

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

**Original Application No. 06 of 2017
(Earlier O.A. No. 136/2015)**

IN THE MATTER OF:

Madhumangal Shukla

390, Rangad Kunj, Bag Bundela,
P.O Vrindavan, Dist. Mathura

..... Applicant

Versus

1. Union of India

Through the Secretary
Ministry of Environment, Forest & Climate Change
New Delhi-110003

2. Central Pollution Control Board

Through its Member Secretary
Parivesh Bhawan
East Arjun Nagar,
Delhi-110032

3. Uttar Pradesh Pollution Control Board

Through its Member Secretary
Picup Bhawan III Floor, Vibhuti Khand,
Gomti Nagar, Lucknow-2260001, U.P

4. Irrigation Department, Uttar Pradesh

Through its Executive Engineer
Upper Ganga Canal, Irrigation Department
Civil Lines, Mathura

5. Nagar Palika Parishad, Vrindavan

Through its Executive Officer
Vrindavan, Mathura
Uttar Pradesh

6. Mandi Samiti, Mathura

Through its Secretary
Mandi Samiti, Mathura
Uttar Pradesh

7. Divisional Commissioner, Agra

Commissioner's Office, Agra
Uttar Pradesh

8. District Magistrate, Mathura

Civil Lines, Mathura
Uttar Pradesh

.....Respondent

COUNSEL FOR APPLICANT:

Mr. Rahul Choudhary, Ms. Meera Gopal and Mr. Utkarsh Jain,
Adv.

COUNSEL FOR RESPONDENTS:

Mr. Mukul Singh, Adv. for respondent no.1

Mr. Rajkumar, Adv. with Mr. Bhupender Kumar, LA for CPCB
for respondent no.2

Mr. Pradeep Mishra and Mr. Daleep Kr. Dhyani, Adv. For
respondent no. 3

Mr. S.K. Bhattacharya, Adv. For respondent no. 4&5

Mr. Abhishek Yadav, Adv. For respondent no.6

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Reserved on: 11th April, 2017

Pronounced on: 3rd July, 2017

1. Whether the judgment is allowed to be published on the net?

2. Whether the judgment is allowed to be published in the NGT Reporter?

RAGHUVENDRA S. RATHORE (JUDICIAL MEMBER) J

1. Initially the applicant had filed an Original Application (O.A No. 136/2015) before this Tribunal under Section 14, 15 and 18(1) of the National Green Tribunal Act, 2010. The main cause of concern in the application was improper and

unregulated disposal of municipal solid waste in the city of Vrindavan, especially in front of the Tatiasthan, near river Yamuna and other places like Kalidaha, Shringarvat, Ranapat Ghat etc. Further it was stated by the applicant that there was a continuous violation of the Environment Protection Act, 1986, Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Municipal Solid Waste (Management and Handling) Rules, 2000.

- 2.** It was also submitted by the applicant that Vrindavan is a temple town in Mathura district and is situated on the west bank of river Yamuna. But, of late, river Yamuna is losing both her beauty and purity because it is being constantly tampered with due to dumping and disposal of huge amount of municipal solid waste on its banks. The situation has reached an alarming state of affairs, so much so that the river has been pushed about 300 to 400 meters away from the ghats and the illegal construction in the flood plain area has further worsened the crisis of river Yamuna. Since recent past, illegal and unregulated dumping of municipal solid waste on the flood plain of river Yamuna has been started. Vrindavan had a land fill site, for last 25 years, at Rajpur Bangar near the Bhatroal Temple. It had been sold in February 2013, for setting up of a whole sale market. Though it was the only land fill site, the respondents sold the same for an amount of Rs. 8,09,34000/-. No other alternative land fill

site has yet been designated for dumping of municipal solid waste for the city of Vrindavan. The construction of the whole sale market would not only mean that a suitable and available land fill site in Vrindavan would be taken away but it would expose the river Yamuna and the city to unhygienic disposal and dumping of municipal solid waste. Subsequently, the city has resorted to the unhygienic practice of accumulating garbage in the nooks and corners of the main road, until it is finally taken to the garbage station. Further, the garbage is carelessly dumped into Yamuna flood plains, water bodies and various water drains of the town. The drains have become a breeding ground for host of vector borne diseases. As the drains are uncovered, they are causes of several casualties. The applicant has further made aware about the fact that Vrindavan has no recycling unit, no incinerator and not even any official satellite dumping stations. However, despite repeated efforts made by the applicant no action has been initiated by any of the authorities concerned.

