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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1740 OF 1998**

**WITH
CIVIL APPLICATION NO.9100 OF 1998
WITH
CIVIL APPLICATION NO.6199 OF 1999**

Vinay Laxman Tatke ...Petitioner

Versus

The Navi Mumbai Municipal Corporation & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.9099 OF 1998**

**IN
WRIT PETITION NO.1740 OF 1998**

Petroleum Employees Union & Anr. ...Applicants

Versus

The Navi Mumbai Municipal Corporation & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.680 OF 2001**

**IN
WRIT PETITION NO.1740 OF 1998**

Sidhi Vinayak Owners Association & Ors. ...Applicants

Versus

The Navi Mumbai Municipal Corporation & Ors. ...Respondents

**WITH
WRIT PETITION NO.4542 OF 2012**

M/s.Ramtekdi Industries Association,
through Secretary Balaji Mane & Ors. ...Petitioners

Versus

State of Maharashtra, through Secretary,
Urban Development Dept. & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.388 OF 2002
IN
WRIT PETITION NO.4542 OF 2012**

The Navi Mumbai Municipal Corporation
& Ors. ...Applicants
Versus
Vinay Laxman Tatke & Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.58 OF 2013**

Madan Aanandrao Purekar ...Petitioners
Versus
Kolhapur Municipal Corporation,
through Commissioner & Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.61 OF 2010**

Kalyan Ambernath Manufacturers
Association (KAMA) ...Petitioners
Versus
Gram Panchayat, Sagaon & Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.96 OF 2009**

Narayan Namdeo Yadav & Anr. ...Petitioners
Versus
The Municipal Corporation & Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.98 OF 2005**

Vasant Mhatre ...Petitioner
Versus
Navi Mumbai Municipal Corporation & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.51 OF 2013
IN
PUBLIC INTEREST LITIGATION NO.98 OF 2005**

The Secretary, Urban Development Department & Ors.	...Applicants
Versus	
Vasant Mhatre & Ors.	...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.137 OF 2005**

Jagdish Chhotalal Gandhi & Anr.	...Petitioners
Versus	
The Chief Secretary & Ors.	...Respondents

**WITH
CIVIL APPLICATION NO.80 OF 2012
IN
PUBLIC INTEREST LITIGATION NO.137 OF 2005**

Jagdish Chhotalal Gandhi & Anr.	...Petitioners
Versus	
The Chief Secretary & Ors.	...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.161 OF 2012**

Sadashiv Shriram Jadhav (Katkari)	...Petitioners
Versus	
The Ambernath Municipal Council, through Chief Officer & Ors.	...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.165 OF 2009**

Dharavi Baitt Bachao Samiti & Anr.	...Petitioners
Versus	
State of Maharashtra & Ors.	...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.182 OF 2009**

Kaustubha Dattatraya Gokhale & Ors. ...Petitioners
Versus
State of Maharashtra & Ors. ...Respondents

**WITH
PUBLIC INTEREST LITIGATION NO.217 OF 2009**

Pandurang Patil ...Petitioners
Versus
Municipal Corporation of Greater Bombay ...Respondents

**WITH
CONTEMPT PETITION NO.387 OF 2012**

Narayan s/o.Namdeo Yadav & Anr. ...Petitioners
Versus
The Municipal Corporation, Nashik & Ors. ...Respondents

.....

Mr.Girish Kulkarni with Mr.Vijayendra Purohit i/b M/s.M.K.Ambalal & Co. for Petitioner in WP/1740/1998

Mr.A.A.Garge for Responent-Navi Mumbai Municipal Corporation

Mr.P.H.Chande for Respondent No.9 in WP/1740/1998

Mr.Makarand Kale i/b M.P. Vashi & Asso. PIL/61/2010

Ms.Tanmayi Gadre i/b Mr.Rahul Thakur for Petitioner in PIL/98/2005

Mr.B.D.Joshi for Petitioners in PIL/96/2009 & CP/387/2012

Mr.Jagdish Gandhi, petitioner in-person in PIL/137/2005

Mr.D.A.Dube for Respondent-U.O.I. In PIL/137/2006

Mr.Milind Sathe, Sr.Advocaes with Mr.A.S.Doctor, Ms.Roshan Pinto i/b

Mulla & Mulla & Craigie Blunt & Caroe for petitioners in WP/4542/2012

Ms.Deepa Chavan with Shyamali Gadre i/b Little & Co. for Resp. MIDC in WP/1740/1998, PIL/98/2005, PIL/61/2010

Ms.Sharmila Deshmukh for Respondent No.5 in PIL/61/2010 & for Resp. No.5 in PIL/61/2010 & for Resp. Nos.6 & 7 in PIL/182/2009

