

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

**Original Application No. 281 of 2016
(M.A. NO. 1007/2016)**

And

**Original Application No. 22(T_{HC}) of 2013
(M.A. No. 19 of 2014)**

IN THE MATTER OF :-

**Kudrat Sandhu Vs. Govt. of NCT & Ors.
And
Sukhdev Vihar Residents Welfare Association & Ors.
Vs.
State of NCT of Delhi & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE DR. AJAY A DESHPANDE, EXPERT MEMBER**

Present:

Applicant:	Mr. Pawan K. Bahl and Mr. S.N Mehrotra, Advs. Mr. Arun Monga & Mr. Suryajyoti Singh Paul, Advs.
Respondent No. 2:	Mr. Balendu Shekhar & Mr. Vivek Jaiswal, Advs. for EDMC
Respondent No. 3:	Ms. Sakshi Popli, Mr. Anurag Kumar Advs. for NDMC
Respondent No. 4:	Mr. Raman Yadav, Mr. Dlasher Singh Advs. for GDA
Respondent No. 7:	Mr. Raj Kumar, Adv. and Mr. Bhupender Kr., LA, Central Pollution Control Board
Respondent No. 7 :	Mr. Rajiv Bansal, Mr. Kush Sharma, and Mr. Anirudh Chadha and Mr. Anurag Tripathi, Advs. for Delhi Development Authority
Respondent No. 8:	Ms. Krishna Kumar Singh, Adv. for MoEF Ms. Puja Kalra, Adv. for North & South MCD Mr. Biraja Mahapatra, Adv. with Dinesh Jindal, LO, Delhi Pollution Control Committee Ms. Alpana Poddar, Adv. With Mr. Bhupneder Kr. LA, Central Pollution Control Board Mr. Raj Shekhar Rao and Mr. Nishant Kumar and Ms. Shikha Ohri, Advs. for DMSWSL Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advs. for GNCTD Ms. Deep Shikha Bharati, Adv. for Ministry of Environment, Forest and Climate Change Ms. Sakshi Popli, Adv. for NDMC Mr. Krishna Kumar Singh, Adv. for MOEF Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advs. Mr. Balendu Shekhar, Mr. Vivek Jaiswal, Advs. for East Delhi Municipal Corporation Mr. Matrugupta Mishra, ADO, Mr. Nishant Kumar, Mr. Piyush Singh and Mr. Rajshekhar Rao, Adv. for DMSWSL Mr. Biraja Mahapatra, Adv. and Mr. Dinesh Jindal, LO

**Dr. Abhishek Attrey, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Manoj K. Singh, Adv. along with Ms. Nilava Bandyopadhyay, Adv.**

	Date and Remarks	Orders of the Tribunal
	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p><u>Original Application No. 281 of 2016</u></p> <p><u>M.A. No. 1007 of 2016</u></p> <p>Dimensions of Article 21 of the Constitution of India were expanded by the Hon'ble Supreme Court of India so as to include right to decent and clean environment as a Fundamental Right squarely falling within the ambit and scope of Right to Life enshrined in Article 21 of the Constitution of India. This obviously enables the citizens to enjoy such a right without restrictions and necessarily imposes an obligation upon the State and its instrumentalities to provide decent and clean environment to every citizen of India. It cannot and in fact is not disputed before us that all the Corporations and the Public Authorities including the development Authorities are responsible for ensuring not only that the decent and clean environment is provided but also it so remains consistently at all times.</p> <p>The municipal solid waste is one of the most serious pollutants in our country particularly in NCT of Delhi and its surrounding areas. The Authorities are under statutory and public law obligation to ensure that the waste is collected, transported and disposed of in accordance with Solid Waste Management Rules, 2016 and does not cause public health hazards, damage or degradation of the environment of NCT of Delhi.</p> <p>The first and foremost factor that requires to be noticed by the Tribunal is how much municipal solid</p>

