

Annexure-R-2

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 189/2017
(M.A. No. 723/2018)
And

Execution Application No. 42/2018
In

O.A. No. 189/2017

IN THE MATTER OF

Rakesh Keshyap

vs.

State of Himachal Pradesh & Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE R.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant:
Respondent:

Mr. Adab Singh Kapoor & Mr. Jishi Chandra Adv.
Mr. Manish Kumar, Adv. for State of Himachal Pradesh
Mr. Sakshi Pooja, Adv. for Mr. Rakesh Keshyap
Pande, Adv.
Mr. Sonamya Priyadarshini, Adv. for NHAI
Mr. Ajay Marwah, AOR and Mr. Moh. Singh, Adv. for Municipal Corporation

Date and Remarks	Orders of the Tribunal
<p>Item Nos. 13 & 14 August 27, 2018 A</p>	<p>1. This application has been filed with the following prayers:-</p> <p>i) To direct the respondent to remove the dumping activities such as created dumping site and to put garbage over the forest land (as well as to demolish the shed which is illegally constructed by the respondent over the forest land alongside National Highway No. 5 Jungal Rohru, Theog, Shimla.</p> <p>ii) To direct the respondent to plant and maintain ornament trees and natural water resources so that there may not be any scope of dumping of soil by some unknown people and putting of garbage over the forest land in future.</p> <p>2. According to the applicant, the Municipal Corporation, Theog, District Shimla has illegally permitted dumping of garbage on the forest land which is adjoining the National Highway No. 5 (NH - 5), connecting Shimla to</p>

Rampur, at RD (Road Distance) No 178/810, Jungal
Rohru, Tehsil, Theog, Shimla, near HP PWD Circuit house.

The applicant called upon respondent no. 5 Municipal
Council Theog to refrain from doing so vide letter dated
03.11.2016 but to no effect. A news item was also
published in the last week of January, 2017 to this effect.

Dumping of garbage on forest land adversely impacts the
forest and the environment and is illegal.

3. On 19.06.2017, this Tribunal directed that no waste
will be dumped at the site in question.

4. On 30.11.2017, it was observed that the Municipal
Council should ensure that the waste is segregated and
deposited in a proper way by covering with mud and
spraying disinfectants from time to time. Thereafter, on
09.05.2018, this Tribunal directed that order dated
19.06.2017 will continue.

5. It is undisputed that the forest land cannot be used
as dumping site for garbage.

6. Learned Council for the applicant relies on
judgement dated 24.10.2016 in Original Application No.
186 of 2013, of this Tribunal where the Tribunal took
coercive action against the Municipal Council concerned
after finding that the Municipal Council was acting in
violation of the orders of this Tribunal. He states that
coercive action be taken in the present case also.

6. Only plea taken in the present case by the
Municipal Council is that it has applied for the dumping
site being excluded from the forest area. Making of such
an application cannot be an excuse to ..

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as dumping site. It is not disputed that even today the area continues to be forest area. It is thus clear that even on admitted facts the action of the Municipal Council through is not only illegally but also in violation of orders of this Tribunal.

7. Accordingly, we restrain Municipal Council from dumping garbage at the site and direct it to shift it to any other appropriate site as per Solid Waste Management Rules, 2016. We also note that under Section 2(ii) of the Forest (Conservation) Act, 1980 provides that no forest land can be used for non-forest purpose except with the prior approval of the Central Government. Admittedly, no such prior approval of the Central Government has been taken for converting the forest land into the garbage dumping site.

8. In view of the clear violation of mandate of law as well as orders of this Tribunal, we direct Municipal Corporation to pay compensation of Rs. 5 Lakhs. The applicant will be entitled to a sum of Rs. 25,000/- towards cost out of the remaining 75% of the amount be deposited with State Pollution Control Board and 25% with the CPCB. It is made clear that Secretary of Urban Development, State of Himachal Pradesh will be responsible for enforcement of this order.

9. Learned counsel for the State of Himachal Pradesh states that the order being passed today will be strictly enforced. The site may be shifted within one month from today. If it is not done, it will be open for the Applicant to move this Tribunal and the Tribunal may consider

stopping of the salary of the Secretary of Urban
Development for non-compliance of the orders of this
Tribunal.

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Accordingly the application stand disposed of.

....., CP
(Adarsh Kumar Goel)

....., JM
(Dr. Jawad Rahim)

....., JM
(S.P. Wangdi)

....., EM
(Dr. Nagin Nanda)

27.08.2018



No. Paid voucher for 9 18th Sep 2018
Office of the Municipal Council Therg
Distt. Shimla Himachal Pradesh
Dated Therg the 24th Sep 2018

The Branch Manager,
HDFC Therg

Transfer of funds amount fees Hon charges on account of RTGS to the concerned bank
etc from Account NO 50100067775469 through RTGS to the concerned bank as mentioned below

Sr.

