

Item No. 07

Court No. 1

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

Original Application No. 473/2023

Lalit Gulati

Applicant

Versus

Union of India

Respondent

Date of hearing: 23.01.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Sanat Garg, Adv.

Respondent: Mr. Rahul Khurana, Adv. for HSPCB & MCG
Mr. Thakur Sumit, Adv. for MoEF & CC

ORDER

1. In this original application, Applicant has raised the grievance relating to the dumping of garbage by the road side in Udyog Vihar, Gurugram, Haryana which was leading to multiple problems, including the health hazard and was causing damage to the environment.
2. The Tribunal by order dated 28.07.2023 had constituted a joint Committee and had called for the report.
3. The report of the joint Committee submitted under the covering letter dated 28.08.2023 was duly considered wherein during the site inspection heaps of solid waste and other waste were found dumped along the road in the open area. The stand of the Respondent No. 4 in this regard was noted by the Tribunal in the proceedings dated 08.11.2023 as under:

“xxxxxx.....xxx

4. A reply on behalf of Respondent No. 4 has also been filed stating that the concessionaire i.e. Respondent No. 2, Eco Green Energy Pvt. Ltd. was supposed to lift the waste regularly and the waste has not been lifted on account of the lapse on the part of it. Paragraph 2 of the reply reveals that within a short period of June, 2023 to August, 2023, respondent no. 2 had committed, as many as, 20 lapses/defaults and accordingly a penalty of Rs. 1,75,000/- has been imposed. Learned Counsel appearing for respondent no. 4 has submitted that the draft of Preliminary Notice for termination of services of Respondent No. 2 sent to the Government has now been approved and the respondent no. 4 will be taking action to terminate the contract of respondent no. 2 as also to blacklist respondent no. 2 in a short while.

5. Respondent no. 4 is directed to file the action taken report in pursuance to the above statement within two months 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.

6. The action taken report dated 07.11.2023 on behalf of the joint Committee has also been filed stating that the solid waste lying at the site in question was lifted and sent to the designated site for scientific disposal and the site was clean. This report is disputed by the Counsel for the applicant by submitting that the waste is still heaped up at the site and that only the place of collection has been shifted 20 mtr. away from the previous site.

7. Counsel for applicant is permitted to file objection along with the relevant supporting material. Meanwhile, Shri Hitesh Kumar Meena, IAS, ADC, Gurugram is also directed to file his affidavit in support of the facts disclosed in the joint Committee report dated 07.11.2023 which is signed by him. Let the same be filed within two months 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. Respondent No. 2, Eco Green Energy Pvt. Ltd. is also permitted to file reply on or before the next date of hearing.”

4. The affidavit of the Additional District Commissioner, Gurugram in terms of the order dated 08.11.2023 has been filed, which in para 4 mentions that the site was visited by Shri Aparnesh Kaushik, Scientist B, HSPCB, Gurugram (North) and as per the photographs dated 05.01.2024 site was found to be cleaned and fencing was done at the site to avoid unauthorized dumping of waste at site.

5. The Fresh action taken report dated 20.01.2024 has been filed on behalf of Respondent No. 4 disclosing as under:

- “2. That it is humbly submitted that Secondary Collection Point (in front of plot No.244 to 108 Phase-I), in respect of which present OA has been filed, has been discontinued and as on date site is clean. Regular monitoring of entire Udyog Vihar is also being done to ensure collection and transportation of waste to designated site at Village Bandhwari. Photographs of the site are annexed herewith as **Annexure R/1**.
3. That a recovery notice amounting to Rs. 129.20 cr. has been issued to M/s Ecogreen Energy Pvt. Ltd. for recovery of dues against expenditure done by MCG at its 'Risk and Cost'. Further, the Municipal Corporation, Gurugram has issued preliminary notice for termination to Concessionaire vide letter no. MCG/JC-SBM/2023/1404 dated 04th December 2023 (Annexure-R/2) on account of failure to complete the work as per provisions of the Concessionaire Agreement. In response to said notice, the Concessionaire has submitted its reply dated 02.01.2024 which is under consideration. It is humbly submitted that issue of processing of legacy waste and daily generated fresh waste is already under consideration in OA No.172/2021 (Poonam. Yadav Vs M/s Ecogreen Energy Pvt Ltd. &Ors.) and this Hon'ble Tribunal has passed detailed order dated 09.01.2024, copy of which is enclosed as (Annexure-R/3). The Hon'ble Tribunal vide order dated 09.01.2024 has directed the Commissioner and Secretary, Urban Local Bodies Department to file a personal affidavit with a clear timeline in respect of various steps, which are necessary to be taken for clearing not only the entire legacy waste but also for processing of daily generated solid waste.
4. That a sum of INR. 6.50 cr. has already been recovered from the Concessionaire from his monthly running bills and a sum of INR 11.60 Cr. has been withheld on account of non-performance & works at its risk & cost. Besides this, the Commissioner, MCG granted approval for forfeiture of the Bank Guarantee amounting to INR 33 cr. and accordingly HDFC Bank, Hero Honda Chowk, Gurugram has credited the amount of said bank guarantee of Rs. 33 cr. in the bank account of MCG on 03rd January 2024 as recovery against the works executed at the risk & cost of M/s Ecogreen Energy.
5. That, the answering respondent is taking sincere steps to get the solid waste lifted and disposed of in scientific manner at the processing site at village Bandhwari.
6. That grievance raised in the present OA has been redressed by daily collection and transporting of waste at Bandhwari Site. After issuing preliminary notice against Concessionaire i.e. M/s Ecogreen Energy Pvt Ltd, its reply is under consideration. The overall progress in entire Gurugram w.r.t. Solid Waste Management is under consideration at micro level before this Hon'ble Tribunal in OA No.172/2021 as explained in para no.3 above.”
6. The above report clearly mentions that the site as on date is cleaned and that the secondary collection point on the spot has been

discontinued. It further states that the larger issue relating to legacy waste and daily generated waste is already under consideration before the Tribunal in OA No. 172/2021.

7. As per the above report, the recovery notice of Rs. 129.20 crores has been issued to M/s. Ecogreen Energy Pvt. Ltd. for recovery of dues against expenditure done by Municipal Corporation Gurugram against its 'risk and cost'. Thus, the grievance which was raised in the OA has been remediated and redressed. Learned Counsel appearing for Respondent No. 4 has submitted that steps will be taken to recover the amount.

8. Hence, the OA is disposed of directing Respondent No. 4 to file the fresh report before the Registrar General of the Tribunal indicating the extent of recovery which has been made within a period of three months 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. If found necessary, the matter will be listed before the Bench for consideration.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

January 23, 2024
Original Application No. 473/2023
DV.