

CHAPTER 24

LEGAL ASPECTS

24.1. INTRODUCTION

Solid waste management systems adopted in Indian cities are highly inefficient, outdated and lacking public participation. Overall public apathy is observed in the matter of handling and disposal of municipal waste. A system of throwing garbage on the streets by citizens and local bodies collecting the waste from the streets and disposing it of in the most unhygienic manner is in vogue. These systems can be corrected by taking concerted measures involving the public at large through their active participation in the process, and by the local bodies performing their duties effectively.

Solid waste management practices can never reach the desired level of efficiency until the public participates and discharges its obligation religiously. The system therefore, can only be improved by modernizing the solid waste management system by the urban local bodies and ensuring public participation through very serious motivational efforts and by providing adequate legislative support for taking punitive measures.

24.2. PRESENT SCENARIO

Local bodies in the country are governed by various laws enacted by their respective State Legislatures. Many state laws governing urban local bodies do not have adequate provision for ensuring appropriate solid waste management systems with the result outdated systems continue affecting the quality of life of the people. For improving solid waste management practices in urban areas it is necessary to incorporate suitable provisions in the state laws to ensure public participation and providing for minimum level of solid waste management service.

Local laws also need to provide for punishment on the spot to those who do not adhere to the directions given for maintaining appropriate solid waste management systems in the urban areas, giving adequate power to the local authorities to punish the offenders.

The following legal provisions may be incorporated in the respective state laws wherever they do not exist with suitable modification wherever necessary.

24.3. PROPOSED LEGAL PROVISIONS

24.3.1 Prohibition Against Littering the Streets, Deposition of Solid Waste on the Streets, Open Defecation, etc.

No person shall litter public streets or public places or deposit or cause or permit to be deposited or thrown upon or along any public street, public place, land belonging to the local body, State or Central Government or any unoccupied land or on the bank of a water-body any solid waste except in the receptacles specified in 2, 6 and 8 above or resort to open defecation.

24.3.2 Duty of Occupiers of Premises to Store Solid Waste at Source of Generation

It shall be incumbent on the occupiers of all premises to keep two receptacles, one for the storage of food/organic/bio-degradable waste and another for recyclable and other types of solid wastes generated at the said premises. The domestic hazardous waste, as may be notified by the local body, shall also be kept separately in a suitable container as and when such waste is generated.

24.3.3 Duty of Occupier not to Mix Recyclable /Non-Bio-degradable Waste and Domestic Hazardous Waste with Food Waste etc.

It shall be incumbent on the occupier of any premises to ensure that the recyclable waste as well as domestic hazardous waste generated at the said premises does not get mixed up with the food/bio-degradable waste and stored separately.

24.3.4 Duty of Societies/ Associations/ Management of Commercial Complexes to Clean their Premises and to Provide Community Bins

It shall be incumbent on the management of Co-operative Societies, Associations of residents, multistoried buildings, commercial Complexes, Institutional buildings, markets and the like to arrange for daily cleaning of their internal streets, common spaces, etc., and provide community bin/bins of appropriate size as may be prescribed by urban local body, for the temporary storage of food/biodegradable waste duly kept segregated by the members of the society/association for facilitating primary collection of food/biodegradable waste from one point by the municipal authorities. A separate community bin may similarly be provided for the storage of recyclable waste where door to door collection of recyclable waste is not practiced.

24.3.5 Community Bins to be Kept in Good Condition

Community bins as stated in 24.3.4 above shall at all times be kept in good condition, regularly maintained and shall be provided in such number and at such places as may be considered adequate and appropriate to contain the waste produced by the citizens supposed to be served by the community bins.

24.3.6 Duty of Occupiers to Deposit Solid Waste in Community Bins

It shall be incumbent on occupiers of all premises for whom community bins have been provided as per 24.3.4 above that all segregated domestic waste, trade waste, institutional waste from their respective premises to be deposited in the appropriate community bins.

24.3.7 Duty of Local Body to Provide and Maintain "Waste Storage Depots"

It shall be incumbent on all Municipal Corporations and Municipalities in the State to: -

- (i) Provide and hygienically maintain adequate Waste Storage Depots in the city and place large mobile receptacles at such places for the temporary storage of waste collected from households, shops and establishments as well as from streets and public spaces until the waste is transported to processing and disposal sites.
- (ii) Make adequate provision for closed containers in various parts of the city for the deposition by citizens of domestic hazardous/toxic waste material adhering to the provisions of hazardous waste rules of Government of India.

24.3.8 Duty of Occupier of Households/Shops/Establishment to Hand Over the Recyclable Material/Non-Bio-degradable Waste to the Waste Collectors/ Waste Purchasers/Recyclers

It shall be incumbent on households / shops / establishments to hand over their segregated recyclable waste / non-bio-degradable waste to the collectors, waste purchaser or recyclers as may be convenient or as may be notified by the local body from time to time. Such waste shall not be disposed off on the streets or in municipal bins or open spaces along with the organic/food/bio-degradable waste.

24.3.9 Duty of Occupier of Households, Shops and Establishments to Deposit Domestic Hazardous/Toxic Waste in Special Bins Provided by the Local Body

It shall be incumbent on households, shops and establishments to deposit domestic hazardous waste/toxic material in containers provided by the urban local body as per 24.3.7 (ii) above.

