

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

Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016

Date of hearing: 16.01.2019

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

For Applicant(s):

For Respondent (s): Mr. Rajkumar, Advocate for CPCB

ORDER

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I. PREFACE

1. The issue for consideration is the compliance of the Solid Waste Management Rules, 2016 (hereinafter referred to as SWM Rules) in continuation of orders earlier passed on the subject.
2. Twenty-three years back, the problem of MSW was mentioned by Hon'ble Supreme Court as follows:

"Historic city of Delhi- the capital of India- is one of the most polluted cities in the world. The authorities, responsible for pollution control and environment protection, have not been able to provide clean and healthy environment to the residents of Delhi. The ambient air is so much polluted that it is difficult to breath. More and more

*Delhites are suffering from respiratory diseases and throat infections. River Yamuna- the main source of drinking water supply is the free dumping place for untreated sewage and industrial waste. Apart from air and water pollution, the city is virtually an open dustbin. Garbage strewn all over Delhi is a common sight. The Municipal Corporation of Delhi (the MCD) constituted under the Delhi Municipal Corporation Act, 1957 (Delhi Act) and the New Delhi Municipal Council (the NDMC) constituted under the new Delhi Municipal Council Act, 1994 (New Delhi Act) are wholly remiss in the discharge of their duties under law. It is no doubt correct that rapid industrial development, urbanization and regular flow of persons from rural to urban areas have made major contribution towards environmental degradation but at the same time the authorities-entrusted with the work of pollution control cannot be permitted to sit back with folded hands on the pretext that they have no financial or other means to control pollution and protect the environment.” **

After twenty-three years, situation has become worse. 'Swachh Bharat Abhiyan', a noble initiative notwithstanding.

II PROCEEDINGS BEFORE THIS TRIBUNAL

3. The matter was taken up by this Tribunal vide order dated 22.12.2016 in *Almitra Patel & Anr. v. Union of India & Ors., O.A.No. 199/2014*. Proceedings before this Tribunal arose out of a Petition under the Article 32 of the Constitution filed before the Hon'ble Supreme Court of India seeking directions for steps to improve the system of collection, storage, transportation, disposal treatment and re-cycling of municipal solid waste. The said Petition was transferred to this Tribunal from Hon'ble Supreme Court of India. After consideration of the problem of waste disposal in the country and reports of various Committees, it was observed that though rules on the subject have been revised and notified on 08.04.2016, enforcement remained a challenge. The Tribunal noted that the timeline of steps to be taken within one year under

Rule 22 had already expired without the stipulated action being taken. The landfills had gone beyond the permissible heights and were a health hazard. Waste was to be processed in the manner laid down under the rules by preparing appropriate action plans. Accordingly, directions were issued to all the States and UTs to enforce and implement the rules and to prepare action plans relating to management and disposal of waste and to take other steps as mandated under the Rules.

4. In spite of the above, the Annual Report prepared by the CPCB in April, 2018, showed serious deficiencies in compliance of the rules in most of the States. Apart from the Report of the CPCB, non-compliance of the Rules could be seen from frequent grievances being brought before the Tribunal with the photographic evidence of heaps of garbage lying on the streets seeking coercive measures against the statutory authorities for their failures. As per certain studies, the magnitude of problem is India generates over 150,000 tonnes of municipal solid waste (MSW) per day, with Mumbai being the world's fifth most wasteful city. Yet, only 83% of waste is collected and less than 30% is treated. According to the World Bank, India's daily waste generations will reach 377,000 tonnes by 2025.¹ Unless problem is tackled, its impact on health and lives of citizens can be devastating. It is high time that stern measures are taken not only by those in-charge of administering law themselves but also by educating and involving the public at large.
5. The Tribunal thought it appropriate to have interaction with the stakeholders to evolve a mechanism for execution of order already passed in *Almitra Patel & Anr. v. Union of India & Ors.*, O.A. No. 199/2014 to consider the following issues:

¹ <https://www.livemint.com/Opinion/V2CgeiUq89kl1k2fDwJXML/Swachh-Bharats-waste-management-problem.html>

- i. Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?
 - ii. Whether each city/town/urban local body is covered under the said Plan and individual Action Plan has timelines with budgetary provisions?
 - iii. What time has been fixed to completely comply with the provisions of the Rules, 2016?
 - iv. What are the main constraints of non-compliance of Rules, 2016?
6. Accordingly, meetings were held between 02.8.2018 to 20.08.2018 with all the States and UTs which showed that there was substantial non-compliance of the Rules and judgment of the Tribunal in *Almitra Patel (supra)*. Execution of orders of NGT impacting environment generally, though significant, remains a challenge. Merely passing of orders, without their execution defeats the object for which NGT has been set up. Section 25 of the Act confers power of executing court. Mode of execution is laid down in CPC (Section 51), i.e., arrest and detention, appointment of a receiver or in such manner as nature of relief may require. There are provisions for prosecution, including of heads of departments of the Government. On 'Polluter Pays' principle, damages can be recovered not only from the polluters but also from the State functionaries who collude with the polluters. The PCBs and the States have not been fully successful in their performance of duties to protect environment, as noted in judgement of Hon'ble Supreme Court as well as this Tribunal². We thus thought of constituting committees with the involvement of former High Court Judges or senior bureaucrats as a machinery for effective execution of orders of the Tribunal having bearing on public health.
7. Accordingly, the Tribunal, while directing that the action plan be submitted latest by 31.10.2018 after looking into the successful models and executing it

² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors*, O. A. No.95/2018

latest by 31.12.2019 which may be overseen by the Principal Secretaries of Urban Development and Rural Development, constituted the Apex Monitoring Committee (AMC), Regional Monitoring Committees (RMCs), State Level Committees (SLCs) and directed nomination of Nodal Officers at the level of the Local Bodies and Committees for bigger Local Bodies. The role of the RMCs, as per para 19 of the order, required regular meetings to monitor taking necessary steps, including compliance of SWM Rules, 2016 including at or around railway platforms, railway tracks, bus stands or other places frequented by public. The RMCs were directed to ensure that mixing up of bio-medical waste and municipal solid waste does not take place and that bio-medical waste is processed as per the Bio-Medical Waste Management Rules, 2016. The role of State level Committees was specified in para 21 to have interaction with the Local Bodies once in two weeks and to consider the reports of the Local Bodies which were to be given twice a month. The Committees are to complete the task within one year. In para 23, it was directed that guidelines be issued for using CCTV cameras at dumping or other sites and to have garbage collection vans fitted with GPS. The Tribunal also observed that public involvement may be encouraged and the status of waste management be put in public domain including health impacts associated with unscientific disposal. The State Level Committees were to give reports to the Regional Level Committees which were to oversee the compliance of the Rules including preparation and implementation of Action Plans.

8. It was observed that either no Action Plans had been prepared as required under the Rules or the plans prepared proposed only 50% to 75% waste disposal as per Rules. There were no plans for rural areas and hilly terrains. The result was accumulation of legacy waste in the form of huge dumps of garbage and unscientific disposal of waste, impacting the public health, degrading forests and water bodies, apart from causing air pollution.³ Albeit,

³ <https://swachhindia.ndtv.com/nearing-35-years-ahmedabads-pirana-landfill-is-infamous-for-its-garbage-mountains-and-frequent-fires-11855/>- accumulation of waste at Pirana landfill site, Ahemdabad, causing frequent fire,

in certain places efforts are successful to deal with legacy waste⁴, most States are grappling with the issue. Such successful model may be replicated suitably. Accordingly, it was required that integrated plans are prepared on scientific lines to manage the solid waste after detailed study and consultation with the experts. It was also necessary that every State and Union Territory follows the SWM Rules in letter and spirit. There was need for monitoring of the steps required to be taken under the Rules as well as the binding earlier directions of this Tribunal and the Hon'ble Supreme Court. Need for performance audit was also noted.

9. The Tribunal also dealt with the issue of compliance of SWM and associated Rules on railway tracks and railway platforms in *Saloni Singh & Ors. v. Union of India & Ors.*, and directed constitution of teams of responsible officers by the Railway Administration to take steps by framing suitable action plans, removing encroachments and undertaking landscape of vacated land parcel.⁵
10. Certain minor modifications have been made in the said order on two-three occasions to deal with the issues which arose out of implementation of the order dated 20.08.2018 such as honorarium/remuneration, providing logistics and modifications in the manning of the Committees etc⁶.

<https://www.indiatoday.in/education-today/gk-current-affairs/story/ghazipur-garbage-dump-delhi-largest-landfill-site-1329240-2018-09-01> accumulation of waste at Gazipur dumping site.

⁴ <http://www.xaam.in/2019/01/indore-ias-officer-clears-13-lakh-tons.html>

⁵ O.A. No. 141/2014 order dated 01.10.2018

⁶ (i) Order dated 19.09.2018 in O.A. No. 606/2018: on composition of Eastern Regional Monitoring Committee to include West Bengal State Pollution Control Board and providing remuneration/honorarium for Chairpersons of the Committees.

(ii) Order dated 12.10.2018 in O.A. No. 606/2018: redefining composition of Northern Regional Monitoring and constituting a separate Committee for the State of U.P. under the Chairmanship of Justice D.P. Singh

(iii) Order dated 30.10.2018 in O.A. No. 606/2018: directing that the Principal Secretary, Municipal Administration and Water Supply Department, Government of Tamil Nadu will be the Member – Secretary of the Monitoring Committee for the Southern Region instead of Principal Secretary, Urban Development, Tamil Nadu. The Tribunal further emphasized that each village, town and a city of State should have Action Plan management of Municipal Solid Waste, Bio-medical waste, Plastics waste and Construction and Demolition waste as per the respective rules in a time- bound manner. Further, Urban Development Department of the State of Madhya Pradesh was directed to facilitate the working of the Central Regional Monitoring Committee.

(iv) Order dated 20.11.2018 in O.A. No. 606/2018: noting that Central Regional Monitoring Committee has begun its functioning.

