

Item No. 05(Bhopal Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 63/2019 (CZ)

Rajendra Kumar Bhardwaj

Versus

Applicant(s)

State of Rajasthan Ors.

Respondent(s)

Date of hearing: 01.10.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Naveen Ahuja & Prashant Sthapak,
Advocates

For Respondent(s)

Mr. Yadvendra Yadav, Advocate
Mr. Arvind Soni, Advocate
Mr. Bhavdeep Singh, Advocate

ORDER

1. By way of filing this application, the issue of management and disposal of bio-medical waste has been raised. It is argued that in the 21st century with increased use of disposable material and the presence of dreaded disease like Hepatitis B and AIDS, it is utmost important to take care of the infected and hazardous waste to save the mankind from disaster. The Health care institution or hospitals which are responsible for care of morbid population are emitting voluminous quantity of rubbish, garbage and bio medical waste matter each day from wards, operation theatre and outpatient areas. Proper management of hospital waste is essential to maintain hygiene, aesthetics, cleanliness and control of environmental pollution. The hospital waste like body parts, organs, tissues, blood and

body fluids along with soiled linen, cotton, bandage and plaster casts from infected and contaminated areas are very essential to be properly collected, segregated, stored, transported, treated and disposed of in safe manner to prevent hospital acquired infection. Various communicable diseases, which spread through water, sweat, blood, body fluids and contaminated organs, are important to be prevented. The bio medical waste scattered in and around the hospitals invites flies, insects, rodents, cats and dogs that are responsible for the spread of communication disease like plague and rabies. Rag pickers in the hospital, sorting out the garbage are at a risk of getting tetanus and HIV infections. The recycling of disposable syringes, needles, IV sets and other article like glass bottles without proper sterilization are responsible for Hepatitis, HIV, and other viral diseases. It becomes primary responsibility of Health administrators to manage hospital waste in most safe and eco-friendly manner.

2. The Central Government in exercise of powers conferred by Environment (Protection) Act, 1986 made Bio-Medical Waste(Management and Handling) Rules, 1998 in short: (1998 Rules) and looking at the continuous need for improvisation of the technique involved in disposing off bio medical waste, the Rules were amended in the year 2016 and then in the year 2019. Under the said Rules, the Prescribed Authority for the implementation of Bio Medical Norms is Respondent No. 2 Rajasthan Pollution Control Board.
3. The State Government vide order dated 10.07.2012 directed all the operators of all the Plants in state to ensure strict the compliance of 1998 Rules and to prepare a list of all Veterinary Hospitals Nursing Home, Clinic, Dispensary, Veterinary Institution, Animal House, Pathological

Laboratory, Blood Bank, Health Care Facility and Clinical Establishment and forward it to Health Department, Environment Department and Pollution Control Board.

4. In order to discharge the biomedical waste, a common biomedical waste treatment facility (hereinafter referred as treatment facility) is installed which consists of an incinerator, auto clave and other machineries. The need for shifting from captive incinerator to treatment facility arose due to the hazardous impact and extreme vigilance required for treating the biomedical wastes.
5. The Respondent No. 2 carried out an inspection of the treatment facility of the Respondent No. 3 on 25.06.2019 and it was observed that the contaminated biomedical waste was littered on the floor of the treatment facility and also outside the building. It was also observed that the ash generated from the incinerator was heaped inside the industrial premises in a haphazard manner.
6. The applicant has further challenged that the treatment facility of the respondent no.3 is running without authorisation and environmental clearance, Rajasthan Pollution Control Board has not properly inspected or not taking proper necessary action, observations made by the respondent no.3 is not complying with the bio-medical norms, respondent no.1 is not taking reasonable steps in ensuring establishment of new treatment facility at Kota, newspaper reporting has not been taken care off by the State Pollution Control Board, directions of the Tribunal in the matter of *O.A. No. 710/2017, Shailesh Singh V. Sheela Hospital and Trauma Centre* has not been observed, compensation regime has started but not taken by the authority concerned and prayed that respondent be directed to take action against respondent no.3 by way of

calculation and recovery of the environmental compensation has also by initiating prosecution and closure of the unit.

7. Notices were served on the respondents and in compliance thereof the respondent no.2-State Pollution Control Board has submitted the reply which is as follows:-

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7. *That the contents of para 7 of the original application are not disputed. It is submitted that the officials of the state Board have carried out inspection of M/s Hoshwin Incinerator, Jhalawar on 25.06.2019. On the basis of said inspection the State Board has issued show cause notice dated 05.09.2019 and 17.09.2019.*

It is submitted that the State Board vide letter dated 17.09.2019 has communicated the deficiencies observed during the inspection carried out by the board officials on 25.06.2019 and was issued show cause notice opportunity of being heard (OBH) & to appear in person on 23.09.2019 before the Member Secretary, RSPCB. The project proponent vide email dated 23.09.2019 requested for postponement of OBH and accordingly, vide letter dated 30. 10.2019 the OBH was rescheduled for 07.11.2019 with the direction to the project proponent to appear before the Chairperson, RSPCB.

8. *That the project proponent appeared in person and during OBH dated 07.11.2019 has submitted the reply vide letter dated 07.11.2019 with respect to deficiencies observed during inspection dated 25.06.2019. On the basis of decision taken in the OBH dated 07.11.2019 and reply/compliances submitted by the project proponent, the State Board vide letter dated*

15.11.2019 directed the project proponent to ensure full compliance in respect of every deficiency observed during inspection done on 25.06.2019 latest by 31.01.2020 and submit an evidence based compliance report to the State Board.

12. That the contents of para 11 of the original application are not admitted in the manner stated by the applicant. It is submitted that the State Board has taken actions against the project proponent from time to time. The State Board vide letter dated 18.11.2019 has also issued show cause notice for intended legal prosecution against the project proponent i.e. M/s Hoshwin Incinerator Pvt. Ltd. for the reasons stipulated therein.”

8. The respondent no.3 has submitted the reply which is as follows:-

“1. Applicant has pinpointed that Respondent no.3 is running its plant has without obtaining environmental clearance and has referred to EIA notification 2006. There is no standi to such lame allegation as the EIA notification itself clearly mandates that EC is a prerequisite to establish the industry/unit/project, whereas respondent no.3 is operating since 2005 and therefore the mandate of EC does not apply. It is also very pertinent to mention here that the Hon’ble National Green Tribunal, Southern Zone, Chennai has clearly interpreted the said notification in Application No. 169 of 2016 D.Swamy Vs. Karnataka State PCB and Ors. saying "When Para 2 of the Regulations 2006, clearly mandates prior EC, before establishing and even before carrying on with the construction work of the project, it cannot be contended that EC is mandatory before getting the consent to operate. The purpose of obtaining prior EC s to avoid any

potential negative impact of the project on environment and it is based on Environment Impact Assessment undertaken at the planning stage of the project itself for selecting environmentally compatible sites, process technologies and required environmental safeguards. Once the project is already established, no such exercise can be undertaken. Therefore the EIA Notification, 2006 provides prior EC, not post Ec."

