

Item No. 01

Court No. 1

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

(By Video Conferencing)

Original Application No. 04/2022
(I.A. No. 240/2022)

(With report dated 13.11.2022)

Sanjay Kumar

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.11.2022

**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**

Applicant: Mr. Gaurav Kumar Bansal, Advocate

Respondent: Mr. Rahul Khurana, Advocate for HSPCB

ORDER

1. Grievance in this application is same as was earlier dealt with by this Tribunal vide order dated 17.09.2020 in *O.A No. 225-2021, Sanjay Kumar v. UoI & Ors.*, against unscientific dumping of waste at a site close to the wildlife sanctuary, in violation of environmental norms as well as conditions of EC. Order dated 17.09.2021 is extracted below:-

“

1. *Grievance in this application is against unscientific dumping of waste on the land allotted for Solid Waste Management project at village Jhuriwala, Panchkula, Haryana.*

2. *According to the applicant, the site in question is 140 meters away from Khol-Hai-Raitan Wildlife Sanctuary. On that account, safeguards are necessary to avoid negative impact of landfill on the*

ground water. In the 36th meeting of the Standing Committee of National Board for Wildlife held on 04.11.2015, it was decided as follows:-

“36.4.2.4 Proposal for setting up of Solid Waste Management Project at village Jhuriwala in Panchkula District, Haryana.

The member secretary briefed the Committee on the proposal. He mentioned that the proposal is for setting up of Solid Waste Management Project at Village Jhuriwala, Panchkula, Haryana. The proposed site is 140 mtrs from the Khol-Hai-Raitan Wildlife Sanctuary. The user agency explained that the project involves composting and land filling. **The Committee members suggested that the landfill site be located away from the current location as it will be a source of diseases for the human beings and wildlife.**

After discussions, the Committee decided to defer the proposal. Project proponents may provide further information on how the negative impact of the landfill on the ground water and ambient environment will be mitigated.”

3. Further decision was taken in the meeting of the Standing Committee dated 26.02.2016, as follows:-

“36.4.2.4 Proposal for setting up of Solid Waste Management Project at village Jhuriwala in Panchkula District, Haryana.

IG WL briefed that the proposal was deferred in the 36th meeting for the information on how the negative impact of the landfill on the ground water and ambient environment. The Chairman asked the user agency to present the proposed mitigation measures for preventing the ground water pollution and ambient environment. **The user agency presented the engineering construction measures for composting of municipal solid waste, landfill of inert waste and leachate handling, transportation through pipeline and treatment in Common Effluent Treatment Plant which is away from the site.**

Considering that arrangements are in place for ensuring that the leachates do not pollute the ground water and composting of biodegradable waste is also ensured, **the Committee agreed to recommend the proposal with the following conditions in addition to those proposed by Chief Wildlife Warden in the proposal and SBWL, to be made part of EC clearance.**

- 1. The landfill for inert waste will be based on the standard design and will be covered.**
- 2. Adequate water harvesting structure will be created in the Khol Hai Ratan WLS for providing sustained water and fodder to the wild life within**

the PA. The cost will be borne by the project proponent.”

4. *It is stated that in breach of understanding given while taking the EC, steps are not being taken for composting of municipal solid waste, landfill being limited to inert waste, transportation through pipeline and treatment in Common Effluent Treatment Plant. The Municipal Corporation, Panchkula has been dumping all kinds waste at the project site in violation of conditions on the basis of which the NBWL permitted the project.*

5. *In support of his case, the applicant has relied upon photographs and news item dated 09.08.2021 in The Times of India titled “Residents fume as MC turns Jhuriwala forest area in Panchkula into dumping ground”. The news item states that the Solid Waste Management Plant site is being used as a dumping ground illegally. The news item mentions that though the Speaker Haryana Assembly, who is the local MLA announced in a public meeting that 600 tonne garbage lying in the Sector 23 dumping ground would be processed and the area would be turned into a park, no such step has been taken.*

6. ***We have considered the matter. We are of the opinion that the issue needs to be first considered by a joint Committee of statutory regulators - CPCB, State PCB and Chief Wildlife Warden, Haryana. Chief Wildlife Warden, Haryana will be the nodal agency for coordination and compliance. The Committee may hold its first meeting within 15 days, undertake visit to the site, interact with the Stakeholders and take remedial action in exercise of their statutory powers, following due process of law. It will be open to conduct meetings online, except the site visit.”***

2. According to the applicant, the illegal and unscientific dumping of waste is still continuing in spite of order of this Tribunal. The applicant has particularly relied upon media report dated 09.08.2021 on the subject.