III. CONSIDERATION OF REPORTS OF COMMITTEES

11. The matter has been put up for consideration of reports received from Apex and Regional Monitoring Committees. We have perused the reports of the U.P. Solid Waste Management Monitoring Committee dated 25.10.2018 which deals with the general issue; report dated 30.11.2018 which deals with the issue of solid waste management in King George Medical University, Lucknow; report dated 17.11.2018 deals with regard to compliance of the Rules by Baba Raghav Das (BRD) Medical College, Gorakhpur and the report dated 24.12.2018 with regard to the Kumbh Mela.
12. We have perused the 'preliminary' report of the Apex Monitoring Committee dated 03.12.2018, the report of the Regional Monitoring Committees from Southern Zone dated 10.11.2018, report dated 13.11.2018 from Central Zone Regional Monitoring Committee, the report dated 15.11.2018 from the Northern Zone Regional Monitoring Committee and the report dated 04.12.2018 from Eastern Zone Regional Monitoring Committee. The same are taken on record. Copies of the above reports be forwarded to the CPCB for coordination in accordance with Rule 14 of the SWM Rules, 2016. The CPCB may furnish comments and action taken report to this Tribunal within one month by e-mail at nqt.filing@gmail.com.
13. Before we consider the reports from the UP Committee, it may be appropriate to mention that an administrative interaction was held on 04.12.2018 by all the Members of the Tribunal with the Chairpersons of Apex and Regional Monitoring Committees. The progress did not appear to be significant. The impression is fortified by perusing the reports received so far. It is clear that inspite of five months after comprehensive review was undertaken by the

Tribunal and orders were passed, the compliance of order of the Tribunal dated 22.12.2016 in *Almitra Patel (supra)* remains a challenge.⁷ Orders of Tribunal showing serious failure in complying with the Rules include the following- (i) *Venkatesh & Ors. v. Union of India & Ors.*⁸, (ii) *Ankita Sinha v. State of Maharashtra & Ors.*⁹, (iii) *Rakesh Kashyap v. State of Himachal Pradesh & Ors.*¹⁰ (iv) *Sukhdev Vihar Resident's Welfare Association v. State of Delhi & Ors.*¹¹ The above are only illustrative of the grave situation being faced. In view of this, we propose to consider some modifications for more effective results.

14. We now refer to the reports from the UP Committee. In the report dated 30.11.2018, the recommendations have been made for the following action:

- "1. KGMU be saddled with compensatory cost of Rs. 10 lakh which may be deposited in Ayushman Yojana fund, ear-marked for BPL citizens to provide them free treatment.*
- 2. KGMU be directed to strictly comply with the BMW Rules-2016 and the biomedical wastes categories, their segregation, collection, treatment, processing and disposal options be done as per Schedule I of the BMW Rules 2016 and accordingly take appropriate actions within a period of three months.*
- 3. KGMU be directed to be compliant with Rule 4(g), BMW Rules 2016 and provide training to all its health care workers and others, involved in handling of bio medical waste at the time of induction and thereafter at least once every year and the details of training programmes conducted, number of personnel trained and number of personnel not undergone any training shall be provided in the Annual Report.*
- 4. Untreated human anatomical waste, animal anatomical waste, soiled waste and biotechnology waste shall not be stored beyond a period of forty-eight hours as mandated under Rules 8 of BMW Rules 2016.*
- 5. KGMU administration be directed to provide personal protective equipments (PPE) to all the staff engaged in bio-medical waste.*
- 6. KGMU should obtain water and air consent from the UPPCB.*
- 7. KGMU be directed to install STP and ETP immediately, say within four months. 8. KGMU be directed to carry out all routine tests, validation tests, spore tests as per Schedule-II of BMW Rules-2016 forthwith."*

⁷ *Mrs. Almitra H. Patel v. U.O.I*, O.A. No. 199/2014 Judgement dated 22.12.2016

⁸ O.A.No. 711 of 2018, order dated 22.10.2018- Illegal dumping of solid waste at Balagur, Bengaluru. BBMP was directed to deposit Rs. 5 Crores as environmental compensation for damage to the environment.

⁹ O.A. No. 510/2018 order dated 30.10.2018- Municipal Solid Waste dumping site at Deonar, Mumbai was not complying with SWM Rules, 2016. Tribunal directed Municipal Corporation, Greater Mumbai to deposit Rs. 5 Crores as environmental compensation with CPCB for restitution of environment.

¹⁰ O.A. No. 189/2017, order dated 27.08.2018- Municipal Corporation, Theog, Shimla illegally permitted dumping of solid waste of forest land. The Tribunal directed shifting of the site and directed Municipal Corporation to pay an amount of Rs. 5 lakhs as environmental compensation.

¹¹ O.A. No. 640/2018 order dated 27.09.2018: Tribunal directed that if the project proponents fail to maintain the standards, even after carrying out the deficiencies noticed in the joint inspection Report, CPCB may recommend the amount of environmental damage required to be paid by them.

15. The report dated 17.11.2018 with regard to compliance of the Rules by Baba Raghav Das Medical College, Gorakhpur, proposes following directions:

- "(i) Admission of children between upto the age of 10 or 15 years brought for treatment in BRD Medical College, Gorakhpur be stopped forthwith for two months, subject, however, to the compliance of the provisions of Bio-Medical Waste (Management and Handling) Rules, 2016. In emergency cases, only those children brought in critical conditions be admitted for treatment, provided the facility for their treatment is not available in other hospitals, private or government.*
- (ii) The BRD Medical College, Gorakhpur and the Government of UP be directed to provide infrastructure for disposal of bio-medical waste strictly in accordance to the Rules of 2016 (supra) within two months.*
- (iii) Cost of rupees five crores or more, as the Hon'ble NGT may in the facts and circumstances deem appropriate, be imposed on the BRD Medical College and the amount of cost so recovered be reimbursed amongst the bereaved families whose children died during the past two years i.e. after the date of notification and coming into force the Rules of 2016. The Medical College must be having the addresses of such families, recorded at the time of admission of their children. Certain portion of said cost be recovered from the salaries of Principal and those officers/officials of the Medical College, who are responsible for non-compliance of the Rules of 2016. The District Magistrate, Gorakhpur may supervise the whole process.*
- (iv) The Medical Council of India be directed to send its team to inspect the BRD Medical College, Gorakhpur and submit report to take appropriate action in the matter and to maintain the standard of medical education in the College. On the basis of the said report and the recommendations, necessary infrastructure be developed and admission of the patients be regulated."*

