

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

**Original Application No. 277 of 2013  
(M.A. No. 214 of 2016 & M.A. No. 823 of 2016)**

**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 PROF. A.R. YOUSUF, EXPERT MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

**Present:** Amicus Curie : Mr. Narender Pal Singh, Adv.  
Respondent Nos.1 to4: Mr. Jahangir Iqbal Ganai, Advocate General  
with Mr. G.M. Kawoosa, Adv. Mr. Hirdesh K.  
Singh Commissioner/Secy Housing Urban  
Development and Mr. Bashir A. Khan,  
Commissioner SMC  
Ms. Renu Gupta, Adv.  
Mr. B. V. Niren, Adv. for MoUD

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<p style="text-align: center;"><b>Item No. 01</b></p> <p style="text-align: center;"><b>August 22, 2016</b></p> <p style="text-align: center;"><b>A</b></p>	<p>State of Jammu &amp; Kashmir has for reasons best known to its Officers has shown least interest to act in accordance with law to improve the site and/or make efforts and attempts to ensure installation of waste engery plant. This matter is pending before the Tribunal since 08<sup>th</sup> September, 2013. After hearing all the parties concerned, judgment was passed on 13<sup>th</sup> January, 2015. Since that time State of Jammu &amp; Kashmir has been avoiding implementation of the directions on one pretext or other and even by taking contrary and self-destructive stands. It needs to be noticed that Finance Department of State of Jammu &amp; Kashmir vide its letter dated 18<sup>th</sup> September, 2015 had given financial concurrence for accepting the bids and for signing of Power Purchase Agreement by the Power Development Department with successful bidder and even the approval was also conveyed to the contractor vide Municipal Commissioner's</p>

letter of 10<sup>th</sup> November, 2015.

Learned Advocate General appearing for State of Jammu & Kashmir upon instructions from Mr. Hirdesh Kumar Singh, Commissioner/Secretary, Housing & Urban Development submits that it was a single tender and therefore not to be accepted while the Committee constituted by the State Government itself had awarded the contract to the single tenderer. The Member of the same Committee after short while sitting as Member of another Committee rejects awarding the work. If awarding of the work was improper or contrary to instructions, then action should have been taken against the Officers who had in the first instance awarded the work and finalised the tender in favour of the bidder and if the allotment of work was proper then action should be taken against the Officers who have blocked the allotment. Now still another stand is being taken that Power Delivery Department has taken the objection with regard to rates. Thereafter an Application was filed to invite fresh tenders as still another Committee had decided not to award the work to the bidder to whom the work had been initially awarded and permission was granted. Three times the tenders have been invited still there is no response but the State Government has made no effort whatsoever to nominate a party to execute the work, as specialized as the work of installation of waste to energy plant.

The site in question where the municipal solid waste is being dumped is operating for considerable time but there is a pathetic state of affairs prevailing at the site. We had appointed Local Commissioner who had given

adverse report with regard to the segregation, dumping, composting and final disposal of the municipal solid waste at the site in the question. It is stated that even bio-medical waste was being dumped at the same place.

Learned Amicus Curiae appointed in the case visited the site personally and found a pathetic state of affairs existing at the site. There was indiscriminate dumping without any segregation and infact plastic bags were being used for dumping collective waste, there were no pits and there was complete and flagrant violation of the Municipal Solid Waste Rules, 2000. Even today some residents living around the site have approached the Tribunal and have brought some photographs which show indiscriminate, un-segregated dumping at the site in question. It is commonly admitted that one of the biggest Hospitals of Srinagar is at just a short distance from the site in question. The Government would be expected to be little more careful about the public health and environment.

Vide our order dated 11<sup>th</sup> August, 2016 we had directed that no municipal solid waste shall be dumped at the site. An Application for temporary vacation of the order dated 11<sup>th</sup> August, 2016 was filed on the ground that there was no other place available for dumping. Vide order dated 19<sup>th</sup> August, 2016 the direction of the Tribunal was deferred till today. According to the learned Amicus Curiae as well as the residents who have come today before the Tribunal, there was violation of the order dated 11<sup>th</sup> August, 2016 as indiscriminate dumping of waste was still going on despite prohibitory orders being



passed by the Tribunal.

The photographs shown to us today really speak of the sorry state of affairs which public Authorities of the State Government should not tolerate particularly if this is the only site available for dumping of municipal solid waste. The environmental degradation, leaching from the waste, spoiling of underground water, air pollution, serious odour from this huge site where 400 metric tons of waste is being dumped everyday in violation of the Municipal Solid Waste Rules. The health of the patients in the Hospital is being adversely affected. A dumping site has to be developed strictly in accordance with MSW Rules of 2000 which admittedly it is no way even remotely compliant with the said Rules. The most beautiful city of the Country is being spoiled because of irresponsible attitude adopted by the State and the Local Authorities.

We are pained to note that that the State Government has been changing its stand on every date of hearing. Even when all the prayers made by the State were granted, still there was no progress on any front. On the contrary one excuse after other is advanced for non-compliance of the directions and the Rules and completely ignoring the environment/health. The learned Amicus Curiae upon instructions from the residents who have come, has given a list of other 15 sites where the municipal solid waste can be dumped. This has also falsified the stand taken on 19<sup>th</sup> July, 2016 that there was no site available in Srinagar for dumping of waste.

We are of the considered view that some coercive and corrective orders need to be passed against the State

of Jammu & Kashmir and its Officers and Local Authorities. Before we pass such further orders we direct as follows:-

1. The State Government would inform as to what disciplinary action it is taking against the Officers who have awarded single tender and on what grounds and if awarding of tender was correct, then why it has been revoked.
2. Why should Tribunal not impose exemplary costs to be recovered from the salary of all the Officers concerned.
3. To put up a complete report on basis of fresh tender now invited 04<sup>th</sup> time by the State of Jammu & Kashmir the last date of which is 06<sup>th</sup> September, 2016.
4. Why appropriate action be not directed to be taken against the concerned Officers of the State of Jammu & Kashmir and Public Authorities including prosecution under the Environmental (Protection) Act, 1986 for dumping indiscriminately municipal solid waste in violation of the Solid Waste Management Rules of 2016.
5. Why Tribunal should not direct dumping of municipal solid waste at different sites out of the list furnished by the learned Amicus Curiae today.
6. The State Government to submit a complete and comprehensive plan as to the dumping of municipal solid waste at Achan site and how they propose to ensure that the dumped waste is properly managed, soil is spread, disinfectant sprayed on regular

interval and it is ensured there is no odour coming from the said site. It should also be stated why we should not restrain State of Jammu & Kashmir from dumping any further municipal solid waste at the site in question.

7. Show cause Notices issued under this order will be to Head of Department of the State Government, concerned Secretary, head of the Local Authorities and Head of the Committee which has dealt the matter.

List this matter for further directions on 05<sup>th</sup> September, 2016.

.....,CP  
(Swatanter Kumar)

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

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

.....,EM  
(Bikram Singh Sajwan)

