

Item No. 07

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
(Through Video Conferencing)**

Original Application No.472/2018  
(I.A. No. 37/2019)  
(Earlier O.A. No.19/2014 (EZ))

Rohit Chowdhury

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 11.02.2020

**CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER  
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Appellant(s): Ms. Sharon Mathew, Adv

For Respondent (s): Mr. Santanu Bora, Adv for GMC  
Ms. Nimisha Menon, Adv for State of Assam  
Mr. Gora Chand Roy Choudhury, Adv for R-1  
Mr. Balarko Sen, Mr. S.D. Mazumdar Adv for R-4  
Mr. Kalyan Sarkar, Mrs. Dhiswari Nag Adv for R-8  
& 9

**ORDER**

1. The affidavit filed on behalf of the State of Assam in terms of the order dated 06.11.2019 is ordered to be taken on record. The affidavit deals with the submissions made on behalf of the State with regard to identification of sites for setting up of the Integrated Solid Waste Management Facility and the issue pertaining to protection of elephant corridor by Northern alignment of the railway track outside Deepor Beel Wildlife Sanctuary.

2. Vide order dated 19.08.2019, the action required in relation to encroachment of the Deepor Beel, matter relating to legacy/old waste in the existing dumping ground and issuance of notification declaring the Eco-Sensitive Zone at Goraigaon had been clearly indicated. Information has accordingly been furnished in the affidavit on the action taken against these aspects which we may reproduced as below:

*“5.It is most humbly submitted that wherein the Hon’ble Tribunal had asked the State to plan decentralized processing plants, the present affidavit is being filed in due compliance of the order dated 19.08.2019 and to bring on record the latest position with regard to the aspects enumerated in this affidavit in the subsequent paragraphs. It is submitted that for the convenience of this Hon’ble Tribunal, the following table provides a snapshot of the decision taken and timeline, wherever applicable:*

<i>SIN</i>	<i>Subject</i>	<i>Timeline/ Status</i>	<i>Comments/ Annexure</i>
1.	<i>04 decentralised processing plants.</i>	<i>Land allotted to GMC</i>	<i>01 site–MoA between APGCL &amp; GMC. 03 sites– Land allotted to GMC. <b>[Annexure R2, R5 to R7]</b></i>
2.	<i>Other 02 decentralised processing plants.</i>	<i>i. Bhangagarh site – Test running stage. ii. Chatribari Beelpar locality- operational within 30 days</i>	<i>Refer para 7 <b>[Annexure R8 and R9]</b></i>
3.	<i>Removal of old/ legacy waste.</i>	<i>Target date –April 2020</i>	<i>Refer para9</i>
4.	<i>Discontinuation of dumping at Boragaon site.</i>	<i>Likely to be discontinued by 31<sup>st</sup> December 2019.</i>	<i>Refer para 11</i>
5.	<i>Encroachment on DeeporBeel.</i>	<i>03 months</i>	<i>Refer para 14</i>

**ALLOTMENT OF SITES FOR DEVELOPING INTEGRATED SOLID WASTE  
MANAGEMENT FACILITIES**

6. It is most respectfully submitted that for the purpose of developing Integrated Solid Waste Management Facilities [SWMF] in the Guwahati Capital Region, four [04] sites have been identified and the possession of the same has been given to the Guwahati Municipal Corporation. The details of the four [04] sites are as follows:

**DECENTRALISED PROCESSING PLANT – SITE 01**

1. **40 bighas of land situated at Old Chandrapur Thermal Power Station of Assam Power Generation Corporation Ltd. [APGCL].** It is respectfully submitted that a Memorandum of Agreement [MoA] dated 21.09.2019 has already been signed between Guwahati Municipal Corporation and APGCL whereby APGCL has conveyed its no-objection with regard to the setting up of the SWMF on its land. It is submitted that as per the terms of the MoA, APGCL has also been planning to set up a Waste to Energy plant near the SWMF facility. The MoA also provides that GMC shall make all necessary arrangements for scientific handling, storage and segregation of the waste as per the Solid Waste Management Rules, 2016. It is submitted that GMC shall store the waste in a scientific manner to prevent contamination and after segregation of the waste, the same shall be made available to APGCL for the waste to energy plant. It is submitted that as per Clause 8 of the MoA, a Project Facilitation Committee [PFC] comprising of representatives of the GMC, APGCL and Govt. of Assam has already been constituted vide office order dated 23.09.2019 and the 1<sup>st</sup> meeting of the PFC is scheduled to be held on 30.09.2019.

