

Original Application No. 606/2018

(With report dated 27.12.2019)

Compliance of Municipal Solid Waste Management Rules, 2016

Date of hearing: 07.01.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

For Applicant(s): None

For Respondent(s): Mr. Pradeep Misra with Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Rajkumar, Advocate for CPCB
Ms. Deep Shikha Bharati, Advocate for State of UP
Ms. K. Enatoli Sema, Advocate
Mr. Manish Kumar, Advocate for State of HP
Mr. Suhan Mukherji, Advocate for West Bengal
Mr. Saumyajit Pani, Advocate for State of Orrissa
Mr. Shubham Bhalla, Advocate for UT of Chandigarh

ORDER

1. The matter has been put up today to consider reports of the Central Pollution Control Board (CPCB) in pursuance of order of this Tribunal dated 12.09.2019 on the issue of status of compliance of waste management and other issues in different States/UTs in compliance of earlier orders of this Tribunal.
2. It is necessary to set out brief background of the proceedings. The Hon'ble Supreme Court vide order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors.*, transferred

proceedings pending before it on the subject of waste management¹.

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.

3. This Tribunal considered the matter after notifying all the concerned States/Regulatory Bodies and finally disposed of the same on 22.12.2016 requiring all the States/UTs to follow the SWM Rules, 2016 after preparing requisite action plans in a time bound manner with a 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

¹ Operative part of the order of the Hon'ble Supreme Court reads:

"Enforcement of the Rules and efforts to upgrade the technology relevant to the handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. **All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010.** The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions."

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

4. Execution of above directions has been subject matter of further proceedings in the last three years after the said order and after almost 20 years after the orders of the Hon'ble Supreme Court.
5. Reference may be made only to some of the significant orders. Vide order dated 20.08.2018, after referring to earlier proceedings and a chamber meeting held on various dates with all the concerned stakeholders, it was directed that action plans be finalized latest by 31.10.2018 and executed latest by 31.12.2019 which was to be overseen by the Principal Secretaries of Urban/Rural Development Departments of States/UTs. States were directed to standardize technical specifications instead of leaving the same to individual local bodies. Further directions are for installing CCTV cameras at dump sites, installing GPS system in garbage collection vans, adopting best practices including control rooms where citizens can upload photos of garbage to be looked into by responsible officers, conducting performance audit with reference to source segregation, door to door collection, public sweeping, waste processing, grievance redressal mechanism and monitoring. This Tribunal also constituted Regional/Apex Committees for a limited period.
6. Apart from the issue of SWM, the Tribunal also dealt with other issues including the issue of sewage management in pursuance of order of the

Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*² requiring this Tribunal to monitor directions for proper treatment of sewage to prevent untreated sewage and other effluents being discharged in water bodies.

7. Vide order dated 16.01.2019, after noticing that statutory timelines under Rule 22 of SWM Rules, 2016 had expired for various steps and failure of the statutory authorities was punishable criminal offence under the provisions of the EP Act as well as under the provisions of the National Green Tribunal Act, 2010 (NGT Act). This Tribunal required presence of Chief Secretaries of all States/UTs. It was noted that apart from failure of solid waste management under SWM Rules, there was also failure of liquid waste management in accordance with the provisions of the Water Act. Such failure has resulted in 351 identified polluted river stretches, 102 (now 122) non-attainment cities in terms of air quality, 100 polluted industrial clusters in terms of water, soil and air degradation and other serious environmental consequences, threatening life and health of citizens, water and air quality and the climate. The Chief Secretaries of all States/UTs were required to acquaint themselves with specific issues mentioned in the said order and coordinate with all the concerned authorities in their respective States/UTs and appear before this Tribunal with their respective status reports. Other directions included constitution of Special Task Force in each district for awareness by involving educational, religious and social organizations, including local Eco-clubs. The issues specified were as follows:

² (2017) 5 SCC 326

“a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.

b. xx

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c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in “The Hindu” authored by Shri Jacob Koshy Titled “More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

d. Status of functioning of Committees constituted in News Item Published in “The Times of India’ Authored by Shri Vishwa Mohan Titled “NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15” dated 08.10.2018.

e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels” dated 13.12.2018.

f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.

g. Total amount collected from erring industries on the basis of ‘Polluter Pays’ principle, ‘Precautionary principle’ and details of utilization of funds collected.

h. Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State.”

8. Accordingly, the Chief Secretaries of the States/UTs appeared and interacted with this Tribunal. Directions issued in respect of all the States/UTs on appearance of the Chief Secretaries were by and large on same pattern and it will be suffice to refer to directions issued vide order dated 18.07.2019 in respect of State of J&K as follows:

“i. Apart from three towns said to have been notified as proposed models for compliance of Environmental norms, atleast three villages in every District of the State may be notified on the website of the State within two weeks from today which will be made fully compliant with environmental norms within the next six months. Remaining cities, towns and villages of the State may be made fully

compliant in respect of environmental norms within one year.

