

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Misc. Application No. 70/2014

Misc. Application No. 71/2014

In

Original Application No. 21/2013 (CZ)

Dr. Alankrita Mehra Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER

PRESENT : Applicant : Shri Vivek Choudhary, Adv.
Respondent No. 1 : Shri Om. S. Shrivastav, Adv.
Respondent No. 2 : Shri Suman Mandal, Adv.
Respondents No.3, 4, 7, : Shri Sachin K.Verma, Adv.
8, 9 & 10
Respondent No. 5 : Shri Asad Ullah Khan, Adv. for
Shri Vivek Agrawal, Adv.
Shri G.S. Saluja, Executive Engineer,
BMC, Bhopal
Respondent No. 6 : Shri Shivendu Joshi, Adv.
Shri Purushaindra Kaura, Adv.
Dr. P.S. Bundela, OIC

Date and Remarks	Orders of the Tribunal
<p>Item No. 1 12th February, 2014</p>	<p><u>Misc. Application No. 70/2014</u></p> <p>Misc. Application No. 70/2014 has been filed by Shri Ajay Gupta, Learned Counsel for Chirayu Charitable Foundation with the prayer that in the Monitoring Committee constituted on 06.02.2014 by this Tribunal, the name of Shri Tarun Gupta may be deleted, as he is a petitioner in Writ Petition No.. 7344/2012 filed before the Hon'ble High Court at Jabalpur, and he may have conflict of interest or personal interest in the matter. The Learned Counsel for the Applicant as well as the Learned Counsels for the Respondents have no objection for the modification of composition of the Monitoring Committee by deleting the name of Shri Tarun Gupta. We may clarify that the Tribunal wishes to arrive at a consensus while constituting the Monitoring Committee with those members who may not have any personal interest or conflict of interest in the matter. So far as Shri Tarun Gupta is concerned since it has been brought to our notice that he is a petitioner, in Writ Petition No. 7344/2012 filed against the Chirayu Medical College and Hospital which is said to be located in close proximity of the upper lake and for which this</p>

Tribunal has already dealt with earlier in Original Application No. 15/2013 which was disposed of vide judgement dtd. 08.04.2013 imposing certain conditions. We would accordingly order that the name of Shri Tarun Gupta be deleted from the constitution of the Monitoring Committee. He may accordingly be informed by the Registry.

The Learned Counsels for the parties have submitted that in place of Shri Tarun Gupta, Dr. Raka Arya, National Law Institute University Bhopal may be substituted. Since all the parties agreed, Dr. Raka Arya is substituted in place of Shri Tarun Gupta as a member of the Monitoring Committee. Misc. Application No. 70/2014 filed by Shri Ajay Gupta, Learned Counsel is accordingly disposed of.

Misc. Application No. 71/2014

Misc. Application No. 71/2014 has been filed by the Learned Counsel for the Respondent No. 10 with the prayer for taking on record the order dtd.03.02.2014 passed by the Collector & District Magistrate, Bhopal. The Misc. Application No. 71/2014 is accordingly allowed and the order dtd. 03.02.2014 is ordered to be taken on record.

Shri Sachin K. Verma, Learned Counsel for the State Government was directed vide order dtd. 06.02.2014 to place on record the order passed by the District Collector in view of the fact that certain sections of the media have reported that the District Collector, Bhopal had permitted existing constructions / buildings to remain intact despite their falling within the no construction zone i.e. either within the lake bed area or within the 50 mtrs. of the High Flood Level. We have perused the order dtd. 03.02.2014 and taken note of its contents, more particularly para 4 thereof. Shri Sachin K. Verma, Learned Counsel clarifies that it is not the intention of the Collector & District Magistrate to issue such order by incorporating condition no. 4 which in any way contrary to mandate of the law as provided under Rule 4 (1) (vi) of the wetlands (Conservation & Management) Rules, 2010 which explicitly prohibits raising of any construction or existence of any construction within the

aforesaid area. Shri Sachin K. Verma, Learned Counsel submitted that the Collector & District Magistrate, Bhopal would take necessary steps by issuing a clarification and a press release to this effect within the next seven days. Misc. Application No. 71/2014 is accordingly stands disposed of.

