BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 606/2018

In the matter of:

Compliance of Municipal Solid Waste Management Rules, 2016

ORDER

1. Municipal Solid Waste (MSW) remains one of the most serious challenges for environment protection. Deficiencies in proper management of solid waste have resulted in outbreak of serious diseases in the past and have such potential in future. The issue has been highlighted and considered at all concerned levels and has also been subject matter of decisions of Courts.[1]

2. This Tribunal also considered the matter pursuant to order of the Hon'ble Supreme Court transferring the pending Writ Petition to this Tribunal.[2]

3. The revised Rules[3] have been framed in the year 2016 but implementation remains a problem. Under the Rules, 2016 a report is compiled every year. In the recent annual report[4] prepared in April, 2018, serious deficiencies have been found

[1]Dr. B.L Wadhera vs. Union of India [1996(2) SCC 594], Almitra H. Patel and Ors. vs. Union of India & Ors. (1998) 2 SCC 416, Almitra H. Patel and Anr. vs. Union of India (2004) 13 SCC 538, Municipal Corporation Vs. BVG India Ltd (2018) 5 SCC 462

[2]Order dated 22.12.2016 in O.A. No. 199 of 2014 in the matter of Mrs. Almitra H. Patel and Anr. vs. Union of India & Ors.

[3]Solid Waste Management Rules, 2016 replacing earlier Rules.

[4]Consolidated Annual Report for the year 2016-2017 prepared by CPCB. http://cpcb.nic.in/openpdffile.php?id=UmVwb3J0RmlsZXMvNjE0XzE1MjYzMDE0ODhfbWVkaWFwaG90bzEyMzg3LnBkZg==

in the reports of most of the States, inspite of the Rules being in operation for the last two years.

4. In the order of this Tribunal dated 22.12.2016[5], directions were issued for implementation of the Rules, 2016. Direction was issued for the action plan to be prepared in terms of the Rules, 2016 within four weeks. Action under Rule 6(b) and 15 of the Rules, 2016 was directed to be taken by January, 2017 which was to be complied by 01.07.2017. It was directed that failure would result in action under Section 15 of the Environment (Protection) Act, 1986 i.e. prosecution of the concerned authority. Directions were also issued for creating buffer zone around the plants and landfill sites. Further directions were to comply with the various other provisions of the Rules, 2016.

5. The State Level Advisory Bodies envisaged by the Rules were to function as Monitoring Committees (Direction No. 27 in the Tribunal's order dated 22.12.2016).[6] The Ministry of Environment, Forest and Climate Change has the responsibility to monitor the implementation.[7] The Ministry of Housing and Urban Affairs (earlier known as the Ministry of Urban Development, hereinafter referred to as 'MoHUA') is to coordinate with States and Union Territories.[8] There are duties of other Ministries and authorities.[9] The matter of overseeing

[5] *Supra note 2,* O.A. No. 199 of 2014 Mrs. Almitra H. Patel and Anr. vs. Union of India & Ors.
[6] *supra note 2*
[7] Rule 5, Solid Waste Management Rules, 2016
[8] Rule 6, Solid Waste Management Rules, 2016
[9] Rule 7 to 16, Solid Waste Management Rules, 2016

compliance of various directions remains pending. This Tribunal is faced with frequent grievances against non-compliance of the statutory rules with the photographic evidence of heaps of garbage lying on the streets showing utter failure on the part of the municipal bodies in performing their duties. While coercive measures like prosecution and fixing accountability of the authorities for their failure is a different issue, the Tribunal considered it proper to have interaction with the stakeholders to evolve a mechanism for execution of orders already passed by the Tribunal particularly the order dated 22.12.2016.[10]

6. On 23-07-2018, a meeting was organized through CPCB wherein the experts gave their presentations of successful models adopted for MSW management at some places. It was then decided that after the said models are circulated to the States and Union Territories, an interaction be held with them through video conference.

7. Following issues were circulated to the States and UTs to facilitate interaction:

   i) Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?

   ii) Whether each city/town/urban local body is covered under the said Plan and individual Action Plan has timelines with budgetary provisions?

