

High Court of Karnataka

Daily Orders of the Case Number: WP 24739/2012 for the date of order 13/12/2012

Honble Justice N.KUMAR
AND B.V.NAGARATHNA

13/12/2012

Order in WP 24739/2012

NKJ & BVNJ:

13.12.2012 W.P.Nos.

46523/2012,

24739-40/2012, 30450/2012

On behalf of the respondents, a compliance report is filed setting out the various steps taken after the last date of hearing. We have heard the learned counsel for the parties and also the parties who are prosecuting this matter in person.

2. What emerges from their submission is, the problem is two fold. One is collection and transportation of the garbage every day and second is the garbage that is already transported and dumped in various landfills, its treatment and disposal.

3. It appears one of the main reasons for the problem in collecting and transporting garbage is the fight between the

contractors. The notification issued calling for bids from various contractors for collection and removal of garbage is under challenge before this Court. That matter is listed on 3.1.2013 for final hearing. Probably, once that issue is sorted out, it would be easy for the Court to fix the responsibility of this collection and transportation of garbage on contractors vis-à-vis the BBMP and pass appropriate orders. Therefore, for the time being that is deferred.

4. In so far as the garbage already transported out of the City and lying in the landfills is concerned, that is causing a great problem to the villagers around those landfills and unless that garbage is duly treated and processed the problem cannot be solved. It is in this context, in the compliance report it is stated that the, State Government on 7.12.2012 has issued an order constituting a Technical Expert Committee to assess the technology proposed for the project for treating unsegregated Municipal Solid Waste lying in the landfill areas. The said Committee has to evaluate 36 proposals received by BBMP and

submitted to the State Government with respect to Bio-Mining activities to handle the unprocessed garbage piled up at various land sites. That apart the BBMP has also constituted a Solid Waste Management Cell, headed by its Additional Commissioner, Solid Waste Management and comprising of 5 Chief Engineers. Sri M.R. Venkatesh, Chief Engineer, has been entrusted a specific duty of supervising the day to day disposal of Municipal Solid Waste Management in Bangalore City. In those circumstances, it is of utmost importance that the Technical Expert Committee would consider these 36 proposals and finalize the applicants who are entitled to set up these Bio-Mining activities at the earliest. The learned counsel for the State submits within 15 days from today they would finalize the proposals and issue appropriate orders so that further steps could be taken for setting up these units.

5. Learned counsel for the Corporation submitted in so far as Yelahanka Zone is concerned, the segregation of dry waste and wet waste is working comfortably. On 15th

of this month a meeting is convened in Town Hall inviting NGOs, residential welfare associations and all persons who are interested in solving this problem to meet and chalk out a programme, where under, each household in every zone would voluntarily segregate the dry waste from wet waste so that the said waste could be separated and avoid the problems which we are facing now.

6. It was also brought to the notice of the Court that, the main culprits are the commercial establishments, choultries and also massive residential complexes, where there is indiscriminate mixing of these plastic and its products with the wet waste. They are the bulk generators in the city. It is submitted that about 1,900 tonnes per day is generated by these bulk generators. They have to be treated as a separate class by the Corporation and they should take steps to see that they obey the law of the land meticulously, failing which appropriate action should be taken against them to recover the costs of such removal of the garbage including such coercive steps which will compel them to follow the Rules. It is in this

context it is necessary to notice the Plastic Waste (Management and Handling) Rules, 2011.

Rule 6 provides for plastic waste management which reads as under : -

6. Plastic Waste Management.-

The plastic management shall be as under:-

(a) recycling, recovery or disposal of plastic waste shall be carried out as per the rules, regulations and standards stipulated by the Central Government from time to time;

(b) recycling of plastics shall be carried out in accordance with the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time;

(c) the municipal authority shall be responsible for setting up, operationalisation and coordination of the waste management system and for performing the associated functions, namely:- (i) to ensure safe collection, storage, segregation, transportation, processing and disposal of plastic waste; (ii) to ensure that no damage is caused to the environment during this

process; (iii) to ensure setting up of collection centres for plastic waste involving manufacturers; (iv) to ensure its channelisation to recyclers; (v) to create awareness among all stakeholders about their responsibilities; (vi) to engage agencies or groups working in waste management including waste pickers, and (vii) to ensure that open burning of plastic waste is not permitted;

(d) (i) the responsibility for setting up collection systems for plastic waste shall be of the municipal authority concerned and the said municipal authority may, for this purpose, seek the assistance of manufacturers of plastic carry bags, multilayered plastic pouches or sachets or of brand owners using such products;

(ii) the municipal authority may work out the modalities of a mechanism based on Extended Producers Responsibility involving such manufacturers, registered within its jurisdiction and brand owners with registered offices within its jurisdiction either individually or collectively, as feasible or setup such collection systems through its own agencies;

(e) recycler shall ensure that

recycling facilities are in accordance with the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics and in compliance with the rules under the Environment (Protection) Act, 1986 as amended from time to time.