16. In report dated 24.12.2018 with regard to Kumbh Mela, following recommendations have been made:

"17. We request the Hon'ble NGT to permit the use of fund with UPPCB under environmental compensation corpus to a limited extent under strict supervision of Monitoring Committee and the Principal Secretary, Urban Development for advertisement through posters, audio-visuals, handbills and electronic media, etc in whole of the State of UP in case the Government suffers from financial crunch.

Shri Anurag Yadav, Secretary, Urban Development appears to have got very positive approach and helping in nature. He undertakes that he and his Government shall enforce the decisions taken hereinabove, not only during Kumbh Mela but as far as possible, all over the State. We appreciate the zeal and workaholic nature of Shri Anurag Yadav, IAS, Secretary, Urban Development. The decision taken and reproduced hereinabove in the meeting of the Monitoring Committee may be looked into and

in case the Hon'ble NGT pleases, the same may be approved for future course of action and make it binding on the State Government and its authorities.

It is further requested that in case Hon'ble NGT pleases, alike posters may be prepared in all the States in regional/local language by Chairmen, Monitoring Committees and its soft copy be forwarded to Kumbh Mela Adhikari, State Monitoring Committee/Secretary, Urban Development UP so that posters in different languages may be pasted in Kumbh Mela to educate the people visiting there."

17. We do not propose to take the above reports to the logical end straightaway in these proceedings. The recommendations involve administrative action at the level of Health Department and Urban Development Department of the State. It also involves exercise of statutory powers by the SPCBs. The issues may be first dealt with by concerned administrative and statutory authorities.

IV DIRECTIONS ON THE REPORTS OF THE COMMITTEES

18. Accordingly, recommendations in the reports will stand disposed of with following directions:

(i) The report dated 30.11.2018 with regard to King George Medical University be forwarded forthwith to the Principal Secretary, Health Department, Principal Secretary, Urban Development Department, Uttar Pradesh Pollution Control Board (UPPCB) and the CPCB for being appropriately dealt with.

(ia) The Principal Secretaries, Health Department and Urban Development Department, Uttar Pradesh may take such steps as are in their domain and furnish their action taken reports within one month by e-mail at ngt.filing@gmail.com.

(ib) The UPPCB may exercise powers *inter-alia* under Rule 16 of the SWM Rules, 2016, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and apart

from other steps, determine and recover the amount of damage after following due procedure. Pending such consideration, we direct King George Medical University to deposit interim compensation of Rs. 10 Lakhs with the UPPCB. The UPPCB may spend the amount for restoration of the environment and to help the victims of diseases, wherever necessary and also conduct appropriate health impact study and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(ic) The CPCB may coordinate the matter in terms of Rule 14 of the SWM Rules, 2016 and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(ii) Similarly, report dated 17.11.2018 with regard to Baba Raghav Das (BRD) Medical College may be sent to the above authorities for taking similar action.

(iia) The Principal Secretaries, Health Department and the Urban Development Department, Uttar Pradesh may consider the recommendations and take appropriate action in their domain and furnish their respective reports within one month by e-mail at ngt.filing@gmail.com.

(iib) The UPPCB may exercise of powers *inter-alia* under Rule 16 of the SWM Rules, 2016, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and apart from other steps, determine and recover the amount of damage after following due procedure. Pending such consideration, Baba Raghav Das (BRD) Medical College, Gorakhpur may deposit interim compensation of Rs. 1 Crore with the SPCB. The SPCB may spend the amount for restoration of the environment as well as to help the victims of diseases as may be found viable, after conducting appropriate health impact

study and furnish an action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(iic) The CPCB may coordinate the matter in terms of Rule 14 of the SWM Rules, 2016 and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(iii) The report dated 24.12.2018 may be forwarded to the Kumbh Mela authority. The UPPCB may permit part use of environmental compensation corpus available with it in the manner suggested by the Committee, subject to concurrence of the Committee and the Principal Secretary of the Urban Development, Uttar Pradesh. Copies of the report be sent to the Principal Secretary, Urban Development Department, the UPPCB and the CPCB and they may furnish their action taken reports to this Tribunal within one month by e-mail at ngt.filing@gmail.com, in the manner mentioned earlier in direction (i) and (ii).

