

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

Original Application No. 111/2013

Dr. Subhash C. Pandey Vs. Municipal Corporation, Bhopal & Ors.

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

PRESENT : Applicant : Dr. Subhash C. Pandey

Respondent No. 1 : Shri Asad Ullah Khan, Adv. for

Respondent No. 2 : Shri Sachin K.Verma, Adv.

**Respondent No. 3 & CECB : Shri Shivendu Joshi, Adv. for
Shri Purushaindra Kaurav, Adv. with
DPS Bundela, RO, MPPCB, BPL**

**State of Chhattisgarh : Shri S.S.Chauhan, Adv. with Dr.
Rohit Yadav, Director Urban
Development, Chattisgarh.**

**RSPCB : Shri Sandeep Singh, Adv. with Mr.
M.P. Meeena, Addl. Director DLB.**

State of Rajasthan : Shri Sandeep Singh, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 1 14th March, 2014	<p style="text-align: center;"><u>M.A. No. 145/2014</u></p> <p>This application has been filed by Shri Sachin Verma, Standing Counsel for the State of Madhya Pradesh seeking further extension of the time to comply with the order dated 4th February, 2014 on the grounds mentioned in the application.</p> <p>In view of the order that we propose to pass, having heard the learned counsel for the parties, this M.A. is allowed and thus stands disposed of.</p> <p style="text-align: center;"><u>Original Application No. 111/2013</u></p> <p>We have heard learned counsel for all the parties.</p> <p>From the replies which have been filed on behalf of the State of Rajasthan and Chattisgarh indicating the steps taken so far, we</p>

find that total compliance of the MSW Rules, 2000 by any of the States has not been made despite their enactment in 2000 and 14 years having passed. It is, therefore, necessary as was submitted during the course of hearing by the learned counsel appearing for all the three States, that since the issue has been raised before the Tribunal and notices issued, the matter is being looked into in the proper perspective and more particularly in the light of the Rules of 2000 for their compliance.

Learned counsel for the Respondent States submitted that they would submit before the Tribunal the plan which each of the three States has prepared for compliance of the MSW Rules, 2000.

It was further submitted that the States intend to undertake the aforesaid exercise by taking up the issue in a phased manner since there are certain financial constraints which would not permit the States to undertake the entire exercise simultaneously in one go.

Accordingly, each of the States shall submit the plan prepared by them with regard to the compliance of the MSW Rules, 2000 indicating phase wise details with the name of the City/Town Municipal Corporation/Municipality which is to be included in that particular phase and also indicating whether there exists any approved landfill site and if not, what steps have been taken with regard to the identification and acquisition of the land if it is not a Govt. land and also whether such use is permissible under the Development Plan / Master Plan if in-force and necessary clearances obtained from the Pollution Control Board with regard to the approval of such sites. The time within which such identification of sites and submission of proposals to the Pollution Control Boards would be taken up should

be mentioned. The task of preparation of the plan and the manner in which the collection, segregation, transportation and processing involving disposal of municipal solid waste would be undertaken whether by the concerned Municipal Corporation/Municipality themselves or through contracts under PPP or otherwise, shall also be indicated as also the timeframe within which such sites would be developed for the aforesaid purpose including setting up of incinerators wherever required jointly by one or more such Municipalities and if it requires the identification of the sites for the same as also clearances from the Pollution Control Boards. The States shall also indicate how and in what manner the expenses which are likely to be incurred for the whole process of implementation of MSW Rules, 2000 as per its estimates for individual requirements and whether such expenditure shall be met from its own resources or under any financial grants from the Centre. The State shall indicate in their affidavit the financial estimates in the coming financial budgets for this purpose.

It is also submitted and brought to our notice that under the 13th Finance Commission certain funds were set apart and given to the States for the aforesaid purpose.

Each State shall therefore indicate how much money under the 13th Finance Commission was received by the States and in what manner such amount has been utilized and by which Municipal Corporation/Municipality.

The State Governments have to take up the aforesaid issues in letter and spirit as the MSW Rules, 2000 are in force since the year 2000 and 14 years have already elapsed but still in most cases as per

the data placed before us, scientific management of municipal solid waste, as required under the Rules, is not being done which is in violation of law.

But for the fact that the Applicant has raised the aforesaid issue before this Tribunal and the notices were ordered to be issued to all the three States, the aforesaid issues may not have come to be highlighted and given the due importance which they deserve as hygiene and sanitation is of utmost importance to every citizen of this country being part of Article 21 of the Constitution and as held by the Hon'ble Supreme Court as early as in 1980 in the case of Ratlam Municipality. Despite such judgments having been given by the Hon'ble Supreme Court, the matter still remains in somewhat the same situation that was prevailing at that point of time due to the indifferent approach of the State and local authorities.

This Tribunal, therefore, directs that each of the three States shall pay to the Applicant an amount of Rs.20,000/- (Rs. Twenty Thousand) each towards the expenses incurred by the Applicant in raising the aforesaid issue before the Tribunal and the effort which he has made in bringing out several aspects before the Tribunal. The cheques for the said amount of Rs.20,000/- as stated shall be handed over to the Applicant on the next date of hearing by each of the three States.

Since some of the issues which were highlighted before us have been discussed in the recent national level meeting convened by the Central Pollution Control Board (CPCB) with all the State PCBs on 10.03.2014 after this issue was raised before us as was brought out before us subsequent to our February, 2014 order by way of

follow-up action, we deem it appropriate to issue notice to the Ministry of Environment & Forests as it was submitted that the minutes of the meeting have been forwarded to MoEF which has already sought proposals on the proposed amendment of MSW Rules which were put in public domain in 2013. We, therefore, feel that the views of the Ministry are of utmost importance in this behalf as most of the issues which have been highlighted and as submitted before us deal with the biggest constraint of financial implications apart from the other issues which were raised. We, therefore, consider it necessary that the Planning Commission of India be also issued notice to get its response with regard to the financial outlay which may have been made by the Planning Commission on the aforesaid subject regarding the disposal of municipal solid waste to various States and whether it has monitored the utilisation of the allotted funds for compliance of MSW Rules, 2000.

Notices be issued to the Ministry of Environment & Forests, Govt. of India along with Ministry of Urban Development, Govt. of India and the Planning Commission of India through their Secretaries returnable on **5th May, 2014**.

.....,JM
(DALIP SINGH)

.....,EM
(P.S.RAO)