A copy of the Memorandum of Agreement [MoA] dated 21.09.2019 signed between Guwahati Municipal Corporation and Assam Power Generation Corporation Ltd. is annexed herewith and marked as **Annexure R2 [Page 975 to 977]**.

A copy of the office order dated 23.09.2019 vide which the Project Facilitation Committee has been constituted is annexed herewith and marked as **Annexure R3 [Page 978]**.

A copy of the meeting notice dated 23.09.2019 vide which the 1<sup>st</sup> meeting of the Project Facilitation Committee is scheduled to be held on 30.09.2019 is annexed herewith and marked as **Annexure R4 [Page 979]**.

#### **DECENTRALISED PROCESSING PLANT – SITE 02**

- II. **27 bigha land covered by dag No. 32 of village – Tamulikuchi NC under Sonapur Mouza of Sonapur Revenue Circle, District – Kamrup [M]** has been allotted to Guwahati Municipal Corporation by the Revenue & Disaster Management Department, Govt. of Assam. The Deputy Commissioner, Kamrup [M] has been directed by the Revenue Department to undertake subsequent necessary correction in the land records.

A copy of the letter dated 23.09.2019 vide which 27 bigha land covered by dag No. 32 of village – Tamulikuchi NC under Sonapur Mouza was allotted to GMC is annexed herewith and marked as **Annexure R5 [Page 980]**.

#### **DECENTRALISED PROCESSING PLANT – SITE 03**

- III. **20 bigha–1 Katha –19 Lessa land covered by dag No. 33 of village – Odalbakra under Beltola Mouza, Dispur Revenue Circle, District – Kamrup [M]** has been allotted to Guwahati Municipal Corporation by the Revenue & Disaster Management Department, Govt. of Assam. The Deputy Commissioner, Kamrup [M] has been directed by the Revenue Department to undertake subsequent necessary correction in the land records.

A copy of the letter dated 23.09.2019 vide which 20 bigha – 1 Katha – 19 Lessa land covered by dag No. 33 of village – Odalbakra under Beltola Mouza, Dispur Revenue Circle was allotted to GMC is annexed herewith and marked as **Annexure R6 [Page 981]**

#### **DECENTRALISED PROCESSING PLANT – SITE 04**

IV. **37 bigha – 3 Katha – 5 Lessa land covered by dag No. 139 of village – Basistha under Beltola Mouza, Dispur Revenue Circle, District – Kamrup [M]** has been allotted to Guwahati Municipal Corporation by the Revenue & Disaster Management Department, Govt. of Assam. The Deputy Commissioner, Kamrup [M] has been directed by the Revenue Department to undertake subsequent necessary correction in the land records.

A copy of the letter dated 23.09.2019 vide which 37 bigha – 3 Katha – 5 Lessa land covered by dag No. 139 of village – Basistha under Beltola Mouza, Dispur Revenue Circle was allotted to GMC is annexed herewith and marked as **Annexure R7 [Page 982]**.

**STATUS WITH REGARD TO THE TWO [02] DECENTRALISED PROCESSING PLANTS ALREADY SET-UP**

7. It is respectfully submitted that two [02] decentralised processing plants have already been set-up at separate places in Guwahati City. It is submitted that the status with regard to both the decentralised processing plants is as follows:

**DECENTRALISED PROCESSING PLANT – SITE 05**

I. **Organic Waste Converter [OWC]:** An OWC plant has been constructed at Bhangagarh with a capacity of 2.5 tonnes per day and will cater to the wet waste of the area. The OWC has been commissioned and is presently in the test running stage.

Photograph of the Organic Waste Converter at Bhangagarh is annexed herewith and marked as **Annexure R8 [Page 983 to 984]**.

**DECENTRALISED PROCESSING PLANT – SITE 06**

II. **Bio-methanation plant:** A bio-methanation plant is also being constructed at Chatribari Beelpar locality with a capacity of 5 tonnes per day and will

cater mostly to the waste generated by the hotels and restaurants. The said plant will convert the waste into methane and will produce power. The plant is expected to be operational within a period of 30 days.

