

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

Original Application No. 654/2022

Priyadarshini Colony D,
residence Welfare Society

Applicant

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 13.02.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Rahul Khurana, Advocate

Respondent: Mr. Ajay Sharma, Member Secretary with Mr. Pradeep Misra, Advocate for
UPPCB
Mr. Arvind Kumar Rao, Add. Municipal Commissioner with Mr. Ajay
Singh, Advocate for Lucknow Nagar Nigam

ORDER

1. Grievance in this application is against violation of environmental norms in shifting the dumping zone and garbage lying on the dumping site at Bandha Road, Faizzullaganj, Priyadarshini Colony, Sector-D, Lucknow.
2. According to the applicant, unscientific dumping of solid waste is resulting in foul and obnoxious smell in violation of laid down environmental norms particularly the Solid Waste Management Rules, 2016 under the EP Act, 1986 to the detriment of environment and public health. The applicant has annexed certificate dated 15.05.2022 issued by the Vardhaman Hospital, Lucknow that garbage site at Priyadarshini Colony was resulting in diseases. There is also a letter of Dr. Neeraj Bhora,

MLA, UP Assembly dated 16.05.2022 addressed to Commissioner, Municipal Corporation, Lucknow, forwarding the representation of the Welfare Association on the subject.

3. Vide order dated 16.09.2022, the Tribunal sought a factual report from Municipal Corporation, Lucknow and UP State PCB with regard to status of waste processing and remediation of legacy waste.

4. Joint Committee report dated 7.1.2023 was considered by this Tribunal on 20.1.2023 and it was held that there was serious violation of norms requiring fixing of accountability for such violations. Operative part of the order is reproduced below:

“xxxxxx.....xxx

5. *The observations, recommendations and action taken as given in the report are reproduced as under:-*

“Observation found during Joint Inspection on dated 12-12-2022

1. *The Municipal solid Waste Transfer Station, Puraniya is spread over an area of approx. 5485.7059 Sq.mt. where municipal solid waste collected at transfer station Puraniya is sent to Sivari main plant for MSW processing.*
2. *The center is operated by M/s Eco green Energy Pvt. Ltd, Lucknow.*
3. *The primary waste collection from door to door is carried out by operator of the center (M/ Eco green energy Pvt. Ltd.) in 19 wards of Nagar Nigam Zone-III. The Nagar Nigam Zone- III wards covers Mahanagar, Aliganj, MahaKavi Jai Shanker Prasad, Ayodhyadas-1, Ayodhyadas-2, Jankipuram-1&2, Faizullaganj 2&3, Nirala Nagar, Daliganj Mnkameswar, Begam Hazarat Mahal, Lala Lajpat rai, Kadam Rasool, Vivekanandpuri Triveninagar.*
4. *As informed by the operator of station Nagar Nigam also collect the waste from nearby area of Zone 1 & 7 and Zone-3 from open dump side and send to transfer station Puraniya.*
5. *The facility at transfer centre comprises of 70 E -rickshaw, Plazio-05, Tatazip-05, Bolero 05, containers-07, JCB-03, tractor & trolly-05.*

6. As informed by operator of the centre approx. 150 Tonn/day N,4unicipal Solid waste received from Nagar Nigam Zone III Wards from one lacks four thousand house hold {1,04,000 houses) through 70, e-Riksha, Mannual riksha-50, Pzio-05, Tatazip-05 etc.
7. During inspection, approx.100 Tonn of waste was observed collected at transfer center, **due to accumulation of huge quantity of waste at centre unpleasant odour felt at and transfer station.**
8. The Puraniya transfer station is located adjacent to Priyadarshini Nagar colony sector C&D, Sitapur Road, Lucknow.
9. During inspection, it was observed that **boundary wall of the station has low height from all sides. Main gate of the station is often open which causes entry of animals around the waste collected.**
10. **Drainage system of the center was chocked due to MSW, which need to clean regularly.**
11. The waste transfer station has not obtained NOC from UPPCB for operation of centre.
12. **The height of boundary wall and fencing around station sufficient but operator has not develop green belt around boundary wall.**
13. **During inspection, due to continuous movement of waste loading vehicles dust emission was also observed.**

Recommendations:-

1. The facility may be directed for immediate disposal of waste accumulated at transfer station to main processing plant at Shivari.
2. Regular monitoring should be carried.
3. The operator should develop green belt around boundary wall.
4. The Nagar Nigam, sanitary inspector may ensure regular supervision of transfer station for regular lifting of waste collected at transfer centre to avoid the accumulation of waste. He shall also submit its report to The UPPCB on daily basis.
5. The operator of station may prohibit the entry of animals inside transfer station and maintain the drainage system of station.

