



THE ACT OF JUDICIARY IN ENCOURAGE POLICY OF MSW IN INDIA AND IN GUJARAT

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ABSTRACT

The problem of solid waste management in India is worsening day by day in combination with rapid urbanization, huge population and improper development. The present paper discusses the study of factual situation of Municipal solid waste management and applicability of legal provisions and future need to enhance legal regime. This research also discusses the Role of Indian judiciary has been discussed with the help of some cases or petitions filed related to the environmental problems and the rules issued by the Supreme court from time to time for the waste management such as; e-waste, water pollution, battery rules etc.

KEYWORDS: Municipal Solid Waste, Law, Rules.

INTRODUCTION

Due to rapid growth of industrial sector, improper planning of urban development, mobilization of people from rural areas to urban areas, improper actions of the government bodies for the pollution control, all these lead to the environment degradation. This has affected the quality of life of human. Poor planning for urban development led to environment related problems such as; sewage overflow, water pollution, land pollution, increase in slum areas, problem of human health, and lack of sanitation and hygiene.

Air and water pollution are the most important problem in urban areas and due to development of residential areas in the urban areas the waste land is not available for the disposal of waste, and hence solid waste disposal has become a major problem which is more important than air or water pollution. Population of the urban areas are increasing due to globalization, the land is occupied for residential construction, and solid waste is increasing due to the crowded cities and increased commercialization. This all lead to the municipal solid waste disposal problems.

According to the report of World Commission (1987) pollution is the most important problem in the whole world. The report highlighted the major hazardous waste disposal incidents happened at USA, Netherlands, Hungary, Germany and Japan. It was stated in the report that urbanization is the major cause for the solid waste in the world. Solid waste management is related to the processing of waste, transportation of waste, disposal methods, and the treatment or recycling of the waste.

Bhasal (2012)¹ stated that Indian judiciary is the pioneering judicial system among the world judicial system for making innovative



¹Bhasal Sandip, 2012 "Role of Indian judiciary in protection of right of the children" available at <http://orgal.academiaedu/sandipbhosa/papers/756296> visited on 31.09.2012

laws for the environment protection. During last two decades, Supreme Court of India has passed highest number of laws, rules or the guidelines for the environment protection. Indian judiciary has played an important role in the environment protection from the adverse effect of solid waste. Apart from the creation of laws and application of laws, Indian judiciary has played an important role in the education and awareness of citizens about the problems related to the environment and the way they can contribute to the environmental protection.

During last few years both the government and the judiciary system of India has focused on the planning actions, policies which can lead to growth and sustainable development of the economy without causing harm to the environment. In many cases either the individuals or the NGOs have gone to court for the problems related to the industrial waste, solid waste, disposal of waste, sanitation, or hygiene, and the pollution. Supreme Court has also issued guidelines either by its own or on the basis of the petition filed for the environment protection.

Following are the recommendations given by the Supreme court of India in the case of Almitra Patel (888/96)², for the usage of modern technologies for the solid waste management in Class-I cities. This case was the most important case which drew attention and proved as the basis for the change in the solid waste management rules in the country. Almitra Patel filed a written petition for the waste management policies of the municipal corporation in the four metro cities of India. Out of four metro cities, Supreme Court of India only took the case of Delhi/NCR region. It was stated in the petition that the practices of the municipalities for the solid waste management were deficient and the ineffective practices of the municipalities have an adverse effect on the health of the human and also on the natural environment. It was replied to the petition that the responsibilities of the solid waste management are of local municipalities only. At central level, solid waste management work is handled by the Ministry of Urban Affairs. It is the nodal ministry who deal with all type of responsibilities related to solid waste management by municipal corporations. At central level there is another important legal body who take care of the municipal waste that is known as Central Pollution control board while at state level there are state pollution control boards who take care of the municipal waste. Both the central pollution control board and the state pollution control board takes initiatives for the collection, treatment, transportation and the disposal of the municipal solid waste. The committee was formed on the basis of the replies given by the central pollution control board, state pollution control board and the state government for the petition filed under this case in the year 1998 and this committee gave their recommendations in 1999. The committee made a report on the poor practices of the municipal corporations for the management of solid waste in the country. This committee suggested the composting method or technique for the waste which is biodegradable in nature. This method is very simple and hygienically process the waste. The same method was recommended by the rules issued by Ministry of environment and forest for the management of Municipal Solid Waste in the year 2000. All the recommendations given by this committee were for residents, government bodies and the urban development bodies.

