

**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: 20.01.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Rahul Khurana, Advocate

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocate for UPPCB
Mr. Ajay Singh, Advocate for Lucknow Municipal Corporation (R - 2)

ORDER

1. Mr. Rahul Khurana, Advocate has appeared for the applicant, Mr. Pradeep Mishra, Advocate has appeared for UPPCB and Mr. Ajay Singh, Advocate for Municipal Corporation, Lucknow.

2. Grievance in this application is against violation of environmental norms in shifting the dumping zone and garbage lying on the dumping site i.e. Bandha Road, Faizzullaganj, Priyadarshini Colony, Sector-D, Lucknow. It is stated that such unscientific dumping of solid waste is resulting in foul and obnoxious smell in violation of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986. 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. Considering the grievance, this Tribunal sought a factual report and for that purpose constituted a Joint Committee comprising Municipal Corporation, Lucknow and UP State PCB. The report dated 06.01.2022 has been submitted by the Joint Committee, filed before Tribunal on 07.01.2022.

4. In the report, joint Committee has pointed out serious fault on the part of Nagar Nigam, Lucknow in violating environmental laws and norms in various ways.

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 Pridarshini 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***

6. Since, the report categorically stated severe violations of environmental laws and norms on the part of Nagar Nigam, Lucknow, we sought explanation from the said violator. Shri Ajay Singh, Advocate who had appeared on behalf of Nagar Nigam, Lucknow, on 11.01.2023, sought some time to file reply on behalf of Nagar Nigam, Lucknow and the request was accepted and time was granted.

7. However, today neither any reply has been filed on behalf of Nagar Nigam nor any reason has been disclosed. Learned Counsel for the Nagar Nigam states that Nagar Nigam rely on the said joint Committee report and that action would be taken by Nagar Nigam to improve the situation. However, findings of joint Committee remained uncontroverted.

8. In these facts and circumstances, we enquired from the learned Counsel appearing for State PCB as to why no appropriate action has been taken by UPPCB against Nagar Nigam by assessing environmental compensation, initiating criminal proceedings, etc. but no explanation could be given.

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.

15. List for further consideration on 13.02.2023.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

January 20, 2023
Original Application No. 654/2022
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