Action taken proposed-

- 1 It is proposed to improve the functioning of Lucknow Municipal Corporation Transfer Station.
- 2 Detail project report for MRF cum Transfer Station prepared by Nagar Nigam, Lucknow, Tender process of required improvement work is under process. **As annexure-1”**

xxxxxx.....xxx

9. Shri Mishra, **learned Counsel for State PCB, however, stated that appropriate action would be taken by State PCB in due course of time. We find this situation to be highly dissatisfactory. A Statutory Regulator, despite there being no obstruction, has failed in discharging statutory duties with due devotion and has not taken any action which it was under statutory obligation to do. This, inaction and apathy on the part of a Statutory Regulator, in fact, encourages violators of environmental laws and norms to continue with their violations with impunity. The situation is highly deprecable and has to be condemned. In fact, Member Secretary, UPPCB is liable to explain as to why he has not taken any action against the erring officials for the laxity shown by them.**

10. We also find from record that **operation of Municipal Solid Waste Transfer Station, Puraniya has been handed over to M/s Eco green Energy Private Limited, Lucknow but it has failed in its function. No action has been taken against the said company and no reason is also disclosed as to why appropriate action has not been taken.**

11. Further, **operating transfer stations with holding capacity of 150 tonnes by itself seems to be unacceptable. Rather, steps need to be taken for immediate transportation of waste to the processing site. This issue needs to be clarified in the next report and status of such other transfer stations existing and their siting criteria.**

12. In these facts and circumstances, **we find it appropriate to direct Member Secretary, UPPCB to appear before Tribunal on the next date to explain as to why it has allowed its officials to show laxity in performance of their statutory functions by allowing violators to continue to violate environmental laws and norms but statutory duties are not discharged. The action taken, if any, in the meantime, report shall also be given by State PCB.**

13. Further, **Municipal Commissioner, Nagar Nigam, Lucknow shall file an affidavit to explain as to what further action has been taken in respect to the violations found by joint Committee in the report dated 06.01.2023 filed before Tribunal on 07.01.2023 and also action taken against company to whom operation of above Transfer Station has been given. Municipal Commissioner, Nagar Nigam, Lucknow shall also remain present before Tribunal on the next date. The Commissioner, Lucknow Nagar Nigam shall further provide report on overall status of the city to comply MSW**

Rules giving quantum of waste generation, installed and operational status of waste processing facilities and legacy waste which has to be remediated.

14. Learned Counsel for the applicant stated that joint Committee report is silent on various issues raised in the original application and the Committee should be directed to submit further report on all such issues. In our view, let a response be filed by respondents, State PCB and Nagar Nigam, Lucknow in respect of various issues raised by the applicant in the original application, by the next date.”

5. We have taken up the matter for further consideration. Learned Counsel for the Applicant points out that the Commissioner, Lucknow Municipal Corporation has failed to appear as directed and person appearing is infact Additional Commissioner without even informing the Tribunal without giving any reason why Commissioner personally did not appear. It is further pointed out that no affidavit has been filed by the Commissioner in terms of orders of this Tribunal. It is matter of regret that such responsible officers should behave in this manner. We defer action on this aspect while noting the violations pointed out.