	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>waste is generated in NCT of Delhi. It is more than unfortunate that none of the Authorities, Corporations, Boards and the State Government appearing before the Tribunal is able to provide correct figures thereof with some exactitude. Every Authority shifts the blame to other and submits that figures/statistics quoted are based upon the data provided by other Authorities, while according to the other Authorities the same are captured from certain studies or surveys carried out by different Agencies, not part of regular administration or governance of NCT of Delhi. The Learned counsel appearing for the Corporations fairly conceded before us that none of the Corporations or any other local Authority vested with the powers and duties for dealing with the municipal solid waste has ever conducted any survey directly or through an agency under their control so as to ascertain how much municipal solid waste is generated and how it is disposed of in accordance with Rules of either 2016 or even that of 2000, or how it is being ensured that the huge quantity of solid municipal waste generated in Delhi does not cause any health and environmental hazards in NCT of Delhi.</p> <p>However, certain statistical data which have been accepted by the respective Corporations - East, North, South Municipal Corporations, NDMC and Delhi Cantonment Board as a joint statistical data of generation of municipal solid waste have been filed before the Tribunal. According to this document, 14100 metric tons of solid waste is generated in Delhi every day. It contains approximately 9600 metric tons of Municipal Solid Waste</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>which also has an element of inert material or even C&D waste. According to the Corporations the inert and C&D waste in this waste is 15%, however, according to the companies who are running waste to energy plant, inert and C&D waste municipal solid waste received for disposal is 20% to 25% at all the three plants of Ghazipur, Narela and Okhla.</p> <p>Another constituent of this municipal solid waste is silt from various drains which is approximately 600 metric tons per day. Beside this municipal solid waste, there is bottom and fly ash generated by the three waste to energy plants.</p> <p>There are three wastes to energy plants in NCT of Delhi. These are at Okhla, Ghazipur and Narela. The waste to energy plant at Okhla has a capacity of 1950 metric tons of municipal solid waste per day. This plant is stated to have obtained Environmental Clearance as well as consent to operate from the Authority/ Board. Certain issues with regard to functioning and operationalisation of this plant have been raised before this Tribunal in Original Application 22/2013 in the matter of Sukhdev Vihar Residents Welfare Association & Ors. vs. State of NCT of Delhi & Ors. According to the residents this plant is causing serious environmental hazards and polluting the air quality and release of fly ash from this plant is resulting in pollution of the air as well as spreading of particulate matters in their houses which has made their living difficult and unhealthy. This matter is being argued currently before the Tribunal and is part-heard. According to the Project Proponent and some of the</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>reports submitted by the Board, emissions from this plant are within the prescribed parameters. It is not necessary for us to dwell upon these rival contentions at this stage and we would deal with all the contentions raised by the respective parties in Original Application 22/2013 independently as it is a part-heard matter before the Tribunal. Suffice it to note that this plant has the capacity of processing the municipal solid waste to the extent of 1950 metric tons out total 14100 metric tons per day, of waste generated in the city.</p> <p>However, Learned counsel appearing for the Project Proponent (Okhla Plant) submits that they have capacity of processing 3000 metric tons of municipal solid waste and they are in a position to handle and process the increased capacity at this stage itself. In fact the South Municipal Corporation of Delhi has also requested to them to take additional load of 1000 metric tons per day and have asked the Project Proponent to apply to DPCC for consent to operate for enhanced capacity.</p> <p>Okhla waste to energy is constructed on 15 Acres of land located in Okhla near STP plant. The entire land of the project is used for waste processing. However, segregated C&D, inert waste and bottom and fly ash are taken to Okhla dumping site which is located nearly 7 Km away from the plant. Within the land of the plant, it has established a brick manufacturing plant where bricks are manufactured from fly ash alone. They are already in process of constructing automatic waste segregation plant which is likely to become operative by February, 2017.</p> <p>Second plant is at Ghazipur which is being run on</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>under trial basis. It has capacity of 2000 metric tons per day. The consent to operate granted by the DPCC to this plant presently has put a cap on its capacity at 1300 metric tons per day. But this plant is receiving only 800 metric tons per day. Learned counsel appearing for the Project Proponent submits that infact they are receiving 1000 metric tons of mixed municipal solid waste and after subtracting and extracting of 20% of C&D and inert waste, they actually process 800 metric tons of municipal solid waste. After processing the waste, remnants i.e. bottom and fly ash is collected by this Project Proponent and dumped at Ghazipur dumping site. As far as 200 metric tons of C&D and inert waste is concerned, the Project Proponent is sending the same at the Ghazipur dumping site. According to the Project Proponent, it has capacity of process 2000 metric tons of municipal solid waste and they are prepared to accept the same quantum of municipal solid waste as they are presently under trial and have restricted consent to operate the plant upto 1300 metric tons per day of waste. The Project Proponent proposed to apply to the Board for increase in capacity utilization upto 2000 metric tons per day. Beside this, a sister concern of this Project Proponent is operating C&D processing plant at Shastri Park which is just near to the site of this waste to energy plant and if the concerned Authorities grant consent to operate to the said plant, it has capacity of processing 500 metric tons of C&D waste. Then, not only, that there will be no occasion for the Project Proponent to dump the C&D and inert waste at Ghazipur dumping site, even the inert and C&D waste</p>
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from other places can also be processed at the Shastri Park plant. The Project Proponent has submitted a comparative emission parameters statement from its plant to show that not only it is complying with the prescribed standards under consent to operate order, even it is Euro norms compliant. The table showing the comparative parameters are reproduced as under:-

