

Item No. 04

(Court No. 1)

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

(By Video Conferencing)

M. A. No. 61/2021

IN

Original Application No. 588/2019

(With report dated 09.11.2021)

Hem Singh Yog, Social Worker, Pt.  
Deendayal Upadhyay Vichar Manch

Applicant

Versus

State of Uttar Pradesh

Respondent

Date of hearing: 05.01.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB

**ORDER**

1. This application seeks execution of order dated 04.03.2021 in OA 588/2019, *Hem Singh Yog, Social Worker, Pt. Deendayal Upadhyay Vichar Manch v. State of Uttar Pradesh* on the issue of remedying unscientific legacy waste dumped near *Nagla Kolhu* in Mathura Municipal Council/TTZ area. Prayer in the original application is also for remedying pollution from other sources and activities of producing fuel from the plastic, affecting about 1.25 lakh inhabitants.

2. The Tribunal disposed of OA No. 588/2019 in the light of earlier order dated 21.01.2021 in OA No. 136/2015, *Madhumangal Shukla & Ors. v. Nagar Palika Parishad, Vrindavan & Ors.* which also involved similar

issue at same place. Reference to order dated 21.01.2021 shows that the matter was monitored by this Tribunal for more than five years. Oversight Committee, constituted by this Tribunal in the State of UP for compliance of directions of this Tribunal, reported that adequate action was not being taken for handling the waste which was adversely affecting the inhabitants. The report of the Oversight Committee reproduced in the said order is extracted below for ready reference:

**“OBSERVATIONS OF THE OVERSIGHT COMMITTEE**

- *The Committee noticed that treatment of Legacy Waste through Bio-Remediation was started on 6th Feb., 2020 and legacy waste of 11259 MT was disposed by Municipal Corporation, Mathura-Vrindavan through bio mining and bio remediation on 24th June, 2020. The compliance report regarding this has been sent to the Oversight Committee on 05.01.2021. Presently, remediation of legacy waste at Maant Road site is complete and now no waste is present.*
- *The Committee observed that **the MSW Treatment Facility at Nagla Kolhu, Mathura is not being properly utilised.** In view of this, the repair of the said leachate drains and tank has been completed with an amount of Rs. 20.98 lakhs from the funds made available under 14th Finance Commission. The work of arranging a permanent pipeline is to be done as directed by the Committee. The two proposals for the above work are as follows:*
  - i. *Through pumpset, the leachate drain is connected to the nearest sewer line.*
  - ii. *For cleaning the leachate tank at the plant, it should be done by suction machine, leachate should be transported to STP for treatment by the suction machine itself. (Appendix VIII).*
- *It was also found that five trenches at Vrindavan are of RCC structure and there is no possibility of waste/leachate polluting the ground soil or ground water. Photographs of two empty trenches have been annexed and regarding other three empty trenches it was informed that the same have been filled and the land has been reclaimed so that the it may be utilized for some more useful purpose for betterment of environment.*
- *The present processing capacity of Nagla Kolhu processing plant is 180 TPD which is just enough to cater to the day-to-day processing of Mathura Solid Waste. **Already 1.80 lakh tons of legacy waste is lying untreated at Nagla Kolhu.** In this regard, in the earlier meeting dated 06.07.2020, the Committee had stated that the shifting of Vrindavan solid waste from Maant Road to Nagla Kolhu waste site would be meaningful only if biowaste remediation of Legacy waste is being done at the later site. For the disposal of Legacy waste Urban Development*

Department, Uttar Pradesh has hired an agency M/S Blackberry Overseas Pvt. Ltd. Municipal Corporation has issued LOI to M/S Blackberry Overseas Pvt. Ltd. to initiate work for the treatment of legacy waste. Hired agency has started conducting survey to initiate process of treatment of legacy waste.