[10] *supra note 2.*

iii) What time has been fixed to completely comply with the provisions of the Rules, 2016?

iv) What are the main constraints of non-compliance of Rules, 2016?

8. Meetings were held with all the States and Union Territories on 02.08.2018, 07.08.2018, 08.08.2018, 13.08.2018 and 20.08.2018 on the aforesaid matter. At the conclusion of the interaction with the States and Union Territories, it was decided and declared that certain binding directions need to be issued by the Tribunal by forming Apex Level, Regional Level and State Level Committees to oversee the steps taken for implementation of the Rules, 2016 and the directions issued by the Tribunal and give a report to this Tribunal at the end of the quarter. The Committees may have interaction individually with the Statutory Authorities and the Urban Local Bodies. Accordingly, we are recording this order. The Registry may register these proceedings as a fresh Original Application.

9. Interaction showed that with few exceptions, the States and Union Territories are no where near compliance of the Rules, 2016 inspite of the directions issued by this Tribunal. Even action plans have yet not been prepared in all the States more than two years after the Rules, 2016 have been in operation and in spite of binding directions in the Judgment of this Tribunal vide order dated 22.12.2016.[11]

[11] *supra note 2*

10. Accordingly, the Chairman, CPCB present during the interaction suggested that such action plans may now be submitted latest by 31.10.2018, after looking into the successful models which may be improvised as per the local needs. Action plans be executed in the outer deadline of 31.12.2019. The same should be overseen by the Principal Secretaries of Urban Development and Rural Development. There should be periodic monitoring at least once in three months.

11. The MoHUA expressed the view that some of the handicaps put forward by some of the States and the Union Territories are non-existent. The States and Union Territories do not appear to have considered the guidelines[12]/ advisories[13]/ protocols[14] etc. circulated to them by the said Ministry. The same are also available on the website of the Ministry.

12. It is observed that even as per some of proposed plans only 50 to 75 % of the waste produced will be managed by the waste-to-energy plants or waste-to-compost plants or through integrated waste management plants. The rest 25-50% of the current waste will continue to be dumped in the existing dumping grounds or in the new dumping sites. Most of the States have not taken into account the incremental growth in the waste generation in future in the cities which are growing

[12] http://164.100.228.143:8080/sbm/content/writereaddata/Bulk%20Waste%20Generator%20Book.pdf
[13] http://164.100.228.143:8080/sbm/content/writereaddata/Advisory%20on%20decentralised%20composting.pdf , http://164.100.228.143:8080/sbm/content/writereaddata/Waste%20to%20Wealth_2%20Oct.pdf
[14] http://164.100.228.143:8080/sbm/content/writereaddata/Star%20Rating%20for%20Garbage%20Free%20Cities%20-%20Flyer.pdf

exponentially. This will only add to the waste dumps which have already assumed alarming proportions. Moreover, most of the states have no plans to deal with the legacy waste which have already become virtual mountains in some of the cities causing environmental disasters. Only plans which some of the States have made is to cap the legacy waste except for the State of Goa (which has an integrated waste processing and management facility), which may be contrary to the Solid Waste Management Rules, 2016. None of the states have even considered bio-mining, as specified in clause J of Schedule I, as one of the options. What is required to be done is to see if some of the successful models like Indore, Ambikapur, Goa and Udupi can be replicated in their States, if necessary with few modifications and adoption to suit their conditions. Capping of waste directly without adhering to clause J of Schedule I to the Solid Waste Management Rules, 2016 is a matter of grave concern, having regard to the serious pollution potential of legacy waste in the form of leachate and emissions of harmful gases if not treated scientifically. All the States and Union Territories across the board ought to deal with the legacy waste in accordance with the procedure laid down in clause J of Schedule I to the Solid Waste Management Rules, 2016. For convenience, the said clause is reproduced below:

> *"J.* ***Closure and Rehabilitation of Old Dumps****- Solid waste dumps which have reached their full capacity or those which will not receive additional waste after setting up of new and properly designed*

landfills should be closed and rehabilitated by examining the following options:

(i) Reduction of waste by bio mining and waste processing followed by placement of residues in new landfills or capping as in (ii) below.