6. The State PCB has filed its report dated 10.02.2023. It is stated that for serious violations, it has levied compensation of Rs. 2.40 crore on ‘Polluter Pays’ principle against the Municipal Corporation and also recommended prosecution of the Commissioner, Lucknow Municipal Corporation under the Environment (Protection) Act, 1986 for violation of MSW Rules, 2016. Sanction of the State has been sought under Section 197 Cr.PC. Show cause notice has been issued for setting up of transfer stations in violation of rules and closure orders have also been passed. Relevant extracts from the report are as follows:

*“3. Further it is submitted that the Board has also recommended prosecution against the Municipal Commissioner, Nagar Nigam, Lucknow under E(P) Act, 1986 read with MSW Rules, 2016 under section-197 Cr.P.O to UP Government vide letter no. G 40119/C-5/105/OA no. 654/22/2023 dated 08.02.2023. The same is annexed as **Annexure No. 2.***

4. It is submitted that earlier the **Board has already initiated action against Priyadershini Nagar, transfer station. Show cause notice under section-5 of E(P) Act, 1986 was issued to Municipal Commissioner Nagar Nigam Lucknow for non-compliance of Solid Waste Management Rules, 2016 not only to the transfer station Priyadershini Nagar but also to Ghaila Ghat, Mallapur and Dayal Paradise transfer station** vide letter no. G29167/C-5/Sa.-86/18 dated 31.12.2018. The same is annexed as **Annexure No. 3.**

5. It is submitted that in pursuance of the show cause notice, the Board has issued closer order under section-5 of E(P) Act, 1986 (as amended) against the transfer station near Dayal Paradise Choraha, Vikas Khand-5, Gomti Nagar, Lucknow and the transfer station at Khasra no. 457, Vill-Mallapur, Dubaga, Lucknow vide letter no. G28764/C-5/36/WPN-14981/ 18 dated 19.11.2018 and vide letter no. H28434/C-5/36/WPNo.-9141/13/18 dated 16.11.2018 respectively. The same is annexed as **Annexure No. 4 and 5.**

6. It is submitted that in compliance of the **closure orders issued to the transfer station near Dayal Paradise Choraha, Vikas Khand-5, Gomti Nagar, Lucknow and the transfer station at Khasra no. 457, Vill-Mallapur, Dubaga, Lucknow, Nagar Nigam, Lucknow closed down the operation of not only for the above station, but also closed the functioning of Priyadershini Nagar, transfer station, Puraniya, Lucknow.**

7. It is submitted that it is evident from the petitioner's application that the transfer station at Priyadershini Nagar was not functional till March, 2022 as the letters of M/s FIM Hospital, 537/P12 (kh-13M), Pujraniya Tiraha, Faizullaganj, Lucknow, M/s Harsha Hospital, 1/82, Sector-C, Priyadershini Yogna, Bandha Road, Near Puraniya Tiraha, Sitapur Road, Lucknow, M/s Verdham Hospital, 1/7, Sector-D, Priyadershini Colony, Bandha Road, Near Kiran Gas Agency, Sitapur Road, Lucknow, written in the month of May, 2022 (which have been annexed by the petitioner himself), clearly states that the Priyadershini Nagar, transfer station, Puraniya, Lucknow has started functioning since last 02 months i.e. March, 2022. The same is annexed as **Annexure No. 6, 7 and 8."**

7. In the course of hearing, compliance affidavit dated 13.02.2023 has been filed on behalf of Municipal Corporation acknowledging continuing serious violations to the detriment of environment and public health. Effort is made to shift the blame to the contractor – Eco Green Energy Pvt. Ltd. without showing tangible action for such violations. Only explanation is that it has recommended termination of contract to the Principal Secretary, Urban Development, UP on 12.1.2023. Further, reference is made to actions proposed in future such as Material Recovery Facility (MRF), giving

contracts for management of waste to other contractors, proposed bio-CNG plant and reviving compost plant which was idle, proposed C&D waste and horticulture waste and leachate treatment plants. Relevant extracts from the affidavit are reproduced below:

