

From

The Chief Secretary to Govt. Haryana
Chandigarh

To

The Commissioner,
Municipal Corporation, Gurugram

Memo No. DA/CS/ 3247

Dated: 05.01.2024

**Sub- OA No. 172 of 2021 – Poonam Yadav Vs. M/s Ecogreen
Energy Pvt. Ltd. & Ors with O.A No.109/2022 Vivek
Kamboj & Anr Vs. Union of India and Ors.**

Kindly refer to the subject noted above.

A copy of draft ATR/Reply as well as minutes of the meeting, duly
approved by worthy Chief Secretary are enclosed herewith for further necessary
action at your end.


Assistant District Attorney
for Chief Secretary to Govt. Haryana

Minutes of the review meeting regarding decisions made by the Committee constituted in OA No. 172 of 2021 titled as Poonam Yadav Vs M/s Ecogreen Energy Pvt. Ltd. & Ors. and OA No. 109/2022 titled as Vivek Kamboj & Ors. V/s UoI and ors. Before NGT held under the Chairmanship of Sh. Sanjeev Kaushal, IAS, Chief Secretary, Haryana on 02.01.2024 through hybrid mode at Main Committee Room, Civil Secretariat, Chandigarh, Haryana.

List of Participants is attached as Annexure-A

The Chairman welcomed all the participants.

In compliance of the directions issued by Hon'ble NGT on 19.12.2023 & 20.12.2023 and the progress on the decisions taken in the previous meetings was reviewed and weekly targets and progress were discussed. It was also deliberated that ownership and accountability be defined with clarity, including consequences for not meeting the target. The following agenda items were discussed and deliberated as under:-

1. Compliance of Rule 15 of SWM Rules, 2016 with documentary record:-

Regarding compliance of Rule 15 of SWM Rules, 2016, it was explained by CMC, Gurugram that as per the concession agreement the project of development of integrated Solid Waste Management (Collection, Transportation, Processing and disposal) in Faridabad-Gurugram cluster has been awarded to M/s Ecogreen Energy Pvt. Ltd. on Design, Build, Finance, Operate and Transfer (DBFOT) basis and management of all project assets and resources required for integrated management of Municipal Solid Waste (MSW) covering all the activities covered under Rule 15 of SWM Rules, 2016. In case of non-compliance of SWM Rules, penalty has been imposed on the concessionaire as per agreement and it was further explained that due to continuous failure on the part of concessionaire after execution of agreement in 2017, a preliminary notice for termination has been issued to concessionaire on 04.12.2023.

The Chairman directed CMC, Municipal Corporation Gurugram to take immediate action in this regard against the concessionaire as per terms and conditions of the agreement, in consultation with W/Commissioner & Secretary, ULB.

The Chairman further directed CMC, Gurugram to intimate firm timelines for commissioning of ISWM project to Hon'ble NGT alongwith action plan for compliance of Rule 15 of SWM 2016 with documentary record in the next hearing dated 09.01.2024.

2. Engagement of competent agencies at the earliest and expeditious disposal of waste by them:-

Regarding engagement of competent agencies for processing of legacy waste, it was explained by CMC, Gurugram that case for enhancement of work of total 2 lac MT to four no. of agencies has been approved on dated 06.12.2023 by the competent authority. In addition, three tenders for processing 15 lac tones total legacy waste have been approved by competent authority during meeting held on 27.12.2023. Further, the already working agencies (Four Nos.) have been pulled up to complete the processing of balance quantity awarded already to them which is approximately 2

lacs MT.A penalty of Rs. 7.10 Crore has already been imposed on defaulting agencies & Rs. 4.57 crore withheld from payment of one agency M/s Bhoomi Green against delay till the decision is made regarding time extension. Further time extension has been denied and directions have given to the concerned officers to impose further penalties upon the agencies responsible for delaying the work. In this regard, order has already been passed to impose delay penalties adjusted against running bills. It is also apprised that penalty shall not be waived off without approval of Chief Secretary, Haryana.

The Chairman desired to submit action plan to Hon'ble NGT to treat balance legacy waste so as to achieve the target by June, 2024 as committed. The Chairman also directed that strict action may be taken against the delinquent officers/officials and they may be charge sheeted under relevant service rules.

3. Collection of segregated waste and its non-mixing at dump/disposal site as well as De-centralized processing of waste on other sites at Faridabad and Gurugram to reduce the waste load on Bandhwari site.

