

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

(By Video Conferencing)

Original Application No. 288/2022

In re: News item published in The Times of India dated 22nd April, 2022,
titled **“Delhi: Another long-drawn effort to douse fire at
Ghazipur landfill”**

Date of hearing: 22.04.2022

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON’BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON’BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

ORDER

1. Proceedings have been taken up in the light of captioned media report showing serious hazard to public health and environment on account of fire of the garbage dump site at Ghazipur in Delhi. Fire is emitting toxic smoke with potential for airborne diseases in the densely populated area. This may call for a direction under Section 15(1) of the NGT Act to prevent any further harm to the public health and environment. The dump sites in Delhi and in other Cities are like Time Bombs because they constantly generate explosive gases like methane which may escape through vertical and lateral ways posing constant threat of explosion.

2. It may be noted that the issue has been earlier dealt with by the Hon’ble Supreme Court, followed by orders of this Tribunal inter-alia in OA No. 606/2018, including order dated 11.03.2019, passed in the presence of Chief Secretary, Delhi and order dated 29.01.2021 in OA No.

519/2019 titled "In re: News item published in "The Times of India" Authored by Jasjeev Gandhiok & Paras Singh Titled "Below mountains of trash lie poison lakes" and also the statutory mandate under the Solid Waste Management Rules which has statutory timelines for remediation of legacy waste dump sites, violation of which itself is criminal offence. Relevant extracts from the said order which also refers to earlier order are:

"3. xxx.....xxx.....xxx
xxx.....xxx.....xxx

9. We may note that as per information furnished during the hearing, the extent of legacy waste and the land covered by the three dump sites are as follow:

- i. East Delhi Ghazipur dumpsite- 1.4 crore metric tonne approx. on 70 acres of land**
- ii. North Delhi Bhalswa dumpsite - 80 lakh metric tonne approx. on 36 acres of land**
- iii. South Delhi Okhla dumpsite - 55-60 lakh metric tonne approx. on 46 acres of land**

"4. xxx.....xxx.....xxx

"6. As per the statistics furnished during the hearing, about 1500 tonnes per day (TPD) of garbage is being bio-mined as against addition of more than 5000 TPD in NCT Delhi. Since the problem is continuing, there is need to increase the capacity suitably so that the garbage is cleared and land becomes available for a public purpose.

7. Since we are informed that at Bhalswa, capacity will be shortly increased to 3300 TPD. The capacity at Okhla and Ghazipur dumpsites also needs to be enhanced, the capacity for bio-mining may be further enhanced, at all the three sites. An action plan be prepared and implemented so as to clear the legacy waste in an expedited timeline but within one year as earlier directed. It needs to be ensured bio-remediation is carried out rather than mere mechanical separation. The CPCB may verify that waste clearance is as per norms and give a report. **The implementation of action plan be monitored by the Chief Secretary, Delhi. The Chief Secretary, NCT Delhi may undertake monthly monitoring of the progress and take action if there is default in terms of speed of progress. Failure to comply may result in**

coercive action, including stoppage of salaries and entries in ACRs of the concerned erring officers.

8. *The administrative difficulties need to be resolved at the administrative level by coordination with the concerned authorities. The urgency in the matter is also with a view to prevent air pollution and adverse health impact.*

“5. xxx.....xxx.....xxx

xxx.....xxx.....xxx

11. We may note that the matter was earlier considered by the Hon’ble Supreme Court inter-alia vide judgments reported in (2000) 2 SCC 678 and (2004) 13 SCC 538 directing scientific disposal of waste by setting up of compost plants, preventing water percolation through heaps of garbage, creating focused **‘solid waste management cells’** in all States and complying with the Municipal Solid Waste Management Rules, 2016 (SWM Rules, 2016) on urgent basis. **It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees.** Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums have multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of “slum clearance” there is “slum creation” in cities which is further aggravating the problem of domestic waste being strewn in the open.** Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

12. Further observations in the judgment of the Hon’ble Supreme Court are:

“3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

- “1. As a result of the Hon’ble Supreme Court’s orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat’s successes.
2. **All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.**
3. **Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free ‘zero garbage towns’ complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.**
4. **States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre’s contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung**

solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.

