

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

**M.A.No. 606/2014**

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 Asad Ullah Khan, Adv.  
Respondent No. 2 : Shri Sachin K.Verma, Adv.  
Respondent No. 3 & CECB : Ms. Parul Bhadoria, Adv. for Shri Purushaindra Kaurav, Adv.  
Respondent No. 10: Shri Sunil Shrivastav, Advocate  
State of Chhattisgarh : Shri S.S. Chauhan, Adv. with  
CPCB, RSPCB : Shri Rohit Sharma, Adv. for Shri Sandeep Singh, Adv.  
MoEF : Shri Om S. Srivastav, Advocate  
Municipal Corporation Bhopal : Shri Neel Choudhary, Adv. for  
(in O.A. No. 36/2014) Shri Vijay Choudhary, Adv.

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 2 10<sup>th</sup> November, 2014</b>	<p style="text-align: center;"><b><u>M.A.No. 606/2014</u></b></p> <p>Today, the Applicant has filed Misc. Application No. 606/2014 wherein he has drawn the attention of the Tribunal to the fact that no steps have been taken either by the Bhopal Municipal Corporation (BMC) or by the State Government for closing down the Garbage Dumping site at Bhanpur Khanti, Bhopal presently being used for disposal of Municipal Solid Waste (MSW) in gross violation of the MSW Rules, 2000 and for creation and establishment of a new landfill site by the BMC which has been identified as required by law and getting the site approved and prepared as per the rules after taking necessary clearances from the MPPCB and SEIAA.</p> <p>With the Misc. Application that has been filed, photographs have been annexed indicating that in the recent past a huge problem has been created as a result of setting the dumped garbage on fire and continuous smouldering of fire in the said dumping site at Bhanpur Khanti leading to</p>

creation of acute air pollution and a thick blanket of smoke which is hazardous to the health of the residents residing in the surrounding colonies as well as creating problems to the passersby using the main highway bypass as well as other roads/paths including the adjacent railway track. By means of newspapers reports annexed with the Misc. Application the extent of problem has been highlighted and it has been pointed out that since October, 2014 fire has been smouldering on extensively at the aforesaid site at Bhanpur Khanti.

Our attention was also drawn to the fact that in our order dated 04.02.2014, in the presence of the Municipal Commissioner, BMC as well as the Principal Secretary, Urban Administration & Development Department (UADD) an undertaking was given from the side of the State as well as the BMC that *'in principle a decision has been taken for closure of the existing landfill site at Bhanpura Khanti in Bhopal Municipal area. It was also submitted that proposals for alternate site are in final stage. It was further submitted that proposals will be finalized within 6 months'*. The Applicant alleged that the position remains the same as it was on the date of passing of the above order and no progress has been made either by the local authorities ie. the BMC or by the State Government in this behalf despite more than 6 months have already elapsed. Before the lunch interval when the matter was taken up for hearing, we directed that the CM & HO, Bhopal to appear so that this Tribunal may be apprised regarding the health hazards that are being faced by the residents within a radius of 1, 3 & 5 kms. of the aforesaid site at Bhanpur Khanti.

After the lunch interval, when the matter was taken up, the CM & HO is present and submitted that unfortunately within the aforesaid radius of 1, 3 & 5 kms. no Government or Private Hospitals or dispensaries are located and as such it is not possible for him to give specific details regarding the health hazards being faced by the residents of the area. Dr. Sanjay Agrawal

from the People's University is present in the court and he submits that in the Medical College hospital of their University, they have been receiving and treating a large no. of patients afflicted with respiratory & asthmatic disorders and this problem is quite acute. Before us, a video taken this afternoon while travelling from the University to the Court was also exhibited to show that fires are still raging and the whole area along the by-pass is filled with smoke.

Learned Counsel appearing for the BMC submitted that while it is true that fires are raging, efforts are being made to put out the fire and a temporary fire station with fire tenders is being set up at Bhanpur Khanti itself. It was submitted that it is not correct to say that the garbage dumped at Bhanpur Khanti is being deliberately set on fire. On the contrary it is submitted that the fire has been raging on in the area intermittently and the same is estimated to be emanating from a depth of roughly 30 to 40 ft. below the surface and therefore the problem gets aggravated whenever there is a change in wind direction and velocity which varies from time to time. Learned Counsel also admitted before us that while the BMC has only submitted an application for seeking the EC for establishing the new landfill site but apart from that no further steps which may be required such as holding of public hearing etc. for establishment of new land fill site have been taken or even notified by the BMC.

The Learned Counsel for the MPPCB submitted that no application has been submitted for seeking EC or permission for establishing a new landfill site by the BMC as prescribed under MSW Rules, 2000 and as such the matter entirely rests with the BMC.

*Prima facie* having heard the parties, we are of the view that our order of 04.02.2014 remains to be complied. The undertaking furnished before us for shifting the Municipal Solid Waste disposal site from Bhanpur within six months also does not appear to have been complied with. It also appears

that the BMC has not taken any steps for establishment of new landfill site for scientific disposal of MSW which as per the Learned Counsel for the State, has been identified and the land already allotted to the BMC. There appears to be total apathy of the BMC in this matter.

