Item No. 01 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(**By Video Conferencing**)

Original Application No. 606/2018

(**In respect of State of Himachal Pradesh**)

In re: **Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues**

(Arising out of directions of the Hon'ble Supreme Court in W.P. No. 888/1996 and W.P. No. 375/2012)

Date of hearing: 16.03.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER

Present: Sh. Prabodh Saxena, Chief Secretary, Govt. of Himachal Pradesh
Sh. Amitabh Avasthi, Secretary, Jal Shakti Vibhag
Sh. Priyatu Mandal, Secretary, Panchayat Raj & Rural Development
Sh. Rugved Milind, Director, Rural Development
Sh. Lalit Jain, Member Secretary, State Pollution Control Board
Er. Sanjeev Kaul, Engineer-in-Chief, Jal Shakti Vibhag
Sh. Sat Pal Dhiman, Additional Secretary, Env. Sci &Tech.
Sh. Jagan Thakur, Additional Director, Urban Development

ORDER

The Issue – Monitoring of compliance of waste in terms of orders of Hon'ble Supreme Court dated 02.09.2014 and 22.02.2017

1. The issues of solid as well as liquid waste management are being monitored by this Tribunal as per orders of the Hon'ble Supreme Court order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel vs. Union of India &Ors.,* with regard to solid waste management and order dated 22.02.2017 in W.P. No. 375/2012, reported in (*2017) 5 SCC 326, Paryavaran Suraksha vs. Union of India,* with regard to liquid waste

management. Other related issues include pollution of 351 river stretches, 124 non-attainment cities in terms of air quality, 100 polluted industrial clusters, illegal sand mining etc. have also been dealt with separately. We propose to limit the proceedings in the present matter to **two issues of solid waste and sewage management.**

ORDERS OF THE HON'BLE SUPREME COURT TRANSFERRING THE ISSUE OF SOLID WASTE MANAGEMENT AND LIQUID WASTE MANAGEMENT TO THIS TRIBUNAL:

Solid Waste Management

2. While transferring the issue of solid waste management vide Order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India &Ors.*, the Hon'ble Supreme Court observed **"handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010. The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions."**

3. Before transferring the said proceedings, matter was monitored by Hon'ble Supreme Court for about eighteen years and orders passed include *(2000) 2 SCC 679* and *(2004) 13 SCC 538,* directing scientific

disposal of waste by setting up of compost plants/processing plants, preventing water percolation through heaps of garbage, creating focused **'solid waste management cells'** in all States and complying with the Municipal Solid Waste Management Rules, 2000 (now replaced by SWM Rules, 2016). **It was observed that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees.** Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums has multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of "slum clearance" there is "slum creation" in cities which is further aggravating the problem of domestic waste being strewn in the open**. Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks. Further observations in the judgment of the Hon'ble Supreme Court[1]are:

> *"3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:*

[1](2004) 13 SCC 538

"1. *As a result of the Hon'ble Supreme Court's orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.*

2. ***All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001****, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.*

3. ***Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.***

4. ***States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold.*** *The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.*

5. *Unless each State creates a focussed* ***'solid waste management cell'*** *and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.*

6. ***The admitted position is that the MSW Rules have not been complied with even after four years.*** *None of the functionaries have bothered or discharged their*

duties to ensure compliance. ***Even existing dumps have not been improved.*** *Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."*

4. In this regard, reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand*[2]and *B.L. Wadhera v. Union of India and Ors.*[3]laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.** We note that even after 26 years of monitoring, 18 years by Hon'ble Supreme Court and eight years by this Tribunal, ground situation remains unsatisfactory.

Liquid Waste Management

5. Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*[4] required this Tribunal to monitor directions for proper treatment of sewage to prevent untreated sewage and other effluents being discharged in water bodies by directing "We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. We, therefore, hereby provide that the directions pertaining to continuation of industrial activity only when there is in place a functional "primary effluent treatment plants", and the setting up of functional "common effluent treatment plants" within the timelines, expressed above, shall be enforced by the Member Secretaries of the Pollution Control Boards concerned. The Secretary of the Department of Environment, of the State Government concerned (and the Union Territory concerned), shall be answerable in case of default. **The**

[2](1980) 4 SCC 162
[3](1996) 2 SCC 594
[4](2017) 5 SCC 326

Secretaries to the Government concerned shall be responsible for monitoring the progress and issuing necessary directions to the Pollution Control Board concerned, as may be required, for the implementation of the above directions. They shall be also responsible for collecting and maintaining records of data, in respect of the directions contained in this order. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal. To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically. The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters."

6. Extracts from the judgement of the Hon'ble Supreme Court in *Paryavaran Suraksha Samiti Vs. Union of India* are as follows:

> "***7.*** *Having effectuated the directions recorded in the foregoing paragraphs, the next step would be, to set up common effluent treatment plants.* ***We are informed, that for the aforesaid purpose, the financial contribution of the Central Government is to the extent of 50%, that of the State Government concerned (including the Union Territory concerned) is 25%. The balance 25%, is to be arranged by way of loans from banks****. The above loans, are to be repaid, by the industrial areas, and/or industrial clusters. We are also informed that the setting up of a common effluent treatment plant, would ordinarily take approximately two years (in cases where the process has yet to be commenced). The reason for the above prolonged period, for setting up "common effluent treatment plants", according to the learned counsel, is not only financial, but also, the requirement of land acquisition, for the same.*

x……x……x…….

10. *Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to "public health, sanitation conservancy and solid waste management", we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty.* ***In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds, for the purpose of generating finances to install and run all the "common effluent treatment plants", within the purview of the provisions referred to hereinabove. Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility.*** *The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant).* ***The norms for generating funds for setting up and/or operating the "common effluent treatment plant" shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the "common effluent treatment plants", which are presently dysfunctional, from their own financial resources.***

11. *Just in the manner suggested hereinabove, for the purpose of setting up of "common effluent treatment plants", the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge* ***industrial pollutants and sewer, directly into rivers and water bodies.***

12. *We are of the view that in the manner suggested above,* ***the malady of sewer treatment, should also be dealt with simultaneously. We, therefore, hereby direct that "sewage treatment plants" shall also be set up and made functional, within the timelines and the format, expressed hereinabove."***

7. Expression “Common Effluent Treatment Plants” in para 7 may infact refer to the STPs, as the context shows.

8. On this subject, inspite of deadline of 31.3.2018 fixed by Hon’ble Supreme Court for finalizing funding arrangements and February 2020 for all arrangements for preventing discharge of pollutants and rigorous monitoring by this Tribunal for the last five years, ground situation remains unsatisfactory.

Procedural History of present proceedings before this Tribunal

9. In the light of above, the Tribunal has considered the matter in the last eight years as far as solid waste management is concerned and more than five years as far as liquid waste management is concerned. Main orders on the subject include orders dated 22.12.2016, 31.08.2018, 16.01.2019, 28.8.2019, 12.09.2019, 6.12.2019, 07.01.2020, 28.02.2020, 02.07.2020, 14.12.2020,22.2.2021, 30.11.2021, 14.12.2020 and 31.05.2022. First two orders - dated 22.12.2016 and 31.08.2018 deal only with solid waste management. Orders dated 28.8.2019, 6.12.2019 and 22.2.2021 deal with only liquid waste management while the remaining orders deal with solid waste as well as liquid waste management. Issue of liquid waste has also been separately dealt with in OA No. 593/2017 which was finally disposed of on 22.02.2021 with direction that further monitoring be undertaken by Central Monitoring Committee constituted by the said order. It was held that monitoring by the Tribunal cannot be for indefinite time and State authorities are primarily responsible for such monitoring after adequate monitoring by the Tribunal. By the same order, the Tribunal also dealt with the issue of 351 identified polluted river stretches in OA 673/2018. This is apart from

individual cases dealing with solid and liquid waste management. A brief reference of these orders will be made hereafter.

Orders dated 22.12.2016 and 31.08.2018

10. Vide order dated 22.12.2016, (2016) SCC Online NGT 2981, the issue of Solid Waste Management was disposed of requiring strict compliance of Solid Waste Management Rules, 2016 by all the States/UTs making it clear that if violations continue, the State will be liable to pay compensation. Later, matter was taken up to ascertain compliance status and finding that all the States/UTs were still non-compliant in the matter, the matter was again taken up and fresh directions issued for monitoring by the Tribunal constituted Monitoring Committees vide order dated 31.08.2018. Later, continuance of the committees was left to discretion of the States, depending on their own monitoring mechanism.

