

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

.....

ORIGINAL APPLICATION NO. 277 OF 2013

IN THE MATTER OF:

1. Dr. Irfan Ahmad
S/o Mohammad Aslam Khan
R/o House No. 24, Mehboob Abad Hawal,
Srinagar – 190 002 (J & K)
2. Ishfaq Ahmad
S/o Mohammad Abdullah Sofi
R/o Akhoon Sahib Goojwara,
Srinagar – 190 002 (J & K)
3. Ghulam Nabi Pindoo
S/o Ghulam Mohiudin Pindoo
R/o Aram Masjid Khanyaar,
Srinagar – 190 002 (J & K)

.....Applicants

Versus

1. Mr. Nawang Rigzin Jora
Minister for Urban Development & Urban Local Bodies,
J & K State,
Srinagar – 190 002 (J & K)
2. Mr. Shailender Kumar
Div. Commissioner Kashmir
Srinagar– 190 002 (J & K)
3. Mr. Farooq Ahmah Shah
District Development Commissioner,
J & K State,
Srinagar – 190 002 (J & K)
4. Dr. G.N. Qasba
Commissioner,
Srinagar Municipal Corporation
Srinagar – 190 002 (J & K)
5. Jammu and Kashmir Pollution Control Board
Sheikh Ul Alam Campus,
Behind Govt. Silk Factory,
Rajbagh, Srinagar

.....Respondents

Counsel for Applicants:

Mr. Narender Pal Singh, Advocate for Amicus Curiae

Counsel for Respondents:

Mr. M.I. Qadri, Advocate General and Mr. Muzzafar Ahmad Kirmani, Advocate for Respondents No.1 to 4.

Mr. B.V. Niren and Mr. Prasouk Jain, Advocate for Respondent No. 5 & 6

Mr. Vikas Malhotra and Mr. M.P. Sahay, Advocates for MoEF

Mr. Ardhendumauli Kumar Prasad, Advocate

JUDGMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)

Hon'ble Dr. D.K. Agrawal (Expert Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Reserved on 9th December, 2014

Pronounced on 13th January, 2015

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

The three applicants, who are inhabitants of Srinagar city, have approached this Tribunal by filing an application, praying that, the landfill site as located near Achan wetland, Srinagar should immediately be closed as it is already causing damage to the environment and would soon become a health hazard. The applicants submit that they came to know from the local newspaper that stinking smell is coming from the Achan landfill site and it has become a cause of nausea at Kashmir's sole tertiary care hospital, the SK Institute of Medical Sciences (for short 'SKIMS'). This is affecting the densely populated areas like Nowhatta, Hawal, Khanyar and Lal Bazar. The health experts have also cautioned of serious consequences. It was clearly stated in the newspapers that

the droplet nuclei of various infections which are embedded in the dust can be carried by winds to the hospital, triggering infections which may prove deadly. According to the applicants, it has become extremely difficult for them to breathe freely. A number of complaints were made to the authorities concerned, including an appeal to the Minister for Urban Development, Divisional Commissioner, Kashmir and District Development Commissioner, but of no consequence. The residents of the valley condemned the action of the authorities in setting up a land fill on the site in question. The location of the Achan landfill site is not environmentally suitable as it is situated on the edge of Anchar Wetland. Further, the landfill site is not constructed on scientific lines. The method of dumping and disposal is also not rational. The water table of the area is very high which in itself does not approve of the location of such site for landfill and there is every likelihood of the ground water being polluted. For these reasons, they pray that dumping at the landfill site should be immediately stopped and the site should be permitted to be shifted elsewhere.

2. Notice on this application was directed to be issued to the respondents vide order dated 18th September, 2013 passed by the Tribunal. Mr. Narender Pal Singh, Advocate, was appointed Amicus Curiae to prosecute this application subsequently vide order dated 8th October, 2013.

