

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Date of decision: 20.04.2015**

Kuldeep Singh and others

.....Petitioner

v.

State of Punjab and others

.....Respondent

**CORAM: HON'BLE MR.JUSTICE JASWANT SINGH**

Present:- Mr.H.C.Arora, Advocate for the petitioners.

**Jaswant Singh,J.**

Petitioners are residents of various colonies situated on Tarn Taran Road, Amritsar, District Amritsar. A “Municipal Solid Waste Management Facility” is proposed to be set up at Bhagtanwala, which is at a distance ranging 100 to 600 meters from the said colonies. The proposed dumping site allegedly touches plinths of Grain Market, Amritsar. It is alleged that due to presence of said dumping site, residents of the nearby localities are suffering from various chest diseases as also environmental pollution in the nearby areas.

It is averred that the Municipal Corporation is in the process of setting up “Integrated Municipal Solid Waste Management Facility” for catering to the needs of Municipal Council, Jandiala; Municipal Council, Patti; Municipal Council, Tarn Taran; Nagar Panchayat, Raja Sansi, Municipal Council, Majitha; Nagar

Panchayat,Rayya; and Nagar Panchayat,Khemkaran. It is further averred that with the aforesaid motive 65<sup>th</sup> meeting of State Level Environment Impact Assessment Authority was held on 4.7.2014 before whom application was submitted by the Municipal Corporation,Amritsar for giving environment clearance for setting up said Waste Management Facility at Bhagtanwala. As per proceedings of the said meeting held on 4.7.2014(P-4) public hearing of the project was conducted by the Punjab Pollution Control Board on 9.3.2012.

Setting up of said Waste Management Facility is opposed on the ground that (i) since then population of the area has increased manifold, (ii) residents of the area have right to pollution free environment/air; (iii) proposed site is not appropriate for long term planning; (iv) proper traffic analysis has not been done to ascertain the impact of traffic volume on the approach road to said Facility. By referring to judgment of Hon'ble the Supreme Court in M.C.Mehta v Union of India and others,rendered in a Civil Writ Petition decided on 30.12.1996, it is asserted that setting up of said Waste Management Facility would pose risk to Golden Temple,Amritsar as was the case of industries around Taj Mahal.

Since representation made by the petitioners and other residents of the localities, opposing setting up of said Facility, to various authorities fell on deaf ears, a legal notice dated 22.3.2015 (P-6) was served upon respondents. It is alleged that despite legal notice the respondents-authorities are going ahead with the project at the

proposed site. Hence present petition under Article 226 of the Constitution seeking issuance of a writ of certiorari for quashing the proceedings of 65<sup>th</sup> meeting of State Level Environment Impact Assessment Authority(P-4) held on 4.7.2014 in relation to item No.65.03 and the order dated 15.7.2014(P-5) issued by State Level Environment Impact Assessment Authority,Punjab according environmental clearance to Municipal Corporation,Amritsar for the development of the said Integrated Municipal Solid Waste Management Facility at Bhagtanwala, Amritsar, on the grounds stated hereinbefore.

Heard learned counsel for the petitioners.

It is not in dispute that for environmental issues, The Environment (Protection)Act,1986(for short the “1986 Act”) is an umbrella Act. The Environment Impact Assessment Notification,2006 was formulated in exercise of the powers conferred by the 1986 Act read with Environment (Protection) Rules,1986. Under this notification, prior environmental clearance (EC) is required for all notified projects or activities from the concerned regulatory authorities. For projects or activities notified under A-category clearance is required from Ministry of Environment and Forest and Climate Change; and for B-category clearance is required from State Environment Impact Assessment Authority (SEIAA). The Common Municipal Solid Waste Management Facility, like the one involved in the present case, falls under B-Category (at Sr.No.7(i) of List of Projects or Activities requiring prior approval) and its establishment

require environmental clearance from SEIAA. The Municipal Authorities were required to establish the solid waste disposal facilities by 31<sup>st</sup> December,2003 under The Municipal Solid Wastes (Management and Handling) Rules,2000. The SEIAA for State of Punjab has already delayed such establishment, however, after seeking clearance/NOC from the Punjab Pollution Control Board and opinion of all concerned including prior objections of the residents of the area have finally decided to set up the said facility at Bhagtanwala, Amritsar. Therefore, the grievances of the residents based on factual aspects at this stage before this Court are misplaced. Even otherwise, it is conceded at the time of hearing that an appeal against the decision of the SEIAA at P-4 and the consequent order P-5 would lie before the National Green Tribunal (NGT) as per Section 16(h) of the National Green Tribunal Act,2010. Thus, the present petition would not be maintainable in view of the Appellate Forum available to the petitioners.

In view of the above,present petition is dismissed and the petitioners are at liberty, if so advised, to seek their remedy in accordance with law.

20.4.2015  
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**(Jaswant Singh)**  
**Judge**