

Almitra H. Patel & Another

v.

Union of India & Others

(Y.K. Sabharwal and D.M. Dharmadhikari,Jj.,)

(Supreme Court Of India)

Writ Petition (Civil) No. 888 Of 1996 With S.L.P.(C) No. 22111 Of 2003 | 04-10-2004

1. Pursuant to our order dated 26-7-2004, some of the States and Union Territories as also the Central Government have filed affidavits. Those States/UTs who have not filed the affidavits are directed to file the same, in compliance with the order dated 26-7-2004, within four weeks.
2. The Municipal Solid Wastes (Management and Handling) Rules have been enforced for the last about four years, but lot deserves to be done in implementation of those Rules. In the affidavit filed by the Ministry of Urban Development, it is, inter alia, stated in para 8.3 (p. 4119 of Vol. 12) that MOEF has written to all State Pollution Control Boards (SPCBs) requesting them to formulate time bound action plan for management of municipal solid waste in respect of metro cities and State capitals and has also addressed that issue in the 50th Conference of Member Secretaries and Chairmen of all SPCBs/PCCs (Pollution Control Committees) held in March 2004 at Delhi. It is necessary and appropriate to make a beginning that an action plan for management of MSW in respect of metro cities and State capitals is prepared by the Ministry of Urban Development in consultation with all concerned, including, the Ministry of Environment and Forests and the Central Pollution Control Board so that the implementation, based on the said plan, can commence without any further delay in the State capitals and metro cities to be followed by other cities. We direct the Central Government to examine the matter at the earliest, since considerable time has already elapsed since the matter was addressed in the Conference of March 2004. The proposed action plan shall be filed in the Court within six weeks.
3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the

suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

"1. As a result of the Hon'ble Supreme Court's orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.

2. All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.

3. Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.

4. States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cowdung solution or

bioculture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.

5. Unless each State creates a focussed 'solid waste management cell' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.

6. The admitted position is that the MSW Rules have not been complied with even after four years. None of the functionaries have bothered or discharged their duties to ensure compliance. Even existing dumps have not been improved. Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."

4. The State Governments and the Central Government and SPCBs/PCCs concerned should examine the aforesaid aspects and respond thereto within six weeks.

5. List these matters after seven weeks.