“3. It is informed to this Hon’ble Tribunal that city - Transfer Station at Priyadarshni, is managed and Run by Eco Green Energy Pvt. Ltd. to whom contract has been given to manage and collect all the Solid and Waste Management from door to door from all the houses of Lucknow as per agreement executed between Lucknow Nagar Nigam and Eco Green Energy Pvt. Ltd. on 21.03.2017. The primary waste collection from door to door is carried out by the Eco Green Energy Pvt. Ltd. of the center in 19 wards of Nagar Nigam Zone-Ill. The Nagar Nigam Zone- Ill wards covers Mahanagar, Aliganj, MahaKavi Jai Shanker Prasad, Ayodhyadas-1, Ayodhyadas-2, Jankipuram-1&2, Faizullaganj 2&3, Nirala Nagar, Daliganj Mnkameswar, Begam Hazarat Mahal, Lala Lajpat rai, Kadam Rasool, Vivekanandpuri Triveninagar. It is duty of the Eco Green Energy Ltd to collect all the garbage, store ,Transportation and Recycling of that Garbage. The Municipal solid Waste Transfer Station, Puraniya is spread over an area of approx. 5485.7059 Sq.mt. where municipal solid waste collected at transfer station, Puraniya is sent to Sivari main plant for MSW processing. It is also duty of the Eco Green Energy Pvt. Ltd. to maintain all the machines, Vehicles and all the Infrastructures as per Solid Waste Management Rules, 2016. The facility at this Transfer Centre comprises of 70 E -rickshaw, Plazio-05, Tatazip-05, Bolero 05, containers-07, JCB-03, tractor & trolly-05 and this Centre approx. 150 Tonn/day Municipal Solid waste received from Nagar Nigam Zone III Wards from One Lacks Four Thousand House hold (1,04,000 houses). It is relevant to mention here that Lucknow Nagar Nigam has given several Notices and warnings to the Eco Green Energy Pvt. Ltd but there was no improvement of working Style of the Eco Green Energy Ltd.as per direction given by this Hon'ble Tribunal so Lucknow Nagar Nigam has imposed Cost on the Eco Green Energy Pvt. Ltd. and also issued Legal Notice to the Eco Green Energy Pvt. Ltd. on November, 2022.

4. (A) It is relevant to inform this Hon'ble Tribunal that Selected agreement dated 21/3/2017 the Eco Green Energy Private Limited was substituted as concessionaire and object of the agreement is to enable the selected concessionaire, it's function including but not limited to collect transportation processing of mutual solid waste and disposal of remain waste as per the provision of applicable rules and operate and manage scientific Municipal waste management system and carry out other duties responsibilities and exercise such right morefully describe in concession agreement for residual concession period as per clause 8 (a) of schedule G Section 2 of the agreement the maintenance of the transport vehicle should be under taken so that is 90% of vehicles are available at any point of time for operation.

(B) That as per clause 1(1.3(v) of schedule G section 1 (operation and maintenance) requirement of agreement operation and maintenance of MSW processing facility with composite thing as one

of the main process the other process main include RDF plant plastic and metal separation in its processing plant so as true restrict the quality of land to the engineer sanitary landfill or less than 20% of incoming west.

(C) That as per clause 1(1.8) of schedule G Section 1 of agreement the Eco green company Pvt. Ltd. have to ensured that the MSW processing facilities shall remain operation 365 days a years subject to shutdown due to plan maintenance, Company should Endeavour that the MSW processing facility shall become operational within 22 hours of the breakdown.

(D) That as per Clause 5(iii) Schedule G section 3 of agreement the company must check untreated leachate, which does not meet the applicable code and tandar shall be let out from the processing sites but Company has miserably failed to take proper step for this. Now Nagar Nigam Lucknow is making Cemented Platform at Every Transfer Station.

(E) That as per clause .2 .1 of Scheduled G section 2 of the agreement, company should make efforts for understanding primary segregation of MSW from household commercial establishment and other Agencies or collection points.

(F) As per clause 9.2 of selecting agreement the company had to install a waste to energy plant but unfortunately sufficient efforts has not been taken by the company to process the MSW comply the environment law of the land.

5. That, after selection of the waste and transportation the disposal of Solid Waste by way of scientific technique is only responsibility of the Eco Green Energy Pvt. Ltd.(company) due to non performing of work and nearly dumping the waste was several mountain of solid waste were made solid waste from Siwri plant there objection of the plant the fresh waste material could not be reached -over the plant. That company has violated the terms and condition of the agreement and Solid Waste Management Rules 2016 -as 'they have 'not operated "the "plant as per the Terms and Conditions/norms as mentioned in Agreement, which is not only highly objectionable but also directly effecting the Environment. Nagar Nigam Lucknow has given Notices to the Company that dumping and upraises Waste is clear violation of clause 6.19 clause 6.1 clause 10.5 and clause 1.1 B of section 3 of Scheduled G of concession Agreement with attach penalty of 2% of the amount payable to their fees invoice for everyone person increase in land fill waste.

