

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTH ZONE BENCH AT CHENNAI

APPEAL No. 79 Of 2021

Between :-

M/s. Safe Environ Private Limited  
Rep. by Sri V.Venkateswara Rao

.... Appellant

and

Union of India Rep. By its Secretary,  
Ministry of Environment, Forest and  
Climate change, Indira Paryavaran Bhavan Jor Bagh,  
Lodhi Colony, New Delhi And others

.... Respondents

ADDITIONAL DOCUMENTS FILED ON BEHALF OF THE  
RESPONDENT No. 6

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Verified and certified to be true copies of the Originals  
at Hyderabad on this the 12th day of April,2023

*V. B. Subrahmanyan*  
Counsel for Respondent No.6

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....

**Respondents**

**MEMO FILED ON BEHALF OF THE RESPONDENT NO.6**

**It is respectfully submitted that the documents more fully stated in  
the index are filed along with the memo for kind consideration of this  
Hon'ble Tribunal.**

**Hyderabad**

**Date:12.04.2023**

*V.B. Subrahmanya*  
**Counsel for Respondent No.6**

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F. No. IA3-22/19/2021-IA.III [E 164361]  
Government of India  
Ministry of Environment, Forest and Climate Change  
(Impact Assessment Division)

\*\*\*\*\*

Indira Paryavaran Bhawan  
Aliganj, Jorbagh Road  
New Delhi-110 003

Dated: 20<sup>th</sup> September, 2021

**ORDER**

**Sub: Directions under Section 5 of the Environment (Protection) Act, 1986 to not grant or renew CTO unless Environment Clearance, as applicable, has been obtained - regarding.**

Whereas, prior Environmental Clearance is a statutory requirement for project/activities covered in the schedule of the EIA Notification 2006, issued under section 3 of the Environment (Protection) Act, 1986.

2. And whereas, obtaining the consents under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981 is mandatory for all industrial units in Red, Orange and Green categories.

3. And whereas, the grant of EC and Consents are requirements under different statutes and are not inter-dependent and can be carried out as a parallel process.

4. And whereas, many a times it has been observed that while industrial units are in possession of valid 'Consent to Establish' (CTE)/ 'Consent to Operate' (CTO) issued by State Pollution Control Boards (SPCBs)/ UT Pollution Control Committees (UTPCC), however, they have not obtained the Environmental Clearance (EC), even though it was required as per provisions of EIA Notification 2006.

5. And whereas, it has been observed that this situation is arising because majority of the SPCBs/ UTPCCs are issuing CTE/CTO to projects without ascertaining the applicability of prior EC to projects/ activities, resulting in an avoidable situation of closure for even those industries also who seek to carry out their activities following due procedure.

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6. Now therefore, in exercise of powers conferred by section 5 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, hereby directs that all SPCB/UTPCC shall:

- i. Ascertain the applicability of EIA Notification at the time of grant/renewal of CTE and stipulate appropriate condition for obtaining Environmental Clearance (EC), if applicable, before construction/commencement of project/activity.
  - ii. Ensure that the project proponent possesses a valid Prior EC in terms of the extant EIA Notification, if applicable, at the time of grant/renewal of CTO and no CTO shall be granted or renewed unless EC, if applicable, has been obtained.
7. This is issued with the approval of the Competent Authority.

  
(A K Agrawal)  
Director

To

Chairmen of all State/UT Pollution Control Boards and Pollution Control Committees

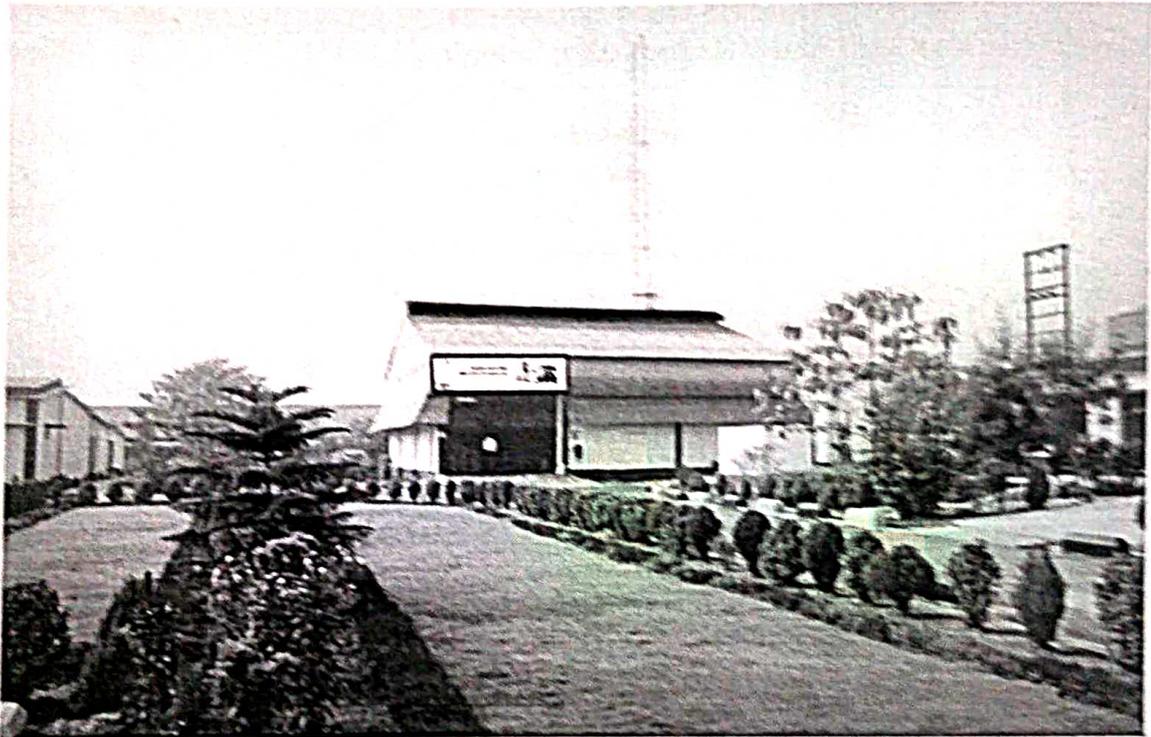
Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS(RA)/JS(SKB)
5. Chairman of all the Expert Appraisal Committees
6. Chairperson/Member Secretaries of all the SEIAAs/SEACs
7. All the Officers of IA Division, MOEFCC
8. Website MoEF&CC/ Guard file.



