

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

Original Application No. 199 of 2014

Almitra H. Patel & Anr. Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present:	Applicant:	Applicant in person
	Respondent No. 1:	Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.
	Respondent No. 7:	Mr. V. K. Shukla, Adv. Mr. Rudreshwar Singh and Mr. Gopal Jha, Advs. for State of Bihar & BSPCB Mr. Datta Prasad Lavande, Adv. for the State of Goa and Goa State PCB Mr. Nikhil Nayyar, Ms. Akansha, APPCB & Telangana PCB Mr. Mukesh Verma, Adv. for MPPCB & UPPCB Mr. K. Enatoli Sema, Adv for State of Nagaland & Pollution Control Board Mr. Guntur Prabhakaran, Mr. Guntur Pramod Kumar for the State of A. P. Mr. Pragyan Sharma, Adv. and Mr. Hestu Kayina, Adv. for the State of Mizoram Mr. Pradeep Misra and Mr. Daleep Kr. Dhayani, Adv. for UPPCB Mr. Biraja Mahapatra, Adv. with Mr. Dinesh Jindal, Law Officer, DPCC Mr. Rahul Chopra, Proxy for Ms. Sushil Dutt Sahvan for Urban Development Dept., GNCT Delhi Mr. Devashish Bharuka, Ms. Anu Tyagi & Ms. Priyanka Sinha, Advs. State of Jharkhand Mr. Jayesh Gaurav, Adv. for Jharkhand State Pollution Control Board Mr. Shuodeep Roy, Assam Pollution Control Board, Assam Ms. Richa Kapoor, Punjab PCB Ms. Aruna Mathur and Mr. Yusuf Khan, Advs. For State of Sikkim and Sikkim PCB Mr. Anil Soni, Adv. AAG, Punjab Ms. Shagun Malia and Mr. Kasir Shankar Bose, Advs. for the State of West Bengal Ms. Yogmaya Agnihotri, for C.E.C.B. Mr. Amit Agrawal, Adv. for West Bengal Pollution Control Board Dr. Abhishek Atrey and Mr. Himanshu Mehra, Adv. for the State of Uttrakhand Ms. Shibani Ghosh, Adv. for the State of Maharashtra Mr. Sunny Choudhary, Adv. MPPCB Mr. Sunil Satyarthi, Adv. Delhi Contonment Board Mr. Sapam Biswajit Meiti & Mr. Z.H. Isaac Haiding, Adv. for the State of Manipur Mr. Jogy Scarila, Adv. for the Kerala State Pollution Control Board

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. State of Haryana

Mr. Arun Bhardwaj, AAG, Haryana and Ms. Gunjan Bansal, Adv. for state of Haryana, Urban Local Bodies.

Mr. Suryanarayan Singh, Addl. AG for the State of HP

Mr. Alok Kumar and Mr. Senjul Khanna for U.T. of Daman Diu and Dadar and Nagar Haweli

Ms. Puja Kalra with T. Ahmad for North MCD and South MCD

Mr. Devraj Ashok, State of Karnataka

Mr. A. K. Panda, Sr. Adv., Mr. M. Paikaray, and Mr. S. Panda, Adv. for SPCB, Odisha

Ms. G. Indira and Mr. K.V. Jagdishvaran, Advocate for U. T. Andaman & Nicobar

Mr. Gaurav Dhingra and Mr. Ashutosh Sharma, Adv. for State of U.P.

Mr. Riku Sharma, Mr. Navnit Kumar and Mr. Kankana Arandhara, Adv. for Corporate low Group

Mr. M. Yogesh Khanna and Mr. A. Santha Kumar, Advs. For State of Tamil Nadu

Mr. S. Udaya Kumar Sagar, Adv. for State of Telangana

Mr. G.M. Kawoosa, Adv. and Ms. Antima Bazaz for State of J&K and J&K PCB

Mr. Gopal Singh & Mr. Rituraj Biswas, Adv. for Tripura SPCB & State

Mr. Sarupreet Singh and Mr. Sauyan Saxena, Adv. for Arunachal Pradesh SPCB & state

Mr. Abhimanyu Garg and Ms. Preety Makka., Advs. For UP of Puducherry

Mr. Nupur Kanungo and Hamantika Wahi, Advs. for State of Gujarat and G.P.C.B.

