



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Purchase of Solid Waste Management Plant at Vilappilsala by Thiruvananthapuram Corporation - sanction accorded - Orders issued

LOCAL SELF GOVERNMENT (DC) DEPARTMENT

G.O.(Ms).No. 16 /2008/LSGD.

Dated, Thiruvananthapuram, 15-01-2008

Read: 1) Correspondence resting with G.O.(Rt)No.2287/07/LSGD dated, 20.8.2007.
2) Report of the Committee headed by Director of Urban Affairs submitted to Government on 11-9-2007.

ORDER

Solid Waste Management in the Capital City has been a headache to the civic administration and to State Government for quite a long time. After a long search land was located at Vilappilsala, in Vilappil Panchayat in the suburb of Thiruvananthapuram. Right from the beginning, the local people resisted the location of the plant. After several rounds of discussions and negotiations government assured a Modern State Art Technology Plant and allayed the apprehension of the local people. Thiruvananthapuram Corporation decided to adopt a PPP mode for setting up Solid Waste Management Plant at Vilappilsala. Accordingly various committees were formed to study and advise on the technical and financial issues involved in the process. After considering the reports and recommendations offers were invited by Thiruvananthapuram Corporation and after due processing, M/s.POABS group, Thiruvalla was selected for the project
The key features of agreement with the company are:

- (1) M/S POABS ENVIRO TECH (P) Ltd., would set up the solid waste treatment plant on a build-own-operate-maintain basis by meeting the capital and recurring expenditure for an initial period of 30 years.
- (2) Four hectares of land under the ownership of Thiruvananthapuram Corporation would be given on lease to M/s.POABS and POABS was entitled to mortgage it for obtaining financial assistance from Banks or public financial institutions.
- (3) A token lease rent was fixed, at Re.one per sq.mtr per year.
- (4) Thiruvananthapuram Corporation would deliver a guaranteed 300 metric tones of municipal solid waste per day plus or minus 5% for the entire period of agreement failing which it shall pay a penalty of Rs.49,000 per day if the guaranteed quantity is not provided for more than 10 days at a stretch.
- (5) POABS was given the right to dispose of the waste including its converted product of bio-organic soil enricher. 2% royalty of the sales was to be given to the Corporation by M/s.POABS.

(6) 24 months time was given for setting up the first phase of the plant (but the first phase was commissioned on 26-7-2000). It was stipulated that if POABS decided to stop the activity at the site permanently it should give advance notice of six months upon which the Corporation had the right to approach EXCEL Industries, and, if EXCEL Industries also decided to stop the activity then POABS shall handover vacant possession of the land to the Corporation after removing the plant but without claiming any compensation.

2. The agreement was followed by a lease deed executed between Thiruvananthapuram Corporation and M/S POABS on 6.4.2000.

3. Due to several Technical and Managerial short comings many basic assumptions went wrong and many problems cropped up in the running of the plant and protest from the locals continued. The key difficulties were the following:

(1) Right from the beginning, the Corporation could not meet the obligation of supplying 300 metric tonnes per day. A study conducted by Infrastructure Development Finance Company (IDFC) in September 2003, put the waste reaching POABS at 111 tonnes per day. Of course after the improved household collection system was put in place in 2006 this quantity has increased to a current level of 240 tonnes per day. But at no time during the last seven years has it touched the guaranteed quantity of 300 metric tonnes.

(2) At the same time M/s.POABS which had to put up a facility capable of handling 300 tonnes per day did not put up such a facility. The study by an Expert Committee appointed by the Corporation under Prof.RVG Menon shows that the plant has a capacity of handling only 155.4 tonnes per day.

(3) There were several agitations at Vilappilsala right from the beginning. After subsiding, agitations erupted time and again. At times police force had to be used. However it did not result in major continuous disruption.

(4) The conversion to organic manure was also not as high as expected. As waste was not at all segregated, all kinds of waste reached the site. Against an anticipated recovery rate of 30% the actual recovery has been estimated to be only 12% by the Prof.RVG Menon Committee. Thus the waste management facility generated an abnormal high quantity of rejects, which has occupied considerable space.

(5) Though rejects had to be removed by the Corporation, at that point of time land fill site was not provided for.

(6) Even the generated quantity of manure could not be sold at viable rates.