6. It is relevant to mention here that even after imposing cost and giving legal notice (November 2022) to the Eco Green Energy Pvt. Ltd. has not improved its working manner so Nagar Ayukt/ Municipal Commissioner has recommended and Written one letter (dated 12.01.2023) to Principal Secretary, Urban Development Department, U.P. Government to terminate the agreement with Eco Green Energy Pvt. Ltd. from immediate effect due to poor performance of the Company.

7. It is relevant to inform to this Hon'ble Tribunal that Transfer Station situated at Near Priyadarshni Colony is at closed Compound where Garbage is collected from 19 wards on daily basis and Transferred on same day to Siwari Plant for the Further Process so less chances of Foul and Obnoxious Smell from that Waste. Nagar Nigam Lucknow has informed/ Ordered to the Eco Green Energy Pvt. Ltd. to Upgrade the Transfer Station as Modern Transfer Station and also Developed as Materials Recovery Facility Center(MRF) and Nagar Nigam Lucknow has also Provided the Finance for the same purpose but they have used that Money in other head/Purposes. Nagar Nigam Lucknow has issued Notices as there was no improvement of working style of the Eco Green Energy Pvt. Ltd. Now Nagar Nigam Lucknow has prepared Detailed Project Report (DPR) for Upgrade the Transfer Station as Modern Transfer Station and also Developed as Materials Recovery Facility Center (MRF). A copy of the said Notices dated 07.02.2023 written by Environment Engineer Nagar Nigam to CEO and Director of Eco Green Energy Pvt. Ltd. is annexed herewith as ANNEXURE A-1

8. That Nagar Ayukt/ Municipal Commissioner has recommended and Written one letter (dated 12.01.2023) to Principal Secretary, Urban Development Department, U.P. Government to terminate the Contract/Triparty agreement with Eco Green Energy Pvt. Ltd. from immediate effect due to poor performance of the Company and for violating the Norms of the Rules and Regulations related with Environment. A copy of the said Letter dated 12.01.2023 written by Municipal Commissioner, Nagar Nigam Lucknow to Principal Secretary, Urban Development Department, U.P. Government is annexed herewith as **ANNEXURE A-2.**

9. That Municipal Commissioner, Lucknow Nagar Nigam has also Written Several Letters dated 24.09.2021 30.11.2021, 22.11.2021 and 01.04.2021 to Mr. Nagarjuna Reddy, CEO of Eco Green Energy Pvt. Ltd. Lucknow and complaint and asked to Explanation about the Disposal of Solid Waste in Mallpur and Puriniya Transfer Stations. It was also directed that within 7 days work for upgradation should be Start otherwise Legal Action will be taken against them. A copy of the said Letters dated 24.09.2021, 30.11.2021, 22.11.2021 and 01.04.2021 written by Municipal Commissioner, Nagar Nigam Lucknow to Mr. Nagarjuna Reddy, CEO of Eco Green Energy Pvt. Ltd. Lucknow are annexed herewith respectively as **ANNEXURE A-3 (Collies)**

10. That even after Written Several Letters as mentioned above Eco Green Energy Pvt. Ltd. has not Reply Properly and also not improved the Work Style, Nagar Nigam Lucknow has issued Legal Notice to the Several Office Bearer of the Eco Green Energy Pvt. Ltd. A copy of the said Legal Notice dated 02.11.2022, Send by Advocate of, Nagar .Nigam Lucknow to Eco Green Energy Pvt. Ltd. and its Office Bearer is annexed herewith as **ANNEXURE A-4.**

11. That due to the Complaint of the said area, it has been decided that Whole Covered Modern Materials Recovery Facility Center (MRF) will be Establish within 3 to 4 Months. Detailed Project Report (DPR), for Upgrade the Transfer Station as Modern Transfer Station is ready and 3 D Plan Site is discussed with experts. A copy of the said Photos

of 3 D Plan of Modern Transfer Station are annexed herewith as **ANNEXURE A-5**.

