



Suleman and others vs. Union of India and others a/w connected matters.

CWP No. 2369 of 2018 a/w CWPIIL No. 269 of 2017, CWP Nos. 1074 of 2019, 3334 of 2021, CWPIIL Nos. 32, 42, 56 of 2021, CWP No. 3511 of 2022 ,CWPIIL No. 4 of 2022 and CWP No. 819 of 2024.

23.03.2024. Present: Mr. Deven Khanna, Advocate, for the petitioners, in CWP No.2369 of 2018.

Mr. Parav Sharma and Mr. Shekhar Badola, Advocates, for the petitioner, in CWP No.1074 of 2019.

Ms. Sharmila Patial, Additional Advocate General, for the respondents-State.

Mr. Balram Sharma, DSGI, for Union of India and for respondent No.4-Central Pollution Control Board in CWP No. 3511 of 2022.

Mr. Tara Singh Chauhan and Mr. Maan Singh, Advocates, for respondent-H.P. Pollution Control Board, in CWP No. 2369 of 2018 and CWP No.1074 of 2019.

Mr. Virbahadur Verma, Advocate, for respondent No.2, in CWPIIL No. 32 of 2021, for respondent No.1, in CWPIIL No.42 of 2021 and for respondent No.3 in CWP No. 3511 of 2022.

Mr. Adarsh K. Vashista and Ms. Priya Sharma, Advocates, for M.Cs. Baddi, Nalagarh, Nagrota Bagwan, Nurpur, Chamba, Jawalamukhi and N.P.s, Jawali and Shahpur.

Mr. Mukul Sood, Advocate, for M.C.s Shimla and Dharamshala.

Er. Chandan Kumar Singh, Environmental Engineer, in person.

At the outset, we place on record our appreciation for the valuable assistance rendered by Shri Deven Khanna, Advocate.

2. We also place on record our appreciation for the pro-active role played by Shri Anil Joshi, I.F.S., Member



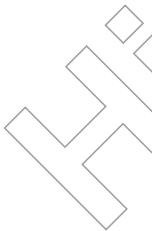
Secretary, Himachal Pradesh State Pollution Control Board (“**HPSPCB**”), who after calling for the meetings of all the stakeholders on 29.02.2024 and 01.03.2024, has issued certain directions, which we deem it appropriate to accept and make them a part of the directions of the Court. Accordingly the following directions are issued:

(i) All the entities, who have not yet applied for the Extended Producer Responsibility (“**EPR**”) registration shall submit the cases within one month from today and for any query, the Units shall approach the Regional Offices (“**ROs**”) between 4.00-5.00 p.m.

(ii) The registered Producers, Importers/Brand Owners (“**PIBOs**”) and Waste Management Agencies (“**WMAs**”) are directed to explore the registered Plastic Waste Processors (“**PWPs**”) in the State of Himachal Pradesh as the **PWPs** are working on very minimal capacity and it otherwise would be more economical to process the waste within the State rather than transporting the same to other State. The **HPSPCB** shall upload the details of the registered **PWPs** in State on its website, so that **PIBOs** can coordinate with **PWPs** in the State for their **EPR** fulfillment.

(iii) Recycler (s) shall submit the detail of the quantity of plastic waste processed to the **HPSPCB** on quarterly basis.

(iv) All the **PIBOs** shall submit the detail of the plastic waste generated from their product in the State of H.P. and the **PIBOs** are directed to collaborate with the Urban Local Bodies (“**ULBs**”) and Gram Panchayats (“**Gps**”) through Waste



Management Agencies and work out the modalities of effective collection, segregation and processing of plastic waste through registered **PWPs** in the State. A detailed report in this regard shall be submitted to **HPSPCB** within one month.

(v) The **WMAs** are directed to submit the consolidated details such as ;

- (a) List of **PIBOs** on behalf of whom they fulfill **EPR** targets in Himachal Pradesh;
- (b) Details of plastic waste collection in H.P. (the detail shall include the contact information, agreement with the **ULBs/Vendor/Aggregator, storage facilities in HP**)
- (c) Details of the disposal of plastic waste. The details shall be provided for financial year 2022-23 and 2023-24 within 15 days.