5. Unless each State creates a focussed '**solid waste management cell**' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.
6. **The admitted position is that the MSW Rules have not been complied with even after four years.** None of the functionaries have bothered or discharged their duties to ensure compliance. **Even existing dumps have not been improved.** Thus, deeper thought and urgent and immediate action is necessary to ensure compliance in future."

13. In this regard, reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. ArchiCAD*¹ and *B.L. Wadhwa v. Union of India and Ors.*² laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.**

14. The matter has also been considered by this Tribunal in pursuance of orders of the Hon'ble Supreme Court. This Tribunal considered the matter of solid waste management after notifying all the concerned States/Regulatory Bodies and finally disposed of the same on 22.12.2016³ requiring all the States/UTs to follow the SWM Rules, 2016 after preparing requisite action plans in a time bound manner with further direction that **any State/UT which failed to comply with the Rules shall be liable to be proceeded against under Section 15 of the Environment (Protection) Act, 1986 (EP Act), apart from being required to pay environmental compensation and senior most officers of the States/Local Bodies being personally liable.** The directions also include requirement for segregation of waste, providing buffer zone around plants and landfill sites and due monitoring. The States/Local Bodies were also to create market for consumption of RDF. Tipping fee was to include the efficient and regular monitoring of waste processing plant, segregation of inert and C&D material and its transportation. Landfill sites were required to be bio-stabilized preventing leachate and generation of Methane, enforcement of Extended Producer Responsibility, rights and liabilities under contracts being made consistent with the Rules, creating public awareness about the facilities available at regular intervals.

¹ (1980) 4 SCC 162

² (1996) 2 SCC 594

³ O.A. No. 199/2014 (2016) SCC Online NGT 2981

Copy of the judgment was circulated to all the Chief Secretaries/ Advisors of States/UTs.

xxx.....xxx.....xxx

18. On 10.01.2020, after reviewing the earlier orders in O.A. No. 606/2018, this Tribunal directed:

“VII. DIRECTIONS:

36. We accordingly direct:

- a. *In view of the fact that most of the statutory timelines have expired and directions of the Hon’ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). **Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.***
- b. **Legacy waste remediation was to ‘commence’ from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28⁴ even though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places. Continued**

⁴ The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.

- c. *Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.*
- d. *The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in para 31 above will result in liability to pay compensation as already noted above.*
- e. *Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.*
- f. *An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*

- g. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB.

The Chief Secretaries of UP, Punjab and UT Chandigarh may remain present in person for further review tentatively on 24.08.2020.”

18. We may observe that non-compliance of rules relating to waste disposal results in damage to the environment and public health. Any failure needs to be visited with assessment and recovery of compensation for such damage from the persons responsible for such failure. A study was recently got conducted by CPCB, under orders of this Tribunal requiring such a study by a joint Committee comprising CPCB, NEERI and IIT, Delhi about the monetary cost of damage caused to the environment on account of existence of legacy waste dump site at Gurgaon (Bandhewadi) vide order dated 05.03.2019 in O.A. No. 514/2018. **The report of the CPCB filed on 13.02.2020 is that damage on account of the said legacy waste dump site was Rs. 148.46 crore, on account of damage to the air quality, soil and water quality, climate change and disamenity (aesthetic).** The damage has been assessed in terms of impact on health due to release of pollutants in air atmosphere, release of leachate into ground / surface water and soil, due to pollution from the landfill site, damage cost associated with climate change due to carbon di-oxide and methane, damage caused due to aesthetics loss, price depreciation due to disamenity cost etc.

19. Thus, monetary cost of every legacy dump site is expected to be huge depending upon the location, quantity and quality of waste and area covered, its proximity to water body/ stream and human habitation etc. Needless to say that there is huge cost for non-compliance of provisions relating to waste management – Solid as well as Liquid. Loss to the environment and public health is taking place not only on account of delay in clearing legacy waste but also for not complying with other provisions of the Rules resulting in huge gap in generation and processing of waste. It may be necessary to determine such cost for delay in clearing legacy waste at every dump site as well as for delay in complying with other rules and failure to treat sewage and recover the same from the persons responsible for action in the matter. **Let the Committee comprising CPCB, NEERI & IIT Delhi carry out similar study as mentioned in Para 18 above to assess the amount of damage to environment on account of dump sites in Delhi within two months.**

20. In view of above, we expect steps for effective implementation of the Rules failing which this Tribunal may

have no option except to direct coercive action personally against the entire administrative chain in each Municipal Corporation of Delhi and NCT of Delhi who are responsible for management and supervision of municipal waste in NCT of Delhi.

