

**Directions on garbage disposal**

In *Abhishek Rai vs State*, CWPIIL No.28/2011 , decided on 7.12.2012, the Hon'ble Himachal Pradesh High Court has directed that the time has come when harsh measures have to be taken against those members of the public who violate Municipal Laws with impunity and are guilty of dirtying their own towns and villages in which they live. It was directed that in case of a repeat offender, *he can be punished by directing him to personally render community service by personally cleaning the public area in and around his premises in question under the provision of a senior officer of the Municipal Council for a period of at least one week.*

**It was directed thus:**

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*Coram:*

**Hon'ble Mr Justice Deepak Gupta, Judge.**

**Hon'ble Mr Justice Sanjay Karol , Judge.**

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“2. A perusal of the photographs attached by Mr. Bimal Gupta, learned Amicus Curiae, with his response, shows that still there are many places in Bhuntar near the Airport which clearly depict that some persons, including the Municipal Authorities, are not taking care of public properties and that human faeces is coming out of the pipes in the open from toilets maintained by the Municipal Council. We have time and again impressed upon the Municipal Councils concerned to ensure that all areas are kept clean.

3. At the same time, we cannot be oblivious to the fact that when the public is not cooperating there can be no cleanliness in the area. This has to be a joint venture between the authorities and the general public at large. There cannot be any cleanliness in the streets if the garbage of the houses is thrown in the open by the persons living in those houses. While on the one hand, it is the duty of the Municipal authorities to make adequate arrangements for proper disposal of garbage, at the same time we cannot shut our eyes to the fact that a large number of people belonging to the so-called “educated” & “urbanised” background do not hesitate to dirty public

areas and at the same time they will shout from their rooftops that the Municipal authorities are not doing their job.

4. The time has come when harsh measures have to be taken against those members of the public who violate Municipal Laws with impunity and are guilty of dirtying their own towns and villages in which they live. Most of the Municipal Laws, which have been framed provide for either no penalty or an apology in the name of penalty. In this day and age, imposition of penalty ranging from Rs25/- to Rs200/- is not at all sufficient. We shall make a start with the areas of Kullu, Manali and Bhuntar, which are the main tourist attractions in the State of Himachal Pradesh. Why should the visitors who come to Himachal Pradesh, on exiting the Airport be greeted with garbage and illegal construction, which block the view of the vistas which they have come to see. We are also of the view that penal provisions should include forcing the offender to do community service. We, therefore, are of the view that the penalty needs to be enhanced and the Government should take a decision on this issue latest by 31st March, 2013.

5. Till the Government takes a decision, we authorise the Municipal Councils of Kullu and Manali, and the Nagar Panchayat of Bhuntar to levy the following penalties:

1. On commission of the first offence, the penalty may be levied as per the provisions of the Municipal Council Act, ranging from Rs25/- to Rs200/-.

2. In case of a repeat offender, he can be punished by directing him to personally render community service by personally cleaning the public area in and around his premises in question under the provision of a senior officer of the Municipal Council for a period of at least one week. Video of this shall be taken to be produced in Court.

3. If a person continues to pollute and dirty the area outside his house or shop or other premises and does not improve despite two opportunities given to him, as aforesaid, then the Municipal Council can stop them provision of municipal facilities, like water etc. In case of offences relating to commercial establishments, i.e. shops etc., their licences shall be cancelled.

4. The State Government may consider the framing of penal provisions on the same lines.

6. Some of our citizens do not hesitate to dirty the streets and the areas around their houses in India, but when they go abroad they comply with all

the Civic Laws of that country. Some countries, like Singapore levy extreme penalties for such violations. Now, the time has come when the penalty for dirtying should not be less than Rs2500/- and the Government should seriously consider imposing the minimum penalty of Rs2500/- for violation of such Municipal laws.

7. We further direct the Municipal Councils and Nagar Panchayat to first inform the residents of the area, by advertisement in the local TV channels and local newspapers, radio, leaflets, etc. by 31.12.2012. It is also directed that w.e.f. 1.1.2013 the Municipal authorities will strictly implement the orders of this Court and impose the fine/penalty as laid down by us above. Thereafter, we expect that the situation will improve. We also request the heads of the Municipal Councils of Kullu and Manali and the Nagar Panchayat of Bhuntar to personally look into the matter and ensure that by 31st March, 2013, the situation improves much more. We are grateful to Mr. Bimal Gupta, learned Amicus Curiae for the assistance rendered by him. We direct the Municipal Councils of Kullu and Manali to pay a sum of Rs25,000/- each to Mr. Bimal Gupta, learned Amicus Curiae for the services rendered by him.

8. We make it clear that the aforesaid directions shall be complied with not only by the householders and shopkeepers but also by the educational institutions and temples, etc.

9. So far as Sri Vaishno Devi temple is concerned, we specifically order that it shall be the responsibility of the Deputy Commissioner, Kullu to monitor the area of the temple and in case he finds that the priests, managers, officers or servants of the temple are guilty of dirtying the area around the temple, he shall levy four times the penalty, which we have indicated herein above.

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