

198- 20/4/15 KERALA
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Application No. 199 of 2014

In the matter of:

Almitra H. Patel & another :Applicant

Versus

Union of India & others :Respondents

AFFIDAVIT FILED BY THE MEMBER SECRETARY,
KERALA STATE POLLUTION CONTROL BOARD

STANDING COUNSEL FOR THE RESPONDENT

Sri. Jogy Scaria
15-Birbal Road (LGF)
Jangpura Estn
New Delhi - 110014

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**AFFIDAVIT FILED BY THE MEMBER SECRETARY,
KERALA STATE POLLUTION CONTROL BOARD**

I, P. Molikutty, W/o Sri. A. Thomas, am the Member Secretary of the Kerala State Pollution Control Board and is conversant with the facts of the case. I do hereby state as follows:

1. That I am the Member Secretary of the answering respondent conversant with the facts of the case as available from the records and thus competent to swear the present affidavit on behalf of the answering respondent.
2. In compliance to the order dated 2/12/14 in O. A. No. 199/14 and order dated 25/11/14 in Appeal No. 70/12 the details pertaining to the State of Kerala is submitted as under.
3. The State of Kerala has an area of 38863 square kilometer with 14 districts. The population density of the State is 860/sq.km. Proximity to residential areas, and the objections of local people are the main constraints in setting up and operating municipal solid waste plants, including sanitary landfill facilities, in the State. The peculiarity of the land with its varied and undulated terrain,



crisscrossed by 44 rivers and backwaters, lakes, etc. also create problems in identifying location for common plants. The State has a vast coastal area and is bound by Arabian sea on western side. The State does not have vast expanse of utilizable land available for setting up municipal solid waste management facilities. The density of population and the varied topography of the State do not support for common plants for handling municipal solid waste. The model plant proposed by the State of Punjab for catering to a large extend of land/conglomeration of local bodies, may not be possible in the State of Kerala.

4. As per municipal solid waste (MSW) Rules local authorities are responsible for the management of municipal solid waste generated and to provide suitable facilities for the same. The local bodies in the State had initiated action for setting up municipal solid waste management facilities like compost plants, windrow compost plants (vermi), etc. in various areas earlier. But due to public protest and various reasons those were not fruitful in the long run. For eg: The Corporation of Thiruvananthapuram has earlier set up a municipal solid waste plant for Thiruvananthapuram Corporation at Vilappilsala, a grama Panchayath near to Corporation area. But sanitary landfill for rejects was not provided. Due to public protests & litigations, the plant was closed and could not be operated. The municipal solid waste plants at Pala, Kottakkal, Nilambur municipalities, etc., also met with the same fate. The annual report for the year 2013 due as on September 15, 2014 was submitted by the Board to Central Pollution Control Board vide letter dated 31.10.14 in which details of such plants were included.
5. Due to the protests from local public against setting up municipal solid waste management plants and failure of operation of such plants, the Government have adopted a strategy to set up decentralized facilities and to promote disposal of municipal solid waste at the source of generation itself. The State Government under Local Self Government Department has set up Suchitwa



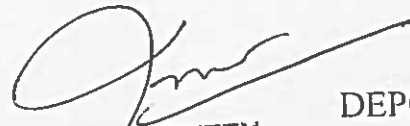
Mission, for giving technical support in this regard to all local bodies. Financial and technical guidance on waste management scenario is given to local authorities through Suchitwa Mission.