- 3.** After issuance of notices on the application filed by the applicant, various respondents had put in their appearance and filed counters. It is to be noted that Uttar Pradesh Pollution Control Board had in their reply submitted that inspection of the area of Nagar Palika Parishad was done by the officers of the board on 15.06.2015 and found that MSW has been dumped on road side near the STP in Vrindavan. After considering the case of the applicant as well as the

respondents, Tribunal finally decided the matter on 11.05.2016, with following directions:

- “1. There is clear air and environment pollution, bad odour and public nuisance resulting from this activity and indiscriminate breach of MSW Rules, 2000 in every possible way. This would attract the provision of Section 15 and 17 of NGT Act, 2010. We therefore impose environmental compensation of Rs. 5 lac on the Deputy Commissioner of Vrindavan, District Mathura and Rs. 5 lac on the Nagar Palika Parishad, Vrindhavan.*
- 2. The UPPCB claims that it had issued notices to the authority but still they failed to take steps. The UPPCB have also failed to discharge their statutory function and failed to carry out supervision and take action in accordance with Air Act and Municipal Solid Waste Rules, 2000. Thus we impose environmental compensation of Rs. 1 lac. On the UPPCB i.e. respondent No. 3.*
- 3. We further impose cost of Rs. 50,000/- which shall be recovered in the first instance from the State/ District Administration and Respondent No. 5 and would equally share this amount. This shall be subsequently recovered from the salary of erring officers of Respondent No. 1, Respondent No. 5 and Respondent No. 8.*
- 4. The amount shall be recovered after holding departmental enquiry. Besides recovery, the Respondent particularly the concerned Secretary of the State of U.P. is also directed to take disciplinary action against the erring officers and the staff. If there is any private agency engaged by the public authority for collection, transportation and dumping of waste,*

appropriate action shall also be taken against the said private authority in accordance with law.

5. *We further direct the concerned respondent to completely develop the site at Mart road, Vrindavan for dumping of MSW within four weeks from today and submit the compliance report for setting up of waste processing plant in accordance with rules.*
6. *We may notice that despite the fact that there are averments made in the affidavit, no effective steps has been taken till today.*
7. *There shall be total prohibition on dumping and/or burning of Municipal Solid Waste in any street at any place near the water bodies, market or residential areas. The waste shall be collected by the local authorities on daily basis and dumped at the site strictly in accordance with Municipal Solid Waste, Rules, 2000.*
8. *With the above directions this application stands disposed of, with no order as to costs. The entire cost of compensation should be deposited with Central Pollution Control Board within two weeks from today. In the event of default the concerned Head of the Department shall be liable for action in accordance with law.*
9. *We enhance the fee of the Local Commissioner of Rs. 20,000 to Rs. 30,000/- in addition to the expenses. We are informed that the respondents have still not paid the fee of the Local Commissioner. The fee shall be paid within one week from today. Liberty to the Local Commissioner to mention the matter if the fee is not paid. If there is default, the Executive Officer of Respondent No. 5 shall be present before the Tribunal.*
10. *We also hereby prohibit the use of carry bags and other plastic waste in the entire city of Vrindavan. The*

State has already issued prohibitory order which should be effectively complied in this area.

4. Subsequent to the aforesaid final order passed by the Tribunal in O.A No. 136/2015, respondent no.5 and 8 had filed M.A Nos. 482/2016 and 530/2016 respectively, for recalling the order dated 11.05.2016 to restore the files to their original numbers. Another M.A. 541/2016 for modification of the order dated 11.05.2016 had been filed by respondent no. 3, to the extent that the environment compensation imposed on Uttar Pradesh Pollution Control Board be waived.

5. All the three applications came up for consideration before the Tribunal and by its order dated 23.08.2016, they were dismissed with the following directions”

“17. For the aforesaid reasons, we see no ground to modify and /or recall the order dated 11.05.2016. Consequently, all these Applications are dismissed with no order as to cost. However, we grant two weeks’ time to all the respondent applicants to comply with the order/judgement dated 11.05.2016 and pay the requisite amount.”

6. It is to be noted that the extended time of two weeks for implementation of the directions passed by the order dated 11.05.2016 had also expired on 07.09.2016.

