

**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.

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

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

Respondent No. 10: Shri Sunil Shrivastav, Advocate

**State of Chhattisgarh : Shri S.S. Chauhan, Adv. with Dr.
Rohit Yadav,**

RSPCB : Shri Sandeep Singh, Adv.

MoEF : Shri Om S. Srivastav, Advocate

Date and Remarks	Orders of the Tribunal
Item No. 1 5th May, 2014	<p style="text-align: center;"><u>M.A. No. 211/2014</u></p> <p>This miscellaneous application has been filed by the State of Madhya Pradesh seeking review of our order dated 14th March, 2014 with the prayer that the order directing payment of cost of Rs.20,000/- to the Applicant towards the expenses incurred by him, be modified.</p> <p style="text-align: center;">The submission of the learned counsel for the State of Madhya</p>

Pradesh is that the Hon'ble Supreme Court has laid-down certain guidelines pertaining to the Public Interest Litigation (PIL) wherein the Hon'ble Supreme Court has held that the Public Interest Litigation should not result in any personal gain or private motive or oblique motive behind filing of the Litigation.

We find that in the application there is no such averment made by the Applicant showing that the Applicant has filed this petition seeking relief with regard to implementation of the Municipal Solid Waste (Management & Handling) Rules, 2000 for any personal gain or private motive or oblique motive. The only reason which has prompted the Applicant to file this petition before this Tribunal is that the State of Madhya Pradesh as well as some of the other States are in total default, as per the Applicant, for non-compliance of the MSW Rules, 2000 which were required to be implemented by each of the States latest by January, 2004. Thus a considerable period of three years was granted under the Rules for their implementation but more than ten years have since elapsed and the States have still not implements the rules of 2000.

In the facts and circumstances of the case, we find no merit in the application submitted by the State of Madhya Pradesh and the same is dismissed. The cost, as directed, shall be paid to the Appellant within two days and the receipt of the same shall be filed in the Court.

This M.A., accordingly, stands dismissed.

M.A. No. 212/2014

This miscellaneous application has been filed by the Respondent No. 2 with the prayer for taking on record the document annexed with the application as Annexure C-1 which is the proposed Waste Management Plan for the State of Madhya Pradesh. A copy of this application has been furnished to the Applicant. Learned counsel for the State is also directed to furnish a copy of the same to the learned counsel for the MoEF as well as to the learned counsel for the Madhya Pradesh Pollution Control Board.

The application is accordingly allowed and stands disposed of. All documents are ordered to be taken on record.

M.A. No. 213/2014

The Applicant has moved this M.A. with the prayer for giving directions among others to provide drinking water to the residents near Bhanpur Khanti.

As regards the aforesaid prayer which is the main prayer in the application and the issue highlighted in the M.A., we grant liberty to the Applicant to file a separate petition in this behalf as this matter primarily is related to the implementation to the MSW Rules, 2000 and related issues where an issue of providing pure and clean drinking water needs to be heard separately.

This M.A. stands dismissed with the aforesaid liberty to the Applicant.

M.A. No. 214/2014

The Applicant has filed this M.A. with regard to the disposal and treatment of plastic waste.

On being informed that the matter has already been dealt with by this Tribunal in the case of *Sandeep Lahariya Vs. State of M.P. & Ors.* in O.A. No. 4/2013 decided on 11th November, 2013, the Applicant seeks leave to withdraw this application.

This application is dismissed as withdrawn.

Original Application No. 111/2013

The Respondent No. 9/MoEF has submitted their counter along with documents at Annexure 1 and 2. Copy of the same has been furnished to the Applicant. The same is ordered to be taken on record.

The State of Chhattisgarh has filed their interim reply on the issues raised as well as the compliance report to our earlier orders copy of which has been furnished to the Applicant. The same is ordered to be taken on record.

The State of Rajasthan has not submitted any response to our order dated 14th March, 2014. Shri Sachin Verma, learned Standing Counsel for the State has not been able to furnish the same because of the ongoing General Elections. However, we find that there is no satisfactory explanation. The response be submitted to our order as well as the reply on or before 7th May, 2014 and the matter shall be taken up on 8th May, 2014. We find that the states have already neglected to comply with the

rules of 2000 for a very long period of time and complicity in the matter cannot be allowed.