6. The decentralized facilities for municipal solid waste management starts from household level. The houses are encouraged to set up biogas plants, pipe compost systems etc. for disposal for municipal solid waste. The high rise buildings, commercial establishments, offices etc., are also encouraged to provide such facilities. Biogas plants for catering to the needs of markets are also provided in many cases. Bio bins and windrow boxes are also used for disposal of municipal solid waste. In order to streamline the activities in connection with the municipal solid waste management in the State, the Board had addressed Local Self Government Department to take initiative on the matter long before and reminded. Subsequently the Central Pollution Control Board has issued direction to State Pollution Control Board to issue direction to local authority for implementing municipal solid waste Rules. The Board has in due compliance to the same issued direction to all municipalities and corporations- True copy of the communication dated 8/01/15 is produced and marked as ANNEXURE- R (a). The LSGD was reminded of the state of affairs of municipal solid waste management in the State based on annual return received in the Board and had requested their intervention for fruitful implementation of municipal solid waste Rules. True copy of the letters dated 31/10/14, 2/2/15 and 3/3/15 issued to LSGD is produced and marked as ANNEXURE- R (b), ANNEXURE- R (c) & ANNEXURE- R (d) respectively.
7. The Board had also addressed the District Collectors vide letter dated 3/3/15 in this regard as they have the overall responsibility for the enforcement of the provisions of the municipal solid waste Rules. True copy of the same is produced and marked as ANNEXURE- R (e).
8. The State Government may evolve a policy for management of municipal solid waste as per the municipal solid waste Rules



taking into consideration the limitations faced. The Board would extend all necessary help in this regard.

9. It is humbly prayed that the Hon'ble Court may kindly consider the above facts and relieve the Board of the allegations contained in the application to which the Board is oblivious and disconnected. The orders of the Hon'ble Tribunal will be complied with by the Board in both letter & spirit.

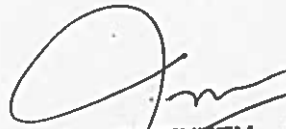


DEPONENT

P. MOLIKUTTY
MEMBER SECRETARY
KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O., THIRUVANANTHAPURAM-695004

VERIFICATION:

Verified at Thiruvananthapuram this on the 20th Day of April 2015 that the contents of the above affidavit are true and correct to the best of my knowledge, information and belief and nothing material has been concealed therefrom.



DEPONENT

P. MOLIKUTTY
MEMBER SECRETARY
KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O., THIRUVANANTHAPURAM-695004



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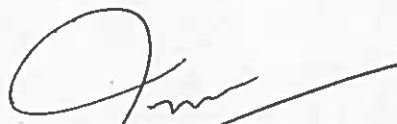
Versus

Union of India & others :Respondents

AFFIDAVIT

I, P. Molikutty, W/o A. Thomas, aged 55 years, now working as the Member Secretary of the Kerala State Pollution Control Board, do hereby solemnly affirm and state as follows:

1. That I am the Member Secretary of the answering respondent conversant with the facts of the case as available from the records and thus competent to swear the present affidavit on behalf of the answering respondent.
2. That I have read and understood the contents of the accompanying Counter affidavit at para 1- 9 and state that the contents of the same are true and correct.
3. That the annexures produced along with are true copies of their respective originals.



P. MOLIKUTTY
MEMBER SECRETARY
KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O., THIRUVANANTHAPURAM-695004

DEPONENT

VERIFICATION:

Verified at Thiruvananthapuram this on the 20th Day of April 2015 that the contents of the above affidavit are true and correct to the best of my knowledge, information and belief and nothing material has been concealed therefrom.



P. MOLIKUTTY
MEMBER SECRETARY
KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O., THIRUVANANTHAPURAM-695004

DEPONENT



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Filed by

Jogy Scaria
Advocate

15-Birbal Road (LGF)

Jangpura Estn

New Delhi - 110014

Place: New Delhi

Dated: .04.2015



General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.kspcb@gov.in FAX: 0471 - 2318134, 2318152 web: www.keralapcb.nic.in

KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004

PCB/HO/EE1/MSW/AR/873/2011-12

Dated: 08/01/2015

DIRECTION

Sub: Implementation of the MSW (Management and Handling) Rules, 2000 in the State
Ref: Direction dated 10.11.2014 issued by CPCB to SPCB

WHEREAS, as per the rule 4 (1) of the Municipal Solid Wastes (Management and Handling) Rules, 2000 every municipal authority shall within the territorial area of municipality be responsible for the implementation of the provisions of these Rules for any infrastructure development for collection, storage, segregation, transportation, processing and disposal of municipal solid wastes.