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## Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities



**CENTRAL POLLUTION CONTROL BOARD**

(Ministry of Environment, Forest and Climate Change)

Parivesh Bhawan, East Arjun Nagar

DELHI -110 032

website: [www.cpcb.nic.in](http://www.cpcb.nic.in)

(December 21, 2016)

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## Abbreviations

APCD	-	Air Pollution Control Device
BMWM Rules	-	Bio-medical Waste Management Rules
CBWTF	-	Common Bio-medical Waste Treatment and Disposal Facility
CO	-	Carbon Monoxide
CO <sub>2</sub>	-	Carbon Dioxide
CPCB	-	Central Pollution Control Board
CRZ	-	Coastal Regulation Zone
DG	-	Diesel Generator
EC	-	Environmental Clearance
EIA	-	Environment Impact Assessment
ETP	-	Effluent Treatment Plant
GPS	-	Global Positioning System
HCFs	-	Health Care Facilities
HCl	-	Hydrochloric Acid
HOWM & TM Rules	-	Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016
MHz	-	Mega Hertz
MoEF& CC	-	Ministry of Environment, Forest & Climate Change
KM	-	Kilometer
KW	-	Kilowatt
MoU	-	Memorandum of Understanding
NABL	-	National Accreditation Board for Testing and Laboratories
NO <sub>x</sub>	-	Oxides of Nitrogen
O <sub>2</sub>	-	Oxygen
PCC	-	Pollution Control Committee
PLC	-	Programmable Logical Control
SEIAA	-	State Environment Impact Assessment Authority
SLF	-	Secured Landfill
SPCB	-	State Pollution Control Board
TSDF	-	Treatment Storage and Disposal Facility
TOC	-	Total Organic Carbon
VOCs	-	Volatile Organic Compounds



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## 1) Introduction

A Common Bio-medical Waste Treatment and Disposal Facility (CBWTF) is a set up where biomedical waste generated from member health care facilities is imparted necessary *treatment* to reduce adverse effects that this waste may pose on human health and environment. The treated recyclable waste may finally be sent for disposal in a secured landfill or for recycling.

According to the Bio-medical Waste Management Rules, 2016, "*bio-medical waste treatment and disposal facility*" means any facility wherein treatment, disposal of bio-medical waste or processes incidental to such treatment and disposal is carried out, and includes common bio-medical waste treatment facilities and "*operator of a common bio-medical waste treatment facility*" means a person who owns or controls a Common Bio-medical Waste Treatment and Disposal Facility (CBWTF) for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste.

The Bio-medical Waste Management Rules, 2016 (hereafter referred as BMWM Rules) restricts occupier for establishment of on-site or captive bio-medical waste treatment and disposal facility, if a service of common bio- medical waste treatment and disposal facility is available within a distance of seventy-five kilometer, as installation of individual treatment facility by health care facility (HCF) requires comparatively high capital investment. In addition, it requires separate dedicated and trained skilled manpower and infrastructure development for proper operation and maintenance of treatment systems. The concept of *CBWTF* is not only addresses such problems but also prevents proliferation of treatment technologies in a particular town or city. In turn, it reduces the monitoring pressure on regulatory agencies. By running the treatment equipment at CBWTF to its full capacity, the cost of treatment of per kilogram bio-medical waste gets significantly reduced. Its considerable advantages have made CBWTF popular and proven concept in most part of the world.

The CBWTFs are also required to set up based on the need for ensuring environmentally sound management of bio-medical waste keeping in view the techno-economic feasibility and viable operation of the facility with minimal impact on human health and environment.

Since 1998, the CBWTF as an option for treatment of bio-medical waste also been legally introduced in India. Considering the likely impacts that may cause to the patients undergoing treatment because of operation of the captive treatment

equipment within the health care facilities (HCFs), now the Bio-medical Waste Management Rules, 2016 restricts the Occupier (i.e., HCF) for ensuring treatment and disposal of generated bio-medical waste through a CBWTF, located within a distance of 75 KM. Further, these rules eased the bottleneck in upbringing the CBWTF by making department in the business allocation of land assignment in the State or UT administration responsible for providing a suitable site (s) within its jurisdiction.

