

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

(By Video Conferencing)

Original Application No. 606/2018
(in respect of State of Kerala, Tamil Nadu, Lakshadweep, Puducherry,
Andhra Pradesh and Chandigarh)

Re: Compliance of Municipal Solid Waste Management Rules, 2016 and
other environmental issues.

Date of hearing: 07.09.2022

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

ORDER

1. The issues of solid and liquid waste management are being monitored by this Tribunal as per orders of the Hon'ble Supreme Court dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel vs. Union of India & Ors.*, with regard to solid waste management and order dated 22.02.2017 in W.P. No. 375/2012, reported in (2017) 5 SCC 326, *Paryavaran Suraksha vs. Union of India*, with regard to liquid waste management.

2. In the light of earlier orders, the Tribunal directed personal appearance of Chief Secretaries of all the States/UTs for interaction on status of compliance of environmental norms particularly, solid and liquid waste management vide order dated 16.01.2019. After such interaction, orders were passed in respect of all the States/UTs and requiring further consideration in the presence of the Chief Secretaries after six months in the light of status reports. Though Chief Secretaries of some States/UTs appeared and further orders were passed, on account of

COVID situation, vide order dated 14.12.2020, scheduled appearance of Chief Secretaries was dispensed with, subject to data being compiled and consolidated report being filed by CPCB every six months.

3. Finding continuing gaps in compliance, fresh schedule for appearance of Chief Secretaries was notified commencing 07.07.2022, after improvement of covid situation.

4. Accordingly, the matter in respect of States of Kerala, Tamil Nadu, Lakshadweep, Puducherry, Andhra Pradesh and Chandigarh was taken up respectively on 07.07.2022, 21.07.2022, 21.07.2022, 28.07.2022, 04.08.2022 and 18.08.2022 and considering the compliance status, further directions were issued. Though, compliance status was not found to be satisfactory and gaps in compliance were noticed, further proceedings were closed after recording violations and expressing hope that further monitoring will be at the level of the Administration which will include fixing of accountability and recovery of compensation. Liberty was reserved to the aggrieved parties to take fresh remedies.

5. However, when the Tribunal considered the issue of State of West Bengal vide order dated 01.09.2022, the Tribunal held that since serious gaps in compliance were continuing, closure of proceedings may not be in the interest of environment and thus it was directed that six monthly progress reports be filed by the Chief Secretaries with this Tribunal with copies thereof to NMCG, MoUD and CPCB. Further, quantum of compensation was determined to be utilised for restoration measures.

Operative part of the order is reproduced below:-

“Conclusion about quantum of compensation

49. In the light of above and considering damage to the recipient environment, we hold that apart from ensuring compliance at the

earliest, compensation has to be paid by the State for past violations. The amount of compensation is fixed @Rs. 2 crore per MLD (at which rate compensation has been levied against Noida and DJB in OA No. 1002/2018, *Abhisht Kusum Gupta vs. State of Uttar Pradesh & Ors*, referred to in para 48 above for detailed reasons mentioned therein). As noted earlier, **gap in generation and treatment in West Bengal, as per data furnished is 1490 MLD. Thus, under this head, liability of the State of West Bengal is to pay compensation of Rs. 2980 crores, rounded off to Rs. 3000 crore in view of continuing damage. For failure to process solid waste, unprocessed legacy waste being 1.20 crore MT, compensation is assessed @ Rs. 300 per MT (at which approximate rate compensation has been awarded in OA No. 286/2022 against Municipal Corporation, Ludhiana, for the reasons given therein). This works out to Rs. 366 crore but adding 134 crore for continuing addition of unprocessed waste @ 13469.19 TPD, the total amount is rounded off to Rs. 500 crore. Thus, final amount of compensation under the two heads (solid and liquid waste) is assessed at Rs. 3500 crores which may be deposited by the State of West Bengal in a separate ring-fenced account within two months, to be operated as per directions of the Chief Secretary and utilised 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. If violations continue, liability to pay additional compensation may have to be considered. Compliance will be the responsibility of the Chief Secretary.**

50. Award of above compensation has become necessary under section 15 of the NGT Act to remedy the continuing damage to the environment and to comply with directions of the Hon'ble Supreme Court requiring this Tribunal to monitor enforcement of norms for solid and liquid waste management. Moreover, without fixing quantified liability necessary for restoration, mere passing of orders has not shown any tangible results in the last eight years (for solid waste management) and five years (for liquid waste management), even after expiry of statutory/laid down timelines. Continuing damage is required to be prevented in future and past damage is to be restored.

Directions for further follow up

51. Further, six monthly progress reports may be filed by the Chief Secretary with the with a copy to the Registrar General of this Tribunal 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. Copies thereof may be furnished to the NMCG, MoUD and CPCB and also be placed on the website of the State Government.

A copy of this order be forwarded for compliance to the Chief Secretary, West Bengal, Secretary, Ministry of Housing and Urban Development, MoEF&CC, GoI, National Mission for Clean Ganga and CPCB.

On report being filed with the Registrar General of this Tribunal, the same may be placed before the Bench, if found necessary.

If any grievance survives, it will be open to the aggrieved parties to take further remedies as per law.”

6. In the light of above, direction for listing of the above matter was passed on the administrative side on which the matter has been listed today for further consideration.

7. On due consideration, in the interest of protection of environment and to maintain consistency, we find it appropriate to issue noticee to States/UTs of Kerala, Tamil Nadu, Lakshadweep, Puducherry, Andhra Pradesh and Chandigarh by email to respond to the issue why further directions on the pattern of order dated 1.9.2022 in the case of West Bengal may not be passed in respect of the said States/UTs also. They may appear by virtual mode or physically through counsel or any other representative and file their response, if any before the next date by email.

List for further consideration on 11.11.2022.

A copy of this order be forwarded to the Chief Secretaries of Kerala, Tamil Nadu, Lakshadweep, Puducherry, Andhra Pradesh and Chandigarh by email.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

September 07, 2022
Original Application No. 606/2018
AB