Mr. Arun Bhardwaj, Adv. for State of Haryana

Mr. Shibashish Mishra and Mr. Umakant Mishra, Advs. for state of Odisha

Respondent No. 62:

Respondent No. 32:

Respondent No. 23 :

	Date and Remarks	Orders of the Tribunal
	Item No. 70 March 20, 2015	Writ Petition No. 888 of 1996 was filed before the Hon'ble Supreme Court of India wherein Municipal Corporations of different cities and practically all the States of Union of India were impleaded as Respondents. In this Writ Petition the Petitioner interalia had raised various issues with regard to collection, treatment and disposal of the municipal solid waste in various cities, particularly where the population exceed One Lakh. Prayers were also

made with regard to the selection of sites, operation of such sites and to take all the measures that may be necessary in that regard.

The Writ Petition was pending before the Hon'ble Supreme Court of India which passed various interim directions to various State Governments and the Civil Authorities/ Corporations in terms of the prayers made in the Writ Petition.

Vide its order dated 07th September, 2014, the Hon'ble Supreme Court of India transferred this Writ Petition to the National Green Tribunal. Various grievances had been raised in the Writ Petition before the Hon'ble Supreme Court of India including installation of incinerators with a particular reference to Sukhdev Vihar, New Delhi, which matter is pending before the Tribunal in an independent case being Original Application No. 22^(THC) of 2013, in the matter of Sukhdev Vihar Residents Welfare Association & Ors. Vs. State of NCT of Delhi & Ors.

While transferring this case, the Hon'ble Supreme Court of India specifically observed that their Lordships were not expressing any opinion on any matter and the Tribunal would deal with all the Applications and objections in accordance with law and desired that the Tribunal should bestow its attention to the subject which had been pending before the Hon'ble Supreme Court for long time and is of the considerable public importance and should not be left neglected any further.

At this stage, we may notice that certain independent matters relating particularly to the State of Punjab raising issues with regard to establishment of MSW plants, along

with Waste To Energy projects or otherwise, were heard by the Tribunal. During the proceedings before the Tribunal, the State of Punjab, after serious deliberations from its various technical wings and urban local bodies, had proposed management of the Municipal Solid Waste through cluster approach as that would prove economically and environmentally savvy and it would be more practical, keeping in view the limited land resources available in the State. Number of objections were filed with regard to the site selection and establishment of such plant at different places within Punjab. The proposal submitted by the State of Punjab was subject to lengthy arguments and critical examination by the Expert Members of the Tribunal as well and finally the matter was disposed of by pronouncing judgment in Original Application No. 40 (T_{HC}) of 2013 in the matter of People for Transparency Through Kamal Anand v. State of Punjab, decided on 25th November, 2014. This judgment has been adopted as a model case by the authorities as well as by the Tribunal, to be guided in similar matters and with such amendments as may be required on case to case basis and as deemed fit by the Tribunal.

In the present case, the State of Haryana now has put up a proposal before the Tribunal to deal with the menace of the MSW in its State. It also proposes to adopt cluster approach and plans to make Waste To Energy plants which would not only deal with collection and disposal of the MSW but would also help in providing energy to the State for which it is starved. According to the State of Haryana, all environmental issues have been taken care of and they

would ensure that the establishment and operationalization of these MSW plants do not infringe any of the environmental statutes in the country and would further the case of the environment. To the report submitted by the State of Haryana, certain objections have been raised on behalf of the interveners, the Applicants, as well as some of the other interested parties. These objections primarily relate to the issues that incinerators should only be adopted as last resort, that there should be more greenery around the site, there should be decentralised waste processing and that the waste should be composted and primarily used for fertilizer purpose rather than making Refuse Derived Fuel (RDF). They have also submitted that the establishment of such plants, as projected by the State of Haryana, would work in the environmental interest and as such they agree to it in general. The common issue that has been raised by the parties, is with regard to the selection of the site for MSW that is collected. Having heard the Learned Counsel appearing for the parties at great length and after perusing the reports prepared by the Project Proponent, we pass the following directions:-

1. We accept the report submitted by the State of Haryana with regards to the establishment of MSW plant following cluster approach. There would be 14 clusters in entire state as detailed in the report. The report submitted to the Tribunal (Exhibit A- 1) shall form integral part of the judgement of the Tribunal.
2. At the first instance, cluster at Karnal would be taken as a model project and would be completed without any undue delay. Part of it, that is RDF plant, has

already been established and is operational though not to its optimum capacity. It is stated that the city of Karnal itself generate 113.32 tonnes/day of municipal waste. One can imagine the waste that would be generated from all the towns/ places/ municipalities/ of Karnal, Indiri, Nissing and Nilokheri which fall within these clusters.

