

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

(By Video Conferencing)

M.A. No. 67/2020
IN
Original Application No. 199/2014

Almitra H. Patel & Anr. Applicant

Versus

Union of India & Ors. Respondent(s)

DSI IDCApplicant in M.A.

Date of hearing: 27.10.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant in MA : Ms. Richa Dhawan, Advocate

ORDER

1. This application, in a way, seeks review of order dated 07.10.2020 passed by the Tribunal. By the said order, the Tribunal rejected similar prayer of the present applicant, the Delhi State Industrial and Infrastructure Development Corporation (DSI IDC) against earlier order of the Tribunal dated 14.12.2017 directing that the available land for commercial buildings with the Delhi Government be not developed unless the land is provided for solid waste management. The said direction is as follows:-

“1. The Chief Secretary of NCT Delhi or the Lieutenant Governor, if the Lieutenant Governor so desire, shall hold a meeting within two weeks from today and consider the list of the sites submitted by the Corporation, the site of DSI IDC and the site of NTPC at Badarpur

Thermal Plant as well. The meeting shall be attended by the Senior most Officers from the Corporation, authorities and local authorities.

2. The sites would be selected while taking a comprehensive approach and keeping in mind the siting criteria prescribed under the Solid Waste Management Rules, 2016.

3. **Till the sites are earmarked and finalized for being utilized for management of solid municipal waste in Delhi including setting up of a land fill site, composting, RDF plant and Waste to Energy Plant, all the authorities including Delhi Development Authority, DSIIDC, Corporation shall not place or award work for building up of any commercial building in the lands which have been referred to for the site.**

4. This would also apply to Gram Sabha land, if this is being utilized for commercial purposes.

We are compelled to pass this direction in view of the above compelling circumstances and particularly in view of the fact that the fundamental right to descent and clean environment should take precedence over a commercial activity, even if necessary by the State. The Constitutional and Statutory obligation of the State required them to take all appropriate steps and any development activity must first take precautionary measures in regard to management of the Municipal Solid Waste of the entire city as well as waste that could be generated by such development activity. Our experience has revealed the game of shifting blame must be depreciated and the authorities must be consulted to achieve the proper management of Municipal Solid Waste which is a mandate of the Constitution itself. We hope that the Lieutenant Governor or the Chief Secretary would be able to expedite the decision of these aspects and submit a report to the Tribunal so that this case would proceed further and final orders in that behalf would be passed.

The Ministry of Power and NTPC shall attend the meeting before the Lieutenant Governor/Chief Secretary.”

2. The Tribunal dealt with the prayer of the applicant vide order dated 7.10.2020 as follows:-

“2. According to the Applicant, the direction needs to be vacated as the applicant has got layout plan approved for setting up a multilevel manufacturing hub as per the MPD-2021 on a plot identified for sanitary landfill site.

3. **None appears to press the application. We do not find any merit in the prayer. There is no explanation why suddenly there is occasion for such application to seek review of order which has attained finality. There is no viable alternative offered. Condition of waste management in Delhi is pitiable as mountains of un-remediated garbage is a**

hard reality, though citizens of Delhi are facing worst air pollution. The matter is to be sorted out at the level of Chief Secretary and the Lieutenant Governor who have to provide land for waste management before considering use of available sites for commercial purposes.”

3. In the present application, the applicant has stated that there is a viable alternative in form of 42.5 acres of the land which needs to be considered. Learned counsel for the applicant states that the Tribunal while passing order dated 07.10.2020 proceeded on the footing that there is no viable alternative.

4. We have considered this submission also. The fact remains that the problem of tackling accumulated waste still remains unaddressed and the same has to be sorted out by the Chief Secretary and Lieutenant Governor, which is not shown to have happened so far.

5. Learned counsel for the DSIIDC has also referred order dated 04.09.2017 as follows:-

“..... The site which is proposed to be used now as a sanitary landfill site at Ranikhera, has neither been approved nor has environmental clearance and also does not have sanction from the Delhi Pollution Control Committee. It has not been prepared for segregation and dumping of waste that would certainly lead to leakages polluting the ground water as well as causing serious prejudice to the environment and health of the people living around the site, which is stated to be a close to population of 200 meters. We think that the administration must ponder over these factors before passing any further directions.....”

6. The above aspect has also to be considered by the Chief Secretary and the Lieutenant Governor. Till it is done, there is no occasion for revisiting the order of this Tribunal.

7. In view of above, the issue of availability of suitable land for solid waste management has to be first sorted out by the Chief Secretary and the Lieutenant Governor and if the said authorities take a decision on

such issue, it will be open to the DSIIDC to move this Tribunal based on such decision.

The application is disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

October 27, 2020
M.A. No. 67/2020 in O.A. No. 199/2014
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