During the course of hearing, it was pointed out that even earlier it was brought to the notice of the Tribunal during the course of hearing that the MoEF had also published the draft MSW Rules, 2013 and had also invited representatives of various States by convening a meeting in the month of February, 2014 in this behalf.

Certain issues which were highlighted by the States with regard to the implementation of the Rules of 2000 and also difficulty in implementation and costs involved were raised the response of the States with regard to the draft MSW Rules, 2013 were recorded.

We find from the reply of the MoEF filed today that it is absolutely silent with regard to both the aforesaid issues i.e. non-implementation of the Rules of 2000 by the States and finalization of the proposals with regard to the draft Rules of 2013 as were noticed and highlighted through the meeting in February, 2014. Since most of the States have raised issues with regard to the problems faced by them in implementation of the MSW Rules, 2000 as also lack of funds with regard to creating the facilities for the collection, segregation, disposal of municipal solid waste in accordance with the provisions of the MSW Rules of 2000, the response of the MoEF and Govt. of India is necessary.

We find from the MSW Rules of 2000 that monitoring of implementation of rules is required to be done by the MoEF and reports are

required to be submitted by the State Pollution Control Boards to the CPCB and in turn by the CPCB to the Ministry. We would like to know from each of the States whether prior to February, 2014 response with regard to the working of the Rules and the difficulties faced by the States was submitted by them to the MoEF or by the State Pollution Control Boards to the CPCB and in turn to the MoEF. In case we find that no such difficulty has been pointed out or in case any such difficulty was pointed out but no effective measures were taken in that behalf this Tribunal shall not hesitate in issuing directions with regard to fixing of accountability on the erring officials of the Govt. of India State/local bodies which were required to comply with the Rules. Even the Pollution Control Board which is required and entrusted with the powers to issue directions under the Environment (Protection) Act, 1986 shall also furnish statement as to in what manner they have issued directions to various States with regard to the implementation of the Rules 2000 from time to time and in case the directions were not complied with what steps they took by way of initiating prosecution against the erring officials.

Since we find that the need is to get the direct response from the concerned officials of the State and there may not be enough communication through the counsel, we direct that the Secretary, MoEF shall depute a responsible officer dealing with the MSW Rules and their implementation in the Ministry not below the rank of Deputy Secretary to appear before the Tribunal on 8th May, 2014 to show how the issue is being dealt with by the Govt. of India.

Likewise, each of the three states shall depute a concerned officer from their State either the Principal Secretary, Urban Development/Local Self Government to appear before the Tribunal on **8th May, 2014** to submit in what manner they have implemented the Rules so far and how they plan to implement them in the case of non-implementation and who is responsible for not having implemented these rules so far in each of these three States. We find from the action plans that the State of Madhya Pradesh has prepared the draft plan for implementation of these Rules extending upto 2017 and for implementation by 2030 in the case of State of Chhattisgarh. The State of Rajasthan, as has been stated above, has not submitted their action plan at all, which is directed to be filed on or before 7th May, 2014. It is made clear that no further time shall be granted for the aforesaid purpose as sufficient time from 14th March, 2014 onwards has been granted to the State to submit its response. All the States are prima facie in default and in some cases their officer liable to be prosecuted as they have failed to comply with the directions issued under the Environment (Protection) Act, 1986. As such no latitude of time can be granted in this matter as sufficient time has already been given to the parties.

Learned counsel for the State of Chhattisgarh has handed over a cheque of Rs.20,000/- to the Applicant in compliance to our previous order and the same has been accepted by the Applicant under receipt.

Learned counsel for the State of Rajasthan as well as to State of

Madhya Pradesh are directed to submit compliance report with regard to the payment of Rs.20,000/- each to the Applicant as per our previous order dated 14th March, 2014.

List on 8th May, 2014.

.....,JM
(DALIP SINGH)

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