Photograph of the bio-methanation plant is annexed herewith and marked as **Annexure R9 [Page 985]**.

#### **COMPOST PLANT AT BORAGAON SITE**

8. It is most respectfully stated that there is a compost plant located inside the Boragaon dumping site, with a capacity of processing 50MT garbage per day which produces approximately 3 to 4 tonnes of organic manure. Photograph of the compost plant located at Boragaon site is annexed herewith and marked as **Annexure R10 [Page 986]**.

#### **REMOVAL OF OLD/ LEGACY WASTE FROM BORAGAON SITE**

9. With regard to the removal of the old/ legacy waste, it is most respectfully submitted that Schedule I Clause J of the Solid Waste Management Rules, 2016 provides for closure and rehabilitation of old dumps. Clause J reads as follows: -

**“J. Closure and Rehabilitation of Old Dumps** – Solid waste dumps which have reached their full capacity or those which will not receive additional waste after setting up of new and properly designed landfills should be closed and rehabilitated by examining the following options:

- (i) Reduction of waste by bio mining and waste processing followed by placement of residues in new landfills or capping as in (ii) below.
- (ii) Capping with solid waste cover or solid waste cover enhanced with geomembrane to enable collection and flaring/utilization of greenhouse gases.
- (iii) Capping as in (ii) above with additional measures (in alluvial and other coarse grained soils) such as cut-off walls and extraction wells for pumping and treating contaminated ground water.
- (iv) Any other method suitable for reducing environmental impact to acceptable level.”

10. It is submitted that a feasibility study for clearing and cleaning of the legacy waste at the Boragaon dump site will be conducted by Assam State Bio-Diversity Board. It has been decided that the clearing and cleaning of the waste from the dump site will be conducted in a pattern similar to that of Neel Khas near Yamuna Diversity Park, NOIDA. It is submitted that the report of Assam State Bio-Diversity Board is likely to be submitted by 31<sup>st</sup> December, 2019 and the target date to begin removal of the waste is from April, 2020.

**DISCONTINUATION OF DUMPING AT THE BORAGAON SITE**

11. It is respectfully submitted that once the functioning/operation of any one out of the above mentioned four [04] integrated solid waste management facility commences, the dumping at the Boragaon site will be discontinued. It is respectfully submitted that the dumping at the Boragaon site is likely to be discontinued by 31<sup>st</sup> December, 2019.

**ENCROACHMENTS ON THE DEEPOR BEEL WATERBODY**

12. It is most respectfully submitted that vide order dated 19.08.2019, this Hon'ble Tribunal had expressed its concern with regard to the encroachment on the Deepor Beel water body. That the Hon'ble Tribunal had further directed that the water body should be made free from all the hydrophytes, atleast the core area of the water body.

13. It is respectfully submitted that with regard to the encroachment in the Deepor Beel water body, it is stated that no encroachment exists in the notified area of the Deepor Beel Wildlife Sanctuary situated in the Deepor Beel Ramsar site. It is submitted that some encroachment duly exists but outside the notified area of the Deepor Beel Wildlife Sanctuary.

14. It is most respectfully submitted that for removing such encroachments outside the notified area of the Deepor Beel Wildlife Sanctuary and for cleaning of the existing aquatic weeds including water hyacinth, it is prayed that three [03] months' time be granted to the State Government for doing the same.

**DECLARATION OF DEEPOR BEEL WILDLIFE SANCTUARY AS ECO-SENSITIVE ZONE**

15. It is most respectfully submitted that the Government of Assam had submitted its proposal to the MoEF& CC, Govt. of India for declaring the Eco-Sensitive Zone of Deepor Beel Wildlife Sanctuary. It is submitted that the MoEF& CC, Govt. of India vide letter dated 03.07.2018 sought for additional details for processing the draft notification for declaration of Eco-Sensitive Zone around Deepor Beel Wildlife Sanctuary. It is respectfully submitted that pursuant thereto consultation with stakeholders is being made for finalization of the draft notification for submission to MoEF& CC. The final draft notification shall be submitted to MoEF& CC within three months.

A copy of the letter dated 03.07.2018 by the MoEF& CC, Govt. of India is annexed herewith and marked as **Annexure R11 [Page987]**.

