

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

Original Application No. 643/2024

News item titled "Garbage overflow poses health risks to visually impaired students in W Delhi" appearing in the Millenium Post dated 30.04.2024

Date of completion of hearing and reserving of order: 20.09.2024

Date of Pronouncement of order: 29.11.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondents: Mr. Narender Pal Singh & Mr. Deepak Kumar Prasad, Advs. for DPCC
Ms. Puja S. Kalra & Mr. Virendra Singh, Advs. with Mr. Bhagat Singh,
AE, DEMS, WZ, MCD
Mr. Balendu Shekhar & Mr. Rajkumar Maurya, Advs. with Mr. Dinesh
Jindal, LO, DPCC (Through VC)
Mr. Srinivas Vishven, Adv. for CPCB (Through VC)

ORDER

1. This original application was registered *suo motu* on the basis of the news item titled "Garbage overflow poses health risks to visually impaired students in West Delhi" appearing in the 'Millenium Post' dated 30.04.2024.

2. The news item discloses that since 1971 Akhil Bhartiya Netrahin Sangh in Raghbir Nagar in West Delhi is offering free education and accommodation to a batch of over a hundred visually impaired children every year. It mentions that the school faces a significant challenge due to presence of a huge overflowing MCD garbage receptacle point/dhalao and multi open sewage holes adjacent to it. It also mentions that the overflow of waste onto the road poses a direct problem to the school's dining hall where students eat, creating serious environment threat. It also poses a health hazard to the students of the school.

3. The news item mentions that these visually impaired children are already struggling with sight issues and are now required to deal with swarms of bugs and mosquitoes and their residential area and the dining area where they share their meals, have turned into nightmare. It also mentions that the roadside garbage prevents them from going out for walks safely or leaving the school campus altogether. It records the concern shown by one of the parents that several young children have fallen into the nearby hazardous open sewage holes resulting in serious injuries. It also contains the statement of one of the students of the school that “The sewage overflow and the garbage dump has trapped us inside, suffocating us. Just because, we are visually impaired, don’t we deserve the chance to experience the world beyond these walls?” It also discloses that dogs and stray cows are attracted by the dump, compounding the problem and that the nearby butcher shops also dump their animal remains in the same garbage site exposing young children to various diseases. Additionally, nearby hospitals also dispose off their medical waste in the same location. The news item records that inspite of the complaint no action was taken by the authorities.

4. The Tribunal by order dated 31.05.2024 while taking up the matter *suo motu* had impleaded the respondents and had issued notice to them.

5. The Delhi Pollution Control Committee (DPCC) has filed the report dated 18.09.2024 disclosing that the inspection of the dhalao near Akhil Bhartiya Netrahin Sangh School for the blinds was carried out by team of DPCC officials on 12.09.2024 and they had found as under:

“4. That an inspection of Dhalao near Akhil Bhartiya Netrahin Sangh School for the Blind, Raghbir Nagar, Tagore Garden Extension, New Delhi-110027, was carried out by team of DPCC Officials on 12.09.2024.

Following is the brief of observations made and information gathered during the Inspection on 12.09.2024 :

- i. The Dhalao is situated on Baba Ramdev Marg near Akhil Bhartiya Netrahin Sangh School for the Blind.*
- ii. The said Dhalao also shares boundary with MCD Primary School.*
- iii. The Dhalao found filled with garbage and spilling over the road near the Dhalao.*
- iv. Bio-medical waste or Waste of Animal remains not observed at the Dhalao during the Inspection.*
- v. Water found pooled on the road side Near the Dhalao and mixing with the garbage.*
- vi. One of the gates of Blind School opens on the side road adjacent to the Blind School and lying between the MCD School boundary and Blind school boundary. Water found pooled on the side road in front of this gate and some garbage also found littered on the side road and mixing with the pooled water.*
- vii. Foul smell due to garbage detected near School boundary.*
- viii. At the time of Inspection, One JCB Igoe was observed lifting the garbage from the side road and from the Dhalao and dumping it in one MCD Truck.*
- ix. As enquired from the passers-by, garbage lifting at the Dhalao is done 2-3 times in a day.”*

