

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
**ORIGINAL APPLICATION No. 89/2023/EZ
(I.A. No.63/2023/EZ)**

IN THE MATTER OF:

**1. Akshay Kumar Singh
Son of Late Ramashish Singh,
Residing at Village & Post Office – Pokhrahan,
Poiwan, Police Station – Mufashil Aurangabad,
District – Aurangabad,
State – Bihar,
Pin – 824103**

**2. Rahul Kishore
Son of Late Kishori Singh,
Residing at Village & Post Office – Poiwan,
Police Station – Mufashil Aurangabad,
District – Aurangabad,
State – Bihar,
Pin - 824103**

....Applicant(s)

Versus

**1. Union of India
Through the Secretary,
Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhawan,
Jor Bag Road,
New Delhi - 110003**

**2. State of Bihar,
Through the Chief Secretary,
Government of Bihar,
Main Secretariat,
Patna - 800015**

**3. Central Pollution Control Board,
Through the Member Secretary,
Parivesh Bhawan,
CBD-cum-Office Complex,
East Arjun Nagar,**

Delhi - 110032

4. **State Pollution Control Board,
Through the Member Secretary,
J4P3+FV9, Mall Road, Patliputra Industrial Area,
Digha, Patna,
Bihar - 800010**
5. **The Municipal Corporation, Aurangabad,
Through Municipal Commissioner,
Q958+73F, Satyendra Nagar Road,
Aurangabad,
Bihar - 824101**
6. **The Chairman,
Aurangabad Municipal Corporation,
Q958+73F, Satyendra Nagar Road,
Aurangabad,
Bihar - 824101**
7. **The Sub-Divisional Officer
The Municipal Corporation,
Q958+73F, Satyendra Nagar Road,
Aurangabad,
Bihar - 824101**
8. **The District Magistrate,
Aurangabad,
Bihar - 824101**
9. **The Sabhapati Panchayat Samity,
Poiwan,
Aurangabad,
Bihar - 824101**

....Respondent(s)

COUNSEL FOR APPLICANT:

Mr. Ibrahim Shaikh, Advocate

COUNSEL FOR RESPONDENTS :

**Ms. Rashmi Singhee, Advocate for R-1
Mr. Surendra Kumar, Advocate for R-2, 7 & 8,
Mr. Ashok Prasad, Advocate for R-3,
Ms. Amrita Pandey, Advocate for R-4,
Mr. Pourush Bandyopadaya, Advocate a/w
Mr. Deepankar Thakur, Advocate for R-5 & 6,**

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE DR. ARUN KUMAR VERMA (EXPERT MEMBER)

Reserved On:-29th November, 2023

Pronounce On:- 7th December, 2023

1. Whether the Judgment is allowed to be published on the net? **Yes**

2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**

Heard the learned Counsel for the Applicants and the learned Counsel for the Respondents as well as the Executive Officer, Aurangabad Nagar Parishad, Bihar, who is present in Court, and perused the documents on record.

2. The Applicants in the present Original Application are aggrieved by the establishment of a 'Garbage Processing Unit' situate at Poiwan, Aurangabad, Bihar, by the Respondent No.6.

3. The grievance of the Applicants is that the said Garbage Processing Unit is near the village of the Applicants which has a dense population and the river Tekari is within 50 to 100 meters from the said Unit. The dumped garbage is stated to be stored at about 300 meters from the village where the entire district's garbage is stored and the Waste Processing Unit has been established by the District Administration.

4. It is also stated that the Chhath Puja is held on the Tekari river where pilgrims come for Chhath fasts at Chhath Ghat and if

the Garbage Storage Centre (Processing Unit) of the entire district is established at this place, many types of diseases will arise in the surrounding areas, affecting lives of the villagers as well as the visiting chhath pilgrims.

5. It is also alleged that effective measures have not been taken by the Respondent Nos.6 to 8 to mitigate the adverse impacts of environment pollution of Village-Poiwan, District-Aurangabad, Bihar.

6. The Ministry of Environment, Forests and Climate Change (MoEF&CC) has filed affidavit dated 05.10.2023 referring to the Rule 19 of the Solid Waste Management (SWM) Rules, 2016 and the stipulated criteria for setting up Solid Waste Processing and Treatment Facility.

7. The Executive Officer, Nagar Parishad, Aurangabad (Bihar) has filed has filed affidavit dated 07.10.2023 stating that the Aurangabad Municipal Corporation was actively looking for the identification of appropriate land in the district of Aurangabad for the purpose of sanitary land filling and for further development of the said piece of land as Waste Processing Unit. It is stated that the district of Aurangabad produces about 30-32 tons of garbage per day which is increasing each day. In order to deal with the solid waste, the Respondent No.5 had been provided with an option of a piece of land identified by the Circle Officer, Aurangabad vide letter dated 06.07.2023 proposing that the transfer of the said piece of land be made in favour of the Respondent No.5, Aurangabad Municipal Corporation for establishment of Solid Waste Processing Unit in the district. It was also suggested by the Circle Officer,

Aurangabad that a temporary sanitary land filling is identified with future possibility of developing it into a Waste Processing Unit near Poiwan village to facilitate segregation, sorting and recovery of recyclable materials from various components of the wastes by workforce engaged by the Respondent Nos.5 and 6.

