

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

CIRCUIT BENCH AT SHIMLA

**Application No. 175(THC) of 2013
And
Application No. 268(THC) of 2013
AND
Application No. 256(THC)/2013
CWPIl No. 28 of 2011**

IN THE MATTERS OF : -

**Namita Maniktala V/s State of HP & Ors.
And
Court on its own motion Vs. State of HP & Ors.
And
Abhishek Rai Vs. State of HP & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER**

Present:

Petitioner:	Mr. Bimal Gupta, Adv.
State of HP:	Mr. Sharwan Dogra AG Mr. Anup Rattan, AAG and Mr. Vivek Singh Attri, DAG
Respondent No. 2:	Mr. Vivek Singh Thakur, Advocate
Respondent No. 4:	Mr. T.S. Chauhan, Advocate
For ASGI & MoEF:	Mr. Sandeep Sharma, ASGI
Respondent No.5:	Mr. Navneet Bhardwaj, Adv.
Respondent No. 6:	Mr. Dinesh Thakur, Advocate
Respondent No. 7:	Mr. Paras Doger Adv. Mr. Varun Rana, Adv. For M.C. Mandi
Respondent No. 8:	Mr. Dhruv Shamnak Adv. Along with Prakash kash
Respondent No.9:	Mr. Kapil Dev Sood and Mr. Sanjeev Sood, Advs.

Date and Remarks	Orders of the Tribunal
Supplementary Item Nos. 3, 4 & 7 August 14, 2014	<p>At the oral request of Counsel appearing for the parties, M.C. Sunder Nagar is impleaded as Party Respondent and they shall be covered by this Order.</p> <p>By this Order, we shall deal with all the Three above cases commonly i.e. Application No. 175(THC)/2013, Original Application No. 268(THC)/2013 and Application No. 256(THC)/2013 as they relate to the common region that is Mandi, Kullu, Bhuntar, Manali, Aut, Manakser and Sundar</p>

Nagar.

Two main problems which exclusively raise the environmental issues of serious concerns are with regard to collection and disposal of MSW and sewage disposal. Today, we propose to deal with the former and would take up the latter at the subsequent date.

We have heard the Learned Counsel appearing for the applicant, various corporations, Pollution Control Board of Himachal Pradesh, MoEF and Municipal Councils/Nagar Panchayats and Municipal Councils and the learned Counsel appearing for the State of Himachal Pradesh and ACC.

These applications which were pending earlier before the High Court and now before this Tribunal for considerable time deal with the menace of Municipal waste causing environmental hazardous in relation to health and particularly, water. Evidence has been placed before the Tribunal to show that various persons/bodies including Government Departments, Marketing Committees and even Municipal Councils are throwing Municipal waste directly into the river Beas or its tributaries. Municipal waste is also being thrown on the road sides in the colonies, market and open spaces. The various Government Counsel have not taken any effective steps to resolve these issues and protect the health and water in the larger public interest even the Government has recently filed an affidavit stating that the PWD trucks had thrown Municipal waste directly into the river and without fixing responsibility on any particular individual the District Commissioner, Kullu has passed an order imposing a fine of Rs. 25,000/- upon PWD. Thus, we are unable to appreciate as it neither sends any message to the various Government

Department that the persons liable for causing pollution would be liable to pay on the principle of polluter pays nor does it prevent repetition of such serious offence.

Having heard the Counsel appearing for the parties and giving our considered view we hereby issue notice to the Chief Engineer PWD, Kullu region to place the correct facts before the Tribunal while fixing responsibility on the individuals who were responsible for directing or actually and physically putting debris/Municipal waste directly into the river Beas. The report in this regard should be submitted by the Chief Engineer PWD, Kullu region before the next date of hearing.

It needs to be noticed that the NGT under its order had directed that anybody polluting the river by throwing the debris or MSW would be liable to pay a fine or compensation of Rs. One lakh at least. The District Commissioner has nowhere stated any reason for not complying with the order of the NGT. District Commissioner shall also submit its explanation before the Tribunal on the next date of hearing.