(ii) Capping with solid waste cover or solid waste cover enhanced with geomembrane to enable collection and flaring / utilisation of greenhouse gases.

(iii) Capping as in (ii) above with additional measures (in alluvial and other coarse grained soils) such as cut-off walls and extraction wells for pumping and treating contaminated ground water.

(iv) Any other method suitable for reducing environmental impact to acceptable level.

13. It has also been observed that most of the States have no plans to deal with solid wastes in rural areas and hilly terrains effectively. We know that many rural centres are rapidly turning into urban conglomerates and if their solid wastes are not managed urgently we would be inviting several diseases with disastrous consequences. In these areas the most convenient method adopted is to burn or dump the waste haphazardly and throw them on the hill slopes. What is required to be done is to come out with integrated plans on scientific lines to manage the solid waste which may vary from place to place. For this purpose, it is necessary that a detailed study and consultation with the experts is initiated in right earnest without further delay. It is absolutely mandatory that every state follows Solid Waste Management Rules, 2016 in letter and spirit.

14. Tabular chart furnished by the MoHUA suggesting solution to the problems presented during the interactions is as follows:

S.No.	Problems faced by the States/Union Territories	Solution suggested by the MoHUA
1.	Handling mixed waste	Segregate waste at source and recover/recycle to the extent feasible at different stages. Preferred options: • 50% wet waste - compost/ biomethanization • 30% Dry waste– Recycling • 15% Dry waste– Combustible • 5% Inert waste- Landfill
2.	Land Acquisition	Decentralized processing should be encouraged coupled with source segregation
3.	Financial constraints	• Collect user fee • Levy penalty for polluters • Bulk Waste Generators rules be complied
4.	Lack of capacity	• Hire services of experts • Take help of MoHUA/CPCB
5.	Non-Recyclable Dry Waste Processing	• Maximum of non recyclable dry waste should be used in Cement Plants. • Low value plastic should be used in road construction.

15. Though, we find that the Rules, 2016 provide for review and monitoring mechanism as well as time lines and accountability of the different authorities, the same has not been worked satisfactorily in most of the places. The Tribunal directed compliance of the Rules, 2016 but on ground level the problem continues. Without in any manner disturbing the statutory mechanism, it is necessary to lay down a Tribunal monitored mechanism in exercise of its authority to execute the orders of the Tribunal.

16. The MoHUA has suggested need for Performance Audit as follows:

"Performance Audit

- *Central Public Health and Environmental Engineering organization (CPHEEO), technical wing of MoHUA, can extend technical support in performance audit. CPHEEO can also be a member of the core technical committee constituted by NGT for supervising such performance audits.*
- *Initially performance audit to be conducted for 500 ULBs with population of 1 lakh and above.*
- *Fees/expenses to be raised by ULBs through various means including levying a surcharge/cess over property tax."*

The parameters suggested are as follows:

	Key Parameters/ Indicators	**Description of Parameters/Indicators for physical evaluation**
1	**Door to Door Collection**	Door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises.
		Transportation in covered vehicles to processing or disposal facilities
2	**Source Segregation**	Segregation of waste by households into Biodegradable, non-biodegradable, domestic hazardous.
3	**Litter Bins & Waste Storage Bins**	• Installation of Twin-bin/ segregated litter bins in commercial & public areas at every 50-100 meters. • Installation of Waste storage bins in strategic locations across the city, as per requirement (Unless Binless) • Elimination of Garbage Vulnerable Points .
4	**Transfer Stations**	Installation of Transfer Stations instead of secondary storage bins in cities with population above 5 lakhs.
5	**Separate transportation**	• Compartmentalization of vehicles for the collection of different fractions of waste. • Use of GPS in collection and transportation vehicles to be made mandatory at least in cities with population above 5 lakh along with