8. It is stated that in pursuance thereto, Respondent Nos.5 and 6 selected the site near village Poiwan and a letter of consent was also duly issued by the Executive Officer of the Aurangabad Municipal Corporation vide Ref. No.1478 dated 08.07.2023. It is stated that the said piece of land was nearly 20 feet deep and was temporarily perfect for sanitary land filling and segregation of non-biodegradable waste from biodegradable waste. It is stated that the ground water level in the said district is approximately below 200 feet from the ground level and therefore, there was no possibility of ground water contamination. It is also stated that after segregation and sorting the solid waste, the non-biodegradable was transported by the Respondent No.5, Aurangabad Municipal Corporation to the nearest Waste Processing Unit.

9. It is stated that in or around July, 2023 several representations were made before the District Magistrate, Aurangabad, by the local residents and the erstwhile Chairman of Zila Parishad, Aurangabad requesting to terminate the process of landfilling and developing the said piece of land as a waste processing unit and after considering the matter, the District Magistrate, Aurangabad had passed an order terminating the landfilling near the village Poiwan. The Respondent No.5 was also directed to shift the non-biodegradable and biodegradable waste to

the nearest Solid Waste Processing Unit situated at Navinagar, Parasdih, Aurangabad and the land filling site near village Poiwan be permanently closed and covered following the standard procedure laid down in the said act.

10. It is categorically stated that the Aurangabad Municipal Corporation has never cut or removed any tree or plantation or vegetation from the site which would also be clear from the letter/Report of the Divisional Forest Officer dated 25.09.2023 vide Ref. No.2207 copy of which has been filed with the affidavit. It is, however, stated that the Waste Processing site is situated at a distance of 350 mtr from the Poiwan village and there has been no violation of siting criteria of the Solid Waste Management Rules, 2016.

11. The State Pollution Control Board has filed affidavit dated 14.09.2023 and referred to Schedule-I of the Solid Waste Management Rules 2016 and it is stated that site specification for sanitary landfills under the heading “Criteria for Site Selection” requires that the landfill site shall be: -

- a) 100 mtr. away from River,
- b) 200 mtrs. away from Pond,
- c) 200 mtrs. away from Highway,
- d) 200 mtrs. away Habitation, Public Parks and
- e) 200 mtrs. away from Water Supply Wells

12. It is stated that the landfill site in question is situated only at a distance of 50 mtrs. from the river Tekari and therefore, the landfill does not fulfill the siting criteria as per Schedule-I of the

Solid Waste Management Rules, 2016. It is also stated that the present landfill site is situated as under: -

- a) East of village Poiwan at a distance of 266 mtrs.
- b) West of village Dehri at a distance of 500 mtrs.
- c) North of Tekari river at a distance of 50 mtrs. and
- d) South of village Pachrukhiya at a distance of more than 500 mtrs.

13. A further affidavit dated 23.11.2023 has been filed by the District Magistrate, Aurangabad reiterating the averments already made in the petitions of the Aurangabad Municipal Corporation. In the affidavit it has been denied that there is any dense population with 50-100 mtrs. of the Waste Processing Unit or that the establishment of the Waste Processing Unit would in any manner cause environmental pollution or air pollution in the area of the petitioner's village. It is denied that the Garbage Storage Centre has been established at a distance of only 300 mtrs. from the village Poiwan.

14. Though, the stand of the Aurangabad Municipal Corporation is that landfill site in question is not in violation of the siting criteria for Solid Waste Processing Unit laid down in Schedule-I of the Solid Waste Management Rules, 2016, however, the affidavit of the Bihar State Pollution Control Board clearly mentions that the site in question is situated at a distance of 50 mtrs. from the river Tekari and the landfill site therefore does not satisfy the siting criteria with respect to its location vis-à-vis the river.

15. The affidavit of the Bihar State Pollution Control Board however discloses that the distance from Poiwan village and the

landfill site in question is about 266 mtrs. and from village Dehri which it is about 500 mtrs. and from village Pachrukhiya it is about 500 mtrs. Therefore, so far as the siting criteria of the landfill site in question from habitation is concerned, there may not be any violation of the provisions of the Schedule-I of the Solid Waste Management Rules, 2016. However, the affidavit of the Bihar State Pollution Control Board categorically mentions that the landfill site is about 50 mtrs. away from river Takari which is in clear violation of the stipulated 100 mtrs. as provided in Schedule-I of the Solid Waste Management Rules, 2016.