(vi) All the registered **PWPs** are directed to tie up with **ULBs/WMAs** for the processing of post-consumer waste and start generating the **EPR** certificate on the Centralized Portal of the Central Pollution Control Board ("**CPCB**") and also ensure the submission of annual report on the portal.

(vii) All **PIBOs** working in the State of H.P. shall submit progress of **EPR** compliance through online-portal on quarterly basis and not through offline mode.

(viii) Rural Development Department ("**RDD**") shall provide the details of the gram panchayats wherein the plastic management units are being established within 15 days.

(ix) All **ULBs** shall generate their login credentials



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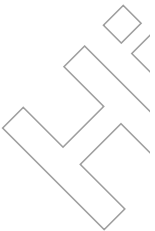
on the Centralized portal of **CPCB** for **EPR** registration as has already been directed by this Court.

(x) All the **ROs** of the Pollution Control Board ("**PCB**") shall submit progress report on fortnightly basis after coordinating with all the stakeholders, with respect to registration and **EPR** compliance.

3. In addition to the above, we find that the brand-owners, who are operational in more than two States, are registered by **CPCB** on the centralized portal. During the registration and after obtaining registration, these brand-owners are required to submit sales detail of the commodity packed in plastic packing. The data of sales submitted is based on the GST invoice and the portal is linked with the GST portal. However, we find that there is no bifurcation with respect to quantification of plastic packaging reaching to a specific State.

4. Further, the **EPR** certificates to be purchased by **PIBOs** from **PWPs** is a geo neutral concept. The **PIBO** operational in State of Maharashtra can purchase the **EPR** certificate from **PWP** in West Bengal. The State Board has raised the issue regarding quantification of the plastic packaging being introduced by various **PIBOs** in the State of Himachal Pradesh, however, the same has been denied as the **EPR** mandate is geo-neutral.

5. In such circumstances, we proceed to pass the



following direction:

The **CPCB** is directed to ensure that brand-owners submit the details of the plastic packaging sold in the State of Himachal Pradesh so that the EPR fulfillment of those brand-owners can be ensured within the State of H.P.

**Solid Waste Management in Shimla:**

**Role of Municipal Corporation:**

6. Our endeavour, at the first instance, is to make Shimla as the Model Town, so that, what is achieved in Shimla, could be replicated in other **ULBs**.

7. Section 44-H of the Himachal Pradesh Municipal Corporation Act, 1994, ( for short, "Act"), provides for the duties and functions of the Ward Committees and one of such duties as prescribed in sub-section (c) is to provide assistance in solid waste management in the ward. Unfortunately, the Municipal Corporation Act was enacted in the year 1994 and even the rules, regulations and byelaws have been framed around the same time i.e. 1994. Whereas, the Solid Waste Management Rules have been enacted and have come into force only with effect from 01.04.2016 and despite this the provisions of the municipal laws, be it Municipal Corporation Act, Rules and Byelaws framed thereunder have not been amended so as to give municipal authorities the desired authority to enforce the provisions of the environmental laws including are not restricted to either "**SWMR 2016**" or Plastic Waste



Management Rules, 2016, (“**PWMR 2016**”), Construction and Demolition Waste Management Rules, 2016, and other Rules and Act that have come into force after coming into force the Municipal Corporation Act and the Municipal Act, 1994.

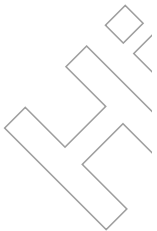
8. Therefore, the Chief Secretary to the Government of Himachal Pradesh is directed to immediately take steps for amending the provisions of the Municipal Corporation Act, Rules, Regulations, Byelaws etc. in light of the aforesaid observations. However, till and so long the amendment is not carried out, the respondents including the Municipal Authorities and the Pollution Control Board are directed to enforce with all its rigours the provisions of Rule-4 of the “**SWMR 2016**” which reads as under:

**“4. Duties of waste generators**

(1) Every waste generator shall,-

(a) segregate and store the waste generated by them in three separate streams namely bio-degradable, non bio-degradable and domestic hazardous wastes in suitable bins and handover segregated wastes to authorised waste pickers or waste collectors as per the direction or notification by the local authorities from time to time;

(b) wrap securely the used sanitary waste like diapers, sanitary pads etc., in the pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material



as instructed by the local authorities and shall place the same in the bin meant for dry waste or non-bio-degradable waste;

(c) store separately construction and demolition waste, as and when generated, in his own premises and shall dispose off as per the Construction and Demolition Waste Management Rules, 2016; and

(d) store horticulture waste and garden waste generated from his premises separately in his own premises and dispose of as per the directions of the local body from time to time.