3. An affidavit on behalf of the respondent, State of Jammu & Kashmir, was filed before the Tribunal. It was stated that the subject matter of the application was also pending before the High

Court of Jammu & Kashmir in Original Writ Petition (PIL) No. 354/2006 titled as *Farah Khan v. State of J&K and others*. Various orders have been passed by the High Court in the above mentioned Writ Petition, in furtherance to which, meetings of various departments were held under the Chairmanship of the Chief Secretary. Certain decisions were taken in the meetings held on 8th August, 2013 and 14th August, 2013. Again, a meeting was held of various stake-holders on 21st August, 2013. This meeting was held after the officers of the concerned authorities had paid a visit to the site and even communicated with the local residents. In this meeting, various decisions were taken, directing that further safeguards should be taken to prevent environmental degradation. It also directed that steps should be taken so that the miscreant do not damage the civil work carried out at the site and to provide data relating to the reporting time of receiving the first and last garbage at source should be provided to them. Certain other recommendations were made at subsequent meetings by different authorities and they were required to take necessary steps for regular evaluation of quality of ground water as well as potable water being supplied to the inhabitants of the area. The Srinagar Municipal Corporation (for short 'SMC') was directed to organize awareness programmes for citizens for segregation of garbage at source.

4. This respondent has further taken the stand that the responsibility of the answering respondents is restricted to

conducting fortnightly review meetings, which have been conducted. The last meeting was held on 17th February, 2014.

5. At this stage, we may also notice that, according to the applicant, these directions have hardly been complied with by the authorities and the state of affairs at the landfill site has gone from bad to worse. The data, which is directed to be collected, has not been collected and in any case, no compliance reports in that regard have been placed by this respondent before the Tribunal in the present application.

6. Respondents No. 1 to 4 have subsequently filed comprehensive reply. It is the case of these respondents that the Government of Jammu and Kashmir, vide order dated 27th March, 1985, allotted land measuring around 26 hectares to the SMC for dumping the municipal wastes in the year 1985. This site was being used for that purpose since then. However, these respondents have clearly admitted that there was no scientific method adopted for the disposal of Municipal Solid Waste (for short 'MSW') at the site in question till 2006. After the afore-referred orders of the High Court of Jammu and Kashmir, the site was cleared and situation started improving. The Jammu and Kashmir Pollution Control Board (for short 'JKPCB') granted consent to establish and operate, in relation to this site, for dumping of MSW and the Ministry of Environment, Forests & Climate Change (for short 'MoEF') had also issued the Environment Clearance. According to these respondents, the present landfill site is more than 400m away from the Anchar lake and a water canal towards east side of the landfill is more than

275m away. It is disputed by these respondents that odor is emanating from the site. According to them, the MSW was being dumped properly and sainitreat powder was being regularly procured from M/s Excel Industries Ltd. and sprayed on regular basis.

7. Respondent No. 5, in its affidavit dated 31st March, 2014, has submitted that during one of the random inspections in July, 2013, it was noticed that leachate collection and treatment was not properly being done, and that leachate ponds were filled, from which leachate was observed to be oozing out at several places from the cell, resulting in foul smell. It was also stated that the SMC is yet to seek authorization of JKPCB in accordance with the requirements of Rule 6(2) of the Municipal Solid Waste (Management, handling & Disposal) Rules, 2000 (for short 'Rules of 2000'). Having realized the need for providing a scientifically managed dumping site for MSW and to run the same in accordance with the Rules of 2000, the Government of Jammu and Kashmir submitted the project proposal in respect of 'MSWM at Achan, Srinagar' to the Ministry of Urban Development (CPHEEO), Government of India, (for short 'MoUD') for consideration under JNNURM (UIG & UIDSSMT). It was primarily done as there was an urgent need to scale up all components of MSW as per Rules of 2000 and also to ensure 100% coverage and over 80% performance as per the Service Level Bench Marks circulated by the Ministry in 2008. The total projected cost of this project was Rs. 116,83,71,673/-. Out of the total expenditure, the Central

Government was asked to provide financial assistance of Rs. 91.97 Crore. The proposal of State Government was considered and for the convenience of appraisal, it was divided into the following 3 components:

- a. **Component I:** Equipment and vehicles required for collection, storage and transport of MSW in Srinagar.
- b. **Component II:** Common facilities required for the MSW treatment plant, irrespective of the technology involved.
- c. **Component III:** integrated MSW processing facility of 550 TPD.