7. Despite the aforesaid final order by which the time was extended to the respondents for implementation of the same, no steps, worth the name were taken by the authorities

concerned, particularly, Nagar Palika Parishad, Vrindavan. Therefore, the applicant has filed instant Application (O.A No. 06/2017) on 04.01.2017. The applicant has given the details as to how various directions given in the order dated 11.05.2016 has not been implemented by the respondents. It is submitted by the applicant that the respondents have not developed the designated land fill site at Mart Road nor taken steps to establish a waste treatment plant. The Nagar Palika Parishad, respondent no.5 is dumping waste further down the street from Mart Road which is 200 meters away from river Yamuna. The applicant has submitted that he had visited the site on 26.02.2016 and found that unsegregated waste and plastic waste was being dumped, in contravention of MSW Rules, 2000. It is also submitted that trash burning is still taking place, both at the site and within the city. Construction debris are also being dumped on the bank of Yamuna. Carry bags and plastic are still being used in the city of Vrindavan.

- 8.** It is pertinent to mention here that Nagar Palika Parishad, Vrindavan and other respondents filed an Appeal (38773/2016) before the Hon'ble Supreme Court against the order dated 11.05.2015 by which O.A No. 136/2015 was decided and the order dated 23.08.2016, deciding the three Miscellaneous Applications (482/2016, 530/2016 & 541/2016). The Appeal had come up for initial hearing on 20.02.2017. The Hon'ble Court was pleased to order that:

“The deposited amount be invested in FDR initially for a period of one year.

List the matter after the orders of the National Green Tribunal has been complied with”.

9. The respondent Nagar Palika Parishad (Respondent no. 5) and District Magistrate (Respondent no. 8) Mathura have filed a joint counter (in O.A No. 06/2017) through an affidavit of Executive Officer Nagar Palika Parishad, Vrindavan. It has been deposed by the Executive Officer that steps have been taken to prepare four pits at Mart Road, in accordance with MSW Rules, 2000, sized 9.5 meters x 9.5 meters x 5 meters and the fifth pit is sized 67 meters x 70 meters x 5 meters. According to the deponent, the dumping of waste would start any day. Further, it is stated that Vrindavan has prepared a plan of modern composting facility and the detail Project Report has received approval from the Technical Committee of the State. It is expected that the future elected Government will implement the plans. It has been deposed by the Executive Officer that government's financial constraints are delaying the progress.

10. Wastes have been dumped temporarily near Mart Road dumping ground. Precautions are being taken to kill insects and cover the site with plastic. A Gaushala and Kanji house has been sanctioned for housing cows and other animals on Mart Road and the work has begun on the project. The animals wandering in Vrindavan are domestic. In the case of Brij Life Line Welfare vs. State of UP (PIL 48602/2012), Allahabad High Court has banned the use of plastics in the

city of Mathura-Vrindavan. The government is taking steps to educate the public, as directed in the judgment. Respondent denies burning of any waste and places blame for it on miscreants and they cannot be held responsible. The respondent points to “leveling of unfounded allegations possibly for cheap publicity got stopped the construction of Arhda Chandrakar bridge over river Yamuna at Kesi ghat” in the year 2009-2010. A new project of the said bridge is coming up and the malba from the project is being used for road construction. Unutilized malba will not be allowed to remain at the site till completion of the project. According to the respondents, the applicant has made false statements regarding trash burning and waste dumping.

- 11.** The applicant has filed rejoinder/ response on 08.03.2017 to the counter filed on behalf of respondent no.5 and 8. The applicant has submitted that Nagar Palika Parishad and the District Magistrate, Mathura have completely failed to carry out their statutory duties, despite of several orders from the Tribunal. SDM Mathura had conducted a surprise investigation and found that Vrindavan was the dirtiest, in terms of waste management, in Mathura District. The time period, including extension granted by the Tribunal, for developing the Mart Road site and submitting a compliance report on establishment of a waste processing plant, had expired on 7.09.2016, without respondents 5 & 8 seeking further extension. There is no timeline for modern

compost plant which respondent State would be building. Despite of the order of Allahabad High Court, the prohibition on plastic has not been implemented in Vrindavan. Though burning of waste in entire city of Vrindavan has been banned by the Tribunal vide order dated 11.05.2016, it continues to be burnt. The applicant is said to have witnessed the site which is about 300 meters from banks of river Yamuna. This has appeared in the newspapers (annexure 2/3).