		the publication of route map.
6	**Public Sweeping**	• All public and commercial areas to have twice daily sweeping, including night sweeping and residential areas to have daily sweeping.
7	**Waste Processing** • **Wet Waste** • **Dry Waste** • **MRF Facility**	• Separate space for segregation, storage, decentralised processing of solid waste to be demarcated • Establishing systems for home/decentralised and centralised composting • Setting up of MRF Facilities.
8	**Scientific Landfill**	• Setting up common or regional sanitary landfills by all local bodies for the disposal of permitted waste under the rules • Systems for the treatment of legacy waste to be established.
9	**C&D Waste**	Ensure separate storage, collection and transportation of construction and demolition wastes.
10	**Plastic Waste**	Implementation of ban on plastics below <50 microns thickness and single use plastics.
11	**Bulk Waste Generators (BWGs)**	Bulk waste generators to set up decentralized waste processing facilities as per SWM Rules, 2016.
12	**RDF**	Mandatory arrangements have to be made by cement plants to collect and use RDF, from the RDF plants, located within 200 kms.
13	**Preventing solid waste from entering into water bodies**	Installation of suitable mechanisms such as screen mesh, grill, nets, etc. in water bodies such as nallahs, drains, to arrest solid waste from entering into water bodies.
14	**User Fees**	Waste Generators paying user fee for solid waste management, as specified in the bye-laws of the local bodies.
15	**Penalty provision**	Prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the byelaws framed.
16	**Notification of Bye Laws**	Frame bye-laws incorporating the provisions of MSW Rules, 2016 and ensuring timely implementation.
17	**Citizen Grievance Redressal**	Resolution of complaints on Swachhata App within SLA.

18	**Monitoring mechanism**	States/ULBs to update month wise targets/action plans on the online MIS.

17. We accordingly, propose to direct constitution of an Apex Monitoring Committee, Regional Monitoring Committees and State Level Committees to oversee the steps to be taken to give effect to the directions of this Tribunal so that if necessary, further action can be taken in the matter.

18. The role of the Apex Monitoring Committee will be to interact with the concerned Ministries and the Regional Monitoring Committees. The Apex Monitoring Committee may formulate guidelines/directions which may be useful to the Regional Monitoring Committees and the States/Union Territories. The Apex Monitoring Committee may meet preferably every month to take stock of the situation. Outstation members/invitees may participate by video conferencing unless their presence is considered necessary. The Apex Monitoring Committee may have meeting with all the Regional Monitoring Committees at least once in a month for two days to take stock of the progress and fix new targets. The report may be given to the Tribunal by e-mail once in a quarter. The Apex Monitoring Committee may have its website for dissemination of such information as may be necessary and also to enable public participation. The Committee may function for a period of one year subject to any further order.

    The constitution of the Apex Monitoring Committee will be as follows:

1.	Hon'ble Mr. Justice D.K. Jain, Former Judge, Supreme Court of India, Former President, NCDRC, Former Chairman, Law Commission of India.	Chairman
2.	Chairman, Central Pollution Control Board	Member
3.	Jt. Secretary of Ministry of Environment, Forest & CC	Member
4.	Jt. Secretary & Mission Director, Swachh Bharat Mission, Ministry of Housing & Urban Affairs, Govt. of India	Member Secretary

The Apex Monitoring Committee will have the following Special Invitees:

1.	Principal Secretary, Urban Development, Govt. of Goa
2.	Ms. Ritu Sain, IAS Addl. Resident Commissioner, Govt. of Chattisgarh, Chattisgarh
3.	Dr. Asad Wari, Team Leader, SBM, Indore Municipal Corporation, Indore, M.P
4.	Shri C. Srinivasan, Vellore, TN, Project Director-SLRM

The MoHUA will provide all logistic and secretarial support along with functional Secretariat to the Apex Monitoring Committee. The Committee may operate from Delhi. The Apex Monitoring Committee can also use the conference facilities available with the National Green Tribunal (Principal Bench). The Chairman and the special invitees who are either retired or private professionals of the Committee may be provided remuneration in consultation with them.