The concept of CBWTF is also being widely accepted in India among the healthcare units, medical associations and entrepreneurs. In order to set up a CBWTF to its maximum perfection, care shall be taken in choosing the right technology, development of CBWTF area, proper designing of transportation system to achieve optimum results etc. Key features of CBWTF have been addressed in the subsequent sections.

To facilitate the treatment and disposal of bio-medical waste generated from the HCFs, at present (as per Annual Report 2014 submitted by the SPCBs/PCCs), there are 192 no. of CBWTFs in operation and 33 no. of CBWTFs are under construction. Also, the Bio-medical Waste Management Rules, 2016 mandates that the operator of a CBWTF authorised by the prescribed authority is required to 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 the BMWM Rules and the guidelines issued by the Central Government or the Central Pollution Control Board (CPCB) from time to time. Therefore, these guidelines have been prepared with an aim to have uniformity in ensuring site selection, allowing and establishment of a state-of-the-art CBWTF, operation as well as verification of compliance to the BMWM Rules, 2016 throughout the country. However, any other aspects which are not been covered under these guidelines and needs attention, in such a case, the prescribed authority may take suitable action in the interest of protection of the environment in consultation with MoEF & CC/CPCB. Also, it is pertinent to mention here that these guidelines are mandatory henceforth under the Bio-medical Waste Management Rules, 2016

**2) Criteria for development of a new Common Bio-medical Waste Treatment and Disposal Facility for a locality or region.**

Prior to allowing any new CBWTF, following criteria or steps may be followed:

- a) Prescribed authority under the BMWM Rules, 2016 [i.e., State Pollution Control Board (SPCB) in the respective State or Pollution Control Committee (PCC) in the respective
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Union Territory Administration] is required to prepare an inventory or review with regard to the bio-medical waste generation at least once in five years in the coverage areas of the existing bio-medical waste treatment and disposal facility. The prescribed authority is also required to extrapolate the coverage-area wise bio-medical waste generation for the next ten years.

- b) SPCB/PCC is required to conduct gap analysis w.r.to coverage area of the bio-medical waste generation and also projected over a period of next ten years, adequacy of existing treatment capacity of the CBWTF in each coverage area of radius 75 KM, as given in **Annexure-I**.

All the SPCBs and PCCs shall conduct the gap analysis and based on the gap analysis, action plan for development of new CBWTFs is required to be prepared and submitted to MoEF & CC & CPCB within six months' time. In case of States/UTs, where no CBWTF is available, in such a case, SPCB/PCC being prescribed authority under the BMWM Rules is required to submit the detailed proposal to MoEF & CC/MoH & FW through the respective State Government or UT Administration. Also, the option of forming association by the group of health care facilities (HCFs) to develop their own CBWTF also be encouraged following these guideline. In case, any coverage area requires additional treatment capacity, in such a case, action may be initiated by the prescribed authority for allowing a new CBWTF in that locality without interfering the coverage area of the existing CBWTF and beds covered by the existing CBWTF.

- c) SPCB/PCC shall identify the coverage area, which require additional treatment facility and bring it to the notice of the concerned department in the business allocation of land assignment in the respective State Government or UT Administration. The department in the business allocation of land assignment shall be responsible for providing suitable site in the identified coverage area for setting up of a CBWTF, in consultation with the prescribed authority (i.e., SPCB/PCC), other stakeholders and in accordance with these guidelines issued by CPCB from time to time.
- d) Alternately, a CBWTF may also be allowed to be established on a land procured by an entrepreneur in accordance with the location criteria suggested under these guidelines.
- e) The SPCB/PCC or concerned department in the business allocation of land assignment in the respective State Government or UT Administration may seek expression of interest from the proponents for development of new CBWTF (s) in the identified coverage area. Upon allocation of site to the proponent, the proponent is
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required to take necessary approvals as required under the Environment (Protection) Act, 1986 for development of the new CBWTF in accordance with these guidelines.

- f) In the absence of expression of interest by any proponent, then SPCB/PCC shall insist health care facilities to form association and to develop its own CBWTF in line with these guidelines or to have captive treatment facilities for ensuring treatment and disposal of generated bio-medical waste as stipulated under the BMWM Rules, 2016.
- g) In case of any regulatory action including closure of any existing CBWTF is inevitable, the respective SPCB/PCC may take action under the BMWM Rules including for making alternate arrangement to ensure safe disposal of the bio-medical waste generated from the member health care facilities of such default CBWTF through CBWTF located nearby.
- h) In case of hilly areas considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc., should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee.

The criteria for development of CBWTFs in any coverage area is also depicted in **Figure 1**.