- ii. A quarterly report be furnished by the Chief Secretary, every three months. First such report shall be furnished by October, 10, 2019.*
- iii. The Chief Secretary may personally monitor the progress, atleast once in a month, with all the District Magistrates.*
- iv. The District Magistrates may monitor the status of compliance of environmental norms, atleast once in two weeks.*
- v. The District Magistrates or other Officers may be imparted requisite training.*
- vi. Estimate of value of environmental degradation and cost of restoration be prepared and compensation be planned and recovered from polluters for environmental restoration and restitution on that basis.*
- vii. Performance audit of functioning of all regulatory bodies may be got conducted and remedial measures be taken, within six months.*
- viii. Introduction of a policy of giving ranking, based on performance on the subject of environment and giving of rewards or other incentives on that basis to individual areas, localities, institutions or individuals may be considered. This may also include encouraging students or other citizens significantly contributing to the cause of environment. The best practices may be evolved, if necessary, in the light of experiences on the subject. This may help in educating and involving public at large which may help in enhancing of environmental laws.*
- ix. The Chief Secretary may remain present in person before the Tribunal with the status of compliance in respect of various issues mentioned in para 22 as well as any other issues discussed in the above order.”*

9. It was further directed that compliance reports be furnished by the States/UTs to CPCB. Reference may also be made to some further orders on the subject being dated 08.04.2019³, 22.04.2019⁴, 23.04.2019⁵, 24.04.2019⁶, directions in *Anil Tharthare Vs. The*

³ O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled 26 "More river stretches are now critically polluted: CPCB",

⁴ OA No. 606/2018

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*Secretary, Env't. Dept. Govt. of Maharashtra & Ors,*⁷*Ajay Khera Vs. Container Corporation of India Limited & Ors.*⁸ and *Westend Green Farms Society Vs. Union of India & Ors.*⁹, 10.05.2019¹⁰, 10.05.2019¹¹, 17.05.2019¹², 10.07.2019¹³, 25.07.2019¹⁴, 17.07.2019¹⁵, 22.07.2019¹⁶, 26.07.2019¹⁷, 26.08.2019¹⁸, 28.08.2019¹⁹, 11.09.2019²⁰, 11.09.2019²¹, 10.10.2019²², 14.11.2019²³, 19.11.2019²⁴, 20.11.2019²⁵, 06.12.2019²⁶ and 18.12.2019²⁷.

10. The Registry forwarded quarterly reports received from the Chief Secretaries to the CPCB so that CPCB may prepare a gap analysis report and present the same to this Tribunal. Accordingly, the CPCB filed following reports:

- "i. Report dated 09.09.2019 enclosing Annual Environment Plan for the country giving compliance of environment norms and gaps.*
- ii. Report dated 09.09.2019 annexing Preliminary Framework for Imposing Environmental Damage Compensation.*

⁶ O.A. No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 (in respect of State of Karnataka)

⁷ Para 33 of the order wherein the Tribunal directed constitution of a five Members Expert Committee to carry out carrying capacity study of the area for relevant environment parameters and impact of such expansion on already congested and stressed areas.

⁸ Vide order dated, 08.03.2019, the Tribunal directed the Container Corporation of India (CONCOR) to phase out diesel vehicles, used for transportation by the Inland Container Depot (ICD) Tughlakabad, within six months.

⁹ Para 28 of the order wherein the Tribunal directed carrying capacity assessment to regulate activities violating environmental laws.

¹⁰ O.A. No. 148/2016, Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors.

¹¹ O.A. No. 325/2015, Lt. Col. Sarvadaman Singh Oberoi Vs. Union of India & Ors.

¹² OA No. 606/2019

¹³ O.A. No. 1038/2018

¹⁴ O.A. No. 710/2017

¹⁵ Original Application No. 519/2019 WITH Original Application No. 386/2019

¹⁶ Execution Application No. 13/2019

¹⁷ O. A. No. 360/2015 (Illegal sand mining)

¹⁸ O.A. No. 804/2017 (Hazardous Waste Management Rules)

¹⁹ O.A. No. 593/2017 (requirement of 100% treatment of sewage and effluents)

²⁰ O.A. No. 148/2016 (utilization of treated waste water)

²¹ O.A. No. 496/2016 (ground water management, rain water harvesting)

²² O.A. No. 176/2015 (depletion of ground water in over-exploited, critical and semi-critical areas)

²³ O.A. No. 1038/2018 (polluted industrial clusters)

²⁴ O.A. No. 519/2019 (legacy waste dump sites)