16. In this view of the matter, we direct the State Respondents as well as the Aurangabad Municipal Corporation to remove the landfill from the present site as it is in violation of the siting criteria laid down in the Schedule-I of Solid Waste Management Rules, 2016 and locate the same to another site fulfilling all the conditions laid down in Schedule-I of the Solid Waste Management Rules, 2016.

17. Let this exercise be carried out within a period of **three months** i.e. by **01.03.2024**. Affidavit of compliance shall be filed by **15.03.2024**. Within this period of time, the Respondent No.5 shall also take steps for restoration of the current landfill site by removing all solid waste biodegradable/non-biodegradable from the site and sprinkle mud over the area so that there is no foul smell emanating therefrom.

18. With the aforesaid directions, the Original Application No.**89/2023/EZ** is disposed of.

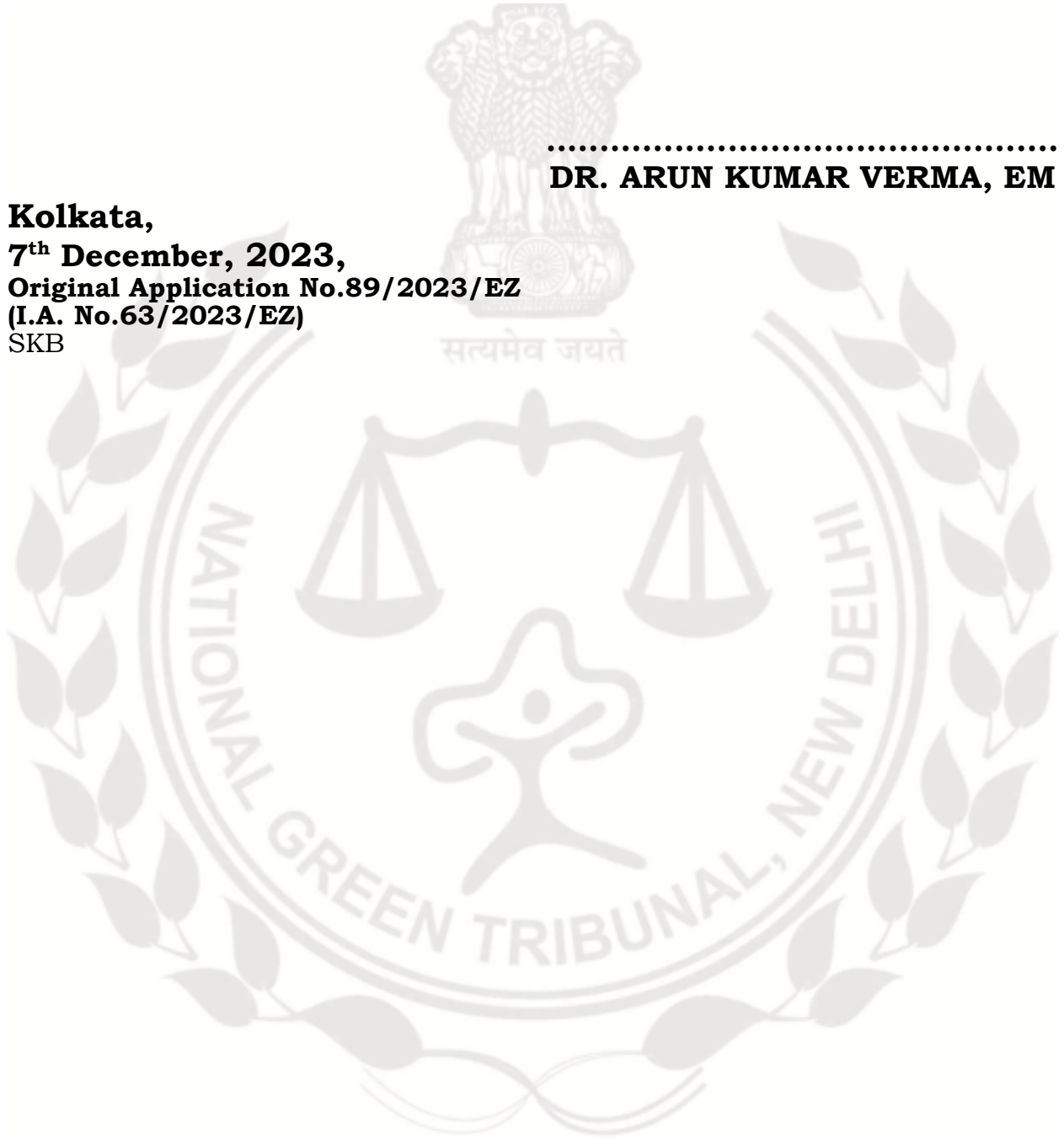
19. I.As, if any, stand disposed of accordingly.

20. There shall be no order as to costs.

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B. AMIT STHALEKAR, JM

Kolkata,
7th December, 2023,
Original Application No.89/2023/EZ
(I.A. No.63/2023/EZ)
SKB

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DR. ARUN KUMAR VERMA, EM



NGT