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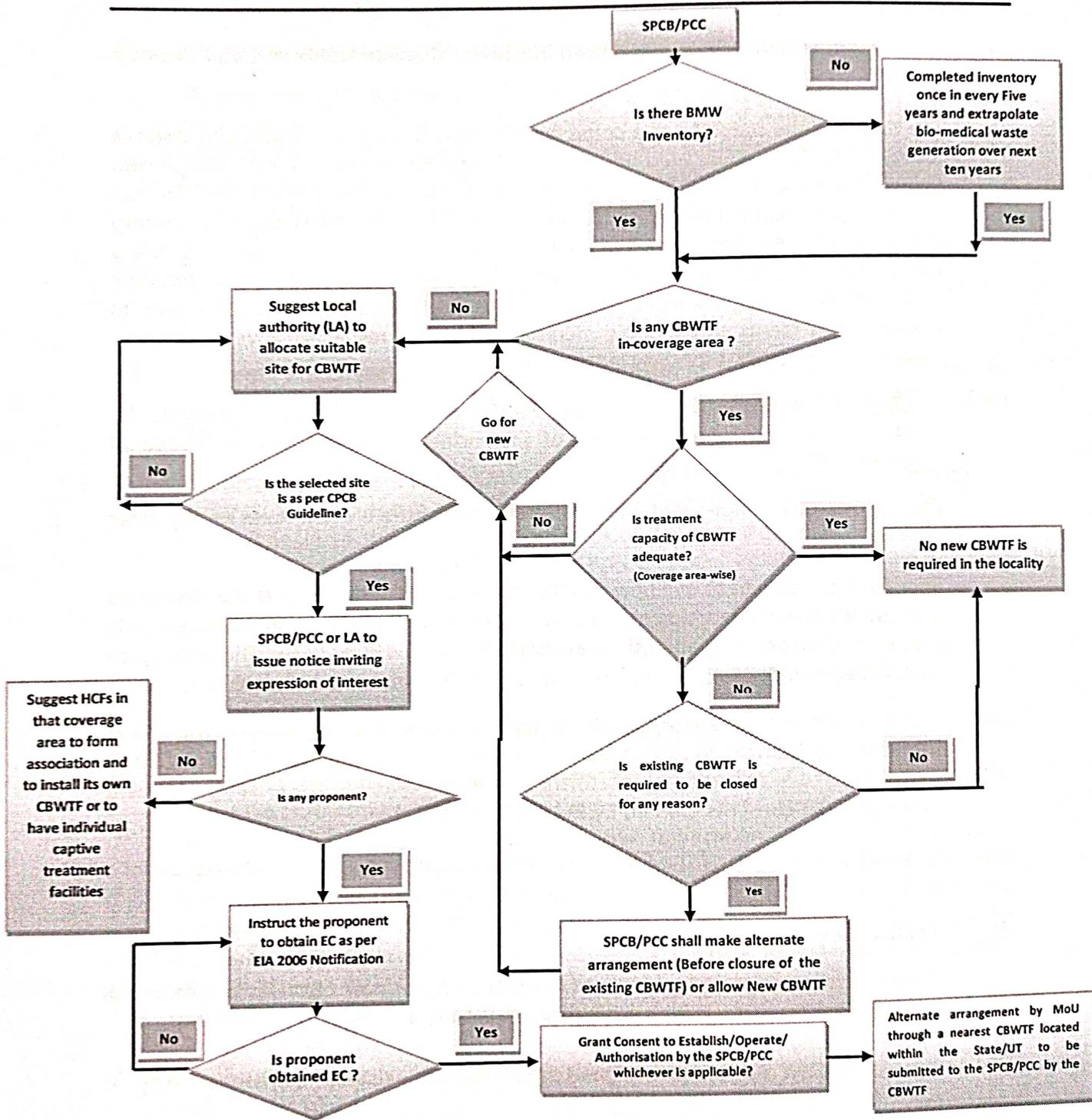


Figure 1. Criteria for Development of a CBWTF in a coverage area



### 3) Duties of the operator of a common bio-medical waste treatment and disposal facility

The duties of the operator of a common bio-medical waste treatment and disposal facility (CBWTF) as enunciated under Rule 5 of the Bio-medical Waste Management Rules, 2016 shall be ensured and complied with. Also, all the existing CBWTFs shall also complete augmentation of the existing incineration facility so as to comply w.r.to the residence time as well as emission norms including for Dioxins and Furans prescribed under BMWM Rules, 2016 within two years from the date of notification of the BMWM Rules, 2016 (i.e., prior to 27.03.2018). In addition to the above, to ensure proper management of bio-medical waste in the respective coverage area, as a mitigation measure, especially in the event of

- (a) a temporary break down (not more than a week) of a CBWTF especially for rectification of the refractory lining of the incineration chambers or change of requisite APCD due to failure; and
- (b) Closure of a CBWTF for violation of the provisions of the BMWM Rules or any other reason.

Prior to commencement of a new CBWTF as well as all the existing CBWTF Operators are required to submit action plan, to the respective SPCB/PCC, for imposing suitable condition while granting authorisation under the BMWM Rules, 2016. The action plan should also include:

- (a) a MoU made with the nearest CBWTF located within the respective State/UT, as alternate arrangement. In case, if there is no CBWTF located nearby then such CBWTF should have to install stand by treatment equipment (equal to the existing treatment capacity as per consents granted by the SPCB/PCC), and
- (b) decontamination plan of the CBWTF for execution of such plan prior to closure of a CBWTF.

### 4) Applicability of these guidelines

These guidelines are applicable to all the upcoming or new CBWTFs. In case of the existing CBWTFs, these guidelines shall be applicable in case

- (a) the existing CBWTFs desires to expand or enhance the existing treatment capacity
- (or)**
- (b) the existing CBWTFs desires to modernize the existing treatment equipment with the new equipment with enhancement in the existing treatment capacity.

## 5) Environmental laws applicable for commissioning or operation of a CBWTF

Operation of a CBWTF leads to air emissions as well as waste water generation as in case of an industrial operation. Most common sources of waste water generation in CBWTFs are vehicle washing, floor washing, and scrubbed liquid effluent from air pollution control systems attached with the incinerator/plasma pyrolysis. Incineration as well as DG Set is the general source of air emissions.