12. That Nagar Nigam Lucknow has also issued Notices dated 14.10.2022, 22.08.2022 and 21.07.2022 for several Penalties upon the Eco Green Energy Pvt. Ltd. as the Company was not working as per the agreed Terms and Conditions. A copy of the said Notices dated 14.10.2022, 22.08.2022 and 21.07.2022 are annexed herewith as **ANNEXURE A-6(Colly)**.

13. That Nagar Nigam Lucknow has appointed Fulltime Supervisor for Looking the Transferring of the Garbage on as soon as and daily Basis in Covered Vehicles/Trucks from said Transfer Station to Siwari Plant for further Process. Work of the said Supervisor is also Monitored by the Local SFI and ZSO who are reporting to the Higher Officers 'of the Nagar Nigam. A copy of the Order dated 23.01.2023 by the Zonal Sanitary Officer for the Appointment of the Supervisor is annexed herewith as **ANNEXURE A-7**.

14. That Nagar Nigam Lucknow has issued several Notices for Penalties to the Eco Green Energy Pvt. Ltd. for not compliance the Guidelines issued by this Hon'ble Tribunal and also Violation of the Environmental Laws and overall status of the city to comply MSW Rules is provided here. A copy of Status Report of Solid West Management in Lucknow City is annexed herewith as **ANNEXURE A-8**.

15. That the Applicant has raised question about dumping of waste which causing bad foul, breeding of mosquitos and other insects. Ground water is being contaminated due to leachate discharge due to unscientific dumping. of mixed waste. According to the Applicant Situation is worsed in rainy period. The management of municipal solid waste is one of the main functions of all Urban Local Bodies (ULBs) in the country. All ULBs are required to meticulously plan, implement and monitor all systems of urban service delivery especially that of municipal solid waste. With limited financial resources, technical capacities and land availability, urban local bodies are constantly striving to meet this challenge. It is said by us that we are trying that no municipal solid / Garbage will compile at the said site it will on regular on hour basis transfer to Siwari Plant for further Process. It is also Clarified that Nagar Nigam Lucknow is Propose to making Cemented Platform so that no water or chemical goes to the Ground Water.

16. That it is well known fact that the management of municipal solid waste in India has surfaced or continued to be a severe problem not only because of environmental and aesthetic concerns but also because of the enormous quantities generated every day. Even though only 31% of Indian population resides in urban areas, this population of 377 million (2011) generates a gigantic 1,43,449 metric tonnes per day of municipal solid waste, as per the Central Pollution Control Board (CPCB), 2014-15 and these figures increase every day with an increase in population.

17. That Nagar Nigam Lucknow has entered the MOU with Human Matrix Organization for Collecting aggregate Garbage from Door to door. More than 200 Employees of the Matrix Organization showing

Information, Education & Communication (IEC) Activities and also with the help of People Regular awareness programme are organized. Next 6 months we have targeted to educate around 70 % House/Institution.

18. In spite of complete failure of Eco Green Energy Pvt. Ltd , the current responsible agency for Waste Management, Lucknow Municipal Corporation is putting tremendous efforts to bring the waste management scenario of Lucknow upto the mark. The proposed action plan is as Under-

A. For Segregated collection and transportation of Waste, Lucknow Municipal Corporation is implementing projects as mentioned below:-

- LMC has already started intensive Information, Education & Communication (IEC) campaign to educate people for source segregation. Target is to achieve 100% source segregation in next one year.*
- LMC has already finalized the tender process of gap identified fleets for door to door collection, transportation of waste, C&D waste and silt.*

B. For management of Wet Waste, Lucknow Municipal Corporation is implementing projects as mentioned below:-

- LMC has awarded the Contract to Ever Enviro Resource Management Pvt. Ltd for construction & O&M of 300 TPD Bio-CNG plant. Project will not only utilize 300 MT wet waste on daily basis but also produce Bio-CNG a source of green energy.*
- LMC has identified Bulk generators and have directed them to do onsite wet waste processing in their premise. In this way approx. 50 TPD wet waste will be converted to compost through decentralized composting techniques.*
- LMC has already started for Revival of Compost Plant at Shivri Machineries which were kept idle since long ago by Ecogreen Energy Pvt Ltd are now, overhauled and are functioning properly. Faulty electrical system is also rectified and now LMC is further planning to procure additional machineries to enhance the capacity of Compost plant upto 1000 MT per day in two shift operation.*