- The Committee was informed that already tenders for bio remediation for a few legacy waste sites including Nagla Kolhu are pending for finalization at Govt level. **The Committee directs that bio waste remediation should start in Nagla Kolhu in 3 months time failing which a penalty of Rs 5 crores be imposed on U.P. Government.**
- The Committee also found that Municipal Corporation, Mathura-Vrindavan through an MOU has developed a Material Recovery Facility (MRF) in PPP Mode. Rag pickers have been involved for collection, sorting and segregation of waste. By doing so, they not only clean up significant amount of waste but also contributes in the up-liftment of their social status. Routine Health Check-up of rag pickers is done on time-to-time basis. Municipal Corporation, Mathura-Vrindavan has proposed MRF for Vrindavan zone which is under construction. By putting a Material Recovery Facility (MRF) at Nagla Kolhu they would divert some of the recyclable waste there and thus create additional space for processing of non-recyclable waste of Vrindavan in that plant. The MRF would be operational in 15 days from today.
- The Committee also noticed that Secretary, Urban Development in pursuance to the directions of Hon'ble NGT for initiating action against the erring officers/officials, departmental enquiry has been conducted and the enquiry officer has submitted the report and the same has been forwarded to the Government for according sanction to prosecute. Further action in the matter is in process. Secretary, Urban Development also informed that the penalty imposed by Hon'ble NGT has been deposited. **In addition, Dr. D. K. Soni, CPCB informed that bank guarantee of Rs. 10 lakhs has not yet been received.**
- The Committee directed the Member Secretary, UPPCB that they would have to inspect the Nagla Kolhu facility and assess the quantum of waste as mentioned above before giving authorization.

## **V. RECOMMENDATIONS**

1. The Oversight Committee noted the status mentioned by Municipal Commissioner Mathura that work order has been issued to authorised agency for setting up MRF facility at Nagla Kolhu, Mathura. In addition, the MRF must maintain inventory of MSW, compost, RDF raw material, processed C&D waste and landfilled amount. It was noted that Nagar Nigam, Mathura has completed the remediation of legacy waste at Maant site. In this regard, the Committee was informed that tenders for bio remediation for a few legacy waste sites including Nagla Kolhu are pending for finalisation at Government level.
2. The Committee also directed that **there is a requirement of instant attention towards handling of leachate. Dedicated tank shall have connection from the sources of generation**

**and permanent pipeline upto STP for treatment in order to avoid ground water contamination.**

- 3. The Committee had directed that it is mandatory to develop a buffer zone of wide green cover along the periphery of the facility to arrest fugitive particulate matter from spreading out and effectively suppress the foul odour.**
- 4. There is need to set up more of decentralized “Plastic to Fuel” plant as in Mathura as well as in other districts of the State of Uttar Pradesh. The Committee recommends establishment and proper functioning of such plants so as to ensure better waste management and reduction in plastic pollution.**
- 5. Two organic waste to compost plants of 1 ton each are to be installed at Mandi Samiti of Mathura and 5 ton “organic waste to compost plant” at Vrindavan at Hazarimal Somani Ground Vrindavan Zone. Regarding this, it is suggested that these plants are under trials and made operational as soon as possible. Regarding the upgradation of compost quality, the State Government must take advice from State Agricultural Universities.**
- 6. The Committee recommends that the onsite treatment of biodegradable solid waste by bulk generators through organic waste convertors or any suitable technique like composting, bioremediation etc. will help in reduction of quantity of waste to be treated in the common facility. The recyclable component of solid waste shall be disposed off either by authorized recyclers or can be used for construction of roads.**
- 7. Use of biodegradable cutlery in food served at ashrams/small eateries in pilgrimage cities like Vrindavan can be a cost-effective alternative to plastic plates cutting down on plastic pollution. The Committee suggests that eco-conscious companies which make such products should be promoted.**
- 8. The Committee suggested that there is need to spend large part of the budget in waste treatment and disposal as budget on street cleaning, waste collection and transportation. As far as bio-remediation of legacy waste is concerned, there is need to be carried out in scientific manner. Proper shed should be provided in the bioremediation area, in absence of which, work may be hampered during rain.**
- 9. The Committee also noticed that under the provisions of Solid Waste Management Rules, 2016 the bulk generators have made responsible for the treatment and disposal of solid waste within their own premises. These are required to be identify and made to comply as per the Rules, 2016. Hence, solid waste is treated and disposed as per norms within their premises. This will also improve overall sanitary conditions and environmental improvement.**
- 10. The Committee suggested that local body should establish waste deposition centre for domestic hazardous waste and give direction for waste generators to deposit those at this centre for its safe disposal. There is need to submit annual report by every local body every year. In view of the safety**