8. The project was considered by the Central Sanctioning & Monitoring Committee of MoUD in its 131st meeting and it was noticed that about 65 acres of land is available for setting up of Integrated Waste Processing facility. The MoUD, Government of India approved the budget for the plant on recommendations of the authorities for a total sum of Rs. 2044.27 lakhs under component I, Rs. 1842.91 lakhs under component II and Rs. 5042.23 lakhs under component III. MoUD required SMC to comply with the Rules of 2000 including the following conditions:

- a. Door to door collection through handcarts in slums/congested areas/Door to door direct collection of segregated waste from well laid down residential houses through 3 and 4 wheeler vans.
- b. Collection of waste and secondary storage in covered containers/bins of 1100 lit capacity in the core areas, 3-m3

dumper placer in the markets, high generation locations and in the suburbs.

- c. Sweeping of roads, cleaning of parks, common areas, and roadside low height drains through handcarts and dedicated trucks.
- d. Secondary transportation of door-to-door collected wastes through Dumper placers and 6 cum refuse compactors.
- e. No transfer stations proposed as processing and disposal facility is within 7 km of city center.
- f. Management of construction waste as separate activity by consent/permission & paid service.
- g. Processing treatment of MSW
 - To process bio-degradable waste through composting, refused derived fuel (RDF) and plastic waste etc.
 - Processing of non bio-degradable waste for fuel materials, plastic ingots, bricks & conditioning of recyclable materials.
- h. Land filling of inert & process remnants is engineered landfill is limited to 20%.

9. Vide the affidavit dated 1st December, 2014, filed by the respondents, it was stated that all the eight conditions would be complied with and due care shall be taken while putting the project to tenders. Further, according to these respondents, the experts in the field of Solid Waste Management have declared it to be an appropriate site and more suitable for establishment of such MSW

plant. The advantages which they have noticed, amongst others, are as follows:

- a). Proximity of the site with the city,
- b). isolated from the residential colonies,
- c). Land area is large enough to last about 20 years as required under Municipal Solid Waste (Management and Handling) Rules.
- d). Consent to establish and Operate have been issued by the J&K State Pollution Control Board.
- e). Site is being used as land fill site thus problem of adaptation does not arise.
- f). Site is away from Airport, Railway station, Bus stand, Hospitals and Schools
- g). Site is accessible within 30 minutes from most of the areas of city
- h). Site is free from any seismic risk and underground mines
- i). Site is free from any ground water recharge area.”

10. It is further submitted by these respondents that closure of the site is not practical as it has been under such use now for a considerable time and is most ideally located as it does not infringe any of the distances from the water bodies that have been provided under the Rules of 2000 and is in consonance even with the other distances prescribed under the Rules of 2000. It is further submitted that due to law and order problems for the last more than 20 years, a number of unauthorized structures have come up in close vicinity of the landfill site and local residents and land owners who have huge chunk of agricultural lands surrounding the landfill site, have been consistently agitating for closure of the site for their personal gain but such personal gain has been opposed to public interest.

From the above pleadings of the respected parties, it is clear that the State Government and JKPCB are supporting the establishment and operation of the MSW plant by the SMC.

Discussion on merits

11. Right to clean and decent environment is a fundamental right of the citizens of India. Besides this, it has been declared by the Hon'ble Supreme Court of India, time and again, that right to clean environment is a part of Article 21 of the Constitution of India (Rf. *Vellore Citizens Welfare Forum v. Union of India and Ors.*, (1996) 5 SCC 647, *Tirupur Dyeing Factory Owners' Association v. Noyyal River Ayacutdars Protection Association*, (2009) 9 SCC 737 and *M.C. Mehta v. Union of India and Ors.*, (2009) 6 SCC 142). Besides that, there is a Constitutional obligation placed upon the State and the instrumentalities of the State in terms of article 48-A of the Constitution of India shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country. Article 51-A(g) further imposes a fundamental duty upon the citizens to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. This duty of the citizens, coupled with the duties of the State, ensures protection and up-gradation of environment. In its endeavor to achieve the above Constitutional goals, the Indian Parliament enacted various legislations covering various fields of environment. It also provided for delegated legislation to the wings of the Central Government. Environmental Protection Act, 1986 (for short 'the Act of 1986') is one of the most