3. Vide order dated 21.01.2022, the Tribunal sought a factual report from a joint Committee comprising of the State PCB, Chief Conservator of Forest and the District Magistrate, Panchkula.

4. The report of the Committee has been filed on 13.11.2022. It is stated in pursuance of order of this Tribunal dated 17.9.2021, a sub-Committee was constituted which visited the site on 08.10.2021. It found non-compliance with the EC conditions and also the consent conditions.

Waste was being dumped into the drain. Leachate was mixing with the storm water of the drain joining river Ghaggar. Testing of samples showed that there was contamination of water in the drain. There was also violation of condition of clearance of the forest land, apart from violation of conditions of the permission granted by the Chief Wildlife Warden. The Committee accordingly recommended remedial action which includes preventing continuing violation and fixing accountability for past violations. The State PCB issued directions to stop dumping at the site and also recommended levy of environmental compensation for the past violations at approx Rs. 9 crore. However, dumping had still not stopped nor protective wall constructed nor other necessary steps taken to remediate the waste. Compensation has also not been paid. Relevant extracts from the report are reproduced below:-

“During the first meeting held on 1/10/2021, the Joint Committee further constituted a Sub-Committee comprising of the following members (Annexure-2):

- i. Sh. Shyam Sunder, Divisional Wildlife Warden, Panchkula.*
- ii. Sh. Virender Punia, Regional Officer, Panchkula Region Haryana State Pollution Control Board.*
- iii. Dr. Narender Sharma, Additional Director, Central Pollution Control Board, Regional Director, Chandigarh*

The terms of reference (TOR) of the Sub Committee, as decided by the Joint Committee were as follows:

- a) To visit the site and interact with the stakeholders*
- b) Assess the damage caused to the environment.*
- c) Recommend the remedial action to be undertaken by different statutory authorities in this regard.*
- d) Propose its recommendations for further future course of action to be taken in this regard by different authority.*
- e) Submit the report within a week time, i.e., before 08.10.2021, to the Nodal agency, i.e., Chief Wildlife Warden.*

2. Submission/ Report of the Sub Committee:

The Sub Committee visited the site on 8/10/2021. The stake-holders as per list attached as Annexure - 3, were also present at site. The stakeholders representing Residents welfare association were requested to explain or provide any point/issue other than written

submissions made by the RWA to the members of the Joint Committee. The following additional issues were raised by RWA during interaction with the Sub Committee:

- The public hearing of the site under question, was conducted at Community Centre, Sector 25, Panchkula and not at the proposed site, thereby misleading the stakeholders. The public hearing should have been conducted at site as per EIA Notification.
- The leachate coming out of the existing illegal site after mixing with rain water in the natural drain, is leading to River Ghaggar and hence affecting the public health since the contaminated water from the River Ghaggar is being used by farmers for raising crops and vegetables.
- The ground water of the nearby sectors has been deteriorated and not fit for drinking.

Based on the site visit, interaction with the stake-holder and examination of various documents w.r.t. clearances/permissions obtained for the site under reference and the compliance of various terms and conditions of the clearances/permissions granted, it was observed by the Joint Committee that the project proponent has not complied with the conditions, prescribed by Wild Life Department, Standing Committee NBWL and also failed to adhere to the conditions of Environmental Clearance granted by MoEF&CC and the Consent to Establish (CTE) granted by Haryana State Pollution Control Board (HSPCB) as elaborated below:

The Environmental Clearance was granted to the proponent i.e. Haryana Urban Development Authority (HUDA) by MoEF&CC vide F.No. 10-7/2009-IA-III dated March 1, 2013. It was specified in the Environmental Clearance that in the event of change in the project profile or change in the implementation agency, a fresh reference shall be made to the Ministry of Environment and Forests. In this regard, it may be noted that **Consent to Establish (CTE) No. 320220918PANCTE5688668 dated 01/11/2018, was obtained by M/s Municipal Corporation, Panchkula from HSPCB on the basis of Environmental Clearance (EC) granted to Haryana Urban Development Authority (HUDA), without making a reference to the MoEF&CC as stipulated in the conditions of Environmental Clearance granted to HUDA.**

During inspection the project proponent was found to be not complying with the following conditions of Environmental Clearance:

- Boundary wall of 8 ft height should be constructed all along the project site.
- The proponent shall ensure that the project fulfils all the provisions of Solid Wastes (Management and Handling) Rules, 2000 including collection and transportation design etc.
- Any other condition as stipulated in the court order, should be adhered to.

- *Entire organic material shall be converted into manure. Recyclable material likewise glass, steel etc. Shall be sold to recycler. Only inert material which cannot be either composted or recycled shall be sent to land filling.*
- *A six-monthly monitoring report shall be submitted by the project proponent to the regional Office of the Ministry at Chandigarh regarding implementation of the stipulated conditions.*

The Consent to Establish (CTE) was granted to Municipal Corporation, Panchkula by Haryana State Pollution Control Board (HSPCB) vide No. 320220918PANCTE5688668 dated 01/11/2018 with the conditions that :

- *There is no discharge directly or indirectly from the Unit or the process into any interstate river or Yamuna River or River Ghaggar.*
- *The Unit will obtain consent to operate from the Board before the start of project activity.*
- *The Unit will comply with the conditions of EC granted by MoEF&CC.*
- *The Unit will obtain CTO under Water/Air Acts and Authorization under MSW (M&H) Rules before commissioning.*
- *The CTE thus granted shall be valid till the validity of Environmental Clearance granted to the Unit i.e. 29.2.2020.*

The Municipal Corporation, Panchkula was found to fail to follow the above conditions of Consent to Establish (CTE) granted by HSPCB vide dated 01/11/2018. It is necessary to mention here that on the day of inspection The Municipal Corporation, Panchkula was found using the site under reference for unscientific dumping of waste, without getting extension of CTE or without obtaining consent to operate and Authorization from HSPCB. The site has been used for unscientific dumping of municipal solid waste in violation of MSW Management Rules 2016 since the beginning.

A natural drain is passing through the site and the Municipal solid waste is being dumped into the drain. It was observed that the leachate coming out of the site is mixing with the storm water of the natural drain and leading to the River Ghaggar.

The samples of the water/waste water flowing into the natural drain upstream of the site and the drain passing through the site were collected and sent to HSPCB Laboratory for general parameters and other parameters specific to leachate. The results of analysis revealed that the concentration of various general parameters in the contaminated water in the natural drain passing through the site, are much higher in comparison to water flowing in the drain upstream of the site, clearly indicating absence of leakage management. The analysis results of the samples collected from the above locations are attached as Annexure-4.

Permission for diversion of 5.35 Hectare of forest Land (Site under reference) for solid waste management under section 4 & 5 of PLPA 1900, under Forest Division, Morni, Pinjore. Distt. Panchkula, by MoEF&CC vide No. 9-HRB 159/2006-CHA/3754 dated 29/04/2011, with the condition that forest land will not be used for the purpose other than mentioned in the proposal. The proponent is not complying with this condition of the permission and using the site for unscientific dumping of Municipal Solid Waste.

Apart from the above, the proponent is not complying with the conditions of the permission granted by Chief Wild Life Warden, Panchkula (Annexure-5). Further, the permission was granted to HUDA and the same is not changed in the name of Municipal Corporation, Panchkula. There is no demarcation of boundary at site. Both domestic and wild animals were found to be roaming around, at site.

The proposal for setting up Solid Waste Management Project at Village Jhuriwala, Panchkula was recommended by Standing Committee of NBWL during 37th meeting held on 26/2/2012 (Annexure-6), "considering that arrangements are in place for ensuring that the leachates do not pollute the ground water and composting of biodegradable waste is also ensured". In this regard, it was found that the proponent is not complying with these conditions. No provision has been made at site for collection and treatment of the leachate. The leachate was found to be mixing with the natural drain leading to the River Ghaggar.