V. DELIBERATION

19. As per order dated 20.08.2018, action plans were to be submitted latest by 31.10.2018 and executed by 31.12.2019. Rule 22 of the SWM Rules provides timelines in this regard which are as follows:

<i>Sl. No.</i>	<i>Activity</i>	<i>Time limit from the date of notification of rules</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	<i>Identification of suitable sites for setting up solid waste processing facilities</i>	<i>1 year</i>
2.	<i>Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more</i>	<i>1 year</i>
3.	<i>Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities</i>	<i>2 years</i>

4.	<i>Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source</i>	<i>2 years</i>
5.	<i>Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.</i>	<i>2 years</i>
6.	<i>ensure separate storage, collection and transportation of construction and demolition wastes</i>	<i>2 years</i>
7.	<i>setting up solid waste processing facilities by all Local Bodies having 100000 or more population</i>	<i>2 years</i>
8.	<i>Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population.</i>	<i>3 years</i>
9.	<i>setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules</i>	<i>3 years</i>
10	<i>setting up common or regional sanitary landfills by all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules</i>	<i>3 years</i>
11.	<i>bio-remediation or capping of old and abandoned dump sites</i>	<i>5 years</i>

20. Timelines of two years have expired as rules came into force on 08.04.2016. Timeline of three years is going to expire on 08.04.2019. However, for bio-remediation, timelines of five years has been provided. On 'Polluter Pays' principle, the polluters must be required to pay damages by the concerned authorities. Failure to do so may render the authorities also liable to pay damages as has been directed in several orders of this Tribunal.¹² Performance Guarantee may also be required if there is no improvement.¹³

21. The issue of solid waste management is of paramount importance for protection of environment. Failure to address this issue in a satisfactory manner, impacts air pollution as well as water pollution. It is partly on that

¹² *All India Lokadhikar Sangathan vs. Govt of NCT Delhi & Anr*, E.A No. 11/2017, Date of Order 16.10.2018; *Sobha Singh vs. State of Punjab & Ors.* O.A. No. 916/2018, Date of Order 14.11.2018; *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors.* O.A No. 110 (T_{HC})/2012, Date of Order 04.01.2019; *Ms. Ankita Sinha vs. State of Maharashtra & Ors.* O.A. No. 510/2018, Date of Order 30.10.2018, *Sudarsan Das vs. State of West Bengal & Ors.* O.A. No. 173/2018, Date of Order 04.09.2018; *Court on its Own Motion vs. State of Karnataka*, O.A. No. 125/2017, Date of Order 06.12.2018.

¹³ *Ibid.*

account that the statistics mentioned in certain studies paint dismal picture of environment in terms of number of deaths and diseases. These studies have already been referred by this Tribunal in certain orders, including the recent order dated 04.01.2019 in *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* (O.A No. 110 (THC)/2012)¹⁴. It was observed:

"28. It is a matter of serious concern that compliance of environment norms is not satisfactory and result is large scale deaths and diseases and serious damage to air, water and earth. As per CPCB report, 351 river stretches in the country are polluted, 102 cities are classified as non-attainment cities in terms of ambient air quality, there are 100 industrial clusters. There is wide gap in compliance of statutory rules for waste disposal, which issues are subject matter of proceedings before this Tribunal.

29. The above shows that in-spite of statutory framework and binding legal precedents and orders, violation of law is rampant. Stern approach is, thus, required against the polluters as well as statutory authorities conniving or colluding with the polluters. The statutory authorities are trustees of the people and if their failure results in harm to the citizens or to the environment, the Court/Tribunal has to adopt strict approach to make them accountable so that such action acts as deterrent to prevent further harm".¹⁵

¹⁴O.A. No. 110 (THC)/2012-*Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors*.

¹⁵ (a). O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "*More river stretches are now critically polluted: CPCB*" dated 20.09.2018: wherein the Tribunal issued directions to prepare and implement Action Plans to rejuvenate and restore the 351 polluted river stretches. (b) Original Application No. 681/2018, 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: wherein the Tribunal directed Action Plans to be prepared for the 102 non-attained cities to bring the standards of air quality within the prescribed norms. (c) Original Application 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: wherein the Tribunal directed preparation of time bound Action Plans to ensure that all industrial clusters comply with the parameters laid down in Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. (d) Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 dated 31.08.2018: wherein the Tribunal constituted Apex and Regional Monitoring Committees for effective implementation of MSW Rules, 2016.

22. Vide order dated 11.01.2019 in *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors (Original Application No.95/2018)*¹⁶ it was observed:

*"It is well acknowledged that there is serious threat to the environment in this country. Studies show huge number of pollution related deaths and diseases. Any violation of laid down environmental norms has to be seriously viewed and sternly dealt with."*¹⁷

23. Again vide order dated 11.01.2019 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" (Original Application No. 681/2018)*¹⁸ it was observed:

*"According to a survey, 15,000 persons died prematurely in Delhi in the year 2016. Delhi was ranked as third in the list of cities reporting most deaths due to air pollution. Premature deaths in Mumbai, Kolkata, Bangalore and Chennai are reported to be between 5,000-10,000 in 2016."*¹⁹

24. Concept of sustainable development which guides this Tribunal under Section 20 of the NGT Act, 2010 cannot be upheld unless the above issues of massive degradation of environment are handled on war footing. Directions have been issued by this Tribunal to prepare action plans for restoration of 351 polluted river stretches, restoration of air quality in 102 "non-attainment cities", restoration of environment in 100 critically polluted

¹⁶ Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors, O.A. No.95/2018

¹⁷https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf- India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-andenvironment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>- Most pollution-linked deaths occur in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFTO63r7x4Ti8ZbHF7mM.html>- Delhi's most polluted city, Mumbai worse than Beijing as per WHO; http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf- WHO Water Quality Index

¹⁸ 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" O.A. No. 681/2018-<http://www.greentribunal.gov.in/DisplayFile.aspx>

¹⁹<https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

industrial clusters and compliance of directions of SWM Rules, 2016 apart from the directions for effective regulations of sand mining²⁰, regulation of ground water²¹.

