

Item No. 03

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 172/2021

Poonam Yadav

Applicant

Versus

M/s. Ecogreen Energy Pvt. Ltd. & Ors.

Respondent(s)

Date of hearing: 19.07.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Ajit Kumar Pande, Advocate

ORDER

1. The issue raised in this application is failure to maintain environmental norms in handling Bandhwari landfill site at Gurugram. Case of the applicant is that a Waste Management project has been developed and contract assigned to a Chinese company - Eco-green Energy Private Limited in the year 2017. However, the steps taken being inadequate, the waste is being burnt causing huge air pollution which has potential to affect not only the inhabitants but also the Asola Bhati Wildlife Sanctuary having 193 species of birds, large number of medicinal plants and more than 80 species of butterflies, black buck, Golder Jackal, leopards. The State is under obligation to protect eco sensitive zone by controlling adverse impact of violation of environmental norms. Burning of waste in landfill sites is in violation of the Solid Waste Management Rules, 2016 and directions of this Tribunal in *Almitra H.*

*Patel & Anr. v. Union of India & Ors.*¹ The landfill fires contain high level of pollutants, adversely affecting the air quality and hazard to the human health and other living creatures, flora fauna of the protected area. Though Waste to Energy Plant has been set up, the same is not compliant with the environmental norms. Frequent fires are emitting dangerous fumes from the combustion of the wide range of materials emitting carbon monoxide, hydrogen sulphide, volatile organics, production of dioxides, furans is also documented risk factors. The atmospheric emissions from such fire has adverse impact on the environment and human health in terms of both greenhouse gases and air borne particulate matter. Toxic gases released from landfill site are responsible of lung and heart diseases and also badly affect the flora and fauna of that area. The applicant has relied upon media reports dated 11.07.2021 about the incident of fire.

2. The applicant has also filed a copy of order of this Tribunal dated 07.04.2021 in OA 514/2018, *Vivek Kamboj & Anr. v. Union of India & Ors.* In the said matter, the Tribunal monitored the inadequacy of measures in handling the said dump site by the authorities of the State of Haryana for more than five years and found serious violations. Finally, the application was disposed of with directions for monitoring by the Chief Secretary Haryana to uphold citizens right to clean environment and to uphold the rule of law. The operative part of the order is reproduced below:

“7. Thus, it is established on record that so far there has been serious failure of the authorities in performing their responsibility under the Solid Waste Management Rules, 2016 to effectuate the right of the citizens to clean environment. Though an action plan has now been filed, whether the Municipal Corporations concerned and the Urban Development Department of the State of Haryana execute the

¹ 2016 SCC OnLine NGT 4216

same in a mission mode and within reasonable time remains a moot question. The objections of the applicant that forest land is being used in violation of law may also be looked into and compliance of law ensured. M.C. Gurgaon may continue the biomining work as well as setting up of waste processing plants as proposed.

8. Since the Tribunal has already monitored the failures of the authorities for sufficiently long time, the State must now take ownership of its basic responsibility in the interest of rule of law, protection of environment and public health. The authorities may take further remedial action consistent with earlier orders of this Tribunal, including orders passed in the presence of its Chief Secretary in OA No. 606/2018, referred to, in detail, in another matter being dealt with today from Farrukhnagar Municipal Council, Faridabad District, being OA No. 171/2020, Poonam Yadav v. M.C. Farrukhnagar & Ors. Having regard to serious past failures and sensitivity of the issue, the Chief Secretary, Haryana may personally monitor compliances periodically. As directed earlier, compensation in terms of orders of this Tribunal dated 14.02.2020, 28.02.2020 and 14.12.2020 in OA 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues may be deposited in a separate account and used for restoration of the environment.”

3. In view of the grim picture depicted above, there appears to be serious lapses and continuing failure on the part of the authorities of the State of Haryana in performing constitutional obligation of providing clean environment and upholding the rule of law.

4. We are of the view that effective remedial measures including effective monitoring mechanism is required in view of seriousness of the situation. A welfare State can hardly be oblivious to its Constitutional obligation to the citizens for protection of public health particularly when failure to prevent outbreak of diseases results in mass destruction of human lives. No enemy is needed. Failure of the administration and neglect of responsibility is enough for destruction. We hope such failure will be remedied if the State has any concern for safety of its citizens and the rule of law. The effectiveness of monitoring mechanism needs to be looked into. The erring officers need to be made accountable for such continuing failure.

5. In view of above, to ascertain the factual status, we constitute a three-member Committee comprising CPCB, Haryana State PCB and the District Magistrate, Gurgaon. The Committee may visit the site, interact with the stakeholders and take assistance from any other individual/institution and give its report within one month by e-mail by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF with a copy to the Chief Secretary, Haryana. The report may inter alia include causes of fire, reasons for unauthorized persons working in the landfill premises, progress on remediation of site and setting up of waste processing plant in furtherance of order of this Tribunal dated 7.4.2021 in OA 514/2018, steps taken by the MCG to prevent sliding of garbage mound due to fire and during monsoon and status of compliance of Rules on relevant aspects. The report may also mention status of legacy waste dump site in terms of order dated 17.7.2019 in OA 519/2019.

6. The Chief Secretary, Haryana may give response within one month thereafter about remedial action taken to comply with the law and steps taken against erring officers for failure for long time to remedy the situation resulting into such ugly situation. The monitoring mechanism in place to ensure that such failures do not happen may also be mentioned. The report may be furnished by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF.

A copy of this order be forwarded to Chief Secretary, Haryana, CPCB, Haryana State PCB and the District Magistrate, Gurgaon by e-mail for compliance.

The applicant may serve a set of papers on Chief Secretary, Haryana, CPCB, Haryana State PCB and the District Magistrate, Gurgaon and file affidavit of service within one week.

List for further consideration on 27.10.2021.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

July 19, 2021
Original Application No. 172/2021
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