

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEWDELHI

ORIGINAL APPLICATION NO. 199 OF 2014

In the matter of :

Almitra H Patel & Anr. ...Applicant

//Versus//

Union of India and others. ...Respondents

AFFIDAVIT ON BEHALF OF STATE OF GUJARAT AND
GPCB
IN COMPLIANCE OF JUDGMENT AND ORDER DATED
22.12.2016

I, R. C. Patel, Under Secretary, Government of Gujarat, Urban Development & Urban Housing Department, Sachivalaya, Gandhinagar Gujarat, presently at New Delhi, do hereby solemnly affirm and state as under:

1. That I have read the order dated 22.12.2016 passed by this Hon'ble tribunal and being acquainted with the subject matter and also being duly authorized by the Government, I am competent to file this affidavit.
2. This Hon'ble Tribunal while expressing its deepest concern over tremendous increase in generation of waste, non implementation of the Municipal Solid Waste Rules, 2000 and non implementation of Solid Waste Management Rules, 2016 has issued several directions to all the states/Implementing authorities to

comply with the same and submit their action plan with Action Taken Report.

3. It is respectfully submitted that the Urban Development Department in the Government and the State Pollution Control Board have jointly prepared a Model Action Plan for effective and timely implementation of Solid Waste Management. Copy of the Model Action Plan is annexed hereto and marked as **Annexure-GJ/1**.
4. In furtherance to the above, the Government of Gujarat has taken the following actions for effective implementation of the directions given in the judgment and order dated 22/12/2016 and 10/01/2017 passed by this Hon'ble Tribunal.

Sr. No.	Directions	Action taken
1.	Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.	As per Model Action Plan
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.	As per Model Action Plan prepared and annexed as Annexure-GJ-1.

3.	<p>The period of six months shall be reckoned w.e.f. 1st January, 2017. There shall be no extension given to any State for compliance with these provisions any further.</p> <p>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.</p> <p>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.</p>	As per model action plan (Point No.46)
4.	<p>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.</p>	As per Model Action Plan.
5.	<p>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.</p>	As per Model Action Plan. (Point No.3-32)

6.	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 waste.	As per Model action Plan (Point No.31)
7.	<p>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.</p> <p>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.</p>	As per Model action Plan (Point No.46 last two paras)
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.	As per Model action Plan (Point No.47- State Level Advisory Committee)

9.	<p>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.</p> <p>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.</p>	As per Model action Plan (Point No.31 last para)
10.	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 per Model action Plan.
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 computerised weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.	As per Model action Plan. Point No.17)
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.	As per Model action Plan. Point No.20 and 28)

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.	As per Model action Plan. Point No.32)
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.	As per Model action Plan. Point No.32)
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.	As per Model action Plan. Point No.8 and 9)
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.	As per Model action Plan. (Point No.19)

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.	For Central Govt.
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.	For Central Govt.
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.	As per Model action Plan. (Point No.1 & 19)

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.	Is being implemented by GPCB
21.	We direct the CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.	-do-
22.	That the directions contained in the judgment of the Tribunal in the case of 'Kudrat Sandhu Vs. Govt. of NCT & Ors', O.A. No. 281 of 2016, shall mutatis mutandis apply to this judgment and consequently to all the stakeholders all over the country.	-do-
23.	That any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986 and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.	As per Model action Plan. Point No.14 and 40)

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 States/UTs/Districts.	As per Model action Plan. (Point No.29 and 41)
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.	As per Model action Plan. (Point No.43, 44 & 45)
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.	As per Model Action Plan.
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.	As per Model action Plan. (Point No.46 and 47)
28.	Authorities 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.	Report being submitted.

5. I say that the facts stated in the above paras are true and correct.

DEPONENT

VERIFICATION:

I, the deponent above named do hereby verify that contents of paras of the above affidavit are true to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at New Delhi in this 31st day of January, 2017.

DEPONENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEWDELHI
ORIGINAL APPLICATION NO. 199 OF 2014

In the matter of :

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AFFIDAVIT ON BEHALF OF STATE OF GUJARAT
INCOMPLIANCE ORDER DATED 22.12.2016

I, R C Patel, Under Secretary, Government of Gujarat, Urban Development & Urban Housing Department, Sachivalaya, Gandhinagar Gujarat, Presently at Gandhinagarsolemnly affirm and state as under:

6. That I have read the order dated 22.12.2016 passed by Hon'ble tribunal and being acquainted with the subject matter and also duly authorized by the Government I am competent to file this affidavit.
7. That I have read the Affidavit and collective reply filed by the Applicant, Mrs. Almitra H. Patel. The Department has taken note of all the contentions raised by the petitioner and the Government of Gujarat will implement the suggestions made by the Applicant as far as practicable.
8. The factual submissions made in the previous Affidavits filed by the deponent supports the affidavit submitted herewith.

DEPONENT

VERIFICATION:

I, the deponent above named do hereby verify that contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at New Delhi on the 31st day of January, 2017.

DEPONENT

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ADVOCATE FOR THE STATE OF GUJARAT:

MRS. HEMANTIKA WAHI