significant enactments by the Indian Parliament in the field of environmental jurisprudence. The decline in environmental quality having been evidenced by increasing pollution, loss of vegetal cover and biological diversity and excessive concentrations of harmful chemicals were the main causes, in the backdrop of the United Nations Conference, 1972, at Stockholm, on 'Human Environment that resulted in the enactment the Act of 1986. This Act aimed for the protection and improvement of environment and for matters connected thereto. Section 3 of the Act empowered the Central Government to take such measures as it may deem necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing and controlling environmental pollution. Section 6 empowered the Central Government to make rules in respect of all or any of the matters referred to in Section 3. In exercise of the powers vested with the Central Government under Section 3, 6 and 25 of the Act of 1986, the Central Government framed the Municipal Solid Wastes (Management and Handling) Rules, 2000. These Rules, as is evident from the heading of the Rules itself, were intended to regulate the management and handling of MSW in the entire country. These Rules provided for the responsibility for implementation of its provisions, collection, segregation, storage, transportation, processing and disposal of the MSW. Schedule III of the Rules of 2000 provided for site selection, facilities for site, pollution prevention, water and air quality monitoring, plantation of the sites and the standards that are expected to be maintained in that behalf.

12. Thus, the present case has to be examined in light of the above statutory provisions and the Constitutional object afore-stated. It is undisputed that the site in question is being used for dumping of MSW since 1985. It is the duty of the Municipal Authorities and the State Government to ensure that the site selection, storage and disposal of MSW on the site is in accordance with the Rules of 2000. In the application filed by the applicant, they have certainly objected to the site selection but have not disputed the fact that since 1985, this is being used as a dumping site and they have not even remotely referred to the availability of any better site which could be used for proper and scientific dumping of MSW in accordance with the Rules of 2000. It may also be noticed that this site was examined by environmental experts and during the course of inspection they have concluded that the site selection is in consonance with the requirements of the relevant Rules. The consent to establish was granted and NOC was issued in favour of the SMC by the J&K Pollution Control Board.

13. Other two objections of the applicants are with regard to the foul smell emanating from the MSW dumped at the site in question and that the landfill site is not constructed on scientific lines and is located near the Anchar wetland. No doubt, presently the site is emitting some foul smell, but, according to various directions passed by the High Court of Jammu and Kashmir and even by this Tribunal from time to time, effective steps have been directed to be taken by the SMC under the control of JKPCB. According to them, they have already started covering the waste and spraying the

sanitreat powder in accordance with the Rules of 2000. It can hardly be disputed that presently the site is neither constructed nor maintained nor operationalised in accordance with the Rules of 2000. But, once the plant is completed, made operational, and the site is fully developed with proper lying pits for dumping and appropriate measures are taken to cover the MSW in accordance with the Rules of 2000, the principal grievance of the Applicant would not survive.

At this stage, we may also refer that on 3rd March, 2014, the Tribunal had passed an order calling for the report of inspection prepared by the Central Pollution Control Board. This report was filed and came up for hearing before the Tribunal on 3rd April, 2014. The conclusion in the report clearly showed that the site lacked in respect of proper leachate management, measures for prevention of possible dust emission and spread of odoriferous emissions and as such it required immediate attention. The Project Proponent had made a statement before this Tribunal that they would take effective steps to overcome these shortcomings and steps would also be taken to recycle the waste and/or use the same for fuel purposes so as to minimize the quantity of waste to be dumped at the landfill site.