4. Several issues including local agitation precipitated with the running of the plant subsequently. The removal and disposal of solid waste in the Capital City is a sensitive issue. It has often snowballed into a crisis and Government cannot evade the responsibility and remain a spectator to the developments in this area. Government was keen to arrive at an amicable and reasonable settlement to this vexed issue to the satisfaction of all stake holders. Several attempts were made to solve the problems faced by the plant. Several committees including that of technical nature were constituted and many studies also were conducted. But the problems persisted.

5. As part of solving the problems, an elaborate study was also conducted earlier by the Infrastructure Development Finance Company Ltd., Bangalore and they submitted

their report in the matter. The 20th Empowered Committee for Capital Region Development and the fifth Cabinet Subcommittee for Capital Region Development considered the report and took certain decisions to make the plant viable. As per G.O(MS)374/05/LSGD dtd., 9-12-05 government released Rs. 41 lakhs to the corporation from the Capital Region Development Programme for being passed on to M/s.POABS.

6. Minister (LSG) held a meeting on 3rd August 2006. In the meeting M/s POABS presented following four sets of options on the future running of the Waste Management Plant.

- i. The original contract signed with the approval of Government to be enforced and Government to abide by the assurance to buy-back manure so that the debt obligations with the lender bank are cleared off early.
- ii. If not, the revenue subsidy of 5.54 crores identified in the IDFC analysis be remitted in the bank after adjusting the Rs.41 lakhs given by government as one-time instalment, and to enforce the clause of buy-back of manure produced in the plant at the price fixed by Government.
- iii. In case option (2) is not viable, the method of 'tipping fee' to be adopted as is done in the case of Kottayam Municipality and in the Corporations of Chennai and Mumbai.
- iv. If all the above options are not viable, Government may take over the plant after settling the accounts and giving the Company its dues.

7. As a follow up on the proposals put forth by POABS, Government constituted two committees to study all aspects relating to the taking over of the plant by Thiruvananthapuram Corporation .

8. On 9-5-2007 Minister (LSGD) held another meeting to discuss the findings of the latest report. The findings were not acceptable to the Corporation. The Thiruvananthapuram Corporation suggested that the Corporation would conduct a study using the services of the Expert Group on Sanitation functioning under it, headed by Prof. RVG Menon.

9. The key findings of the Study conducted by this Committee are given below:

- Plant has capacity of 156 ton only No shortfall compensation need be paid.
- Monitoring of rejects to be made mandatory
- No justification in tipping fees
- Marketing support to be provided
- Compensation for capital investment 520.53 lakh was recommended in case of takeover.

10. The Findings of the committee were discussed at the meeting called by M(LSGD) on 1-8-2007. The key decisions of this meeting were:

- (1) In order to provide good quality solid waste management in the City, the Corporation expressed its desire to take over the solid waste management plant at Vilappilsala and wanted a new assessment of the cost of the Plant in view of the different valuations made by the earlier groups.
- (2) It was suggested that in addition to the cost of the plant, an amount related to the viability gap as decided by Government based on IDFC report would be paid.
- (3) M/s. POABS would cooperate fully with the Corporation in managing the transition and sharing of know how on the running of the plant with the Corporation.

11. Based on the decisions taken in this meeting, Government as per G.O. read above, set up a Committee consisting of the following members.

1. Shri A.Shajahan IAS, Director of Urban Affairs.
2. Shri Girija Vallabhan, IA&AS, Member, Accounts, Kerala Water Authority
3. Prof. A.R. Velayudhan Pillai, former Prof. of Civil Engineering, Govt. Engineering College, Thiruvananthapuram and Consultant, KSRRDA.

The Committee subsequently submitted its report on 11-9-2007.

12. In this context it is clear that neither the Thiruvananthapuram Corporation nor M/s. POABS has fulfilled its side of the commitment relating to the core issue of solid waste management. While the Corporation could not provide the solid waste guaranteed by it, M/s. POABS could not put up a facility required to treat the guaranteed minimum of 300 MT per day. In the event of default Thiruvananthapuram Corporation has the right to approach M/s Excel Industries. But this is not possible as M/s Excel Industries is reported to have withdrawn from the field of solid waste management. Therefore the Corporation is only entitled to take back the land and the Plant being removed by M/s POABS.

13. On the other hand M/s. POABS have the liberty to stop operation and withdraw if Thiruvananthapuram Corporation does not fulfill its commitment. Of course it could claim the compensation for shortfall. The question of this claim being upheld due to the deficiency in treatment facilities is doubtful. Therefore a negotiated settlement is most advisable.

