

Item No. 05

(Court No.1)

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

(By Video Conferencing)

Original Application No. 05/2020

Rita Sharma & Ors.

Applicant(s)

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

Date of hearing: 01.09.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, 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 of Dughneri, Distt. 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. The applicant relies upon photographs and letters addressed to the authorities pointing out the above deficiencies.

2. The matter was last considered on 17.11.2020 in the light of the report filed by the State PCB on 13.11.2020 along with the joint inspection report dated 17.08.2020. The report was to the effect that deficiencies

existed but the Municipal Council Hamirpur was not able to remedy the same for want of funds. The Tribunal directed Secretary, Urban Development Department, HP to ensure further remedial action and to file a compliance report. It was observed that lack of funds is not a ground to deny clean environment to the citizens. The funds are required to be collected either from the concerned citizens or by any other means. The operative part of the order is reproduced below:-

“1...xxx.....xxx.....xxx

2. *Vide order dated 14.01.2020, a report was sought from the Deputy Commissioner, Hamirpur, Municipal Council, Hamirpur and the Himachal Pradesh State Pollution Control Board.*

3. *Report has been filed on 13.11.2020 by the State PCB based on a joint inspection stating as follows:*

“ ”

As per the said report, the Joint Inspection Committee had directed the Municipal Council, Hamirpur:- (i) to join the corners of RCC retaining wall with the hill ~ide to avoid spillage of Solid Waste (ii) to provide proper fencing to avoid entry of stray animals inside the facility (iii) construct storm drain of adequate size to avoid entry of storm water/rain water and (iv) to ensure that no fire incident/forest fire take place in the solid waste processing facility. Being a nodal agency, State Board also issued directions vide office letter dated 14/02/2020 to Municipal Council, Hamirpur to comply with the recommendations of the Joint Inspection committee.

It is further submitted that the Joint Inspection Committee was once again requested by the State Board on 17.10.2020 to re-inspect the site to verify whether the recommendations of the said committee have been complied with by M.C. Hamirpur at its Solid Waste Processing Facility. Recently, joint inspection of the site was once again conducted on 10.11.2020, under the Chairmanship of Addl. District Magistrate, Hamirpur alongwith Sub Divisional Magistrate Hamirpur, Environmental Engineer, (HPSPCB, Una), Executive Officer, (Municipal Council Hamirpur), Asstt. Engineer, (Jal Shakti Vibhag, Hamirpur) and Asstt. Environmental Engineer, (HPSPCB, Una). The 2nd inspection report of the joint committee is annexed as Annexure R-1/2.”

4. *The annexed joint inspection report dated 17.08.2020 is as follows:*

“ ”

Pointwise Progress Report on the recommendations made by Joint Inspection Committee.

1. *The corers of RCC retaining wall already provided with hill side has not been joined by the Municipal Council Hamirpur due to Covid-19 and lockdown in the state as there was labour problem as stated by the Executive Officer MC Hamirpur. However, documentary process has been done as the construction of retaining work of retaining wall at Bajuri (SWM Project) has been awarded to Sh. Pankaj Minhas, Govt. Contractor Tehsil and District Hamirpur (HP) vide award letter no. 2218 dated 25/08/2020 (copy enclosed as Annexure I).*
 2. *No fencing of adequate height surrounding the solid waste processing facility has been provided to avoid entry of stray animals inside the solid waste processing facility and no net has been provided where segregation is carried out at initial stage to avoid the entry of birds like crows and vultures etc. by the Municipal Council Hamirpur till date. In this regard, Executive Officer, Me Hamirpur apprised that they have demanded a sum of Rs. 15 Lakhs for the implementation of works suggested by the Joint Inspection Committee in reference to OA No. O5/2020 titled as Rita Sharma V/s State of HP & Ors. (Copy enclosed as Annexure II).*
 3. *Municipal Council Hamirpur has not constructed storm drain as suggested by the committee to avoid the entry of storm/rain water in the solid waste processing facility and to avoid contamination of water of Hathli Khad. In this regard, Executive Officer, Me Hamirpur apprised that they have demanded funds from the competent authority for the construction of same as stated above in point no. 2.*
 4. *Municipal Council Hamirpur has provided submersible water pump to douse fire immediately if any fire incident takes place in the Solid Waste Processing facility.”*
 5. *In view of above, deficiencies still persist. There is failure to take action on the ground that the local body does not have funds, which is not valid ground as clean environment is a fundamental right for which funds are to be arranged by the authorities either by collection from the concerned citizens or otherwise.*
 6. *Let the Secretary, Urban Development Department, Himachal Pradesh ensure further remedial action in accordance with law within two months from today and file compliance report before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”*
3. However, no compliance has been filed even though the matter has been deferred thrice to await the report.

4. None appears for the State of HP or for any of its Authority. This may call for coercive measures against the Secretary concerned for continued non compliance which by itself is criminal offence. Before doing so, we give last opportunity to the Secretary, Urban Development Department, HP to take remedial action and file compliance report within one month from today by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

A copy of this order be forwarded to the Secretary, Urban Development Department, HP by e-mail directly as well as through Chief Secretary, HP and also through the State PCB.

List for further consideration on 09.11.2021.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

September 01, 2021
Original Application No. 05/2020
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