In the order dated 16th April, 2014, this Tribunal noticed that normally the SMC would have been restrained from dumping MSW at the site, keeping in view the public health and environment. However, with the intent to provide another

opportunity to the SMC, certain specific directions were necessary to be issued. The directions issued reads as under:

1. "The Respondent Nos. 4 and 5 shall submit a complete project Report before the Tribunal which essentially would be time bound for establishment and commencement of the MSW Plant.
2. There shall be proper leachate management in accordance with the recommendations made by the Member Secretary of the Central Pollution Control Board.
3. The Respondent No. 4 and executing agency-Economic Reconstruction Agency shall create proper pits and provide lining membrane to ensure that before the waste is dumped there is advance lining provided.
Before the waste is dumped in the pits, there shall be soil lining along with plastic covering.
4. The disinfectant shall be sprayed every week.
5. It shall also be stated by the Respondent Nos. 1, 4 & 5 as to what is the amount that has been sanctioned by the Central Government for setting up of the MSW plant and how the amounts so far received have been utilized with details thereof."

14. During pendency of the proceedings before this Tribunal, the Commissioner of the SMC was directed to discuss the entire matter with the State Government and inform the Tribunal as to what would be the charges which shall be shared by the public at large for setting up such plant and collection and disposal of MSW in accordance with 'Polluters Pays Principle'. The Action Taken Report was filed on 29th October, 2014 on behalf of the SMC stating the various steps that they had taken to comply with the directions of the Tribunal and the Rules of 2000.

15. To enable the SMC to send the MSW (particularly, plastic) to such industries or otherwise to ensure use of the same as fuel, thereby considerably reducing the load on dumping, a notice was also issued to M/s JK Cement Ltd. who appeared before the

Tribunal and assured that in discharge of their corporate social responsibility, they would take the said plastic-waste from MSW for its use as fuel. It may be mentioned here that the cement plant is carrying on its manufacturing activity and is causing pollution, even if not individually, on account of cumulative impact on environment. The MSW, particularly plastic, can be a source of fuel to the plant. The industry has agreed to lift the MSW (plastic) for consumption as fuel in its units. In our view, this will have dual advantage; firstly, that upon segregation, there will be easy and fruitful utilization of the collected waste and secondly, it will offer a source of practically free fuel for this industry.

16. We have already noticed that this project has been approved by the Central Government; MoUD and has even recommended formation of 3 distinct and different components. First installment of the project budget was also released by the authorities. JKPCB has also given its consent for establishment and operationilisation of the plant in question. The only drawback that this project appears to have is that it has not obtained authorization from JKPCB in accordance with Rule 6(2) of the Rules of 2000. We were informed that such authorization will certainly be obtained before the Project commences its operations. The funds have already been released by the Central Government for this purpose. The Project report submitted by the SMC to the Central Government has already been appraised and approved by the Technical Committee in the Central Government Public Health and Environmental Engineering Organization. What is really required is the expeditious

completion and operationalization of the Plant to ensure that the grievances stated by the applicant do not survive.

17. The State of Srinagar is generating large amount of MSW. A site for dumping of such MSW has to be necessarily provided. The authorities concerned have earmarked the present site which, as already noticed, is being used for the same purpose since 1985. The mere fact is that, the MSW was being dumped in an unscientific and un-mechanized way. However, It does not mean that the selection of the site necessarily calls for rejection. Once the measures and the steps as contemplated in this judgment are taken, then inevitably there would be scientific and mechanized collection, segregation and disposal of the MSW, in accordance with the provisions of the Rules of 2000. The argument that there are houses or colonies in near vicinity of the landfill site area does not appear to be well founded. Firstly, the landfill site is existing for a much longer time and the houses near the site have been built later. Thus, the selection of the site cannot be faulted with on this ground. The buildings and houses that have been built up at some distance from the landfill site were fully aware of the existence of the site being used for dumping of MSW. Secondly, the Principle of Sustainable Development as envisaged in Section 20 of the NGT Act mandates that development should be permitted to be carried on, unless and until, it is causing irretrievable damage to the environment. A fact that, for some time, a class of persons would be put to some inconvenience would be inconsequential as once the plant becomes operational, it will serve a much greater cause of