**5.1** Any other approvals (such as Land Use /Change in Land Use as applicable) required from the concerned authorities under various laws have to be complied with by the proponent of the CBWTF prior to development of a CBWTF:

**5.2 Consents under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as well as Authorization under the BMWM Rules, 2016**

The project proponent of the CBWTF is required to obtain 'Consent to Establishment' under Rule 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under Rule 21 of the Air (Prevention and Control of Pollution) Act, 1981, from the respective prescribed authority i.e. SPCB/PCC. Upon installation of the requisite equipment, the CBWTF Operator is also required to obtain authorization under BMWM Rules, 2016 co-terminus with consent to operate under Water (Prevention and Control of Pollution) Act, 1976 & Air (Prevention and Control of Pollution) Act, 1981 from the respective SPCB/PCC prior to commencement of the CBWTF.

**5.3 Environmental Clearance under EIA Notification 2006**

Ministry of Environment, Forest & Climate Change (MoEF & CC), notified amendment to the EIA Notification 2006 and published vide MoEF & CC Notification of S.O. 1142 (E) dated April 17, 2015. According to this notification, the 'bio-medical waste treatment facility' is categorized under the Item 7 (da) in the schedule, requiring 'environmental clearance' from the State Environment Impact Assessment Authority (SEIAA). Therefore, the CBWTF operator is also required to obtain 'Environmental Clearance (EC)' from the respective SEIAA or Ministry of Environment, Forest & Climate Change (MoEF & CC), as the case may be, before any construction work, or preparation of land by the projects management, which include the following:

- a) All new projects or activities pertaining to the bio-medical waste treatment facility; and
- b) 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).

- c) Any expansion or modification in the treatment capacity or relocation of the existing CBWTF (requires compliance to the relevant provisions notified under the Environment (Protection) Act, 1986 by the MoEF & CC

#### 6) Location criteria

In the context of these guidelines, buffer zone represents a separation distance between the source of pollution in CBWTF and the receptor - following the principle that the degree of impact reduces with increased distance. The following parameters may be considered for ascertaining buffer distance on case-to-case basis:

- (i) potential for spread of infection from wastes stored in the premises.
- (ii) applicable standards for pollution control and the relative efficiency of the existing incinerators and emission control systems,
- (iii) potential of fugitive dust emission from incinerators,
- (iv) potential for discharge of wastewater
- (v) the potential for odour production,
- (vi) the potential for noise pollution,
- (vii) the risk posed to human health and safety due to exposure to emissions from incinerator,
- (viii) the risk of fire and
- (ix) Significance of the residual impacts such as bottom ash and fly ash.

As far as possible, the CBWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMWM Rules (i.e., within 48 hours). Also, the location of the CBWTF should be in conformity to the CRZ Norms and other provisions notified under the Environment (Protection) Act, 1986. The location shall be decided in consultation with the State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC). The location criteria for development of a CBWTF are as follows:

- (a) A CBWTF shall preferably be developed in a notified industrial area without any requirement of buffer zone **(or)**
- (b) A CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall

have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (BAT) by the proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity. If SPCB/PCC is not in a position to resolve the issue relating to buffer zone while selecting the site for CBWTFs, in such a case, SPCBs/PCCs may refer the matter to CPCB.

- (c) The CBWTF can also be developed as an integral part of the Hazardous Waste Treatment Storage and Disposal Facility (TSDF) subject to obtaining of necessary approvals from the authorities concerned including 'environmental clearance' as per Environmental Impact Assessment 2006 and further amendments notified under the Environment (Protection) Act, 1986, provided there is no CBWTF exist within 150 KM distance from the existing TSDF.

## 7) Land requirement

Sufficient land shall be allocated to the CBWTF to provide all requisite systems which include dedicated space for storage of waste (both treated and untreated), waste treatment equipment, vehicle washing bay, vehicle parking space, ETP, incineration ash storage provision, administrative room, space for DG Set etc.,.

- (a) Preferably, a CBWTF shall be set up on a plot size of not less than one acre in all the areas. However, a CBWTF can be developed in adjacent plots but cannot be set up in two or more different plots located in different areas. Separate plots can be permitted only for vehicle parking if located in the close vicinity of the proposed CBWTFs or the existing CBWTFs.
- (b) In case of upcoming or new CBWTFs (both in municipal limits with population more than 25 lakhs or in rural areas), the land area requirement may be relaxed (but in any case not less than 0.5 acre) by the SPCB/PCC, with additional control measures such as zero liquid discharge, increase in stack height, stringent emission norms, odour control measures or any other measures felt necessary by the prescribed authority on case-to-case basis, only in consultation with CPCB.

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**8) Coverage area of CBWTF**

Suggested coverage area for development of a CBWTF is as follows:

- a) A CBWTF located within the respective State/UT shall be allowed to cater healthcare units situated at a radial distance of 75 KM. However, in a coverage area where 10,000 beds are not available within a radial distance of 75 KM, existing CBWTF in the locality (located within the respective State/UT) may be allowed to cater the healthcare units situated upto 150 KM radius w.r.to its location provided the bio-medical waste generated is collected, treated and disposed of within 48 hours as stipulated under the BMWM Rules.
- b) In case, number of beds is exceeding >10,000 beds in a locality (i.e. coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located.
- c) In case of hilly areas, considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc. should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee to be constituted under the BMWM Rules by the respective State Government or UT Administration.

