

Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.107 OF 2023 (WZ)

Pooja Hotchandani & Anr.

.... Applicants

Versus

Nadiad Municipality & Ors.

.... Respondents

Date of hearing : 21.11.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicants : Mr. Saurabh Kulkarni, Advocate along with
the applicant No.1 in person

Respondents : Mr. Viral Shah, Advocate for R-1
Mr. Parth Bhatt, Advocate along with
R-2 – District Collector through VC

ORDER

1. From the side of the applicant, learned counsel Mr. Saurabh Kulkarni has appeared and prayed that some interim direction may be issued to respondent No.1 to take care of the fire incidences happening at the site in question where garbage is being dumped illegally. According to him, no adequate measures have been taken by respondent No.1 although the same has been controverted by the learned counsel for respondent No.1.

2. From the side of respondent No.1 – Nadiad Municipality, learned counsel Mr. Viral Shah has appeared and states that he has filed reply-affidavit through email. We direct him to e-file the same because the Registry will not act on the e-mail. He submits that he would e-file the same today only, although we have received the reply-affidavit filed by

him through e-mail 17.11.2023, copy of which has been served upon the learned counsel for the applicants, who seeks time to file rejoinder thereto. We grant the same as prayed for.

3. In the said reply-affidavit, it is submitted that the present solid waste generation in the area under jurisdiction of the respondent Municipality is 80 MT per day. The lands Survey nos.49-1, 49-2, 50, 58, 59, 60, 61, 62, 64, 65 to 68, 44, paiki, 45, P, 48 to 48 and 53, Kamla Villae, Taluka Nadiad, District Kheda have been acquired by the answering respondent for the construction of Sewage Treatment Plant (STP) in the year 1989. In addition to that, survey Nos.43, 63, 104, 105/1, 105/2, 118 paiki one, 118 paiki two & 119 are also owned by the answering respondent, which are also part of the municipal solid waste site except survey No.119, where 51.206 MLD STP is constructed during 2015. The Municipal Solid Waste (MSW) disposal at the site in question started in the year 2003. Thereafter, a new STP of 51.26 MLD capacity based on Sequential Batch Reactor (SBR), an advance technology treatment was constructed at survey No.119 of Kamla village in the year 2015. As per the Detailed Project Report (DPR), prepared by the answering respondent for MSW management, the total area of the site is approximately 88110 sq.mtr and the solid waste area is approximately 41,916 sq.mtrs. The dumping and the processing of solid waste is being carried out on the above mentioned site by the answering respondent and it has also done an MOU with M/s Dayacharan and Co., Delhi on 29.04.2023 for scientific processing and disposal of all legacy waste. As per the MOU, the entire legacy waste is to be disposed of by March, 2024. Copy of the MOU is annexed as Annexure-R-1. As per the said MOU, around 2,30,956 tons of legacy waste would be cleared by M/s Dayacharan & Co by March, 2024. The DPR for the management of fresh municipal solid waste has been approved by the Technical Scrutiny

Committee and the Regional Commissioner of Municipalities, Ahmedabad zone and the administrative approval for the same would be obtained by the next month and subsequently tender would be floated. The answering respondent has applied for authorization under MSW Rules, 2016 to GPCB through application dated 27.11.2023, which is under consideration. The answering respondent has started construction of the compound wall where the solid waste disposal site is located and that around 600 meters length compound wall has already been constructed so far. Further 1500 meters construction is outstanding, which would be done from the saving grant of Swachh Bharat Mission preferably within a period of 10 to 12 months. The bio-mining and bio-remediation work has started from 16.08.2023 and so far 31,000 MT of legacy waste has been processed. The segregation work has also been started and is under process. The answering respondent has obtained technical grant of Rs.4.31 Crores for the management of fresh solid waste from the Regional Commissioner of Municipalities, Ahmedabad and soon execution work will be started.

4. It is further mentioned by the answering respondent in their affidavit that an application has been moved by them for obtaining authorization on 27.05.2020 and 24.12.2020, but the approval letters have not been received so far. It is further mentioned that the Joint Committee has assessed the environmental damage compensation (EDC) to the tune of Rs.8,29,66,800/-, which is not legally tenable because the answering respondent is taking all due care for waste segregation and scientific disposal of waste and it has submitted a time-bound plan for the waste processing. The answering respondent has been receiving the funds from the Central and State Governments from time to time with which it is deploying advance machineries for solid waste management

processing. In view of above steps, which have already been taken by them, it is prayed that EDC may not be imposed by GPCB.

5. By our previous order dated 06.10.2023, we had directed the learned counsel for respondent Nos.3 and 4 i.e. GPCB to disclose as to why they had not granted authorization under Solid Management Rules (SWM Rules), 2016 in the year 2020 when the same was applied by respondent No.1, but no such reply has been filed till now, nor Mr. Maulik Nanavati, learned counsel for respondent Nos.3 and 4 is able to connect through VC today. It is apprised by learned counsel for respondent No.1 that due to technical snag, Mr. Nanavati is not able to connect. We had also directed the GPCB, by our previous order, to disclose the reason as to why the SWM Plant has not been set up by respondent No.1 as per the requirement under SWM Rules, 2016 and that what action has been taken at their end so far. No detailed affidavit in that regard has been filed till now. Further we had also directed that a detailed action plan be submitted by respondent No.1 and respondent Nos.3 and 4 as to how they would deal with the fire occurrence happening at the site in question due to solid waste lying there. No such detailed action plan has been submitted by respondent No.1 or from the side of respondent Nos.3 and 4 so far.

6. The learned counsel for the applicants is vehemently pressing that the fire occurrences are happening too frequently, which is causing huge pollution in the local area which is hazardous to the health of local residents which is required to be taken care of on urgent basis. We direct respondent No.1 to take immediate steps in this regard and place before us the action taken report in this regard before the next date.

7. We also find that the Joint Committee has already assessed the EDC to the tune of Rs. 8,29, 66,800/-, details of which are annexed at page 634 of the paper-book. This amount has been calculated for the

legacy waste. We do not find any calculation of EDC to have been done by the Joint Committee with respect to the fresh solid waste being generated day-today. The respondent Nos.3 and 4 – GPCB is directed to calculate the amount of EDC for not setting up of the SWM Plant as per the SWM Rules, 2016, on the basis of the principles/guidelines laid down by this Tribunal in Original Application No.606/2018, by the next date.

8. The learned counsel for respondent No.1 has not filed detailed objections to the Joint Committee report, nor he intends to file the same when we enquired to him regarding filing of the objections, he states that he does not want to file the objections. Therefore, we have no option but to accept the Joint Committee report.

9. By our previous order dated 06.10.2023, vide paragraph No.5, we had directed that the District Collector, Kheda to appear before us through VC and to submit an explanation as to why no-one had appeared on the date fixed. Today, the learned District Collector Mr. Bacchani has appeared through VC. He is also granted two weeks' time for filing the reply, if so required with a direction that a copy of the same shall be served to all the parties well in advance. Personal appearance of the District Collector is dispensed for future dates, as prayed for by him.

10. Put up this matter for final hearing on 06.12.2023. No further adjournment would be granted.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 21, 2023
O.A. No.107/2023(WZ)
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