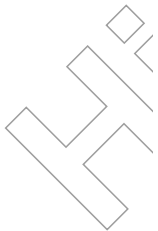
(2) No waste generator shall throw, burn or bury the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.

(3) All waste generators shall pay such user fee for solid waste management, as specified in the bye-laws of the local bodies.

(4) No person shall organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the local body, at least three working days in advance and such person or the organiser of such event shall ensure segregation of waste at source and handing over of segregated waste to waste collector or agency as specified by the local body.

(5) Every street vendor shall keep suitable containers for storage of waste generated during the course of his activity such as food waste, disposable plates, cups, cans, wrappers, coconut shells, leftover food, vegetables, fruits, etc., and shall deposit such waste at waste storage depot or container or vehicle as notified by the local body.

(6) All resident welfare and market associations shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source by the generators as



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prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(7) All gated communities and institutions with more than 5,000 sqm area shall, within one year from the date of notification of these rules and in partnership with the local body, ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers.

The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.”

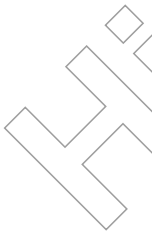
9 We are informed at the Bar that a lot of waste is





generated on occasions like marriage, birthday, retirement party etc., where the venue is other than a hotel and waste is shamelessly littered and scattered everywhere. However, we find that the Municipal Authorities are not so toothless so as to unable them to deal with such a situation because sub-rule 4 of Rule 4 clearly provides that no person can organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the local body, at least three working days in advance and such person or the organiser of such event is required to ensure the the segregation of waste at source and handing over of segregated waste to waste collector agency as specified by the local bodies. If the person or organiser has in the past not complied with the provisions of sub-rule (4) of Rule 4, then we permit the Corporation to demand a pre-deposit of at least Rs.10,000/- from the person or the organiser where the gathering is more than 100 persons upto 200 persons and likewise thereafter demand an additional Rs.10,000/- per 100 persons and refund the money to the person or the organiser, as the case may be, but only after deducting the necessary amount spent on the segregation, handing over and transportation of the waste and after levy of an appropriate penalty. The Municipal Authorities may consider amending its rules on the aforesaid lines.

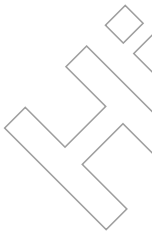
10. We find that there is no adequate training of the



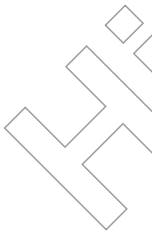
Councillors even though he/she is the President of the Ward Committee in terms of Section-44-C(3). Even the meetings of the Ward Committee, as envisaged under Section 44-D of the Act, to be conducted at least once in two months for discussing the developmental issues and plans of the ward concerned, are not held and, if held, then there is no discussion at all regarding providing of assistance in solid waste management in ward as statutorily provided for in Section 44-H (c). This is the salutary provision but has not been followed with all its rigours.

11. Therefore, in the facts and circumstances, Himachal Pradesh Institute of Public Administration, Fairlawns, Shimla, (“**HIPA**”) is directed to conduct at least a week-long course of all the Councillors apprising them of not only the provisions as contained in Municipal Laws, but also the various provisions of the Environmental Laws.

12. What is more appalling is the fact that the Municipal Corporation though has 34 wards, but has only two Chief Sanitary Inspectors and four Sanitary Inspectors, meaning thereby, only six Inspectors. There are 38 Dafadars under the Inspectors. But, we are informed that even these Dafadars have been declared as dying cadre. Therefore, in these circumstances, we really wonder how Shimla Municipal Corporation, which is one of the oldest in the country, can function.