**9) Treatment equipment**

The Common Bio-medical Waste Treatment Facility should treat the bio-medical waste as per BMWM Rules and as per the authorisation granted by the prescribed authority. The CBWTF should have the following treatment facilities:

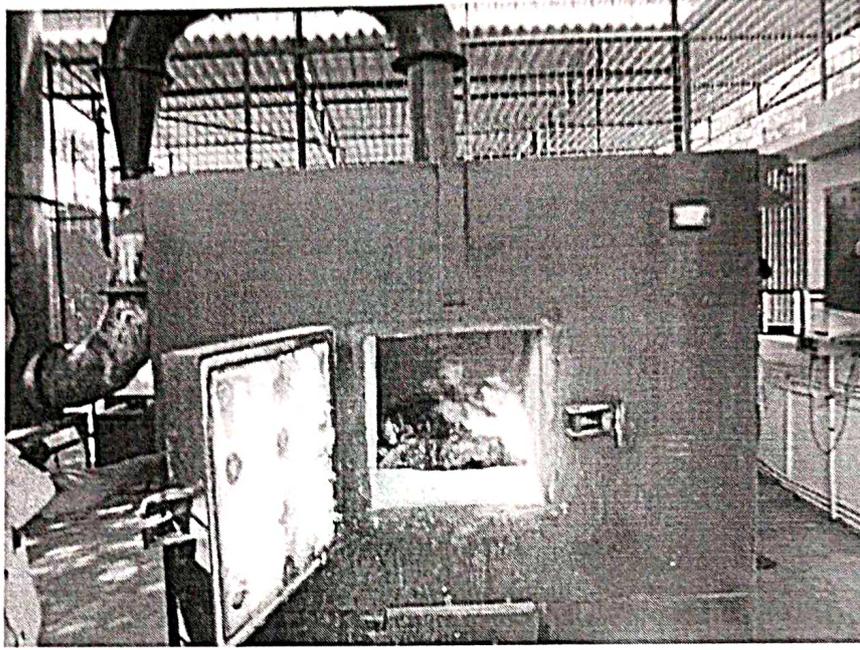
**a) Incineration/Plasma Pyrolysis**

**Incineration** is a controlled combustion process where waste is completely oxidized and harmful microorganisms present in it are destroyed/ denatured under high temperature. The guidelines for "Design & Construction Requirements of Bio-medical Waste Incinerators" by CPCB from time to time shall be followed for selecting/or augmenting the incinerator.

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## Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities



**Andhra Pradesh Pollution Control Board**  
D.No-33-26-14D/2. Near Sunrise Hospital, Pushpa Hotel Center,  
Chalamalavari Street, Kasturibaipet, Vijayawada-520010

Website : [www.appcb.ap.nic.in](http://www.appcb.ap.nic.in)

19-05-2019

## **1. Introduction**

The CPCB issued revised guidelines for CBMWTFs as per the Bio-Medical Waste Management Rules, 2016 on 21.12.2016. These guidelines were developed by the CPCB keeping in view of the entire India. The APPCB opined that there is an urgent need for further stringent guidelines for the CBMWTFs in the state of Andhra Pradesh for proper treatment and disposal of the Bio-Medical Waste generated in the state of Andhra Pradesh. In the state of Andhra Pradesh, health care facilities were developed in each and every corner including the remote areas. However the bed strength is more in the cities and densely populated districts. In order to facilitate the disposal of the bio-medical waste within 48 hours, certain changes were made in distance criteria in allowing the new CBMWTFs.

## **2. Criteria for development of a new Common Bio-medical Waste Treatment and Disposal Facility for a locality or region.**

Prior to allowing any new CBMWTF, should meet following criteria

- a. Atleast one CBMWTF shall be allowed in each and every district of Andhra Pradesh for disposal of Bio Medical Waste considering the increased bed strength in future, coverage of veterinary hospitals under BMW rules, reduction of the cost of the transport, biological waste & discarded medicines from the industries and better administrative control over the CBMWTFs.
- b. In the densely populated districts second facility is to be encouraged (as per annexure-1).
- c. In case, the existing CBMWTF fails to comply with the standards / directions / conditions stipulated by the CPCB / APPCB, repeatedly then closure order will be issued followed by cancellation of its authorization and a new CBMWTF shall be encouraged in each district irrespective of bed strength and distance criteria in order to dispose the Bio Medical Waste in compliance with the Bio Medical Waste Management Rules, 2016.
- d. In case, the existing CBMWTF continues to violate the standards / directions / conditions, closure directions shall be issued without any further notice and the authorization will be cancelled.

**3. Duties of the operator of a common bio-medical waste treatment and disposal facility**

- a. No CBMWTF shall stop its operation without obtaining prior permission from the APPCB atleast 15 days in advance, failing which the APPCB shall levy a penalty of not less than the charges collected from the entire HCFs in a day.
- b. The CBMWTFs are responsible for giving necessary training to the staff of HCFs on segregation of BMW. The CBMWTF shall ensure proper segregation of Bio Medical Waste at the time of collection itself.
- c. In case of improper segregation of BMW, the CBMWTF shall refuse collection of waste from the HCF and shall inform the concerned Regional Officer, APPCB. Also the monitoring officers as decided by the state level committee on bio-medical waste management.
- d. The CBMWTF shall regularly collect the BMW from all HCFs in the district irrespective of the distance from the CBMWTF.
- e. The CBMWTF shall ensure disposal of entire Bio Medical Waste within 48 hours of generation of the waste.
- f. The ash generated from incineration of Bio Medical Waste shall be disposed of at Common Hazardous Waste Treatment and Disposal Facility.
- g. No CBMWTF shall dispose incinerator ash to Municipal Landfill / onsite landfill.
- h. The incinerator ash shall be treated as Hazardous Waste and shall be disposed accordingly.

