

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

**Original Application No. 277 of 2013
(M.A. No. 214 of 2016 & M.A. No. 823 of 2016)**

Dr. Irfan Ahmad & Ors. Vs. Mr. Nawang Rigzin Jora & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**Present: Amicus Curie : Mr. Narender Pal Singh, Adv.
Respondent No. 1 to 4: Mr. G. M. Kawoosa, Adv., Mr. Hirdesh
Kumar Singh, Commissioner, HUDD, Dr.
Shafkat Khan, Commissioner SHC
MoUD: Mr. B.V. Niren, Adv. for MoUD and Mr.
Vinayak Gupta, Adv.
Dr. Abhishek Atrey, Adv. for MoEF
Mr. Rajkumar, Adv. with Mr. Ms. Preeti, LA
Central Pollution Control Board**

Date and Remarks	Orders of the Tribunal
<p style="text-align: center;">Item No. 01</p> <p style="text-align: center;">September 05, 2017</p> <p style="text-align: center;">SS & AK</p>	<p>We have heard the learned counsel appearing for the parties as well as the stakeholders who are present. The project proponent is also present with his Technical Advisor.</p> <p>The team constituted by the Tribunal, vide its order dated 06th December, 2016, 15th November, 2016, 31st May, 2016, 13th January, 2017, 28th August, 2017, 23rd August, 2017 and 30th August, 2017, the committee constituted of the following:-</p> <ol style="list-style-type: none">1. Commissioner-cum-Secretary, Government of J & K Housing/Urban Development Department.2. Commissioner, Srinagar, Municipal Corporation.3. Scientist from NEERI, CSIR, Nagpur.4. Scientist from Central Pollution Control Board, New Delhi.5. Prof. Lone from NIT Srinagar.6. Prof. Bhat from Department of Environment Science University of Srinagar, J & K Project

<p>Item No. 01</p> <p>September 05, 2017</p> <p>SS & AK</p>	<p>Proponent/bidder was also present.</p> <p>As is evident from the above there were not only experts, but the administrative authorities from the State Government, Central Government and even the Central Pollution Control Board present in the meeting. There they heard the project proponent and satisfied themselves for adoption of a proper technology which will effectively deal with the age old problem of collection and disposal of municipal solid waste in the city of Srinagar and the surrounding area.</p> <p>We may also notice that despite orders of the Tribunal now for nearly three years the State of Jammu & Kashmir have failed to award the contract for one reason or other including lack of response by the parties to the invitation, inviting tender or submission of a single bidder whose bid was not accepted for reasons known to the administration.</p> <p>In furtherance to the orders of the Tribunal, the State Government held meetings with different proponents who were experts in processing and handling of municipal solid waste and thereafter invited the tender. It has again received a single tender which the Government at its level has taken decision to process in accordance with rules. As far as the technology is concerned, as already noticed the expert team has approved the technology. With great difficulty segregation plant at site is installed which is operating. However, according to the parties instructing the Amicus submitted that the said plant is not working effectively.</p> <p>It is stated on behalf of the State Government that</p>
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	<p>Item No. 01</p> <p>September 05, 2017</p> <p>SS & AK</p>	<p>this matter is to be placed before the State Level Contract Committee as the value of the project is likely to be hundred crores and above. That committee will open the financial bid and place and recommend it before the Minister concerned who will finally accept the tender and direct placement of work order. We direct that this entire process should be completed within a period of two weeks from today.</p> <p>We make it clear that we will not grant any further adjournment. We expect the Committee as well as the Sanctioning Authority to keep in mind the historical background of this case and the fact that the indiscriminate dumping in Achan lake side. People are stated to have been suffering from different diseases because of this huge dumping and even the water body which is stated to be at a distance of 250 Mtrs. is getting polluted besides the ground water. It is not only necessary, but it is the mandate of the law and time today that the waste energy plant must come up at the site in accordance with the law and rules in force. The health of the public living around that area is to be protected and it is the fundamental duty of the State and the Municipal Corporation to ensure that the people of that area are not exposed to undue environmental and health hazard. When we mention that authority should take historical background of the case, it must be conscious of the fact that it is the constitutional and statutory obligation of the State Government on the one hand to provide decent and clean environment while on the other hand no project proponent have ever offered to come forward and set up</p>
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plant in State in the past. One project proponent who had agreed earlier to perform after placing of the work order, his tender was cancelled by the State Government for the reasons best known to them. The State Government and the Corporation ought not to treat it as a commercial venture and profiting on this count should not be the consideration of the State. It must ensure that it performs its constitutional duty in terms of Article 48A and the local laws including the Environmental (Protection) Act, 1986.

We see no reason, why this project should not be taken to its logical end particularly when the project proponent has assured the State Government and Technical Committee to examine performance in terms of technology and protection of environment. In light of the above, we pass the following directions:

1. The entire remaining process shall be completed by the State Government within two weeks from today and compliance order be placed before the Tribunal.
2. The project proponent, besides complying with the terms and condition of the tender would ensure creation of green belt around the entire area of the site, where the plant is to be established and waste is dropped. It will also ensure construction of a proper wall barrier between the site and the water body that is the lake, and ensure that no leachet in any event pollutes the ground water or the water body, surrounding the site in question, including the agricultural fields.
3. The State Government shall provide all protection and facilities to the project proponent to carry out

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