

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

(IN CHAMBERS)

(Office report for directions for rescheduling the appearance of Chief Secretaries in compliance of earlier orders and taking on record report of the Niti Ayog dated 25.6.2020)

In Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues

Date of hearing: 02.07.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

ORDER

1. The Tribunal has been considering the issue of non-compliance of Solid Waste Management Rules, 2016 and other important environmental issues for protection of public health and the environment in this matter. The issues of solid as well as liquid waste management are being monitored as per orders of 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.*, (with regard to solid waste management) and order reported in (2017) 5 SCC 326, *Paryavaran Suraksha vs. Union of India* relating to liquid waste management. Other related issues include pollution of 351 river stretches, 122 non attainment cities in terms of air quality, 100 polluted industrial clusters, illegal sand mining etc.

2. After several orders and proceedings before this Tribunal, on 16.01.2019, the Tribunal held that it will be necessary to require the

personal presence of Chief Secretaries of all States and UTs in view of continuing non-compliance of the solid and liquid waste management rules adversely affecting the environment and public health. Needless to say that such large scale non compliance of environmental law is resulting in deaths and diseases and irreversible damage to the environment without punishment and accountability for such non-compliance. Violation of the Rules as well as orders of this Tribunal being by itself criminal offence under the law of land, non compliance is to be viewed sternly to enforce rule of law. No State authority can be on the wrong side of law and still continue hold public office.

3. Accordingly, the Chief Secretaries of all the States/UTs appeared on the scheduled dates till 18.07.2019 and the Tribunal, after reviewing the status of noncompliance on most of the issues, directed further effective steps to be taken for compliance of the Rules and the environmental norms. The directions include setting up of environmental cells directly under the Chief Secretaries, regular periodical monitoring by the Chief Secretaries at the State level and by the District Magistrates at the District level and making atleast some cities, towns and villages compliant in the first instance and thereafter making the entire State compliant. Direction is to take action for non-compliance by recovery of compensation or otherwise. The Tribunal also directed filing of quarterly reports by the Chief Secretaries. Based on such reports, CPCB was to file consolidated status reports. The Chief Secretaries were to appear after six months with updated status of compliance.

4. The matter was reviewed on 12.09.2019 in the light of reports of the CPCB dated 09.09.2019 **showing wide gaps in compliance of solid**

waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters and non-attainment cities. A fresh schedule for appearance of the Chief Secretaries was issued. Accordingly, the Chief Secretaries of 18 States/UTs¹ appeared and filed updated status reports and since there still existed huge gaps in compliance, further directions were issued by way of different orders. Last such order is 28.2.2020. Other orders are on same pattern. The direction part of the said order is reproduced below:

“41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:

- a. In view of the fact that most of the statutory timelines have expired and directions of the Hon’ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, *interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries***

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States/UTs	Appeared on	Next date
UP, Punjab & Chandigarh	10.01.2020	24.08.2020
West Bengal	17.01.2020	04.09.2020
Maharashtra	24.01.2020	11.09.2020
Rajasthan and Andaman & Nicobar	31.01.2020	18.09.2020
Telangana	14.02.2020	25.09.2020
Karnataka	20.02.2020	01.10.2020
J&K and Sikkim	24.02.2020	07.10.2020
Madhya Pradesh	25.02.2020	14.10.2020
Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura and Meghalaya	28.02.2020	03.11.2020

must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

- b. **Legacy waste remediation was to ‘commence’ from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28² even though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.**
- c. *Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in*

² The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

- d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:
 - i. **Interim measures for phytoremediation/bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.**
 - ii. **Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.**
 - iii. **Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.**
- e. Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.
- f. An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.

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

5. In view of the lockdown, further appearance of the Chief Secretaries could not take place and we accepted the prayer for deferring the presence of the Chief Secretaries. This applies to the present case also in respect of the letter of the Chief Secretary Kerala. The appearance of the Chief Secretaries of States/UTs who have not appeared in second round so far is now rescheduled as follows:-

S. NO.	STATES/UTs	REVISED DATES
1.	Bihar	4.1.2021
2.	Odisha	6.1.2021
3.	Jharkhand	8.1.2021
4.	Assam	11.1.2021
5.	Delhi	14.1.2021
6.	Haryana	18.1.2021
7.	Ladakh	20.1.2021
8.	Gujarat	22.1.2021
9.	Goa	25.1.2021
10.	Daman and Diu	27.1.2021
11.	Dadar and Nagar Haveli	29.1.2021
12.	Himachal Pradesh	1.2.2021
13.	Uttarakhand	3.2.2021
14.	Chhattisgarh	5.2.2021
15.	Kerala	8.2.2021
16.	Tamil Nadu	10.2.2021
17.	Lakshadweep	12.2.2021
18.	Puducherry	15.2.2021
19.	Andhra Pradesh	17.2.2021

TIME: 2:00PM

The state appearing on the respective dates shall submit a quarterly report to NGT and CPCB, 15 days in advance to their appearance.

