

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

Original Application No. 847/2018

(With Report dated 24.07.2019)

Letter received with the subject - Save Forest land of Green Belt on
Molarbad-Faridabad Bye-pass Road

Date of hearing: 13.09.2019

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

For Respondent(s): Mr. Anil Grover, AAG and Ms. S. Anita Yadav,
Commissioner, MCF

ORDER

1. The issue for consideration is remedial action against illegal setting up of a petrol pump in the green belt at Molarband, Badarpur, behind Sector 37 Police Station, Faridabad. Vide order dated 18.12.2018, the Municipal Corporation, Faridabad was required to furnish a report on factual aspect in the matter within one month by e-mail. Since no report was received, the matter was adjourned on 11.03.2019, 02.04.2019 and 30.04.2019. Finally, vide order dated 01.07.2019, the Tribunal directed as follows:-

“2. An order of this Tribunal is a decree of Court and is executable, inter alia, by civil imprisonment. Inaction of the Commissioner, Faridabad Municipal Corporation is obstructing the working of this Tribunal as well as enabling the alleged illegal petrol pump to continue in green belt.

3. In view of above, we direct the Commissioner, Faridabad Municipal Corporation to remain present in person on the next date of hearing to show cause as to why action be not taken for violating the order of this Tribunal.”

2. It is after the above order that on 24.07.2019, a wholly unsatisfactory and cryptic report has been filed by the Municipal Corporation, Faridabad as follows :

*“The report on factual aspects is as below:
In this connection, it is submitted that no NOC or permission has been issued for petrol pump near subject cited land by the Municipal Corporation, Faridabad,
The report is submitted accordingly. It is being undertaken that direction, if any passed by this Hon’ble Tribunal shall be complied with sincerely.”*

3. The Commissioner, Municipal Corporation is present in person with counsel. We have heard learned Counsel as well as the Commissioner, Municipal Corporation Faridabad. We find that the approach of the Commissioner in not taking any action against illegal operation of petrol pump in the green land on the specious plea that the land belongs to HUDA is unbecoming of the high position held by her. Once order of the Tribunal was brought to her notice and she was required to remain present in person, least she could have done was to coordinate with any other State agency involved in the matter which has not been done. There is also no explanation why order of this Tribunal in the matter has been ignored for long time.

4. We may note that there have been repeated failures of the Commissioner in performing her functions in matters before this Tribunal. Reference may be made only to some orders by way of illustration. While dealing with a serious issue of contamination of underground water on account of choking of sewer lines, in Sector 48 Faridabad and failure of the Corporation to take action in spite of the several orders, this Tribunal vide order dated 14.01.2019 in O.A. 627/2018 observed :

“4. The above report itself shows unsatisfactory state of affairs and failure to comply and uphold environmental norms. It is undisputed that sewer line is choked and

sewer water is over flowing for which no effective steps have been taken so far. It is stated that an estimate for repair has been prepared and the work is likely to be completed in June, 2019. Even this step appears to have been taken after this Tribunal issued notice about illegal milk dairies. Only response is that directions have been issued to remove the same. But it is not explained as to why the same were being permitted so far. No immediate remedial steps have been taken.

5. Surprisingly, the argument raised is that there are unplanned colonies and the State is helpless. We are surprised at such an argument coming from the State Authorities. The Rule of Law required that the law to be upheld. The State cannot plead for breach of law being continued against the mandate of law.

8. Pending assessment of the actual damage to the environment, on the basis of acknowledged negligence and damage to the environment, we direct the Municipal Corporation, Faridabad, to deposit a sum of Rs. 50 lakhs by way of interim compensation for restoration of the environment. The amount may be deposited within one month with the CPCB. The Municipal Corporation, Faridabad will be at liberty to recover the amount from the erring officers and the concerned Authorities.”

5. Thereafter, the above matter was considered on 16.05.2019 in the light of report of the report of CPCB to the effect that untreated waste water was being disposed of in open. The Tribunal observed as follows:

“4. As per report of the CPCB dated 06.05.2019, untreated waste water from Badkal village as well as from drainage system of Sainik Colony near Sectors 48-49, Faridabad was being disposed of into the open. Sewer line was choked. De-silting process was being carried out and vacant land has been filled with soil for temporary arrangement for bye pass of overflow of the sewage. Cleaning of sewage network has not been done for a long time and now a temporary arrangement has been made. Solid waste and demolition waste was also being dumped on the open land. Accountability was of the MCF as polluter and the Haryana Urban Development Authority (HUDA). The MCF should carry out the work of cleaning/de-silting of sewerage

network and ensure that no untreated sewage is discharged into the drainage system. HUDA should ensure fencing of open land area so that it is not used for disposal of waste.

5. According to the report of the Chief Secretary, there is failure of the Department for which direction to initiate prosecution has been issued. The stand of the MCF is that a stretch of sewer line was identified as choked. The main sewer line is being cleaned. The work for providing sewerage system in the area in question has been awarded. An interim arrangement has been made to collect the waste water and pumped the same to sewer line. Vigilance is being maintained against cow dung dumping. A chart of proceedings taken against employees of the MCF has been filed. It is stated that interim compensation of Rs. 50 Lakhs has been deposited with the CPCB by the MCF.”

6. Again on 10.07.2019 in O.A. No. 514/2018, the Tribunal observed:

“The issue for consideration is the remedial action for dealing with the legacy waste at Faridabad and Gurugram. The matter has been pending before this Tribunal for the last four years. This Tribunal has repeatedly recorded findings of incapacity and incompetence of the concerned authorities in dealing with the matter for scientific disposal of waste so as to ensure compliance of the statutory procedure under the Solid Waste Management Rules, 2016 and also inability of the contractor hired in producing the results.”

7. In view of above, option before this Tribunal is either to take coercive measures for failure and negligence of the Municipal Commissioner or to require the Chief Secretary to look into the matter and take a decision whether such important office as Municipal Corporation should be headed by any other suitable and responsible officer. Such decision may be taken at the earliest so that public service functions assigned to such high officer are discharged in a responsible manner.
8. In view of acknowledged illegal operation of petrol pump in green belt, the Chief Secretary Haryana may ensure further legal action and file a report before this Tribunal within two weeks. A copy of this order be sent to Chief Secretary, Haryana by e-mail.

List for further consideration on 14.10.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 13, 2019
Original Application No. 847/2018
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