These recommendations were not supported by the political parties as there were various loopholes in the system in granting permission for energy recovery from waste and incineration process. Land is not available for the disposal of waste, bio-degradable elements in the waste were not being used for the agriculture, there are no measures for the conservation of land, and waste resources which are organic in nature can be used for the soil. Thus, it is required to compost the biodegradable waste, and to transport the recycle waste to the recycling industry. It is also required to use only the rejected land for the landfill technique in scientific manner.

Recommendations given by the committee on the basis of Almitra case were mainly; citizens should not throw litter on the streets, in open areas, in residential areas, in parks, or on the footpath. All the bio-degradable waste should be stored safely; every household should throw their garbage in the allotted bins.

²Almitrapatel v. Union of India, Judgement dated 15-02-2000

All the hospitals should make arrangement for the safe transportation and the disposal of their bio-medical waste, all the commercial waste should be recycled, or transported in the prescribed manner. All the construction waste should be stored at only permissible places only.

Committee recommended some suggestions to the local government bodies for the effective solid waste management practices. Local government arrange campaigns for the education and awareness of local citizens towards the solid waste and its harmful effect on the environment and the human health. Waste should be collected from the doorsteps, provision of bulk bin boxes, transportation of waste at regular intervals, sweeping the streets daily and making provision for the transportation of waste from hotels, marriage halls, garden, and the construction waste.

Committee also recommended that the government bodies should be charge for providing the waste collection services from household, the design and the type of the waste disposal vehicle should be according to the type of waste, and private sector should be promoted to participate in the setting projects for the solid waste management in the country. On the basis of these recommendations Ministry of Environment and forest issued new rules which is also known as the Municipal Solid waste (management and handling) rules, 2000. The case of Almitra highlighted the need for door to door collection of the solid waste by the municipal corporations, segregation of the municipal waste as solid waste, liquid waste and semi-solid waste and the use of latest technology for the disposal of solid waste. Thus, the major purpose of this petition was not on the reduction or the recycling of the waste.

Supreme Court of India ordered that the scheme of door to door to collection of waste should be implemented in all the cities and also in the slum areas, and the penalty was charged on the bodies or person involved in that case. It was also highlighted in the report of the Burman committee that clearance of slums is a part of solid waste management practices because slums are the major producers of the solid waste and pollute the environment.

Recommendations were given by the committee and Supreme court give orders for preparing an action plan for the Integrated Plant Nutrient Management where the compost of solid waste will be used with the fertilizers for agriculture, crop plantation, forestry, and horticulture activities and also making provisions for the sale of the compost in the market within 50 Km range from the compost plant and the urban bodies. From the annual report of the Municipal solid waste management rules 2000, it was found that the rules were not being implemented and Supreme court gave direction to the Urban development bodies, Central pollution control boards and state pollution control boards, to make sure that the rule will get implemented in all over the country.

Similarly, there were various other cases which have been filed by different people from different states related to the municipal solid waste and contributed to the effective management practices of solid waste in the country. Some of the important cases have been reported in this section in brief:

Resident welfare association³ of Delhi gave a written petition for the poor sewage system and the management of sewage in Yamuna. Supreme court gave order for the formation of a committee to look over the matter and make a report. It was ordered by Supreme court that the action plan suggested by the committee should be implemented by the environment pollution authority for the upgradation and the management of the sewages in Delhi and nearby places.

On the petition of the M. C. Mehta⁴, related to fall in groundwater level, directions were issued by the Supreme court to the Ministry of Environment and forest, for the appointment of an authority exclusively to look into the matter which was given name as 'Central groundwater Board'. The board was

³(1999) 1 SCC 161. See also Sector 14 Residents' Welfare Association v. State of Delhi, (2000) 9 SCC 511; D.K. Joshi v. Chief Secy., State of U.P. (1999) 9 SCC 578; Sews Item "Hindustan Times" A.Q.F.M. Yamuna v. Central Pollution Control Board, (2000) 10 SCC 587; News Item Published in Hindustan Times Titles "And Quiet Flows The MAILY Yamuna". In re, (2004) 8 SCC 638; (2004) 9 SCC 569.