24.3.10 Duty of Local Bodies to Collect Waste from Community Bins and to Deposit it at Waste Storage Depots for Onward Transport

It shall be incumbent for local bodies to remove all solid waste deposited in community bins on a daily basis and transfer it to the Waste Storage depots/containers identified in the city and arrange for its expeditious transport to processing or disposal sites.

24.3.11 Duty of Local Bodies to Clean All Public Streets, Open Public Spaces and Slum Areas

It shall be incumbent on local bodies to arrange for cleaning of all public streets having habitation on both or either side, and all slums on all days of the year including Sundays and public holidays.

24.3.12 Duty of Local Body to Transport the Waste Stored at the Waste Storage Depots Regularly

It shall be incumbent for the local bodies to arrange for the transportation of waste stored at waste storage depots before the waste storage containers start overflowing and daily from places where closed containers are not placed.

24.3.13 Duty of Local Body to Arrange for Processing of Food/Biodegradable Waste through Appropriate Technology and Disposal of Rejects

It shall be incumbent for the local bodies to arrange for the processing of food/organic/bio-degradable wastes produced in the city and dispose of the rejects and non-biodegradable waste in an environmentally acceptable manner.

24.3.14 Prohibition Against Deposition of Building Rubbish

No person shall deposit or cause or permit to be deposited any building rubbish in or along any street, public place or open land except at a place designated for the purpose or in conformity with conditions laid down by the municipal corporation / municipality.

24.3.15 Prohibition on Disposal of Carcasses, etc.

No person shall deposit or otherwise dispose of the carcass or parts of any dead animal at a place not provided or appointed for this purpose.

24.3.16 Punishment for Littering on Streets and Depositing or throwing any Solid Waste in Contravention of the Provisions of this Act

Whosoever litters the street /or public places or deposits or throws or causes or permits to be deposited or thrown any solid waste or construction debris at any place in contravention of the provisions of this Act permits the flow of any filthy matters from his premises shall be punished on the spot with a fine not less than Rs.50/- as may be prescribed under the rules framed by the State Govt. from time to time. Such spot fines may be collected by officers authorized by the Municipal Corporation/Municipality, not below the rank of sanitary inspector. The amount of fine imposed shall be recoverable as arrears of property taxes. The amount of fine shall be kept higher for repeat offences.

The powers to levy such penalty should also be delegated to railway authorities, cantonment authorities, notified areas, which are outside the purview of municipal corporations or municipalities in various cities so that the areas under their control can also remain neat and clean.

Other points for Consideration:

(i) Provision of Uniforms and Protective Equipment:

Local body to provide uniforms and other personnel protective equipment to the sanitation workers subject to their wearing/using them. It should not become a routine to provide uniforms and protective equipment with no insistence to use them. Local bodies should seriously consider providing such facilities and ensure that they are properly used to protect the health of the sanitation workers.

(ii) Punishment for Open Defecation and Urination on the Streets:

In the cities where adequate public toilets and urinals are provided or in the areas where such usable facilities are created by the local bodies, provisions of punishments for open defecation and urination on the streets may be considered in such areas.

24.4. SOME EXAMPLES OF ENFORCEMENT WHICH HAVE GIVEN SALUTARY EFFECT

Surat Municipal Corporation, which had a serious problem of public apathy towards handling and management of waste, introduced a system of levy of

administrative charges from those who litter the streets or dispose of the waste on the streets after the street cleaning was over. The administrative charges ranging from Rs.100 to Rs.50000 and were recovered on the spot from the defaulter. This was not levied as a penalty but as a charge for cleaning the street again. This brought about a sea change in the behavior of the people. Within first three months of the drive, more than a crore rupees were recovered by way of administrative charges and city got disciplined through these enforcement measures. People formed a habit of keeping their own bins and deposit the waste into the municipal system only. Once the dirtiest city of India got converted into one of the cleanest cities of the country with active public participation. The cities of Ahmedabad, Mumbai and few others have followed suit and recovered a few million rupees by way of administrative charges and have improved the public behavior substantially. An extract of the resolution passed by the Ahmedabad Municipal Corporation for levying administrative charges vide their resolution No.899 dated 3rd October, 1997 is reproduced in the Box in the next page. Efforts of motivation coupled with sanctions only can bring about the desired results. The amendment of local laws as proposed above is, therefore, necessary.

An example of Resolution Passed by Ahmedabad Municipal Corporation for Levying Administrative Charges

Extract of Standing Committee Resolution No.899 dated 03/10/1997.

For the maintenance of health and sanitation in the city, Municipal Corporation has made an arrangement for the collection of waste from the city on day to day basis with the help of sweepers. Now, with a view to ensure that the households, shops and industrial establishments do not throw solid waste anywhere in the city and the city's health is not adversely affected, it is hereby resolved that the administrative charges should be recovered from the defaulters as under: -

| | Description of the Establishment | Minimum administrative charge to be levied. | Maximum administrative charge to be levied |
|----|---|--|---|
| 1. | Households | Rs.50/- | Rs.250/- |
| 2. | Commercial Establishments | Rs.150/- | Rs.1250/- |
| 3. | Small scale Industries | Rs.500/- | Rs.2500/- |
| 4. | Other Industries | Rs.1000/- | Rs.5000/- |