

Item No. 04

Court No. 1

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

M.A. No. 97/2022

In

Original Application No. 05/2020

Rita Sharma & Ors.

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

Date of hearing: 19.04.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

ORDER

1. Grievance in this application is against violation of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 in Village Dughneri, Hamirpur, Himachal Pradesh, on account of failure to handle waste which is being burnt, causing air pollution, resulting in diseases, loss of livestock and contributing to forest fires and loss of wildlife. There is increase in population of monkeys, feral dogs and scavengers namely crows, vultures, etc. Dump site in the hilly terrain is overflowing and contaminating water body, which is a source of irrigation.

2. The matter has been considered on several occasions in the light of factual report furnished by the concerned authorities. In continuation of earlier order, the matter was last considered on 16.01.2023, in the light of report filed by the Municipal Council, Hamirpur which showed that legacy waste was yet to be remediated. The Tribunal, accordingly,

directed follow-up remedial measures which were to be overseen by Secretary, Urban Development, Himachal Pradesh and file a compliance report of status as on 28.02.2023 by 15.03.2023. The matter was deferred for further consideration and the Secretary, Urban Development, Himachal Pradesh was directed to remain present in virtual mode.

3. Apart from above individual case, the Tribunal had been monitoring compliance of solid and liquid waste management in the country in pursuance of directions of Hon'ble Supreme Court dated 2.9.2014 in WP 888/1996 *Almitra Patel* and in *Paryavaran Suraksha* (2017) 5 SCC 326 in the light of laid down timelines under the statutory Rules and the judgement of Hon'ble Supreme Court. Last consideration in respect of State of HP took place vide order dated 16.03.2023 in the presence of the Chief Secretary, HP when the Tribunal noted the gaps and directed remedial action as follows :-

“54. We hope in the light of interaction with the Chief Secretary, the State of Himachal Pradesh will take further measures in the matter by innovative approach and stringent monitoring, ensuring that gaps in solid and liquid waste generation and treatment are bridged at the earliest, shortening the proposed timelines, adopting alternative/ interim measures to the extent and wherever found viable. Restoration plans need to be executed at the earliest simultaneously in all districts/cities/towns/villages in a time bound manner without further delay. Compliance be ensured by Chief Secretary.

xxx.....xxx.....xxx

56. *In our order dated 01.09.2022 in O.A No. 606/2018 (in respect of State of West Bengal), considering scale of compensation adopted in earlier, compensation was determined @ Rs. 2 Crore per MLD for untreated liquid waste and for unprocessed legacy waste compensation was fixed @ Rs. 300 per MT to be utilized for restoration measures, including preventing discharge of untreated sewage and solid waste treatment/processing facilities, as per appropriate mechanism for planning and execution that may be evolved, within three months.*

57. In view of above, considering the statement the gap in sewage generation and treatment and gap in solid waste,

estimated environmental compensation comes to more than Rs. 50 Crores. The environmental compensation rests on polluter pays principle recognizing failure in scientifically managing the liquid and solid waste in violation of mandate of law particularly judgments of the Hon'ble Supreme Court and this Tribunal.

xxx.....xxx.....xxx”

4. When the matter is taken up today, neither any report has been filed nor Secretary, Urban Development, Himachal Pradesh is present. Such neglect on the part of the authorities can hardly be appreciated and may call for coercive measures, including issuance of warrants for ensuring presence of the concerned Officer. Needless to say violation of orders of this Tribunal is a criminal offence punishable under section 26 of the NGT Act and is at par with the decree of civil court executable under section 51 CPC inter alia by directing detention in custody. However, by way of indulgence, we grant one more opportunity for compliance.

List for further consideration on 21.07.2023.

Copy of this order be forwarded to the Chief Secretary, Himachal Pradesh and Secretary, Urban Development, Himachal Pradesh by email for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

April 19, 2023
M.A. No. 97/2022 in O.A. No. 05/2020
AVT