Please transfer a sum of Rs 381250/- Rupees Three Lacs and Fifty Two Thousand Five Hundred only from account NO 50100067775469 through inter bank transfer RTGS to the below mentioned Saving/current bank account NO and IFSC code of the concerned maintained in your bank as well as concerned bank on account of payment of bill purpose/remuneration amount etc shown against each as under:-

Sr NO	Name of beneficiary	Bill No & date / purpose for which payment made	Amount	Name of bank	IFSC code	Account No
1	Sh Rakesh Kashyap	Cost of case as per orders of Tribunal dt 27th August, 2018	25000	CANARA Bank	CNRB0005861	5064 101000792
2	State Pollution control board Shimla-9	Compensation awarded by the Honble tribunal NGT vide order dt. 27th August, 2018	336250	SBI	SBIN 0014639	652023793737

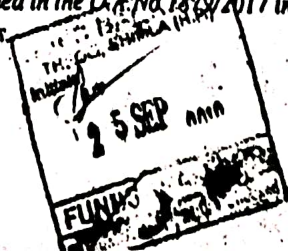
Yours faithfully

Encls. No. As above Dated Therg

Copy forwarded to the concerned for favour of information :-

1. Member Secretary H.P. State Pollution control board Shimla in compliance to order dated 27th August, 2018 passed by the Honble NGT New Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of compensation awarded in the O.A. No 1879/2017 in the matter of Rakesh Kashyap Vs State of HP and Others.

2. Central Pollution Board in compliance to order dated 27th August, 2018 passed by the Honble NGT New Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of compensation awarded in the O.A. No 1879/2017 in the matter of Rakesh Kashyap Vs State of HP and Others.



(17)

Rgd.

No. Paid voucher for 9 /18/MC/2018- 1147
Office of the Municipal Council, Theog.
Distt., Shimla Himachal Pradesh.

Dated Theog the 20 September 2018

The Member Secretary,
Central Pollution control board Parivesh Bhawan East Arjun Nagar Delhi-110032
Regarding implementation of orders of Honble NGT dt 27th August, 2018 passed in the
O.A.No.189/2017 (M.A. No.723/2018 and Execution application NO.42/2018

Subject:-

Sir,

Please find enclosed herewith bank draft No. 000 464
dated 20/9/18 amounting to Rs.118750/(Rupees One lac eighteen thousand seven hundred fifty
only issued in favour of yourself on account of payment of compensation amount awarded by the Hon.ble NGT
vide their order dt. 27th August, 2018 (Copy enclosed for ready reference please)

Kindly acknowledge receipt for office record please.

Yours faithfully.

[Signature]
Executive Officer
Municipal Council, Theog
Pin - 172101
Tel: 017832381

Enclosure: As above

Municipal Committee/
Corporation

CONTINGENT BILL

[Rules 178 and .

Detailed bill of Contingent
Charges of the Month of 20

Head of Charge

No. of Voucher

Serial number of
Sub-VouchersDescription of charges and amount in detail
for all charges requiring special sanction

1) Council of Corporation / Com.
Council on the basis
of 27/8/18

1) Sr. Rafter Manager Com.
Rendy CP Children

2) Sr. Environmental Engineer
HIV State Pollution
Control Board. Sub-1.

3) Member Secy. Control
Pollution Control Board
Delhi

Q 118) Mr. Satish Kumar
QTS / Mr. CCB
Joh

In words

Tik

5000/-

Also Certified that the expenditure charged in this bill could not with due regard to the interests of the Municipal Committee/Corporation, be avoided. I have satisfied myself that the charges supported by sub-vouchers entered in this bill have been really paid with the exceptions noted below, which exceed the balance of the permanent advance, and will be paid on receipt of the money.

CONTINGENT BILL

[Rules 178 and 183.]

Municipal Committee/
Corporation

Detailed bill of Contingent
Charges of the Month of 20

Charge

No. of Voucher.....

Description of charge and number & date of authority for all charges requiring special sanction	AMOUNT	
	Rs	P
Payment of Contingent / Cont. as per Hon'ble M.C.T. order dated 27/8/18.	90	28
1) Sr. Raker Kumbh Pradhan of Chidamb.	25000	-
2) Sr. Environmental Engineer. HD State Pollution Control Board. Indt.	35620	-
3) Member Secy. Central Pollution Control Board. Delhi	11870	-
In words	Tkr 50000	

Also Certified that the expenditure charged in this bill could not with due regard to the interests of the Municipal Committee/Corporation, be avoided. I have satisfied myself that the charges supported by sub-vouchers entered in this bill have been really paid with the exceptions noted below, which exceed the balance of the permanent advance, and will be paid on receipt of the money drawn on this bill.

Dated Name

Office

Pay Rupees
Examined.


Accountant.

Signature

Signature

20

Shri Rakesh Kashyap President GP Chikharh PO Chikharh in compliance to order dated 27th August, 2018 passed by the Honble NGT New Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of cost awarded by the Honble tribunal in the matter in question.


Executive Officer

Executive Officer
Municipal Council, Theog
Municipal Council, T