**of health hazards associated with handling of MSW, it is mandatory to equip the workers with adequate safety equipment and providing them with facility of medical check-ups.**

- 11. The Committee recommends that all waste transport vehicles can be made to operate on renewable source of energy instead of fossil fuels. To start with, a beginning should be made at least by using locally available CNG instead of imported diesel oil or petrol. Deployment of additional safaikarmis and waste transport vehicles shall be made during festival period keeping floating population rise.**
- 12. There is a need for the dedicated alternative plan of electricity, which can be utilized in the operation of machinery in case of electricity interruption.**
- 13. The Committee also suggests to conduct technical workshops, seminars, interactive sessions involving local residents to spread awareness on environmental issues.”**

3. The Tribunal accordingly directed:

“ xxx .....xxx .....xxx

**5. From the above, it can be seen that the steps taken for handling the waste are not adequate. This is inspite of monitoring by this Tribunal for more than five years and also taking coercive measures in the form of compensation, upheld by the Hon’ble Supreme Court vide order dated 21.1.2019 in Civil Appeal Number 1458-1460/ 2019 (D. No. 38773/16), Nagar Palika Vrindavan v. Madhumangal Shukla. Violation of environment laws is as serious if not more that any other criminal law. Failure of the authorities to check such crimes is failure of the public trust reposed in such authorities for protection of citizens’ rights. It appears that no serious action is taken by senior officers against such blatant failures which is unfortunate, leaving the citizens at the mercy of law violators. We expect that the compost plant may now be made operational at the earliest. The segregated material recovered in the process be properly routed and no backlog of unprocessed waste be stored to create legacy waste. Bio-mining of legacy waste be executed and entire area be developed with plantation and landscaped following guidelines on buffer zone developed by CPCB. A bio-diversity park may also be developed in the area. We are making these observations on account of disappointment with the conduct of the authorities in concerned and with a hope that they will now understand their responsibilities and take stern measures in the matter. We accept the recommendations of the Oversight Committee and direct the Administration in the State of UP to take steps in the matter accordingly forthwith in the interest of protection of the environment and public health. The Oversight Committee may oversee compliance to these directions.**

6. The amount laying in deposit with this Tribunal, on being received from the Hon’ble Supreme Court, be now forwarded to the

*District Magistrate, Mathura for being used for restoration of the environment, subject to the directions of the Oversight Committee.*

*A copy of this order be forwarded to the Chief Secretary, U.P., District Magistrate, Mathura, State PCB and Justice S.V.S. Rathore, former Judge of the Allahabad High Court, heading the Oversight Committee for the compliance of orders of this Tribunal, on suggestion of the State.”*

4. In the execution application, it is stated that no action has been taken on the ground even though the applicant has made several representations.

5. The execution application was considered earlier on 22.09.2021 and after referring to the orders of the Tribunal on the subject, direction was issued to the Chief Secretary, UP to furnish report of compliance of Solid Waste Management Rules, 2016 at Mathura. The observations and directions in the said order are reproduced below:-