19. The Regional Monitoring Committees shall ensure effective implementation of the Rules, 2016. The Regional Monitoring

Committees shall also ensure that mixing of bio-medical waste with municipal solid waste does not take place and bio- medical waste and processed in accordance with The Bio-Medical Waste Management Rules, 2016. The Regional Monitoring Committees may meet preferably once in every week or longer intervals as per requirements. Out station members may participate by video conferencing unless physical presence is required. They may interact with Apex Monitoring Committee at suitable intervals. The Regional Monitoring Committees may also have *inter se* interaction as and when necessary. The Regional Monitoring Committees may have interactions with the concerned States at regular intervals. The Regional Monitoring Committees may also consider having their website for the same purpose with the same objective as the Apex Monitoring Committee. The Regional Monitoring Committees if feel appropriate can solicit the service of the Special Invitees of the Apex Monitoring Committee and others whom they think can contribute to the cause of monitoring of the Rules, 2016. The Regional Monitoring Committees may specially consider compliance of the mandate of the Rules, 2016 at or around railway platform, railway tracks, bus stands or other places frequented by public. The Ministry of Railway may appoint Nodal Officers at Central, Zonal or other levels having specific responsibility of compliance of the Rules, 2016. The Regional Monitoring Committees may interact with such officers at appropriate intervals. The report may be given to the Apex Monitoring Committee twice in a quarter. Initially, a report

may also be sent to the Tribunal by the Regional Monitoring Committees after three months of their working. The Regional Monitoring Committees will be paid remuneration and such logistic support as required by Department of Urban Development, Government of Punjab, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal for Northern Zone, Central Zone, Western Zone, South Zone and Eastern Zone respectively. The States will be entitled to recover proportionate expenses from the member States and Union Territories in the respective zones All the States are advised to maintain the parity with regard to the remuneration of Chairperson of the Regional Monitoring Committees. The Committees may function for a period of one year subject to any further order.

20. The constitution of the Regional Monitoring Committees will be as follows:

North Zone – Chandigarh-Delhi		
1.	Mrs. Rajwant Sandhu, IAS, Former Secretary, GoI & Former Member, CAT	Chairperson
2.	Principal Secretary of Urban Development, Government of Punjab, Punjab	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Jammu & Kashmir, Himachal Pradesh, Haryana, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
4.	Member Secretaries of State PCBs/PCCs of Jammu & Kashmir, Himachal Pradesh, Haryana, Punjab, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
5	Representative of Central Pollution Control Board (CPCB).	Member

Eastern Zone-Kolkata		
1.	Hon'ble Mr. Justice Jayant Kumar Biswas Former Judge, Calcutta Pradesh High Court	Chairman
2.	Principal Secretary, Urban Development, Government of West Bengal, Kolkata, West Bengal.	Member Secretary
3.	Principal Secretaries of Urban Development of State of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
4.	Member Secretaries of PCBs/PCCs of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
5.	Representative of CPCB	Member

Western Zone – Mumbai-Pune		
1.	Hon'ble Mr. Justice J.P Deodhar Former Judge, Bombay High Court	Chairman
2.	Principal Secretary, Urban Development, Government of Maharashtra	Member Secretary
3.	Principal Secretaries of Urban Development of Govt. of Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
4.	Member Secretaries of State PCBs/PCCs of Maharashtra, Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
5.	Representative of Central Pollution Control Board	Member

Central Zone – Bhopal		
1.	Hon'ble Mr. Justice K.K.Trivedi Former Judge, Madhya Pradesh High Court	Chairman
2.	Principal Secretaries of Urban Development Government of Madhya Pradesh, Bhopal. Madhya Pradesh.	Member Secretary
3.	Principal Secretary of Urban Development, Government of Chattisgarh and Rajasthan	Member
4.	Member Secretaries of Madhya Pradesh, Rajasthan and Chattisgarh State Pollution Control Boards	Members
5.	Representative of Central Pollution Control Board.	Member

