

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH, CHENNAI

IN

ORIGINAL APPLICATION NO. 22 of 2022 (SZ)

IN THE MATTER OF:

A.Krishna & Ors

...Applicants

-Vs-

Union of India &

Ors.

...Respondents

AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE, RESPONDENT NO.1

CHENNAI

DATED: 01-04-2022

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**AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE, RESPONDENT NO.1**

I, Dr.C.Palpandi, S/o P.Chendurpandi, aged about 40 years working as Scientist 'D' in the Integrated Regional Office of the Ministry of Environment, Forest & Climate Change (MoEF&CC) at Chennai, the deponent herein do hereby solemnly affirm and state on oath as under:-

1. That I am authorized to swear the present affidavit on behalf of the MoEF&CC on the basis of the official records maintained therein.
2. That the contents of the application under reply, unless specifically admitted, are denied to the extent that they are inconsistent with the submissions made hereinafter. The annexure accompanying this affidavit is true copy of its original.
3. That without prejudice to the above and as an alternative submission, the deponent craves liberty to raise further required contentions during the course of the proceedings.
4. That at the outset, it is submitted that the Respondent Ministry vide G.S.R. 320 (E) dated 18th March, 2016 had notified the Plastic Waste Management Rules, 2016, (hereinafter referred to as Rules) superseding the Plastic Waste (Management and Handling) Rules, 2011 and its amendments.

C. Palpandi

**Dr. C. Palpandi,
Scientist "D"
Government of India
Min. of Environment Forest and Climate Change
Integrated Regional Office
1st Floor, Additional Office Block for GPOA,
Shastri Bhawan, Haddows Road
Nungambakkam, Chennai - 600 006.**

5. That the Rules were amended vide notification numbers G.S.R 285 (E) dated the 27th March, 2018, G.S.R. 571 (E) dated the 12th August, 2021, G.S.R. 647 (E) dated the 17th September, 2021, and GSR 133 (E) dated 16th February 2022.

6. That , the above mentioned matter came up for hearing before this Hon'ble Tribunal on 18.02.2022 and the Hon'ble Tribunal has inter alia directed as under:

8. The Ministry of Environment, Forests and climate Change (MoEF & CC), Central Pollution Control Board (CPCB) and the respective State Pollution Control Boards/Pollution Control Committee are directed to file the status of generation of multi-layered plastic products within their States and whether Rule 9(3) has been implemented in their State and if not, what is the action taken from their side to implement the same, whether there is any mechanism to ascertain the quantity of such plastic articles manufactured and the quantity of articles collected, segregated and re-cycled or re-used or disposed of in a scientific-manner as required under the Plastic Waste Management Rules, 2016 (as amended in 2018) and if there is any gap, what is the nature of mechanism that they have taken to fill the gap.

9. The Ministry of Environment, Forests and climate Change (MoEF & CC), is also directed to mention in their counter affidavit as to whether any plastic waste is being imported for the purpose of fuel, especially when huge amount of plastic waste is available in India for using the same as fuel as required under the Plastic Waste Management Rules, 2016 (as amended in 2018) and also the Solid Waste Management Rules, 2016, whether any guidelines have been issued for collection of such plastic which can be used for fuel as Refuse-derived fuel (RDF) and what is the mechanism or guideline provided by the Central Government in this regard to regulate the importance of plastic waste for the industrial purpose.

7. That it is humbly submitted that as per Plastic Waste Management (Amendment) Rules, 2018, notified on 27th March 2018, "alternate use" and "energy recovery" is defined as given below

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- “alternate use’ means use of a material for a purpose other than for which it was conceived, which is beneficial because it promotes resource efficiency” (Rule 3 (ab))
- “energy recovery’ means energy recovery from waste that is conversion of waste material into usable heat, electricity or fuel through a variety of processes including combustion, gasification, pyrolysis, anaerobic digestion and land fill gas recovery” (Rule 3 (ga))

Copy of the Plastic Waste Management (Amendment) Rules, 2018, is annexed and marked as **Annexure-R1/1**.

