

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

M.A.No. 647/2014 & M.A.No. 648/2014

in

Original Application No. 111/2013

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

and

Original Application No.36/2014 (THC) (CZ)

Sarvajanik Jankalyan Parmarthik Nyas v. State of M.P. & 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 Vivek Agarwal, Adv.
Shri Sanjay Kumar, Addl. Commissioner
Respondent No. 2 : Shri Sachin K.Verma, Adv.
Respondent No. 3 : Ms. Parul Bhadoria, Adv. for
& CECB : Shri Purushaindra Kaurav, Adv.
Respondent No. 10: Shri Sunil Shrivastav, Advocate
Dr. Rohit Kakkar, OIC
State of Chhattisgarh : Shri S.S. Chauhan, Adv. with
Shri Ranjeet Dwivedi
State of Raj. & RSPCB : Shri Rohit Sharma, Adv. for
Shri Sandeep Singh, Adv.
MoEF : Shri Om S. Srivastav, Advocate
BMC in O.A. No. 36/2014: Shri M.Ajmal Adv. for
Shri Vijay Choudhary, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 6 & 7 24th November, 2014	<p style="text-align:center"><u>M.A.No. 648/2014</u></p> <p>After the previous hearing, the Learned Counsel for the BMC has submitted a compliance report with M.A.No. 648/2014 indicating the steps which the BMC has taken so far with regard to the issues highlighted earlier. The same is ordered to be taken on record. Copy of the same has been given to the Applicant.</p> <p>One of the issues for which compliance has been made, is providing of equipment for the safety and health of the workers deployed by the BMC at the existing dumping site at Bhanpura. As regards the preparation of the new site at Adampur Chawni is concerned, the BMC has submitted that they are trying to take the assistance of the District Administration for the purpose of shifting of the persons who are living in</p>

the area around Adampur Chawni. As regards the issue of controlling of fires raging at Bhanpura, it has been submitted that efforts are being made by the BMC for extinguishing the fires. However, it is alleged that some miscreants with a view to keep the issue alive, are igniting fresh fires as would be evident from some of the photographs filed with the compliance report where smoke could be seen emanating in the area adjacent to the dumping site and in close proximity of the high tension electric line. It is stated that the photographs are self revealing and it goes to show that these fires have been deliberately ignited in the area outside the dumping site by some unknown persons.

As regards the averments made in para no. 5 expressing doubts and the intention of such persons and their motives in igniting fire and their relation with the Applicant, the aforesaid averments are ordered to be deleted from the compliance report from para no. 5 as without adequate supporting proof, such averments which harm the reputation of any person should not be levelled in such cases. It should be kept in mind that this application is not an adversarial litigation and has been filed by way of public interest litigation highlighting the issue of non-compliance of the Municipal Solid Waste (Management and Handling) Rules, 2000 and allied issues arising therefrom not only in Bhopal where such dumping site is located at Bhanpur contrary to the rules and permission which was sought in the year 2004 but elsewhere also. The applicant who has raised the aforesaid issue, in our opinion came forward with a good example how such laws which have been framed for protection of the environment, appear to have taken a back seat due to the insensitivity of all concerned.

During the course of hearing the State through its Counsel and the Officer-Incharge and the Learned Counsel for the BMC and the Officer-Incharge of BMC brought to our notice that for undertaking works Adampur Chawni would require some time for preparing the feasibility report as the State Government is taking a policy decision in the matter with regard to adopting a cluster approach for having common site for local bodies for establishing landfill in close proximity i.e. approximately 70 kms. in radius. On the aforesaid issue we were informed that for the

cluster approach at Adampur Chawni, 9 municipalities including the BMC have been identified and therefore the BMC alone will not be in a position to take a decision in the matter if the Municipal Solid Waste from the rest of the 8 adjacent municipalities is also going to be disposed at Adampur Chawni. This will raise further issue with regard to the preparation of the Detailed Project Report as also the linked issue of having 'Waste To Energy' project under PPP mode or to provide an enterprise model approach. This would require taking into consideration the waste generated from the towns located adjacent to Bhopal city and in such a situation to identify the nodal agency which would be required to develop and manage the said domestic waste.