Compound Name	Unit	Test Value	Euro Norms	DPCC Norms
Particulate matter (PM)	Mg ₃ /Nm	6	10	30
Nitrogen Dioxide (as NO ₂)	Mg ₃ /Nm	57	200	350
Sulphur Dioxide (as SO ₂)	Mg ₃ /Nm	0.0	50	100
Carbon Monoxide (as CO)	Mg ₃ /Nm	31	50	100
Hydrogen Chloride (HCL)	Mg ₃ /Nm	11.8	10	50
Lead (pb)	Mg ₃ /Nm	0.38	0.5	0.1
Total Mercury (Hg)	Mg ₃ /Nm	0.009	0.05	0.02
Total Dioxin & Furans OCDD & PCDD	ngTEQ/Nm ³	0.015	0.1	0.1

The submissions on behalf of the Project Proponent is that their capacity for processing the municipal solid waste should be increased to 2000 metric tons and C&D processing plant at Shastri Park should be made operative immediately. This plant is located in 5.65 acres of land and does not have its own dumping site for dumping and its of waste rejects and fly and bottom ash are dumped at Ghazipur dump site.

Lastly, we shall proceed to deal with waste to energy plant at Narela Bawana industrial area. This plant is

	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>located in 100 Acres of land with its own sanitary land fill site admeasuring 28.5 acres. This plant has capacity of processing 2000 metric tons of waste per day. The plant is actually receiving 2000 metric tons of municipal solid waste out of which nearly 280 metric tons is found to be inert inclusive of C&D which is segregated at the threshold. The project has its own automatic waste segregation plant. This project comprises of composting, RDF and then the waste to energy process. However, this plant does not have its own plant to manufacture bricks from fly ash or bottom ash.</p> <p>This plant is also being run under trial and has obtained Environmental Clearance as well as consent to operate from MOEF and DPCC respectively. The Delhi Electricity Regulatory Commission has fixed the tariff rate for sale of power of this plant at Rs. 7.03 per Unit. As per the agreement between the Corporation and Project Proponent, they had agreed to share revenue to the extent of 3% payable 8 years from the data of commission/start of power generation starts. Project does not transport or send any of its waste or fly ash / bottom ash outside its plant. The entire inert waste is dumped within its owns premises and is appropriately stored. The Project Proponent does not have its own brick manufacturing plant.</p> <p>Learned counsel appearing for the Corporations submits that the Corporations are supporting the operatonalisation of these plants and would ensure that the requisite quantity of municipal solid waste is sent to these plants, as per their agreements with the</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>Corporations. They also pointed out that Lieutenant Governor of Delhi had taken a meeting and directed that enhanced capacity of the plant at Ghazipur should become operative at the earliest and 2000 metric tons of waste should be provided to the said plant and its process capacity should accordingly be increased.</p> <p>It is also pointed out that an Agreement has been arrived at between the National Highway Authority of India, Road Transport & Highways Ministry and the Corporation under which the existing waste would be segregated, collected and utilized by NHAI for construction, expansion of road or any other project for embankment and bituminization of NH -24 and other projects.</p> <p>Okhla plant has been subjected to various inspections by DPCC and CPCB, besides the Inspection conducted by the Joint Inspection Team constituted by the Tribunal. Initially, deficiencies were pointed out in the plant in relation to emissions. However, the last four reports have reflected that the project is being operated properly and its emissions are as per the prescribed standards. However, certain deficiencies with regard to segregation of the waste have been pointed out.</p> <p>The Plants at Narela and Ghazipur have been granted consent to operate after they were subjected to proper inspection in accordance with law by DPCC and the team responsible for issuance of Environmental Clearance. Even during the pendency of these Applications, the joint inspection team constituted by the Tribunal was directed to inspect these plants and report to</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>the Tribunal if they were in operation and their work had been concluded. The Joint Inspection Team reported that their construction work and other processes were completed in all respects, including anti-pollution devices. Therefore, both these plants were permitted to run on trial basis by the respective corporations and DPCC. Till date, they are operating on trial and no complaint has been filed either by authorities including the Board or any other individual for that matter. It may be noticed that the joint inspection team was constituted under the order of the Tribunal consisting of Secretary of Environment, NCT Delhi, Secretary of Power, Member Secretary of CPCB, Member Secretary of DPCC, Sr. Scientist from MoEF, Sr. Officer from the Irrigation Dept. of State of U.P. and Chief Engineer of the Corporation. The Report of this High Powered Joint Inspection Team has been placed on record. As already noticed in this Judgment, we are primarily dealing with the plant at Ghazipur and Narela and would be dealing with Okhla plant separately in O.A. No. 22 of 2013.</p> <p>Before we proceed to discuss the merit of the case, we must dwell upon one of the important aspect of this case relating to fly ash. As noticed above, all the three waste to power energy plant operating in Delhi generate ash as under:</p> <ul style="list-style-type: none"> • Okhla plant generates 50 metric tons of fly ash and 150 metric tons of bottom ash, total is 200 metric tons. • Narela plant generates 30 metric tons of fly ash and 70 metric tons of bottom ash, total is 100
