief Secretary, Local Bodies/ Urban Development, Haryana to ensure compliance of Municipal Solid Management Rules failing which we will have no option except to take coercive measures, including direction for prosecution and stoppage of salary.”

3. That Respondent No. 2, Municipal Council, Palwal has filed a report in compliance with the order dated 14.07.2020, where the Respondent states the present status pertaining to the Solid Waste Management System and Door to Door Source Segregation in the said municipal area of the municipal council and has said that the bioremediation and reclamation of legacy waste existing at Meghpur had started since 04.12.2020.
4. That in response to the strict directions passed by this Hon'ble Tribunal, Respondent No. 2 has claimed to be taking steps to remove the illegally and unscientifically dumped municipal waste at Khevat No. 114, Khatauni 145 and Khasra Nos. 14/2, 16/1 and 17, 20, 21 and 27. Further, the Respondent No. 2 has said that no fresh dumping will take place at the site in question. But, there has been no mention to revive and remove the garbage from the pond at the said site which is still choked with filth.

CLAIM MADE IN THE REPORT OF REMOVAL OF WASTE IS INCORRECT

5. That the Applicant submits the claim made in the report about not dumping any waste on site in question is incorrect on face of it and contrary to the claim of removal, fresh dumping is being done by corporation. of The Applicant has taken photographs on 1.06.2021 showing dumping of waste is being done on the site in question. The photographs taken on 29th May, 2021 and 1st June 2021 showing fresh dumping of waste on the site in question is filed and annexed as **ANNEXURE A-1.**

NO action on removal of waste from water body/ pond

6. That the water body/pond in the site in question has been filled up by the project proponent by dumping of waste. It is pertinent to mention that this water body is recorded as johar in the land record also. No steps whatsoever have been taken to revive the pond, it is still filled with garbage and is cemented by blocks from all the sides.
7. That the Hon'ble Supreme Court in the matter of **Jitendra Singh v. Ministry of Environment & Ors.** reported in **2019 SCC OnLine SC 1510** emphasised on

the importance of local water bodies including ponds for the maintenance of the ecological flow:

“19. There remains therefore no doubt that it is the responsibility of the respondents to ensure the protection and integrity of the environment, especially one which is a source for livelihood for rural population and life for local flora and fauna.

20. Protection of such village-commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. Waterbodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal.

21. The respondents’ scheme of allowing destruction of existing water bodies and providing for replacements, exhibits a mechanical application of environmental protection. Although it might be possible to superficially replicate a waterbody elsewhere, however, there is no guarantee that the adverse effect of destroying the earlier one would be offset. Destroying the lake at Khasra Nos. 552 and 490, for example, would kill the vegetation around it and would prevent seepage of groundwater which would affect the already low water-table in the area. The people living around the lake would be compelled to travel all the way to the alternative site, in this case allegedly almost 3 kms away. Many animals and marine organisms present in the earlier site would perish, and wouldn’t resuscitate by merely filling a hole with water elsewhere. Further, the soil quality and other factors at the alternate site might not be conducive to growth of the same flora, and the local environment would be altered permanently. The respondents’ reduction of the complex and cascading effects of extinguishing natural water-bodies into mere numbers and their attempt to justify the same through replacement by geographically larger artificial waterbodies, fails to capture the spirit of the Constitutional scheme and is, therefore, impermissible.

22. Hence, it is clear that schemes which extinguish local waterbodies albeit with alternatives, as provided in the 2016 Government Order by the State of UP, are violative of Constitutional principles and are liable to be struck down.”

(Emphasis Added)

8. That this Hon’ble Tribunal in **Lt. Col. Sarvadaman Singh Oberoi v. Union of India and Ors.** reported in **2019 SCC OnLine NGT 1802** laid out a process for revival of water bodies:

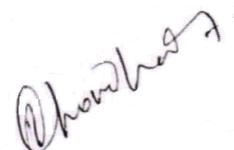
“6. There can be no dispute that the water bodies play significant role in recharge of ground water, preventing soil erosion, harnessing rain water and maintaining micro-climate in the area. Need for conservation and protection of water bodies is thus obvious. This requires involvement not only at the level of the State but also at the level of the community for which State needs to take initiative.

The threat caused to the water bodies is by dumping of waste, discharge of effluents and encroachments. **The steps required for restoration will include preparation and implementation of catchment area treatment plans, setting up of green belt and wherever viable setting up of bio-diversity parks around the water bodies, cleaning up of the garbage/debris and demarcation by the Revenue Department on identification survey and demarcation. Each water body is required to be given a geo-referenced-UID and an action plan is required for restoration and protection of each of the water bodies. In this view of the matter, need for conservation and protection of water bodies is not confined to the State of Haryana alone but extends to the whole country."**

(Emphasis Added)

9. That in light of the above this Hon'ble Tribunal may pass appropriate direction for compliance of the direction contain in order dated 14.07.2020. Further, the Respondent No. 2, Municipal Council, Palwal be directed to act as per the statement given in the compliance report and refrain from dumping waste on the said site and also revive and restore the area in question and the pond in a time bound manner.

THROUGH



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