3. We reiterate and direct that the judgement of the Tribunal in the matter of Original Application No. 40 (THC) of 2013 in the matter of People for Transparency Through Kamal Anand v. State of Punjab, decided on 25th November, 2014 and the report of the State of Haryana that has been accepted by the Tribunal (Exhibit 'A-1') shall operate fully, further subject to specific directions or conditions issued by the Tribunal and contained hereinafter. All these three documents i.e. today's order Judgement of People for Transparency Through Kamal Anand v. State of Punjab and Exhibit A-1 would be read in conjunction to each other and not in derogation. On the cumulative reading of the judgement, order and Exhibit A-1, all Authorities concerned shall ensure proper collection, treatment and disposal of MSW, while fully protecting the environmental interest.

4. The RDF project at Karnal shall operate to its optimum capacity at the earliest and in any case not later than one month from today. It will strictly adhere to the project terms, conditions and directions stated in the judgments of the Tribunal.

5. The waste to energy plant shall be established without any delay and would be made operational at the earliest. We direct State of Haryana to submit the application to MoEF within two weeks from today, which shall be expeditiously disposed of in accordance with law and keeping the order of the Tribunal in mind.

6. The State of Haryana, Municipal Corporation of Karnal and Municipalities/Committees falling under the cluster would make every possible effort to collect municipal solid waste in a segregated form right at the first point of collection. In other words every effort should be made and people should be educated and incentives should be provided for them to segregate and provide dry and wet municipal solid waste separately by putting them in a separate dust bins.

7. The municipal solid waste so collected shall be transported by the corporation separately and in different containers/vehicles duly covered as per the The Municipal Solid Wastes (Management and Handling) Rules, 2000. There would be complete segregation of the waste at the site into wet and dry waste without fail. No wet waste would be directly put into the incinerator or for power generation, except specifically permitted. The wet waste shall be composted scientifically through approved techniques. The composted waste shall be transported and incentives be provided to farmers to use it as a fertilizer. While the wet waste is being composted due

caution should be taken for preferably spraying bio-degradable and eco-friendly disinfectant to prevent bad odour.

8. As far as the remaining MSW is concerned, it shall be further segregated into recyclable and un-recyclable waste, particularly plastic and other wastes. In relation to former, the operating agency, State Government and the Corporation shall frame a proper policy so that it can be collected from the site, transported in accordance with law and can be provided to the persons or the firms authorised for handling recyclable plastic and allied waste or for making RDF. However, in relation to the later, it would be seen whether un-recyclable plastic or other waste can be used for the purposes of construction of roads or such allied activity, where it is scientifically permissible. Whatever is still found to be un-recyclable, the same shall be put into incinerators for disposal. The waste left in the incinerators shall be collected and disposed of in accordance with The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. It is obvious that the amount of remnant waste would be the least.
9. We direct the State of Haryana to issue guidelines to the Corporation within three weeks from today in light of this judgment.
10. Every effort should be made to provide green belt of higher density, using new techniques while keeping in mind that least of the space is used for the greenbelt

and maximum space is used for the site to ensure that larger area is being made available for storage and processing of the waste.

11. We make it clear that we are not putting any absolute restriction on RDF being used as power generation fuel but first effort should be made for composting of wet waste. In this regard, also, the guidelines could be provided by the State and they are free to use RDF for generating fuel, with due care and caution and in light of this judgment.

12. The State Government, Municipal Corporations, Councils and Committees shall make all efforts to prospectively provide for use of thermo-plastic in place of multi-layer plastic as the prior is completely recyclable.

13. We specifically reject the contentions raised on behalf of some for the parties before us, including the MoEF that the RDF, Waste To Energy plant and the site for collection, treatment and disposal of MSW should be de-centralised and that cluster system is not an appropriate remedy. We cannot overlook the limitations of the State. Land anywhere and everywhere today is a scarce item. Geographically, ecologically and environmentally centralised operation of such plant would not only be in the economic interest of the State and the people, but would also serve the purposes of environment and compliance to the MSW Rules better. For instance, if every city, and Municipality has to have its own plant, that means

particularly in the State of Haryana case, which we are dealing with, every 20 to 40 Kms there would have to be plant which itself would cause serious adverse consequences on the environment and ecology. Besides that it would be an unaffordable expenditure by the State. The State has to priorities its expenditure depending upon the needs of the citizens of the State.

The Centralised MSW plants can be operationalized more effectively, would be technically and economically viable and in the interest of environment. Adoption of de- centralised approach would also contradict the basic principal of sustainable development.