**4. Applicability of these guidelines**

- a. These guidelines are applicable to the existing CBMWTFs and also to the upcoming or new CBMWTFs. The existing CBMWTFs shall comply with these guidelines by 31<sup>st</sup> December, 2018 without fail.

**5. Environmental laws applicable for commissioning or operation of a CBWTF**

- a. The CBMWTF shall comply with the provisions of Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016 in order to dispose incinerator ash, ETP sludge, packing material used in the scrubber, wastes generated while replacing the incinerator linings i.e., refractory material etc.,

- b. The CBMWTF shall comply with the provisions of Plastic Waste Management Rules, 2016 in order to dispose the Plastic Waste. The CBMWTF shall dispose the plastic waste to the agencies which were having valid CFO from the APPCB. The CBMWTF shall submit the details of Waste plastic disposed to Plastic recycling unit on monthly basis.
- c. The new CBMWTF shall obtain in-principle permission from the APPCB before initiating procedure of obtaining Environmental Clearance under EIA, Notification 2006.

#### 6. Location Criteria

- a. The CBMWTF shall be 500m away from residential area.
- b. The CBMWTF shall be away as far as possible from residential area, eco sensitive areas, forest/reserve forest area, rich bio diversified areas, parks, resorts etc.
- c. The CBMWTF shall be located in an area where continuous hi-speed internet facility for transmission of data to CPCB/APPCB servers is available.
- d. Should have minimum buffer zone of 500 m from archaeological, tourist places & projects with national importance which may get impacted by CBMWTF (on case to case basis).
- e. The run-off of the storm water from the CBMWTF is to be taken into consideration. In no case, the storm water from the CBMWTF shall be allowed to mix into the fresh water body.
- f. The CBMWTF shall not be located in the midst of wet agricultural lands, like paddy fields, sugar cane etc. where there will be stagnation of water, which would cause spread of infectious material to the surroundings.
- g. The CBWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMWM Rules (i.e., within 48 hours).
- h. If number of beds is exceeding 5,000 beds in a city and surroundings, in such a case, a new CBWTF may be allowed in such a locality within 75kms from the existing CBMWTF.
- i. In case of the locating the CBMWTF in industrial area, there shall not be any non-compatible industry (viz., edible industries, dairy, food processing etc.) within a radius of 100m.

**7. Land Requirement**

- a. Sufficient land shall be allotted to new CBWTFs as per the CPCB criteria i.e Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.

**8. Coverage area of CBMWTF**

- a. If bed strength of a district exceeds 10,000 nos, second facility shall be allowed in the district without disturbing the existing facility coverage.
- b. In case the CBMWTF fails to collect the BMW from the remote area HCFs or any other HCFs on regular basis, new CBMWTF shall be allowed without considering the bed strength tie-up with the existing CBMWTF duly issuing the closure order and cancellation of authorization order.

**9. Treatment equipment**

- a. The CBMWTF shall have all necessary equipment like incinerator/plasma pyrolysis, Autoclave/hydroclave, microwaving, chemical disinfection, shredder, vehicle /container washing facility, effluent treatment plant as mentioned in the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.

**10. Infrastructure set up**

- a. The CBMWTF shall have all necessary infrastructure like Treatment Equipment Room, Main waste storage space, Treated waste storage room, Administrative Room, Generator set, Continuous emission monitoring system (CEMS), Vehicle Parking, Display and sign board, Washing Room, Site Security, Fire safety, First Aid Box, Green Belt, Website as mentioned in the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.
- b. In addition to the above, the CBMWTF shall provide IP cameras covering entire area of the CBMWTF in consultation with the Regional Officer, APPCB and Environment Monitoring Cell, Board Office, APPCB, Vijayawada.

**11. Record keeping**

- a. The CBMWTF shall maintain all records as mentioned in the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.

**12. Collection and transportation of bio-medical waste**

- a. Generator of the bio-medical waste and CBMWTF are responsible for proper segregation of the BMW in accordance with the provisions of the Bio-medical Waste Management Rules, 2016.
- b. The coloured bags handed over by the healthcare units shall be collected in similar coloured containers with proper cover. Each bag shall be labeled as per Schedule IV of the Bio-medical Waste Management Rules as well as with bar coding system (to be complied by the occupier or operator of a CBWTF as per BMWM Rules) so that at any time, the healthcare units can be traced back that are not segregating the bio-medical wastes as per BMWM Rules.
- c. Transportation vehicle shall be fitted with GPS to track the movement of the vehicle and the GPS tracking shall be connected to the server of the APPCB and CBMWTF's website for public access.
- d. Bio-medical Waste Management Rules, 2016 notified on 28.03.2016 and as amended thereof under the Environment (Protection) Act, 1986, stipulates that it is the duty of every Health Care Facility (HCF) to establish a bar code system for bags or containers containing bio-medical waste (BMW) to be sent out of the premises or place for any purpose, by 27.03.2019.
- e. Every CBWTF shall establish bar code system for handling of bio-medical waste as per guidelines for "Bar Code System for Effective Management of Bio-medical Waste" issued by CPCB during April-2018.
- f. The other conditions mentioned in the Collection and transportation of bio-medical waste as mentioned in the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.