6. Appearance of the Chief Secretaries in third round is rescheduled as follows:

S. NO.	STATES/UTs	DATE OF HEARING
1.	Punjab	1.7.2021
2.	Chandigarh	5.7.2021
3.	Uttar Pradesh	7.7.2021
4.	West Bengal	9.7.2021
5.	Maharashtra	12.7.2021
6.	Rajasthan	14.7.2021
7.	Andaman & Nicobar	16.7.2021
8.	Telangana	19.7.2021
9.	Karnataka	21.7.2021
10.	Jammu & Kashmir	23.7.2021
11.	Sikkim	26.7.2021
12.	Madhya Pradesh	28.7.2021
13.	Arunachal Pradesh	30.7.2021
14.	Nagaland	2.8.2021
15.	Manipur	4.8.2021
16.	Mizoram	6.8.2021
17.	Tripura	9.8.2021
18.	Meghalaya	11.8.2021

TIME: 2:00PM

The state appearing on the respective dates shall submit a quarterly report to NGT and CPCB, 15 days in advance to their appearance.

7. In case the physical presence of the Chief Secretaries is not found viable, they can seek to appear online by way of video conferencing but they may not delegate this responsibility to any other officer. All the State/UTs may take further steps for compliance of environmental norms

in terms of directions already issued including taking coercive measures for non-compliance against the polluters as well as erring officers and recovering compensation. Quarterly report may continue to be filed with a copy to CPCB. CPCB may file consolidated reports quarterly. There may be a separate column showing compliance of direction for model compliant cities, towns and villages in every State. The Chief Secretaries may have this as one of the focus areas in their presentation also.

II. Report of the Niti Ayog:

8. One of the frequent pleas being that time was consumed in preparing DPRs, tender or other documents, vide order 18.10.2019, The Tribunal requested Niti Ayog to standardize technologies and costs. Operative part of the said order is as follows:

“There is need to standardize necessary technologies with cost breakups for operation and maintenance, including procurement. Besides this, the service provides need to be identified and empaneled. This exercise may also require the concerned authority to explore business models”. It had also stated in paragraph 2 that -“development of business models for privatization of (a) sewage collection, treatment and disposal, including utilization of treated water and sludge; (b) remediation of legacy waste dumpsites; and (c) other such activities relating to collection, treatment and processing and utilization of wastes and provision of services such as setting up of rainwater harvesting system may have to be considered.”

9. Accordingly, the NITI Ayog has filed its report 25.06.2020, *inter alia* as follows:

“Subsequently, first meeting of the Committee under the chairmanship of Vice-Chairman, NITI Aayog was held on 19.11.2019 wherein it was decided that CEO, NIT! Aayog will be the nominee of the Vice-Chairman, NITI Aayog to chair the committee constituted by the Hon'ble Tribunal. Thereafter, CEO, NITI Aayog convened a meeting in which a sub-group was formed under the chairmanship of Director General, NMCG, which included Additional

Director-General, NMCG, Additional CEO, GeM Portal, Joint Adviser, Central Public Health Environmental Engineering Organization (CPHEEO) of MoHUA, Adviser (Housing & Urban Affairs), NITI Aayog and Adviser (Water Resources & Land Resources), NITI Aayog. It was directed during the meeting that this sub-group will take a decision regarding the documents and business models that should be uploaded on GeM Portal for easy adoption by states to undertake solid and liquid waste management in India.

The Committee held three meetings: on 19.11.2019, 20.11.2019 and 17.03.2020. Pursuant to the decisions taken during these meetings, **NITI Aayog has formulated the Model Concession Agreements (MCAs) and Model Request for Proposals documents (RFPs) for Integrated Solid Waste Management (including Bio-Remediation of Legacy Waste) and Integrated Liquid Waste Management (including Faecal Sludge Management) on Hybrid Annuity Model (HAM) of Public-Private Partnership (PPP).**

MoHUA has provided Engineering Procurement Construction (EPC) Contract for Legacy Waste Dumpsite Remediation and several other documents relating to legacy waste dumpsite remediation and integrated solid waste management activities such as collection, transportation, processing and disposal of municipal solid waste.

