

CHAPTER 20

PROSPECTS OF PRIVATE SECTOR PARTICIPATION

20.1. INTRODUCTION

Solid waste management (SWM) is one of the obligatory functions of the urban local bodies in the country. The local bodies are, therefore, required to provide adequate services for the collection, transportation and disposal of waste.

SWM service is highly labour intensive and on account of increased wage structure of the Government and municipal employees, this service is becoming more and more expensive. Besides, the efficiency of the labour force employed in the urban local bodies is far from satisfactory. High wage structure and inefficiency of the work force results into steep rise in the cost of service and yet the people at large are not satisfied with the level of service being provided by the urban local bodies. It is, therefore, necessary that the local bodies may seriously consider private sector participation in solid waste management.

20.2. PRESENT SCENARIO

Private sector participation is relatively a new concept in India for handling solid waste. Private sector has so far not been attracted in this important area of municipal service. However, private sector participation is being attempted by a few local bodies in the country for the past few years, which has remained restricted in the area of awarding contract for transportation of waste from waste storage depots/dust bins. In some cities, contracts are also given to clean streets, provide bullock carts with labour for primary collection of waste, provide only vehicles with or without drivers for transportation of waste, set up treatment facilities for the final disposal of waste with or without financial participation of the urban local body.

20.3. MEASURES TO BE TAKEN BY LOCAL BODIES

Private sector participation or public private partnerships may be encouraged/attempted by the urban local bodies keeping in mind the provisions of Contract Labour (Regulation and Abolition) Act 1970 of Government of India where contracting out of the services already being provided by the urban local

bodies can be prohibited/restricted by the State Government and some states have accordingly prohibited contracting out of such services (**See Box**). Therefore, while considering any measure of privatization one should keep in mind the provisions of above law and the restrictions imposed by the respective state governments in this matter. Urban local bodies may move the respective state governments to get exemption from engaging contractors for providing SWM services or even privatizing those services. Private sector participation should generally be considered in those areas where Municipal Corporations or municipalities are not providing the service. This will check the growth in the establishment cost, bring economy in expenditure and introduce the element of healthy competition between the private sector and the public sector in solid waste management services. There should be right mix of private sector and public sector participation to ensure that there is no exploitation of labour as well as of the management.

RELEVANCE OF CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970

- (a) Under Section 10(1) of the said Act, the competent authority to abolish/prohibit a particular activity or to exempt Urban Local Body from the purview of the said Act is the concerned State Government.
- (b) Unless and until a particular activity under the said Act is abolished/prohibited by the “Appropriate Government”, the contract labour can be employed.
- (c) If a particular activity is of perennial nature, “Appropriate Government” can abolish such activity under Section 10(1) of the Act, in consultation with the Advisory Board and direct the local body to carry out such a function with its own labour/work-force and not through contract labour.
- (d) If a State Government which is an “Appropriate Government” for a local body has not prohibited activities such as street sweeping, garbage collection, etc., contract labour can be employed by a local body to carry out the same until the State Government abolish such activity. Further, as per the direction of Supreme Court in Air India case, once an activity is abolished, the existing contract workers doing such jobs will automatically become regular employees of the establishment.
- (e) If a private agency takes up the job of collection of household waste and transport the same either to the municipal dust bin or up to the designated dumping sites as per an agreement reached with individual household or by the residential associations, the said activities cannot be taken as done at the instance of the Urban Body and such Urban Local Body can not be taken as the principal employer.
- (f) The existing contract labour Act is being considered for review by the Government and it will take some time to finalise the same.

Source: Ministry of Labour, Govt. of India.

20.4. AREA WHERE PRIVATISATION CAN BE ATTEMPTED

Private sector participation may be considered in newly developed areas, under served areas and particularly in the areas where local bodies have not been providing service through their own labour force. Some of the examples of the areas where private sector participation can be considered are as under:

Door to door collection of domestic waste, door to door collection of commercial waste, door to door collection of hospital waste, hotel waste, construction waste, market waste, setting up and operation and maintenance of

waste disposal facility, setting up and operation and maintenance of waste treatment plants, supplying vehicles on rent, supplying vehicles on lease, repairs and maintenance of vehicles at a private garage, transportation of waste on contractual basis, etc.

The contracts should carry a provision of penalty for failure to perform the contractual obligation.

The local body while giving a contract to a private sector, voluntary organization/Non-Governmental Organisation (NGO) should make an enabling provision in the contract to inspect the performance of the private contractor from time to time and as a matter of rule should inspect the performance of the private contractors to maintain the quality of services, prevent corrupt practices and take remedial measures,. The formats should be prescribed for such inspections and results of inspections should be reported to the higher authorities at regular intervals.