public interest and public health. It has come on record that presently the waste brought to the landfill site at Anchan is not being processed in accordance with the Rules of 2000. The Municipal Corporation is not only expected but is duty bound to collect MSW, segregate the same mechanically or manually, create proper pits, duly lined for the purpose of dumping of waste and even that should be covered with soil and plastic sheets and the dumped waste should be properly sprayed with disinfectants. The Municipal Corporation must segregate the plastic waste and assure that this is either sent for recycling and/or for being used as fuel by J&K Cement Ltd. For compliance of the above, the Commissioner of the Municipal Corporation, the Member Secretary of the State Pollution Control Board and Secretary, Environment of the Government of Jammu and Kashmir shall be personally responsible. Certainly, in the present case, the authorities have failed to discharge their duties in accordance with law. Various representations moved by the applicants have failed to yield any results. This obviously means that the authorities have not cared to pay any heed to the complaints made to them regarding a serious environmental issue that was persisting on the site in question. Having admittedly failed to discharge their duties for all this time, the Corporation must be burdened for polluting the environment. It is evident from the records before us that the Corporation has failed to take appropriate steps in collection, dumping and disposal of the MSW in Srinagar in accordance with the Rules of 2000. Thus, on the basis of 'Polluter Pays Principle', the Corporation must

compensate for restoration of the environment for violations committed by them for all this time. Thus, the Corporation in our considered view, should be directed to pay a sum of Rs. Fourteen Lakhs (at the rate of Rs. 1 lakh per year for the defaults committed by them for this period, i.e., for the period after the Rules of 2000 were notified) to JKPCB, which shall use the amount only for restoration of the environment.

18. It is also evident that MSW is generated by the public at large and in fact, by every person, industry, hotel, Government Department, cinema hall, market and all other places including each resident of the city of Srinagar. Thus, each one of them must contribute for remedying this serious menace. 'Polluter Pays Principle', undisputedly creates a liability upon the persons who are contributing to the pollution. They must share the cost in whatever proportion it is reasonable and proper. Such payment would create consciousness and awareness of the duty contemplated under Article 51-A(g) of the Constitution of India. Thus, we direct that the Committee constituted under this order should determine the charges (environmental compensation) payable by each person, industry, factory, malls, market, hotels and any person carrying on any other activity generating municipal waste. In other words, every person would be liable to pay compensation charges titled as 'Environmental Charges'. Charges would be having a direct nexus with and be proportional to the income, building occupied and probable generation of MSW from their premises.

19. In light of the above discussion, we are of the considered view that the objections raised by the applicant do not have merit and are therefore, liable to be rejected. However, it is equally true that this project must be completed with utmost expeditiousness and sincerity. It is the completion of this project that would serve the public interest, public health and would attain the object of clean environment. Continuous monitoring of progress of the plant is necessary. The funds provided by the Central Government for this purpose must be utilized with utmost caution and only for the project in question. Establishment of such plants in the close proximity of the city or near the residential colonies is neither unusual nor undesirable. Once such a plant becomes operational and due greenery around it is provided and the waste is deposited and dumped strictly in terms of the Rules of 2000, there cannot be, in our considered view, any nuisance, inconvenience or degradation of environment.

20. Keeping in view the above, while disposing of this application, we pass the following directions:-

1. The conditions imposed by JKPCB, while granting consent to establish and operate to SMC for this project, shall be strictly adhered to without default.
2. The conditions imposed by the Ministry of Urban Development, Central Government, which has also approved the finances for the project, shall be complied with, in relation to all stages and components of the project.

3. In addition to the above, we also reiterate the following:-
- a. Door to door collection through handcarts in slums/congested areas/Door to door direct collection of segregated waste from well laid down residential houses through 3 and 4 wheeler vans.
 - b. Collection of waste and secondary storage in covered containers/bins of 1100 lit capacity in the core areas, 3-m3 dumper placer in the markets, high generation locations and in the suburbs.
 - c. Sweeping of roads, cleaning of parks, common areas, and roadside low height drains through handcarts and dedicated trucks.
 - d. Secondary transportation of door-to-door collected wastes through Dumper placers cum refuse compactors.
 - e. No transfer stations proposed as processing and disposal facility to be within 7 km of city center.
 - f. Management of construction waste as a separate activity by consent/permission & paid service.
 - g. Processing & treatment of MSW
 - To process bio-degradable waste through composting, refused derived fuel (RDF) and plastic waste etc.
 - Processing of non bio-degradable waste for fuel materials, plastic ingots, bricks & conditioning of recyclable materials.