*“6. It may be noted that in pursuance of directions of the Hon’ble Supreme Court dated 02.09.2014 in Writ Petition No. 888/1996, Almitra H. Patel vs. Union of India & Ors., this Tribunal issued detailed direction vide judgment dated 22.12.2016<sup>1</sup> and thereafter in OA 606/2018, the Chief Secretary, UP was required to remain present in person to consider the issue of compliance of the Solid Waste Management Rules, 2016 and other environmental obligations. Directions were issued for remedial action to be overseen personally by the Chief Secretary. The Tribunal has also laid down a schedule for compensation for delay in taking remedial steps. Reference may be made to order dated 20.02.2020 in OA 606/2018. As noted earlier, in Civil Appeal No. 1458-1460 of 2019, Nagar Palika Vrindavan v. Madhumangal Shukla against the order of this Tribunal, the Hon’ble Supreme Court, vide order dated 21.01.2019, held as follows:*

*“xxx.....xxx.....xxx*

***The issue as to whether there has been effective compliance of the orders passed by the National Green Tribunal should be monitored by the Tribunal. The Tribunal would be in a position to issue effective directions, apart from those which have already been issued, if there is any lacuna or shortfall.***

*Since the Nagar Palika Parishad and the Municipal Commissioner have filed status reports in these proceedings, these may be taken into account by the Tribunal in deciding*

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<sup>1</sup> OA No. 199/2014 (2016) SCC Online NGT 2981

whether there has been compliance. The costs which have been deposited in this Court with accrued interest, if any, shall be transferred by the Registry to the National Green Tribunal. The Tribunal, based on its determination of the steps taken to comply with the orders passed by it from time to time, would be at liberty to issue directions to govern the costs so deposited.

The appellants shall file an up-to-date status report before the Tribunal within a period of four weeks from today.

We request the Tribunal to take up the matter thereafter to monitor compliance.”

7. Thus, the Tribunal has to monitor compliance as directed by the Hon’ble Supreme Court. Order dated 21.01.2021 in OA No. 136/2015, Madhumangal Shukla & Ors. v. Nagar Palika Parishad, Vrindavan & Ors, was passed in pursuance of above order of the Hon’ble Supreme Court and after considering the status reports showing inadequate compliance. The issue was earlier discussed in the order of this Tribunal dated 20.02.2020 in OA 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 (State of Karnataka), applicable to all States, as follows:

“ xxx.....xxx.....xxx

3. The matter was earlier considered by the Hon’ble Supreme Court inter-alia vide judgments reported in (2000) 2 SCC 679 and (2004) 13 SCC 538 directing scientific disposal of waste by setting up of compost plants/processing plants, preventing water percolation through heaps of garbage, creating focused **‘solid waste management cells’** in all States and complying with the Municipal Solid Waste Management Rules, 2016 (SWM Rules, 2016) on urgent basis. **It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees.** Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums have multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of “slum clearance” there is “slum creation” in cities which is further aggravating the problem of domestic waste being strewn in the open.** Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

4. Further observations in the judgment of the Hon'ble Supreme Court<sup>2</sup>are:

“3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

- “1. As a result of the Hon'ble Supreme Court's orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.
2. **All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001**, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.
3. **Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.**
4. **States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by**

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<sup>2</sup> (2004) 13 SCC 538

**simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.**

5. Unless each State creates a focussed **‘solid waste management cell’** and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.
6. **The admitted position is that the MSW Rules have not been complied with even after four years.** None of the functionaries have bothered or discharged their duties to ensure compliance. **Even existing dumps have not been improved.** Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future.”

5. In this regard, reference may also be made to orders of Hon’ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand*<sup>3</sup> and *B.L. Wadhwa v. Union of India and Ors.*<sup>4</sup> laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.**

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22. The Hon’ble Supreme Court vide order dated 25.11.2019<sup>5</sup> while dealing with the pollution in Delhi and NCR held:

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. **Sewage is also being directly put in rivers contributing to the river water pollution.** We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, **sewage, garbage, waste and air pollution, including the water management.** We club the pending case of water management with this matter.