6. It also mentions that the letter dated 17.09.2024 was issued by the DPCC to the MCD for remediating the problem.

7. By the order dated 31.05.2024, Respondent No. 3, Central Pollution Control Board (CPCB) was directed to file a comprehensive report. The CPCB has also filed the report dated 19.09.2024. The report reflects that a joint inspection of the area was conducted in the presence of the MCD officials on 09.08.2024. The report confirms the allegation that the dhalao named as D-5 exists merely 10 meters away from the blind school. The dhalao acts as a secondary collection point for West Zone within Ward No. 94. It also confirms the fact that there are butcher shops and a meat market about 650 meters away from the dhalao. In respect of dhalao near the blind school, the report of the CPCB is as under:

“Dhalaos (Secondary Storage Points):

- *As reported by West Zone, MCD, there are 3 dhalaos in ward no. 94 of west zone, MCD. The dhalao No D-5 near the Akhil Bhartiya Netrahin Sangh School mentioned in the news article is used as secondary storage point. This dhalao receives the municipal solid waste from nearby localities and market of ward No. 9.*
- *During the inspection, a large number of flies were observed in the vicinity of dhalao No D-5 along with foul smell which indicates that proper hygienic condition is not being maintained.*
- *Several open sewage holes and potholes were also observed near Dhalao No D5 in the close vicinity of Akhl Bhartiya Netrahin Sangha School.*
- *The details of collection and disposal system of waste nearby butcher shops and meat market is not provided. It was observed that there are no measures adopted for collection and processing of the waste generated from nearby butcher shop and meat market. It was claimed by a representative of market association to the inspection team that an arrangement has been made by the shopkeepers that the waste generated from meat & butcher shops is given to a hired vendor in Haryana for further processing in making of fish feed etc. However, the relevant documents or agreements with the vendor was not furnished by market association/ Municipal Corporation.*
- *No biomedical waste was observed by the inspecting team near Dhalao No D5.”*

8. The above report clearly reflects the pathetic condition of the dhalao and health hazard created by the dhalao and danger posed by the several open sewage holes and potholes near the dhalao in the close vicinity of the Netrahin Sangh school. The report of the CPCB also reflects non-compliance of the provisions of solid waste management and liquid waste management by the MCD.

9. The MCD has filed the report dated 19.09.2024. The report reveals that the dhalao in question is existing since last 3 decades. Though the report states that the steps have been taken to close the dhalao but undisputedly the dhalao is still existing where the garbage is dumped. Nothing material has been disclosed in the report of the MCD to contradict the findings recorded by DPCC and CPCB.

10. The Tribunal in the matter of *Neel Mani vs. Municipal Corporation of Delhi & Anr.* in OA No. 92/2023 vide order dated 04.09.2023 had already directed for closure of the dhalaos by observing as under:

“xxxxxx.....xxx
9. MCD shall also take appropriate steps to close the remaining dhalao with specific timelines as per directions of the Chief Secretary, Government of NCT of Delhi and directions given by this Tribunal for ensuring compliance with Solid Waste Management Rules, 2016.

10. The CPCB is directed to look into the aspect of issuance of appropriate Standard Operating Procedure (SOP) on the subject applicable to all States/UTs, as already directed by this Tribunal, within three months and file action taken report with the Registrar General of this Tribunal who may, if necessary, direct listing of the matter before the Bench for further directions.”

11. The Tribunal in the matter of *Anubhav vs. North Delhi Municipal Corporation* in OA No. 267/2020 as far back as on 07.04.2021 had disapproved the system of dhalao in Delhi by observing as under:

“5. We find that as per Rule 15 of the Solid Waste Management Rules, 2016, the requirements of storage facility for the solid waste are specified. The Dhalao system currently in use in Delhi needs to be compliant with the said Rules. To ensure this, we direct a joint Committee of Secretary, Urban Development, Delhi, CPCB, DPCC and Local Bodies in Delhi to hold a joint meeting within one month from today. The meeting may be presided over by the Secretary, Urban Development, Delhi. The nodal agency will be CPCB and DPCC for coordination and compliance. Further action may be taken in accordance with the decision taken in the said meeting. If necessary, CPCB may issue an appropriate Standard Operating Procedure (SOP) on the subject applicable in all States/UTs.