C. For management of Dry Waste, Lucknow Municipal Corporation is implementing projects as mentioned below;

- LMC has already started for Revival of RDF Plant along with the compost plant located at Shivri. LMC is planning to procure additional machineries to enhance the capacity of RDF plant upto 800 MT per day in two shift operation.*
- LMC has planned Construction of 28 MRF Cum PCTS is Planned for resource recovery and transfer of dry waste. 10 such facility is already in construction stage. To achieve the target of resource recovery, LMC has*

further planned to construct 3 MRF Cum TS with state of art technology.

- *LMC is also planning to construct a RDF based waste to energy plant.*

D. For the C&D Waste-

- *LMC has already prepared the DPR for capacity enhancement of existing 100 TPD C&D waste plant at Mohanlal Ganj to 3.00 MT per day.*
- *LMC- has identified 8 locations, one in each zone for development of C&D waste collection Center. These Centers will receive C&D waste in segregated manner and the same will be transported to C&D waste processing facility.*

E. Horticulture Waste-

- *It is planned to construct In-situ Composting unit for leaves and horticulture waste and a briquetting unit from branches and Coconut shell.*

F. Domestic hazardous waste and E-waste

- *LMC has identified 8 locations, one in each zone for development of Domestic hazardous and E-waste collection centre. These centres will receive specific waste in and will transfer the waste to their dedicated processing facility.*

G. Sanitary Landfill

- *A Sanitary Landfill in 34 Acres of land at Shivri is being designed and will be brought under tender process*

H. Legacy waste Management-

- *LMC has already prepared the DPR for Management of legacy waste and unprocessed waste dumped by M/s Ecogreen Energy Pvt. Ltd. at Shivari processing plant and nearby landfill for which financial concurrence is accorded and tender process is initiated.*

Lucknow Municipal Corporation is putting all their effort, identified the gaps and have ring fenced the budget through 15th FC and SBM for improvement of Solid Waste Management scenario in Lucknow.

19. That the tender process of Three New Transfer Stations were completed and at Two Places Already Established/Running Transfer Stations will be converted in MRF Centre with new Technology very soon.

20. That for management of Wet Waste, Lucknow Municipal Corporation has already signed MOU for Establishing Capacity of 300 TDP Bio CNG Plant and also Establishing the PNG Plant of Capacity of 300 TDP for disposal of Dung/Gobar Collected from the City.

21. *That at Present Construction of total 10 Mechanized MRF Centre are in progress by these -MRF Centres Wet garbage and Dry Garbage can be segregated and that can be Recycled. For the Operation of these MRF/s one organization namely kabadi.com has been appointed.*

22. *That Tender Process has been Completed for Buying the 90 Vehicles and 13 Richaw Trolly for Primary Garbage Collection and Tender also has been completed for buying 35 Reused Compressor for Collection of Secondary Garbage.*

23. *That with the help of around 800 Parks of the City Horticulture waste/Wet Garbage Nagar Nigam Lucknow is making Compost. Nagar Nigam Lucknow is also taking lot of steps to disposal of E-waste, Hazardous Waste, Flower Waste. Nagar Nigam Lucknow is also Establishing Waste to Wonder Park by waste collection and plastic Collection from house hold. Nagar Nigam is planning to end the use of plastic in the city which will be possible only if citizens of Lucknow participate in this Campaign. Nagar Nigam Lucknow schemes will make people aware about three approaches — Reduce, Recycle and Reuse — which is the only way to save our environment. Waste items like tires, rods, nut-bolts, iron sheets, appliances that are not in use or do not work, will be utilised to create something that is visually appealing.*

24. *That at the Siwari New Leachate Treatment Plant is Proposed and Proposal has been given to Government for its Consent and Tender has been floated for disposal of unprocessed Waste at that Place. Lucknow Nagar Niga has already prepared the DPR for capacity enhancement of existing 100 TPD C&D waste plant at Mohanlal Ganj to 300 MT per day.”*

8. We have heard learned Counsel for the parties, perused the record and duly considered the matter. Question for consideration is whether the Lucknow Development Corporation has discharged its statutory obligation of providing clean environment and complied statutory norms on the subject. If not, how its accountability is to be fixed.