13. In the given facts and circumstances, the Chief Secretary to the Government of Himachal Pradesh is directed to convene a meeting of the Secretary, Urban Local Bodies (“ULBs”) along with Municipal Commissioners of the Municipal Corporations and the Secretaries of the Municipal Councils and thereafter ensure that adequate manpower is provided to these Municipal Authorities for which the non-availability of finance will be no excuse. For, we need only to invite the golden words of **Justice Krishna Iyer** in the celebrated decision of ***Municipal Council, Ratlam vs. Vardhichand and others AIR 1980 SC 1622*** when his Lordship observed that “*where directive principles have found statutory expression in Do's and Don'ts, the court will not sit idly by and allow municipal government to become a statutory mockery. The law will relentlessly be enforced and the plea of poor finance will be poor alibi when people in misery cry for justice*”. His Lordship further observed that “*public nuisance, because of pollutants being discharged by big factories to the detriment of the poorer sections, is a challenge to the social justice component of the rule of law. Likewise, the grievous failure of local authorities to provide the basic amenity of public convenience drives the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under nature's pressure, bashfulness becomes a*



*luxury and dignity a difficult art. A responsible municipal council constituted for the precise purpose of preserving public health and providing better finances cannot run away from its principal duty by pleading financial inability. Decency and dignity are non-negotiable facets of human rights and are a first charge on local self-governing bodies”.*

**Solid Waste Management:**

14. It is brought to our notice by Shri Deven Khanna, learned counsel for the petitioners that land for **SWM facility** is not available in the following **ULBs**:

| Sl. No. | Name of ULBs                     | Land for SWM Facility (Not Available) |
|---------|----------------------------------|---------------------------------------|
| 1       | MC Bilaspur (District BILASPUR)  | Not Available                         |
| 2       | MC Ghumarwin (District BILASPUR) | Not Available                         |
| 3       | NP Chowri (District CHAMBA)      | Not Available                         |
| 4       | NP Shahpur (District KANGRA)     | Not Available                         |
| 5       | NP Bhunter (District KULLU)      | Not Available                         |
| 6       | NP Banjar (District KULLU)       | Not Available                         |
| 7       | NP Nirmand (District KULLU)      | Not Available                         |
| 8       | NP Rewalsar (District MANDI)     | Not Available                         |
| 9       | MC Rohroo (District SHIMLA)      | Not Available                         |
| 10      | MC Thego (District SHIMLA)       | Not Available                         |
| 11      | NP Chopal (District SHIMLA)      | Not Available                         |
| 12      | NP Nerwa (District SHIMLA)       | Not Available                         |
| 13      | NP Chirgaon (District SHIMLA)    | Not Available                         |
| 14      | NP Rajgarh (District SIRMOUR)    | Not Available                         |
| 15      | NP Kandaghat (District SOLAN)    | Not Available                         |
| 16      | NP Amb (District UNA)            | Not Available                         |



15. The State Government is directed to take immediate steps for making available these facilities and file a status report on the next date of hearing. >

16. We are further informed that the land for **SWM Facility** is available in the following **ULBs**:

| Sl. No. | Name of ULBs                                       | Land for SWM Facility (Available)                |
|---------|--|--|
| 1       | MC Shri Naina Devi Ji (District BILASPUR)          | Available  |
| 2       | NP Talai (District BILASPUR)                       | Available  |
| 3       | MC Chamba (District CHAMBA)                        | Available  |
| 4       | MC Dalhousie (District CHAMBA)                     | Available  |
| 5       | MC Hamirpur (District HAMIRPUR)                    | Available  |
| 6       | MC Sujanpur (District HAMIRPUR)                    | Available  |
| 7       | NP Nadaun (District HAMIRPUR)                      | Available  |
| 8       | NP Bhota (District HAMIRPUR)                       | Available  |
| 9       | Municipal Corporation Dharamsala (District KANGRA) | Available (1 No. own site and 1 No. Forest Land) |
| 10      | Municipal Corporation Palampur (District KANGRA)   | Available  |
| 11      | MC Kangra (District KANGRA)                        | Available  |
| 12      | MC Nurpur (District KANGRA)                        | Available  |
| 13      | MC Dehra (District KANGRA)                         | Available  |
| 14      | MC Nagrota (District KANGRA)                       | Available  |
| 15      | MC Jawalamukhi (District KANGRA)                   | Available  |
| 16      | NP Baijnath (District KANGRA)                      | Available  |
| 17      | NP Jawali (District KANGRA)                        | Available (Rented Land)                          |
| 18      | MC Kullu (District KULLU)                          | Available  |