WHEREAS, as per the rule 4(2) of the MSW (M&H) Rules, 2000 the municipal authority or an operator of a facility shall make an application in Form - I, for grant of authorization for setting up waste processing and disposal facility including landfills from the State Board in order to comply with implementation programme laid down in schedule - I.

WHEREAS, as per rule 4 (4) of the MSW (M&H) Rules, 2000 the municipal authority shall furnish its Annual Report in Form - II to the District Magistrate or the Deputy Commissioner concerned with a copy to the State Board on or before the 30th day of June every year.

WHEREAS, the annual reports are not timely received in the State Board from many municipalities / Corporations;

WHEREAS, the annual reports furnished by municipal authorities are not updated with regard to the current status of MSW Management (including the

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F. MOLIKUTTY
MEMBER SECRETARY



quantity of MSW generation, collection, storage, transportation, treatment, disposal etc.), important for making plan/ policy for MSW Management at National level.

WHEREAS, public protests against common municipal solid waste management plants are due to unscientific methods adopted by municipal authorities for waste management.

WHEREAS, almost all municipal authorities have failed in setting up facilities for scientific management of municipal solid waste and this is a violation of Municipal Solid Waste Rules, 2000 framed under the provisions of the Environmental (Protection) Act, 1986.

WHEREAS, the Central Pollution Control Board has vide reference issued direction under section 18(1) (b) of the Water Act, 1974 and Section 18(1) (b) of the Air Act, 1981 to the State Pollution Control Board directing the Board to issue directions to all municipal authorities for strict implementation of Municipal Solid Waste Rules, 2000 in the State and for furnishing detailed annual report covering all relevant information in Form II on or before 30th June every year.

NOW, THEREFORE, the State Board, in due compliance to the direction of CPCB, issue the following direction to all the Secretaries / Head of office of all Municipalities and Corporations ;

1. All Municipal authorities shall implement the Municipal Solid Waste Rules, 2000 and set up and operate MSW plants in a scientific manner without causing water, air or soil pollution.
2. Necessary action plan shall be drawn up immediately, if not done so far, for effective management of municipal solid waste as per the Rules.
3. All Municipal authorities shall apply to the Board in Form I of the Rules for grant of authorisation for setting up waste processing and disposal facilities including landfills.
4. All municipal authorities shall submit annual report in Form II covering all relevant information like (i) quantity of municipal solid waste generation, collection, treatment and disposal facilities (along with their

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P. MOLIKUTTY
MEMBER SECRETARY




capacities) (ii) the number of treatment and disposal facilities, (iii) the details of treatment and disposal facilities established, operational, under planned etc, for enabling the Board to prepare & submit a comprehensive annual report of the State to Central Pollution Control Board.

The municipal authorities shall submit report on compliance of the above directions to the undersigned within 15 days of receipt of this direction.

Dated this the 8th day of January 2015

For and on behalf of the
KERALA STATE POLLUTION CONTROL BOARD



CHAIRMAN

To
All Corporations & Municipalities

Copy to:

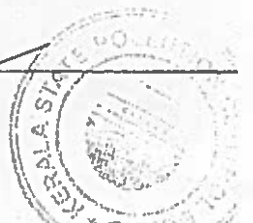
1. Urban Affairs Department
2. Local Self Government Department
3. All District Magistrate
4. Environment Department
5. The Chief Environmental Engineer
Regional Office, TVM / EKM
6. The Senior Environmental Engineer
Regional Office
Kozhikode
7. The Senior Environmental Engineer
District Office
Palakkad
8. The Environmental Engineer
District Office, TVM / KLM / PTA / KTYM / ALPY / IDK / EKM 1,
2 (Perumbavoor) & 3 (ESC) / TSR / KKD / MLPM / WYND / KNR /
KSGD
9. The Environmental Engineer - 2, Head Office

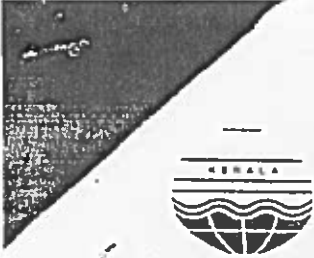
} with covering letter

o/c

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P. MOLIKUTTY
MEMBER SECRETARY





