

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

Original Application No. 277 of 2013

Dr. Irfan Ahmad & Ors. Vs. Mr. Nawang Rigzin Jora & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE SONAM PHINTSO WANGDI, JUDICIAL MEMBER
HON'BLE DR. D. K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A. R. YOUSUF, EXPERT MEMBER

Present: **Applicant:** Mr. Narender Pal Singh, Adv
Respondent Nos 1 to 3: Mr. G.M. Kawasoo, Adv. for State of J&K.
Respondent No. 4: Mr. Ardhedumauli Kr. Prasad, Mr. Panshul Chandra and Ms. Priyanka Swami, Adv.
Mr. Vikas Malhotra and Mr. M.P. Sahay, Adv.
For MoEF
Mr. Gaurav Pachnada, Sr. Adv., Ms. Shruti Gupta, Mr. Shivam Vaid, Adv. And Mr. Ajeet Sahu, Adv. For Shri Mata Vaishno Devi Shrine Board
Dr. Abhishek Attrey and Mr. Sumit Razora, Adv. Amicus

	Date and Remarks	Orders of the Tribunal
	Item No. 01 January 28, 2016	<p>With great sense of regret we place on judicial record of the Tribunal that the Tribunal has now waited for more than a year for implementation of the judgment which was pronounced on 13th January, 2015. Not that the Tribunal is powerless to execute its judgment and orders in accordance with law but it is on the assurance given by the various Officers of the State and Learned counsel appearing for the State, including the Advocate General of the State, that time was extended on one pretext or the other.</p> <p>The case relates to establishment of waste to energy plant of municipal solid waste. The tenders were invited by the State on terms and conditions keeping the control over power generation to itself. Tender submitted was accepted by it and the successful bidder has complied with the terms and conditions including mobilization of</p>

requisite machines. The entire project now has been stalled for a considerable time on the pretext that the rate for power purchase demanded by the successful bidder is higher. The Project Proponent has brought to our notice that the Central Electricity Regulatory Commission has already notified the rate for purchase of power from municipal solid waste plants at Rs. 7.90 per Unit. It was for the State to have accepted the tender or rejected the same, if the term was not suitable to them in the larger public interest. On 29th September, 2015 the Tribunal was informed by the State that the power purchase agreement has been approved. But today we are informed to the contrary that the matter still awaits settlement of rate of purchase of power and therefore no power purchase agreement has been entered into.

This establishment of waste to energy plant is in one of the most beautiful cities of our country that is Srinagar. The Applicant has brought to our notice that the municipal solid waste is scattered all over the city till today. There is no proper mechanism in place for collection, segregation, transportation and dumping of the waste.

The Municipal Solid Waste Rules cast a statutory obligation upon the Government, and the Corporation particularly, to ensure that the municipal solid waste is dealt with in accordance with the Rules and does not cause any environmental hazards and public health adverse impacts. It is undisputed that Srinagar itself generates 350 metric tons of waste everyday and with the

waste collected from the surrounding area to treat at the plant, the expected municipal solid waste would be 500 metric ton per day. Even if we take that this estimation as correct one can imagine in a place like Srinagar, which has natural beauty and ecological sensitivity of its own kind, how are can afford to scatter the municipal solid waste to the extent of more than 350 metric ton per day. The floating population, that is tourism is the main source of income of the State. Hence greater obligation upon the State, Municipal Corporation and the Authority to ensure that there is no hazard resulting from non-performance of statutory and public law obligations in that regard. Today we would have certainly proceeded to attach the treasury of the State Government and also issued show cause notice to the concerned senior Officer as to why we should not pass orders sending them to Civil imprisonment in accordance with the provision of order 21 of Civil Procedure Code read with Section 19 of the National Green Tribunal Act, 2010.

At this stage Learned counsel appearing for the State and the Secretary (Power) present, submits that they may be given one opportunity to take a final view on the matter and they would report to the Tribunal complete compliance of the judgment and ensure that there is no municipal solid waste scattered in any part of the city and surrounding areas. Very reluctantly, but in the interest of justice, we grant one week time to the Authorities to take the final view on the matter and come back to the Tribunal. In the event of default of compliance the Chief Secretary, Secretary of Environment, Secretary of Urban

Development and Local Bodies, Secretary Power and Commissioners of all the Municipal Corporations of Srinagar would be present in person before the Tribunal. If there is compliance these Officers need not be present before the Tribunal. In the event of default now they would also show cause as afore-indicated.

List this matter for directions on 10th February, 2016.

.....,CP
(Swatanter Kumar)

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

.....,JM
(Sonam Phintso Wangdi)

.....,EM
(Dr. D.K. Agrawal)

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

