

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

**Original Application No.199 of 2014
IN THE MATTER OF:**

Almitra H. Patel & Anr.

Applicants

Versus

Union of India & Ors.

Respondents

AND

Thiru. K. Phanindra Reddy,
Principal Secretary to Government,
Municipal Administration and Water Supply
Department,
State of Tamil Nadu
Secretariat, Chennai
Tamil Nadu

Respondent

AFFIDAVIT REPRESENTING THE STATE OF TAMIL NADU

I, K. Phanindra Reddy, son of Venkata Reddy aged about 51 years, residing at X-II/III-2, SAF Games Villages, Koyambedu, Chennai - 600 107 do hereby solemnly affirm and sincerely state as follows:

I am the Principal Secretary to Government of Tamil Nadu, Municipal Administration and Water Supply Department, Secretariat, Chennai - 600 009, the administrative department pertaining to the subject matter and as such I am well acquainted with the facts of the case from the available records and I have been authorised to file this affidavit. Hon'ble NGT had



issued the direction in the interest of the environment and public health in the judgment order dated 22.12.2016.

With reference to directions a compliance report is submitted before the Hon'ble NGT as below;

1. Every state and Union territory shall enforce and implement the Solid Waste management Rules, 2016 in all respects and without any further delay

The Government of Tamil Nadu is in the way forward to enforce and implement Solid waste management rules 2016 in all respect within the stipulated period. A State Level High Power Committee Constituted keenly concentrating and instructing all the Urban local bodies to prepare sustainable solid waste management plan following the Solid Waste Management Rules 2016, by identifying the major waste generators, and prepare the bye laws for enforcement to ensure that the cities comply with the Solid Waste Management rules 2016.

2. All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this Judgment, within four weeks from the date of pronouncement of the judgment. The action

plan would relate to the management and disposal



of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016.

Action plan relating to the management and disposal of waste in the entire state has been prepared with time frame and the same is enclosed. (Annexure)

3. The period of six months specified under Rule 6(b), 15 of the Rules of 2016 has already lapsed. The State Governments have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned with effect from 1st January, 2017. There shall be no extension given to any State for compliance with these provisions any further. The period of one year specified under Rule 11(a), 11(f), 15 (e) and 22 for compliance of the prepared plans and directions issued by the Committees shall, therefore, commence with effect from 1st July, 2017. For this also, no extension shall be provided. Any State or Union Territory which now fails



to comply with the statutory obligations as afore indicated shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

As per the rule 11 (a), the Draft State policy on Solid Waste Management has been prepared and will be finalized before 30.04.2017. As per rule 11 (f) the land for setting up of processing and disposal facilities for solid waste has been identified and ensured for all 664 ULBs. However 198 ULBs having insufficient land are in the process of identifying the additional land of which some of the ULBs are advocated to have the decentralized processing and disposal facilities in order to reduce the size of the processing and disposal facilities.

4. The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.

The State Government is ensuring that the local bodies prepare their detailed project reports for scientific solid waste management and is providing funding for the same.

The Duties / Obligations as contemplated under the Rule of 2016 are now being taken to the notice of citizens by providing brochures, pamphlets and by conducting meeting with Residential welfare associations periodically.

5. All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.

The State Government is facilitating the local authorities to manage the solid waste and dispose the same with suitable processing technology and the State Pollution Control Board and the Revenue Department are also coordinating in establishing the solid waste processing plant.

6 and 10 .Wherever a waste to energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the

In waste to energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.

As of now, only one Waste to Energy plant with capacity of 300 MT has been proposed for Tambaram, Pallavaram Municipalities at Venkatamangalam village of Kancheepuram District and the works have been completed to produce RDF . The subsequent plant work to convert RDF into Energy is in progress. Apart from this 30 bio methenation plants with capacity ranging from 3 MT to 10 MT are in operation in which the segregated bio degradable waste, particularly the food waste collected from the major waste generators are being processed and converted in to Methane gas.

7. It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the



authorities concerned and the Rules are silent

with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory. We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case to case basis.

All the processing plant of solid waste in Tamil Nadu are being proposed and developed with the buffer zone and green belt to separate the processing plant from the surrounding areas so as to prevent and control the pollution.

8. We direct that the Committees constituted under Rule-5 would meet at least once in three months and not once in a year. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, local bodies, departments and Project Proponents.

The direction will be followed.

