

## Ratlam to Reality – The Judicial intervention on waste management.

ADV. P.B.SAHASRANAMAN

The judicial intervention through public interest litigation has brought the people of Cochin a waste treatment plant, after a three decades of independence.

What is the role of Municipality in managing waste? The legal answer to the question was given by the Supreme Court of India in 1980, that the responsible legal local body constituted for the purpose of preserving public health cannot run away from its duty by pleading financial liability, Justice V.R.Krishna Iyer has given the position of law through his verdict in the famous *Ratlam Municipality Case [ AIR 1980 SC 1622.]*

The legal position was again clarified by the Constitution (Seventy-third Amendment) in 1992 by which Panchayats and Municipalities were given more independence. Despite the granting of more powers there was no proper waste management system in many States.

Cochin is the main city of Kerala State having an extent of 94.88 sq km with a population of 7,62,000 people. As per the existing law the duty to manage the solid and liquid waste vests in the Cochin Corporation, the local authority. Sec.331 of the Kerala Municipality Act, 1994 contemplated the notification of a dumping site, which has not been done in the Cochin Corporation.

The improper management of waste in the Cochin has drawn the attention of the Kerala High Court in 1997. The Court finding that the Cochin Corporation has failed in discharging its duty and took the task of waste management by framing a project "*Mosquito Control Programme*". The Court finding that time has come that the Court to abnegate its role as an umpire and to enter the play ground assuming the role of a salutary player to protect human rights, called upon the public to make the programme successful. (*Niyamakendran vs Secretary, Cochin Corporation. AIR 1997 Ker 152*). Due to some technical legal hurdles the said programme could not be continued and project could not go further.

In 1997 the Cochin Corporation has acquired and taken possession of 37.33 acres of land at the place called "*Brahmapuram*" for the purpose of establishment of waste treatment plant.

In 2002 the National Environmental Engineering Research Institute (NEERI) has conducted a Carrying Capacity Based Developmental Planning Study and recommended that suitable additional waste disposal sites within the economic haul distance should be acquired and all other infrastructure facilities for collection , transportation and disposal of solid wastes should be upgraded.

The issue has again come up for consideration when the deadly diseases like *Chikungunya* started spreading the High Court of Kerala had the occasion to take up the issue in 2006. The court has appointed a commission to inspect the dumping sites and make recommendations.

The commission has found that the waste is dumped in the water body at *Thevara* ( a site of Navy) and the same is only a temporary issue. The commission has recommended for the construction of waste treatment plant at *Brahmapuram* and to use the site for the storage of waste till such time. The report of the Advocate Commissioner was accepted in full and the Court directed construction of treatment plant in *Brahmapuram* as recommended.

The local people at *Brahmapuram* started agitation against the temporary dumping of the waste, which has forced the Cochin Corporation to select alternate site. But the said alternate dumping site was kept secret. The Corporation has selected a site behind the Kerala High Court buildings in June, 2007. As it is rainy season and the improper treatment of foul smell generated has disturbed the proceedings of the High Court. Report has been filed by the Advocate Commissioner and the Chief Justice has taken a serious view of the matter.

The Corporation has stopped dumping and started running for selecting alternate dumping site. Whenever they select any site the people started agitation. Even the Commissioner was sent to

inspect certain alternate sites, which was found not suitable. Court was forced to observe that it has to take action against the Mayor for contempt and the inaction in waste management has lead to interference with the justice administrative system.

Finally the State Government took over the task and started the construction work and found a site, owned by Fact, suitable for dumping till such time. Again some trade unions of the ruling front started agitation and the political influence was used. Justice V.R.Krishnan Iyer who is a resident of Cochin took his telephone sought the assistance of Sri. Ram Vilas Paswan, Union Minister for Industries. The Minister immediately responded positively and allowed the said factory site to be used for temporary dumping. Had this note been done the entire residents of the Cochin Corporation would have been caught with some dangerous epidemic on account of the accumulation of waste. The life of the people in the city has been saved by the said intervention.

When the people of the local area started objection, the District Collector, has no other remedy than to invoke the extraordinary powers conferred upon him under Sec.144 of the Criminal Procedure Code to disburse the mob and forcefully dump the waste. By using force, the temporary waste dumping commenced.

Now the plant construction is almost over and is expected to be made functional immediately. The site which was purchased in the year 1997 was at last utilized after 11 years, but for the judicial interference by the Kerala High Court.

But for the judicial intervention by the Hon'ble High court, the plant would not have been constructed by the Cochin Corporation. Thanks to Justice V.R.Krishna Iyer who has traveled from the role of a Judge (Ratlam Case in 1982) to the role of a common man for the establishment of Waste treatment plant in Cochin in 2008.

*"Sulabhaah purushaa rajan satatam priya vaadinah  
Apriyasya cha pathhyasya vakta shrota cha durlabah"*

**(Persons pleasing in speech are easy to find; it is difficult to find one who speaks or listens to the bitter, but wholesome, truth).**

Date: 16-5-2008

The Editor  
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Bharathiya Vidya Bhavan  
Kulapati K.M.Munshi Marg  
Chowpatty,  
Mumbai-400 007.

Dear Editor,

I am sending herewith an article for publishing in the Bhavan's Journal. If you feel that it is a good article you may publish . Otherwise return it.

Regards

Yours Faithfully

P.B.SAHASRANAMAN

Encl: Article (2 pages)