

Item No. 01

Court No. 2

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

(By Video Conferencing)

Execution Application No. 20/2022
IN
Original Application No. 137/2022

Pradeep Norula

Versus

Applicant

Municipal Corporation of Gurgaon & Ors.

Respondent(s)

Date of hearing: 10.08.2022

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Pradeep Norula, Applicant in Person in E.A 20/2022

ORDER

1. Grievance of the applicant is that malba/ waste material was being dumped behind the lane of T1, DLF, Phase – III, Gurgaon, Haryana and raising this grievance, OA No. 27/2020 was filed before the Tribunal. Vide order dated 30.01.2020 passed by the Tribunal, an action taken report was required to be submitted by the Authorities. Subsequently, on the basis of the report wherein it was said that the waste material has been removed, OA was disposed of vide order dated 17.07.2020.

2. However, it appears that the monitoring of the area was not carried on regularly causing dumping of malba again. M.A. No. 05/2021 was filed raising the said complaint. It was also disposed of vide order dated 26.03.2021 with the direction to the applicant to move concerned

Authorities for redressal of his grievance. Consequently, applicant sent a notice dated 26.03.2021 to the Municipal Corporation Gurgaon for removing of malba but no action was taken. Applicant filed C.W.P. No. 25922/2021 before High Court of Punjab & Haryana. Vide order dated 20.12.2021 High Court recorded the statement of Advocate General, appearing for the State of Haryana, after receiving instructions from one Sunder Singh, Executing Engineer, Municipal Corporation, Gurgaon, that garbage and waste material will be removed immediately and on the said statement Writ Petition was disposed of with the observation that jurisdiction for remedy lies before NGT and if any, grievance survives, applicant would be at liberty to approach this Tribunal.

3. Again, I.A. No. 41/2022 was filed stating that no action has been taken by Municipal Corporation, Gurgaon, despite the statement made by Advocate General before High Court, while was taken note of by High Court in its order dated 20.12.2021. Notice was also sent to the Authorities but no action was taken. Consequently, vide order dated 22.02.2022 passed in I.A. No. 41/2022, Tribunal directed Municipal Corporation Gurgaon to immediately take necessary action for redressal of grievance of applicant and submit a status report within 15 days as to why malba is being dumped causing environmental pollution, violating orders of Tribunal as well as High Court.

4. An action taken report/status report was filed by Municipal Corporation, Gurgaon, on 27.04.2022 stating as under:-

“4. That the impugned area where illegal Malba/Waste material/garbage etc. is alleged to be dumped is clean and no malba is presently lying on the spot/site. The photographs of the site are attached as Annexure R-1.

5. That the office of answering respondent is regularly challenging and impounding the vehicles carrying illegal malba.

During the period between 04.09.2021 to 09.03.2022, 126 vehicles have been impounded and challaned. The challan data is attached as Annexure R-2. The challan structure is mentioned in the table below:-

Sl. No.	Number of Violation	Challan Amount
1	First	Rs. 10,000/-
2	Second	Rs. 25,000/-
3	Third	Rs. 35,000/-
4	Fourth	Rs. 50,000/-

6. That it is further submitted that the office of the answering respondent has also requested to the Police Authorities for registration of FIR against persons dumping malba/waste material etc. at the site. The copy of letters are attached as Annexure R-3 & R-4.

7. That the office of answering respondent is taking proactive action against the violators and is committed to safeguard the interest of public at large. Further, in order to avoid such circumstances in future, the concerned officials have increased the frequency of patrolling and the violators are been dealt strictly as per law.”

5. The applicant also appeared before Tribunal on 29.04.2022 and stated that problem of dumping of garbage is of recurring nature. He said that tractors are being used for transporting malba illegally for which appropriate action needs be taken in coordination with Transport Department. Accordingly, the said I.A. 41/2021 was finally disposed of vide order dated 29.04.2022 issuing following directions:-

“1 to 6.....xxx.....xxx.....xxx

7. In view of report of the Municipal Corporation, Gurgaon that adequate action is being taken on regular basis, no further order is necessary. Day to day management of affairs has to be by the executive authorities, micromanagement being not viable for an adjudicatory body. However, Municipal Corporation may explore developing an App to receive Public Grievances and their redressal, if no such system exists so far.

8. The applicant is free to represent to the concerned authorities in accordance with law, including the transport authority about misuse of tractors meant for agricultural use for non-agricultural purposes, as alleged.”

6. Now again, similar complaint has been raised by applicant stating that only when action taken report was required by Tribunal, Authorities went to remove malba but they are not taking care of monitoring of the activities as a result whereof malba/waste material is continuously being dumped. To support these averments, photographs have also been filed showing transportation of waste by tractors/trollys and dumping of the same in the questioned area.

7. Looking to the facts and circumstances of the case and also recurring failure on the part of Municipal Corporation, Gurgaon, we find it appropriate to direct for a factual report from a joint Committee comprising State PCB and District Magistrate, Gurgaon, within 15 days 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.

8. We also direct Municipal Commissioner, Gurgaon to appear before this Tribunal on the next date to show cause as to why appropriate action be not taken for failing on his part to ensure non dumping of malba/waste material at the questioned area in compliance of orders of this Tribunal and failure in scientific disposal of the waste in accordance with environmental laws and for causing pollution air and water, in violation of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 and why appropriate environmental compensation be not computed and imposed upon the Corporation.

List for further consideration on 12.09.2022.

A copy of this order be forwarded to the Municipal Commissioner, Gurgaon, State PCB and District Magistrate, Gurgaon by e-mail for compliance.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

August 10, 2022
E.A. No. 20/2022 in O.A. No. 137/2022
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