10. As we have noted that from last several years, the position of air pollution is worsening in spite of various orders passed by this Court. The reports and the scientific

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<sup>3</sup> (1980) 4 SCC 162

<sup>4</sup> (1996) 2 SCC 594

<sup>5</sup> Writ Petition(s)(Civil) No(s). 13029/1985, M.C. Mehta Vs. Union of India & Ors.

data indicating that large section of people are suffering from the dreaded diseases due to such air pollution such as Cancer, Asthma and various other diseases. Life span is adversely affected. **Time has come that the various States recognise right to life is important right. Human life and health have been put in danger.** In such scenario, why they should not be required to pay compensation to such persons who are being affected by inadequate arrangement to check the **air pollution, non-lifting of garbage, waste which add ultimately to the pollution.**

11. In this case we find that Delhi is lacking the capacity to the extent of 45% to even clean the garbage/waste which is being generated. Similar is the situation in various other places. We take note of the situation which is alarming and time has come to remind the State machineries as to their duties as all of us are meant to serve the people of this great country. Our Constitution has envisaged certain Directive Principles as they are more important rights at the discretion of the Government. The Courts are not to interfere in that, but dereliction cannot be to the extent that the very right to life is endangered by the inaction.

13. Not only the basic Fundamental Rights are being ignored with respect to air and water, **problem of governance are being projected, which cannot come into the way of the basic Fundamental Rights which a human enjoys,** much less to talk of the Fundamental Duties and Directive Principles contained in the State policy which have already found statutory expression in the form of Municipal laws, Prevention of Air Pollution and Water Acts and various schemes framed by the Central Government and State Governments, but we see neither the air quality has improved nor the water quality in several States, not to talk of Delhi only. We have called for the report from Delhi Government where the reports indicate that the contaminated water is being supplied and also from Bureau of Indian Standards to submit report in this regard.

15. At the same time, as we find that in spite of various orders passed by this Court, we are not able to improve the situation of air quality which we can see at least in Delhi and NCR with certainty. **Time has come to require the State Governments to explain why they should not be asked to compensate the persons who are being affected by bad air quality.** Obviously, the State is run by the administration, why liability should not be imposed for such a tort on the concerned machinery also of the various States which are failing to discharge their basic duties. This Court in *Municipal Council, Ratlam Vs. Vardhichand & Ors.*, reported in (1980) 4 SCC 162 has held they have to take proper and positive action in this direction. **It is their bounden duty to provide civic amenities, and also to see that self-created bankruptcy does not come in the discharge of the statutory obligation which are**

**necessary for existence of human life. We have seen during the course of the arguments that one State is passing the burden upon the Centre and then it is stated on behalf of the Central Government that they have framed scheme and it for the State Governments to implement it.** We expect not only the 'policy making' but also its 'implementation'. Let the States of Punjab, Haryana, Uttar Pradesh and the Government of NCT of Delhi respond, due to the air pollution, why the concerned Government and its concerned machinery, from top to bottom, should not be asked to compensate the citizens of Delhi and adjoining areas for various diseases which are being caused and sufferings and troubles which are being faced and the report indicates the life span is being shortened. Let show cause notice be issued to the various State Governments, and to the Chief Secretaries, to submit reply within six weeks. Let the matter be listed for consideration on 17.01.2020. The Chief Secretaries to the States of Punjab, Haryana, Uttar Pradesh and Government of NCT of Delhi be personally present on that date."

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24. The Standing Committee on Urban Development, 16th Lok Sabha in its 25th Report dated 12.02.2019 considered the issue of solid waste management including hazardous waste, medical waste and e-waste and observed:

"It is estimated that about **65 million tonnes of waste is generated annually** in the country out of which about 62 million tonnes is Municipal Solid Waste (MSW) which include organic waste, recyclables like paper, plastic, wood, glass etc. About 45-50% of this MSW is biodegradable/wet/organic waste, 20-25 % is recyclable waste & about 30-35% is inert/debris.