Mr.M.L. Patil for Resp. No.1 in PIL/96/2009

Mr.G.S.Hegde for Respondent No.3 in PIL/98/2005

Mr.R.D.Soni i/b M/s.Ram & Co. for Petitioners in OS WP/311/2012

Mr.S.K. Shinde, G.P. With S.N. Patil, AGP, for Resp. State in Appellate Side matters

Mr.N.R.Prajapati for U.O.I. in PIL/182/2009

Mr.I.M. Khairdi with Mr.A.S.Rao, for Respondent Nos.2 & 3

Mr.R.V.Govilkar for Resondent No.8 in WP/1740/1998 & Respondent No.5 in PIL/98/2005

Ms.S.Mali i/b Ashok Purohit & Co. for Petitioner in PIL/165/2009

Mr.Rakesh L. Singh i/b M.V. Kini & co. for Resp. Airport Authority of India

Mr.A.P. Kulkarni for PMC

Ms.Madhubala Kajle, AGP, for state in WP/311/2012

Mr.D.A. Nalawade, GP, for Resp. State in PIL/131/2012

Mr.R.R. Bhosale, AGP for State in PIL/1/2013

Ms.Gayatri Singh for Petitioner in PIL/131/2012

Ms.Mandakini Singh with Ms.K.Bagalia & Ms.Chitra Phadke for Resp.
MMRDA

Mr.D.M. Gupte for Resp. No.3 in WP/4542/2012

Mr.N.C. Walimbe for Resp. No.4 in WP/4542/2012

Dr.G.R. Sharma with D.P. Singh for Resp. UOI in PIL/1/2013

Mr.S.U. Kamdar, Sr. Adv. with Ms.S.M. Modle and Ms.Yamuna Parekh for
Resp. MMC

Mr.R.V. Desai, Sr.Adv. with Mr.A.M. Sethna, Mr.Parag Vyas &

Ms.Poornima Awasthi for U.O.I. in PIL/131/2012

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**CORAM:- A.M.KHANWILKAR AND
A.P.BHANGALE, JJ.**

DATED:- APRIL 2, 2013

P.C.

1. Pursuant to the observations made by us during the hearing, we requested the Counsel for the parties to prepare draft Minutes of the Order which can be taken on record and order passed on those terms.

2. We are glad to place on record the fair stand taken by the learned Government Pleader and including the Officials who were assisting him in the matter on the broad contours of the directions to be passed by this

Court. The same are articulated in the form of draft Minutes of Order in the joint meeting held between them along with the Counsel for the petitioners and other parties. The draft Minutes of Order so prepared is placed before us, which is taken on record and marked `X'. The terms therein are reproduced below:

“Draft Minutes of the Order

1. For implementation of Solid Waste (Management & Handling) Rules, 2000 (MSW Rules) and for segregation, management, treatment and disposal of solid waste in the areas of various local authorities, throughout the State of Maharashtra following directions are given.
2. For the aforesaid purpose, the State of Maharashtra shall be considered into four regions as follows :
 - (1) Konkan, (2) Western Maharashtra, (3) Vidharbha and (4) Marathwada
3. The local authorities shall be divided into following categories :
 - (1) Urban Local Authorities :
 - (a) Municipal Corporations (b) Municipal Councils
 - (2) Other Authorities :
 - (a) Zilla Parishad (b) Taluka Panchayat and (c) Village Panchayat
4. The following officers shall be designated as Nodal Officers/Authorized officers who will be incharge and responsible for implementation of the MSW Rules and these directions:
 - (1) Divisional Commissioner for the Districts within his jurisdiction;
 - (2) Municipal Commissioner / Additional Commissioner for Municipal Corporation areas;
 - (3) Chief Officer-Municipal Council;
 - (4) District Collector for the entire district in respect of all other local authorities.
5. (a) The Secretary Urban Development Department (UDD) shall be overall incharge as per MSW Rules 2000 (Rule 5). The Secretary UDD in addition to being primarily responsible for

implementation of MSW Rules shall also be responsible for supervising and monitoring functioning of all other authorities:

(b) The responsibility of the aforesaid Nodal Officers/Authorized Officers will include all issues relating to solid waste management from identification of the land fill site, dumping sites, waste treatment facility sites, obtaining requisite permissions from Maharashtra Pollution Control Board (MPCB), segregation and transport of solid waste the treatment of solid waste and all other related matters.

6. The general issues shall be classified on the basis of availability of facilities with local authority for the aforesaid purposes as follows :

- (a) local authorities which do not have designated / approved dumping site/land fill sites at all,
- (b) the local authorities which have such sites available at present but are inadequate,
- (c) the local authorities which have sites which are being operated as land fill sites/dumping grounds but are non-compliant with MSW Rules and MPCB authorization and
- (d) the local authorities which do not have provisions of solid waste treatment facilities.