3. *The answering respondent is never conveyed or handed over any such inspection report. In fact as per the alleged inspection report, the recommendations by Regional Officer are depending on the fact that the OCEMS are not installed whereas the OCEMS have been purchased by the answering respondent way back in 2015 and have been installed and operating since 2016. Vide letter dated. 04.05.2019, answering respondent has also submitted online monitoring fee of five years vide DD. No. 004450 dated 25.04.2019. The inspection report submitted by applicant is far-fetched from reality and therefore it is either a false evidence required inspection.*
2. *That the contents of para 2 of the grounds of the case is denied as no such inspection report is ever conveyed to the answering respondent so as to enable him present his contentions in defense before the authorities. In fact as per the knowledge of answering respondent there was one inspection conducted by regional officer, Kota on 03.02.2020 wherein they suggested on numerous points for ways to improve. The same was responded vide letter dated 08.02.2020, conveying the compliance of all the suggestion. Moreover if the report was made out of genuine inspection then there was no chance that answering respondent would be further delegated with the responsibility of treating more waste from Kota also due to closure of Kota unit.*

4. *That the contents of para 4 of the grounds of the case are admitted specifically on the fact that a new treatment facility at Kota will benefit the public at large. But the assertions against the answering respondent are specifically denied for want of knowledge and proof. Moreover it is pertinent to mention here that it appears applicant is actually representing M/s Rajdeep Biotech who was once operating CBWTF, Kota which was shut vide order dated 05.04.2018. Since 06.10.2017 M/s Rajdeep Biotech was instructed to not operate its facility and shall ensure collection of bio-medical waste from its member HCFs and deliver the same at the premises of answering respondent. When M/s Rajdeep Biotech failed to comply with the direction its unit was permanently closed vide order dated.06.04.2018."*

9. The respondent has further filed the copy of the agreement for establishing the Centralized Bio-Medical Waste Treatment Facility (CBWTF) at Jhalawar, authorization/renewal application, bill and invoice of OCEMs, online monitoring fee, letter of inspection, letter complying with suggestions of inspection, work order to treat bio-waste from Kota and Bundi and closure order for treatment unit at Kota run by M/s. Rajdeep Biotech.

10. The respondent no.4-Central Pollution Control Board has submitted the reply as follows:-

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5. *That the averments made under sub para 4 of para C of the Application under reply are related to implementation of BMWM Rules, 2016. In reply to these averments, the Answering Respondent submits that as per Rule 9 of the*

BMWM Rules, 2016 State Pollution Control Board in respect of States and Pollution Control Committee in respect of Union Territories are the prescribed Authority to ensuring overall implementation of BMWM Rules, 2016. For the State of Rajasthan, Rajasthan State Pollution Control Board is the prescribed authority for ensuring compliance to provisions under BMWM Rules, 2016.

- 6. That the averments made under sub para 5 of para C of the Application under reply refer to letter dated 10.07.2012 issued by the Government of Rajasthan to all Common Biomedical Waste Treatment Facility (herein after referred to as CBWTFs) operating in Rajasthan to ensure compliance to Biomedical Waste (Management & Handling) Rules, 1998 and to prepare list of Health Care Facilities such as hospitals, Animal houses, pathological laboratory, blood banks and clinical establishments. The said letter was also apparently forwarded to Health Department, Environment Department and Pollution Control Board in the State of Rajasthan. However, the said latter was not communicated to the Answering Respondent. Thus the Answering Respondent cannot comment on the same.*
- 7. That averments made under sub para 6 of para C of the Application under reply are related to installation of Common Biomedical Waste Treatment Facility instead of operation of captive treatment facility inside premises of AR Healthcare Facility. In this regard, it is submitted that as per Rule 7 (3) of 14 BMM Rules, 2016 no Healthcare Facility is allowed to establish its captive treatment facility inside its premises in*

case service of CBWIF is available within distance of 75 km. It is further submitted that as per Rule 7(7) of BMWM Rules, 2016 every operator of Common Biomedical Waste Treatment and Disposal Facility (CBWTF) is also required to install requisite biomedical waste treatment equipment like incinerator, autoclave or microwave, shredder and Effluent Treatment Plant for treatment of biomedical waste in line with provisions under said Rules prior to commencement of its operation. However, the compliance of these rules is the statutory mandate of the RSPCB.

8. *That the averments made under sub para 7 of para C of the Application under reply are related to inspection of a CBWTF of Respondent No.3 namely M/s Hoswin incinerator Pvt. Ltd. located at Jhalawar, Rajasthan by Respondent No.2 i.e. Rajasthan State Pollution Control Board. It is indicated that during said inspection it was observed that biomedical waste was littered on the floor inside and outside the facility and incinerator ash was stored haphazardly inside the premises. In this regard it is submitted that the said Inspection Report was not forwarded to the Answering Respondent by the RSPCB. Thus the Answering Respondent cannot comment upon the contents of the said Report. However, it would be relevant to point out that as per BMWM Rules, 2016 as well as the revised guidelines of the Answering Respondent for CBWTFs, the untreated biomedical waste collected from member Health care Facility is required to be received at CBWTF in separate storage areas for incineration and sterilization. Further, incinerator ash is required to be disposed*

through Common Hazardous Waste Treatment Storage and Disposal Facility (hereinafter referred to as TSDF) in case it meets the criteria of hazardous waste for metals as given in the Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2016, else incineration ash can be disposed in sanitary landfills.

9. *That the averments made under sub para 8 of para C of the Application under reply are related to some newspaper articles which indicate that Respondent No.3, despite charging excessive amount for collection of biomedical waste is not disposing the biomedical waste. In this regard it is Submitted that appropriate action may be taken by Rajasthan State Pollution Control Board, being the prescribed authority for ensuring compliance to BMWM Rules, 2016 in the State of Rajasthan.*
10. *As per Environment Impact Act Notification, 2006 as amended vide notification of S.O.1142 E dated April 17, 2015, 'bio-medical waste treatment facility' is categorized under item 7 (da) in the schedule and requires 'Environmental Clearance' from the State Environment Impact Assessment Authority (SEIAA). It is further submitted that facility of Respondent No.3 was installed in the year 2008 which was prior to the said notification. As per the guidelines issued by CPCB, a facility may require Environmental Clearance' as follows:*

- a) *Expansion and modernization with additional treatment capacity of existing bio-medical waste treatment facility (excluding augmentation of incineration facility for compliance to the residence time*

as well as Dioxins and Furans without enhancing the existing treatment capacity)

b) In case of any expansion in the treatment capacity or relocation of the existing CBWTF.