1.2 Only about 75-80% of the municipal waste gets collected and out of this only **22- 28% is processed and treated and remaining is deposited indiscriminately at dump yards.** It is projected that by the year 2031, the MSW generation shall increase to 165 million tonnes and to 436 million tonnes by 2050. **Eliminating, dumping and minimizing releases of hazardous chemicals by paying special attention to air quality and municipal and other waste management and reducing waste generation through prevention, reduction, recycling and reuse globally have been one of the Sustainable Development Goals (SDGs) that have been adopted by UN General Assembly in September, 2015.**

1.3 It has been estimated that the Urban Local Bodies (ULBs) spend about 60-70% of total expenditure on street sweeping, 20-30% on transportation and less than 5% on municipal disposal of waste, which shows that hardly any attention is given to scientific disposal of waste. The waste collection efficiency in India ranges between 70% and 90%

*in major Metro cities, whereas in several smaller cities it is below 50%. However, if the current 62 million tonnes annual generation of MSW continues to be dumped without treatment; it will need 3.40 lakh cubic meter of landfill space every day. Considering the projected waste generation of 165 million tonnes by 2031, **the requirement of land for setting up landfill for 20 years (considering 10 meter high waste pile) could be as high as 66 thousand hectares (1240 hectare per year) of precious land, which our country cannot afford to waste.** Currently, of the estimated 62 million tonnes of MSW generated annually by 377 million people in urban areas, more than 80% is disposed of indiscriminately at dump yards in an unhygienic manner by the municipal authorities leading to problems of health and environmental degradation.*

*1.4 As per NITI Aayog, presently, out of the total MSW generated, only 29.51% is subjected to treatment which, however, is poised to improve with the Swachh Bharat Mission (Urban) scheme of Government of India being in full swing.”*

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*28. The issue of solid and liquid waste needs to be taken seriously. We have already mentioned the available statistics on the subject. It is a matter of serious concern that legacy waste remediation has not even commenced at most of the sites even though statutory rules contemplate outer limit for completion of such remediation by 07.04.2021. Current processing of the waste generated and collected is also not taking place on regular basis. For any person travelling by train, hot spots of scattered garbage and overflowing sewage are common sights. Satisfactory sewage management also remains far cry. This unsatisfactory state of affairs must be remedied at the earliest and in a time bound manner by initiative at the highest level. Accountability needs to be fixed and consequences for failure clearly provided and enforced.*

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**39. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:**

a. *In view of the fact that most of the statutory timelines have expired and directions of the Hon’ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, compensation scale is hereby laid down for continued failure after 31.03.2020. **The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to***

**pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.**

- b. Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28<sup>6</sup> even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places. **Continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.****
- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs,

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<sup>6</sup> The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

*groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.*

- d. *The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/ In-charge Department to take action for treatment of sewage in terms of observations in Para 34 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:*
- i. *Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
  - ii. *Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
  - iii. *Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.*
- e. ***Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.***
- f. ***An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.***
- g. ***Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."***

8. ***In view of above, the Chief Secretary, UP may furnish a status report of compliance of the Solid Waste Management Rules, 2016 at Mathura. Additional Chief Secretary, Urban Development Department, UP may remain present in person with the compliance status on the next date by Video Conferencing on which***

date the Additional Chief Secretary, Urban Development, UP has to in any case appear in another matter being OA No. 490/2019, T. S. Singh v. State of Uttar Pradesh. **We also direct that the CPCB and UP PCB, with State PCB as nodal agency for compliance, to carry out site visit and give its report about the extent of legacy waste and utilisation of segregated /rejects, with a copy to the Additional Chief Secretary, Urban Development, UP by 10.10.2021 to enable the Additional Chief Secretary to explain noncompliance.**”

6. In pursuance of above, an action taken report dated 09.11.2021 has been filed giving the progress in the matter as follows:-

*“3. A point wise progress and compliance made by Municipal Corporation Mathura regarding observations of Oversight Committee report regarding SWM are as following:*