Another reason which would support the view that we are taking is the site selection. The site selection under the EIA Notification 2006 and MSW Rules, 2000 has various restrictions. In the rapidly developing towns and cities of Haryana, it will not be possible to comply with these restrictions if we direct decentralisation of such plants.

14. We direct the CPCB and MoEF to have meeting within two weeks from today and prescribe specific standards for emissions from incinerators used for power generation. It should be a composite document and should be put on the website of these agencies immediately.
15. At the cost of repetition, we may notice that Karnal is a pilot project and based on the performance of this project we would issue further directions in relation to

other clusters, especially for clusters having Waste To Energy plants. Further, we also make it clear that RDF plants established at other clusters i.e. Yamuna Nagar and Sirsa which are under the process of completion, should be made to perform to their optimum capacity within two weeks from today.

We direct a team of a representative of MoEF, a Member of CPCB and Member of Haryana Pollution Control Board to inspect all these plants and submit a report of performance to the Tribunal within one month from today.

16. We grant liberty to any of the party present before us or members of the general public to seek clarification, if any, in relation to the implementation of the directions contained in this Order of the Tribunal.

17. We hereby constitute a team of a Deputy Secretary, State of Haryana, Director (Environment), Director (Local Bodies), Mr. D.R. Yadav, Chief Engineer and Senior Officer of the Municipal Corporations of Yamuna Nagar, Sirsa and Karnal. Office bearer, preferably with a science background of RWA located nearest to the plant would also be member of this Committee. This Committee would ensure proper functioning, establishment and operationalization of the pilot project, as well as other RDF plants as referred in this Order.

18. In terms of Section 15 of the NGT Act, 2010, we direct the State Governments, Municipal Corporations, Councils and Committees to levy charges as per Schedule annexed to the report submitted by the

Haryana State to the Tribunal, on every household on the basis of 'Polluter Pays' Principle. However, above constituted Team shall subsequently decide upon physical inspection that if a particular colony has provided 100% or maximum segregated waste to the collecting agency, than the residents of that colony would be entitled to a rebate of 10% on the property tax preferably.

19. We direct the State Governments, Municipal Corporations, Councils and Committees to place dustbins of appropriate sizes in the Jhuggies/colonies and would also educate residents living in the Jhuggies/colonies about the need for waste segregation and mode of waste collection and transportation.

20. We leave upon the State Authorities to consider establishment of bio-gas plants based on anaerobic composting in the areas they consider proper.

21. We direct the State Governments, Corporations, Councils and Committees to involve the rag pickers, whether organised or not, by framing a policy in that behalf which would prevent individual rag pickers from rag picking and further strictly subject to a total prohibition on child workers being involved in such activities. Rag pickers, who are included under the Policy, shall ensure that sale of recyclable MSW is only to the people who are authorized.

With regard to all the above, we accept the State of Haryana report. At the first instance, it will implement the pilot project and submit a comprehensive report to the

Tribunal. We further mandate State of Haryana and all the concerned Authorities to carry out the orders and directions of the Tribunal without delay and default.

We further direct all the concerned States to file comprehensive affidavit within four weeks in light of the judgement of the Tribunal in Original Application No. 40 (THC) of 2013 in the matter of People for Transparency Through Kamal Anand v. State of Punjab, decided on 25th November, 2014, and today's judgement with regard to the State of Haryana in the matter of Almitra H. Patel Vs. Union of India, Original Application No. 199 of 2014.

We make it clear that in the event of default by any State, the said State would be liable to pay cost of Rs. 50,000/- for adjournment of these matters and the same would be recovered from the salary of the Secretary and other Officers in the State Government.

Besides that in the event default, the Secretary (Environment) and Secretary (Local Bodies) of the concerned State shall be present before the Tribunal on that date. Let copy of this Order be circulated to all the Chief Secretaries of the States by the Registry. However, we request all the Learned counsel appearing in the case that they should themselves also obtain of the copy of the order from the website and send it under their personal letter to the Chief Secretary of the State as well.

List this matter on 30th April, 2015 and 01st May, 2015.

We also direct CPCB, all brand owners, producers, users and MoEF to submit their views in relation to metalized or non-metalized multi-layer packaging up to

	<p>2 kg net weight packs to be replaced by thermo-plastic packaging or any other fully recyclable packaging.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (Dr. P. Jyothimani)</p> <p>.....,EM (Dr. D.K. Agrawal)</p> <p>.....,EM (Bikram Singh Sajwan)</p> <p>.....,EM (Ranjan Chatterjee)</p>
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