15. *As per Rule 12(4) of BMWM Rules, 2016 State Government shall constitute District Level Monitoring Committee in the districts under the Chairmanship of District Collector or District Magistrate or Deputy Commissioner or Additional District Magistrate to monitor the compliance of the provisions of these rules in the health care facilities generating bio-medical waste and in the common biomedical waste treatment and disposal facilities. Further, as per Schedule III, State Government may take advise of State Pollution Control Boards on implementation of these Rules. Also, as mentioned hereinabove the said matter is presently pending before this Hon'ble Tribunal in Application No. 33 of 2017 (CZ) Rajdeep Biotech Vs. C.P.C.B and Others. Appropriate directions qua shifting of the said facility have been issued by this Hon'ble Tribunal in the said Application. The said Application being pending, the matter is rendered sub judice and thus does not merit a reply from the Answering Respondent save to the effect that the shifting of the said Facility be ensured by the State Government.*

17. *As per Rule 10 of BMWM Rules, 2016 every operator of CBWTF is required to obtain authorization under said rules from concerned State Pollution Control Board or Pollution Control Committee for ensuring that biomedical waste is collected, received, stored, transported, treated, processed,*

disposed or handled in line with the provisions under BMWM Rules, 2016. Response in this regard may be sought from the Respondent RSPCB.”

11. In the rejoinder filed by the applicant, it has been stated that the rules have not been followed, State Pollution Control Board and Central Pollution Control Board are not taking necessary action in compliance of the rules of 2016 and no prosecution has been submitted before the Competent Authority or Competent Court.
12. The Learned Counsel for the Central Pollution Control Board has also submitted the detailed list and report which was filed in compliance of the order passed in *O.A. No. 710/2017, Shailesh Singh V. Sheela Hospital and Trauma Centre Shahjanpur & Ors.*
13. Further, compliance report has been submitted by the Rajasthan Pollution Control Board which is as follows:-

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2. *That the officials of the State Board inspected the unit on 25.06.2019 and on the basis of observation made during inspection dated 25.06.2019, a show cause notice vide letter dated 17.09.2019 was issued to the unit for the non-compliances.*
3. *That the officials of the State Board inspected the unit on 03.02.2020 in order to verify the status of non-compliances communicated vide letter dated 17.09.2019. The unit was also issued a site memo with respect to the deficiencies observed during inspection dated 03.02.2020.*

4. *That the unit vide letter dated 08.02.2020 submitted the reply of deficiencies communicated vide site memo dated 03.02.2020.*
5. *That the unit has applied for renewal of authorization under Bio-Medical Waste Management Rules, 2016 and Consent to Operate under Air Act & Water Act vide application dated 13.08.2020. The application for authorization under Bio Medical Waste Rules and Consent to Operate under Air Act & Water Act are pending before the State Board for examination and consideration.*
6. *That the officials of the State Board again inspected the unit on 17.08.2020 in order to verify the present status of the rectification done by the unit with respect to non-compliances observed during inspection dated 03.02.2020.”*

14. The Central Pollution Control Board has also filed response to the rejoinder of the applicant which is as follows:-

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2. *That at paragraph nos. 8 & 9 of the rejoinder under response, the Applicant has alleged that the Answering Respondent has not inspected the facility of Respondent No. 03 despite having knowledge that the facility was not complying with the relevant Rules. The Applicant has further alleged that the Answering Respondent inspects the facilities selectively and avoids the facilities which are in good terms with the Answering Respondent. In this regard, it is humbly submitted that as per the duties laid under Schedule III of Biomedical Waste Management Rules, 2016 (herein referred as BMWM Rules, 2016), the Answering Respondent has mandate to*

conduct random inspections of Healthcare Facilities and Common Biomedical Waste Treatment Facilities. It is also submitted that after the notification of BMWM Rules, 2016, the Answering Respondent has conducted inspections of about 27 out of about 200 CBWTFs and initiated follow - up action against 20 facilities as was necessary. The task of regular Inspections of such facilities is governed by the Consent Mechanism and is already entrusted to the respective State Boards. The Answering Respondent is thus not responsible for inspecting all facilities general as it would tantamount to usurpation of the statutory rights of the respective State Boards, Further, the Answering Respondent has always taken appropriate action against erring and defaulting facilities as and when any non-compliance has been brought to its attention. Furthermore, considering the limited resources and the given mandate, it would be difficult for the Answering Respondent to inspect and regulate al CBWTFs and other industries in the country. Otherwise also, the respective State Pollution Control Boards and Pollution Control Committees are the prescribed authorities to ensure implementation of BMWM Rules, 2016 and have mandate and capacity to conduct periodic inspections of all CBWTF in respective State to ensure compliance to said Rues. The allegations of the Applicant are thus baseless and irresponsible, having no basis in truth.

3. *That so far as the averments made in paragraph 10 & 11 of the rejoinder under response is concerned, it is humbly submitted that R. S. P. C. B. may submit the current status of compliance with respect to the facility of Respondent 3, i.e.*

M/s Hoswin Incinerator Pvt. Ltd., Jhalawar, Rajasthan. It is also submitted that in compliance to Order dated 24/04/2020 passed by Hon'ble Tribunal in OA. 72 of 2020, the Answering Respondent has developed a Tracking App named as 'COVID-19 BWM in May, 2020, to track COVID19 related biomedical waste. This App is required to be operated by generator of COVID-19 biomedical waste, CBWTF operator and their transporter to report daily data pertaining to waste generation, collection and disposal. CPCB vide letter dated 21/07/2020 has issued show cause notice under Section 5 of Environment (Protection) Act, 1986 to about 106 CBWTEs for not using the said Tracking App, including the facility of Respondent 03.”

15. In exercise of the powers conferred by section 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the Bio-Medical Waste (Management and Handling) Rules, 1998, the Central Government has framed the rules called the Bio-Medical Waste Management Rules, 2006 and relevant provisions are as follows:-

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4. *Duties of the Occupier.- It shall be the duty of every occupier to-*
- (a) take all necessary steps to ensure that bio-medical waste is handled without any adverse effect to human health and the environment and in accordance with these rules;*
 - (b) make a provision within the premises for a safe, ventilated and secured location for storage of segregated biomedical waste in colored bags or containers in the manner as specified in Schedule I, to ensure that there shall be no secondary*

handling, pilferage of recyclables or inadvertent scattering or spillage by animals and the bio-medical waste from such place or premises shall be directly transported in the manner as prescribed in these rules to the common bio-medical waste treatment facility or for the appropriate treatment and disposal, as the case may be, in the manner as prescribed in Schedule I;

(c) pre-treat the laboratory waste, microbiological waste, blood samples and blood bags through disinfection or sterilization on-site in the manner as prescribed by the World Health Organization (WHO) or National AIDS Control Organization (NACO) guidelines and then sent to the common bio-medical waste treatment facility for final disposal;