(f) the concerned municipal authority shall ensure that the residues generated from recycling processes are disposed of in compliance with Schedule II (Management of Municipal Solid Wastes) and Schedule III (Specification for Landfill Sites) of the Municipal Solid Wastes (Management and Handling) Rules, 2000 made under the Environment (Protection) Act, 1986, as amended from time to time;

(g) the municipal authority shall incorporate the said rules in the Municipal bye laws of all the Urban Local Bodies;

(h) the municipal authority shall encourage the use of plastic waste by adopting suitable technology such as in road construction, co-incineration etc. The municipal authority or the operator intending to use such technology shall ensure the compliance with the prescribed

standard including pollution control norms prescribed by the competent authority in this regard.

7. A perusal of the aforesaid provision makes it very clear that it is the municipal authority which is responsible for setting up, operationalisation and coordination of the waste management system and for performing the associated functions as set out in clause (c). In discharging the said responsibility, clause (d)(i) provides for their seeking the assistance of manufacturers of plastic carry bags, multilayered plastic pouches or sachets or of brand owners using such products. Further, the municipal authority has to work out the modalities of a mechanism based on Extended Producers Responsibility involving such manufacturers and brand owners either individually or collectively, as feasible or setup such collection systems through its own agencies. The municipal authority shall also encourage the use of plastic waste by adopting suitable technology such as in road construction, co-incineration, etc.,

8. Therefore, a statutory obligation is cast on the BBMP under the Rules. However, it appears the authorities have not given proper attention to these statutory obligations which are cast upon them. Learned counsel appearing for the Corporation submits by the next date of hearing they will place on record the steps which are taken as contemplated in Rule 6 of the aforesaid Rules, so that a satisfactory remedy could be found for this plastic waste management.

9. In the aforesaid circumstances, it is appropriate that the BBMP shall entrust to one of its officials the responsibility of keeping track of all these bulk generators, how these garbage is segregated and transported and to see that there are no complaints and if there are any complaints, to look after such complaints. Learned counsel for the Corporation submitted that, within 2 days an official will be appointed who will be exclusively in charge of bulk generators, collection, removal and transportation of this garbage, who will be present in Court on all the dates of hearing and answer the questions put by the Court.

10. At this stage it is needless to point out, for the successful implementation of this plastic waste management or even this garbage, the cooperation and assistance of every citizen of the city is a must. No doubt it is encouraging to see many of the public spirited people are coming out of their houses and trying to help the city being kept clean. But, unless everyone show the same interest, concern, it is not possible to achieve this uphill task. One of the reasons for non-cooperation may be the ignorance.

Therefore, it is of utmost importance for the Corporation as well as the State to take appropriate steps to inform the citizenry of the city continuously about the need to segregate this dry waste and wet waste and how it should be disposed of and in what manner the Corporation authorities would assist them in its disposal. As most of the people are addicted to television, it would be appropriate that the authorities would see that the message is sent to every house through such publicity so that after realizing their responsibility the people would not only cooperate with the BBMP but also discharge their

fundamental duties in keeping the city clean and to segregate this waste in the manner suggested by the Corporation, so that it is easy to remove the waste from their houses.

Having regard to the magnitude of the problem, the amount involved in clearing the garbage, any amount spent on this advertisement would be negligible. Immediate steps have to be taken to see that this propaganda is done and that people are made aware of their duties and responsibilities.

11. It is pointed out from the news report found in Deccan Herald on 15.11.2012 the garbage is dumped in Subramanyapura Lake in Uttarahalli in Bangalore South Constituency. It is stated that, over the last one month, hundreds of truckloads of garbage were dumped on the embankment. Local residents objected, but were bullied into silence by the garbage contractors. In fact, a photograph of the truck carrying the garbage, dumping is also published. The Corporation to have its say in the matter.

Call on 8.1.2013.

**High Court registry is directed
to furnish a carbon copy of this
order to all the authorities.**

**(N. KUMAR)
JUDGE**

**(B V NAGARATHNA)
JUDGE**

ckl/-

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