Order dated 16.01.2019 requiring personal presence of Chief Secretaries of all States and UTs to explore remedial action after interaction with them and further orders

11. In view of continuing non-compliances, vide order dated 16.01.2019, the Tribunal directed personal presence of Chief Secretaries of all States and UTs for interaction to ensure compliance. The Tribunal held that large scale non-compliance of environmental norms was resulting in deaths and diseases and irreversible damage to the environment, without accountability for such failures. Though violation of the Rules as well as orders of this Tribunal is criminal offence, still there was rampant violation by State authorities practically with no accountability which unhappy situation was required to be remedied by involvement of highest functionaries of the State in the interest of public health and to uphold rule of law.

12. In terms of order dated 16.1.2019, the Chief Secretaries of all the States/UTs appeared on different dates till 18.07.2019 and the Tribunal, after reviewing the status of noncompliance on most of the issues, directed further effective steps to be taken for compliance of the Rules and the environmental norms. The Chief Secretary of Himachal Pradesh appeared on 05.03.2019 and following directions were issued:

> *"32. In view of above, after discussion with the Chief Secretary, following further directions are issued:-*
>
> *i. Steps for compliance of Rule 22 and 24 of SWM Rules be now taken within six weeks to the extent not yet taken. Similar steps be taken with regard to Bio-Medical Waste Management Rules and Plastic Waste Management Rules.*
>
> *ii. Atleast three major cities and three major towns in the State and atleast three Panchayats in every District may be notified on the website within two weeks from today as model cities/towns/villages which will be made fully compliant within next six months.*
>
> *iii. The remaining cities, towns and Village Panchayats of the State may be made fully compliant in respect of environmental norms within one year.*
>
> *iv. A quarterly report be furnished by the Chief Secretary, every three months. First such report shall be furnished by June 30, 2019.*
>
> *v. The Chief Secretary may personally monitor the progress, atleast once in a month, with all the District Magistrates.*
>
> *vi. The District Magistrates or other Officers may be imparted requisite training.*
>
> *vii. The District Magistrates may monitor the status of compliance of environmental norms, atleast once in two weeks.*
>
> *viii. Performance audit of functioning of all regulatory bodies may be got conducted and remedial measures be taken, within six months.*
>
> *ix. The Chief Secretary may remain present in person before the Tribunal with the status of compliance on 16.09.2019."*

13. **In short, the Tribunal expected three model cities, towns and villages to be made compliant in six months and the remaining State with one year. It was this target for the State by setting up of environmental cells directly under the Chief Secretaries, regular periodical monitoring by the Chief Secretaries at the State level and by the District Magistrates at the District level.** Further direction also was to take action for non-compliance by recovery of compensation and recording adverse ACRs against erring officers. The Tribunal also directed filing of quarterly reports by the Chief Secretaries. Based on such reports, CPCB was to file consolidated status reports. The Chief Secretaries were to appear again after six months with updated status of compliance.

14. The Tribunal has been receiving progress reports from States as well as monitoring Committees wherever functioning which have been considered by further orders.

Further Review after completing round of interaction with all Chief Secretaries by order dated 12.9.2019

15. The matter was then reviewed on 12.09.2019 in the light of report of the CPCB dated 09.09.2019 **showing wide gaps in compliance of solid waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters and non-attainment cities**. A fresh schedule for appearance of the Chief Secretaries was issued. Vide order dated 07.01.2020, the Tribunal directed CPCB to ascertain Compliance of Solid Waste Management Rules, 2016 in terms of MSW generated, segregated and treated, gaps in the waste processing, enforcement of statutory timelines and orders of this Tribunal, number of sites remediated, and quantity of legacy waste therein and timelines for completing remediation. It was further directed that on the subject of sewage

treatment, CPCB has to ascertain quantity of sewage generated and treated in the State, gap in the sewage treatment and timelines to bridge the gap, including strategy for use of treated water for secondary purpose. CPCB was accordingly directed to redesign its formats for securing relevant quantifiable information.

Order dated 28.02.2020

16. Accordingly, the Chief Secretaries of 18 States/UTs appeared and filed updated status reports. Since there still existed huge gaps in compliance, further directions were issued by way of different orders. Last such order is of 28.2.2020. Other orders are on same pattern. The direction part of the said order is reproduced below:

> *"41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:*
>
> *a. In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted,* ***interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.***

CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

b. Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28[5] ***even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.***

c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater

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[5] The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

d. *The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:*

   i. ***Interim measures for phytoremediation/ bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.***

   ii. ***Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.***

   iii. ***Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.***

e. *Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.*

f. *An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*

g. *Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."*

17. Timelines under the Rules referred to in sub para (a) above are **:**

"22. ***Time frame for implementation:-*** *Necessary infrastructure for implementation of these rules shall be created by the local bodies and other concerned authorities, as the case may be, on their own, by directly or engaging agencies within the time frame specified below:*

Sl. No.	***Activity***	***Time limit from the date of notification of rules***
(1)	*(2)*	*(3)*
1.	*Identification of suitable sites for setting up solid waste processing facilities.*	*1 year*
2.	*Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more.*	*1 year*
3.	*Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities.*	*2 years*
4.	*Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source.*	*2 years*
5.	*Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.*	*2 years*
6.	*ensure separate storage, collection and transportation of construction and demolition wastes.*	*2 years*
7.	*setting up solid waste processing facilities by all Local Bodies having 100000 or more population.*	*2 years*
8.	*Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population.*	*3 years*
9.	*setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules.*	*3 years*
10.	*setting up common or regional sanitary landfills by 3 years all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules.*	*3 years*
11.	*bio-remediation or capping of old and abandoned dump sites.*	*5 years*

"

Order dated 02.07.2020

18. The matter was then considered on 02.07.2020. Having regard to the pandemic, appearance of remaining Chief Secretaries was deferred.

Order dated 14.12.2020

19. The matter was further considered on 14.12.2020 for review of progress. Scheduled appearance of remaining Chief Secretaries was dispensed with but it was directed that monitoring at the level of Chief Secretaries may continue and quarterly status reports be filed with CPCB so that CPCB may file a consolidated report every six months before the Tribunal. It was further directed that compensation in terms of earlier orders be recovered and credited to a separate account with the Environment Department of concerned State to be used for restoration of environment. It was also observed that in these proceedings Solid Waste Management also will be monitored, other issues being considered in separate proceedings.

Further review on 30.11.2021 – huge gaps still found and hence, another round of interaction with Chief Secretaries proposed

20. The matter was thereafter taken up on 30.11.2021 to consider the report of CPCB dated 25.10.2020 giving compliance status in 32 States/UTs as in March, 2021 as follows:-

"3.0 SOLID WASTE MANAGEMENT STATUS

xxx .....xxx.....xxx

Table:1 Overview of quarterly report on SWM submitted by 29 States/UTs

Sl. No.	***ITEM***	***Status***	***Remarks***
1	***xxx***	***xxx***	***xxx***

2	***Over all waste management status in Arunachal Pradesh***		
2(a)	***Quantity of MSW generated (TPD)***	***Information provided by 29 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)*	• ***Total Quantity of MSW generated: 150858.951 TPD*** • *Maximum waste generation is in five (7) States/UTs (>10000 TPD)-* ➢ *Maharashtra* ➢ *Uttar Pradesh* ➢ *West Bengal* ➢ *Tamil Nadu* ➢ *Karnataka* ➢ *Delhi* ➢ *Telangana*
2(b)	***Xxx***	***xxx***	***xxx***
2(c)	***Xxx***	***xxx***	***xxx***
2(d)	***Quantity of MSW processed (TPD)***	***Information provided by 29 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)*	• ***Total quantity of MSW processed: 94435.318 TPD*** • *100% MSW is processing reported in two (2) States:* ➢ *Chhattisgarh* ➢ *Himachal Pradesh*
2(e)	***Xxx***	***xxx***	***xxx***
2(f)	***Gap in Solid Waste Management UTs (TPD) [2(a)- 2(d)- 2(e)]***	***Information provided by 29 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)*	• *Gap in Solid Waste Management: 44651.1792 TPD*
xxx	***Xxx***	***xxx***	***xxx***
6	***Legacy Waste management***		