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>metric tons.</p> <ul style="list-style-type: none"> • Ghazipur generates 20 metric tons of fly ash and 50 metric tons of bottom ash, total is 70 metric tons. <p>Nearly 1000 metric tons of fly or bottom ash is generated at Badarpur Thermal Power Plant which is presently lying closed. In other words, besides, handling 14,100 metric tons of Municipal Solid Waste every day, Delhi is required to handle 1, 370 metric tons fly ash and/or bottom ash. Needless to notice that mere dumping of this quantity of ash would be most improper as fly ash with the wind would become part of air pollutants in Delhi and would obviously deteriorate the ambient air quality causing environmental and health hazards.</p> <p>The MoEF had on 14th September, 1999 issued a notification under Rule 3 of sub-Rule 3 and Rule 5 of the Environmental Protection Rules, 1986 read with sub Section 1 and Clause 5 of sub-Section 2 or sub-Section 3 and Section 5 of the Environmental Protection Act, 1986. It was to provide compulsive utilisation of fly ash for manufacture of cement, bricks, blocks, tiles etc. as well as restriction on manufacture of clay bricks in terms of this Notification. Fly ash would include bottom ash. In terms of this Notification, the fly ash means and includes all categories or groups of coal or lignite ash generated at Thermal Plant collected by ESP and other specified means. The Notification of 14th September, 1999 has been subjected to various amendments and the last being on 25th January, 2016. Notification stated that no person shall, within the radius of 100km from coal or lignite</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>based thermal power plant, manufacture clay bricks or tiles or blocks for use in construction activity without mixing atleast 25% of ash (Fly ash, bottom ash, pond ash) with soil on weight to weight basis. The Notification also specified the minimum percentage of fly ash by weight that was required to be used in a particular building material or products. The radius and the percentage kept on varying with each Notification, to increase the radius area as well as percentage. In terms of the last Notification, the radius of 100 kms stands substituted by radius area of 300km. The purpose and object of the Notification was primarily to restrict, effect and encourage prohibition for use of absolute clay bricks and encourage use of more and more fly ash, bottom ash and pond ash in manufacture of bricks, blocks, tiles and allied construction materials. The Notification issued by Central Govt. was adopted by Government of Delhi. In fact, PWD, NCT Delhi issued a circular that in construction of all govt. buildings the bricks manufacture with fly ash in terms of the Notification should be used and clay bricks should not be used in such construction activity. Despite such legislative directions and executive orders, manufacture and use of bricks containing fly ash to the prescribed extent remained hardly implemented. Enforcement of this Notification is both in the interest of Environment and Public Health. It was expected from all the concerned authorities to enforce this condition without default. Needless to notice that both, Centre and the State Govt., are vested with punitive powers in the event of non-compliance to the directions issued under Section 3</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>and/or 5 of the Environmental Protection Act, 1986.</p> <p>The Applicant Ms. Kudrat Sandhu has raised a specific issue with regard to mismanagement of municipal solid waste in Delhi as well as with regard to terrible conditions that are prevailing in relation to landfill sites. According to her, there is acute shortage of landfill sites in Delhi to the extent that the existing landfills sites at Bhalasava is 45m high, in violation to the norms of 30m as prescribed in the Municipal Solid Waste Manual. At this site the mixed Municipal Solid Waste is being dumped indiscriminately and in violation to the Municipal Solid Waste Rules, 2000 as substituted by Solid Waste Management Rules, 2016. Besides generating foul odour these sites are consistently source of air pollution. The sites are always at fire due to both intentional and unintentional reasons. The dumped waste generates methane which can cause fire Corporation or its agency responsible for dumping waste may also be responsible for the fire. In different cases, various photographs have been placed to show that Municipal Solid Waste is being consistently burned at different sites as well as in the colonies. The continuous burning of the waste including plastic either at the landfill site or at different locations emits gases which are injurious to human health and in fact, are carcinogenic. The situation at other landfill sites of Okhla and Ghazipur are no different and no useful purpose would be served by repeating the same sad state of affairs. Suffice it to note that all three landfill sites are source of serious pollution and cause continuous threat to environment and health. We are in agreement with the</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>contentions of the Applicant that these sites are not being maintained in conformity with either the Rules of 2000 or 2016. Infact, the waste is being dumped in violation of the prescribed rules and they are not segregated at all. Most of the waste, even if segregated at source, is brought to community dhalaos where it gets mixed, defeating the very purpose of segregation at source. Further, the waste is again transported in an unsegregated form to the dump sites or to the waste processing plants in complete contravention of Rules of 2000 or Rules of 2016. Also, there is no proper covering of clay and to say the least, there is no spray of disinfectants as required under the Rules. To add to these, Learned counsel appearing for the DPCC submits that all these sites are operating without any authorization. The DPCC had imposed fine upon the Corporations which has not been paid by them. In light of the scenario afore-stated, one fact becomes evident and cannot be disputed that all Authorities, Boards and Corporations have miserably failed to save the city from environmental and health hazards resulting from massive generation of municipal solid waste that is nearly 14000 metric tons per day which includes the fly ash and bottom ash generated by the three plants. All these Corporations and public Authorities are obliged to ensure proper collection, segregation, transportation, processing and final disposal of municipal solid waste. At each stage, there is clear violation and non- performance. Regulatory and supervisory Authorities like CPCB, DPCC and other higher Authorities have not been able to perform the functions as contemplated under law to prevent and</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>control the menace of pollution arising from municipal solid waste. The scene of scattered municipal solid waste all over Delhi is a fact which cannot and infact has not been denied by the Learned counsel appearing before us.