|    |  |           |
|----|--|-----------|
| 19 | MC Manali (District KULLU)                   | Available |
| 20 | Municipal Corporation Mandi (District MANDI) | Available |
| 21 | MC Sundernagar (District MANDI)              | Available |
| 22 | MC Nerchowk (District MANDI)                 | Available |
| 23 | MC Jogindernagar (District MANDI)            | Available |
| 24 | MC Sarkaghat (District MANDI)                | Available |
| 25 | NP Karsog (District MANDI)                   | Available |
| 26 | M Corp Shimla                                | Available |
| 27 | MC Rampur (District SHIMLA)                  | Available |
| 28 | MC Narkanda (District SHIMLA)                | Available |
| 29 | NP Kothkhai (District SHIMLA)                | Available |
| 30 | NP Jubbal (District SHIMLA)                  | Available |
| 31 | NP Sunni (District SHIMLA)                   | Available |
| 32 | MC Nahan (District SIRMOUR)                  | Available |
| 33 | MC Paonta (District SIRMOUR)                 | Available |
| 34 | Municipal Corporation Solan (District SOLAN) | Available |
| 35 | MC Nalagarh (District SOLAN)                 | Available |
| 36 | MC Parwanoo (District SOLAN)                 | Available |
| 37 | MC Baddi (District SOLAN)                    | Available |
| 38 | NP Arki (District SOLAN)                     | Available |
| 39 | MC Una (District UNA)                        | Available |
| 40 | MC Santokhgarh (District UNA)                | Available |
| 41 | MC Mehatpur (District UNA)                   | Available |
| 42 | NP Daulatpur (District UNA)                  | Available |
| 43 | NP Gagret (District UNA)                     | Available |
| 44 | NP Tahliwal (District UNA)                   | Available |

17. It is informed that even where these sites are available, no steps, at the first instance, have been taken to

prepare and create a green buffer zone and straightaway the solid waste is being dumped

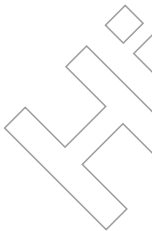
18. We are clearly of the view that if the site is unmanageable or has not been made available to the ULBs, then before dumping any solid waste on the said sites the same needs to be developed by creating a buffer zone. The Secretary (Urban Development) and the District Magistrate, Shimla, who have been entrusted with the duties under **SWMR, 2016** shall file their personal affidavits regarding due compliance of Rules 11 and 12 on the next date of hearing.

19. Noticeably, the hilly areas have been treated separately, as is evident from Rule 20 of **SWMR, 2016**, which reads as under:

**“20. Criteria and actions to be taken for solid waste management in hilly areas.** - In the hilly areas, the duties and responsibilities of the local authorities shall be the same as mentioned in rule 15 with additional clauses as under:

(a) Construction of landfill on the hill shall be avoided. A transfer station at a suitable enclosed location shall be setup to collect residual waste from the processing facility and inert waste. A suitable land shall be identified in the plain areas down the hill within 25 kilometers for setting up sanitary landfill. The residual waste from the transfer station shall be disposed of at this sanitary landfill.

(b) In case of non-availability of such land, efforts shall be made to set up regional sanitary landfill for the inert and residual waste.



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(c) Local body shall frame Bye-laws and prohibit citizen from littering wastes on the streets and give strict direction to the tourists not to dispose any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, any other plastic or paper waste on the streets or down the hills and instead direct to deposit such waste in the litter bins that shall be placed by the local body at all tourist destinations.

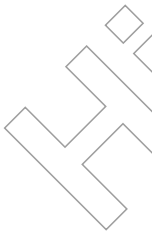
(d) Local body shall arrange to convey the provisions of solid waste management under the bye-laws to all tourists visiting the hilly areas at the entry point in the town as well as through the hotels, guest houses or like where they stay and by putting suitable hoardings at tourist destinations.

(e) Local body may levy solid waste management charge from the tourist at the entry point to make the solid waste management services sustainable.

(f) The department in-charge of the allocation of land assignment shall identify and allot suitable space on the hills for setting up decentralised waste processing facilities. Local body shall set up such facilities. Step garden system may be adopted for optimum utilisation of hill space.”