We are of the view that though, the State Government as per the submission of the Learned Counsel for the State may have made necessary allotment of land to the BMC, however, the overall responsibility of creating land fill sites within the State and scientific disposal of MSW in accordance with the MSW Rules, 2000 framed by the Centre, rests upon the State Government under Rule 5 along with the District Administration though the execution of the same and its administration rests with the concerned Municipal Body. Even the District Administration in this behalf has failed to take any steps. Thus, *prima facie* all are at fault and they are ignoring public interest and environmental concerns which *prima facie* may amount to criminal neglect.

It is not disputed that the unauthorised use of land at Bhanpur as a dumping site by the BMC has been allowed to continue for years together. Apart from the BMC, neither the District Administration nor the State Government has taken steps to ensure the compliance of the MSW Rules, 2000 in this behalf though ten years have passed since they were brought into force. As a result of the unauthorised use of land as a dumping site at Bhanpur by the BMC and due to not following the prescribed procedure of scientific disposal of MSW and the problem created as a result of the fires which are going on at the site for a long period as a result of which the air is being polluted with toxic gases including Dioxins and Furans released due to burning of plastic waste which are highly carcinogenic as well as releasing thick blanket of smoke and other pollutants including SPM is also not disputed. Even the plastic waste rules are not being observed in this behalf.

The Government of India has placed sanitation on the top of

Government's agenda under 'Swachcha Bharat Abhiyan'. The objective of the programme is to achieve the vision of National Urban Sanitation Policy (NUSP) in all Indian cities and towns to become totally sanitised, healthy and liveable and ensure and sustain good public health and environmental outcomes for all their citizens with a special focus on hygienic and affordable sanitation facilities for the urban people. This task has to be achieved with the help of all concerned including local bodies and public servants in State and District Administration which unfortunately as we have observed so far absolutely nothing has been done with regard to shifting the landfill site from Bhanpur during the past one year of pendency of this Application and even after issuing a series of orders by this Tribunal to comply with the MSW Rules 2000 which were supposed to have been complied by 2003 or with regard to the plastic waste or implementation of the EPR policy under the rules and directions of this Tribunal and the local body as well as the District and State Administration does not appear to be concerned about the environment of the urban areas and the consequent ill effects on the health of the citizens.

**We would accordingly, issue notice to the Bhopal Municipal Corporation through its Commissioner as well as the State Government through the Principal Secretary, Urban Administration and Development Department to show cause why both the Bhopal Municipal Corporation as well as the State Government be not directed to deposit an amount of Rs. 5 Crore each to set up a corpus fund for the medical treatment of persons affected as a result of the pollution being caused by the unauthorised and unscientific disposal of Municipal Solid Waste at Bhanpur Khanti in Bhopal in total violation of the MSW Rules, 2000. The response of the State as well as the BMC shall be submitted within a week.**

The CM&HO will verify the submissions made before us by the

Doctors of the People's Medical College and carry out a survey and submit a preliminary report regarding the veracity of the nature of ailments which may be directly attributed to the pollution being caused by the unauthorised use of garbage dumping site at Bhanpur particularly that of residents residing within a radius of 1, 3, 5 kms of the same. The State Government shall also carry out a survey and inform this Tribunal from the data collected from both the government as well as private educational institutions within the aforesaid radius and also ensure medical check up of students, through the CM & HO, enrolled in such educational institutions within the said radius of 1, 3, 5 kms. Apart from above, the MPPCB in consultation with the Central Ground Water Board shall carry out investigation regarding the pollution of ground water as a result of the unscientific disposal of huge quantity of MSW at aforesaid unauthorised dumping site at Bhanpur for such a long period. In case if water pollution is found after taking water samples from the hand-pumps / tube-wells in the vicinity indicated above, this Tribunal shall pass necessary orders with regard to levying compensation / penalty upon the State as well as the BMC.

Since, it is not disputed at all that the site at Bhanpur is being used unauthorisedly contrary to the permission granted by the Pollution Control Board which incidentally had granted permission to the BMC during 2004 for establishing the landfill site at Jhirnia Village, the MPPCB shall issue show cause notices to all the successive Municipal Commissioners of BMC who worked since 2004 for violating the rules to appear before this Tribunal why they may not be prosecuted for deliberate and wilful violation of the

law (Act of 1986 and the rules made there under).

As regards the State of Chhattisgarh, a supplementary affidavit has been filed today and certain information has been provided. However, from the contents of Para 13 of the same we find that it is necessary for the State to give a detailed report on the status of all the 55 local bodies which have been allotted with the land and which have applied for permission for establishment of landfill sites to the CECB. As regards 42 local bodies for which the land has been identified, the State needs to submit whether allotment of land has been made or not. If not, by what date the land will be allotted and possession handed over to the concerned Municipal body and the time within which necessary permission shall be obtained from the CECB. Regarding, the remaining 72 local bodies where so far the land has not been identified, by the next date the State shall indicate the progress after completing the formalities on identification of the land and its allotment and further process of obtaining necessary permissions.

The Learned Counsel for the State of Rajasthan submitted that the Officer-Incharge has not been able to come today as he is unwell. While, we are not happy with the aforesaid submission made by the Counsel, we feel there is no reason why the information which was required, was not submitted by the State of Rajasthan. However, in the interest of justice, we are inclined to give one more opportunity to the Learned Counsel for the state of Rajasthan to submit the aforesaid information within 7 days.

**The matter be listed on 18.11.2014 at 2:00 PM.**

.....JM  
**(DALIP SINGH)**

.....EM  
**(P.S.RAO)**