It was discussed that fresh waste generation, at Gurugram and Faridabad is about 1200TPD and 1000 TPD, respectively. MCG and MCF are conducting regular awareness program regarding segregation of waste at source and daily monitoring of the same is being done. Segregation level has been achieved up to 47 % by MCG and upto 44 % by MCF and efforts are being made to increase the level of segregation at source. Municipal Corporation, Gurugram has started de-centralized fresh waste processing at 5 locations i.e. Beri bagh, Badshahpur, Sector-44, Carterpuri and Darbaripur and additionally 3 nos. Transfer station namely Beri Bagh, near Paras Hospital and near Atul Kataria Chowk are in operation for processing of fresh waste on daily basis. 390 nos. out of identified Bulk Waste Generators (BWGs) are also processing their waste within their own premises. About 396 TPD of fresh waste is being processed at aforesaid locations, while Municipal Corporation, Faridabad is processing 104 TPD fresh waste at de-centralized locations. 150 Nos. out of 441 Nos. Bulk Waste Generators (BWGs) are also processing their waste within their own premises in Faridabad. Commissioner, Municipal Corporation, Gurugram constituted teams for implementation of BWG's norms as per the SWM Rules, 2016. For non-compliances of the norms, MCG has penalized 163 BWGs and MCF has penalized 70 BWGs.

In addition, the Municipal Corporation, Gurugram explored other sites for processing of fresh waste at Basai, Begampur Khatola, Daultabad, Kherki Majra and Balola. The development works at Kherki Majra for processing of 500 TPD was also initiated. However, work at these sites could not proceed further due to public protest.

It is submitted that while handing over the site to Concessionaire i.e M/s Ecogreen Pvt. Ltd., it was observed that the developed area of site was 27.5 acre instead of 30 acres. After examination of revenue record and obtaining report from Patwari, MCG, it was observed that 2.5 acre land is still unused and the same has been developed for processing of fresh waste by the Municipal Corporation, Gurugram.

Municipal Corporation, Faridabad has also identified land at village Pali and tender to develop this site was also floated but MCF could not execute the development work as there was large public protest. With respect to land at Pali Village, judgment reserved by Hon'ble High Court of Punjab & Haryana in CWP No. 13647 of 1992 (O&M) and CWP No. 13944 of 2004 (O&M) was delivered on 06.02.2023. Both writ petitions seeking various reliefs including direction to restrain the respondents from interfering in the possession of the petitioners were dismissed. Thereafter, MCF allotted works for development of MSW Processing facility at Pali site. However, Special Leave Petitions (Civil) has been filed against Judgment of Punjab & Haryana High Court and Hon'ble Supreme Court vide order dated 18.05.2023 directed the parties to maintain status quo in respect of the nature and possession over the property in dispute as it exists today shall be maintained by both the parties. Therefore, work allotted is on hold due to the status quo granted by Hon'ble Supreme Court. MCF is contending the case in Supreme Court of India and a counter affidavit has also been filed by MCF requesting dismissal of Special Leave Petition (Civil) No. 009953-/2023 registered on 09.05.2023.

MCF has identified three alternate sites i.e. Riwajpur, Mujheri and Partapgarh to process the approx. 700 TPD fresh waste in decentralized manner. The development of work of Riwajpur site has also been held up due to large public protest. MCF has discussed the issue with local representative multiple times to resolve the issue but still the residents objected for development work at Riwajpur site. Development work of Mujheri site has been completed and the process of setting up /installation of trommels is in progress. The garbage processing at Mujheri is expected to start from the last week of January 2024. Approx. 80% of the development works at Partapgarh had been completed. However, the development work at Pratapgarh has been halted due to public protest and resistance from the residents. De-centralized processing of fresh waste is the need of the hour and requires urgent action.

The Chairman directed CMC, Faridabad to make Mujheri processing site operational by the end of January, 2024 and Partapgarh Site be made operational by Mid-February, 2024 so as to process total 400 TPD waste at these two sites, as committed by Commissioner, MCF. Further, Commissioner, MCF informed that efforts are being made to acquire 3-4 acres additional land at Pali from HEMS for dumping and processing of waste. The Chairman directed that the efforts may be expedited so as to acquire the land as early as possible.

Further, Chairman directed that if the given targets are not achieved, strict disciplinary action be taken against the officers/officials responsible for the delay and charge-sheet may be issued under relevant service rules.

4: Leachate waste Management on Bandhwari site with proper documentary record.