⁴<https://www.elaw.org/es/content/india-mc-mehta-v-union-india-groundwater-case>

given the authority to issue guidelines for the indiscriminate boring in the country and also the withdrawal of the ground water.

In the case of Sushanta Tagore⁵, Supreme court issued the directions that it is the responsibility of the state and urban development bodies to prevent the construction in the areas which can cause the harm to the environmental ambience of the neighbouring societies or the areas. The construction which can cause an imbalance in the eco system should also be prevented by the government bodies.

Thus, overall it can be said that Supreme court have given orders, issued directions to the central government, and other government bodies for the solid waste disposal or the related matters from time to time and contributed in the environment protection mission.

STRUCTURE FOR MSW MANAGEMENT IN INDIA⁶

This structure can be defined in to different levels:

Level 1: All the rules, policies are made by the parliamentary bodies of the country for the solid waste management in the country.

Level 2: Ministry of Environment and Forest take care of the implementation of the legislative policies, or the rules.

Level 3: Central pollution control board provides the technical assistance, conduct research activities for the waste management, provides training to the employees, and also coordinates the activities of the state pollution control boards.

Level 4: State pollution control boards work as per the directions of the control pollution control board and the state government, in order to reduce the water and air pollution, to regular check the pollution control devises. SPCBs also authorize to give permission for burning of waste or for the landfill of the waste disposal.

Level 5: Municipal corporations plays an important role in execution for any legislative policy for the waste management. They set up and operate the facilities for the collection, transportation, treatment, disposal or the processing of the waste. These corporations outsource their work to private contractors for waste management.

Thus, it can be said that the structure of MSW management consists of mainly central government, state government, judicial system, central pollution control boards, state pollution control boards and the municipal corporations.

LEGAL FRAMEWORK FOR SOLID WASTE MANAGEMENT IN GUJARAT⁷

In order to address the issue of solid waste management in Gujarat, the government of Gujarat brought into effect the Municipal solid waste (Management and Handling) Rule in the year of 2000. Under the MSW (M&H) Rules 2000, it is the responsibility of each and every municipality to collect, group, and transport and dispose the solid waste of the respective region. The MSW (M&H) Rules also specifies responsibility of the authorities, whom are expected to be involved in the municipal solid waste management. The overall right for waste management is controlled by Gujarat Pollution Control Board. Each municipal authority is required to get the necessary permission from the Board in managing solid waste by processing units and disposal facilities. The Board has identified 159 Nagarpalika, 7 Municipal Corporations, 5 Notified Areas and 1 Urban Development Authority, which are under the jurisdiction of the Board. The Board authorizes a municipal body for waste management for a period of five years after which new applications are to be submitted to the Board.

Gujarat state is using the “common secured landfills” as a method to manage its municipal solid waste management. The government has set up a nodal agency, Gujarat Urban Development Company Ltd

⁵ [Http://indiankanoon.org/doc/1915099/](http://indiankanoon.org/doc/1915099/)

⁶ Reddy J. Municipal Solid Waste Management: processing energy, recovery, global examples. Hyderabad.BS Publications; 2011.

⁷ <http://gpcb.gov.in/municipal-solid-wastes-activity1.htm>

(GUDL) for the development of infrastructure, transportation and disposal of solid waste. After the study of the municipalities, it was arrived that the optimal way for waste management is to use common landfills for a region up to fifty kilometers. Hence multiple municipalities were assigned to a common landfill location where the waste are transported. GUDCL is responsible for implementation of the process of set up of the landfills and allocation of them to the regions. The entire Gujarat state was divided into four broad regions and 29 clusters were formed among the local bodies and municipalities. This classification is used for managing and disposing the solid waste across the state. Apart from the common landfills set up by the GUDCL, major urban regions have their independent landfills. Seven municipalities have their individual landfills or in the process of developing one.

There are 18 Landfill areas that are being developed in the Gujarat state currently. A large of number of areas are selected and acres of land are allocated for the formation of landfill. There are 7 major municipal corporations in Gujarat. Municipal corporations are important from the view of solid waste management, as they are the largest producers of waste. Management of the waste in municipal corporations needs meticulous planning and implementation. The infrastructure and capacity to handle the waste has to be created by the government in a timely manner.