20. We would impress upon the State Government to empower the Local Bodies to levy solid waste management charges upon tourists at the entry point to make the solid waste management services sustainable.

21. The Government could take a cue from **Bhutan** where in September, 2022, it imposed a sustainable development fee of dollars 200 per day per visitor.





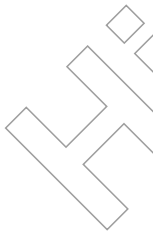
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However, fee was cut by half from September 2023 and fixed at dollar 100 per day per tourist and in the case of children age 6 to 12 years, they were required to pay dollar 50 per child and there was no fee for children age 5 or under.

22. This Court had constituted a multi-members committee for improving solid waste management through multi-stakeholders engagement, addressing land allocation for SWM facilities, enhancing waste disposal infrastructure, implementing **EPR** and ensuring penalty provisions for violations.

23. We are pleased to note that the said Committee has made great strides and has been meeting frequently. It held meetings on 31.01.2024, 07.02.2024, 13.02.2024, 21.02.2024, 29.02.2024, 07.03.2024, 16.03.2024 and 19.03.2024. Certain meaningful suggestions have been made by the Committee which we adopt and the same shall be deemed to be the directions of this Court and are as follows:

- (i) The ULBs are directed to deploy sufficient manpower for ensuring 100% segregation and collection and it should be ensured through outsource agencies as well.
- (ii) Strict penalty will be imposed by the ULBs for violation of segregation at source and littering.
- (iii) For the safe transportation of segregated waste compartmentalization of garbage collection vehicles shall be done by ULBs and it shall be ensured that



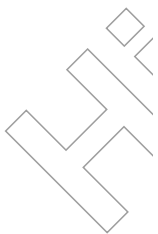
only compartmentalization vehicles are used for transportation which direction shall be a mandatory condition for outsourced agencies deployed for this purpose. The funds, if any, required for compartmentalizing by ULBs shall be met out from the tied grants or out of their own resources. >

**Wet Waste:**

- (i) Looking to the quantum of waste generation per day in ULBs which varies from 0.5 TPD to 100 TPD, the ULBs are directed to process the same through mechanized composting with latest equipments like Organic Waste Composters. On the similar lines, decentralized drum composting can be used for processing. Pit composting can also be considered but only in the lower parts of Himachal Pradesh where temperature generally remains high.

**Dry Waste:**

- (i) As regards dry waste, the Urban Development Department has also entered into an agreement with cement plants for co-processing of dry waste with the condition that the cement plants may lift dry waste as a backload in their vehicles. But, the Committee found that the cement plants were not providing transportation facilities to lift dry waste as per the requirement of the ULBs. Therefore, the cement plants are directed to provide transport facilities for the dry waste under Corporate Social Responsibility.
- (ii) All the ULBs, who are yet to register in centralized EPR portal of CPCB to earn credits in plastic waste management and CPCB/HPSPCB are directed to get themselves registered and thereafter provide all necessary support to ULBs to channelize funds



from brand-owners. Since, the financial position of the ULBs is weak, they are not in a position to enforce plastic buyback policy effectively. Therefore, we direct the Department of Environment, Science and Technology (**DEST**) to provide funds.

- (iii) The SWM sites throughout the State shall be properly roof-topped, fenced and covered so as to ensure that no animals enter into the SWM facilities and further carry out plantation around the sites.
- (iv) The State Government may consider tied grant for SWM under the State Finance Commission on the analogy of Centre Finance Commission to assist ULBs in effectively carrying out these activities.
- (v) As observed above, the financial position of the ULBs is very lean and, therefore, they are unable to enforce provisions of law on account of lack of manpower and resources.
- (vi) The Industry Department has executed an agreement between Baddi-Barotiwala-Nalagarh Development Authority ("**BBNDA**"), ULBs and M/s JBR Technologies for collection, transportation and processing of solid waste of MCs, Baddi, Parwanoo, Nalagarh and 42 Gram Panchayats, but despite various directions and efforts made by Urban Development Department, M/s JBR is not able to ensure proper collection and transportation of waste at the site which is creating huge problems for these ULBs. In such circumstances, we direct the ULBs to consider installing their own waste processing facilities through various line departments like HPSPCB, Industry, Tourism, APMC etc. while giving NOCs for registration of



new establishments and thereafter their renewal.