12. Despite above directions, Dhalao in question is still existing.

13. The Solid Waste Management Rules, 2016 fixes the responsibility upon the local authorities under Rule-15 as under:

“15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations. - *The local authorities and Panchayats shall, -*

(a) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months

from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;

- (b) arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;*
- (c) establish a system to recognise organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;*
- (d) facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;*
- (e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;*
- (f) prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;*
- (g) direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, fruit peel, wrappers, etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body;*
- (h) setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities; Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed 1 [blue] and those for storage of other wastes shall be printed black;*
- (i) establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in*

a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres;

- (j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;*
- (k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;*
- (l) provide training on solid waste management to waste-pickers and waste collectors;*
- (m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;*
- (n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;*
- (o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;*
- (p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;*
- (q) transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on-site processing of such waste;*
- (r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;*
- (s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste Management Rules, 2016;*
- (t) involve communities in waste management and promotion of home composting, biogas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;*

- (u) *phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.*
- (v) *facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Housing and Urban Affairs from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental impacts such as:-*
 - a) *bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;*
 - b) *waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;*
- (w) *undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;*
- (x) *make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;*
- (y) *make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;*
- (z) *submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;*
- (za) *prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;*
- (zb) *the annual report shall then be sent to the Secretary-in-Charge of the State Urban Development Department or village panchayat or rural development department and to the*

respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;

- (zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;*
- (zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;*
- (ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and*
- (zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and*
- (zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -*
 - (i) not to litter;*
 - (ii) minimise generation of waste;*
 - (iii) reuse the waste to the extent possible;*
 - (iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;*
 - (v) practice home composting, vermi-composting, bio-gas generation or community level composting;*
 - (vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non- biodegradable waste;*
 - (vii) storage of segregated waste at source in different bins;*
 - (viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and*
 - (ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the*

local body for sustainability of solid waste management.

- (zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;*
- (zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and nonreactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;*
- (zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to biomine or bio-remediate the sites;*
- (zk) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.*
- [(zl) collect and transport bio-degradable, non-bio-degradable and domestic hazardous waste from households including slums and informal settlements, commercial, institutional and other nonresidential premises, multi-storey buildings, large commercial complexes, malls, housing complexes and the like in compartmentalised and covered vehicle to the respective processing facility].”*

14. The MCD has clearly violated Rule-15 of the SWM Rules, 2016 so far as the dhalao in question is concerned. The reply filed by the MCD mentions that a Fixed Compactor Transfer Station (FCTS) is under construction which is approximately 200 meters away from the existing dhalao D-5 and dhalao will be closed after the said FCTS starts functioning. No time limit has been stated for closing the dhalao D-5.

15. Having examined the record and on going through the reports of DPCC and CPCB, we find that the dhalao exists near the Akhil Bhartiya Netrahin Sangh School which has been found filled with the garbage spilling over the road near the dhalao. The water has been found pooled on the side road in front of one of the gates of the blind school and some

garbage was also found later on the side road and mixing with the pooled water. Foul smell due to garbage emits near the school boundary wall. Large number of flies have been observed in the vicinity of dhalao D-5 and there are several open sewage holes and potholes near the dhalao in the close vicinity of the Akhil Bhartiya Netrahin Sangh School. No measures have been adopted for collection and processing of waste generated from nearby butcher shop and meat market.

16. Thus, we find that the disclosure made in the news report leading to *suo motu* action to a large extent is correct and the students of Akhil Bhartiya Netrahin Sangh School have faced not only the inconveniences and restrictions in daily activities but have also suffered health hazard due to illegal dumping of garbage in the dhalao in question and consequential deterioration in environment quality of the area.

17. As per the report of the MCD, the dhalao is existing at the present place since last 3 decades and the news paper report discloses that the school for visually impaired students is existing since 1971. Therefore, the visually impaired students of the school have suffered for last many years on account of such negligence, lapse and inaction resulting in environmental harm to innocent visually impaired (Netraheen) students. Thus, Netrahin Sangh school and the visually impaired students are required to be adequately compensated for the environmental damage suffered by them.

18. The visually impaired students also have fundamental rights to live in pollution free atmosphere. Taking advantage of their disability, no authority is entitled to infringe that right and dump the garbage near their educational institution.

19. Section 15 of the National Green Tribunal, Act, 2010 (NGT Act, 2010) empowers the Tribunal to grant relief and compensation to the victims of pollution and other environmental damage arising under the Schedule enactment. The SWM Rules, 2016 have been formulated under Sections 3, 6 and 25 of the Environment (Protection) Act, 1986 which is a Schedule enactment. The Tribunal follows the principle of “Polluter Pays” in such matters.