- a) Nagar Nigam has engaged a firm named 21't Century polymers on Public Private Partnership (PPP) mode for carrying out operations at Material Recovery Facility (MRF) Nagla Kolhu.*
- b) Agency 21st Century polymers has been carrying out processing task of dry waste including recyclables, non-recyclable, e-waste etc. on regular basis.*
- c) Municipal Corporation has installed a Transfer Station at the said site for transferring waste collected from Vrindavan town to centralized SWM Plant at Nagla Kolhu.*
- d) Leachate collection tank is operational within the premise of SWM Plant Nagla Kolhu. At present the collected leachate from the tank is further transported to the nearest STP for necessary treatment in a safe manner*
- e) For creating buffer zone with green belt Municipal Corporation has recently planted 110 saplings and two parks within SWM Plant at Nagla Kolhu are being developed by the Corporation where recycled material from the waste is also being used for the structures*
- f) A dedicated water sprinkling system has also been put in place for dust mitigation on the site and the approach road to the facility is to pot hole free within next 15 days*
- g) For ensuring the compliance by bulk waste generators to practice onsite processing of waste as per SWM Rules -2015, Municipal Corporation Mathura has issued notice to 230 Bulk waste Generators & 70 hospitals of the city for onsite composting*
- h) For deposition of domestic hazards waste the Municipal Corporation has made provision of third bin in all the door to door vehicles to collect domestic hazardous waste.*
- i) Municipal Corporation has a Plastic to Fuel plant of capacity 5 TPD at Nagla Kolhu Mathura which has been installed under PM's Swachh Bharat Yojna as per directives by Ministry of petroleum and Natural Gas (MoPNG) by Engineers India Limited. The plant is operated by M/s Paterson Energy Pvt. Ltd. The plant is enough to cater current plastic waste generated in the city.*

- j) *The organic waste to Compost (OWC) plant of capacity 5 TPD near Hazarimal somani ground, Vrindavan has been successfully installed and has been made operational. The segregated wet waste collected by door to door vehicle is provided to the plant to produce compost.*
- k) *For ensuring safety of health workers at MSW facility workers are provided and well equipped with PPE kits like Helmet, jackets, gloves, masks, etc. Routine Health Check-up of rag pickers is being done on time-to-time basis. Vaccination camps has been organized by the Municipal Corporation to protect Rag pickers from the outbreak of covid-19. Municipal Corporation also conducts training & capacity building of officers and safai karamcharis.*
- l) *For proper door to door collection through environmentally friendly vehicle the corporation 104 auto tippers with separate partitions for wet, dry and hazardous waste. Out of 104 Vehicles, 5 vehicles operate on CNG. It has been assured by Municipal Corporation that in the near future the corporation would be upgrading its door to door vehicles to run 100% on CNG.*

#### **4. ADDITIONAL POINTS:**

*During the review it was observed that Mathura Vrindavan Municipal corporation has been making certain endeavor towards proper management of SWM in the city. Some of the initiatives undertaken are as following:*

- A. *As Mathura being a city with spiritual significance there are festive occasions when large number of visitors come to the city. For proper waste collection during such occasions, the Municipal corporation deploys additional dedicated manpower and vehicles during festival period and the Corporation has also engaged a private firm M/s BVG India Pvt. Ltd & M/S Ujjwal Braj in the high footfall areas.*
- B. *For enforcing plastic waste ban the Municipal corporation has been enforcing the provisions as per government order and it has seized 2221.9 kgs of plastic and imposed penalty of Rs.3,54,600/- in the year 2020-21. The enforcement is made on sustained basis and during this FY 2021-22 it has seized 265.5 kgs of plastic and imposed penalty of Rs 89,400/- till the month of September 2021.*
- C. *For building a healthy environmentally sustained appropriate behavior among various stakeholders of the society, the Municipal corporation has been making efforts for information, education campaign (IEC). It has also appointed an agency M/S Basix Municipal Ventures for IEC activities and propagating behavioral changes among citizens towards source segregation and maintaining hygiene & cleanliness in the society. The Municipal corporation has been organizing several IEC activities to engage citizens in activities related to sanitation (like nukkad natak, drawing, wall painting, jingles, drama competition at school & city level).*