(vii) The Nalagarh and Parwanoo ULBs have their own capacity to manage the waste. Therefore, both the ULBs are directed to reconsider the agreement to manage their waste at their own level.

(viii) It was noticed by the Committee that there is a huge gap between the cost of collection, transportation and processing charges for MSW and user charges collection. As the user charges being collected are very less as compared to the processing cost in all the ULBs, in these circumstances, it is directed that all the ULBs will rationalize their user charges as per the expenditure being incurred by them on the solid waste by making necessary amendments in their byelaws. The ULBs are directed to ensure that the user charges being collected from the waste generators should at least be at par with collection and transportation charges.

(ix) The Committee noticed that it was very difficult for the ULBs to make themselves sustainable and recover processing cost. In these circumstances, it is directed that the user charges which are not being paid by the waste generators shall henceforth be treated as arrears.

(x) Arrears on account of door-to-door garbage collection/fines defaulted by the violators shall be included in the property tax of the next financial year as arrear so as to improve the financial condition of the ULBs.

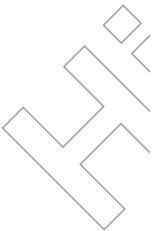
(xi) The Advocates Committees which visited various ULBs in compliance to the orders passed by this Court have found serious issue regarding hot-spots in fringe areas of some of the Panchayats where



garbage is being dumped on the boundaries of ULBs only because there was no proper system of garbage collection and disposal in semi urban/rural areas. In these circumstances, we direct that dedicated teams be constituted by all the five Municipal Corporations under the supervision of Ward Councillors to eliminate hot-spots and to avoid creation of new hot-spots. We further direct the Municipal Corporations to impose penalties on violators. The Rural Development Department is directed to take responsibility of collection and disposal of garbage in their respective areas and clear the hot-spots in the adjoining areas in a systematic manner.

(xii) The Committee noticed that as per the administrative structure of ULBs, all the major decisions are being taken in the house headed by President/Vice President. It was observed that in most of the ULBs, the elected bodies are either reluctant or opposing the issue pertaining to the measures required to be taken in SWM and only EO/Secretary of the concerned ULBs are held responsible for any lapse. In the given facts and circumstances, we deem it appropriate to direct that henceforth all the Committee Members including the entire elected bodies especially President, Vice President shall be responsible for the speedy and effective implementation of the environmental laws and they shall be accountable individually as well as jointly.

(xiii) The Committee noticed that there was lack of IEC activities to create awareness among masses or continuous IEC activities with a view to create awareness at the level of the ULBs. In this view of



the matter, the IEC activities henceforth shall not only be undertaken by the ULBs but also by other stakeholders as safe environment is everyone's responsibility.

(xiv) For, IEC activities, NGOs/Yuvak Mandal/Self Help Groups/Beopar Mandals/NYKs/Mahila Mandals are ordered to be associated or Ward Sanitation Committees are ordered to be strengthened and activated by ULBs under the supervision of Ward Councillors.

(xv) The Committee noticed that land was not being provided or made available in the urban areas and such land was being identified in the rural areas where the Panchayats were not granting NOCs for transfer of land even if land was not adjoining to any human habitation. Therefore, in the given facts and circumstances, the Deputy Commissioner is directed to process the land cases in time bound manner of three months and in case NOC of transfer of land is not granted, then appropriate action under the Panchayati Raj Act be taken against such Pradhan. These directions will equally apply to the Forest Department as land transfer cases in forest areas are being delayed un-necessarily.

(xvi) Lastly, the Committee noticed that there was non-availability of land for developing sanitary landfill in each ULB and quantity of inert waste was also very less. In the given circumstances, we deem it appropriate to issue following directions:

The inert waste is permitted to be disposed of while building roads, backfilling in retaining walls or filling up of appropriate areas on hilly areas as per Swachh Bharat Mission Municipal Solid Waste



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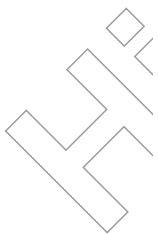
Management Manual, MoHUA. As regards, development of landfill sites, the same can be considered on cluster basis which can meet the requirement of other ULBs on payment basis by cluster ULBs.