The various photographs taken by the Joint Committee during the site visit are attached as Annexure-7.

3. Recommendations of Sub-Committee:

- a) *Now Municipal Corporation, Panchkula has submitted fresh application for issuing Terms of Reference (TOR) for obtaining Environmental Clearance (EC) for Integrated Municipal Solid waste Facility" at the same site, giving reference of permissions earlier granted by Wild Life Department/NBWL and the forest Clearance granted by MoEF&CC (**Annexure-8**) However, **in view of the fact that the proponent has not complied with the conditions of permissions/clearances granted by these agencies, it is recommended that the permissions granted earlier may be reviewed by the respective agencies. Further, since the site under reference is presently being used for unscientific dumping of MSW without following the provisions of MSW Management Rules, the plan restoration of the the site under reference, to its original condition must be included as a part of EIA report and Environmental Management Plan, while considering the application of the proponent for fresh Environmental clearance of the same site. The time bound action plan in this regard should be obtained from MC, Panchkula and implementable of the same may be***

ensured by HSPCB, before issuing CTE to the proponent based on the Fresh EC, if granted by MoEF&CC. The Joint Committee constituted in the matter of OA No. 225/2021; Sanjay Kumar Versus Union of India &Ors, may consider the above recommendation while submitting its report to Hon'ble NGT.

- b) *The sub-committee was also assigned the job of making the assessment of the damage caused to the environment by the Municipal Corporation (MC), Panchkula and suggest remedial measures. In this regard, it is submitted that as reported in the previous sections, leachate from the site under reference was found to be mixing with the natural drain, leading to River Ghaggar. Therefore, damage to ambient air, soil, surface water, ground water and crops in the nearby area is not ruled out. However, detailed investigation is required in this involving experts in the area of soil, ground water, agriculture and public health, to quantify the damage and prepare restoration plan. Therefore, Joint Committee constituted in this matter by Hon'ble NGT may look into this aspect and take appropriate decision in this regard.*
- c) *The sub-committee was also assigned the task of recommending the remedial action to be undertaken by different statutory authorities. The violations made by the proponent are with regard to non-compliance of conditions of permissions/clearances granted by various agencies . In this regard, the State Pollution Control Board have following provisions to address violations in such cases:*
- *Show cause notice under water/ Air/ EPA Act.*
 - *Environmental Compensation as per CPCB Guidelines.*
 - *Complaint under EP Act before Special Environmental Court, Kurukshetra.*
 - *Directions of Hon'ble NGT in the matter of OA No. 138-139 of 2018.*
 - *Directions of Hon'ble NGT in the matter of Appeal No. 36 of 2013 and OA 93 (THC) of 2013*

HSPCB may take remedial action in this regard. Joint Committee may ask other agencies involved in this matter to take similar remedial action under the legal provisions with regard to their area, for submission of the action taken report (ATR) before the Hon'ble NGT by the Joint Committee.

- d) *The concern of the stakeholder's w.r.t. venue of public hearing may be addressed by HSPCB during the next public hearing to be held in future, during consideration of application of MC, Panchkula, for fresh Environmental Clearance.*

The Sub-Committee Prepared the detailed report after elaborating the above points including supportive documents and photographs along with remediation and recommendations submitted to the Joint Committee constituted in the matter of O.A No. 225 of 2021; Sanjay Kumar vs. Union of India and Ors for consideration and taking further

necessary action, in compliance of the orders of Honble NGT in this matter. However, the joint committee has not submitted the final report of the sub-committee to the Hon'ble NGT in the matter of OA No. 225 of 2021.

