To,

Hon’ble Prime Minister,

Govt. of India

Subject: Appeal for not allowing Solid Waste landfill and Solid Waste Management Plant proposed in Aravalli Hill area of Pali-Mohabtabad, Faridabad, Haryana

Dear Sir/ Ma’am,

The undersigned have come to know that a Municipal Solid Waste Management Plant (MSW Plant), Biomedical Waste Plant and Plastic Waste Management Plant is proposed on the hills of Pali-Mohabtabad of Faridabad, Haryana. As per the information, this site will also have a landfill along with the processing unit of the solid waste, biomedical waste and other kind of waste.

That the location of the solid waste plant and landfill will expose around 30 villages downhill, including the villages of Pavta, Pali, Mohabtabad, Dhauj, Bhandhwadi, Mangar, Dabua, Bajri, Badkhal, Ankheer, Navada, Baas, Nekpur, Kheri, Gothra, Silakhari, Sainik Colony, etc. to a host of life-threatening diseases and irreparable environmental damage. The residents, along with their respective Panchayats, have been in strong opposition of this plan ever since the inception and have made numerous representations to the Municipal Head and other authorities of Faridabad. Even the House of Councilors of Faridabad Complex opposed the move and passed a motion against the proposal to set up the said plant in the Aravali Region.

The undersigned are directly affected by the proposed solid MSW Plant and landfill and hence want to bring following facts and issues for your consideration while taking any decision with respect to locating or allowing such activity on the Aravalli Hills area of Pali-Mohabtabad, Faridabad, Haryana:

(i) The area which is proposed for landfill and MSW Plant i.e. Pali-Mohabtabad, Faridabad lies in the Aravalli Hills and very close to habitation and is part of forest area. There are around three abandoned mining pits at this location which are filled with rain water and are natural recharge for the entire area. That the Aravalli Hill area is critical groundwater recharge zone through its porous rocks. A study by Central Ground Water Board has given the finding that this area primarily forms recharge zone for the downstream area in most of the direction. It is further brought to your notice that the Aravalli hills are also critically important for water security and include the catchments of several lakes. Setting up of a Solid Waste Plant at a critical groundwater recharge zone will only expose the groundwater to leaching of various toxic and hazardous pollutants in contravention of Section 7 of the Environment (Protection) Act, 1986 and Section 24 of the Water (Prevention and Control of Pollution) Act, 1974.

(ii) The proposed land in question which is proposed for MSW Plant and landfill is a ‘common land’ or a ‘public utility land’, the importance of which has been observed by the Apex Court in the matter of Jagpal Singh and Ors. v. State of Punjab and Ors [Civil Appeal No. 1132/2011 @ SLP (C) No. 3109/2011 on 28.01.2011]:


“(3) Since time immemorial there have been common lands inhering in the village communities in India, variously called gram sabha land, gram panchayat land, (in many North India states), shamlat deh (in Punjab etc.) mandaveli and poramboke land (in South India), Kalam, Maidan, etc., for the common benefit of the villagers of the village such as ponds for various purposes. These lands stood vested through local laws in the State, which handed over their management to Gram Sabhas/Gram Panchayats. They were generally treated as inalienable in order that their status as community land be preserved...

(4) The protection of common rights of the villagers were so zealously protected that some legislation expressly mentioned that even the vesting of the property with the State did not mean that the common right of villagers were lost by such vesting.”

In the light of this judgment of Hon’ble Supreme Court, the common land where the project is proposed cannot be used for any other purpose which community has not approved.

(iii) The land in question where the landfill and MSW Plant is proposed is categorized as ‘Gair Mumkin Pahar’ and some parts are covered under Section 4 and 5 of Punjab Land Preservation Act, 1900 (PLPA). It must be in your knowledge that land under Section 4 & 5 of PLPA are considered as forest land by state of Haryana. Further, Hon’ble National Green Tribunal in the matter of Haryali Welfare Society v. Union of India & Ors. [O.A. No. 269 of 2013 by order dated 20.07.2015, has directed for protection of Gair Mumkin Pahar of Aravallis. The order dated 20.7.2015 specifically directed that:

“The State Government or any authority shall not issue any permission for fragmentation of the area falling in Village, Manger Gair Mumkin Pahar District, Faridabad, without the leave of the Tribunal.”