(d) phase out use of chlorinated plastic bags, gloves and blood bags within two years from the date of notification of these rules;

(e) dispose of solid waste other than bio-medical waste in accordance with the provisions of respective waste management rules made under the relevant laws and amended from time to time;

(f) not to give treated bio-medical waste with municipal solid waste;

(g) provide training to all its health care workers and others, involved in handling of bio medical waste at the time of induction and thereafter at least once every year and the details of training programmes conducted, number of personnel trained and number of personnel not undergone any training shall be provided in the Annual Report;

(h) immunise all its health care workers and others, involved in handling of bio-medical waste for protection against diseases including Hepatitis B and Tetanus that are likely to be transmitted by handling of bio-medical waste, in the manner as prescribed in the National Immunisation Policy or the guidelines of the Ministry of Health and Family Welfare issued from time to time;

(i) establish a Bar- Code System for bags or containers containing bio-medical waste to be sent out of the premises or place for any purpose within one year from the date of the notification of these rules;

(j) ensure segregation of liquid chemical waste at source and ensure pre-treatment or neutralisation prior to mixing with other effluent generated from health care facilities;

(k) ensure treatment and disposal of liquid waste in accordance with the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(l) ensure occupational safety of all its health care workers and others involved in handling of biomedical waste by providing appropriate and adequate personal protective equipments;

(m) conduct health check up at the time of induction and at least once in a year for all its health care workers and others involved in handling of bio- medical waste and maintain the records for the same;

(n) maintain and update on day to day basis the bio-medical waste management register and display the monthly record on its website according to the bio-medical waste generated in terms of category and colour coding as specified in Schedule I;

(o) report major accidents including accidents caused by fire hazards, blasts during handling of biomedical waste and the remedial action taken and the records relevant thereto, (including nil report) in Form I to the prescribed authority and also along with the annual report;

(p) make available the annual report on its web-site and all the health care facilities shall make own website within two years from the date of notification of these rules;

(q) inform the prescribed authority immediately in case the operator of a facility does not collect the bio-medical waste within the intended time or as per the agreed time;

(r) establish a system to review and monitor the activities related to bio-medical waste management, either through an existing committee or by forming a new committee and the Committee shall meet once in every six months and the record of the minutes of the meetings of this committee shall be submitted along with the annual report to the prescribed authority and the healthcare establishments having less than thirty beds shall designate a qualified person to review and monitor the activities relating to bio-medical waste management within that establishment and submit the annual report;

(s) maintain all record for operation of incineration, hydro or autoclaving etc., for a period of five years;

(t) existing incinerators to achieve the standards for treatment and disposal of bio-medical waste as specified in Schedule II for retention time in secondary chamber and Dioxin and Furans within two years from the date of this notification.

5. *Duties of the operator of a common bio-medical waste treatment and disposal facility.-It shall be the duty of every operator to –*
- (a) take all necessary steps to ensure that the bio-medical waste collected from the occupier is transported, handled, stored, treated and disposed of, without any adverse effect to the human health and the environment, in accordance with these rules and guidelines issued by the Central Government or, as the case may be, the central pollution control board from time to time;*
 - (b) ensure timely collection of bio-medical waste from the occupier as prescribed under these rules;*
 - (c) establish bar coding and global positioning system for handling of bio- medical waste within one year;*
 - (d) inform the prescribed authority immediately regarding the occupiers which are not handing over the segregated bio-medical waste in accordance with these rules;*
 - (e) provide training for all its workers involved in handling of bio-medical waste at the time of induction and at least once a year thereafter;*
 - (f) assist the occupier in training conducted by them for bio-medical waste management;*
 - (g) undertake appropriate medical examination at the time of induction and at least once in a year and immunise all its workers involved in handling of bio-medical waste for protection against diseases, including Hepatitis B and Tetanus, that are likely to be transmitted while handling bio-medical waste and maintain the records for the same;*

(h) ensure occupational safety of all its workers involved in handling of bio-medical waste by providing appropriate and adequate personal protective equipment;

(i) report major accidents including accidents caused by fire hazards, blasts during handling of biomedical waste and the remedial action taken and the records relevant thereto, (including nil report) in Form I to the prescribed authority and also along with the annual report;

(j) maintain a log book for each of its treatment equipment according to weight of batch; categories of waste treated; time, date and duration of treatment cycle and total hours of operation;

(k) allow occupier , who are giving waste for treatment to the operator, to see whether the treatment is carried out as per the rules;

(l) shall display details of authorisation, treatment, annual report etc on its web-site;

(m) after ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as plastics and glass, shall be given to recyclers having valid consent or authorisation or registration from the respective State Pollution Control Board or Pollution Control Committee;

(n) supply non-chlorinated plastic coloured bags to the occupier on chargeable basis, if required;

(o) common bio-medical waste treatment facility shall ensure collection of biomedical waste on holidays also;

(p) maintain all record for operation of incineration, hydroor autoclaving for a period of five years; and

(q) upgrade existing incinerators to achieve the standards for retention time in secondary chamber and Dioxin and Furans within two years from the date of this notification.

6. *Duties of authorities.-The Authority specified in column (2) of Schedule-III shall perform the duties as specified in column (3) thereof in accordance with the provisions of these rules.*

7. *Treatment and disposal.-*

(1) Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards provided in Schedule-II by the health care facilities and common bio-medical waste treatment facility.

(2) Occupier shall hand over segregated waste as per the Schedule-I to common bio-medical waste treatment facility for treatment, processing and final disposal: Provided that the lab and highly infectious bio-medical waste generated shall be pre-treated by equipment like autoclave or microwave.

(3) No occupier shall establish on-site treatment and disposal facility, if a service of `common biomedical waste treatment facility is available at a distance of seventy-five kilometer.

(4) In cases where service of the common bio-medical waste treatment facility is not available, the Occupiers shall set up requisite biomedical waste treatment equipment like incinerator, autoclave or microwave, shredder prior to commencement of its operation, as per the authorisation given by the prescribed authority.

(5) Any person including an occupier or operator of a common bio medical waste treatment facility, intending to use new technologies for treatment of bio medical waste other than those listed in Schedule I shall request the Central Government for laying down the standards or operating parameters.

(6) On receipt of a request referred to in sub-rule (5), the Central Government may determine the standards and operating parameters for new technology which may be published in Gazette by the Central Government.

(7) Every operator of common bio-medical waste treatment facility shall set up requisite biomedical waste treatment equipments like incinerator, autoclave or microwave, shredder and effluent treatment plant as a part of treatment, prior to commencement of its operation.

(8) Every occupier shall phase out use of non-chlorinated plastic bags within two years from the date of publication of these rules and after two years from such publication of these rules, the chlorinated plastic bags shall not be used for storing and transporting of bio-medical waste and the occupier or operator of a common bio-medical waste treatment facility shall not dispose of such plastics by incineration and the bags used for storing and transporting biomedical waste shall be in compliance with the Bureau of Indian Standards. Till the Standards are published, the carry bags shall be as per the Plastic Waste Management Rules, 2011.

