

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

**Execution Application No. 03 of 2016  
In  
Original Application No. 276 of 2015  
And  
Original Application No. 276 of 2015  
(M.A. No. 1266 of 2015)**

**IN THE MATTER OF:**

**Jitender Yadav Vs. State of Uttarakhand  
And  
Jitender Yadav Vs. Union of India & Ors.**

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

**Present (item 10): Applicant** Mr. Aamir Khan and Mr. Kabeer Shrivastava,  
Adv. and Applicant in person  
**Respondent No. 1** Mr. Attin Shankar Rastogi, Adv. for MoEF  
**Respondent No. 2 to 3** Mr. B. V. Niren, Adv.  
**Respondent No. 8 to 10 :** Mr. Rahul Kaushik, Adv.  
Mr. Abhishek Paruthi, Adv. for CPCB

**Present(item no. 11): Applicant** Mr. Aamir Khan and Mr. Kabeer Shrivastava,  
Adv. and Applicant in person  
**Respondent No. 1** Mr. Attin Shankar Rastogi, Adv. for MoEF  
**Respondent No. 2 & 3** Mr. B. V. Niren, Adv.  
**Respondent No. 5** Mr. Parth Awasthi, Adv.  
**Respondent No. 6** Mr. Mukesh Verma, Adv.  
**Respondent No. 7 :** Mr. Rahul Verma, AAG for the State of  
Uttarakand  
**Respondent No. 8 to 10 :** Mr. Rahul Kaushik, Adv.  
**Respondent No. 11** Mr. Saurabh Sharama, Adv.  
**Respondent No. 12** Mr. Sunil Prakash Sharma, Adv.  
Mr. Abhishek Paruthi, Adv. for CPCB

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<p><b>Item Nos. 10 &amp; 11</b></p> <p><b>March 16, 2016 A</b></p>	<p>The present case relates to the indiscriminate dumping and throwing of municipal solid waste and burning of the same causing serious prejudice to the environment.</p> <p>Learned counsel appearing for the State of Uttarakhand and Municipality of Almora submit that they have submitted to MoEF the proposal for acquisition and Environmental Clearance of the site for dumping of municipal solid waste, in July, 2015. He further state that</p>

presently they are just dumping the municipal solid waste without taking appropriate measures, much less in consonance with the Municipal Solid Waste Rules 2000, on the road side.

Vide our order dated 08<sup>th</sup> December, 2015 we had Noticed these facts and required the Learned counsel appearing for the MoEF to take complete instructions. Thereafter the matter was adjourned to 14<sup>th</sup> January, 2016. On which date again the matter was adjourned to 17<sup>th</sup> February, 2016 and on 17<sup>th</sup> February, 2016 it was adjourned to 15<sup>th</sup> March, 2016 and from yesterday it was listed for today. Learned counsel now submits that he will take instructions. We are unable to appreciate this style of functioning. If the cases are adjourned for such small reasons for four hearing we are not sure as to what would be the consequences particularly keeping in mind that the Tribunal is required to dispose of cases within six months from its institution, in terms of the legislative scheme of the National Green Tribunal Act, 2010. Execution Application No. 03/2016 was filed by the Applicant praying action against the Respondents, particularly the State of Uttarakhand, should be taken in terms of the Section of 26 and 28 of the National Green Tribunal Act, 2010 read with Section 12 of Contempt of Courts Act. In this application it is averred that not only there is indiscriminate dumping of municipal solid waste, the same is even being burnt quite frequently, in violation of the specific orders of the Tribunal dated 08<sup>th</sup> December, 2015. It is a case where there is hardly any dispute to the averments made in the Application.

Learned counsel appearing for the Municipality and the State have taken a common stand that it would be an accidental fire or some mischief have taken place. Even if we take this vague stand of the Learned counsel as correct, consideration would arise when smoke and smell would be visible and noticeable from any part of hilly town, should prompt actions not be taken? It is not even stated that any preventive measures have been taken at the relevant time. Learned counsel have now placed some photographs to show that the site have been cleared and the municipal solid waste have been removed. The Executive Officer present on behalf of the Municipality, has not been able to make any satisfactory statement as to where the municipal solid waste shown in the photographs by the Applicant were taken and from where the soil which is stated be placed for covering the waste has come even if any C&D waste was used to cover the municipal solid waste.

It is unfortunate that the Officer before us make such vague and incorrect statement. Furthermore, we must notice that the burning of the municipal solid waste can cause serious forest fire. It will be hazardous for the environment and even for public health.

The Executive Officer of the Municipality submits that decisions of the Municipality are taken by the Board and he is only the Executive Officer. He further states that the orders of the Tribunal and other relevant factors have been placed before the Board from time to time.

In the circumstances afore noticed, we dispose of the Execution Application No. 03 of 2016 with the

following directions:-

1. The Municipality and all its Officers would comply with the orders of the Tribunal without default and delay. They would ensure that even temporarily the municipal solid waste are not dumped without taking the measures as provided under the Municipal Solid Waste Rules, 2000 till the proposal is dealt with by MoEF. We do hope and expect the same would be dealt expeditiously.
2. The Municipality and all its Members would ensure that the municipal solid waste is properly collected and dumped even on the temporary basis in other words during interregnum period, as far as possible in accordance with municipal solid waste Rules. The site should be properly prepared.
3. Besides issuing above directions, we find that the Executive Officer of the Municipality has failed to discharge his duty and has not complied with the orders of the Tribunal, despite grant of opportunity. Indiscriminate dumping particularly burning of municipal solid waste is bound to have adversely impact on environment and human health. Consequently, a cost of Rs. 15,000/- be recovered from the salary of the Executive Officer of the Municipality. In view of the statement made by him, we also issue show cause notice to all the 11 Members, including the Chairman of the Municipality, as to why appropriate orders shall not be passed against them in accordance with law.

4. We further direct MoEF to deal with the proposal which is pending with it for the last 9 months, expeditiously and in any case not later than three weeks from today by way of last opportunity.

With the above directions Execution Application No. 03 of 2016 stands disposed of without any order as to costs.

Notice be issued to the Chairman of the Municipality and the Registry is directed to prepare a separate file of the same.

List the Original Application No. 276 of 2015 for directions on 21<sup>st</sup> April, 2016.

.....,CP  
(Swatanter Kumar)

.....,JM  
(M.S. Nambiar)

.....,JM  
(Raghuvendra S. Rathore)

.....,EM  
(Prof. A.R. Yousuf)

.....,EM  
(B.S. Sajwan)