4. Present status in the matter of OA No. 04/2022 titled as Sanjay Kumar V/s Union of India &Ors.

Another application was filed by the applicant Sanjay Kumar against the Union of India &Ors before this Hon'ble NGT, with the grievance that the illegal and unscientific dumping of waste has been still continuing in spite of orders of Honble NGT and the Hon'ble Tribunal took cognizance of the same and directed as below:

*"In view of above, it is necessary to ascertain the compliance status from a Joint-Committee Comprising of the **State PCB, Chief Conservator of Forest and the District Magistrate, Panchkula.** The State PCB will be the nodal agency for coordination and compliance".*

The joint committee held its 1st meeting on 19.05.2022 in compliance of the directions issued by Hon'ble NGT. The Joint Committee discussed and updated itself on the present status of the dumping ground, actions being taken by the HSPCB, Wildlife department and statutory regulators and what compliance has been done on the **site(Annexure-9)**.

5. Directions issued by the Joint Committee on 19.05.2022

The Joint Committee, after observing the facts, directed different statutory authorities to take all the necessary actions against the violators, including MC, Panchkula for the violation of continuing dumping of garbage at the site in Village-Jhuriwala. Further, the Joint Committee issued the following directions to the concerned as below.

- a) MC, Panchkula shall immediately stop dumping at the site and shall take action to remove the already dumped garbage at the site.
- b) MC, Panchkula shall construct the boundary wall around the site.
- c) HSPCB shall submit its interim/final report in the Hon'ble NGT before 25.05.2022.
- d) HSPCB shall issue the directions for the compliance at the site to MC, Panchkula.

The minutes of the meeting is attached as Annexure-10.

Meanwhile, the site in question was inspected by the team of EAC for considering granting of EC and TOR for the proposed integrated Municipal Solid Waste Management Facility (MSWM) at Jhuriwala Village (against the proposal no. IA/HR/MIS/230385/2021; F. No. 21-58/2021-IA-III). After examining the said proposal, the EAC noted that a litigation has been filed against the project. Therefore, based on the

information submitted and clarification provided by the Project Proponent and detailed discussions held on all the issues, the EAC was of the opinion to conduct a site visit before arriving at a decision on the project proposal. The findings and final conclusion observed by the team of EAC during the site visit is as below:

- a) **This site is not suitable for the establishment of IMSWF, as per the criteria laid out in relevant GOI guidelines.**
- b) **Seeing the importance of Environmental conservation, it will not be proper to setup an IMSWF site and plant in a natural forest with rich bio diversity adjacent to a Wildlife Sanctuary. Moreover, the area also receives Natural water channels from nearby undulating watershed having rich forest of the Wildlife Sanctuary. It will be in the fitness of things to find a suitable site which can located taking resort to cluster approach for setting up Solid Waste Management Plant.**
- c) **There seems to be discrepancies in the forest clearance granted earlier this needs investigations.**
- d) **There are violations of the Environmental Laws and of guidelines of Swacch Bharat Mission, Municipal Solid Waste Manual.**
- e) **Regarding representation.**
- f) **As per the latest order of NGT dated 17.09.2021, the matter is to be first considered "CPCB, State PCB and Chief Wildlife Warden, Haryana. Chief Wildlife Warden, Haryana will be the nodal agency for the coordination and compliance.**
- g) **Latest order of the Supreme Court declaring ESZ of a minimum 1 km for all protected areas makes this site unfit for solid waste management. The report of this committee is awaited.**

The EAC site inspection report is attached as Annexure-11.

6. Actions undertaken by HSPCB and other statutory authorities

- (i) RO, HSPCB, Panchkula has initiated prosecution action against the Municipal Corporation, Panchkula and Municipal Council, Kalka for the violations made at Jhuriwala and HSPCB also imposed the Environment Compensation of Rs. 30 lakh per month on the MC, Panchkula i.e. @Rs. 05 lakh per month for the period from 10.07.2021 to 31.12.2021 for discharging the leachate from the dumping site into River Ghaggar through natural drain passing through the site in compliance of Hon'ble NGT orders dated 06.12.2019 in OA No. 673 of 2018 (Annexure-12). Further, RO, HSPCB, Panchkula has issued directions to MC, Panchkula and Municipal Council, Kalka vide letters dated 24.04.2022 to immediately stop the dumping at the village- Jhuriwala site and directed them to comply with the following directions.

1. To immediately stop dumping fresh solid waste.
2. To remove already dumped legacy waste.
3. To obtain fresh Environmental Clearance from the competent authority.

