

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

**PUBLIC INTEREST LITIGATION (L) NO. 11413 OF 2023**

Renu Kapoor & Ors.

...Petitioners

V/S

1. The Union of India & Ors.

...Respondents

...

Mr. Rajiv Narula a/w. Mr. Gaurav Shrivastava, Ms. Mehek Chowdhary,  
Mr. Tarang Jagtiani i/by. Jhangiani, Narula & Associates, for the  
Petitioners.

Ms. Savita Ganoo a/w. Mr. D.P. Singh for Respondents no.1 to 4.

Ms. P.H. Kantharia, GP for Respondent no.5 and 12 to 14.

Mr. Rohit Sakhadeo, for Respondent no.6.

Mr. Omprakash Jha i/by. The Law Point for Respondent no.7.

Mr. C.M. Lokesh, for Respondent no.8.

Ms. Jaya Bagwe, for Respondent no.9.

Mr. Abdul Kader Lokhanwala i/by. Ms. Sukanya Bhaumik, for  
Respondent no. 10.

Ms. Oorja Dhond i/by. Mr. S.K. Sonawane, for Respondent no.11.

**CORAM: NITIN JAMDAR, ACJ &**

**SANDEEP V. MARNE, J.**

**DATE : 14 JUNE 2023.**

**P.C.:**

Heard learned Counsel for the parties.

2. The Petitioners reside next to 'Sasoon Dock', at Colaba (the Docks) which is in the ownership of Mumbai Port Trust Authority. Respondent no.7, Petitioners have make a grievance that the Solid Waste Management Rules, 2016 framed under the Environment (Protection) Act, 1986 are not being followed. They complained regarding unhygienic conditions that exist within the property of Respondent no.3-Port Trust and the area adjacent thereto which is within the jurisdiction of the Respondent no.11-Municipal Corporation of Greater Mumbai.

3. The learned Counsel for Respondent no.3-Port Trust states that the activities are carried out by various vendors who are members of Respondents no. 16 and 17-Association and they have been already directed to cooperate with the agency appointed by Respondent no.3-Port Trust i.e. Respondent no.15 to address the issue regarding the unhygienic conditions prevalent in the area.

4. The Solid Waste Management Rules, 2016 are framed under Sections 3, 6, 25 of the Environment Protection Act, 1986. They apply to every Urban Local body as defined under Rule 2 of the Rules. Rule 3(56) defines 'Waste Generator' as under :

“3(56) “waste generator” means and includes every person or group of persons, every residential premises and non-residential establishments including Indian Railways, defense establishments, which generate solid waste;”

The learned Counsel for the Respondent no.3-Port Trust accepts that being the Landlord, the Respondent no.3-Port Trust would be the Waste Generator. The duties of the Waste Generators are listed under Rule 4 which reads thus :

*“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 burry 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 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.”*

5. The grievance of the Petitioner is also that there are are Waste Generators as defined under Rule 3(56) outside the premises of the Respondent no.3-Port Trust (adjacent thereto). In that context, duties of local authorities will have to be noted. They are listed under Rule 15 as under :

***“15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations. - The local authorities and Panchayats shall, -***

***(a) prepare a solid waste management plan as per state policy***

*and strategy on solid waste management within six months from the date of notification of State policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;*

*(b) arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;*

*(c) establish a system to recognise organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;*

*(d) facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;*

*(e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;*

*(f) prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;*

*(g) direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, fruit peel, wrappers, etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body;*

*(h) set-up material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste*

*such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities; Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed [blue] and those for storage of other wastes shall be printed black;*

- (i) establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres;*
- (j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;*
- (k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;*
- (l) provide training on solid waste management to waste-pickers and waste collectors;*
- (m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;*
- (n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;*
- (o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;*
- (p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;*
- (q) transport segregated bio-degradable waste to the processing*

*facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on -site processing of such waste;*

*(r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;*

*(s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste Management Rules, 2016;*

*(t) involve communities in waste management and promotion of home composting, bio-gas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;*

*(u) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.*

*(v) facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by [the Ministry of Housing and Urban Affairs] from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental impacts such as-*

*a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;*

*b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;*

*(w) undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual*

*wastes in a manner prescribed under these rules;*

*(x) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;*

*(y) make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;*

*(z) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;*

*(za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;*

*(zb) the annual report shall then be sent to the Secretary-in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;*

*(zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;*

*(zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;*

*(ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and*

*(zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy*

*spot fines as per the bye laws framed; and*

*(zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -*

*(i) not to litter;*

*(ii) minimise generation of waste;*

*(iii) reuse the waste to the extent possible;*

*(iv) practice segregation of waste into bio-degradable, non-bio-degradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;*

*(v) practice home composting, vermi-composting, bio-gas generation or community level composting;*

*(vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non- biodegradable waste;*

*(vii) storage of segregated waste at source in different bins;*

*(viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and*

*(ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for sustainability of solid waste management.*

*(zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;*

*(zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;*

*(zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites;*

*(zk) in absence of the potential of bio-mining and bio-*

*remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.*

*[(zl) collect and transport bio-degradable, non-bio-degradable and domestic hazardous waste from households including slums and informal settlements, commercial, institutional and other non-residential premises, multi-storey buildings, large commercial complexes, malls, housing complexes and the like in compartmentalised and covered vehicle to the respective processing facility].”*

6. As it can be seen that there are comprehensive data. Under Rule 16, the State Pollution Control Board have duty to enforce the Rules through the local bodies in their respective jurisdiction. There are separate duties under the Central Pollution Control Board under Rule 14 and of the local authorities under Rule 15.

7. The conjoint reading of these Rules would indicate that coordination between the Central Pollution Control Board, the Respondent-Municipal Corporation and the Port Trust i.e. Waste Generator (for the area within its ownership) would be necessary, if the issue at hand is to be redressed.

8. We adjourn the hearing of the petition to 2 August 2023 for the Pollution Control Board and all other Respondents to file their reply. We direct that a joint meeting be held between the Officers of the Port Trust, Pollution Control Board and the Municipal Corporation to coordinate before they file their Reply-Affidavit so that needless conflicts due to miscommunication can be avoided. The initiative for fixing the date and time of this meeting shall be taken by the Officers of the Port

Authority.

9. Issue notice to the unrepresented Respondents returnable on 2 August 2023.

9. Stand over to 2 August 2023.

**SANDEEP V. MARNE, J.**

**ACTING CHIEF JUSTICE**