Having considered the aforesaid prayer to grant two months time, we are of the view that the issue with regard to development of site at Adampur cannot be allowed to be delayed on this account and accordingly, all steps for development of the said site and all related issues such as shifting of affected persons and their rehabilitation, development of the green curtain and buffer zone identification and notifying the 'No Construction Zone' at the site and other issues prescribed in the MSW Rules for development of the site and its preparation must go on as per schedule. The issue with regard to having cluster based approach and related issues including finance, etc. may be examined at State level in consultation with the BMC as well as other local bodies which would be included in the said cluster and the State must come forward before this Tribunal with the outcome of these discussions to be held jointly within a month. At the same time, in the discussions, the State must also advise the local bodies with regard to the necessity of closure of the dumping sites which are existing contrary to the provisions of the Rules of 2000. Needless to say that the State may advise the local authorities concerned having such unauthorised dumping site with regard to the best practice/approach and utilisation of land of such sites keeping in view the requirements under the law and the concerns of public health etc.

The M.A.No. 648/2014 submitted by the Bhopal Municipal Corporation for taking on record the compliance report accordingly

stands disposed of.

M.A.No. 647/2014

The Learned Counsel for the State of MP Shri Sachin K.Verma has submitted compliance report of the CM&HO in M.A.No. 647/2014 which is taken on record. Copy of the same has been furnished to the Applicant who disputes the veracity of the medical report of the CM&HO and submits that an independent investigation into the same may be ordered. While allowing the M.A. for taking on record with the report of the CM&HO, we permit the Applicant to submit a counter in case he wishes to dispute the authenticity of the report. It would be open for the applicant to move an application for seeking investigation into the same by an independent agency in case he so desires.

M.A.No. 647/2014 accordingly stands disposed of.

The State of Chhattisgarh has submitted a supplementary affidavit indicating that 55 local bodies have been allotted with land for establishment of landfill sites and they have applied to the CECB for granting permission to establish the same. As regards the 42 local bodies which have already identified the land, the issue with regard to the allotment of the land has been pending with the State. It has been submitted that the Director, Urban Administration and Development, Chhattisgarh is seized of the aforesaid matter and has issued necessary directions to the authorities concerned in this behalf for doing the needful. In case of the 72 local bodies where so far no steps have been taken, a time frame has been worked out and the Director, UAD has issued necessary directions in this behalf. We would expect that all necessary steps be monitored by the Directorate of UAD and the local bodies be apprised with regard to the necessity of complying with the Rules of 2000. The CECB shall closely monitor the progress in this behalf and whenever the local authorities move application, the same shall be considered in accordance with law and dealt expeditiously.

In case of Rajasthan, the Learned Counsel appearing for the State of Rajasthan has submitted a detailed report. However, we find that no major progress has been made since the last meeting held in this regard by the Director of Local Self Government Department on 23.01.2014.

The Learned Counsel for the State of Rajasthan is directed to furnish the information on a chart with regard to the progress made post January, 2014 in case of each of the Municipalities. The RSPCB shall also submit its report with regard to each of the municipalities and the steps which the RSPCB has taken so far.

Learned Counsel for the MPPCB prays for some time to submit the analysis report with regard to the ground water and the ambient air quality in the area as directed earlier.

The time prayed for is granted.

It has been brought to our notice that the MPPCB has written to the Municipal Commissioner, BMC for furnishing the information with regard to the names of past Commissioners as ordered but have not received the said information so far. The Learned Counsel for the BMC is directed to furnish the said information to the MPPCB for further necessary action.

List on **08th January, 2015.**

.....JM

(DALIP SINGH)

.....EM

(P.S.RAO)