25. The above directions with regard to polluted rivers, polluted air, polluted industrial clusters and issues of illegal sand mining are also inter-linked with compliance of SWM Rules, 2016 as also with Hazardous and Other Wastes Management Rules, 2016, Bio-medical Wastes Management Rules, 2016, Construction and Demolition Wastes Management Rules, 2016 and Plastics Wastes Management Rules, 2016, E-waste (Management) Rules, 2016 etc. A holistic view is required to be taken. All factors degrading environment need to be addressed in an integral manner. This is to be guided by the principle of 'Sustainable Development'. This requires coordination with several authorities of a State. Such coordination, having regard to serious impact on health and environment must be coordinated at the highest level periodically. This requires involvement of Chief Secretaries/Administrators of all the States and UTs. We have noted in several orders that compliance is a serious issue and satisfactory progress is not being achieved.²²

26. As noted earlier in para 13, it may be appropriate to mention that an administrative interaction was held on 04.12.2018 by all the members of the Tribunal with the Chairpersons of Apex and Regional Monitoring Committees. The progress did not appear to be significant. The impression is fortified by perusing the reports so far received. It is clear that inspite of five months after comprehensive review was undertaken by the Tribunal and orders were passed, the compliance of order of the Tribunal dated 22.12.2016 in *Almitra Patel (supra)* remains a challenge. The pattern of Committees needs

²⁰ *Sudarsan Das vs. State of West Bengal & Ors.* O.A. No. 173/2018 Order dated 04.09.2018

²¹ *Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors.* O.A. No. 176/2015, order dated 3.1.2019

²² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors* O.A. No.95/2018

modification. Coordination at Regional level does not appear to be as effective as expected.

VI. DIRECTIONS

27. Instead of having Regional Monitoring Committees constituted vide order dated 20.08.2018, the State Level Committees may function in the modified form as is being now directed. Chairpersons of the Regional Committees may continue to be the Chairpersons of the particular State/UT Committee as mentioned below. Other Members may be the officers of the particular respective State.

28. In this respect, following directions/clarifications are issued:

- i. For all the States and UTs, the Member Secretaries of the PCBs/PCCs will be the Member Secretaries of the Committees, other members being Secretaries, Urban Development/Local Bodies/Local Self-Government, Environment, Rural Development Health and representatives of CPCB, wherever office of CPCB exists or representative is nominated by CPCB. Logistics and honorarium will be provided by the respective SPCB/PCCs which can be met out from Environment Compensation funds on the basis of 'Polluter Pays' principle or otherwise. If SPCBs/PCCs do not have requisite funds to provide logistic support, CPCB will provide funds to SPCBs/PCCs. In case of any difficulty, CPCB may coordinate any such issues. The honorarium will be paid as per order of the Tribunal in this matter dated 19.09.2018²³ and in *Amresh Singh v. Union of India & Ors.*²⁴ Where the Chairperson is receiving remuneration/honorarium in

²³ See order dated 19.09.2018 of this Tribunal in O.A No. 606/2018 to the effect that the non-official Chairperson will be paid consolidated amount equal to basic pay of the post held by the incumbent. A former Judge of Hon'ble Supreme Court will be entitled to Rs. 2.50 Lakhs per month. A former Judge of the High Court will be paid Rs. 2.25 Lakhs per month. On same pattern, remuneration may be fixed for any other retired Member.

²⁴ a. E.A. No.32/2016 order dated 15.11.2018- Clarifying that while the State may provide the logistics and other facilities, the financial aspects may be taken care of by the State Pollution Control Boards/Committees. The financial aspects will include the remuneration or other incidental expenses which may be increased with

one Committee constituted by the NGT, he may not receive extra/double remuneration but may be provided requisite logistics as may be required. The Committees may work tentatively for six months or as may be found necessary.

ii. Chairpersons will be as follows:

S.No.	State/UT	Chairperson
1	Andhra Pradesh	Justice B. Seshasayana Reddy, former Judge, Andhra Pradesh High Court
2	Assam	Mr. Ranjit Shekhar Mooshahary, IPS former Governor of Meghalaya
3	Bihar	Justice Samarendra Pratap Singh, former Judge, Patna High Court
4	Chhattisgarh	Justice Dharendra Mishra, Former Judge, High Court of Chhatisgarh
5	Gujarat	Justice Babulal Chandulal Patel, former Chief Justice, High Court of Delhi and former Judge of Gujarat High Court.
6	Haryana	Justice Pritam Pal, former Judge, High court of Punjab and Haryana*
7	Himachal Pradesh	Mrs. Rajwant Sandhu, former Chief Secretary of Himachal Pradesh *
8	Jammu & Kashmir	Justice Janak Raj Kotwal, former Judge, High Court of Jammu & Kashmir.*
9	Jharkhand	Justice Ramesh Kumar Merathia, former Judge, High Court of Jharkhand.*
10	Karnataka	Justice Subhash B. Adi, former Judge, High Court of Karnataka.
11	Kerala	Justice A.V Ramakrishna Pillai, former Judge, High Court of Kerala
12	Madhya Pradesh	Justice K.K Trivedi, former Judge, High Court of Madhya Pradesh.