</p> <p>There has to be implementation of law and directions of the Tribunal at micro and macro level. The helplessness on the part of the State including financial limitation, is no excuse for enforcement of environmental rights and particularly rights falling under Article 21 of the Constitution of India. The Corporations, Development Authorities, Cantonment Board and all such Authorities as well as supervisory Authorities must rise to the occasion and perform. They have to demonstrate, the NCT of Delhi, the Capital of our country can be a city free of pollution arising from municipal solid waste and we are quite hopeful that it is a achievable goal. The Authorities must change their approach and set the priorities for considering the urgency in view of public health. The Authorities must take all concerns steps and as would be evident with the directions that we propose to pass, it is achievable with large benefits for the environment and public health, the greatest concern for the resident of Delhi as of now. There is no other crises as equivalent to the air pollution and other pollution in Delhi and we must provide due remedies for the same. At the cost of repetition, we may notice that even if all the three waste to energy plants operate to their optimum capacity, in terms of consent and Environmental Clearance granted to them, still out of which 9600 metric tons of municipal solid waste per day, the city would be left with 4900 metric tons</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>municipal solid waste per day besides 600 metric tons silt from drains and road sweeping and 3900 C&D and inert waste.</p> <p>There is no clear map ready to deal with the huge quantity of waste which remains with the Corporation after providing waste to these three plants, as per their capacity. Besides this, another factor which has not been taken note of is that, there is some quantity of waste, in addition to the municipal solid waste and all other waste which is not collected by the Corporation or other agencies. According to the Applicant still there is more waste which is apparent at various locations, thus adding the deposition to waste collected from different places of Delhi. The percentage of uncollected waste has not been estimated by the Ministry of Environment, Forest and Climate Change, DPCC, CPCB and Corporation. According to the Learned counsel appearing for the Corporation, it is approximately 5%, while the Learned counsel appearing for the Ministry of Environment, Forest and Climate Change puts the figures at 10%. The Learned counsel appearing for the Ministry of Environment, Forest and Climate Change state that based on the information given by Central Pollution Control Board, uncollected waste is nearly 10%. We do not think it necessary for the Tribunal to get into the controversy regarding the computation of waste generated. The fact of the matter is that the waste of all kind generated would be in the range of 16500 to 17000 MT/day approximately.</p> <p>In our considered view the following directions are required to be issued in the interest of environment and</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>public health:-</p> <ol style="list-style-type: none"> 1. We direct all authorities concerned to ensure that the waste to energy plant at Narela and Ghazipur operate to their optimum capacity in accordance with law, in terms of the conditions of consent to operate order granted and the environmental clearances. 2. All the Local Authorities and the Development Authorities shall ensure that segregated municipal solid waste is supplied to the waste to energy plants in Delhi in accordance with terms and conditions of their Agreement. 3. The plant at Ghazipur is presently receiving only 1000 MT of mixed municipal solid waste out of which 200 metric tons is excluded as inert and Construction and Demolition debris (in short 'C&D') waste thus, leaving 800 MT of mixed waste to be processed in the plant for generation of energy. This plant is capable of manufacturing Refuse Derived Fuels (in short 'RDF') and then use the same for marketing purposes or entirely and partly for generation of energy within the plant. We direct East Delhi Municipal Corporation to supply immediately, at least 1500 MT, of municipal solid waste, out of which upon exclusion of segregated inert and C&D waste, at least 1300 MT of waste should be available to the plant for the purpose of manufacturing of RDF and generation of energy. The plant in terms of consent to operate can process