It was informed that the legacy leachate stored at Bandhwari SLF site has been disposed off. Two empty ponds have been filled with earth. Approximate 400 KLD leachate is being generated at

dump site which increases during rainy season depending upon the quantum of rainfall, moisture content and meteorological conditions. Although, treatment of fresh leachate @ of 480 KLD in 02 DTROs (capacity of 200 KLD each) and 150 KLD leachate treatment plant at the end of M/s Ecogreen Energy is a challenge at present, however, shifting of the leachate through tankers is being ensured by Municipal Corporation, Gurugram for treatment at STPs of GMDA. There is no discharge of leachate on the surrounding land. The samples have been got tested by HSPCB at inlet and outlet of STP and reports are found satisfactory which is validated by the results of treated effluents available online on HSPCB website. About 400 KLD leachate is being disposed in 120 MLD STP at Behrampur. This quantity of the leachate is 0.003% of total capacity of the STP which is very less and practically there is no effect on the treatment process. Further, as pointed out by Hon'ble NGT, mechanism of disposal has been strengthened as GMDA verifies the disposal at STP before release of any payment to the agency operating the tankers.

Chairman directed that HSPCB will collect samples of leachate from SLF Bandhwari at regular intervals and in case test results are found beyond acceptable limits, action to prosecute the responsible agencies and officers will be taken by the HSPCB as per Environment Protection Act. Chairman further directed both the Commissioners of MCG & MCF that the Officers/Officials responsible for proper disposal of leachate be cautioned in this regard.

5: Proper record of fraction wise disposal of waste at Bandhwari site.

It was informed that fractions to be disposed off is an obligation of agencies as per terms & conditions of contract as per CPCB guidelines and payment to agencies is subject to successful disposal of the fraction. Fraction such as RDF, Compost, Inert are being transported by agencies engaged, through GPS fitted vehicles and connected with Integrated Control & Command Centre of GMDA. The movement of the vehicles is monitored from Control Room. The fractions are weighed at Bandhwari site and a challan is issued for each vehicle. Agencies wise logbook is also maintained. After disposal of RDF in Cement Industries i.e. J K Cement at Mangarol Rajasthan, Ultratech at Chittorgarh, Shri Cement at Beawar Rajasthan and in Waste to Energy plant at Murthal, Sonipat, East Delhi Waste to Energy Plant, Gazipur & Waste to Energy Plant, Okhla, receipt of each vehicle is obtained from Cement kiln/Waste to Energy plant.

To further cross check the proper disposal of RDF, confirmation on official email is also being taken from Cement Industries and Waste to Energy Plants. MCG is also striving for better transparency in the work of processing of legacy waste being executed at SLF and in view of the same; a checklist has been prepared which would ensure compliance of all the obligations at the end of the agency. All measures as mentioned in the checklist are being ensured during the execution of works and processing the payment. Further, as also suggested by this Hon'ble Tribunal, IIT, Guwahati has also been engaged as a third party for monitoring & assessment of works being executed by aforesaid 5 agencies at SLF. IIT, Guwahati will submit the final reports of assessment w.r.t processing of legacy

waste by the end of January, 2024. Requisite measures have to be strengthened by MCG on ground to validate the disposal of fractions as per guidelines of CPCB.

6: Action taken against the Concessionaire and plan for compliance of Solid Waste management Rules, 2016 in case of dis-engagement of its services.

It was discussed that the mobilization plan/timelines to set up WtE plant submitted by M/s Ecogreen along with financial closure documents have not been adhered to. Recovery notice amounting to Rs. 129.20 Cr. has been issued to M/s Ecogreen Energy pvt. Ltd for recovery of dues against expenditure done by MCG at its Risk and Cost. Further, Municipal Corporation Gurugram has issued Preliminary notice for termination to concessionaire vide letter no. MCG/JC-SBM/2023/1404 dated 04/12/23 on account of failure to complete the work as per provisions of the agreement. Order has been issued to forfeit the Performance Bank Guarantee deposited by concessionaire for adjustment against the amount to be recovered on account of non-processing of legacy waste and fresh waste dumped during this period of concession agreement, as the same is being got done from other agencies at the risk & cost of concessionaire.

The Chairman directed that advance planning may be done by MCG for compliance of SWM Rules, 2016 in case of dis-engagement of services of M/s Ecogreen. The CMC, Gurugram explained as Ecogreen has not performing various deliverables so MCG engaged agencies for rectifications/shortcomings of Ecogreen. Therefore, tenders for primary collection floated, for transportation from secondary points to SLF site at Bandhwari have already been finalized and agencies have been taken on-board so that they remain in stand-by /gap clearance mode and be ready to immediately take over the work, in case of dis-engagement of services of M/s Ecogreen.

The Chairman directed that comprehensive planning may be done in the matter relating to the scenario which may arise due to dis-engagement of services of M/s Ecogreen and may be submitted to the Government confidentially.

The meeting ended with thanks of votes to the Chair.