4. To identify another landfill site away from the current location as it will be the source of diseases for the human being and wildlife.
5. Not to dump/process any kind of fresh solid waste at site till they obtain all necessary clearances from the concerned Departments and establish all necessary infrastructure at the site as per Municipal Solid Waste (Management & Handling) Rules, 2016.

The copy of directions issued to the MC, Panchkula and MC, Kalka is attached as **Annexure-13**.

RO HSPCB has also recommended the imposition of another Environment Compensation on the MC, Panchkula vide letter no. 704 dated 17.08.2022 and on MC, Kalka vide letter no. 705 dated 17.08.2022 for the period from 01.07.2021 to 31.07.2022 for illegal and unscientific dumping of the MSW at the site and non-compliance of the Solid Waste Management Rules, 2016 (Annexure-14).

The site was again inspected by the field officer of the HSPCB on 02.08.2022 and the sample was collected and as per analysis report 6395 dated 10.08.2022 the parameters were found to be exceeding the prescribed limits (**Annexure-15**).

(ii). District Magistrate, Panchkula visited the site along with Regional Officer, HSPCB, Panchkula in the month of May, 2022 i.e. before the 1st meeting of Joint Committee in O.A. no 04 of 2022 and it was observed that the M.C, Panchkula has been continuously dumping the garbage at the site Village-Jhuriwala in violation of Municipal Solid Waste Management Rules, 2016. Further, it was also observed that MC, Panchkula and MC Kalka did not develop the infrastructure around the site, as decided by the Joint Committee and the leachate coming out of the site, had been mixing with the storm water of the natural drain, which subsequently outfalls in River Ghaggar.

Further, DC, Panchkula directed the MC, Panchkula to construct the boundary wall around the site and take necessary action to avoid the entry of wild animals and requested HSPCB to take necessary action against the MC, Panchkula for the violations at the site and issue notice to MC, Panchkula for immediate compliance of the provisions of Municipal Solid Waste Management Rules, 2016 and the directions of Hon'ble NGT.

The Joint Committee held its second meeting on 24.08.2022 and another meeting on 17.10.2022 and the meeting was coordinated by HSPCB. During these meetings the updated status of progress was reviewed and the report to be finalized before Hon'ble NGT was also discussed. Minutes of meeting are attached as **Annexure-16 & 17**.

In the third meeting, after reviewing the actions undertaken in the matter by different statutory authorities, the Joint Committee expressed

its dissatisfaction over the inaction on the various decisions/directions and commitments given by the Municipal Corporation, Panchkula in the previous meetings. **The Joint Committee observed that the dumping was not stopped, no new site was identified, no wall was constructed and no additional trommel was added to treat the legacy waste. In nutshell, the MC Panchkula has miserably failed to take necessary steps to resolve the issue.** The committee took the following decisions:

- (i) RO, HSPCB, Panchkula shall file the criminal complaint before Special Environment Court, Kurukshetra for violation of the provisions of SWM Rules 2016, impose applicable penalty on MC, Panchkula, besides giving directions to all concerned to stop the polluting activities immediately. Municipal Corporation should immediately search an alternative site for the waste disposal and processing. Further, Municipal Corporation should obtain prior permission from MoEF& CC/HSPCB and other Departments before setting up MSW processing plant at new site.
- (ii) Municipal Corporation should do proper fencing around the site so that wild animals could not be able to enter at the site.
- (iii) As an immediate step to relieve of foul smell, Municipal Corporation should control the smell by using proper methods and chemicals, so that the inhabitants would not suffer.
- (iv) Municipal Corporation should install additional Trommel Machines to remove waste from the current site.
- (v) Municipal Corporation should spread awareness about the segregation of waste and also do proper segregation before the disposal of waste.
- (vi) MC Panchkula & Kalka should immediately submit an action plan for handling its daily waste addition, treating its legacy waste, activities for preventing pollution from the existing site and the remedial action plan for restoration of environment in the site, degraded by their activities so far, along with fragmented activities and timelines, machinery and manpower proposed, for further consideration and submission to Hon'ble NGT (consisting both short term plan and long-term plan).