20. Hon’ble the Supreme Court in the judgment dated 28.08.1996 in the matter of *Vellore Citizens Welfare Forum vs. Union of India & Ors.* in Writ Petition (C) No. 914/1991 reported in 1996 (5) SCC 647 recognizing the principle of “Polluter Pays” has observed as under:

“11. Some of the salient principles of "Sustainable Development", as culled-out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Nature Resources, Environmental Protection, the Precautionary Principle, Polluter Pays principle, Obligation to assist and cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays" principle are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means.

- (i) Environmental measures - by the State Government and the statutory Authorities must anticipate, prevent’ and attack the causes of environmental degradation.*
- (ii) Where there are threats of serious and irreversible damage lack of scientific certainty should not be used as a reason for postponing, measures to prevent environmental deprecation.*
- (iii) The "Onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.*

12. "The Polluter Pays Principle" has been held to be a sound principle by this Court Indian Council for Enviro-Legal Action vs. Union of India¹. The Court observed: (SCC p. 246, para 65)

"... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country".

¹ (1996) 3 SCC 212 : JT (1996) 2 SC 196

The Court ruled that: (SCC p. 246, para 65)

"... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on."

Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas".

The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

13. *The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:*

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48-A. Protection and improvement of environment and safeguarding of forests and wildlife. - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51-A.(g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."

Apart from the constitutional mandate to protect and improve the environment there are plenty of post independence legislations on the subject but more relevant enactments for our purpose are: the Water (Prevention and Control of Pollution Act 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment Protection Act 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the Central Government and the constitution of one State Pollution Control Boards by various State Governments in

the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. Also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the later part of this judgement.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.”

21. The Tribunal in E.A. No. 24/2023 in OA No. 44/2022 in the matter of *Saket Girls P.G. College vs. State of Uttar Pradesh & Ors.*, wherein the issue was leaving open the incomplete drain by the district authorities in front of the college causing water logging in the area resulting in serious health hazard to the students, by order dated 08.08.2024 has awarded the interim compensation of Rs. 5 lakhs to the Applicant College payable by the Municipal Body, Pratapgarh. The aforesaid compensation was awarded after finding persistent negligence, failure and inaction on the part of the authorities of concerned Municipal Authority, Pratapgarh in causing continuous damage to the college campus and rendering it to impossible to the students to continue their studies in the college campus due to drain water logging. Much worse condition exists in the present case where the visually impaired students of Akhil Bhartiya Netrahin Sangh School have suffered for several years on account of failure of the MCD in closing the dhalao in terms of the earlier order of the Tribunal and in failure to comply with the Solid Waste Management Rules, 2016 in managing the dhalao and thereby causing immense inconvenience and environmental hazard to the visually impaired students.

22. Following the above principle and considering the fact that the for visually impaired students residing and studying in Akhil Bhartiya Netrahin Sangh School have suffered for several years on account of illegal dumping of solid waste in the dhalao D-5 and they have also suffered on account of several open sewage holes and potholes near the dhalao D-5 in the close vicinity of the blind school, we are of the view that invoking the “Polluter Pays” principle and also exercising the power under Section 15 of the NGT Act, 2010 it would be proper to award compensation to the Akhil Bhartiya Netrahin Sangh School and their students.

23. In the absence of any objective parameter in such a case to assess the environmental compensation for the environmental loss, damage and inconvenience suffered by the students of the Akhil Bhartiya Netrahin Sangh School or ascertain the health hazard faced by them, taking a pragmatic view, we deem it proper to impose a lumpsum minimum environmental compensation which on facts of the case, we quantify as Rs. 20 lakhs, which will be payable by the MCD to the Akhil Bhartiya Netrahin Sangh School within one month from today. The school management will utilize this compensation amount in creating better environmental atmosphere in the school and in extending the proper health and other facilities to the students who are the victims of the pollution and environmental hazard.

24. The MCD is directed to take immediate action for closure of dhalao D-5 and to ensure that no sewage drain holes or potholes are kept open near the vicinity of Akhil Bhartiya Netrahin Sangh School.

25. If the violation continues to exist in respect of management of solid waste and sewage by the MCD in respect of dhalao in question, the DPCC

will initiate action for imposition of environmental compensation promptly.

26. Let the action taken report be submitted by the MCD and DPCC within three months before the Registrar General of the Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

27. The OA is accordingly disposed of.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 29, 2024
Original Application No. 643/2024
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