(9) After ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as

plastics and glass shall be given to such recyclers having valid authorisation or registration from the respective prescribed authority.

(10) The Occupier or Operator of a common bio-medical waste treatment facility shall maintain a record of recyclable wastes referred to in sub-rule (9) which are auctioned or sold and the same shall be submitted to the prescribed authority as part of its annual report. The record shall be open for inspection by the prescribed authorities.

(11) The handling and disposal of all the mercury waste and lead waste shall be in accordance with the respective rules and regulations.

8. *Segregation, packaging, transportation and storage.*

-(1) No untreated bio-medical waste shall be mixed with other wastes.

(2) The bio-medical waste shall be segregated into containers or bags at the point of generation in accordance with Schedule I prior to its storage, transportation, treatment and disposal.

(3) The containers or bags referred to in sub-rule (2) shall be labeled as specified in Schedule IV.

(4) Bar code and global positioning system shall be added by the Occupier and common bio-medical waste treatment facility in one year time.

(5) The operator of common bio-medical waste treatment facility shall transport the bio-medical waste from the premises of an occupier to any off-site bio-medical waste treatment facility only in the vehicles having label as provided

in part 'A' of the Schedule IV along with necessary information as specified in part 'B' of the Schedule IV.

(6) The vehicles used for transportation of bio-medical waste shall comply with the conditions if any stipulated by the State Pollution Control Board or Pollution Control Committee in addition to the requirement contained in the Motor Vehicles Act, 1988 (59 of 1988), if any or the rules made there under for transportation of such infectious waste.

(7) Untreated human anatomical waste, animal anatomical waste, soiled waste and, biotechnology waste shall not be stored beyond a period of forty –eight hours:

Provided that in case for any reason it becomes necessary to store such waste beyond such a period, the occupier shall take appropriate measures to ensure that the waste does not adversely affect human health and the environment and inform the prescribed authority along with the reasons for doing so.

(8) Microbiology waste and all other clinical laboratory waste shall be pre-treated by sterilisation to Log 6 or disinfection to Log 4, as per the World Health Organisation guidelines before packing and sending to the common bio-medical waste treatment facility.

18. Liability of the occupier, operator of a facility.-

(1) The occupier or an operator of a common bio-medical waste treatment facility shall be liable for all the damages caused to the environment or the public due to improper handling of bio-medical wastes.

(2) The occupier or operator of common bio-medical waste treatment facility shall be liable for action under section 5 and section 15 of the Act, in case of any violation.”

16. The Schedule 1 of the rule provides the category of the bag which required to be used as a container and disposal option.

17. Part II of the rules provide as follows:-

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1. *All plastic bags shall be as per BIS standards as and when published, till then the prevailing Plastic Waste Management Rules shall be applicable.*
2. *Chemical treatment using at least 10% Sodium Hypochlorite having 30% residual chlorine for twenty minutes or any other equivalent chemical reagent that should demonstrate Log10⁴ reduction efficiency for microorganisms as given in Schedule-III.*
3. *Mutilation or shredding must be to an extent to prevent unauthorized reuse.*
4. *There will be no chemical pretreatment before incineration, except for microbiological, lab and highly infectious waste.*
5. *Incineration ash (ash from incineration of any bio-medical waste) shall be disposed through hazardous waste treatment, storage and disposal facility, if toxic or hazardous constituents are present beyond the prescribed limits as given in the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 or as revised from time to time.*

6. *Dead Fetus below the viability period (as per the Medical Termination of Pregnancy Act 1971, amended from time to time) can be considered as human anatomical waste. Such waste should be handed over to the operator of common bio-medical waste treatment and disposal facility in yellow bag with a copy of the official Medical Termination of Pregnancy certificate from the Obstetrician or the Medical Superintendent of hospital or healthcare establishment.*
7. *Cytotoxic drug vials shall not be handed over to unauthorised person under any circumstances. These shall be sent back to the manufactures for necessary disposal at a single point. As a second option, these may be sent for incineration at common bio-medical waste treatment and disposal facility or TSDFs or plasma pyrolysis at temperature >1200 °C.*
8. *Residual or discarded chemical wastes, used or discarded disinfectants and chemical sludge can be disposed at hazardous waste treatment, storage and disposal facility. In such case, the waste should be sent to hazardous waste treatment, storage and disposal facility through operator of common bio-medical waste treatment and disposal facility only.*
9. *On-site pre-treatment of laboratory waste, microbiological waste, blood samples, blood bags should be disinfected or sterilized as per the Guidelines of World Health Organisation or National AIDS Control Organisation and then given to the common bio-medical waste treatment and disposal facility.*
10. *Installation of in-house incinerator is not allowed. However in case there is no common biomedical facility nearby, the same*

may be installed by the occupier after taking authorisation from the State Pollution Control Board.

11. *Syringes should be either mutilated or needles should be cut and or stored in tamper proof, leak proof and puncture proof containers for sharps storage. Wherever the occupier is not linked to a disposal facility it shall be the responsibility of the occupier to sterilize and dispose in the manner prescribed.*
12. *Bio-medical waste generated in households during healthcare activities shall be segregated as per these rules and handed over in separate bags or containers to municipal waste collectors. Urban Local Bodies shall have tie up with the common bio-medical waste treatment and disposal facility to pickup this waste from the Material Recovery Facility (MRF) or from the house hold directly, for final disposal in the manner as prescribed in this Schedule.”*

18. The Learned Counsel appearing for CPCB has submitted that the action taken by the CPCB was in accordance with the guidelines and rules as framed in the Bio-Medical Waste Management Rules, 2016 and specifically in compliance of the order dated 15.07.2019 passed in *original application no.710/2017 Shaliesh Singh Vs. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.* in which the Principal Bench of this Tribunal directed as follows:

“

2. *The matter was reviewed vide order dated 12.03.2019. It was noted that unscientific disposal of bio-medical waste had potential of serious diseases such as Gastrointestinal infection, Respiratory infection, Eye infection, Genital infection, Skin infection, Anthrax,*

Meningitis, AIDS, Haemorrhagic fevers, Septicaemia, Viral Hepatitis type A, Viral Hepatitis type B and C, etc. Such unscientific disposal also causes environmental pollution leading to unpleasant smell, growth and multiplication of vectors like insects, rodents and worms and may lead to the transmission of diseases like typhoid, cholera, hepatitis and AIDS through injuries from syringes and needles contaminated with various communicable diseases. The Tribunal referred to the news article published in "Dainik Jagran" dated 06.10.2017 stating as follows:-

"That the Gautam Buddha Nagar is the only district where a survey of 66 hospitals was conducted in October 2017 where 23 were found doing the management of Biomedical waste. 18 hospitals of which have been issued notices by the Regional Officer, UPPCB, GuatamBudh Nagar."