Re: Local authorities which do not have the land fill sites/dumping ground :

7. (a) The authorized officer / local authority shall take steps for acquisition of notified / designated site for this purpose either in the Regional Plan or the Development Plan within a period of two weeks either under the provisions of Land Acquisition Act, 1894, Maharashtra Regional & Town Planning Act, 1966 or by mutual agreement with land owners.

(b) The process of selection and acquisition of sites including taking possession shall be completed expeditiously and not later than six weeks in accordance with, the guidelines prescribed in the Government Resolution dated 5th October 2012, Annexure-1 as well as GR dated 26th August, 2003.

(c) The selection of site shall also take into consideration appropriateness and suitability of site from viewpoint of CRZ Notification, EIA Notification and other Environmental Laws including Forest Laws as applicable.

(d) Wherever the Local Authority has an approved authorized site for land fill / dumping, the local authority shall immediately take steps to make it operational for that purpose within a period of 4 weeks.

(e) On selection, identification and acquisition of sites, the local authorities shall make the appropriate application not later than two

weeks after taking possession of site, to the Pollution Control Board under Rule 6 of MSW Rules for authorization.

(f) The MPCB shall process the application and grant the authorization in accordance with the provisions of Air Act and Water Act and MSW Rules 2000 preferably within a period of two weeks and not later than from receipt of application complete in all respects.

(g) On the aforesaid compliances the site shall be used by the concerned local authorities for land fill /dumping strictly in accordance with the MSW Rules 2000 and authorization granted by MPCB.

(h) The Nodal Officers/Authorized Officer shall monitor periodically the operation of such sites and compliance with MSW Rules and MPCB authorization on fortnightly basis and make report and take remedial measures to ensure compliance.

(i) In case there are no designated / notified sites the State Government shall assist such Local authority to identify, select and acquire the requisite site and notify or designate the same for land fill / dumping of MSW. The State Government shall initiate steps for this purpose preferably within two weeks from this order and complete the process as per statutory provisions for designation of the site.

(j) In case the site designated within the area of local authorities is encroached upon the local authorities shall initiate action for removal of encroachment within two weeks, including but not limited to, in accordance with the relevant Municipal law or the Maharashtra Land Revenue Code as the case may be for eviction of such unauthorized encroachers. In the event of such actions being taken no Court or authority in the State shall entertain any application or proceedings or suit in respect of such eviction and any such proceeding shall be filed only in this Court.

(k) In case there are any proceedings pending / orders passed in respect of any sites within the jurisdiction of Local Authority, such authority shall immediately take steps to get the stay orders vacated and / or bring it to the notice of this Court for appropriate directions.

Re: Local authorities which have inadequate facilities:

8. (a) The local authority will assess the need for the sites by taking into account the existing population and growth of population upto atleast next 30 years.

(b) The local authorities shall take steps for selection, identification and acquisition of additional sites by following the directions in the preceding paragraph under the heading "Re : Local authorities which do not have the land fill sites / dumping grounds."

Re: The Local authorities which have facilities which are non-compliant with MSW Rules 2000 and MPCB authorization:

9. The MPCB shall make report in respect of each of the designated dumping site within jurisdiction of all Municipal Corporations, Municipal Councils and Panchayats to ensure Compliance with MSW Rules and these directions and directions of the Supreme Court. This exercise to be completed within a period of 8 weeks.

10. All dumping sites which do not comply with MSW Rules and other governing applicable laws and these directions and the sites which are not designated as per rules shall be discontinued and closed within a period of three months or an acquisition of new site whichever is earlier.

11. All sites which have exceeded their capacity shall be closed down as per procedure under MSW Rules.

Re: The Local authorities which do not have waste processing facilities:

12. The Local authorities shall take steps for treatment of solid waste in accordance with MSW Rules either through themselves or through an identified agency.

13. The Municipal Corporations and Councils shall adopt measures as per Schedule III of MSW Rules to ensure :

- (i) Segregation of Municipal Solid Wastes
- (ii) Setting up facilities for processing biodegradable wastes by composting, vermi composting, anaerobic digestion or any other biological processing
- (iii) Eventual elimination of landfilling requirements for biodegradable wastes
- (iv) The State Government shall take decision on the pending proposals / applications made by the local authorities for grant of lands on lease or otherwise, or grant of NOC etc. within a period of 45 days from date of this order.

(v) The Local authorities which have not made such applications shall do so within a period of 4 weeks to the State Government and the State Government shall take a decision thereon within 45 days thereafter.