9. The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their



respective plants, wherever such plant is located within a 100 km radius of the facility. In other words, it will be obligatory on the part of the State, local authorities to create a market for consumption of RDF. It is also for the reason that, even in waste to energy plants, Waste—RDF—Energy is a preferred choice.

Directions have been issued by Tamil Nadu pollution control board to the Concessionaire and the Cement plant vide Letter.no.T3/TNPCB/F30573/2015 dated 21.7.15 and Letter.no.T3/TNPCB/F19980/ NML/2015-2 dated 19.9.15 to buy and use the RDF from Essel Pallavapuram Municipal Solid waste Pvt. Ltd., as fuel in their cement plant.

11. The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerized weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.

Considering the technology, mechanism followed for processing, the quantum of input and quantum of output the tipping fee is fixed on outcome basis.

12. *Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at source/collection point and then transport it in accordance with the Rules to the identified sites.*

Door to Door collection is being done by the ULBs and segregation is practiced in 25 % of wards in Municipalities and 70 % of wards in the Town Panchayat. However action is being taken to practice the segregation simultaneously with the completion of processing plant.

13 . *The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent, leachate and generation of Methane. The stabilised waste should be subjected to composting, which should then be utilized as compost, ready for use as organic manure.*

Instructions are being followed. The processing plant proposed are provided with impermeable windrow platform with leachate collection arrangement to keep the waste as heap and stabilized so as to



produce usable organic manure. So far 94 Municipalities and 400 Town Panchayat have been sanctioned fund to establish waste to compost plant under SWM component of SBM.

14. Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of clause- 12.

Common Sanitary landfill facilities are planned for the safe disposal of processing rejects and non-biodegradable components of solid waste and it is being envisaged that common sanitary landfill site would accommodate about 10% of processing rejects and inerts per day from the total Municipal Solid waste processing plant with the provisions such as Green Belt and Buffer zone, Bottom and Side liner system, Cover liner system, Leachate collection, removal and treatment, Landfill gas and Management and cover lining system & Surface restoration etc.,

15. The non-biodegradable waste and non-recyclable plastic should be segregated from the landfill sites and be used for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding

work to concessionaire/operator of the facility



It is being followed. The segregated plastics are pulverized and mixed with bituminous and is being used for road construction. Specific stipulation to this effect is included in the contract awarding work. During the last four years, 871 MT of plastic waste used for laying 684.77 Km of roads.

16. The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such other allied items. Hazardous waste, so collected by the centers should be either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.

Action plan prepared to have meeting and discussion with the producers / manufacturers of hazardous house

of collection centres in every district to facilitate the residents to deposit the domestic hazardous waste at these centres thus enabling scientific efforts to dispose the same.

17. We direct MoEF&CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.

Action will be taken before June 2017

18. The directions and orders passed in this judgment shall not affect any existing contracts, however, we still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under process, this judgment and the Rules of 2016 shall completely and comprehensively apply.



19. We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple burning, while Rs. 25,000/- (Rs. Twenty Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.

Required Bye Laws for implementing SWM Rule 2016 in all the ULBs are under process and will be effected before October 2017 and in this bye laws the penalty / Fine clause incorporated.

20. All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.

Necessary instructions are given to the Executive Authorities to upload the information pertaining to the processing plant details and update its functional status periodically, immediately after completion of the proposed construction of processing facility.

24. That the State Government/UT, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the concerned State-s / UTs / Districts.

IEC program to create public awareness about the processing facilities available, processing of the waste, obligation of the public and authorities, concessionaire and facility operators as envisaged in the Rules will be conducted periodically.

25. We expect all the concerned authorities to take note of the fact that the Rules recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.



The direction will be followed.

26. We further direct that the directions contained in this judgment and the obligations contained under the Rules of 2016 should be circulated and published in the local languages.

The direction will be followed.

27. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.

The direction will be followed.

28. Copy of this judgment be circulated to all the Chief Secretaries/Advisers of States/UTs by the Registry of the Tribunal. The said authorities are hereby directed to take immediate steps to comply with all the directions contained in this judgment and submit a report of compliance to the Tribunal within one month from the date they receive copy of this judgment.

The direction will be followed.

In view of the above facts and circumstances stated herein, it is humbly submitted that Municipal Administration and Water Supply Department of Tamil Nadu is taking all earnest efforts for the effective implementation of Municipal Solid Waste Management Rules 2016 and this Hon'ble Tribunal may be pleased to record the Compliance affidavit and status report filed by this State Government and to issue such orders as it deems fit and thus render justice.