It is therefore clear that the Hon’ble Green Tribunal has considered ‘Gair Mumkin Pahar’ an important area which requires protection and conservation on ecological point of view.

(iv) The above finding of Hon’ble Green Tribunal and the fact that the area where the MSW Plant and landfill is proposed forms part of the forest area. As per Section 2 of Forest (Conservation) Act, 1980 no state government or other authority can approve use of any forest land for non forest purpose without prior approval of central government. Therefore, any act of dumping of waste or setting up of MSW Plant will be in violation of Section 2 of the Forest (Conservation) Act, 1980.

(v) The proposed MSW Plant and landfill will be in violation of the Municipal Solid Waste (Management and Handling) Rules, 2000. As per Rule 6 (3) of Municipal Solid Waste (Management) Handling Rules, 2000, the state board or the committee can issue authorization for the purpose of operating MSW Plant only in compliance of criteria and standard specified in Schedule II, III & IV of the Rules. It is further brought to your notice that as specified in Schedule III of Rules while setting up MSW Plant and landfill following citing criteria has to be complied:

a. The landfill site shall be based on examination on environmental issues;
b. Municipal solid waste landfill site shall be away from habitation clusters, forest areas, water bodies, monuments, national parks, wetlands and places of importance and cultural, historical or religious interest;

c. Landfill site shall be away from airport including airbase.

In the present case, the proposed landfill is right inside the forest area and on the fragile Aravalli Hills which also is a water recharge area which is recognized by Central Ground Water Authority. The abandoned mining pit has become huge water body and any such activity proposed will not only contaminate the water body but also the groundwater.

(vi) The area proposed for MSW Plant and landfill will also accept bio-medical waste in their facility. It is brought to your knowledge that Bio-Medical Waste (Management and Handling) Rules, 1998 provides certain standards for disposal and treatment of bio-medical waste, which includes, “pits should be distant from habitation, and sited so as to ensure that no contamination occurs of any surface water or groundwater. The area should not be prone to flooding or erosion.” [Bio-medical waste Rules, Schedule V]. The close proximity and the placement of the plant near the villages and water body will also expose the affected villagers to a host of toxic effluents which will be released during the processing of the waste. Moreover, the leachate caused from the plants will cause the pollutants to contaminate the ground water – further exposing the residents and the environment to toxic substances.

(vii) The issue of site selection for the purpose of locating MSW Plant, landfill and Bio Medical Waste Plant is one of the important aspects as thought out by the legislature while drafting Municipal Solid Waste (Management and Handling) Rules, 2000 and Bio-Medical Waste Rules. The criteria for citing has been specifically provided which required to be followed in its true spirit. The Hon’ble National Green Tribunal in the matter of People for Transparency Through Kamal Anand v. State of Punjab and Ors. [2014 ALL (I) NGT REPORTER (3) (DELHI) 137] that:

“[17]. a site selection is not a mere matter of choice for a project. Site selection is expected to go through the entire process of screening, scoping and public hearing before the specialized committee before it being accepted by the competent authority.”

In, Rayons- Enlightening Humanity v. Ministry of Environment and Forests [2012 ALL (I) NGT REPORTER (NEW DELHI)], wherein, the proposed site for a Municipal Solid Waste Plant had similar specifications to the proposed land for Pali-Mohabtabad and was finally closed and relocated, the NGT held:

“47. The site in which the plant is located is bound to cause pollution of groundwater which is relatively at a higher level, by leaches. This is inevitable especially in the rainy season. The foul smell arising from the dumping at the site is bound to pollute the air quality of the area. this bad smell is bound to affect the health of the residents in the vicinity of the site and because of pollution; they would be exposed to diseases like asthma, emphysema and even cancer. Thus, the adverse effects of permitting the plant to carry on its activities at the site in question are bound to cause irretrievable damage to public health and environment. The site in question was
persisted with in a most unscientific and arbitrary manner. Thus, when we apply principle of balance between the public health and the development and functioning of this project, the answer necessarily has to tilt against the continuance of this plant at the site in question.”

Therefore, it is necessary that there is a proper application of mind and adherence to the rules and regulation and orders and directions passed by Courts and Tribunals while doing the site selection for the project. The person who would be affected by the location of the project, are not the one who are generating the waste.