20.5. METHOD OF PRIVATE SECTOR INVOLVEMENT IN DOORSTEP COLLECTION OF VARIETY OF WASTES

Tenders could be invited by the local body for private sector participation in doorstep collection of waste. The private entrepreneur getting contract may select his own team of workers, give them containerised tricycles or handcarts or other vehicles, tools and equipments necessary for door step collection of waste. He may allot 200 to 300 houses, or adequate no. of shops, hotels, restaurants, etc., depending on the distances to be traveled and garbage/waste to be collected and arrange for day to day collection of waste from such premises. He may collect the charges as per the rates fixed by the local body per unit per month for door step collection of waste. He should have his own supervisors to ensure that door to door collection service is given efficiently and local body may just over see by occasional inspection to see that services are adequately being provided in the given areas through private sector and no over charging is done. The persons engaged by the private sector for door step collection should be allowed to take away recyclable material and also be allowed to dispose of other waste into the municipal system/municipal bins in the city in the manner as may be prescribed by the local body.

The local body may also encourage NGOs to enter into this field and organise the waste collectors in doorstep collection of waste and provide them an opportunity to earn their living. The local body can give incentive in cash or kind to NGOs in their effort of organising waste collectors in primary collection of recyclable and/or organic waste.

20.6 INCENTIVES TO PRIVATE SECTOR

Solid waste management is one such an area where private sector has still not found much interest. Private sector has, therefore, to be given some incentives by way of long term contracts, assured supply of garbage at site, lease of land at nominal lease rent, etc., for entering this field.

- Contracts may be given for doorstep collection of waste from households, shops and establishments, hotels, hospitals, for a period not less than 3 years so that the contractor may be in a position to invest money for buying equipment. The contractors will have no interest in short-term contract, as investment made may become redundant if the contract is not subsequently renewed.
- Private sector may be offered waste land at a nominal rent for not less than 15 years for setting up treatment plants such as compost plant, bio-methanation plant, energy generation plant, etc. The terms for getting royalties from the private sector can be worked out by local bodies through mutual negotiations.
- If vehicles etc. are to be taken on rent or workshop facilities are to be taken from private sector, the term of contract can be for 3 to 5 years so as to enable the private sector to invest money in the procurement of vehicles and machinery.
- However, private sector participation may be encouraged in such a way that it does not affect the interest of the existing labour, it does not violate the provisions of the above law, does not exploit the private labour and yet reduce the burden of the urban local body of new establishment. This will substantially help in improving the quality of service of the urban local bodies, effect economy in expenditure and would also give a scope to private sector entering in waste management market.
- An arrangement of BOO (Build, Own and Operate), BOOT (Build, Own, Operate and Transfer) or any other arrangement which may be transparent and beneficial to local body may be made keeping in view above observations.
- There may be situations where urban local bodies may not have adequate lands for waste treatment and/or disposal or local bodies find it difficult to manage the same departmentally. In such situations they may consider private sector providing waste treatment and disposal facilities on its own land or on municipal land and local body may pay tipping fees for the treatment and disposal of their garbage by private entrepreneur. However, cost benefit analysis should be carefully carried out by the local body while agreeing to such an agreement.

20.7. SOME EXAMPLES

Bangalore, Jaipur, Rajkot, etc., cities award contracts for transportation of waste from the temporary waste storage depots through contractor's labour and vehicles. Tenders are invited and the lowest bidders are given the annual contracts for transportation of waste. Payments are made on per metric tonne basis, restricting the total tonnage per truck and having a penalty provision for failure to perform or delay in clearance of bins.

- In the city of Surat contracts for night cleaning of important roads are given to keep the major roads clean. Rate per square metre is fixed for making the roads dust free with the help of brushes. The measurements of roads are taken keeping in view the portion of the road width to be cleaned and not the entire road width. Giving contract of cleaning 0.75 metre road width on each side of the road is considered adequate for street cleaning to keep the roads clean and dust free.
- Hyderabad city has introduced a contractual system of street cleaning as well as transportation of waste where the city is divided into operational groups and contract is given keeping in view the quantities of waste generating in that area under normal circumstances. The contractors are paid fixed monthly amount for the area allotted to them.
- City of Mumbai, Bhopal, Bangalore, Thane, Ahmedabad, etc., have entered into a contractual arrangement with private sector for setting up compost plants themselves or through a franchisee where either the private sector or its franchisee invest money and the local body provides assured quantity of garbage at the processing plant without levying any charges. The private sector pays some royalty to local body and undertakes all the responsibility of managing the waste and its conversion into a compost at its own cost. The land is given to the private sector on a nominal lease rent for a long term of 15 - 30 years.
- The State Government of Tamil Nadu has exempted the Chennai Municipal Corporation from the purview of contract labour (Regulation & Abolition) Act 1970 vide its order No. 40 MS No. 99 dated 8th July 1999 allowing the said municipal corporation to engage contract labour for sweeping and scavenging activities, a copy of government order is appended as Annexure 20.1. The private sector participation has been operationalised in one zone of the city since 5th March, 2000.