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>1300 MT of municipal solid waste while it has a capacity of 2000 MT of waste.</p> <p>4. We grant liberty to the plant owner to approach Delhi Pollution Control Committee for operating with increased capacity of 2000 MT. If such an application is filed, the Delhi Pollution Control Committee shall dispose it with utmost expeditiousness, in any case, not later than two months from the date of filing of such application, in accordance with law.</p> <p>5. The C&D waste plant at Shastri Park is ready to operate, in all respect. We direct the Project Proponent to approach all the concerned Authorities and complete all the requirements of law including consent to operate and Environmental Clearance, if required. All the authorities concerned including Delhi Pollution Control Committee and NCT, Delhi shall fully cooperate and ensure that this plant becomes operative at the earliest, in any case, not later than six weeks from today.</p> <p>6. We make it clear that we are not issuing directions to any Authority to grant consent/permission if the plant is not entitled to perform in accordance with law.</p> <p>7. The plant at Narela is a kind of self-contained plant as it has its own landfill site adjacent to its premises to dump inert waste. It is the exclusive responsibility of the Project Proponent. It has a</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>capacity of 2000 MT/day processing of municipal solid waste and it is presently receiving 2000 MT of municipal solid waste. Out of this, as already noticed, the plant is getting about 20% of inert and C&D waste which leaves the plant with approximately 1600 MT of municipal solid waste. Thus, we direct the Corporation to permit the Project Proponent to collect waste to the extent of 2400 MT/day so that it can operate to its optimum capacity after segregating inert and C&D waste. The Corporation and the Project Proponent is ad idem that the Delhi Electricity Regulatory Commission has fixed tariff of power charges @ 7.43% per unit. Furthermore, revenue sharing shall be effective between the parties @ 3% but from the date they commission generation of power. This, however, is an interim direction without prejudice to the rights and contention of the parties. Under the agreement between the parties dated 17th July, 2009, clause 12.2 is the arbitration clause for resolving dispute between the parties. The Project Proponent or the Corporation, as the case may be, are at liberty to invoke arbitration proceedings in accordance with the agreement and the rate and date both for revenue sharing would be fixed by the arbitrator and the parties would be entitled to proceed with reference to the interim directions issued by the Tribunal above.</p> <p>8. The Project Proponent shall start revenue sharing with the Corporation from the date on which plant</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>is commissioned i.e. energy is generated and sold but it will be subject to final award of the arbitration. The Delhi Electricity Regulatory Commission shall deal with the matters of approval of power purchase agreement with utmost expeditiousness, with respect to generation of power and its sale.</p> <p>9. We expect both these plants to operate to their optimum capacity without causing any pollution either in their process or through their emissions. They shall operate strictly as per the prescribed norms in relation to ambient air quality, stack emissions provided under the Air Act and collect and dispose of waste strictly in terms of Solid Waste Management Rules, 2016.</p> <p>10. In the event, they are found at default at any one point of time, they shall be liable to pay environmental compensation of Rs. 5 Lakh for each default. The default would be determined by the joint inspection team that we will constitute under these directions.</p> <p>11. The joint inspection team shall consist of Member Secretary, Central Pollution Control Board; Member Secretary, Delhi Pollution Control Committee; Senior Scientist from Ministry of Environment, Forest and Climate Change and a member of faculty nominated by the Director, I.I.T., Delhi.</p> <p>12. The Okhla plant shall continue to operate but it</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>would be subject to the orders of the Tribunal that may be passed in Original Application No. 22 of 2013.</p> <p>13. This committee shall be Supervisory Committee and would visit the plant in question at least once in two months. The day-to-day working of the plant shall be examined and report be submitted to the supervisory committee by a team selected by the Supervisory Committee consisting of members of the above organizations.</p> <p>14. We also expect that all the Authorities would cooperate and provide required assistance, help and guidance to the plant owners if they are found to be deficient and not performing as per the prescribed norms. Polluter Pays Principle has to be adhered to but it should not be converted into 'pay and pollute'. The goal of achieving decent and clean environment is possible only with due cooperation of the Authorities, in the position of satisfactory performance by the Project Proponent and full cooperation from the public at large. The public cannot ignore its duty provided by the constitution itself under Article 51(g) of the Constitution of India. There are three landfill sites/dumping sites in Delhi at Ghazipur, Bhalswa and Okhla. Each of these sites is a depiction of mess that can be created adversely affecting environment and health of the people of Delhi.</p> <p style="text-align: center;">All the Corporation, Delhi Development</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>Authority and all other public authorities including Government of NCT, Delhi are directed to take immediate steps for reduction and utilization of dumped waste for other purposes. We are informed that an agreement has been entered into with National Highways Authority of India and the Ministry concerned for utilization of the segregated waste from the dumping site for the purpose of road construction including expansion of National Highway No. 24. We direct Corporation and all Authorities to take all appropriate and immediate steps for segregation of waste in terms of the agreement entered into by them. Maximum efforts should be made to utilize segregated waste for road construction of NH-24 in terms of the agreement and even other roads. We hereby direct CPWD, PWD, Delhi to take segregated waste from all the three dumping sites and use the same for construction of the road and embankment, wherever required.