(viii) The primary task of the municipal corporation should be to look for the option of segregation of waste at source and adopt the process of recycling of the waste. That Serial No.2 of Schedule II of Municipal Solid Waste (Management and Handling) Rules, 2000 provides for segregation of municipal solid wastes. The Rule provides that:

“In order to encourage the citizens, municipal authority shall organize awareness programmes for segregation of wastes and shall promote recycling or reuse of segregated materials. The municipal authority shall undertake phased programme to ensure community participation in waste segregation. For this purpose, regular meetings at quarterly intervals shall be arranged by the municipal authorities with representatives of local resident welfare associations and non-governmental organization.”

Therefore, the municipal corporation should promote segregation at source as provided in the MSW Rules and which is also more environmental friendly and sustainable process rather than going for landfill and MSW Plant. The Hon’ble Supreme Court in Almitra H. Patel and Anr. v/s Union of India and Ors. (2000) 8 SCC 19 order dated 24.8.2000 has also appreciated the efforts of city of Bangalore for going for segregation of waste in their scheme ‘Swachha Bangalore’. The Hon’ble Supreme Court has recorded in the order:

“2. ... with regard to the recommendation concerning the separation of the recyclable waste/non-biodegradable waste as well as domestic hazardous waste at source, the affidavit states that the Corporation has launched a scheme known as “Swachha Bangalore Phase-I”.

3. It appears to us that if a Scheme like “Swachha Bangalore” can be successfully launched with satisfactory results in the metropolitan town of Bangalore, that can be and should be a role-model for other cities, especially Delhi.”

However, the Municipal Corporation has not taken any such initiative of segregation of waste at source and promoting recycling of the waste generated, which will reduce the pressure on the landfill.

(ix) The Hon’ble Supreme Court has also passed several orders in past on protection of Aravalli Hills in Haryana and Rajasthan. Specific orders were passed from time to time to stop mining activities and by order dated 8.5.2009 in M.C. Mehta v. Union of India [(2009) 6 SCC 142], all mining operation in the Aravalli Hills were suspended. By order dated 8.10.2009, Hon’ble Supreme Court observed that “the mine operators did not carry out any reclamation or rehabilitation work though they were legally
bound to do so under Rule 27 of the Mineral Concession Rules, 1960 read with Form K of the Mineral Concession Rules. Most of these places have been simply abandoned. These abandoned pits are now “blessings in disguise” as these are serving as natural water bodies and are sustaining greenery, wildlife and flora and fauna in the area around them. Extensive afforestation work needs to be carried out in these areas.” It is clear from this observation of Hon’ble Supreme Court that all the abandoned mining areas were required to be afforested. The act of setting up landfill and solid waste plant would be contrary to the order of Hon’ble Supreme Court.

(x) The area where the project is proposed is also a natural conservation zone in the regional plan 2021 prepared by NCR planning board. The State of Haryana is mandated to follow this plan with respect to areas falling inside the National Capital Region.

Considering above facts, it is requested that the proposal for landfill and MSW Plant at Pali-Mohabtabad, Faridabad, Haryana may be withdrawn and alternative site may be identified outside the Aravalli. The state is trustee of the natural resources and it is duty of the state to protect people’s common heritage like forest, water bodies, lakes, and other natural resources. Any kind of fragmentation or Aravalli Hills area will affect the natural forests and water recharge area and in doing so the state will be failing in performing their duty as a trustee of natural resources. Further, taking into consideration the precautionary principle, the State has to see that no irreversible damage is done to the environment causing long time impact on the environment and also to human beings.

We the undersigned hope that a prudent decision would be taken by the concerned authorities with respect to the locating landfill and MSW Plant and some alternative site suitable for such activity would be identified outside the Aravali Hills.

Thank you.

Residents of Village Pali, Mohbtabad, and other villages affected by the proposed disposal of waste:-

CC:-

1. Forest Department, Haryana
2. Municipal Corporation of Faridabad
3. Municipal Corporation of Gurgaon
4. Chief Secretary, Haryana Govt.
5. Ministry of Environment, Govt of India
6. Ministry of Environment, Govt of Haryana
7. NCR Planning Board
8. Central Ground Water Board