☎ General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.kspcb@gov.in FAX: 0471 - 2318134, 2318152 web: www.keralapcb.nic.in

KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004

പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/EE1/MSW/AR-12-2013/943/2013

From The Member Secretary
To The Secretary
Local Self Government Department
Thiruvananthapuram

Date: 31/10/2014
KERALA STATE POLLUTION CONTROL BOARD
THIRUVANANTHAPURAM
04 NOV 2014
DESPATCHED

Sub:- Management of municipal solid waste in the State

Sir,

As per Municipal Solid Waste Rule, 2000 all municipalities & Corporations are bound to submit to State Pollution Control Board (SPCB) the annual report on Municipal Solid Waste Management before 15th of July every year and the SPCB shall forward compiled report to Central Pollution Control Board (CPCB) by 15th September. Due to non submission of annual report on time and submission of annual reports without relevant details by municipalities / Corporations Board is unable to file the annual report to CPCB in time. Kindly direct the ULBs to file annual reports in time.

Further it is noticed that the facilities in the State for Municipal Solid Waste Management is not satisfactory. Most of the municipalities / Corporations have not set up proper facilities or identified site for setting up MSW management facilities. Your kind intervention on the matter is requested. The local authorities may please be advised to do the needful in implementing the MSW management facilities and to prepare DPR on MSW management activities, from collection till final disposal of wastes, along with definite time schedule for its implementation, at the earliest.

Yours faithfully,

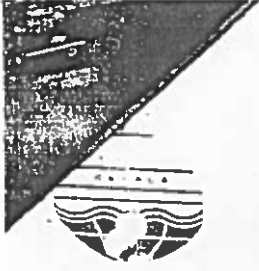
MEMBER SECRETARY

o/c

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P. MOHAN KUTTY





General: 0471-2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
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PCB/HO/EE1/MSW/AR/873/2011-12

Date: 02.02.2015

From

The Chairman

To

The Director
Directorate of Urban Affairs
Swaraj Bhavan
Nanthancode, Kowdiar (P. O)
Thiruvananthapuram - 695 003

The Principal Secretary
Local Self Government Department
Secretariat
Thiruvananthapuram

All District Collectors

The Principal Secretary
Environment Department
Secretariat
Thiruvananthapuram



Sub: - Implementation of MSW Rules, 2000 in the State.

Ref: - Direction dated 10.11.14 from Central Pollution Control Board to Kerala State Pollution Control Board

Sir,

The Central Pollution Control Board has vide reference issued directions under section 18(1)(b) of the Water Act, 1974 and section 18(1)(b) of the Air Act, 1981, to the State Pollution Control Board to issue directions to all municipal authorities for strict implementation of MSW Rules, 2000 in the State and for furnishing detailed Annual Report covering all relevant information in Form II on or before 30th June every year. In due compliance to the above the Board had issued directions to all Corporations / Municipalities. A copy of the same is enclosed.

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P. MOLKUTTY
MEMBER SECRETARY

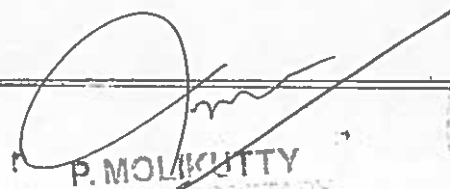


The Municipal Solid Waste Rule, 2000 shoulders the responsibility of scientific management of municipal solid waste with the local municipal authority. As per the Rules, collection, transportation, treatment and disposal of municipal solid waste has to be done by the municipal authority and annual report on action taken in this regard has to be furnished before 30th June every year to the District Magistrate or the Deputy Commissioner concerned with copy to State Pollution Control Board. The annual report shall have the quantity wise details of municipal solid waste generated, collected, treated and disposed along with the details of existing facilities and proposed facilities for municipal solid waste management. Based on the reports received from municipal authorities a comprehensive report with details of municipal solid waste management in the State is to be furnished to Central Pollution Control Board.