8. That as per Rule 9 (3) of Plastic Waste Management (Amendment) Rules, 2018, manufacture and use of multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use should be phased out in Two years’ time.
9. That Rule 12 of the said Rules, states the Prescribed Authorities under the said Rules. The relevant extract is quoted below:

(1) The State Pollution Control Board and Pollution Control Committee in respect of a Union territory shall be the authority for enforcement of the provisions of these rules relating to registration, manufacture of plastic products and multilayered packaging, processing and disposal of plastic wastes.

(2) The concerned Secretary-in-charge of Urban Development of the State or a Union Territory shall be the authority for enforcement of the provisions of these rules relating to waste management by waste generator, use of plastic carry bags, plastic sheets or like, covers made of plastic sheets and multilayered packaging.

(3) The concerned Gram Panchayat shall be the authority for enforcement of the provisions of these rules relating to waste management by the waste generator, use of plastic carry bags, plastic sheets or like, covers made of plastic sheets and multilayered packaging in the rural area of the State or a Union Territory.

(4) The authorities referred to in sub-rules (1) to (3) shall take the assistance of the District Magistrate or the Deputy Commissioner within the

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territorial limits of the jurisdiction of the concerned district in the enforcement of the provisions of these rules.”

10. That as per Rule 16 of the said Rules, the State Level Monitoring Committee constituted by the concerned State Government or UT Administration is mandated for effective monitoring of implementation of these rules.
11. That it is humbly submitted that, based upon available information, all multi-layered plastic made in the country are either recyclable or energy recoverable or have alternate use. As such, may not require to be phased out. Further information is also being sought from the Central Pollution Control Board in this regard.
12. That import and export of plastic waste is regulated through Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (hereinafter HOWM Rules, 2016). Import of plastic waste is prohibited in the country except for specific type of plastic waste viz. polyethylene, polyethylene teraphthalate, and polymethyl methacrylate, subject to the conditions prescribed in Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, as amended. The import of the designated plastic waste has not been permitted for use as fuel under HOWM Rules, 2016. Further information is also being sought from the Central Pollution Control Board in this regard.

PRAYER

In light of the above facts and circumstances, it is most humbly prayed that the Hon'ble Tribunal may pass such order(s) as may be deemed fit and proper in the facts and circumstances of the case.

C. Palpandi
DEPONENT

Dr. C. Palpandi,
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Government of India
Min. of Environment Forest and Climate Change
Integrated Regional Office
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VERIFICATON

Verified at Chennai on this day of 01 April, 2022 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from.


DEPONENT

**Dr. C. Palpandi,
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MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 27th March, 2018

G.S.R. 285(E).—In exercise of powers conferred by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following rules to amend the Plastic Waste Management Rules, 2016, published in the Gazette of India, Extraordinary, vide number G.S.R. 320(E), dated the 18th March, 2016, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the aforesaid rules in public interest, namely :-

1. (1) These rules may be called Plastic Waste Management (Amendment) Rules, 2018.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Plastic Waste Management Rules, 2016 (hereinafter referred to as the said rules), in rule 3,-
 - i. after clause (a), the following clause shall be inserted, namely:-
“(ab) ‘alternate use’ means use of a material for a purpose other than for which it was conceived, which is beneficial because it promotes resource efficiency.”;
 - ii. after clause (g), the following clause shall be inserted, namely:-
“(ga) ‘energy recovery’ means energy recovery from waste that is conversion of waste material into usable heat, electricity or fuel through a variety of processes including combustion, gasification, pyrolysis, anaerobic digestion and land fill gas recovery.”;
3. In the said rules, in rule 9, in sub-rule (3), for the words “non-recyclable multilayered plastic if any”, the words “multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use” shall be substituted.
4. In the said rules, in rule 13, for the sub-rule (2) the following sub-rule shall be substituted, namely: -
“(2) Every producer or brand-owner shall, for the purpose of registration or renewal of registration, make an application, in Form 1 to,-
(i) the concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating in one or two states or Union territories; or
(ii) the Central Pollution Control Board, if operating in more than two States or Union Territories.”.
5. In the said rules, the rule 15 shall be omitted.

[F. No. 17-2/2001-HSMD]

RITESH KUMAR SINGH, Jr. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 320(E), dated the 18th March, 2016.

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