**PROPOSED REALIGNMENT OF RAILWAY LINE FOR PROTECTION OF THE ELEPHANT CORRIDOR AND TO AVOID TRAIN - ANIMAL CONFLICT**

16. It is respectfully submitted that on 04.08.2019, a joint visit/ survey of 'Deepar Beel' was carried out by visiting the dumping site, 'Deepar Beel', area comprising the elephant corridor, entry and exit point of 'Deepar Beel' etc.

17. It is submitted that as per the minutes, the following were noticed:

- i. There are total five (05) elephant corridors which are used by the elephants for the purpose of crossing the railway line to



reach 'Deepar Beel'. That proposed construction of the tunnel between rail gate no. 273 and 274 will provide safe access to elephants to 'Deepar Beel' only at two (02) corridors i.e. tower corridor. That the other three (03) corridors will continue to be vulnerable for the elephants. The construction of tunnel between rail gate no. 273 and 274 will not provide safe access to elephants to 'Deepar Beel' at the Matia (164/0), Mikirpara (164/6), Segunbari (165/8) and Bhangrathan Mandir (167/4).

II. That instead of constructing the tunnel between rail gate no. 273 and 274, which will in effect by pass only two (02) elephant corridors, the better solution will be to by-pass all five (05) elephant corridors by realignment/ northern alignment of railway track outside 'Deepar Beel', as proposed by Wild life Institute of India ['WII'] based on the feasibility report of 'Delhi Integrated Multi- Modal Transit System Limited' [DIMTS]. It is submitted that 'DIMTS' in its feasibility report titled as 'feasibility study for the alternative alignments, to avoid the elephant corridor between Azara and Kamakhya stations' of February 2019, examined 3 alternatives and concluded that the most suitable alternative would be realignment/ northern alignment of railway track outside 'Deepar Beel' as it will completely avoid the Elephant prone area as well as it will not affect the entire 'Deepor Beel' and any major habitations.

18. It is most respectfully submitted that with regard to the realignment of the railway line, the affidavit of the Railways is awaited.”

3. The affidavit was filed on 07.11.2019 and today is 11.02.2020. A period of 3 months sought for in respect of removal of the hydrophytes from the

Deepor Beel and for issuance of notification declaring Eco-Sensitive Zone of Deepor Beel Wildlife Sanctuary has thus substantially elapsed. We, therefore, expect that those tasks have since been completed. If not, the State shall ensure that the entire exercise in this regard is completed within one month from hence.

4. There is another aspect of the matter which is of serious concern i.e., disposal of the legacy waste at Goraigaon site and the setting up of the Decentralised Processing Plants. The work on disposal of legacy waste can commence even if the Decentralised Processing Plants have yet not been setup as the object of the two are quite distinct. While dealing with the legacy waste scientifically as prescribed under the Solid Waste Management Rules 2016, the current waste can also be dealt with simultaneously in terms of the Solid Waste Management Rules 2016. Besides these, we do not find any information relating to the site for establishment of the Integrated Solid Waste Management Plant in the affidavit and is restricted only to the Decentralised Processing Plants, the function of which again are quite different. Integrated Solid Waste Treatment Plant is a permanent solution for disposal of solid waste while the Decentralised Processing Plants is only meant for segregation from where the segregated waste is carried to the Integrated Solid Waste Treatment Plant for being processed. We expect the State to furnish information with regard to this aspect also before the next date.

5. Mr. Santanu Bora, Learned Counsel appearing for the Guwahati Municipal Corporation submits that the delay on the part of the State to

hand over the land has resulted in delay in setting up the Decentralised Processing Plants. Considering the grave necessity, we direct the State to ensure that the land identified for the purpose of the Integrated Solid Waste Treatment Plant and the Decentralised Processing Plant are handed over to Guwahati Municipal Corporation within 1 month from hence. We make it clear that failure on the part of the State to comply with this direction, shall entail imposition of heavy environmental compensation apart from suffering other coercive orders.

6. List on 30<sup>th</sup> March, 2020.

**I.A. No. 37/2019**

7. Prayer (a) contained in the application has already been dealt with based on submission made on behalf of the State of Assam directing expeditious implementation of the proposal. So far as prayer (b) is concerned, we do not find any substance and accordingly is rejected reiterating the order dated 16.10.2019 in this regard.

8. In view of above, the I.A is disposed off.

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

11<sup>th</sup> February, 2020  
Original Application No. 472/2018 (EZ) ag