6(a)	***Number of dumpsites (No.)***	***Information provided by 28 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)* ***Information not provided by 1 State/UTs:*** *(Chandigarh)*	• ***Total Number of dumpsites: 2129*** • ***Max in MP: 378***
6(b)	***Quantity of Waste dumped at dumpsites (Tons)***	***Information provided by 27 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Maharashtra, Meghalaya, Nagaland, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)* ***Information not provided by 2 State/UTs:*** *(Chandigarh, Madhya Pradesh)*	• ***Quantity of Waste dumped at dumpsites (Tons): 185558287.3 Tons*** • *Max in Maharashtra – 41683186 Tonnes*
6(c)	***Number of dumpsites cleared (No.)***	***Information provided by 25 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Nagaland, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)* ***Information not provided by 4 State/UTs:*** *(Chandigarh, Meghalaya, Odisha, Puducherry)*	• *Number of dumpsites cleared (No.): 498* *Chhattisgarh- 160* *Maharashtra- 134* *Uttarakhand – 60* *M.P.-50* *Tamil Nadu - 27* *H.P-17* *Gujarat- 16*
6(d)	***Number of dumpsites in which biomining has commenced (No.)***	***Information provided by 26 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)* ***Information not provided by 3 State/UTs:*** *(Chandigarh, Odisha, Puducherry)*	• *Number of dumpsites in which biomining has commenced (No.): 496* *Tamil Nadu – 117* *Maharastra-76 M.P-73* *West Bengal – 64* *Telangana - 52 T.N-117* *Rajasthan – 23* *Haryana – 16* *Karnataka – 15* *Uttarakhand – 12* *HP - 10*
6(e)	***Time frame for clearing all dumpsites***	***Information provided by 24 States/UTs*** *(Andhra Pradesh, Arunachal Pradesh, Assam, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, J&K, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal)* ***Information not provided by 5 State/UT:*** *(Bihar, Chandigarh, Meghalaya, Nagaland, Telangana)*	• *Timeline exceeding December, 2022 in following States/UTs: Delhi, Goa, J&K, Karnataka, Puducherry and Tamil Nadu*

xxx……xxx……xxx

Solid Waste Management

4.0 SUMMARY & CONCLUSIONS

a. Total No. of ULBs in 29 States/UTs is 4186.

b. As per information provided by 29 States/UTs - total waste generated is 150858.951 TPD of which 94435.318 TPD is processed, which is 62.6% of the total waste generated in these States/UT. 11772.4538 TPD (7.8%) of the waste is landfilled and the gap in Solid waste management in 29 States is 45071.771 TPD which is 29.8% of the waste generated in these States/UTs.

c. Information on MRF has been provided for 28 States/UTs covering 77% of ULBs in these States/UTs.

d. Information on Recycling facilities have been provided for 22 States/UTs covering 39% of ULBs in these States/UTs

e. Information on Composting facilities has been provided for all 29 States/UTs covering 70% of ULBs in these States/UTs

f. Information on WtE has been provided for 25 out of 29 States/UTs covering 1.9% of ULBs in these States/UTs.

g. Information on RDF has been provided for 24 out of 29 States/UTs covering 12.4% of ULBs in these States/UTs.

h. Information on Bio-methanation has been provided for 27 out of 29 States/UTs covering 7.1% of ULBs in these States/UTs.

i. Information on Landfills has been provided in 24 out of 29 States/UTs covering 18.9% of ULBs in the States.

j. 498 of 2111 (23%) dumpsites in 25 States/UTs have been cleared and Remediation has been initiated in 23% (496) of the dumpsites.

k. Model Town/Cities have been identified in 25 States/UTs.

l. 16 States /UTs have established environmental cells.

m. 15 States /UTs have standardised rates for procurement of services/equipment required for solid waste management.

n. In view of above, States/UTs need to develop of ULB wise action plan for collection, segregation, transportation and processing of waste and lay down an appropriate governance framework at state and district levels.”

12. xxx ……xxx……xxx

13. Based on above data, the State-wise and city-wise summary is as follows:-

"State-wise summary

Sl. No.	***States***	***Number of ULBs***	***Quantity of MSW generated (TPD)***	***Quantity of MSW collected (TPD)***	***Quantity of MSW Processed (TPD)***	***Quantity of MSW disposed in secured land fill site (TPD)***	***GAP in SWM UTs (TPD)***
1.	*Andhra Pradesh*	*124*	*6898*	*6830*	*2180*	*257.5*	*4460.5*
2.	*Arunachal Pradesh*	*02*	*67*	*61*	*8*	*55*	*04*
3.	*Assam*	*96*	*1178*	*1070*	*389*	*0*	*790*
4.	*Bihar*	*142*	*2240.20*	*2240.20*	*681*	*1559.2*	*0*
5.	*Chandigarh*	*01*	*512.6*	*512.6*	*104.5*	*442.3*	*0*
6.	*Chhattisgarh*	*166*	*1650*	*1650*	*1650*	*0*	*0*
7.	*Delhi*	*5*	*11038.335*	*11038.335*	*5262.335*	*400*	*5776*
8.	*Goa*	*14/ 191(RLBs)*	*226.67/ 317(RLBs)*	*218.67/ 258(RLBs)*	*196.67/ 258(RLBs)*	*NIL*	*30/ 59(RLBs)*
9.	*Gujarat*	*164*	*9567*	*9567*	*8514.63*	*1052.37*	*0*
10.	*Haryana*	*89*	*5523*	*5287 approx.*	*2696 approx.*	*30*	*2797*
11.	*Himachal Pradesh*	*54*	*370*	*370*	*370*	*0*	*0*
12.	*J&K*	*78*	*1389.1*	*1303.52*	*244*	*923.7*	*221.4*
13.	*Karnataka*	*316*	*11085*	*10198*	*6817*	*1250*	*3018*
14.	*Kerala*	*93*	*3472*	*1261*	*2502*	*Nil*	*970*
15.	*Lakshadweep*	*0 (10 Panchayats are existing)*	*35*	*10.48*	*10.48*	*Nil*	*24.52*
16.	*Madhya Pradesh*	*378*	*7980*	*7193*	*6431*	*762*	*787*
17.	*Maharashtra*	*396 ULBs + 07 CBs = 403*	*24410*	*23234*	*20319*	*1626*	*2465*
18.	*Meghalaya*	*7*	*229.18*	*191.19*	*9.64*	*50.96*	*168.58*
19.	*Nagaland*	*39*	*331.49*	*258.49*	*163.9*	*8*	*159.59*

20.	*Odisha*	*114*	*1951*	*1951*	*1569*	*-*	*382*
21.	*Puducherry*	*5*	*345*	*345*	*71*	*22.5*	*262*
22.	*Rajasthan*	*196*	*6523*	*6450*	*2718*	*GAP*	*3805*
23.	*Sikkim*	*7*	*74.7*	*74.6*	*12.56*	*62.032*	*0*
24.	*Tamil Nadu*	*664*	*13593*	*13185*	*9787*	*0*	*3806*
25.	*Telangana*	*142*	*10403*	*10403*	*7968*	*1001*	*1434*
26.	*Tripura*	*20*	*333.906*	*317.685*	*214.063*	*12.8918*	*106.951*
27.	*Uttar Pradesh*	*651*	*14468*	*14468*	*9705*	*1095*	*3668*
28.	*Uttarakhand*	*91*	*1255.77*	*1255.77*	*645.54*	*Landfill functional in Dehradun and Haridwar only*	*310.23*
29.	*West Bengal*	*125*	*13709*	*13356*	*2896*	*1187*	*9626*

”

21. The data of sewage as per report dated 12.02.2021 filed by the Central Monitoring Committee, headed by Secretary Jal Shakti, Government of India, titled **‘3rd QUARTERLY REPORT OF THE CENTRAL MONITORING COMMITTEE (CMC) IN COMPLIANCE OF THE ORDER DATED 21.09.2020’** in *O.A. No. 593/2017, Paryavaran Suraksha* Samiti *& Anr. v. Union of India &Ors.* noted in order dated 22.02.2021 is reproduced below:

> ***“Existing Sewage Infrastructure***
>
> ***48,004 MLD of sewage (from urban settlements) is being generated in 31 States/ UTs and 30,001 MLD capacity of STPs (1249 nos.) is existing which approximates to about 62% of sewage generation. Against the existing capacity, only 56% of the capacity is being utilized for treatment of municipal sewage. This leaves a gap of 17,027 MLD in treatment capacity.*** *The details of sewage generation, existing sewage treatment capacity, its utilization and gap thereof is presented in Table-1.*
>
> ***Table-1: Details of Existing Sewage Infrastructure in the 31 States/ UTs***