The annual reports of municipalities and corporations are not received timely in the Board and further the reports received does not contain many relevant details. The municipal authorities have not set up foolproof scientific municipal solid waste treatment plants. In the light of the above the municipal solid waste management scenario of the State needs further improvement and action has to be taken to set up and operate municipal solid waste plants scientifically without causing pollution. Lack of such plants leads to wanton disposal of municipal solid waste on land, water bodies, drains, etc., leading to choking of drains and causing pollution and unhealthy atmosphere.

Segregated collection of biodegradable and non biodegradable waste is the need of the hour. As the area available for disposal of waste is minimal for individual houses / institutions in all urban areas, the common plants are vital to ensure scientific disposal of waste. Collection centres for plastic waste & e-waste is also required to be set up by municipal authorities. Absence of such facilities lead to unauthorised/ illegal dumping of waste by the sides of roads, vacant plots and water bodies / drains. The local authorities shall be insisted to prepare a time schedule for implementation of the Rules at the earliest and to submit duly filled annual reports every year in time.

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P. MOLIKUTTY



In the light of the above direction from Central Pollution Control Board your kind intervention on successful implementation of Municipal Solid Waste Management Rules in the State is solicited. Kindly issue necessary directions in this regard to all concerned. A copy of Central Pollution Control Board direction is also enclosed for reference.

Yours faithfully,


CHAIRMAN

Encl: As above

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MEMBER SECRETARY

General: 0471-2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
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KERALA STATE POLLUTION CONTROL BOARD
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Pattom P.O., Thiruvananthapuram - 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/EE1/MSW AR -2012-13/943/2013

Date: 3-3-2015

From

The Member Secretary

To

The Principal Secretary to Government
Local Self Government Department
Secretariat
Thiruvananthapuram



Sub: LSGD -O. A. No. 199/2014; Almitra H. Patel vs Union of India & Ors
-reg

Ref: 1. Govt. Letter No. 82200/DC1/2014/LSGD dated 1/1/15, 3/2/15 and 16/2/15
2. This office letter of even no. dated 31/10/14
3. This office letter no. PCB/HO/EE1/MSW/AR/873/2011-12 dated 2/2/15

Sir,

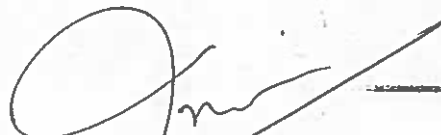
Kind attention is invited to this office letters cited.

As per the rule 4 of the municipal solid waste Rules, all municipal authorities shall be responsible for the implementation of the provision of these Rules and for any infrastructure development for collection, storage, segregation, transportation, processing and disposal of municipal solid waste.

The municipal solid waste management scenario of the State needs improvement and action has to be taken to set up and operate municipal solid waste treatment plants scientifically without causing pollution. The

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MEMBER SECRETARY

lack of such plants leads to unauthorised/illegal dumping of wastes by road sides/water bodies and vacant plots. The municipal authorities' negligence in providing municipal solid waste management facilities was brought to your notice vide letter cited. In the light of the Hon'ble National Green Tribunal Order in O. A. No. 199/2014, all the municipal authorities may be directed to submit comprehensive proposals for municipal solid waste management under their jurisdiction.

In compliance to the orders in O. A. No. 199/2014, the State requires to submit before the Hon'ble Tribunal a definite time bound action plan for management of MSW in the State. The Government may kindly take necessary action in this regard.

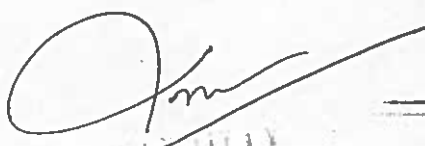
Yours Faithfully,


MEMBER SECRETARY

Encl: references (2) & (3)