- h. Land filling of inerts & process remnants is engineered landfill limited to 20%.
4. The entire project shall be constructed, established and operationalised strictly in consonance with the Rules of 2000.
5. Furthermore, in matter which is specifically provided herein or on which the conditions afore-imposed by Jammu and Kashmir Pollution Control Board, Ministry of Urban Development and this Tribunal in the Model Action Plan in relation to establishment and operationalization of the Municipal Solid Waste Plant in district Bhatinda, State of Punjab shall apply. The Judgment of the Tribunal in the case of *People for Transparency, Through Kamal Anand v. State of Punjab & Ors.* Original Application No. 40(T_{HC}) of 2013 decided on 25th November, 2014, shall *mutatis mutandis* apply to this case as well.
6. The schedule of charges as approved by the Srinagar Municipal Corporation in their affidavit before the Tribunal is approved. The charges paid by the public at large to the Municipal Corporation for 'Environmental Charges' shall be exclusively utilized by the State of Jammu and Kashmir and the SMC, only and only for the purposes of setting up of this MSW Plant and/or for developing other MSW Plants in district Srinagar.

7. All the expenditure for constructions, establishment and operationalization of the plant shall be incurred under the supervision of the Committee. No expenditure would be incurred without specific approval of the Committee.
8. We direct the SMC to seek authorization of the J & K Pollution Control Board in accordance with Rule 6(2) of the Rules of 2000, within four weeks from pronouncement of this order.
9. The project shall be completed in a time bound manner and in any case within a period of one year.
10. To ensure proper construction, establishment, operationalization of the plant and even thereafter to ensure optimum running of the plant as well as for the compliance of the above directions, we constitute the following Committee:
 - a. Chairman, Central Pollution Control Board, New Delhi
(or his Nominee)
 - b. Nominee from the MoEF (of the rank of Advisor/Director, with expertise in Municipal Solid Waste Management)
 - c. Commissioner/Secretary, Housing & Urban Development Dept., J & K Government.
 - d. Commissioner, Srinagar Municipal Corporation, Srinagar.
 - e. Dr. Atul Narayan Vaidiya, Sr. Principal Scientist (Solid & Hazardous Waste Management Unit), NEERI.

- f. Prof. Zafar A Reshi, PG Dept. of Botany, University of Kashmir, Srinagar.
- g. Prof. Dr. M.A. Lone, Water Resources Engineering, Dept. of Civil Engineering, National Institute of Technology, Srinagar.
- h. Dr. Arshid Jehangir Bhat, Asst. Professor, PG Dept. of Environmental Science, University of Kashmir, Srinagar.
11. The above Committee shall, out of the Members afore-noticed, constitute a smaller Committee for day to day monitoring of the project in all aspects as afore-indicated.
12. We hereby direct M/s JK Cements to collect at its own cost, or on such sharing of transportation charges with the Srinagar Municipal Corporation as the Committee may decide, to lift the plastic and other MSW that can be used by it as fuel in its industry.
13. During the period taken for establishment and operationalization of the Plant, the Srinagar Municipal Corporation would educate the public through various sources of media and by public announcements that no waste of any kind should be thrown anywhere, including at the project site. It should be put in the dustbins of appropriate size, provided by the Corporation immediately. During this period, the waste would be collected, segregated and dumped strictly as stated in this judgment and as per the Rules of 2000. All the

Committee Members shall be responsible for compliance of these directions and would submit quarterly report to the Registry of this Tribunal, which shall place the same before the Tribunal from time to time.

21. The application is allowed to the extent afore-indicated and with the above directions. However, we leave the parties to bear their own costs.



Justice Swatanter Kumar
Chairperson

Justice M.S. Nambiar
Judicial Member

Dr. D.K. Agrawal
Expert Member

Prof. A.R. Yousuf
Expert Member

New Delhi
13th January, 2015

NGT