3. Reference was also made to the report of the CAG placed on its website in May, 2017 as follows:

"Inadequate facility of bio-medical waste (BMW) treatment. As per the report paragraph 2.1.9.5 there were 8,366 Health Care Establishments (HCEs) out of which 3,362 HCEs were operating without authorization. Total BMW generated in the State was 37,498 kg/day out of which only 35,816 kg/day was treated and disposed of. BMW of 1,682 kg/day was being disposed of untreated due to inadequate treatment facility. But UPPCB failed to monitor

unauthorised operation and untreated disposal of BMW and did not take any action against the defaulters.”

5. The Tribunal noted that the steps taken in the State of Uttar Pradesh for compliance of the BMW Rules were inadequate. The regulatory regime was required to be stern in view of impact on public health by unscientific disposal of bio-medical waste. Such unscientific disposal must result in prosecution and recovery of deterrent compensation so that non-compliance is not profitable. The Tribunal noted that not a single person was shown to have been convicted in spite of large violation, nor any compensation was shown to have been recovered. No scale of compensation had been laid down, no action plan had been prepared. The unsatisfactory state of affairs was not confined to the State of Uttar Pradesh, Punjab, Haryana and Uttarakhand who were before the Tribunal but also to the other States. The BMW Rules provide for furnishing of annual reports by the States to the CPCB and by the CPCB to the MoEF&CC and also being made available on the website of the concerned State. The Tribunal directed all the States and UTs to furnish such reports by 30.04.2019, for the period such reports were due before 30.04.2019, failing which the defaulting States will be required to pay compensation at the rate of Rs. 1 Crore per month after 01.05.2019. The States were also required to prepare their respective action plans within one month. The Tribunal also directed the CPCB to furnish its comments on the action plans and to undertake study and prepare a scale of compensation to be recovered from the violators of BMW Rules without prejudice to the State PCBs taking steps for recovery of

compensation from the polluters or laying down their own scales which should not be less than the scale of the CPCB.

6. Accordingly, a report has been filed by the CPCB certain extracts from the report are as follows:

“

2.3.1 Inventory of HCFs and Biomedical Waste

Generation: Incomplete inventory on biomedical waste generation is an evident from the fact that biomedical waste generation reported by SPCBs is not proportional to the population in States/UTs. Generation of biomedical waste across States is reported as Bihar (6 %), Delhi (4.4 %), Gujarat (5.21 %), Karnataka (12 %), Kerala (7.35 %), Maharashtra (11.10 %), Rajasthan (4.03 %), Tamil Nadu (8.39 %), Uttar Pradesh (7.81 %) & West Bengal (5.34 %) which is not proportional to population States. Therefore, SPCBs/PCCs should complete inventory of all HCFs (both bedded and non-bedded) to assess quantity of biomedical waste generation as well as to ensure effective treatment and disposal of biomedical waste generated by them.

As per annual information, out of 559 tonnes, about 518 tonnes of biomedical waste generated per day is treated and disposed through 198 no. of common facilities and 9,841 captive treatment facility installed by Healthcare facilities. However, quantity of biomedical waste reported is not reliable or accurate since inventory of healthcare facilities and biomedical waste generation in not yet completed by all States.

States initiated Inventory studies: Lakshadweep, Andaman Nicobar, Tripura, Daman & Diu, Delhi, Chandigarh, Telangana, Kerala, Gujarat, Haryana, Punjab, Mizoram, Maharashtra, Puducherry, Rajasthan, Tamil Nadu, Jharkhand, Uttar Pradesh, Himachal Pradesh, Andhra Pradesh, MP and Meghalaya.

States not reported status of inventory study: Jammu & Kashmir, Sikkim, Arunachal Pradesh, West Bengal, Assam and Odisha.

2.3.2 Operation of Healthcare Facilities without Authorization: *As per BMWM Rules, 2016, Healthcare Facilities are required to obtain authorization under said Rules, irrespective of quantity of biomedical waste generation. Annual information indicates that out of 2,38,259 of HCFs, only 97,099 (40%) no. of HCFs have applied for authorization and 84,805 (35%) HCFs are granted authorization under BMWM Rules, 2016. This indicates that about 25 % of the identified HCFs are not yet authorized by SPCBs and biomedical waste management by such facilities could not be monitored.*

States namely Assam, Bihar, Chhattisgarh, Himachal Pradesh, Jharkhand, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh & West Bengal permitted use of deep burial pits for the disposal of biomedical waste despite having Common Disposal Facilities.

2.3.5 States without Common Treatment & Disposal Facilities: States like Arunachal Pradesh, Andaman & Nicobar, Goa, Lakshadweep, Mizoram, and Nagaland & Sikkim are not having CBWTF for the treatment & disposal of biomedical waste.

States namely Andaman Nicobar, Arunachal Pradesh, Assam, J & K, Lakshadweep, Mizoram, Orissa, Puducherry, Sikkim, Uttar Pradesh and West Bengal have not submitted any information on implementation of Barcode system.

2.3.11 Constitution of State Level Advisory Committees: States namely Jammu & Kashmir, Lakshadweep and Sikkim have not yet constituted the said Committees as required under BMWM Rules, 2016.

3.0 Submission of Action Plans by State Governments: States namely Assam, Bihar, Chhattisgarh, Daman & Diu and Dadra & Nagar Haveli, Goa, Jharkhand, Karnataka, Lakshadweep, Manipur, Meghalaya, Punjab, Tamilnadu, Telangana, Uttarakhand and West Bengal have not submitted Action plans within due date for submission, that is one month from order of Hon'ble Tribunal dated 12/03/2019.

3.1 Performance Guarantee by Government of Uttar Pradesh State: In this regard, Uttar Pradesh State has not submitted Performance Guarantee to CPCB on compliance to Action Plan submitted by them.

3.2 Key Performance Indicators: CPCB has identified the following Key Performance Indicators for assessing

treatment and disposal of biomedical waste, and effectiveness in implementation of BMWM Rules, 2016;

(1) Inventory of all Healthcare Facilities and biomedical waste generation.

(2) Authorization to all Healthcare Facilities including non-bedded HCFs.

(3) Facilitate setting-up adequate number of Common Biomedical Waste Treatment Facilities (CBWTFs) to cover entire State or all HCFs.

(4) Constitution of State Advisory Monitoring Committee and District Level Monitoring Committee.

(5) Implementation status of Barcode system.

(6) Monitoring of Healthcare Facilities other than hospitals/clinics such as Veterinary Hospitals, Animal Houses, AYUSH Hospitals etc.