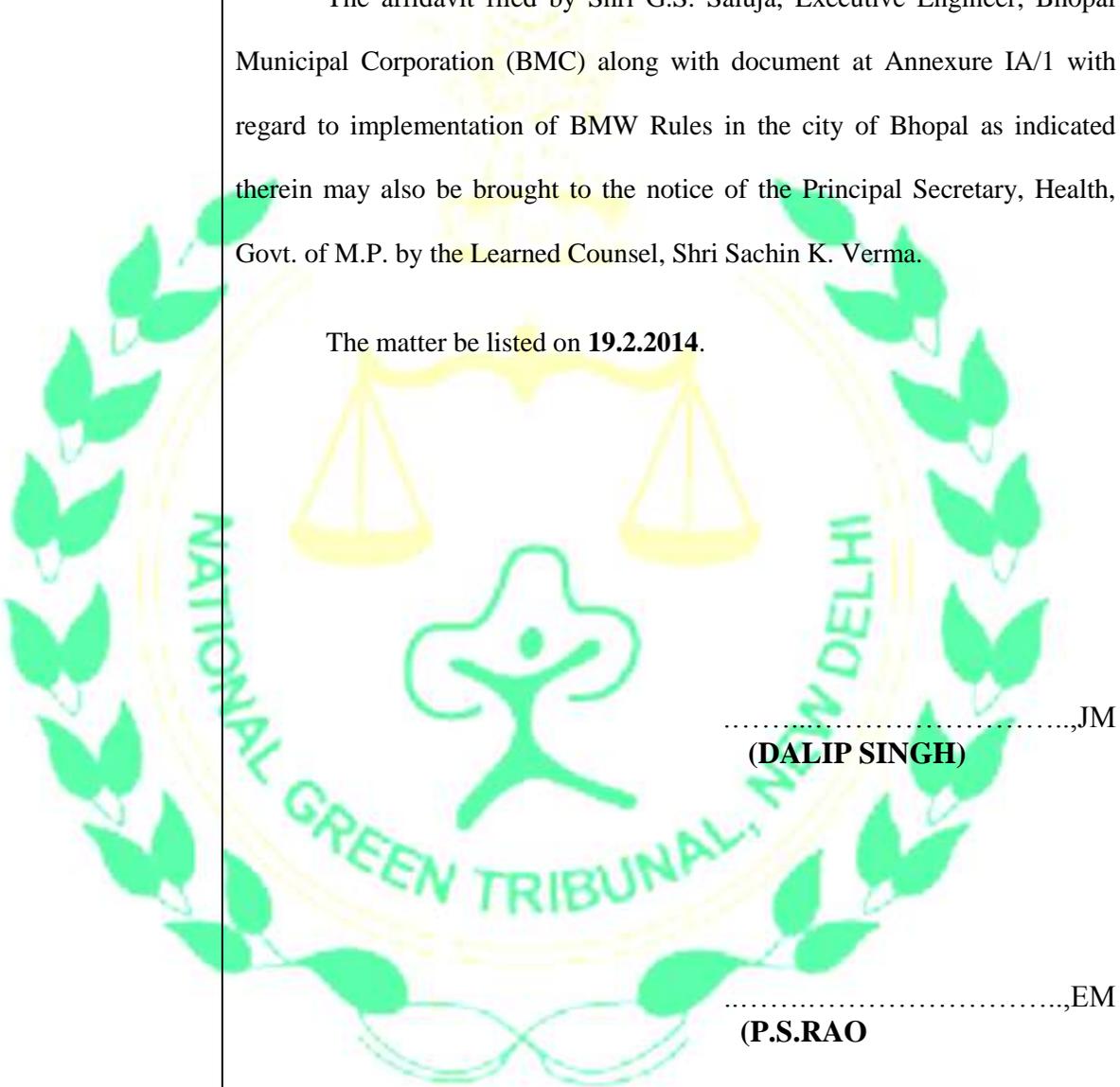
The Respondent No.6 in pursuance of our order dtd. 06.02.2014 has submitted documents Annexure(R-1) regarding information about the status of implementation of the Bio Medical Waste (Management and Handling) Rules, 1998. The said documents also contains a letter at Annexure (R-2) with a copy of the inspection report conducted by Dr. Majid M. Qureshi, Junior Scientist of the Regional Office, MPPCB at Bhopal. At this stage we would not like to comment on the state of affairs and we direct Shri Sachin K. Verma, Learned Counsel for the State to bring these facts to the knowledge of the Principal Secretary, Health, Govt. of M.P. with the hope that the State Government as well as the MPPCB and the Local Authorities in the State of M.P. have to make a sincere effort for implementation of the Bio Medical Waste (BMW) Rules, 1998 in the State. On the request of Shri Sachin K. Verma, Learned Counsel case is adjourned to 19.2.2014 by which date he submits that he would apprise the Tribunal of the effective steps taken by the State Government in consultation with the MPPCB and the Department of Environment and Housing and Urban Administration & Development Department which deals with the local authorities in the State. We may add that, we have noted with concern the inspection report dtd. 28.12.2013 pertaining to the sorry state of affairs of the Government Hospitals and it only shows the indifferent attitude of the administration in dealing with the situation prevailing therein. We have also noted with concern media reports pertaining to some other hospitals including some prestigious ones situated in the city of Bhopal.

The BMW Rules enacted under the Environment Protection Act, 1986 aimed basically to guarantee the 'right to life and liberty' under Article 21 of the Constitution of India which is the primary duty of the State and it can hardly be emphasised that the prevailing situation can only be termed as alarming.

As prayed, the matter be listed on 19.2.2014 on which date the Counsel for the State shall file an affidavit in the form of action taken report for the entire State of Madhya Pradesh and the report of MPPCB shall also be placed on record. The Chairman / Member Secretary, MPPCB shall also take steps in this regard to apprise the Principal Secretary, Health, Govt. of M.P. for convening a meeting at the earliest with all concerned to take all possible steps for implementation of the BMW Rules, 1998 in the State.

The affidavit filed by Shri G.S. Saluja, Executive Engineer, Bhopal Municipal Corporation (BMC) along with document at Annexure IA/1 with regard to implementation of BMW Rules in the city of Bhopal as indicated therein may also be brought to the notice of the Principal Secretary, Health, Govt. of M.P. by the Learned Counsel, Shri Sachin K. Verma.

The matter be listed on **19.2.2014**.



.....JM
(DALIP SINGH)

.....EM
(P.S.RAO)