No.	State	Sewage Generation (in MLD)	Existing STP (capacity in MLD and No.)	Capacity Utilization (In MLD)	Gap in Treatment at present (in MLD)
1	**Andhra Pradesh**	1463.20	515.85 (43 STPs)	473.77 (91%)	947.35
2	**Assam**	435.53	0	0	435.53
3	**Bihar**	651.5	230 (6 STPs)	100 (44%)	421.5
4	**Chhattisgarh**	600	73.1 (3 STPs)	6 (8%)	526.9
5	**Daman, Diu And Dadra Nagar Haveli**	21.2	17.21 (2 STPs)	6.1 (35%)	3.9
6	**Delhi**	3273	2715 (35 STPs)	2432 (90%)	558
7	**Goa**	112.53	78.35 (9 STPs)	29 (37%)	34.18
8	**Gujarat**	4003	3485 (73 STPs)	2739 (78%)	518
9	**Haryana**	1267	1892 (155 STPs)	1189 (62%)	-
10	**Himachal Pradesh**	163.5	120.5 (65 STPs)	76.8 (64%)	43
11	**Jammu & Kashmir**	523	139 (15 STPs)	82.9 (60%)	383.08
12	**Jharkhand**	452	108 (14 STPs)	83%	343.8
13	**Karnataka**	3356.5	2242 (125 STPs)	1513.5 (67%)	1114
14	**Kerala**	317	124.15 (13 STPs)	91.12 (73%)	192
15	**Madhya Pradesh**	2183.65	618.23 (23 STPs)	472.6 (76%)	1565.4
16	**Maharashtra**	9758	7747 (142 STPs)	4207 (54%)	2011
17	**Manipur**	115	27 (1 STP)	9 (33%)	88
18	**Meghalaya**	75	1.85 (8 STPs)	1.82 (98%)	73
19	**Mizoram**	68	10 (1 STP)	0	58
20	**Nagaland**	44.3	25.4 (1 STP)	0	18.9
21	**Odisha**	367	91 (5 STPs)	70 (76%)	276
22	**Puducherry**	88	56 (5 STPs)	35 (62%)	32
23	**Punjab**	2111	1628.5 (116 STP)	80%	482.5
24	**Rajasthan**	1551	999 (80 STPs)	694.5 (69%)	552
25	**Sikkim**	47.68	19.5 (7 STPs)	60%	28
26	**Tamil Nadu**	3673.3	1616 (66 STPs)	919 (56%)	1320

27	***Telangana***	*2613*	*888 (31 STPs)*	*735.8 (82%)*	*1724.45*
28	***Tripura***	*82.5*	*8 (1 STP)*	*3 (37%)*	*74.5*
29	***Uttarakhand***	*329.3*	*379 (63 STPs)*	*232.9 (61%)*	*-*
30	***Uttar Pradesh***	*5500*	*3370 (106 STPs)*	*2630.6 (78%)*	*2130*
31	***West Bengal***	*2758*	*776.32 (47 STPs) + 910 MLD addl treatment through EKW*	*289.89 (37%)*	*1071.68*
Total		***48,003.69***	***30,000.96 (1261 STPs)***	***55.9%***	***17,026.58***

”

22. From the above, it is seen that there was gap in generation and processing of solid waste to the extent of about 56400 TPD (about 60,000 TPD) and legacy waste figure was mentioned at 18.55 crore tones. On the issue of liquid waste management, the gap shown was 17.26 MLD. The data was however found to be not conclusive requiring further verification. The Tribunal in its order dated 30.11.2021 observed:-

> ***“1to14….xxx……xxx……xxx***
>
> ***15. We also find that the report does not capture the entire data and correctness of data is not free from doubt. The same needs to be cross-checked. In particular, data for States of Bihar, Chhattisgarh, Himachal Pradesh, Sikkim and UT of Chandigarh, showing zero gap needs verification. The information is not available for all the million plus and State capital cities, as was required in terms of earlier orders. Information needs to be verified particularly with regard to Aizawl, Kalyan Dombivali, Nagpur, Nasik, Navi Mumbai and Pune where the gap is shown to be zero, which does not prima facie appear to be correct.***
>
> ***16 & 17. xxx……xxx……xxx***
>
> ***18. We are of the view that hence forthwith proceedings in this matter need to cover Solid Waste Management and Sewage Management, these issues being crucial and required to be monitored by this Tribunal by the Hon’ble Supreme Court. Absence of management of waste results in adding to air and water pollution in a big way. All the legacy waste dump sites in the country need to be remediated to reduce methane gas, foul smell and leachate and also to release valuable land occupied by such sites which can be used for waste management/plantation or raising funds. Waste***

collected must be scientifically processed and disposed at the earliest in the interest of hygiene and public health. It needs to be ensured that instead of remediating the legacy waste sites, the garbage is not shifted to new sites which is not a solution to the problem. It only results in shifting the problem from one place to the other without any advancement of environment protection. What is necessary is that the garbage must be finally disposed of and land reclaimed. The authorities must move towards zero garbage at the end of the day by ensuring that instead of garbage being collected and dumped, it is taken to destination where it is finally processed scientifically and appropriately, except for reused/recycling of such residues as is possible. This is also the mandate of Swachh Bharat Mission, initiated by the Central Government. Similarly, sewage has to be scientifically treated to give effect to the mandate of Water (Prevention and Control of Pollution) Act, 1974 in the interest of availability of clean water in rivers and other waterbodies. Central Governments programmes also provide for initiatives on these subjects. On both aspects, compensation regime has been laid down which is necessary to enforce the rule of law and for protection of environment and public health. The compensation laid down has to be duly collected and utilized for restoration of environment, by being kept in a separate account. Accountability for the failures needs to be fixed by way of ACRs and departmental action as such failures result in crimes under the law of land and damage to public health. Such failure is also breach of Constitutional obligation to uphold the Right to Life. The country is committed to Sustainable Development Goals of providing clean air and safe drinking water.

19. In view of above, continued failure of Rule of Law must be remedied in terms of mandate of orders of the Hon'ble Supreme Court in Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India &Ors. and Paryavaran Suraksha vs. Union of India,[6]followed by orders of this Tribunal. It is necessary that Chief Secretaries continue the monitoring and interact with this Tribunal periodically by video conferencing. Accordingly, we lay down following further schedule for personal appearance of the Chief Secretaries, by Video Conferencing, with the status of compliance in respect of each of the States/UTs on the subject of Solid Waste Management and Sewage Management. The data to be furnished should cover all categories of areas in the State – big cities, towns and villages.

20. The hearing on each of above dates will commence at 10:30 a.m. sharp. The Chief Secretaries may not delegate the responsibility. As far as possible, they may adjust other work for which long advance notice is being given. In case adjustment is found difficult for any unforeseen reason, request for change of date may be mailed by e-mail at judicial-ngt@gov.in.

[6](2017) 5 SCC 326

21. All the States/CPCB may undertake process of verification of data after having interaction on video conferencing with the concerned States/UTs within one month. The Secretaries, Environment, Urban Development Department and Irrigation Department may also coordinate with the Member Secretaries of State Legal Services Authorities in all State/UTs in the light of background mentioned in paras 3 and 4 above for the awareness programmes on the subject."

Separate orders dated 28.8.2019, 12.9.2019, 6.12.2019 and 22.02.2021 on the subject of Liquid Waste Management

23. Issue of liquid waste management was separately dealt with in OA 593/2017 on directions of Hon'ble Supreme Court and in suo motu proceedings for restoration of 351 identified polluted river stretches in OA 673/2018. Vide order dated 28.08.2019, the Tribunal directed that 100% sewage treatment must be ensured by all local bodies. Vide further order dated 06.12.2019 in O.A. No. 673/2018[7], the Tribunal directed that for failure to commence in-situ remediation, compensation will be payable at the rate of Rs. 5 lakh per month per drain after 31.03.2020 and for failure to commence setting up of STPs after 31.03.2020 compensation is to be paid at the rate of Rs. 5 lakh per month per STP. For failure to complete the project, compensation has to be paid at the rate of Rs. 10 lakh per STP per month after 31.03.2021. Relevant part of the order is quoted below:

> *"47. (i)* ***100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured.*** *If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e.* ***Rs. 5 lakhs per month per drain, for default in in-situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.***

[7] News item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB"

ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e**. Rs. 10 lakhs per month per STP."**

24. Both the matters were disposed of vide order dated 22.02.2021 with a direction that further monitoring be continued at the level of the Chief Secretaries in States and Central Monitoring Committee headed by Secretary, Ministry of Jal Shakti at the national level.

Today's hearing in the presence of Chief Secretary, Himachal Pradesh to ascertain compliance status and way forward

25. The Chief Secretary, Himachal Pradesh has filed status of compliance on 15.02.2023 showing following data:

SUMMARY OF STATUS

A: Solid Waste Management*					
Quantity of waste generation in the State (in TPD)	Waste Processed (in TPD)	Gap in generation and Processing (in TPD)	Quantity of waste being disposed in landfills (in TPD)	Quantity of Legacy waste in the State (Tones)	Status of Bio-mining
365 (Urban) Wet: 201 Dry: 146 Inert: 18	352 193 141 18	13 8 5 0	---	2,63,641 (16 sites)	Remediated: 83,311.28 (two sites cleared)

B): Sewage Management*					
Quantity of sewage generation in the State (in MLD)	Utilization of Treatment capacity (in MLD)	Current Gap in treatment (in MLD)	Utilization of treated sewage in		
			Agriculture/ Horticulture purpose	Industrial purpose	Any other purpose
91.95 (Urban)	Installed Treatment Capacity: 114.80	22.15 in (32 ULBs)	----		

***Data has been taken from presentation.**

Our analysis, findings and Directions

26. We have considered the matter and interacted with the Chief Secretary, HP, present by VC.

27. We find inconsistencies in the data given in the presentation and the data shown in the last quarterly report without any explanation how the gap has been reduced. If such gap remains unexplained, quantity of legacy waste will be 2.86 lakh tonnes and gap in sewage will be 34.783 MLD. We further note that data of installed capacity covers future proposed capacity also. It is also not clear why utilization is less than the installed capacity which appears to be equal to generation of sewage and there is full utilisation, there will be no gap. Having regard to existing gap in sewage and solid waste management, there appears to be need for change at policy and execution level after study of success stories elsewhere and in the light of several orders of the Tribunal dealing with the issue in respect of other States, particularly relating to solid waste management at Indore and low-cost sanitation management adopting Seechewal Model[8] and fecal sludge treatment plant at some of the Towns in Odisha[9]. There has to be a dedicated Cell in the office of the Chief Secretary manned by senior level officers to coordinate such serious issues.