Review of Action Plans:

Table 3: Scoring of States/ UTs for effectiveness of Action Plans

S.No	Name of State	Action plan received S.No Name of State from SPCB/PCCs & Score Health Department	Score
1	Sikkim	Health Department	1
2	Arunachal Pradesh	SPCB	1
3	Lakshadweep	Health Department	2.5
4	J&K	Health Department	3
5	Mizoram	Health Department	3
6	Manipur	Health Department	3
7	Uttar Pradesh	Health	3.5

		<i>Department</i>	
8	<i>Nagaland</i>	<i>Health Department</i>	3.5

A score of 7 and above is indicated as an adequate action plan, score between 4-6.5 considered as satisfactory action plan whereas a score of less than 4 is considered not satisfactory.

2.0 Environmental Compensation for Healthcare Facilities (HCFs):

Environmental Compensation for HCFs = HR x T x S x R x N

Where;

HR – Health Risk factor

T- Type of Healthcare Facility

S – Size of Health Care Facility

R – Environmental Compensation factor

N – Number of days of Violation

HR Health Risk (HR) is a number from 0 to 100 and increasing HR value denotes the increasing degree of health risk due to improper handling of BMW in healthcare facility.

Further, in any case minimum Environmental Compensation in respect to Healthcare Facility shall not be less than Rs.1200/- per day.

2.1 Deterrent Factor for Healthcare Facilities:

Incremental effect on Environmental compensation charges are given below:

Scenario	Applicable ECC
<i>Up to 15 days from target date</i>	<i>Original ECC</i>
<i>Between 15 to 30 days beyond target date</i>	<i>Two times</i>
<i>Fails to comply in 2nd inspections including new violations if any</i>	<i>Two times</i>
<i>Between 30 to 45 days beyond target date</i>	<i>Four times</i>
<i>Fails to comply in 3rd inspections including new violations if any</i>	<i>Four times</i>
<i>Beyond 60 days from target date</i>	<i>Closure of HCF</i>
<i>Fails to comply in 4th consecutive inspection</i>	<i>Closure of HCF</i>

3.0 Environmental Compensation for Common Biomedical Waste

Treatment Facility (CBWTF):

Environmental Compensation for CBWTFs = PI x S x R x N

Environmental Compensation

Where;

PI- Pollution Index

S – Size of Operation

R – Environmental Compensation factor

N – Number of days of Violation

Further, in any case minimum Environmental Compensation in respect to Common Biomedical Waste Treatment Facility shall not be less than Rs. 3,000/- per day.

3.1 Deterrent Factor for Common Biomedical Waste Treatment Facilities:

Incremental effect on Environmental compensation charges are given below:

Scenario	Applicable ECC
<i>Up to 30 days from target date</i>	<i>Original ECC</i>
<i>Between 30 to 60 days beyond target date</i>	<i>Two times</i>
<i>Fails to comply in 2nd inspection including new violations if any</i>	<i>Two times</i>
<i>Between 60 to 90 days beyond target date</i>	<i>Four times</i>
<i>Beyond 90 days</i>	<i>Closure of CBWTF</i>
<i>Fails to comply in 3rd consecutive inspection</i>	<i>Closure of CBWTF</i>

7. We have heard learned counsel for the parties available before this Tribunal. We do not see any objection to the recommendations of the CPCB. No meaningful objection has been raised by any of the parties. Accordingly, the report of the CPCB is accepted. The same may be placed on the website of the CPCB for three months. All the States/UTs may take action according to the said report.

8. The States/UTs may furnish complete inventory of HCFs and BMW generation within two months and where the inventories are incomplete, the same may be completed. We place on record our disapproval of the inaction of States in furnishing the inventory studies as well as for incomplete inventories. It is regretful to note that 25% of identified HCFs have not even taken authorization from the concerned State PCBs in absence of which, monitoring of waste management is not taking place. The States which have not set up common treatment and disposal facility must do so within two months as per Rules. The States

who have not furnished the information on the barcode system may also furnish such information at the earliest but not beyond two months. The States which have not yet constituted State Level Advisory Committee may also do so within two months. The action plans and their execution must be carried out having regard to the key performance indicators. The States which have inadequate action plans, not satisfactory action plans, needing further actions must also do the needful within two months realizing their responsibility to the environment and public health which ought to be monitored directly by the Chief Secretaries in terms of order of this Tribunal dated 16.01.2019 in O.A. No. 606/2018 and further orders in the said matter. By the further order in the said matter in the case of all the States, directions were issued that Chief Secretaries may personally monitor compliance of environmental norms (including BMW Rules) with the District Magistrate once every month. The District Magistrates may conduct such monitoring twice every month. We find it necessary to add that in view of Constitutional provisions under Articles 243 G, 243 W, 243 ZD read with Schedules 11 and 12 and Rule 15 of the Solid Waste Management Rules, 2016, it is necessary to have a District Environment Plan to be operated by a District Committee (as a part of District Planning Committee under Article 243 ZD) with representatives from Panchayats, Local Bodies, Regional Officers, State PCB and a suitable officer representing the administration, which may in turn be chaired and monitored by the District Magistrate. Such District Environment Plans and Constitution of District Committee may be placed on the website of Districts concerned.

The monthly report of monitoring by the District Magistrate may be furnished to the Chief Secretary and may be placed on the website of the District and kept on such websites for a period of one year. This may be made operative from 1.08.2019. Compliance of this direction may also be seen by the Chief Secretaries of the States/UTs. This may not only comply with mandate of law but provide an institutional mechanism for effective monitoring of environment norms. Needless to say that right to clean environment being part of right to life, such effective monitoring is a must. Such monitoring must include issues specified in the order of this Tribunal dated 16.01.2019, O.A No. 606/2018, Para 40 which is as follows:-

"a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.

b. Status of functioning of Committees constituted by this order.

c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in "The Hindu" authored 25 by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

d. Status of functioning of Committees constituted in News Item Published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15" dated 08.10.2018.

e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published

in “The Asian Age” Authored by Sanjay Kaw Titled “CPCB to rank industrial units on pollution levels” dated 13.12.2018.

f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, *Sudarsan Das v. State of West Bengal &Ors.* Order dated 04.09.2018.

g. Total amount collected from erring industries on the basis of ‘Polluter Pays’ principle, ‘Precautionary principle’ and details of utilization of funds collected.

h. Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State.”

9. Further important issues flagged for monitoring include training programs for the officers concerned with enforcement of environment norms at the ground level, reuse of treated water, recharge of ground water, conservation of water bodies.¹It has been brought to our notice that State PCBs are facing certain handicaps in performing their functions for want of adequate staff and infrastructure. While this is a matter to be reviewed by concerned Chief Secretaries, the State PCBs/PCCs are free to prepare and execute appropriate plans for utilizing the environment restoration fund with the approval of CPCB. The expenditure may include hiring of experts and consultants, expanding air and water quality monitoring network, procurement of scientific equipment, undertaking restitution remediation and specialized studies on contaminated sites so that there is effective

¹See order dated 17.05.2019, O.A. No 606/2018, Para No. 27 (vi, vii, viii)

oversight for enforcement of law. Under no circumstances these funds be spent on salaries, logistics etc.