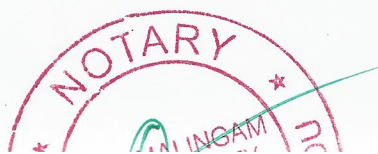
SECRETARY *

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ANNEXURE

ACTION PLAN - SOLID WASTE MANAGEMENT RULES 2016

| S. No | Activity | Time Limit as per Notification dated 08.04.2016 | Revised Time Limit as per Direction given by the Hon'ble NGT on 22.12.2016 |
|--------------|--|--|---|
| 1 | Identification of suitable sites for setting up solid waste processing facilities | 1 year | Before July 2018 |
| 2 | Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more . | 1 year | Before July 2018 |
| 3 | Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities | 2 years | Before July 2019 |
| 4 | Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source , | 2 years | Before July 2019 |
| 5 | Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities. | 2 years | Before July 2019 |
| 6 | ensure separate storage, collection and transportation of construction and demolition wastes | 2 years | Before July 2019 |
| 7 | setting up solid waste processing facilities by all local bodies having 100000 or more population. | 2 years | Before July 2019 |
| 8 | Setting up solid waste processing facilities by local bodies and census towns below 100000 population. | 3 years | Before July 2020 |
| 9 | Setting up common or stand alone sanitary landfills by or for all local bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules. | 3 years | Before July 2020 |
| 10 | Setting up common or regional sanitary landfills by all local bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules. | 3years | Before July 2020 |
| 11 | Bio-remediation or capping of old and abandoned dump sites. | 5years | Before July 2022 |




 Principal Secretary to Government

VERIFICATION

I, the above named deponent, do hereby declare that the facts and information stated in the above stated paras are true and correct to the best of my knowledge and belief, no new plea is made and no material fact has been concealed there from and verified the same on this the day of February 2017 at Chennai.

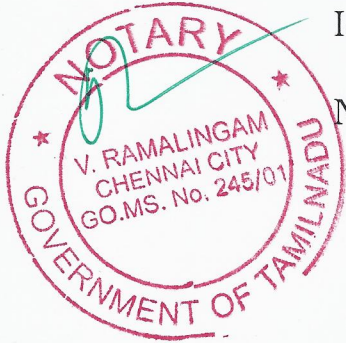



Deponent

Principal Secretary to Government
M.A. & W.S. Department
Secretariat,
Chennai - 600 009.

Identified by me

Notary




19/19

V. RAMALINGAM, M.A., B.L.
ADVOCATE & NOTARY
No. 439, ADDL. LAW CHAMBER,
HIGH COURT, CHENNAI-600 104
INDIA, Cell: 9380863809

Filed through

Thiru Rakesh Sharma,
Advocate,
Supreme Court of India,
Standing Counsel for the
State of Tamil Nadu,
National Green Tribunal,
New Delhi,
Mobile : +91-9958455905.





Municipal Administration and Water
Supply (MA.IV) Department, Secretariat,
Chennai – 600 009.

Letter No.1126/MA IV(2)/2015 - 24, dated 16.02.2017

From
Thiru A. Muhamed Ali, B.Sc., M.B.A.,
Deputy Secretary to Government.

To
✓ Thiru Rakesh Sharma,
Advocate,
Supreme Court of India,
Standing Counsel for the State of Tamil Nadu,
National Green Tribunal,
New Delhi (w.e)

Sir,

Sub Environment Control – National Green Tribunal - O.A.No.199 /
2014 filed by Almitra H. Patel & Another. Vs. Union of India &
others in National Green Tribunal – Implementation of the
Municipal Solid Waste – Filing of Compliance Affidavit –
Requested- Regarding

Ref: Orders of the National Green Tribunal Principal Bench,
New Delhi, dated 22.12.2016.

With reference to the order cited, I am directed to send herewith fair copies of
Compliance Affidavit to be filed on behalf of the Government of Tamil Nadu and to
request you to file the same before the Hon'ble National Green Tribunal.

2. The date of filing and the present stage of the case may be intimated to the
Government.

Yours faithfully,

for Deputy Secretary to Government.

Copy to :-

Thiru.Balaraman,
Deputy Secretary,
Legal cell, Supreme Court of India,
New Delhi.