Having referred to the pathetic state of affairs prevailing for collection and disposal of Municipal waste and no sincere efforts are being put by the Government or by the Council of the respective areas. We are issuing the following directions for controlling and preventing this menace as interim directions, till the time permanent mechanism and anti-pollution devices are put in place by the Government, PCB and the respective councils. The following are the directions which we hereby issue for strict and expeditious compliance by all concerns:

1. Every council shall ensure that the mechanism is in place before the next date of hearing, which shall ensure

collection of Municipal waste from door to door whether houses, shops commercial undertakings, hotels restaurants and or any other institutions located in that area.

2. The Agricultural Marketing Committees shall fully cooperate and coordinate with the council to ensure that the Municipal waste generated by such committee is not thrown anywhere and is collected in accordance with that mechanism and properly.

3. The Municipal Council of each area would be entitled to charge every individual, shop owner, hotels, restaurant, market, agricultural committees and institutions as charges/compensations for collection of the Municipal waste from their doorsteps. The rates as have been made applicable by the State Government and Municipal Corporation at Shimla would be payable in these areas. Besides that the Agricultural Marketing Committee shall pay Rs. 5,000/- and hospitals generating municipal waste other than Bio-medical waste would be liable to pay Rs. 1000/- per month.

4. All these charges or compensation would be payable on the principle of polluter pays and the councils will collect the same in accordance with law and appropriate action would be taken against the person who does not pay the same and throws the Municipal waste in the open areas.

5. Let the Municipal waste so collected be segregated by the respective council at the premises earmarked for that purpose into bio-degradable and degradable waste and recycleable and non-recycleable waste. Out of the segregated MSW the Bio-degradable waste shall be compost by the

respective Corporation's Councils at the site defined and in accordance with the MSW Rules 2006. They shall ensure due created for the same which have membrane and the bio-degradable waste is properly stored into the pits covered with soil, plastic sheets and due spray is done in accordance with rules to hasten the process of composting.

6. The non bio-degradable waste i.e. plastic waste shall be sent/delivered by the respective council jointly and/or separately at the factory of the ACC at Barmana. Needless to notice that collected plastic waste shall be compressed before delivery.

7. That the delivery shall be conducted in a manner permissive under MSW rules and to ensure on its way to the factory the plastic does not spread over en-route. There shall be a proper transportation by covered trucks and the labour used for carrying MSW shall be provided with due protection to ensure that no damage is caused to their health.

8. To start with, we direct the State Government to immediately release funds for one month to ensure delivery of Plastic waste to ACC. Thereafter, the ACC will bear the expenses for two months for collection of MSW and delivery transportation to the factory of ACC. After the lapse of three months, it shall be duty of each Council to bear its own expenditure for collection and delivery /transportation of MSW at the ACC plant.

9. We may clarify that in the event of any default by any of the stack-holders as aforesaid noticed appropriate action for violation of the orders and for causing environmental

pollution shall be taken against such defaulters. Needless to notice that ACC is under its corporate social responsibility to ensure and help in maintaining the environmental protection. It also remains unavoidable facts that the ACC is going to get free of costs fuel for the purpose of running its plant. Thus, greater co-operation and co-ordination is expected from ACC. We make it clear that the Plastic would not be given to any dealers and would be provided to ACC. However, the expected delivery would be three tons of plastic a day.

10. The inert waste which are neither bio-degradable nor are to be delivered to ACC, that shall be taken to land fill sites and stored in accordance with the MSW Rules.

11. We hereby prohibit any person, body, society, Committee, any department of the Government and/or any other body or person from throwing any MSW and waste of any other kind directly or otherwise into river Beas or any of its tributaries.

12. All hospitals, individuals religious institutions or other bodies which are not located within the limits of any Municipal Council/Nagar Panchayats shall be deemed to be covered for the purposes of this order within the same Municipal Council/Nagar Panchayats as the case may be.

Let copy of this order be sent to the Chief Secretary, all District Commissioners and the SP of the concerned Districts who shall ensure due compliance of this order, without default. State would release funds to the respective Councils within one week from today. As far as the issue with regard to the treatment and disposal of sewage waste and establishment of STPs in various

areas is concerned, we hereby direct the State Government, all the respective Corporations/Councils and PCB to submit project report in relation to these areas respectively before the next date of hearing. The Meeting shall be held of all the Bodies concerned and who are present today before the Tribunal, by the Secretary Urban Development and Environment within two weeks from today.

List the matter on 16th October, 2014.



.....,CP
(Swatanter Kumar)

.....,JM
(M.S. Nambiar)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Dr. R.C. Trivedi)