10. The compensation regime suggested by the CPCB may be adopted. It will be open to the State PCBs/PCCs to adopt a higher scale of compensation, having regard to the problems faced in such States/UTs.

11. It is made clear that if even after two months the States/UTs are found to be non-compliant, the compensation will be liable to be recovered from the said States/UTs at the rate of Rs. 1 Crore per month till the non-compliance continues.

12. The CPCB may file further progress report in the matter after coordination through the concerned authorities of the States, including the State Boards/other Health Departments.

13. The Chief Secretaries may furnish their respective compliance reports as per orders passed in O.A No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016.

19. The Learned Counsel appearing for the applicant has submitted that that issue of segregation of the waste is the liability of the healthcare facility as envisage in rule 4(b) and rule 4(j) and rule 3(m) of the Bio Medical Waste Management Rules, 2016. The relevant rules are quoted below:

Rule 3(m):

"occupier" means a person having administrative control over the institution and the premises generating bio-medical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, health care facility

and clinical establishment, irrespective of their system of medicine and by whatever name they are called;

Rule 4: It shall be a duty of every occupier to –

(b) make a provision within the premises for a safe, ventilated and secured location for storage of segregated biomedical waste in colored bags or containers in the manner as specified in Schedule I, to ensure that there shall be no secondary handling, pilferage of recyclables or inadvertent scattering or spillage by animals and the bio-medical waste from such place or premises shall be directly transported in the manner as prescribed in these rules to the common bio-medical waste treatment facility or for the appropriate treatment and disposal, as the case may be, in the manner as prescribed in Schedule I;

(j) ensure segregation of liquid chemical waste at source and ensure pre-treatment or neutralisation prior to mixing with other effluent generated from health care facilities.”

20. It is further argued that due to improper segregation of waste at source by the healthcare facilities the collected biomedical waste has been segregated in the premises before treatment by the CBWTF and the segregated incinerable waste had been fed into the of primary chamber through mechanical feeding system for incineration. Moreover, if the biomedical waste is not segregated before putting the waste in the incinerator, there is every likelihood of damage being caused to the incinerator the non incinerable waste is treated in the incinerator.

21. It is further argued on behalf of the Learned Counsel for the applicant that handling, treatment and disposal of waste generated during treatment/diagnosis/quarantine of COVID-19 patients are not being done as per the direction and observation made by Principal Bench of this Tribunal passed in O.A. No. 124/2017. The Central Pollution Control Board has issued guidelines on 21st July, 2020 for handling, treatment and disposal of waste generated during treatment/diagnosis/quarantine of COVID-19 patients. In order to deal with the COVID-19 pandemic various steps have been initiated which include setting up of quarantine centers/camps/isolation wards, central collection centers and laboratories and therefore, Central Pollution Control Board on 21st July, 2020 has issued specific guidelines for the management of waste generated during diagnostics and treatment of COVID-19 suspect and confirmed patients and these guidelines have not been followed by the State Authorities and the respondents.
22. It is further argued that COVID-19 materials like masks, gloves, kits all other things which are being used by the medical staff or other patients and the authority are not being disposed of according to the rules or according to the parameter laid down by the Central Pollution Control Board.
23. After the COVID-19, the Central Pollution Control Board on 21.07.2020 issued Revision 4 guidelines for handling, treatment and disposal of waste generated during treatment/diagnosis/quarantine of COVID-19 patients as follows:-

“ In order to deal with COVID-19 pandemic, State and Central Governments have initiated various steps which includes setting

up of quarantine centers/camps, Isolation wards, samples collection centers and laboratories.

Following specific guidelines for management of waste generated during diagnostics and treatment of COVID-19 suspected/confirmed patients are required to be followed by all the stakeholders including isolation wards, quarantine centers, sample collection centers, laboratories, ULBs and common biomedical waste treatment and disposal facilities, in addition to existing practices under BMW Management Rules, 2016.

These guidelines are based on current knowledge on COVID-19 and existing practices in management of infectious waste generated in hospitals while treating viral and other contagious diseases like HIV, H1N1, etc. These guidelines will be updated if need arises. This revision-4 of guidelines issued to provide revised guidance on segregation of general solid waste and biomedical waste from quarantine centers/home-care/healthcare facilities treating COVID-19 patients and to recommend on disposal of PPEs.

Guidelines brought out by WHO, MoH&FW, ICMR, CDC and other concerned agencies from time to time may also be referred for understanding other aspects related to COVID-19.

Guidelines for handling, treatment and disposal of COVID-19 waste at Healthcare Facilities, Home-care, Sample Collection Centers, Laboratories, SPCBs/PCCs, ULBs and CBWTFs is give below:

(a) COVID-19 Isolation wards: (isolation wards are those where COVID-19 positive patients are being kept for treatment / diagnosis)

Healthcare Facilities having isolation wards including temporary Healthcare Facilities like rail coach wards, COVID Care Centers etc. for COVID-19 patients need to follow these steps to ensure safe handling and disposal of biomedical waste generated during treatment;

-Keep separate color coded bins (with foot operated lids)/bags/containers in wards and maintain proper segregation of waste as per BMWM Rules, 2016 as amended and CPCB guidelines for implementation of BMW Management Rules.

-As precaution double layered bags (using 2 bags) should be used for collection of waste from COVID-19 isolation wards so as to ensure adequate strength and no-leaks;

-Collect and store biomedical waste separately prior to handing over the same CBWTF. Use a dedicated collection bin labelled as "COVID-19" to store COVID-19 waste and keep separately in temporary storage room prior to handing over to authorized staff of CBWTF. Biomedical waste collected in such isolation wards can also be lifted directly from ward into CBWTF collection van.

In addition to mandatory leveling, bags/containers used for collecting biomedical waste from COVID-19 wards, should be labeled as "COVID-19 Waste". This marking would enable CBWTFs to identify the waste easily for priority treatment and disposal immediately upon the receipt."

24. Accordingly, we dispose of this application with the following directions:-

1. The respondents are directed to follow the guidelines issued by the Central Pollution Control Board which was communicated vide order dated 21.07.2020 and strict action should be initiated for non-compliance of the guidelines with reference to disposal of materials collected, used and thrown in COVID-19.
2. The Rajasthan State Pollution Control Board is directed to have a strict vigil to ensure the compliance of the Bio-Medical Waste Rules and in case it is found that there is a violation of the rules, strict action should be initiated including calculation of environmental compensation and its recovery according to law.

25. With the above observations, the original application is finally disposed of, with no order as to cost.

Justice Sheo Kumar Singh, JM

Dr. S.S. Garbyal, EM

JG
Original Application No. 63/2019 (CZ)