Southern Zone-Chennai		
1.	Hon'ble Mr. Justice P.Jyothimani Former Judge Madras High Court Former Judicial Member, NGT, Southern Bench, Chennai	Chairman
2.	Principal Secretary, Urban Development, Government of Tamil Nadu	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Karnataka, Kerala, Andhra Pradesh, Telangana Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
4.	Member Secretaries of PCBs/PCCs of Tamil Nadu, Karnataka, Kerala, Andhra Pradesh, Telangana and Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
5.	Representative of CPCB	Member

21. There will also be State Level Committees headed by Secretary of the Urban Development Department with Secretary of the Environment Department as Members. The representatives

from the Central Pollution Control Board and State Pollution Control Boards would assist the State Level Committees. The State Level Committees may have interactions with the Local Bodies preferably once in two weeks. The Local Bodies may furnish report to the State Committees twice a month. The State Committees will take a call on technical and policy issues in accordance with the Rules, 2016 consistent with directions of Apex and Regional Monitoring Committees. The Local Bodies may be required to have suitable nodal officers of particular level having regard to the nature of work. For bigger Local Bodies, committees headed by senior officials may be constituted. Public involvement may be encouraged and status of Municipal Solid Waste be put in public domain. The State Level Committees may also function for a period of one year subject to any further order. The report may be given to the Regional Monitoring Committees on monthly basis.

22. The Tribunal is of the view that instead of every Local Body individually floating tenders for different services, standards and technical specifications of available services may be specified by the Department of Urban Development and adopted by Local Bodies. Such services may be hired on laid down standard norms to save time. However, this aspect may be finally gone into by the Committees.

23. The Tribunal is also of the view that the best practices may be compiled including setting up of Control Rooms where citizens can upload photos of garbage which may be looked into by an accountable person specified by the Local Bodies at the Local Level and by State Bodies at the State Level. Such information may be made available by the States on the website of the State Committees and if possible on the websites of Local Bodies also. The mechanism of citizens giving and receiving information may be considered. The Committees may also consider, wherever viable, guidelines for using CCTV cameras already installed or installation of fresh CCTV cameras wherever necessary at dumping or other suitable sites and footage of CCTV Cameras may be viewed at regular basis by suitable authorities. All garbage collection van may be GPS enabled to monitor its regular collection and performance audit may be considered and guidelines laid down.

24. Subject to any further orders of this Tribunal, the Committees will be at liberty to give directions for execution of orders of this Tribunal to any authority. The Committees may resume their work within one month from today. The Apex Monitoring Committee may furnish quarterly reports of its work to the Tribunal.

25. The concerned Ministries at the Centre shall render full support and cooperation to the Apex Monitoring Committee to ensure its effective functioning. Similarly, the Chief Secretaries and

Advisors of each of the States and Union Territories respectively shall also render such support and cooperation to the Regional Monitoring Committees.

26. This order will not in any manner affect the directions issued by the Hon'ble Supreme Court in SMW (C) No(s) 1/ 2015[In Re: Outrage as Parents End Life After Child's Dengue] with regard to garbage disposal in Delhi or otherwise. This order is being passed only for giving effect to the Rules, 2016 and the pre-existing orders of the Tribunal.

27. List the matter after receipt of first such report(s) from the Apex Monitoring Committee and the Regional Monitoring Committees for consideration of the reports. It is also ordered that the video conferencing with all the members of the Apex Monitoring Committee, Regional Monitoring Committees and stakeholders, Urban Development Department of the States shall be organized once in every six months so as to take stock of the progress made during the period. Next such video conferencing would be held on 29th April, 2019.

.....,CP
Adarsh Kumar Goel

.....,JM
Dr. Jawad Rahim

.....,JM
Raghuvendra S. Rathore

.....,JM
S.P.Wangdi

.....,EM
Dr. Satyawan Singh Garbyal

.....,EM
Dr. Nagin Nanda

Dated: 20.08.2018.