</p> <p>We hereby appoint a High Level Committee under Additional Secretary, Ministry of Urban Development, Govt. of India, comprising of Secretary, Environment; NCT, Delhi, Chairman, CPCB; Chairman, DPCC; DDA and all Municipal commissioners. The Committee shall prepare a clear cut action plan for disposal of entire solid waste generated in Delhi and shall prepare a comprehensive plan for Bio-stabilization of all these sites and submit it before the Tribunal within one</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>month. The Additional Secretary, Ministry of Urban Development would be entitled to co-opt or call any other person besides members that we have directed i.e. Delhi Pollution Control Committee, Central Pollution Control Board, CPWD, PWD, Delhi Development Authority and Corporation.</p> <p>All the Corporation, Public Authorities, Delhi Development Authority, including Ministry while issuing tender for construction of road in any part of NCT, Delhi would make it compulsory, to whomever the work is awarded, to utilize the usable waste for the said purpose.</p> <p>15. It is stated that one point of time there were nearly 24 landfill sites for waste management identified in the Master Plan 2021. We direct the Committee constituted above, chaired by Additional Secretary, Urban Development, to identify and submit report to the Tribunal as to the possibility of providing landfill site for waste management in Delhi particularly out of 24 sites stated in the Master Plan. We are informed by the Government about scarcity of land in Delhi, therefore, it has becomes necessary that we should have greater number of Waste to Energy Plant and RDF Plant so that the waste generated can be processed and very limited residue remains. The remaining residue is manageable, possible to store and to dump the same without adversely affecting environment and public health. We further direct Public Authorities, Corporation and Development Agencies to ensure that these dump</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>sites are covered with clay particularly disinfected in terms of Solid Waste Management Rules, 2016 without any further delay.</p> <p>16. From the entire discussions above, it is evident that none of the authorities whatsoever till today has any correct data of generation of municipal solid waste with all its components in Delhi, upon conducting physical survey. We have no hesitation in observing that the statistics and data furnished to the court and Tribunal are based on some imaginary figures of questionable authenticity. Everybody relies on data furnished by the other or by some studies to which they were not involved as a party. It is undisputed before us that none of the Corporation, Delhi Development Authority or any other agency responsible for development has ever physically conducted survey to collect primary data even for smaller part of Delhi so as to find out the exact generation of municipal solid waste, per capita, which is formally stated to be adopted by them. Therefore, we direct each Corporation, Development Agencies or Authorities to at least pick up two colonies, one from unauthorized colony and one from authorized colony, under their jurisdiction. They shall engage agencies who shall collect data in their presence or collect data themselves in relation to population as well as municipal solid waste generated in that colony as a whole or per capita and they shall also state the composition of waste. The Corporations will maintain special records in</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>regular course of day-to-day business showing as to how much waste has been collected, its components and how much waste remained uncollected. The Corporation will also ensure that such waste, if collected by the Corporation, it should be at the source or in any case at the Dhalao or point of collection.</p> <p>17. We direct the Commissioner of each Corporation to submit a scheme before the Tribunal for providing incentive to the people who give segregated waste at source, by way of rebate in property tax and on the other hand to impose penalties on residents, societies, RWAs who do not provide segregated waste. It should be kept in mind that on Polluter Pays Principle, each person would be liable to pay for causing pollution, if the waste is generated. It is the duty of a citizen to ensure that said waste is handled properly and not to cause any pollution or cause inconvenience to other persons. The entire burden cannot be shifted on the state and authorities. It shall be submitted, within one month, to the Tribunal.</p> <p>18. All major sources of municipal solid waste generation – hotels, restaurants, slaughter houses, vegetable markets etc. should be directed to provide segregated waste and handover the same to the Corporation in accordance with rules. Any such body, person, hotels, residents, slaughter houses, vegetable markets etc. which does not comply with</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>the directions or throw their waste over any drain or public place shall be liable to pay environmental compensation at the rate of Rs. 10,000/- per default. It is their obligation to segregate the waste at their place and handover the same to the Corporation centers for waste collection or the Agencies appointed.</p> <p>19. The NCT, Delhi, all Authorities and concerned Ministries will ensure complete implementation of the notification 1999 as amended by 2016, in all respect. The Delhi Development Authority and Corporation shall collectively consider and submit a proposal to the Tribunal for establishment of brick manufacturing plant with mixtures of fly ash. We direct that all the construction activity in Delhi should be preferably done, to the extent notified in the notification, by bricks produced from such plant rather than clay bricks. The Government has already issued directions thus it will be the obligation of NCT, Delhi to see that direction is implemented in its spirit and substance. The possibility of establishing more such plants should be comprehensively examined. We may notice that there are at least 3 or 4 thermal power plants within 300 Kms. which are generating considerable fly ash/bottom ash. The Government and Authorities concerned should ensure that the fly ash/bottom ash generated or collected in ash ponds shall be utilized for the purpose of manufacturing blocks etc. and is not merely dumped. We further direct that</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>wherever fly ash or bottom ash is dumped, should be sprinkled on regular intervals and should be particularly covered by all the Agencies, Corporation, Project Proponent and other concerned stakeholders.