Ahmedabad Municipal Corporation tops the list of highest solid waste producers in Gujarat. It produces around 2550 MT/day solid waste. To manage the huge waste generated out of the city a 12.88 Hectare land was used as a landfill site. The site also has a compost facility. Surat Municipal Corporation produces 1129 MT/day of solid waste. The waste generated is second highest among the corporations in Gujarat. The waste generated in Surat is managed in a vast 60 Hectare land used as a landfill. Vadodara produces 510 MT/day of solid waste. The wastes produced are managed in a landfill of size 5.38 Hectare. Rajkot produces 400 MT/day of solid waste. It has 40 hectare of land for managing the waste. Bhavnagar produces 200 MT/day of solid waste and it is planning to develop a 10 Acres of landfill. Jamnagar Municipal Corporation produces a 170 MT/day of solid waste and 100 acres of land for landfills and solid waste management. Junagadh produces as much as 150 MT/day of solid waste and 19.76 acres of land for landfills and solid waste management. GUDCL has built 93 Vermi-compost plants in Gujarat States.

Solid Waste management by Gandhi Nagar Municipal Corporation⁸

The city with a population of around 2 lakh people is spread across an area of 56 Square kilometer. In the recent years there is an increase in economic activity especially in construction sector, education and information technology. For managing its solid wastes and other administration activities the city has been divided into six wards. The city is actively managing its solid waste as prescribed by the MSW (H&D) 2000 rule. The city produces around 60 MT of solid waste in a day and around 50% of waste is collected from the street bins and by sweeping. The remaining waste is collected directly from the residents and is disposed of. The entire operation of waste management is well planned and implemented. Major waste collection locations are identified and waste is then transported to the community waste bins or location. The final process is to transport the waste from these bins to the landfill location where it is processed and disposed. The municipal has initiated an awareness program for the residents. It is titled as IEC – Information Education and Communication.

Solid Waste management by Ahmedabad Municipal Corporation⁹

Ahmedabad is the 7th largest city in India and has a population of 6 million people. The city is expanding rapidly bringing unique challenges in urban area solid waste management. The city expanded to around 466 square kilometers in 2006 and the settlements are spreading further. The Ahmedabad Municipal Corporation (AMC) has taken several constructive planning and policy initiatives in solid waste management. It was the first metropolitan city in the developing world to sign the zero waste goal with the United Nations.

⁸ <http://gmc-egovern.org.in/solidWaste.html>

⁹ https://pearl.niua.org/sites/default/files/books/GP-IN3_SWM.pdf

The UN launched the International Partnership for Expanding Waste Management Services of Local Authorities (IPLA) in 2011. Under which it set forth the zero waste goal, which aims to minimize the resources and maximize the benefits the society gets out of waste generated. Signing of the zero waste goal was a significant step and the AMC prepared a road map for the implementation of the goal by 2031. There is also technical support given by the United Nations Centre for Regional Development (UNCRD) and Zero Waste South Australia for the initiative. The AMC in association with a non-profit organization Urban Management Center (UMC) prepared the master plan. The Master plan for zero waste by 2031 has seven major components. First, a detailed profile for AMC was taken for the study and planning. A comprehensive study on the population, households and growth of the city was conducted. Then the complete organization and governance of AMC was studied. Roles and responsibilities, process of decision-making, process of funding and its allocation, information flow between AMC and other respective departments and current monitoring was studied in detail. Second, the status quo of solid waste management in Ahmedabad was studied in detail. This included studying of processes followed, technology and machinery used, infrastructure available and mechanisms used in collection, transportation and disposal. Various field visits were also conducted for understanding the validity of the data and updating them. Third, there was a complete consultation with various stakeholders involved in the waste management was taken. This included consultation and interviews with experts in the city in waste management.