**App of Municipal Corporation, Shimla:**

24. We are informed at the Bar that an App had been developed by the National Informatics Centre (“NIC”) for redressal of grievance relating to the Municipal Corporation, but the same appears to have been disbanded or discontinued. The Municipal Corporation is directed to inform the Court about the status of the App by the next date of hearing. In case, it is inactive for any reason whatsoever, the same shall be activated by getting in touch with the NIC.

**Plastic Flexi Hoardings/Banners in Shimla:**

25. We are informed at the Bar that as regards the Ministry of Environment, Forest and Climate Change of the Government of India, it has already banned the banners appearing flexi vide its order dated 09.03.2020. In addition thereto, some of the cities like Chennai, Bengaluru and Pune have taken measures to ban or restrict the use of plastic flexi banners due to concerns about environmental impact, visual pollution and safety hazards. The States like Kerala, Karnataka, Nagaland and Maharashtra have introduced bans and statewise regulations regarding plastic flexi banners. Whereas, in the State of Himachal Pradesh, such banners



upto **100** are still being permitted. >

26. In the facts and circumstances, we leave it to the Chief Secretary to the Government of Himachal Pradesh to take a call and while doing so, the Chief Secretary shall consider the fact which has prevailed upon the States like Kerala, Karnataka, Nagaland and Maharashtra to ban the use of plastic flexi banners.

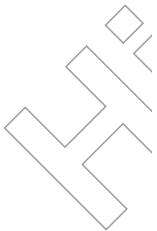
27. In addition thereto, the Chief Secretary may also take into consideration the following points as suggested by Shri Deven Khanna, Advocate, for the petitioners:

**“1. Hazardous Material:**

Plastic Flexi is the most environmentally hazardous consumer material ever produced. In the process of its manufacture, toxic gases are produced. It is non biodegradable material which cannot be recycled and, therefore, of no resale value. The two sources for putting an end to the used Plastic Flexi are either to burn or to bury underneath the soil. If it is burnt, it will release highly toxic chlorine, dioxins and furan, which are carcinogenic, means any substance, radionuclide of radiation that is an agent directly in causing cancer. On the other hand, if it is buried to the soil, the toxins will enter into the water by leaching.

**2. Visual Pollution:**

The widespread use of Plastic Flexi banners leads to visual pollution in public spaces. Excessive signage and advertising clutter streets and diminish the aesthetic appeal of city and is an antithesis to





the beautification of Shimla project.

**3. Safety Concerns:**

Plastic Flexi banners, when not installed properly can pose safety hazards. They may fall or become dislodged during adverse weather conditions, potentially causing accidents or injuries. Most of the banners are just left lying around in the open or thrown in the water streams significantly adding to the plastic waste problem and impacting the health and environment of the residents/citizens.

**4. Resource Consumption:**

The production of Plastic Flexi banners consumes significant resources including energy and raw materials. Banning or regulating their use can help conserve resources and reduce energy consumption.

**5. Aesthetic Value:**

Banning Plastic Flexi banners can contribute to the overall aesthetic value of public spaces, making them more visually pleasing and inviting for residents and visitors.

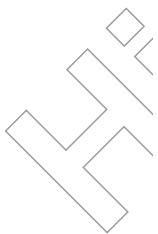
**6. Encouraging Alternatives:**

Banning Plastic Flexi banners can encourage the use of more sustainable and environmentally friendly advertising alternatives such as digital signage or eco-friendly materials.”

**Waste Audit:**

28. Having heard the detailed submissions that were addressed by the parties, we are of the considered view that the entire exercise being undertaken by the Court would not yield its desired results in absence of waste audit.

29. Accordingly, we request the Integrated Mountain



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Initiative (“IMI”) Society, Shimla, who have conducted similar audit survey in Ladakh, to conduct waste audit as expeditiously as possible and try to hand over their report by **30.09.2024**.

30. List on **06.05.2024** when Chief Secretary to the Government of Himachal Pradesh, shall file its compliance affidavit, whereas, PCB, Director (Urban), District Magistrate, Shimla and Commissioners Municipal Corporations shall file their action taken report.

(Tarlok Singh Chauhan)  
Judge

(Sushil Kukreja)  
Judge

March 23, 2024.  
(krt)