14. Sites for Composting, Vermi Composting etc.

- (i) These sites shall also comply with these directions and MSW Rules (Schedule IV)
- (ii) MPCB shall prescribe cap on storage of wet garbage to be treated at these sites so that the site does not become a dumping ground
- (iii) These sites shall also comply with the Rules for storage of garbage as permitted by MPCB under MSW Rules
- (iv) In the event of non-compliance of these directions MSW Rules and parameters as regards, storage of wet garbage limit of storage and

operation of composting or vermi compost plant, the same shall be closed down and shall not be re-operated until MPCB reports remedial measures and its compliance.

15. **General :**

Action Plan for Treatment and Processing of Solid Waste

Sr. No	Action Plan Details	Time Schedule
1.	To develop mechanism for collection, segregation (at source / site) & transportation to processing facility & landfill site.	Within 2 months after possession of land
2.	Settling up and Commissioning of Waste Processing Facility	
	(a) Selecting of technology	Within 2 months after possession of Land
	(b) Preparation of Detailed Project Report	Within 2 months after selection of technology
	(c) Obtaining clearance from MCZMA / MOEF	Within 4 months from submission of the proposal by the ULB
	(d) Inviting tenders and appointment of Agency	Within 2 months after obtaining clearance from MCZMA / MOEF
	(e) Issuance of Work Order with the time frame & necessary conditions by Municipal Authority	Within 1 month
	(f) Settling of MSW processing facility & making it operational	Within 18 months from the date of work order
3.	Development & Commissioning of secured landfill site	Within 12 months after possession of land
4.	Closure of cell & its monitoring for at least next fifteen years as per Rules.	After exhausting capacity of the existing cell.
5.	Improving of existing facility	
	(a) Closure of existing dump site if required as per MSW Rules.	Within 16 months

	(b) Setting up and commissioning of waste processing facility if not available at existing site.	Within 24 months
	(c) Improvement in the existing waste processing facility and secured landfill site in accordance with the MSW Rules.	Within 6 months
	(d) Development of new secured landfill site at existing site if not available.	Within 12 months
6.	(a) Application for Authorization by Municipal Authority (Rule 4(2))	As per Rules
	(b) Grant of a authorization for processing facility & landfill site. (Rule 6(2))	As per Rules.

16. In the Solid Waste / Garbage Management following issues shall be considered for long term and future planning by Local authorities State and Central Government and Pollution Control Boards :

- (i) Daily operations and maintenance of Dumping and Land fill sites
- (ii) Daily operation and maintenance of Waste Treatment Facilities of Biodegradable Wastes
- (iii) Fire protection during dump leveling
- (iv) Garbage Bio-Mining
- (v) Closure of sites which have attained their maximum capacity
- (vi) Use of closed landfill sites as per MSW Rules
- (vii) Subsequent land-use
- (viii) Water consumption for capping
- (ix) Methane Generation
- (x) Encouraging the Local Authority to adopt these measures and comply the directions to earn Carbon Credits.

17. The local authorities may for this purpose explore the possibility of assigning / awarding this work on Public Private Partnership basis to Private entrepreneurs who will undertake this work in entirety including selection and acquisition of land as well as installation of treatment plants. For this purpose the local authority may resort to the process of Swiss challenge as approved by the

Supreme Court in the case of Ravi Developers V/s. Shree Krishna Prathishtha – 2009 (7) SCC 462. The site so selected shall also strictly comply with all applicable provisions of MSW Rules, all other relevant laws and these directions.

18. The Local Authority / Corporations shall issue directions to the residents for solid waste segregation of garbage as per rules and take steps for its compliance.

19. The State Government / Local Authorities shall give highest priority for establishing / settling up common facilities or land fill / dumping sites / processing facilities.

20. Whenever permission is required under the provisions of Environment Impact Assessment (EIA notification), Coastal Regulation Zone (CRZ Regulations), River Regulation Zone Policy (RRZ) (RRZ policy), Forest Laws etc. such authorities shall process and consider the applications made by Local Authority / Designated agency, expeditiously within a period of 4 weeks or as per the time limit prescribed in the relevant rules.

21. It is clarified that wherever there is a statutory period prescribed for processing of any application grant of clearance etc. the period prescribed therein shall be applicable.

22. The directions contained in this order are in addition to and supplementary to directions already given or orders passed in individual Writ Petitions / PILs.

23. Liberty to apply in case there is exceptional problem or exigency.

3. We proceed to pass order in terms of the draft Minutes of Order being satisfied that this dispensation is not only imperative but also fulfill the aspirations of the statutory provisions in place.

4. Once again, we place on record our appreciation for the fair stand taken by all the parties in preparing the Minutes of Order and in particular, of the State Authorities.

5. The matters be now placed on 2nd May, 2013 for reporting compliance.

(A.P.BHANGALE, J.)

(A.M.KHANWILKAR, J.)

Bombay High Court