Fourth, projection of the future population and the amount of waste that will be generated was computed. Fifth, for the selection of the final plan, multiple plans with different scenarios was created. Each scenario has a different mechanism to collect the waste. Finally, the scenario with improving door-to-door collection of waste and minimizing secondary collection locations and bins was chosen. Finally, the study also proposed recommendation for improving and strengthening the solid waste management practices in Ahmedabad. The proposed strategy was broadly classified as short term or medium/long term. Some of the short-term recommendations are segregation of waste at the source, improving the door to door waste collection process, improving the public places sweeping and cleaning cycles and training the human resources to use modern equipment and technology. The medium/long term strategy included segregation of waste at source for waste generated in bulk like in markets, hotels etc. Another important long-term strategy was to include the waste management workers in the mainstream waste management system.

Once the plan was finalized, Bylaws were created to provide a legislative and legal framework for the solid waste management. It was named Health Bylaws for Solid Waste Management. The Bylaws has a jurisdiction over every individual and commercial entity in the region. It also provides for the violations and fines that are charged for the violations. It even defines obligatory responsibility of authorities in solid waste management. The Health Bylaws has regulation for the complete process of the waste management. This includes classification of waste into categories, classification waste sources or generators. There are clear regulation guidelines for segregating waste that is collected, method of the collection, transportation and disposal of the waste. There are also detailed regulations on processing the waste before disposal. Apart from the solid waste management process it also provides guidelines on prevention of water borne, vector borne and food borne diseases. The final part covered in the Bylaws is details of offenses, fines and enforcement of the laws.

Further to ensure the compliance and to improve enforcement, AMC started a first of its kind mobile court for health and sanitation in 2009. The mobile court is operational even today to work on health and sanitation cases. A magistrate, an administrative clerk and eight to ten sanitary inspectors appointed by the AMC are staffs of the mobile court. The mobile court visits a place and the inspectors under take the checks for compliance of the commercial establishments in the region. If there are any violations found, the respective commercial establishment is asked to pay the fine for it in the mobile court. Nearly 600-750 cases are filed and resolved per month by the mobile court. This has increased the efficiency of the compliance monitoring and enforcement system. Also it has reduced the burden on the municipal courts. As of 2012, 95,566 cases were filed and tried in the mobile court and fines worth 3.25 crores were charged and collected.

JUDICIAL CASES IN SOLID WASTE MANAGEMENT IN GUJARAT

In *Ilabenvs. State* on 29 December 2011, Public Interest Litigation, filed against the State for inefficiencies of the Municipal Corporation in Sanitation and Health particularly post monsoon season when many diseases spread across the state. The court ordered the government and the municipal agency responsible for the situation to take immediate action. *PravinbhaiJashbhai Patel vs. State of Gujarat and Others*, on 5 August, 1995, was a Public Interest Litigation filed against the state for action to be taken against the polluting industries near the vicinity of Kharicut Canal and protect the water resources for agricultural usage. The court ordered the government and the Gujarat pollution Board for immediate and large-scale action to prevent pollution in the region and implement the recommendation of the National Productivity Council.

Rajkot Municipal Corporation vs. District Collector & on 14 July, 2017, was a litigation seeking more landfill sites for managing solid waste of the Rajkot municipal area. The petitioner was seeking an allotment of 10 acres of additional land for use as landfill and other solid waste management process. The case highlights the common problem in identification and allotment of land to waste management. *Swashrayi Mahila Seva Sanghvs. Ahmedabad Municipal Corporation* on 1 December, 2014, was a petition to include the waste pickers into the mainstream municipal corporation waste management policy especially with respect to Right to work and life of women and the backward section of the society. *Reliance vs. State*, 2012 a petition was filed in response to the Green Cess Act of the Gujarat government. The Act was brought by the government to encourage renewable sources of energy. It was aimed to reduce the pollution and solid waste arising from use of fossil fuel in electricity generation and encourage entrepreneurs to take up renewable energy projects. The act was to incentivize renewable energy sources investments.

CONCLUSION:

Overall, it can be said that Indian judicial system is playing an important role in solid waste management. Main laws which is applicable in India for the municipal solid waste are Municipal Solid Waste Rules (2000) and various other waste management rules support the solid waste management practices such as; Hazardous waste rules, e-waste rules, battery rules and bio-medical waste rules. Indian judiciary is the most active and invented the innovative rules which can help in solid waste disposal and contribute to the environment protection. Supreme Court has issued directions, guidelines and the orders to the state government, central government and the pollution boards for using the attest techniques for the waste disposal and promoted the rights of sanitation, health and a dignified life.

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