NMCG has also provided documents for setting up of sewage treatment plants and other guiding documents for improved liquid waste management in the country.

Now the Urban Local Bodies (ULBs) have the following options for solid waste management and liquid waste management under PPP:

For Solid Waste Management:

- (i) To undertake only legacy waste remediation: existing method of tendering EPC contract which is entirely financed by the government be taken up (it is a successful model as indicated by MoHUA).
- (ii) To undertake only solid waste management system collection transportation processing & disposal) (Non-HAM): the existing method of tendering Design, Build, Finance, Operate & Transfer (DBFOT) contracts which is either not funded or only partly funded by the government be taken up. The drafts of such agreements, model RFP, list of necessary clauses of such agreements, and guidelines for drafting of concession

agreements have been made available through Swachh Bharat Mission (Urban), MoHUA, and the World Bank.

- (iii) To undertake both legacy waste remediation as well as solid waste management system: the MCA of NITI Aayog under HAM may be taken up.
- (iv) To undertake only solid waste management system (collection, transportation, processing & disposal) Myths only the parts of the NITI Aayog MCA pertaining to Bio-Remediation of Legacy Waste may accordingly be removed by the ULB and remaining agreement may be taken up.

For Liquid Waste Management:

- (i) To undertake only sewage treatment (Non-HAM): existing method of tendering EPC contract or DBFOT contract for setting up sewage treatment plants under state or central government funding schemes, may be taken up.
- (ii) To undertake only sewage treatment (under HAM): model bidding documents prepared by NMCG may be taken up.
- (iii) To undertake both sewage treatment as well as faecal sludge management system: the MCA of NITI Aayog under HAM may be taken up.

As per paragraph 5 of the NGT Order, the Tribunal was of the opinion that placing these documents on the GeM Portal would go a long way in tackling the situation by curtailing procedural delay.

In accordance with the requirement of the NGT Order, all the relevant documents were shared with the CEO, GeM Portal on 11.06.2020 to initiate the process of uploading of the documents.

I am sharing the documents with you for the kind information and reference of the Hon'ble Tribunal.

The following documents are attached herewith:

- (A)** Order of the Hon'ble National Green Tribunal dated 18.10.2019 in O.A. No. 606/2018 (Main) on `Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues.

(B) Solid Waste Management (SWM)

- (i) Model Concession Agreement including Schedules (prepared by NITI Aayog)**

- (ii) Model RFP for Solid Waste Management (prepared by NITI Aayog)**
- (iii) EPC Contract for Legacy Waste Dumpsite Remediation**
- (iv) DPR preparation Toolkit for Dumpsite remediation**
- (v) EPC Contractors & O&M Vendors for dumpsite remediation**
- (vi) Equipment & Suppliers for dumpsite remediation**
- (vii) Template for management of Dumpsites**
- (viii) Toolkit for DPRs preparation**
- (ix) List of SWM Empanelled Agencies**
- (x) Empanelled Institutes SWM**
- (xi) Empanelled Transaction Advisers - SWM**
- (xii) Checklist for scrutiny of DPR for SWM projects**
- (xiii) Checklist for scrutiny of PPR or PHI for SWM projects**

(C) Liquid Waste Management (LWM)

- (i) Model Concession Agreement (prepared by NITI Aayog)**
- (ii) Schedules to Model Concession Agreement (15 Schedules) (prepared by NITI Aayog)**
- (iii) Model RFP for Liquid Waste Management (prepared by NITI Aayog)**
- (iv) DPR Guidelines - LWM**
- (v) Empanelled Institutes for evaluation of DPRs - LWM**
- (vi) List of Transaction Advisers & Project Engineers - LWM**
- (vii) Model Bidding Documents for NMCG projects - STP**

(D) Letter addressed to the CEO, GeM Portal through which the above-mentioned documents were shared with GeM, requesting them to initiate the process of uploading.

The documents listed above have been approved by the competent authority at NITI Aayog. This submission is in compliance and fulfillment of the directions given by the Hon'ble National Green Tribunal to NITI Aayog in its Order dated 18.10.2019 in O.A. No. 606/2018 (Main).”

10. The report is taken on record and may be acted upon by all States/UTs as per viability to shorten the procedures.

The Office Report stands disposed of accordingly.

A copy of this order be sent to the Chief Secretaries of all the States/UTs, CPCB, MoEF&CC, State PCBs/PCCs, Ministry of Jal Shakti and Niti Ayog by email.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

July 2, 2020
Original Application No. 606/2018
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