

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 56(Thc)/2013
And
Original Application No. 57(Thc)/2013

In
Satish Kumar Vs. Union of India & Ors.
And
Mahavir Singh Vs. Union of India & Ors.

CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE PROF.A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present:

Applicant	:Mr. Ajay Pal Singh, Adv.
Respondent No. 1	:Mr. Vivek Chib, Adv., Mr. Asif Ahmed, Adv.
Respondent No. 2	:Mr. Raj Kumar Adv.
Respondent No. 3	: Mr. Rajiv Bansal, Adv., Mr. Kush Sharma, Adv.
Respondent No. 4 &5	: Mr. Vikas Garg, Adv. along with Mr. Ram Avtar, SHO, Mundka, Distt, Mr. Balendu Shekhar, Adv. (NDMC)
DPCC	:Mr. Biraja Mahapatra,Adv., Mr. Dinesh Jindal, Adv.
Respondent No. 7	:Mr. Narender Hooda, sr. Adv. Mr. Bano Deswal, Adv.
SDM and Commissioner of Industries	:Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Ads.
Counsel for SDMC (O.A. 57/2013)	:Mr. Neeraj Kumar Singh,Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 6 and 7, February 24, 2015	<p>This Tribunal in a detailed order dated 12th December, 2013 passed in M.A. 561 & M.A. 205/1013 in these two main applications has given the following directions:</p> <p>a. <i>All the plastic waste/scrap dealers and/or recyclers including the member of the PWD Association Respondent herein shall be restrained from carrying on their business of segregation of plastic waste and its eventual transfer to recyclers or disposal contrary to and without registration under the provisions of Plastic Waste (Management and Handling) Rules, 2011;</i></p> <p>b. <i>There shall be no unregulated open burning of plastic/rubber or such other articles anywhere in India.</i></p> <p>c. <i>All the Municipal Authorities within the meaning of Rules 3 (j) of the Plastic Waste(Management and Handling) Rules 2011, shall strictly enforce the provisions of the said rules relating to use, collection, segregation, transportation and disposal of plastic waste, and for such purposes shall (i) set up, operationalise and coordinate the waste management systems within their limits (ii)</i></p>

work out and set up systems for the use of plastic waste in road construction and/or in co-incineration plans for generation of energy in accordance with law and lastly (iii) incorporate necessary provisions in their bylaws for enforcement of the said rules.

d. Government NCT of Delhi, Delhi Pollution Control Committee, Haryana State Pollution Board and the Municipal Corporation of Delhi within whose limits the villages of Nangloi, Ghewara, Neelwal, Mundka, Kamruddin Nagar, Tikri-Kalan, Ranhaula etc. fall are directed to work out a plan for restoration of lands affected by illegal and unauthorized activity of segregation and disposal of plastic waste along with the cost required to be incurred therefore in consultation with each other and to submit its report to the Tribunal within one month of this order. Copies of this report shall be furnished to the other parties well in advance.

e. Parties hereto are at liberty to raise objections and/or make suggestions in respect of the plan for restoration of land recommended in the said report and shall file affidavits giving following particulars:

1. The extent of area in use and occupation of each plastic waste dealer.
2. Amount of plastic waste handled by each of the plastic waste dealer over the years since the occupation of the area for their business.
3. Amount of plastic waste not fit for recycling.
4. Any other relevant data for the purposes of the quantification of the damages caused along with the description of the land involved along with khasra number.

f. The Respondents are herein directed to cooperate with each other in securing compliance of these directions expeditiously.

With above said directions the Tribunal has directed the main application to be posted for hearing.

Later on it was brought to the notice of this Tribunal that in spite of such order not only the Municipal Corporation has not taken any action which is worth mentioning but also it is brought to our notice to our shock and surprise that still the agricultural fields are filled up with plastic waste in which, whether with the knowledge or not of the owners, segregation of these plastic waste and other activities have been illegally and unauthorisedly going on. It was in those circumstances this Tribunal by the order dated 24th

December, 2014 has directed issuance of show cause notices to 7 persons who are stated to have been unauthorisedly doing the said illegal activities. This was on the basis that the Learned Counsel appearing for the Corporation has submitted that they have closed nearly 81 units and sealed 7 premises dealing with the plastic waste illegally. Out of the said 7 persons the following 5 persons are present before the Tribunal namely:

1. Mr. Kunj Bihari
2. Mr. Naurang Pandey
3. Mr. Angad Gupta
4. Mr. Raju Pradhan
5. Mr. Abul Kalam brother of Mr. Seberul Haque

In fact in the order, the Tribunal has show caused that for unauthorised activity they should be imposed with the compensation of Rs. 10,000/- each on the basis of polluter pays principle. It was in those circumstances the 5 persons who are present in the Tribunal were individually examined by us and their statements were recorded and duly signed by them, which shall form part of this order. On going through the said statements made by these 5 persons it is clear that they are not involved in burning of plastics and were segregating the plastic waste in the agricultural fields, however without any authority or license from any competent authority. In the circumstances that it is not even the allegation of the applicant that these 5 persons are involved in burning of the plastics, and taking note of the fact these are the people who appear

to be the small traders and there is no pollution caused because of their conduct and that there are no evidence that these people are involved in burning of plastics, we are of the considered view that no useful purpose will be served in imposing any penalty or any other compensation on them. However, it is the duty of the Tribunal to see that this sort of menace of throwing and accumulating in the agricultural fields the waste plastics are to be put an end to. It is in these circumstances, while exonerating these 5 persons from any further liabilities, we issue the following directions to the NDMC, NCT Delhi and Delhi Police:

1. The authorities shall scrupulously follow and implement the earlier order passed by this Tribunal dated 12th December, 2013.
2. In addition, the above said 3 authorities shall forthwith draw a plan for restoration of the affected land in question in consultation with either of the CPCB, National Environmental Engineering Research Institute (NEERI), Central Institute of Plastic Engineering and Technology (CIPET) or National Productivity Council (NCP) as stated in the compliance report of the Respondent No. 2 NCT dated 10th March, 2014; and upon such plan having been drawn shall restore the land in question affected by this plastic waste at the cost of the land owners, cost to be recovered from them as and by way of arrears of land revenue in proportion to their holdings.
3. The authorities who are competent shall prosecute

the persons who violate the conditions contemplated under the Plastic Waste (Management & Handling) Rule 2011, as per the provisions of the Environment (Protection) Act 1986. In this process it will be open to the applicants to initiate any actions for the purpose of identifying of the persons against whom the prosecution to be launched.

4. Till the approval and implementation of the above said scheme nobody shall be permitted to dump the waste plastics into the agricultural fields and this shall be ensured by SDM along with the assistance of Delhi Police.

5. The above said process shall be completed within a period of 3 months, from today and status report shall be filed on the next date of hearing.

Post both the matters on 6th July, 2015.

.....,JM
(Dr.P. Jyothimani)

.....,JM
(U.D. Salvi)

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

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