14. After considering the Report of the committee headed by the Director of Urban Affairs read as second paper above and after carefully examining all the related aspects of the case, Government are pleased to order as follows:

1) *Permission is accorded to Thiruvananthapuram Corporation to purchase Solid Waste Management Plant at Vilappilsala subject to the conditions of the recommendation submitted by the committee headed by the Director of Urban Affair as narrated below:-*

- (1) *The Corporation may purchase the plant and other assets in the site as listed out by the Committee and at values assigned to each of them by the Committee on the basis of the present construction cost / market value at 2007 PWD schedule of rates minus the cost of wear and tear due to usage / passage of time and also after considering the balance life of each item at a maximum value of the package at Rs.6.82 crores. The Purchase may be effected after clearing all encumbrances on them by way of hypothecation, tax liabilities or compensation or fines imposed,*
- (2) *No further negotiations with POABS is needed as the basis of negotiated settlement had been arrived at in the meeting of all parties held by Minister (LSG) on 1-8-07.*
- (3) *As discussed in the meeting convened by the Minister on 1-8-2007 an additional amount related to the viability gap is to be fixed. Since the agreement is terminated after seven years, it would be better to take the operating loss rather than the viability gap as arrived at by the IDFC. The Committee appointed by Government has arrived at a figure of Rs.69,26,264/- for the period from 2000-06 based on revenue expenses and income. It may be noted that Government had granted Rs.41 lakh to M/S. POABS ENVIRO TECH (P) Ltd on 9-12-2005. Taking this amount also into consideration, it is suggested that in addition to the value fixed by the Committee Rs.25 lakh may be paid to cover operational loss.*
- (4) *M/s POABS ENVIRO TECH (P) Ltd should share all know-how on the technology and management aspects with Thiruvananthapuram Corporation or its authorized representative. In order to ensure this they should hand-hold Thiruvananthapuram Corporation for a period of at least 45 days.*
- (5) *Thiruvananthapuram Corporation may be permitted to run the plant through appropriate management contract.*
- (6) *The amount of Rs.7.07 crores to be paid to M/s. POABS ENVIRO TECH (P) Ltd may be paid by the Corporation immediately. It is suggested that an in-principle decision was taken earlier by Government to pay Rs.5.54 crore as viability gap for the period 2003 to 2010 to M/s. POABS ENVIRO TECH (P) Ltd through the Corporation (Though initially it was ordered that this was to be paid by the Corporation from its own/plan funds, later Government*

agreed to change this stand). Out of this amount an amount of Rs.41 lakh was released. Thus Rs.5.13 crore may be given to Thiruvananthapuram Corporation by additional authorisation under Capital Region Development Programme (Head of A/c. 2217-01-800-99(Plan))The balance of Rs.1.94 crore may be made by the Corporation out of its own fund / Development Fund /Non-road Maintenance Fund or by borrowing without government guarantee. The Technical Committee constituted by the Corporation under Prof. RVG Menon may supervise and guide the transition.

II) An amount of Rs.5.13 crores is sanctioned to Thiruvananthapuram Corporation by way of addl.Authorisation under Capital Region Development Programme under the Head of Account 2217-01-800-99(P). The Director of Urban Affairs will draw and disburse the amount to the Corporation.

III) Thiruvananthapuram Corporation is permitted to meet the balance amount of Rs.1.94 crores from its own Funds/Development Funds/Non Road Maintenance Fund or by borrowing without government guarantee

IV) The above orders are issued, subject to the condition that this settlement is final and complete and no further claim or dispute in this regard will be entertained by Government.

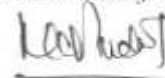
By order of the Governor,
T.K.JOSE,
SECRETARY TO GOVERNMENT.

To

The Secretary, Thiruvananthapuram Corporation.
The Managing Director, POABS, Envirotech Ltd., ,
The Accountant General,(A&E)/(Audit) Thiruvananthapuram
The Director of Urban Affairs, Thiruvananthapuram.
The Director, Clean Kerala Mission, Thiruvananthapuram.
The Finance Department(Vide UO No.85709/Dev2/07/Fin.
dtd.,13-12-07)
The General Administration(SC) Department.(Vite item.....)
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Copy to:- PA to Honourable Minister for Local Self Government
PA to Principal Secretary , Local Self Government Department
✓ PA to Secretary, Local Self Government Department

Forwarded/By Order,


Section Officer