a view to effectively execute the directions of this Tribunal. Such expenses may include secretarial assistance, travel as well as cost incurred for any technical assistance.

b. Apart from remuneration, all actual expenses incurred in taking assistance for secretarial working will be reimbursed by concerned PCB as already directed vide order dated 17.12.2018 E.A. No.32/2016, *Amresh Singh v. Union of India & Ors.*

13	Maharashtra	Justice J.P Devadhar, former Judge, High Court of Bombay.*
14	Manipur	Mr. Jarnail Singh, Ex-Chief Secretary, Manipur.
15	Odisha	Justice P.K. Mohanty, former Judge, Odisha High Court.
16	Punjab	Justice Pritam Pal, former Judge, High court of Punjab and Haryana*
17	Rajasthan	Justice Deepak Maheswari, former Judge, Rajasthan High Court
18	Sikkim	Justice A.P Subba, former Judge, High Court of Sikkim.
19	Tamil Nadu	Justice P. Jyothimani, former Judge, Madras High Court, former Judicial Member, NGT.
20	Telangana	Justice C.V. Ramulu, former Judge Andhra High Court.
21	Uttar Pradesh	Justice Devi Prasad Singh, former Judge, High Court of Allahabad. *
22	Uttarakhand	Justice U.C Dhyani, former Judge, High Court of Uttarakhand. *
23	West Bengal	Justice J.K Biswas, former Judge, High Court of Calcutta.* ²⁵

29. In other States/UTs, the Chief Secretaries/Administrators will be the Chairpersons, other members and Member Secretaries being same as mentioned earlier. The Committees may hold their first meeting positively before 15.02.2019 and thereafter hold meetings periodically as may be found necessary as per direction of the Chairperson of the Committee.

30. The Committee constituted under Rule 5,12 & 23 of the SWM Rules, 2016 will continue to work in tandem with the State Level Committees and the

²⁵ *Already appointed in other Committees of NGT

frequency of their meeting will be jointly worked out by the State Level Committee and the Committees constituted under the SWM Rule.

31. The CPCB may prepare Standard Operating Procedure (SOP) for implementation of Clause (J) to the Schedule-I of the SWM Rules, 2016 relating to Bio-mining and disposal of legacy waste within one month after considering successful modes, to be customized according to local conditions and circulate the same to the SPCBs and PCCs who in-turn may communicate to the Chief Secretary for implementation. CPCB will also convey these guidelines to MoHUA, Apex and State Level Committees and coordinate with them as per Rule 14 of SWM Rules.
32. The District Collectors under Rule 12 of SWM Rules, 2016 may meet monthly and forward the report to State Urban Development Department and send copy to the State Level Committee. The Committees may get report from District Collector once a month.
33. The Apex Monitoring Committee may interact with the State Committees in such manner as may be found necessary and give its report to this Tribunal once in a quarter. Apex Monitoring Committee may interact with the State Level Committees atleast once in a month. Chairpersons of the State Level Committee will be at liberty to visit the District Collector and other local authorities.
34. The expression 'remuneration' used in earlier orders will stand substituted by 'honorarium'.
35. Every State/UT may constitute a Special Task Force (STF) in every District having four members one each nominated by District Magistrate, Superintendent of Police, Regional Officer of the State Pollution Control Boards in concerned Districts and one person to be nominated by the

Chairman of the District Legal Services Authority (DLSA) for awareness about the SWM Rules, 2016 by involving educational, religious and social organizations including local Eco-clubs. The involvement of DLSA would be subject to the approval of the National Legal Services Authority which is the apex body under the Legal Services Authorities Act, 1987 by an appropriate administrative order. This will apply to order of the Tribunal in *Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogendra Kumar*²⁶, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB"²⁷, Court on its own Motion v. NCT, Delhi & Ors.²⁸ and *M.C.Mehta v. Union of India & Ors.*²⁹

36. It has been repeatedly laid down by the Hon'ble Supreme Court that Information, Education and Communication (IEC) programmes can go a long way for protection of the environment. Such program can be successful if network of Legal Services Authorities and Educational Institutions at every level is involved. This is possible only if such instructions are issued on the administrative side by the NALSA and concerned Education Departments of the States. We request concerned authorities to take appropriate steps in view of the judgments of the Hon'ble Supreme Court in *M.C. Mehta v. Union of India & Ors.*³⁰ and *In Re: Noise Pollution* and Article 144 of the Constitution of India ³¹ Ministry of Health and Ministry of Railways in coordination with MoEF&CC may be involved in awareness programmes. Solid waste management issue impacts in a big way. Various departments of the Government, particularly Railway, Health and Defence. MoEF&CC may coordinate with the concerned

²⁶ O.A. No. 138/2016 order dated 27.08.2018

²⁷ O.A.No. 673/2018, order dated 20.09.2018

²⁸ Sua Moto Application No. 290/2017, order dated 24.10.2018

²⁹ O.A. No. 200/2014 order dated 29.11.2018

³⁰ (2004)1 SCC 571

³¹ (2005)5 SCC 733

Ministries in IEC programmes and furnish an Action Taken Report by email at ngt.filing@gmail.com.