</p> <p>20. We direct that Corporations, Development Agencies and Fire Departments of Delhi should ensure that none of the dumping site is ever seen at fire. It shall be a collective responsibility and Fire Department shall, in consultation with the Commissioner of Corporations, fix responsibility and dedicated fire vehicles would be made available for each site, in addition to their normal duties.</p> <p>21. Wherever it is feasible, the waste shall be composted or biomethanated near to the point of its generation and collection and in that case it may not be necessary for transporting the compostable waste to the landfill site or waste processing plant. We direct that the Corporation shall make every attempt to segregate compostable and C&D waste out of 4900 MT municipal solid waste that they receive. That segregated C&D waste along with 3900 MT C&D waste collected shall be utilized henceforth for construction activity, particularly in relation to road embankment wherever needed and other allied construction project. Every Public Authority, all Corporations, Cantonment Board and Delhi Development Authority should immediately stipulate such a condition in their tender documents.</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>22. The High Level Committee constituted under this order shall be at liberty to require NCT, Delhi and even the Government to provide fund for compliance of these directions and implementation of the project prepared there under. The Corporation and Public Authorities would also be at liberty to invoke Polluter Pays Principle and require the public at large to pay for that purpose.</p> <p>23. We further direct that the use of disposable plastic glasses is prohibited in entire NCT, Delhi at hotels, restaurants and public as well as private functions. The NCT, Delhi shall take appropriate steps against storage, sale and use of such plastic material at above places and it shall stand prohibited w.e.f. 01st of January, 2017.</p> <p>24. There should be segregation of waste at source. In order to ensure that the waste segregated at source is transported, stored and processed separately, the existing Dhalaos wherever constructed within the limits of NCT, Delhi should be compartmentalized, one chamber for bio-degradable waste, the second for non-biodegradable and recyclable waste and the third for the hazardous & other wastes. Even, wherever Dhalaos are not provided the concerned Corporation should provide/construct three separate bins as indicated above, of proper sizes which can be mechanically handled and are in accordance with Solid Waste Management Rules, 2016.</p>
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	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>25. The planning and municipal authorities shall, while approving the layout plan for new housing colonies where the area exceeds 5000 sqms, mandate provision for decentralised processing of segregated, biodegradable and compostable waste of the colony within its premises in terms of the Solid Waste Management Rules 2016. Even in respect of the existing Colonies/Group Housing Societies/ Residential Welfare Associations, the Planning and Municipal Authorities should identify areas within the premises of colony / RWA where such decentralised processing of biodegradable/ compostable waste could be carried out either by biomethanation or composting.</p> <p>26. Recognising that the waste generated in Delhi will have to be processed within its territory, all the Municipal authorities, other public authorities including DDA and State of NCT Delhi should draw up an integrated waste management plan for city of Delhi identifying landfill sites, improvement of existing landfill sites as also the efficiency and functioning of waste processing units. Such integrated action plan shall be prepared within a period of two months. The Committee Constituted, under para 14 of this order, should examine and submit the Action Plan to the Tribunal, within the period specified above.</p> <p>27. We direct that all the concerned Authorities, Corporation, Delhi Development Authority,</p>
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Cantonment Board, NDMC, all Boards, Project Proponents, Railway, NCT, Delhi should co-operate with each other to comply with these directions in their true spirit and substance. In the event of default the person, irrespective of status in hierarchy of the Government or Department, shall be liable to be proceeded against personally in accordance with law. Both the Committees constituted under this order shall submit their reports to the Tribunal within the specified time, in any case, not later than six weeks from today. Report as and when submitted shall be numbered separately by the Registry and matter be placed before the Tribunal for appropriate orders. We grant liberty to the applicant to approach the Tribunal in the event of non-compliance of the directions contained herein.

With the above directions, Original Application No. 281 of 2016 stands disposed of, without any order as to cost.

M.A. No. 1007/2016

The M.A. No. 1007 of 2016 does not survive for consideration as the main Original Application No. 281 of 2016 itself stands disposed of.

Thus the M.A. No. 1007 of 2016 stands disposed of accordingly.

Original Application No. 22(THC) of 2013

List this matter on 07th December, 2016.

.....,CP
(Swatanter Kumar)

	<p>Item No. 28 & 27</p> <p>December 02, 2016</p>	<p>.....,JM (U.D. Salvi)</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Bikram Singh Sajwan)</p> <p>.....,EM (Dr. Ajay A Deshpande)</p>
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