²⁵ O.A. No. 681/2018 (non-attainment cities in terms of air quality and also control of noise pollution)

²⁶ O.A. No. 673/2018 (351 polluted river stretches)

²⁷ O.A. No. 200/2014 (pollution of river Ganga)

- iii. *Report dated 09.09.2019 on the subject of Methodology of Assessment of Environment Carrying Capacity.*
- iv. *Gap Analysis report filed on 06.09.2019 on the subject of compliance of solid waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters, non-attainment cities.*
- v. *Report dated 24.07.2019 on Framework on national environmental training program.*
- vi. *Status report dated 09.08.2019 on Information, Education & Communication (IEC) activities.”*

11. The Tribunal vide order dated 12.09.2019 considered the above reports and directed all the States/UTs to furnish further information to the CPCB as follows:

“3. We have heard learned Counsel for the CPCB for future course of action and further directions required on the above subjects. He submitted that the above reports are incomplete for want of information from the States/UTs. It was elaborated during the course of hearing that information is required to be submitted in terms of following thematic areas viz.

- *Compliance to Solid Waste Rules including Legacy Waste.*
- *Compliance to Bio-medical Waste Rules.*
- *Compliance to Construction & Demolition Waste.*
- *Compliance to Hazardous Waste Rules.*
- *Compliance to E-waste Rules.*
- *351 Polluter Stretches in the country.*
- *122 Non-attainment cities.*
- *100 industrial clusters.*
- *Status of STPs and re-use of treated water.*
- *Status of CETPs/ETPs including performance.*
- *Ground water extraction/contamination and re-charge.*
- *Air pollution including noise pollution.*
- *Illegal sand mining.*
- *Rejuvenation of water bodies.*

4. The information with regard to above thematic areas needs to be submitted to CPCB by the Chief Secretaries of all the States and Union Territories in terms of following:

- *Current status*
- *Desirable level of compliance in terms of statutes.*
- *Gap between current status and desired levels.*
- *Proposal of attending the gap with time lines.*
- *Name and designation of designated officer for ensuring compliance to provisions under statute.*

5. CPCB is permitted to file revised updated reports on the subject after collecting information from concerned States/UTs by 15.11.2019.”

12. The CPCB has accordingly filed its status report dated 27.12.2019 with reference to the above thematic areas. Further report has been filed on 06.01.2020. The reports give information about States who have given some information but the nature and extent of information which was required has not been furnished. Available information with regard to sewage generation and treatment shows huge gap. Grading made by the CPCB into 'good', 'average', 'poor' and 'no information' is not based on any qualitative analysis but extent of information furnished.

Instead, what is least expected is information on:

- (i) solid waste management, including remediation of legacy waste in terms of earlier orders of this Tribunal,
- (ii) sewage treatment and restoration of 351 polluted river stretches and
- (iii) air quality management in 102 (122) non-attainment cities.

With respect to serial no. (i), the information is required with regard to the quantity of MSW generated, segregated and treated; gaps in the waste processing in terms of generation and treatment and enforcement of statutory timelines and orders of this Tribunal for bridging the gap; number of sites, and quantity of legacy waste therein and timelines for its remediation.

With respect to serial no. (ii), quantity of sewage generated and treated in the State, gap in the sewage treatment and timelines to bridge the gap including strategy for use of treated water for secondary purpose. Further, with regard to restoration of 351 polluted river stretches, the States need to furnish information about the compliance of directions including in-situ and ex-situ remediation by way of phyto-remediation/artificial wetlands, bio-diversity parks or any other

appropriate measure to supplement load reduction on recipient river systems.

With respect to serial no. (iii), the Chief Secretaries need to monitor and compile information on the subject of execution of action plans for containment of air pollution in terms of orders of this Tribunal and furnish the quantifiable progress/achievement to the CPCB.

13. In view of above, CPCB needs to redesign formats and secure relevant quantifiable information from the Chief Secretaries under different heads so that the Chief Secretaries are able to respond to the Tribunal on their appearance as per schedule of appearance already notified. Chairman and Member Secretary, CPCB may remain present on the dates of appearance of Chief Secretaries with relevant data.

14. The regime of compensation in terms of earlier directions will be considered after interaction with the Chief Secretaries.

Copies of this order be sent to CPCB and Chief Secretaries of all the States/UTs by e-mail.

Copies of this order need also to be sent to other statutory authorities being Ministry of Urban Development, MoEF&CC, Ministry of Jal Shakti and CEO, Niti Aayog by e-mail.

A copy of this order be also sent to Secretary General of Hon'ble Supreme Court of India by e-mail in view of direction of the Hon'ble Supreme Court dated 29.10.2014 (2015) 12 SCC 764 para 20 relating to cleaning of river Ganga.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 07, 2020
Original Application No. 606/2018
DV