37. We also make it clear that the rule of law has to be upheld. This Tribunal has laid down that the State itself is liable to pay compensation for its failure to perform duties in upholding environmental norms and can also be held liable for paying damages which may be recovered from the polluters and the erring officers.³²

38. We have already noted that 'Polluter Pays' principle can be applied by every regulatory authority and compensation can be and must be recovered from every polluter and the amount which is to be recovered spent for the restoration of the environment.³³ On the pattern of order dated 19.12.2018³⁴, the compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches. The Tribunal may have to consider direction to require compensation to be paid for damage to the environment on monthly basis with incremental scale for the delay in compliance of the Rules. This aspect will be considered in the light of progress achieved by

³² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors* (O.A. No.95/2018) order dated 11.01.2019- wherein this Tribunal reiterated that 'Polluter Pays' principle is ingrained in the environmental jurisprudence of the country as well as statutory mandate under Section 20 of the NGT Act, 2010.; *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* (O.A No. 110 (T_{HC})/2012) order dated 04.01.2019- wherein this Tribunal held that it is necessary that the state machinery is required to compensate for their negligence and failure which may act as deterrent against the officers who neglected their basic duty of protecting the environment or colluded with the polluters and law violators. This is required not only as a part of principle of 'polluter pays' which applies not only to actual polluters but also to those who collude with polluters or enable pollution to be caused and also for the negligence of public duties, adversely affecting the citizens.

³³ *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* O.A. No. 110(T_{HC})/2012

³⁴ News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (O.A. No. 673/2018) vide order dated 19.12.2018- wherein this Tribunal held that compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches.

the concerned States/UTs as may be shown from the reports furnished to this Tribunal by the Chief Secretaries or otherwise. On this aspect, CPCB, MoEF & CC and the Apex Committee may furnish their views on the subject within one month at ngt.filing@gmail.com.

VII. FURTHER PROCEEDINGS AND CONCLUSION

39. Accordingly, we direct the Chief Secretaries/Administrators of all States and UTs to review the progress on all the above issues and for the purpose, hold first meeting within one month from today. After the Chief Secretaries have monitored the matters, the Status Reports of compliance and immediate future plans may be presented/filed before this Tribunal. For this purpose, we direct the Chief Secretaries to remain present in person along with their reports on different dates mentioned below starting from 1st March, 2019 at 2:00 P.M:

S.No.	State/UT	Date of Meeting
1	Jammu & Kashmir	01.03.2019
2	Himachal Pradesh	05.03.2019
3	Haryana	06.03.2019
4	Punjab	07.03.2019
5	Uttarakhand	08.03.2019
6	NCT Delhi	11.03.2019
7	Uttar Pradesh	12.03.2019
8	Chandigarh	13.03.2019
9	West Bengal	14.03.2019
10	Bihar	15.03.2019
11	Jharkhand	25.03.2019
12	Odisha	26.03.2019
13	Arunachal Pradesh	27.03.2019
14	Assam	28.03.2019

15	Tripura	29.03.2019
16	Manipur	01.04.2019
17	Meghalaya	02.04.2019
18	Mizoram	03.04.2019
19	Nagaland	04.04.2019
20	Sikkim	05.04.2019
21	Maharashtra	08.04.2019
22	Gujarat	09.04.2019
23	Goa	10.04.2019
24	Daman & Diu	11.04.2019
25	Dadra and Nagar Haveli	12.04.2019
26	Madhya Pradesh	15.04.2019
27	Rajasthan	16.04.2019
28	Chattisgarh	22.04.2019
29	Tamil Nadu	23.04.2019
30	Karnataka	24.04.2019
31	Kerala	25.04.2019
32	Andhra Pradesh	26.04.2019
33	Telangana	29.04.2019
34	Puducherry	30.04.2019
35	Andaman & Nicobar Islands	01.05.2019
36	Lakshadweep Islands	02.05.2019

40. The Chief Secretaries may acquaint and keep themselves ready on the following points:

- 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. Status of functioning of Committees constituted by this order.
- 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.
41. It is made clear that Chief Secretaries may not delegate the above function and the requirement of appearance before this Tribunal to anyone else. However, it will be open to them to change the date, by advance intimation by email at NGT website i.e. ngt.filing@gmail.com, to adjust their convenience.
42. The States will also display on their respective websites and the websites of the Pollution Control Boards/Committees the progress made on each of the above issues, consistent with directions in some of the earlier order, including the order dated 19.12.2018 in *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).

43. MoEF & CC may coordinate with the concerned organizations/association of industries to indicate a programme to reduce the quantum of waste by appropriate strategies including use of less packaging material keeping in mind such initiatives elsewhere.

44. The Chief Secretaries of the States and UTs may ensure that all the drains (big or small) are tapped with appropriate measures (wire nets etc.) and no municipal solid and plastic waste is allowed to reach our river systems, lakes, water bodies, ponds, marsh lands and wetlands etc.

45. We are also of the view in accordance with the Rule 14 of the Rules, the CPCB may assign an officer to coordinate with the Committees constituted under this order or other orders where the Committees are headed by the former Judges and senior bureaucrats. Since Dr. A.B. Akolkar, former Member Secretary, CPCB has been associated with such coordination and the CPCB has engaged his services, he may continue to be engaged for the purpose and provided requisite logistics to carry out his duties.

46. List for further consideration on above dates and thereafter on July 10, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 16, 2019
Original Application No. 606/2018
AK