9. Before considering the matter further, it will be relevant to point out that the issue of solid waste management has been monitored by the Hon'ble Supreme for 18 years and for about 9 years by this Tribunal. **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.”

10. 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 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. 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."*

11. Further reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand and B.L. Wadhera v. Union of India and Ors.* 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.

12. Vide order dated 22.12.2016, (2016) SCC Online NGT 2981, the issue of Solid Waste Management was disposed of by the Tribunal 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. Thereafter, Chief Secretary, UP has appeared twice in person and directions for monitoring compliance have been issued. Timelines laid down under Rule 22 N of the SWM Rules have long expired. Thereafter, the Tribunal has levied compensation for gaps in compliance of solid waste management rules, after hearing Chief Secretaries of concerned States in OA 606/2018 and also in respect of

several individual cities such as Ludhiana (in OA No. 286/2022, *In re: News item published in The Indian Express dated 20th April, 2022, titled “7 Charred to death in fire near Ludhiana dumpsite”*, order dated 01.11.2022), Delhi (in OA No. 300/2022, *In re: News item published in The Times of India dated 22nd April, 2022, titled “Delhi: Another long-drawn effort to douse fire at Ghazipur landfill”*, dated 11.10.2022) and Gurgaon (in OA No. 172/2021, *Poonam Yadav vs. M/s. Ecogreen Energy Pvt. Ltd. & Ors.*, order dated 23.09.2022) In such situation, if non compliance is continuing in Capital city of Lucknow, accountability for such failure has to be fixed.

13. We now proceed to consider the issue in the present case. The record shows serious failure on the part of the Corporation in complying with waste management norms which has obviously resulted in damage to the environment and public health for which the Corporation and the Commissioner are accountable.

14. Affidavit of the Corporation itself shows that it is still at the stage of planning and preparing proposals. It is content by giving contract to a contractor who failed to perform and violations as alleged by the applicant and the State PCB have taken place for which no coercive measures such as black listing, claiming compensation, terminating contract have been taken nor alternative arrangements made even though prescribed timelines under statutory rules have since expired. This clearly shows the collusion of the Corporation and the contractor to the detriment of public health. The State PCB has not taken adequate remedial measures and has merely sought sanction under section 197 Cr.PC for violations which can hardly be held to be in discharge of public duties. The action of the State PCB is thus stonewall action against the violator. Order of the Tribunal in para 11 requires explanation about legality/viability of operation of Transfer Station which has not been explained. Further, in para 13 of the order,

precise information was sought on quantum of waste generation, quantity of waste processed and remediation of legacy waste site. However, no information is furnished. This shows lack of sincerity on the part of the Corporation. Violations are acknowledged in the form of foul smell, blockage of drains, leachate discharge and piling of garbage at transfer stations even though under the Rules, the garbage has to go to end destinations like composting centres, MRF, waste to energy plants, integrated waste management plants. Needless to say such failure causes immense hardship to citizens and generates methane gas which leads to climate change.

15. Accordingly, while directing expeditious compliance of norms in managing the waste for acknowledged violations for long time and which are serious, we fix the interim compensation of Rs. 10 crores against the Corporation on polluter pays principle which may be deposited with the State PCB within one month but positively before 31.03.2023, which will be the personal responsibility of Commissioner, Lucknow Municipal Corporation. The interim compensation will be over and above the compensation assessed by the State PCB. The amount may be utilized for restoration of environment in accordance with the District Environment Plan of the District associating the District Magistrate. If there is a failure in deposit, the Commissioner, Lucknow Municipal Corporation will not be entitled to draw salary after 01.04.2023.

16. Action taken report with status of compliance and details of waste generated and processed as on 30.04.2023 be filed by 15.05.2023 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.

List for further consideration on 23.05.2023.

A copy of this order be forwarded to the Chief Secretary, Uttar Pradesh, Secretary, Urban Development, UP and Commissioner, Lucknow Municipal Corporation by e-mail for compliance.

The Commissioner, Lucknow Municipal Corporation may remain present in person on the next date by V.C.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 13, 2023
Original Application No. 654/2022
DV