It is necessary to ensure that wet solid waste (bio-degradable) is kept separate from dry waste at all levels, collection, transportation or handling which can inter alia be resource for compost or biogas generation. Dry waste can be separately handled by setting up Material

[8] https://www.civilsdaily.com/news/seechewal-model-of-wastewater-management/
[9] http://www.owssb.nic.in/WebFiles/Document/OWSSB_FSSM_book_Odisha.pdf

Recovery Facility with sorting mechanism for further recycling or reuse. It is necessary that District Headquarters and Semi Urban and Rural Areas after segregation of waste and the waste which is recyclable, need to be properly coordinated for utilization in cement kilns and by the authorized scrap dealers/recyclers.

Similarly, the sewage after necessary treatment can be utilized for agriculture or other non-potable purposes. The decentralized technology or traditional technologies may also be explored. It would also be necessary to address issue about continuation of septic tanks and soak pit methods as acceptable methodologies approved for bridging the gap and perspective in terms of environmental aspects. Our further observations follow.

Solid Waste Management

28. Collection, Segregation, transportation and processing of waste has to be as per SWM Rules 2016. Thus, for addressing the issue of bridging the gap in management of MSW, segregation of the solid waste at source and its earliest processing nearest to the point of generation with defined destination is imperative. The available potential sites for waste processing need to be identified. The data presented shows gap in solid waste processing in urban and rural areas respectively, besides legacy waste. In particular, adequate compositing/vermicomposting/bio-methanation centers need to be set up and upgraded nearest to the source of generation of wet solid waste, listing people's involvement. Use of wet biodegradable waste as animal feed for Piggeries etc. can also be explored without causing environmental nuisance. This may also require establishing de-centralized and centralized waste processing facilities. In the name of pit composting, the waste should not be just dumped

causing environmental havoc. Waste generators can themselves be required to process the waste under guidance and handholding by the Administration, with the assistance of identified empaneled service providers and such details may be posted on State's/Center's GeM portal. This may perhaps reduce planned expenditure. Composting and bio-methanation has to be undertaken considering the climatic conditions. Quality of compost so produced may be periodically verified. Keeping these aspects in view, the State needs to strengthen and augment waste processing/treatment facilities at SWM centres and at the point of waste generation. Setting up SWM centres may be considered for all the district headquarters and semi-urban and rural areas as per geographical/regional needs or improved version of waste processing be adopted at the point of generation to effectively utilize 100% segregated waste.

29. In the context of Himachal Pradesh, specific actions are required to discourage valley dumping particularly by roadside dhabas/restaurants and house dwellers. For such establishments, awareness and punitive actions need to be taken. Further, tourists visiting the State need to be made aware for prohibiting 'use and throw' of non-biodegradable waste.

30. It is necessary to remediate legacy waste ensuring that no such sites are created at any other locations and waste is continuously processed instead of being stored. Technical assistance of CPHEEO of MoHUA and CPCB may be sought about the way forward to remediate the sites in question. Suitable service providers or other consulting technical institutions may be consulted if necessary and thereafter execution can be done departmentally. This aspect may be considered in next four months. Legacy waste site(s) must be maintained free from fires and

safety of workers engaged should be ensured. Such sites may be fenced with row of trees or wall, as may be viable, for aesthetics, preventing foul smell and safety. Provisions of Schedule-I of the SWM Rules, 2016 may be strictly followed. Water quality in the vicinity of legacy waste dump sites may be periodically monitored. If any contamination is found, remedial action may be taken. Environmental safety aspects associated with legacy waste dump sites be complied with as specified in Schedule I of MSW Rules, 2016. All efforts may be made that towns/villages located on hilly terrain, do not dispose waste on sloppy terrain thereby affecting streams and rivers. Such hilly towns need to follow MSW Rules, 2016. Disposal of waste, particularly plastics, metallic containers, etc., at hill slopes and in forests has to be checked. Composting and bio-remediation of legacy waste may be done simultaneously.

Use of reclaimed land occupied by legacy waste sites

31. As already mentioned earlier, legacy waste dump sites have resulted in huge damage to the environment and population residing in the vicinity of such dump sites who have suffered in safety, health and comfort. For compensating them for such damage, one third of land occupied by legacy dump sites (on reclamation) needs to be reserved for dense forest and in the process of afforestation, Campa Funds can be utilized in accordance with the provisions of Compensatory Afforestation Fund Management and Planning Authority Act, 2016 (CAMPA Act). One third of reclaimed land out of the said dump site needs to be reserved for integrated waste management facilities. Remaining one third can be used for any other purpose, consistent with the above purposes, including a part of it being utilized for monetizing, if funding is required for tackling the legacy waste. Legacy waste clearance has to be in minimum further time as laid down statutory timelines have already expired and serious

damage is taking place. It may be noted that remediation of legacy sites may be one time affair and such situations should not arise in future. User of land, to be reclaimed, needs to be declared in advance so that further steps can be taken in that direction. This is in line with order of this Tribunal dated 11.10.2022 in OA No. 300/2022, *In re: News item published in News 18 dated 26.04.2022 titled "Delhi: Massive Fire at Bhalswa Dump Yard, Fourth This Year; 13 Fire Tenders on Spot".*

32. To summarize the foregoing observations, the execution plan for solid waste management would include setting up of requisite waste processing plants (centralized and decentralized) and remediation of left out legacy waste. Bio-remediation/bio-mining process need to be executed as per CPCB guidelines and the stabilized organic waste from biomining as well as from compost plants need to comply with laid down specifications. Other material recovered during such processes is to be put to use through authorized dealers/handlers /users. Instead of creating more dumping sites for waste generated on day-to-day basis, waste processing plants of adequate capacity should be set up so that no further legacy waste is generated. It may be worthwhile to take into consideration guidelines on the subject issued by the Ministry of Urban Development, GoI titled "Waste to Wealth" on 2.10.2017 under Swachh Bharat Mission.

Sewage Management

33. Gap in generation and treatment and utilization of sewage has to be bridged. Estimation of sewage generation and gap must be realistic. Compliance status of laid down standards at the outlets of STPs has to be ensured. Timeline for the establishing requisite treatment systems in terms of judgment of Hon'ble Supreme Court in *Paryavaran Suraksha vs.*

Union of India, supra has long expired, speedy further action has to be ensured.

34. As already noted and also observed in the judgement of the Hon'ble Supreme Court in Paryavaran Surakhsha, supra, quoted earlier, the matter falls in 11th and 12th Schedules to the Constitution. It is constitutional responsibility of the State and the Local Bodies to provide pollution free environment and to arrange necessary funds from contributors or others. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds or other resources such as land (sites for waste management) cannot be plea to deny such right. Such resources have to be found by the State by its policies and according due priority to the subject. Further, while there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext. Freeship or other policies involving State resources cannot take priority over basic need for hygiene and pollution free environment.

35. Sewage can be processed by cost-effective methods at least at several identified locations with least expenses. Decentralized and the prefabricated/modular treatment plants can be explored, apart from imposing condition of ZLD on industries (as per applicability in the State), Group Housing Societies, Hotels and Resorts, etc. Reduced load can be processed partly with the help of water using commercial establishments requiring water for their processes enforcing consent conditions in CTEs and CTOs whereby State's financial burden can be reduced.

Maintaining sources of clean water (rivers, storm water drains and water bodies – lakes, wetlands etc.) free from treated or untreated sewage, channelizing treated sewage for non potable purposes

36. We also find that sanctity and significance of natural streams and storm water drains needs to be maintained. Storm water drains, if left unpolluted, can be source of drinking water for humans, birds, animals or aquatic life and discharge of sewage or even treated water which is not of standard of drinking water, seriously affects such drinking water resource adversely affecting their health. They are not to serve as sewage carrier. The Tribunal has comprehensively dealt with this issue on 03.08.2022 in OA No. 1002/2018, *Abhisht Kusum Gupta vs. State of Uttar Pradesh &Ors.* Thus, in the State rivers and streams/Jhoras should be maintained for their pristine quality.