12. On behalf of Uttar Pradesh Pollution Control Board, respondent no.3, a response has been filed by its Regional Officer. He along with one other is said to have conducted a physical inspection on 07.04.2017 (annexure 1). Further it is submitted that environmental compensation of Rs. 1 lakh, imposed on the Board, has been paid. According to the Pollution Control Board, Nagar Palika Parishad, respondent no.5 has not submitted any detailed report to develop the site at Mart Road. It is not complying with MSW Rules, 2000 as well as Solid Waste Management Rules, 2016. Segregation is not being done at the site. According to the Pollution Control Board, MSW is being dumped near the helipad. In response of deponent issued a notice to Respondent 5 for removing the waste immediately. The construction waste, as given in the photographs annexed by the applicant (annexure 5), has been removed. But now there is material lying which is meant for beautifying the ghats by Virndavan Irrigation Department.

A perusal of the report dated 07.04.2017, with regard to physical inspection (annexure 1) filed by the Pollution Control Board shows that Vrindavan has selected an area of 6594.1 square meters for segregation, storage, processing, treatment and disposal of MSW near Mandi Samiti and Hundred Bed Hospital. Four pucca trenches have been constructed at the site and one other is under construction. One of the four trenches was completely filled with MSW, the second is 75 percent filled, the third is half filled, and fourth is empty. No plant or machinery for segregation was found at the site.

MSW was also found dumped near the helipad, approximately 200 meters from river Yamuna at Mart Road. The objection of the applicant was found correct in this regard and notice has been issued to respondent to dispose of the waste at the appropriate site. The Construction material has been removed from the site as noted in the status report, but at the time of inspection, material for beautification of ghats at Vrindavan was still lying.

- 13.** After considering the aforesaid facts and circumstances of the case it is amply clear that despite of clear directions having been given by the Tribunal, the respondent Nagar Palika Parishad, Vrindavan is yet to fully comply with the same. There is no proper place for disposal of municipal waste in the city of Vrindavan. The Parishad has dumped the waste near Helipad which is very close to river Yamuna. Moreover, notices in this regard have already been issued by

State Pollution Control Board to dispose of the waste at the appropriate site. In so far as construction material is concerned though the one lying earlier has been removed but the material which has been brought for the purposes of beautification of ghats on river Yamuna is lying in a scattered manner. The site at Mart Road has also not been developed by Nagar Palika and a lot is required to be done to dispose of the municipal waste in accordance with the Municipal Solid Wastes (Management and Handling) Rules, 2000 and Solid Wastes Management Rules, 2016. Nothing has been done, in so far as segregation is concerned. Ban on use of plastic in the city has not been enforced completely, so far.

Therefore, we deem it just and proper to issue following directions to the respondent.

1. All those respondents and the concerned officers who have not deposited the cost so far, shall do the same within two weeks from today, as per the orders of this Tribunal and in accordance to the directions issued by the Hon'ble Supreme Court, by its order dated 20th September 2016.
2. The respondent Nagar Palika Parishad shall start segregation, storage, treatment and disposal of MSW, on the site selected/ allotted for the purpose, in accordance with the Rules of 2016, within a period of four weeks from today.

3. Respondent Nagar Palika Parishad shall develop the site at Mart Road, if not done so far, within a period of 4 weeks from today.
4. The Uttar Pradesh Pollution Control Board shall issue notices and take action in accordance with Air Act and the Solid Waste Management Rules, 2016 forthwith. In the event of failure to comply the same, the Member Secretary Pollution Control Board shall be held personally responsible and appropriate action in accordance with law shall be taken against him.
5. The concerned Secretary of the State of Uttar Pradesh is directed to hold a departmental enquiry and take disciplinary action against the erring officers and the staff, if not done so far.
6. The Secretary shall immediately submit a report with regard to the disciplinary action taken against the erring officers and the staff to the Tribunal, if the departmental enquiry has already been held or on completion of the same.
7. It shall be the responsibility of District Administration and Pollution Control Board to ensure complete prohibition for use of carry bags and other plastic waste in the city of Vrindavan. On failure to do so, the Executive Officer of Nagar Palika Parishad and District Magistrate, Mathura shall be held personally liable and appropriate proceedings

in accordance with law, shall be ordered against them.

We hope that the respondents would fully comply with the orders passed by the Tribunal on 11.05.2016, as also by the Hon'ble Supreme Court. A complete compliance report, in this regard, shall be submitted to the Tribunal by Divisional Commissioner, Agra, within a period of six weeks from today.

Consequently, this original application is disposed of, without any order as to cost. On receipt of the report of Divisional Commissioner, Agra, the Registry shall put up the same before the Tribunal, after registering it separately.

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Justice Swatanter Kumar
(Chairperson)

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Justice Raghuvendra S. Rathore
(Judicial Member)

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Bikram Singh Sajwan
(Expert Member)

New Delhi.

Dated:, 3rd July, 2017