**5. Legacy Waste Remediation:** As per report received by Mathura-Vrindavan Municipal corporation concrete progress has been made regarding legacy waste remediation in the city of Mathura. A Summary of steps being taken are as following:

- a. Mathura Vrindavan Municipal Corporation has already remediated legacy waste dump site at Mat road where 11259 MT legacy waste was remediated clearing the dump site completely.
  - b. It is estimated that approximately 2.60 Lakh MT of legacy waste is there lying on the site at Nagla Kolhu. Key initiatives undertaken to remediate the legacy waste on this site are as following:
  - c. An agreement to remediate the above quantity of legacy waste has been made by the Municipal Corporation with a firm IWs Black Berry Overseas pvt. Ltd (Copy of the Agreement attached herewith as Annexure -3).
  - d. The work on the site in question (Nagla Kolhu) has been commenced on ground in the month of October 2021 and one trommel with 300 TPD is working in 2 shift. Till now already 7000 MT waste has been remediated. To expedite the remediation on site another trommel with 300 TPD shall be installed by November 15th 2021. The two trommels with combined capacity of 600 TPD in one shift and 1200 TPD in 2 shift in a day will be utilised for expediting the remediation. It is expected and targeted that approximately 36000 TPD waste will be remediated monthly. Thus the entire site will be cleared by June 30th, 2022 ahead of the timelines mentioned in the agreement.
  - e. During the, legacy waste remediation of the site, necessary tie ups are being made by Municipal Corporation, Mathura Vrindavan and implementing firm for proper disposal of RDF/SCF and compost. IWs Blackberry Overseas pvt ltd is engaging with firm Invofix International Pvt Ltd for disposal of RDF and SC. Municipal Corporation is tying up with India Agro Organic Pvt Ltd for disposal of Compost.
  - f. A proper site inspection and monitoring mechanism has been put in place by Mathura Vrindavan Municipal Corporation. Twice a week inspection would be done by Zonal Sanitary Officer who is in-charge of SWM plant Nagla Kolhu. A Weekly inspection of the Nagla Kolhu legacy waste site would be done by Additional Municipal Commissioner who is the Nodal officer of the Corporation for solid waste management plant. Fortnightly, onsite visits would also be carried out by Municipal Commissioner, Mathura Vrindavan Municipal Corporation
  - g. Construction and Design Services, UP Jal Nigam are authorized by UP Govt. for technical supervision of the legacy waste site. Monthly areal mapping, volumetric analysis, drone survey of the legacy waste site would be done by 25th of every month by C&DS Jal Nigam Mathura.
6. During the review of the status as directed by the Hon,ble Tribunal regarding the compliance of **a joint inspection by the CPCB and the UPPCB, it was found that the team had visited the spot and an inspection report dated 23.10.2021 was prepared.**

***Though the report is yet to be formally received from UPPCB to the office of Additional chief Secretary, however in the interest of work and compliance of Hon'ble Tribunal's direction a copy of the abovementioned report was obtained and studied. (The joint inspection report of CPCB and UPPCB is attached herewith as Annexure-4)- Based on the recommendations of the report, a detailed review has been done pointwise and comprehensive instructions have been issued to Municipal Commissioner, Mathura for time bound compliance (Annexure -5)."***

7. In view of above, further remedial action may be taken which may include adequately designed waste processing facility to cater the daily waste generated, proper leachate treatment and overall compliance to the MSW and PWM Rules and monitored at the level of the Additional Chief Secretary, Urban Development, UP and the Oversight Committee headed by Justice SVS Rathore, former Judge, Allahabad High Court, constituted by the Tribunal on proposal of the State of UP, to oversee compliance of directions of this Tribunal in the State of UP.

The application is disposed of.

A copy of this order be forwarded to Justice SVS Rathore, former Judge, Allahabad High Court, Additional Chief Secretary, Urban Development, UP, CPCB UP State PCB, Mathura Municipal Council by e-mail for compliance.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

January 05, 2022  
M. A. No. 61/2021 In  
Original Application No. 588/2019  
SN