21. *Without prejudice to existing work being continued and expedited, taking into account the deficiencies pointed out by the CPCB, the Government of NCT Delhi may set up of an integrated Special Purpose Vehicle (SPV) for scientific management, processing and disposal of legacy waste dump sites at Ghazipur (East Delhi), Bhalswa (North Delhi) and Okhla (South Delhi) headed by Chief Secretary, NCT of Delhi with a nominee of Lt. Governor and Commissioners of concerned Corporations, Secretary Urban Development, Delhi Govt., Shri Manish Singh, IAS (now Director Swachh Bharat, M.P., Bhopal) and Shri Vijay Nehra, IAS, Commissioner, Municipal Corporation, Ahmedabad as members with in specific time lines. The Integrated SPV may coopt other technical and administrative members as deemed necessary.*

22. *Let further action taken report be filed before the next date by e-mail at judicial-ngt@gov.in. by the Chief Secretary, Delhi.”*

xxx.....xxx.....xxx

10. *Accordingly, we direct the NCT Delhi and the Municipal Corporations concerned to coordinate and execute the work of remediating the legacy waste dump sites for enforcing the rule of law and protection of environment and public health, expeditiously in terms of earlier orders of this Tribunal. Due care has to be taken for preventing fire accidents on the landfill sites and maintaining stability of the dumps. **The Chief Secretary, Delhi, may continue to hold meetings for coordination with all the stake-holders, atleast once in a month, as earlier directed to device ways and means to expedite the pending work, including coercive measures against those responsible for delay. The CPCB is at liberty to recover the compensation already assessed, with further compensation for continuing damage till compliance of law, following due process of law. The amount of recovered compensation be spent on restoration of environment in Delhi.”***

3. It is a matter of concern that such incidents are taking place elsewhere also and there is potential for the same wherever legacy waste remains unremediated. It is for this reason that there is statutory timeline expected to be followed strictly. We may refer to another incident which was dealt with by the Tribunal yesterday itself. Vide order dated 21.04.2022 in O.A. No. 286/2022, *In re: News item published in The*

Indian Express dated 20th April, 2022, titled "7 Charred to death in fire near Ludhiana dumpsite". The Tribunal directed CPCB to issue guidelines for preventing such incidents, as follows:

"5. We also direct CPCB to collect information about garbage dumpsites from all States/UTs in respect of at least Metro cities and issue statutory directions/guidelines for preventing such fires and handling them effectively if they take place, specifying serious consequences of delay in dealing with the issue, in violation of binding rules."

4. Situation in Delhi may be more serious having regard to the size of the garbage dump and its location in densely populated area. This requires constitution of a multi-department Committee of concerned Departments and responsible prompt action at higher levels of the Administration.

5. Accordingly, we constitute a joint Committee headed by Justice S.P. Garg, former Judge, Delhi High Court with members from CPCB, DPCC, Department of Urban Development, Delhi, EDMC, Delhi Disaster Management Authority and District Magistrate and DCP, East Delhi. DPCC will be the nodal agency for coordination and compliance. The Committee may hold its first meeting within one week, undertake visit to the site, interact with the stakeholders, ascertain the factual situation and suggest further course of action after interaction with the concerned stakeholders. It may consider the landfill dump as isolated and vulnerable site which requires On-site and Off-site fire and other disaster management plans.

6. The report may be furnished within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF with a copy to the Chief

Secretary, Delhi, who may file response with comprehensive plan about the course of action proposed in the matter.

7. It is made clear that the authorities are free to take further remedial action without waiting for the report of the Committee or orders of this Tribunal.

List for further consideration on 27.05.2022.

A copy of this order be forwarded to Chief Secretary, Delhi, Justice S.P. Garg, former Judge, Delhi High Court, CPCB, DPCC, Department of Urban Development, Delhi, EDMC, Delhi Disaster Management Authority and District Magistrate and DCP, East Delhi by e-mail for compliance.

Adarsh Kumar Goel, CP

Dinesh Kumar Singh, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

April 22, 2022
Original Application No. 288/2022
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