37. Efforts are also required on utilization of treated sewage such as by establishments like malls, industrial estates, automobile establishments, power plants, playgrounds, railways, bus stands, local bodies, universities, utilizing treated sewage by fire service stations, suppression of dust, construction activities, etc. to save potable water for drinking. The treated sewage can be utilized for industrial/agricultural/other non-drinking uses like washing railway wagons/yards, buses, roads, water sprinkling and several such models reportedly exist[10]. The State may

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[10]https://www.newindianexpress.com/cities/chennai/2019/jul/31/chennai-industries-to-now-use-treated-sewage-water-2011837.html
https://timesofindia.indiatimes.com/city/surat/surat-water-reuse-model-goes-global/articleshow/85668103.cms
https://www.aninews.in/news/national/general-news/surat-generating-massive-revenue-by-selling-treated-water-to-industries20201217051127/
https://swachhindia.ndtv.com/surat-generating-massive-revenue-by-selling-treated-water-of-river-tapi-to-industries-54411/
https://m.timesofindia.com/city/ahmedabad/amc-offers-rs43/kl-treated-wastewater-for-industries/amp_articleshow/87169850.cmshttps://theprint.in/india/governance/nagpur-to-become-the-first-indian-city-to-treat-and-reuse-90-of-its-sewage/180493/

https://www.business-standard.com/content/press-releases-ani/india-s-1st-and-largest-ppp-on-waste-water-reuse-completed-in-record-time-during-pandemic-bags-ficci-water-award-2020-121022500841_1.html
https://mpcb.gov.in/sites/default/files/focus-area-reports-documents/NMC_%26_KTPS_success_story_28052019.pdf
https://cpcb.nic.in/success-stories/upload/1501156301.pdf
http://cpheeo.gov.in/upload/uploadfiles/files/engineering_chapter7.pdf

contemplate with prospective plan to utilize treated sewage rather than discharging into natural water courses which are very precious. It has been mentioned in the presentation that, treated water from STP is used for recharging the water bodies. The State PCB and the Public Health Department need to check and ensure that water in the said water bodies is maintained at 'A' and 'B' class category and not contaminated by organic and fecal bacteria.

38. As already observed, there is need for planning to prevent sewage (treated or untreated) entering the potable water resources. Instead, the same is to be suitably treated and channelized for non-potable purposes – agriculture, industrial or others. By way of illustration, we may refer to certain models which can be considered at appropriate locations. The same have been mentioned in order of this Tribunal dated 11.10.2022 in M.A. No. 43/2022 in OA No. 41/2020, *Pushpendra Kumar vs. Nagar panchayat, Kadaura & Ors.*, as follows:

> *"5. In this regard, we have drawn their attention to Seechewal Model[11], Karnal Technology of sewage treatment and zero discharge and manual on sewerage and sewage treatment systems- 2013 (chapter7), issued by the Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Urban Development, GoI, which provide for inexpensive and simple methods of treatment of waste water, its utilization for irrigation and other secondary purposes. The said models are briefly described as follows:-*
>
> ***Seechewal Model***
>
> - *Provides for use of treated waste water for irrigation in order to conserve precious surface fresh water and ground water. The process involves passing waste water through four well for cleaning the waste water and thereafter use of such treated water for irrigation. The process can be undertaken by communities through collective approach.*
>
> ***Karnal Technology Of Sewage Treatment & Zero Discharge.***

[11] https://www.civilsdaily.com/news/seechewal-model-of-wastewater-management/

- *Involves growing trees/plants on ridges with one meter wide and 50 cm height and irrigated by treated effluent in furrow. The technique utilizes entire bio mass present in waste water and provides nutrient to soil and plants. By this method forest plants/trees can be grown which can be used for firewood and timber. By this technique no chance of pathogen, heavy metals or organic compounds enter the food chain. Tree species like Eucalyptus, Leucaena can be grown.*

Central Public Health & Environmental Engineering Organisation(CPHEEO)

Manual on Sewerage and Sewage Treatment Systems – 2013 (Chapter 7)

- *Provides various case studies of utilization of treated sewage and its reuse as cooling water in power plant, in airport, in petroleum refinery, fish culture (like at Mudiali, Kolkata), road washings, ground cooling, boilers and also in agriculture. In agriculture the suitability of treated sewage is dependent upon soil, salt tolerance of the crop, intake of minerals and climate conditions. Sewage conforming to specified norms can be applied to selected species of food crops into soil by strip, basin or furrow irrigation. Sprinkler irrigation could be used with treated sewage. During rainy and non irrigating seasons, the treated sewage can be held in lagoons or undertaking irrigation in additional land/waste land including resorting to artificial recharge of ground water.*

The above models may help in planning that medium and small towns and the Rural areas which need not to focus on high-cost technology in the first instance. Central Public Health and Environment Engineering Organization (CPHEEO), Ministry of Housing and Urban Affairs dealt with the matter in its instructions titled "Municipal Used Water Treatment Technology for Medium and Small Towns"[12] in September 2022.

39. **The restoration measures with respect to sewage management** include identifying sites for setting up of sewage treatment and utilization systems, upgrading systems/operations of existing sewage treatment

[12]https://sbmurban.org/storage/app/media/rr-final-signed.pdf

facilities to ensure utilization of their full capacities, ensuring compliance of standards, including those of fecal coliform and setting up of proper fecal sewage and sludge management in rural areas. STPs need to have co-treatment facilities of septage rather than having isolated FSTPs. Guidelines of SBM - U 2.0 (October 2021) may be referred to in this respect. For urban areas, SBM-U 2.0 provides co-treatment of fecal sludge at STPs with sewage for which funding provisions are made.

40. Sewage treatment facilities adopted in terms of septic tank/soak pit/FSTP particularly for rural areas and villages may be reviewed in view of health, hygiene and following the guidelines of MoUD, Swachh Bharat Mission (Grameen), Phase-II, Operational Guidelines, 2020.

Need to consider change in approach for administrative processes

41. We have suggested change in approach in realizing that remedial action cannot wait for indefinite period nor loose ended time lines without accountability can be a solution. Responsibility of the State is to have comprehensive time bound plan with tied up resources to control pollution which is its absolute liability. If there is deficit in budgetary allocations, it is for the State alone to have suitable planning by reducing cost or augmenting resources. People must be involved in the problem by appropriate awareness and strategies to encourage public participation and contribution. At the cost of repetition, health issues cannot be deferred to long future. Long future dates breach of which has taken place frequently in the past without accountability is not a convincing solution. It is poor substitute for compliance within laid down timelines for long past. This approach may project lack of concern or not realizing the grim ground situation crying for emergent remedial measures on

priority. There is no time for leisure, reflected in timelines proposed for bridging the acknowledged gaps.

42. It is the mindset and determination to act in a mission mode which can produce results.

43. Thus, it may be necessary to brain storm with available experts and other stake holders in the State at different levels, evolve models for both solid and sewage management which can be fast replicated, initiate special campaigns with community/media involvement in the larger interest of protecting environment and public health with determination for prompt action. Such brain storming sessions may enable capacity enhancement of the regulators and the processes. Campaigns and community involvement may result in reducing the financial and administrative load on the administration. It would be better to replicate the efforts made in maintaining cleanliness including enhancing public contribution and utilizing for sewage and solid waste management.

44. Compliance of environmental norms on the subject of waste management has to be on high on priority. It is high time that the State realizes its duty to law and to citizens and adopts further monitoring at its own level.

Adhering to the timelines

45. Since the issue has been pending since long and there are adverse effects of continuing delay on environment and public health, it cannot be a matter of satisfaction that some steps are taken till the entirety of the problem is tackled on war footing. Planning has to be to resolve the problem without any further delay, in shortest possible time. Whatever timeline is laid down, it should not be breached. If breached, adverse

consequences for such failures must follow on the designated accountable officers instead of loose-ended processes.

Community involvement

46. Another important subject is community involvement not only for IEC activities but also for planning and execution of waste management activities. Welfare associations, corporates, religious, educational and charitable institutions can play their role. The District Environment Plans must have authentic and updated database which can be helpful for policy making and execution of projects. State education department may involve schools to create awareness and spreading messages at each household level particularly on waste segregation.