FINAL OBSERVATIONS OF THE JOINT COMMITTEE

In light of the above facts and violation observed on the site at Village-Jhuriwala by Municipal Committee, Panchkula and Municipal Council Kalka, the following facts clearly emerge:

- a) The site is not suitable for the establishment of Municipal Solid Waste Facility (MSWF).
- b) The area of the site also receives natural water channels from nearby undulating watershed having rich forests of the wildlife sanctuary. It will be in the fitness of things to find a suitable site which can be located taking resort to cluster approach for setting up solid waste management plant in consonance of the latest order of the Hon'ble Supreme Court passed on 03rd June, 2022 regarding the

minimum distance required from all protected areas and ESZ for any such establishment.

c) From the reviews, site visits and documents, it is clear that violations of the environment laws have been committed by Municipal Corporation Panchkula and Municipal Council, Kalka, causing a significant loss to the environment. Thus the remedial and preventive action to restore the damage caused to the environment at site and surroundings have to be undertaken by them on top priority and action should be taken by District Administration, HSPCB and ULBD to ensure that no further dumping, causing further damage to environment should be stopped immediately.”

5. We have heard learned Counsel for the parties. We see no reason not to accept the report. Accordingly, we accept the same and direct action in terms of recommendation in the report. Further, we note that as per the report of the Chief Secretary, Haryana filed on O.A. 1011/2018, *Jagdish Kumar vs. State of Haryana*, as noted in order dated 09.05.2022, at Panchkula, legacy waste at Panchkula is 2.5 lakh metric tonnes spread in 10 acres of land which must be remediated, apart from handling the current waste. In this regard, we may also refer to recent orders on the subject in the context of Bandhwari site in Gurgaon, Haryana, i.e. order dated 23.09.2022 in O.A. No. 172/2021, *Poonam Yadav vs. M/s Ecogreen Energy Pvt. Ltd. & Ors.* Observations therein may apply to the present site also. As noted in the report, contamination of water or violation of Forest and Wildlife Laws has to be stopped and for past violations, compensation has to be assessed. We determine compensation at Rs. 10 crores. Rs.9 crore to be deposited by the Municipal Corporation, Panchkula and Rs. 1 crore on Municipal Council, Kalka. This amount is being fixed in view of calculation of the Regional Officer, State PCB, Panchkula dated 17.08.2022 (Annexure-14 to the report) and also the rate applied in other such cases i.e. Rs. 300 per metric tonne with remaining amount to cover other violations. The amount may be deposited within one month with the District Magistrate, Panchkula for being used for restoration measures in accordance with

the District Environment Plan particularly to reverse the damage as found in the report.

6. To execute this order, we constitute eight-member joint Committee to be headed by Additional Chief Secretary, Urban Development, Haryana. Other members will be Additional Chief Secretary, Environment, Regional Director, CPCB, Chandigarh, Member Secretary, SEIAA, Member Secretary, State PCB, District Magistrate, Chief Wildlife Warden, Panchkula and DFO, Panchkula. ACS, Urban Development, will steer the proceedings of the Committee. The Committee may meet within one week and take stock of the situation and prepare and execute its action plan in the light of recommendations in above report and also considering observations of the Tribunal in Bandhwari case on emergency basis at the earliest. The execution will include remediation and recovering of land in question, identification of new site for setting up of adequate capacity of waste processing plant meeting the criteria as per MSW Rules, 2016. Substantial progress in the matter must be achieved within three months.

7. The Committee will be free to co-opt any other Institution/Expert and also to interact with all stakeholders including the Welfare Association and public at large. Any interested person will be at liberty to give their representation to the Committee. An action taken report of compliance status as on 31.03.2023 may be filed on or before 15.04.2023 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.

List for further consideration on 03.05.2023.

I.A. No. 240/2022 will also stand disposed of.

A copy of this order be forwarded to ACS, Urban Development, Haryana with ACS, Environment, Regional Director, CPCB, Chandigarh Member Secretary, SEIAA, Member Secretary, State PCB, District Magistrate, Chief Wildlife Warden, Panchkula and DFO, Panchkula by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

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