. o/c

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P. MOHANTY
MEMBER SECRETARY





General 0471- 2312910, 2318153, 2318154, 2318155 Chairman 2318150 Member Secretary 2318151
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KERALA STATE POLLUTION CONTROL BOARD
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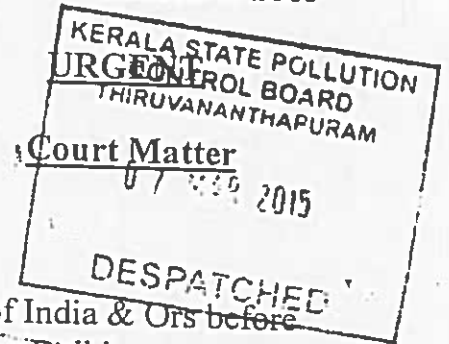
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PCB/HO/EE1/MSW AR -2012-13/943/2013

Date: 3-3-2015

From
The Member Secretary

To
All District Collectors



Sub: O. A. No. 199/2014, Almitra H. Patel Vs Union of India & Ors before
the National Green Tribunal, Principal Bench, New Delhi

Ref: 1. Govt. Letter No. 82200/DC1/2014/LSGD dated 1/1/15, 3/2/15 and
6/2/15
2. This office letter No. PCB/HO/EE1/MSW/AR/873/2011-12 dated
2/2/15

Sir,

Copy of the order dated 2/12/14 of the Hon'ble National Green Tribunal in O. A. No. 199/14 and order dated 25.11.14 in Appeal no. 70/14 are enclosed. The Hon'ble Tribunal had directed all the State Governments to study the judgement of the Tribunal in the case of Capt. Mall Singh & Ors. Vs Punjab Pollution Control Board & Ors - Appeal No. 70 of 2012 on 25th Nov, 2014 which deals with the methodology and steps that are to be taken by the States/State Boards for collection and disposal of municipal solid waste and to file suggestions, if any.

As per the rule 4 of the municipal solid waste Rules, all municipal authorities shall be responsible for the implementation of the provisions of these Rules and for any infrastructure development for collection, storage, segregation, transportation, processing and disposal of municipal

o/r

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P. MOLIKUTTY
MEMBER SECRETARY




solid waste; the municipal authority shall make an application in Form I to the State Pollution Control Board for Grant of authorisation for setting up waste processing and disposal facility. Also action taken report of municipal solid waste Rule implementation is to be submitted by the municipal authority to the Secretary in charge of Department of Urban Development in case of metropolitan city, or the District Magistrate or Deputy commissioner concerned, in case of all towns and cities, with copy to the SPCB before 30th of June every year.

Copy of the annual report on municipal solid waste for the year 2013, submitted by the Board to CPCB on 31/10/14 is enclosed for reference.

The Board had vide reference (2) addressed the LSGD intimating that the annual reports are not received timely from municipal authorities in the Board and even those received are devoid of necessary information. The Board has also requested kind intervention of LSGD regarding management of MSW, and requested that the local bodies be instructed to do the needful for implementing MSW management facilities. Copy of the same is submitted herewith.

CPCB had vide letter dated 10.11.14 issued direction to SPCB to issue directions to all municipal authorities for strict implementation of MSW Rules 2000 in the State. It was also instructed to issue direction from SPCB to municipal authorities for furnishing Annual Report in Form II of the Rules, containing all the necessary information, by 30th June every year. In due compliance to the same Board had issued directions dated 8/1/15 to all Corporations & Municipalities (copy of direction of SPCB is submitted). This was intimated to Directorate of Urban Affairs, LSGD, all District Collectors and Environmental Department vide letter dated 2/2/15 (copy of the same is submitted).

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P. MOLKUTTY
SECRETARY



As you know, the municipal solid waste management facilities in the district under your jurisdiction needs improvement and action has to be taken to make the local bodies provide scientific waste management facilities. The State requires to submit before the Hon'ble Tribunal in compliance to the orders in O. A. No. 199/2014, a definite action plan for management of municipal solid waste in the State for which action is understood to be initiated from the Urban Affairs Directorate.

In the context your kind intervention on the matter is requested to direct all the municipal authorities to prepare a time bound action plan for providing municipal solid waste management facilities in their respective area and to submit it to State Government for appraising before the Hon'ble Tribunal within time.

Yours Faithfully,



MEMBER SECRETARY

Encl: as above.

Toue Copy



P. MOLIKUTTI
MEMBER SECRETARY