Further observations to explore implementation mechanism

47. In the light of above observations, it appears that there is need for paradigm shift in handling of the situation. The nagging problem of waste management stares the administration in the face and remains unresolved to the detriment of environment and public health. First change required is to set up a **centralized single window mechanism for planning, capacity building and monitoring of waste management at the State level**. Of course, local authorities have to do their duty and stocktaking at the district levels may continue but subject to supervision and control of such mechanism. **It should be headed by an officer of the rank of Additional Chief Secretary with representation from concerned departments – Urban Development, Rural Development, Environment and Forest, Agriculture, Water Resources, Fisheries and Industries.** The mechanism should be working on fulltime basis. Its functions should include preparing a comprehensive blue print, periodic review of progress in bridging the gaps in sewage and solid waste

management and establishing, continuous interaction with the stakeholders, including experts and institutions, concerned departments, community members and all other stakeholders. There must be a continuous training programme for those involved in execution of waste management projects. It should be responsible for selecting service providers and simplifying procedures for fixing terms of engagement. Best practices are to be evolved and followed. The State may interact with the municipal agencies like Indore Municipal Corporation, Punjab Pollution Control Board and Bhubaneswar Municipal Corporation to have more feedback and teams may undertake field visits.

48. Mechanism be considered to engage service providers by due diligent process who may execute work relating to solid and sewage management simultaneously throughout the State – all districts, cities and towns. Selection of service providers may be done taking into account of his past performance and number of projects and capacity to handle successfully. As applicable, consultancy may be sought initially and thereafter execution done with departmental efforts under due supervision.

Need for compliance of statutory duties by specified authorities under SWM Rules and monitoring by NMCG and MoUD for centrally assisted/sponsored schemes

49. Under the Solid Waste Management Rules, 2016, statutory authorities for various actions have been specified. **Under Rule 5**, a Central Monitoring Committee (CMC) is to be constituted headed by the Secretary, MoEF&CC with representation from Ministries of Urban Development, Rural Development, Chemicals and Fertilizers, Agriculture, CPCB, State PCBs/PCCs, Urban and Rural Development Departments,

Urban Local Bodies and Towns from the of the States, FICCI, CII and subject experts. The CMC is to meet once in a year.

The Ministry of Urban Development has to coordinate with the States/UTs **under Rule 6** for periodic review and formulation of National Policy and strategies and taking other measures. **Under Rule 7**, the Department of Fertilizers, Ministry of Chemical and Fertilizers (MoCF) have to provide market development assistance for compost and promote marketing of such compost. MoCF has to comply with Hon'ble Supreme Court's order dated 1.9.2006 in WP(C) No. 888/1996 and ensure that instructions given to the fertilizer companies on 2.6.2008 and 18.6.2012 on co-marketing of compost from city garbage with chemical fertilizers as a 'Basket approach' be complied with. Further, MoCF may review its subsidy fertilizer policy considering Rule 8(g) of the Solid Waste Management Rules, 2016 and the media report.[13] **Under Rule 8**, Ministry of Agriculture has to evolve mechanism for utilization of compost. **Under Rule 9**, Ministry of Power has to decide compulsory purchase and tariff issues. **Under Rule 10**, Ministry of New and Renewable Energy Sources has to facilitate infrastructure creation and provide for subsidy. **Under Rule 11**, the concerned Secretaries of Urban Development have to prepare State Policy and Management strategies and the Town Planning Department has to ensure setting up waste processing and disposal facilities and take other enumerated actions. **Under Rule 12**, the District Magistrates have to identify suitable lands and review performance of local bodies. **Under Rule 13**, the Secretaries of Panchayats have also to perform similar duties. **Under Rule 14**, CPCB is to coordinate with State PCBs and formulate standards of ground water, ambient air quality,

[13] https://www.thehindu.com/news/national/cabinet-approves-51875-crore-subsidy-for-phosphatic-and-potassic-fertilizers-for-rabi-season/article66086847.ece#:~:text=Cabinet%20approves%20a%20subsidy%20of,fertilizers%20for%20the%20rabi%20season&text=Considering%20the%20huge%20increase%20in,subsidy%20for%20this%20rabi%20season.

noise, etc. **Under rule 15**, local authorities have to prepare solid waste management plans, collection of waste and coordination with the other stakeholders for enumerated steps. **Under Rule 16**, the SPCBs/PCCs have to enforce the rules and monitor compliances. **Under Rule 17**, there are duties of private bodies, including the manufacturers to be monitored by the State Bodies. **The timelines are provided in Rule 22** for various steps. Last timeline of 5 years from the Rules expires on 7.4.2021. There is also provision for audit and submitting of annual report **under Rule 24**. Since there has been large scale non-compliances of the said rules, all the concerned authorities need to review the progress and perform their responsibility in accordance with law. The MoEF&CC has to finally monitor compliance, as already mentioned.

50. In view of continuing huge gap in solid and liquid waste generation and treatment, it is high time that Ministry of Housing and Urban Development (MoUD) and National Mission for Clean Ganga (NMCG) who have programmes like Swachh Bharat Mission (SBM – Urban 2.0)[14], AMRUT 2.0[15], Swachh Bharat Mission (Grameen)[16] and River Cleaning, appropriately monitor compliance of waste management norms by concerned States/UTs and take remedial action on their part. Central Funding and State budgetary provisions need to be adequately allocated and apportioned keeping in view of environment compensation which is based on the restoration work estimate. While granting/disbursing funds to States/UTs, execution mechanism for centralized tendering at the State level to overcome delays at each city/town level may be considered. This may facilitate timely utilization of funds. MoEF&CC and CPCB may continue monitoring as per MSW Rules and the Water Act. MoUD and

[14] https://sbmurban.org/storage/app/media/pdf/swachh-bharat-2.pdf
[15] https://mohua.gov.in/upload/uploadfiles/files/AMRUT-Operational-Guidelines.pdf
[16] https://jalshakti-ddws.gov.in/sites/default/files/sbm-ph-II-Guidelines_updated_0.pdf

NMCG may also note the gaps reported by the States and UTs in solid and liquid waste management. MoUD may further consider to render proper financial and technical support to States and UTs.

51. In view of unique problems of States like Himachal Pradesh and perhaps other hill States (North East, J&K and Uttarakhand) in management of sewage and solid waste, MoUD, NMCG, Department of Drinking Water and Sanitation and CPCB need to provide safe methods for sewage and solid waste management suiting the climatic and topographical conditions. This involves reaffirmation of sewage management through septic tanks/soak pits and FSTPs in urban and rural hilly areas and carrying out processing of wet solid (degradable) waste by appropriate means including remediation of legacy waste. MoUD needs to coordinate this activity for which the State may also take initiative. MoUD may also assist such State for identifying execution of projects or identifying consulting agencies giving designs etc. and execution is done by State departments at local level.

52. In Himachal Pradesh, there are number of armed forces establishments as well as cantonment areas. Administration of such areas, including waste management, is handled by the armed forces themselves under the Defence Ministry. In respect of such areas, the Tribunal has passed order dated 24.05.2021 in OA No. 451/2019, *Air Marshal Anil Chopra,* considering status reports dated 10.09.2020 and 24.5.2021 filed by the Ministry of Defence. Relevant part of the order is reproduced below:

> *"xxx …….xxx…….xxx*
>
> *3. Accordingly, further report dated 24.5.2021 has been filed, in the course of hearing, by the Ministry of Defence, giving the status of steps taken for compliance of environmental issues as follows:*

"1to3. xxx……xxx……xxx……

4. In this regard, it is submitted that a suitable mechanism was existing in the Indian Army for monitoring the ecological issues at each station, Command HQ and at Integrated Headquarter in Land Works & Environment Directorate. The monitoring mechanism at Military Station/ Military Cantonment is as mentioned below:-

Mil Station	***Mil Cantt***
Station Cdr	*President Cantonment Board*
AdmComdt	*AdmComdt*
SHO	*SHO*

5. The instructions to all Mil Stations/ Cantonments have been issued and all nominated stations authorities are interacting and organizing joint meetings with expert bodies at all levels to seek inputs about best practices and its implementation. Further, the Indian Army has initiated a 'Best Green Station' competition wherein the best "Green Station" based on various environment related parameters is acknowledged during the Army Commander Conference by the COAS.

6. As regards the Indian Navy, the Indian Navy has adopted Indian Navy Environment Conservation Roadmap in 2014. In this regard, Nodal agencies have already been designated. The detailed report on the steps taken by the Indian Navy are being attached as Annexure R-1.

7. That in compliance with the order dated 10.11.2020 passed by this Hon'ble Court, an Apex Monitoring Committee under Department of Defence was constituted to undertake the monitoring mechanism in respect of Cantonment Boards, Coast Guard and Armed Forces Medical Services with the following composition:

(i) Additional Secretary (NSV), Ministry of Defence – Chairperson

(ii) Director General, Defence Estates – Member

(iii) Director General, Coast Guard – Member

(iv) Director General, Armed Forces Medical Services – Member

(v) Rep. of Central Pollution Control Board (CPCB) – Member

(vi) Director (Environmental Awareness), The Energy and Resources Institute (TERI) – Member

(vii) Joint Secretary (Armed Forces), Ministry of Defence – Member

(viii) Joint Secretary (Lands), Ministry of Defence – Member Secretary

8. The Terms of Reference (ToRs) of the Apex Monitoring Committee are as under:

(i) To facilitate policy development by plugging the gaps in existing mechanism for increased sustainability and ecological well-being.

(ii) To examine the reports of monitoring committee at field levels in respective organisations and render advice and issue guidelines for optimal utilisation of resources aimed towards environmental protection, waste management and 'Green initiatives'.

(iii) To examine the legal framework applicable to the organisations and suggest mechanism to improve upon the exiting provisions in the interest of public health and environment.

(iv) To approve annual plans / programmes of the organisations for conducting environment awareness programmes and monitor their impact and outcomes.

9. DGDE, Coast Guard & Armed Forces Medical Services were requested to finalise a monitoring mechanism at various levels within their organisations and furnish the same to this Ministry.

10. Apex Monitoring Committee conducted two meetings dated 19.04.2021 and 06.05.2021 to review the action taken by DGDE, ICG and DG AFMS in creating monitoring mechanism at all levels in their organisations in compliance with order dated 10.11.2020 and measures to be put in place as per terms of references of the Apex Monitoring Committee. Representatives of TERI & CPCB have also participated in the said meetings. Copy of the Minutes of the meeting are annexed as Annexure R-2 and Annexure R-3 respectively. DGDE, ICG and DG AFMS were directed to submit their detailed ATR including monitoring mechanism, targets and timelines based on fixed parameters as per their domain in compliance of NGT order to the Ministry. Valuable inputs on management of different wastes and environmental protection received from CPCB and TERI were also shared with these organizations for their effective implementation.

11. In this context, DGDE vide their ID dated 05.03.2021 has intimated that instructions have been issued to Directorates, DE to take necessary action as per NGT order dated 10.11.2020. Further DGDE vide ID dated 20.05.2021 has further submitted that as far as Monitoring mechanism is concerned, the implementation of directions of this Hon'ble Tribunal is carried out by the CEOs of the 62 Cantonment Boards. The implementation is monitored by a committee headed by a senior officer i.e. Director, Defence Estates, Command, for all commands except Eastern Command, where implementation is monitored by a Joint Director. These officers regularly hold meeting with the CEOs concerned and provide them guidance. At the level of Directorate General, Defence Estates, implementation is monitored by Additional DG (Cantonments) who functions under the supervision of DG. Implementation is monitored through regular review meetings and seeking reports from the CEOs. Copy of the communicated dated 5.3.2021 is annexed as Annexure R-4. Action taken report in this regard is annexed as Annexure R-5.

12. Indian Coast Guard (ICG) Headquarters vide their ID dated 25.02.2021 has informed that they have initiated such mechanisms for protection of marine environment not only at sea but on ICG ships and shore establishments too. They have already initiated a policy to its Regions and a mechanism is underway for solid waste management in accordance with the guidelines issued by Ministry of Environment, Forests and Climate Change (MoEFCC), Solid Waste Management (SWM) Rules, 2016. The waste management organisation and practises have been laid down in the policy letter alongwith the mandate of such organisation. It includes formation of core group, waste management orders and conduct of progress review meetings. Copy of letter dated 25.02.2021 is annexed as Annexure R-6.

13. Further, ICG vide ID dated 26.04.2021 has submitted their response towards the environmental protection, waste management and green initiatives with respect to mandate, interface with coastal communities and waste management in ICG. Copy of the letter dated 26.04.2021 is annexed as Annexure R-7.

14. Armed Forces Medical Services (AFMS/Coord) vide their ID dated 05.03.2021 submitted that Bio-Medical Waste (BMW) Management in the Armed Forces is laid down under guidelines issued vide DGAFMS letter dated 10.12.2016 and as amended from time to time. DGAFMS is the prescribed authority for enforcement of provisions of BWM rules in Armed Forces. BWM management is controlled by an Advisory Committee. Similarly, there are nodal officers detailed at Service HQs and Command HQs. Copy of letter dated 5.3.2021 is annexed as Annexure R-8.

> *15. Further, BMW Management Committee is formulated at all Health Care echelons to oversee and monitor implementation of BMW rules and regulations. AFMS vide their ID dated 12.05.2021 has further submitted their feedback / inputs on (i) promulgation of time-frame for action by Hospitals under AFMS and (ii) Check list for inspecting officers while examining Health Care Establishments (HCEs) for BMW Management. Copy of the communication dated 12.05.2021 is annexed as Annexure R-9."*
>
> *4. In view of above, we are of the view that further steps need to be continued and monitored by the concerned authorities.* ***We hope the authorities will take all necessary measures required for protection of environment at all levels, including proper management of biomedical, domestic, solid, electrical, electronic wastes as per statutory rules. Scientific management of other waste generated in the course of operations of the armed forces like artillery and other ammunition has also to be ensured in the interest of public health, sanitation and environment****."*

53. In the light of above, Secretary, Ministry of Defence, GoI in coordination with DG, MES, DG, Defence Estates and other concerned authorities may ensure that necessary measures are taken for waste management by adequate monitoring in the interest of environment and public health. They may also coordinate with ULBs concerned. Accordingly, the State may interact with Defence organizations to share work experience.

Conclusion

54. **We hope in the light of interaction with the Chief Secretary, the State of Himachal Pradesh will take further measures in the matter by innovative approach and stringent monitoring, ensuring that gaps in solid and liquid waste generation and treatment are bridged at the earliest, shortening the proposed timelines, adopting alternative/interim measures to the extent and wherever found viable**. Restoration plans need to be executed at the earliest simultaneously in all districts/cities/ towns/ villages in a time bound manner without further delay. Compliance be ensured by Chief Secretary.

55. As already observed, it will also be open to the State to plan raising of requisite funds from generators/contributors of waste or by any other legal means.

56. In our order dated 01.09.2022 in O.A No. 606/2018 (in respect of State of West Bengal), considering scale of compensation adopted in earlier, compensation was determined @ Rs. 2 Crore per MLD for untreated liquid waste and for unprocessed legacy waste compensation was fixed @ Rs. 300 per MT to be utilized for restoration measures, including preventing discharge of untreated sewage and solid waste treatment/processing facilities, as per appropriate mechanism for planning and execution that may be evolved, within three months.

57. In view of above, considering the statement the gap in sewage generation and treatment and gap in solid waste, estimated environmental compensation comes to more than Rs. 50 Crores. The environmental compensation rests on polluter pays principle recognizing failure in scientifically managing the liquid and solid waste in violation of mandate of law particularly judgments of the Hon'ble Supreme Court and this Tribunal.

58. The Chief Secretary has given understanding that the amount of Rs. 50 crores, readily available with the State, will be ringfenced for utilizing exclusively for sewage and solid waste management and a statement has been filed to this effect by Secretary Jal Shakti as follows:

> ***"Commitment Before the Hon'ble National Green Tribunal***
>
> *In continuation to the hearing in OA No. 606/2018 before the Hon'ble National Green Tribunal on 16-03-2023, it is hereby stated that funds totaling to ₹50.0 Crores have been made available for the Financial Year 2023-2024 and these funds shall*

be ring fenced to meet the expenditure required to meet the gap in Sewage and Solid Waste Management in Himachal Pradesh.

(Amitabh Avasthi)
Secretary (Jal Shakti Vibhag) to the
Government of Himachal Pradesh
Shimla – 171002"

59. In view of above, we accept the prayer of the Chief Secretary that instead of this Tribunal levying compensation, the Administration itself will ensure availability of Rs. 50 crores by transferring the amount in a separate ring-fenced account to be operated as per directions of the Chief Secretary. Chief Secretary may review progress of work atleast once a month as already directed.

Directions for further follow up

60. Further, six monthly progress reports with verifiable progress may be filed by the Chief Secretary with a copy to the Registrar General of this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. Copies thereof may be furnished to the NMCG, MoUD and CPCB and also be placed on the website of the State Government.

A copy of this order be forwarded for compliance to the Chief Secretary, Himachal Pradesh, Secretary, Ministry of Housing and Urban Development, MoEF&CC, GoI, Secretary, Ministry of Defence, GoI, DG, MES, DG Defence Estates, Ministry of Chemicals and Fertilizers, GoI, Ministry of Agriculture, GoI, National Mission for Clean Ganga and CPCB, by e-mail.

On report being filed with the Registrar General of this Tribunal, the same may be placed before the Bench, if found necessary.

If any grievance survives, it will be open to the aggrieved parties to take further remedies as per law.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

March 16, 2023
Original Application No. 606/2018