**13. Disposal option of solid waste generated from the CBWTF**

- a. Plastic wastes after disinfection and shredding shall be sent to registered or authorized recyclers (or) for energy recovery (or) for diesel or fuel oil recovery.
- b. Disinfected Sharps (including needles) after treatment by Autoclaving or Dry Heat Sterilization followed by shredding or mutilation combination of shredding cum autoclaving shall be sent for final disposal to iron foundries having consent for operation (CFO) from the APPCB.
- c. Incineration ash (ash from incineration of any bio-medical waste) shall be disposed through hazardous waste treatment, storage and disposal facility (TSDF).
- d. Other treated solid wastes like Glass waste shall be disinfected by soaking the washed glass waste after cleaning with detergent and Sodium Hypochlorite treatment or through autoclaving or microwaving or hydroplaning and then sent for recycling.
- e. Waste Oil & Grease shall be disposed by incineration.
- f. ETP sludge after drying in sludge drying beds or removal of moisture content using 'Filter Press' and such ETP sludge shall be given to the hazardous waste treatment, storage and disposal facility (HWTSDf) for disposal in Secured Landfill

**14. Cost to be charged by the CBWTF Operator for the Health Care Facilities**

- a. The CBWTF shall charge the cost as per the recommendation of the by the State Advisory Committee in consultation with the concerned APPCB, local Medical Association and the representatives of the CBWTF Association.

**15. Check list for development of CBWTF**

- a. As per the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.

**16. Periodic inspection/monitoring or performance evaluation of the CBWTF**

- a. As per the CPCB's Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities.
- b. Monitoring officers as suggested by the state level committee headed by Principal Secretary, Health, Medical & Family Welfare.

Weighted average  $W = (W_1 + W_2 + W_3)/3$

$W_1$  = no. of beds (Max. weighted as 2 )

If  $W_1 = \text{Beds} \geq 10,000$  = 2

If  $W_1 = \text{Beds} < 10,000$  = 0

$W_2$  = No of HCFs in the District (Max. weighted as 2 )

If HCFs  $\geq 550$   $W_2 = 2$

If HCFs  $< 550$   $W_2 = 0$

$W_3$  = Treatment capacity,

if Waste generation reached 75% of the existing capacity (8hrs working) then  $W_3 = 2$

if Waste generation not reached 75% of the existing capacity (8hrs working)  $W_3 = 0$

$W = (W_1 + W_2 + W_3)/3$

if  $W > 1$ , 2<sup>nd</sup> facility shall be allowed in that district.

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BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Application No.118 of 2017 (SZ)

In the matter of

Kommana Lakshmi Bala Ganeswara Rao  
Jagannaikulapalem  
East Godavari Dist  
Andhra Pradesh

.. Applicants

Vs

1. The State of Andhra Pradesh  
Rep. by its Chief Secretary  
Secretariat, Amaravathi  
Andhra Pradesh
  2. The Andhra Pradesh State Pollution Control Board  
Rep. by its Member Secretary  
Sanathnagar, Hyderabad
  3. The Joint Chief Environmental Engineer  
Andhra Pradesh State Pollution Control Board  
Zonal Office Hyderabad
  4. The Environmental Engineer  
Andhra Pradesh State Pollution Control Board  
Regional Office, Kakinada, East Godavari Dist
  5. M/s. Godavari Bio Management  
Rep by its Managing Partner  
Y. Papa Rao, Peddada, Pedapudi  
East Godavari Dist, Andhra Pradesh
- .. Respondents

Counsel appearing for the applicant

M/s. P. Venkaiah Naidu, Syed Sadiq & Associates

Counsel appearing for the respondents

For respondent No.1 .. M/. H. Yasmeen Ali

ORDER

Present

Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member  
Hon'ble Shri P.S.Rao, Expert Member

5<sup>th</sup> July, 2017

Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

We have heard the learned counsel appearing for the applicant as well as the respondents.

The application seeks for a direction against the Andhra Pradesh Pollution Control Board not to allow the applications for establishment and operation of Bio Medical Waste Treatment Facilities in the State of Andhra Pradesh to collect, transport, treat and safe disposal of Bio-Medical Waste generated from the hospitals/HECs situated in the Districts of Andhra Pradesh without considering the full capacity of the existing Common Bio Medical Waste Treatment Facilities in operation and its potential enhancement of the production and the need for establishment of fresh Common Bio Medical Waste Treatment Facilities in the State of Andhra Pradesh.

2. It is admitted that the State of Andhra Pradesh has already framed the guidelines for the purpose of granting the Bio Medical Waste Treatment Facilities. Needless to state that considering the same, the State Pollution Control Board can always have its own guidelines.

3. In such view of the matter, it is always open to the State Pollution Control Board to implement the various guidelines framed by them for the purpose of granting facility for the Bio Medical Waste Treatment. In cases where illegality has been committed for the purpose of not granting such facility, without following the guidelines, it is always open to the Pollution Control Board to approach this Tribunal challenging the same.

4. In view of the same, we dispose of the application with a direction to the Board to strictly follow its own guidelines and the guidelines framed by

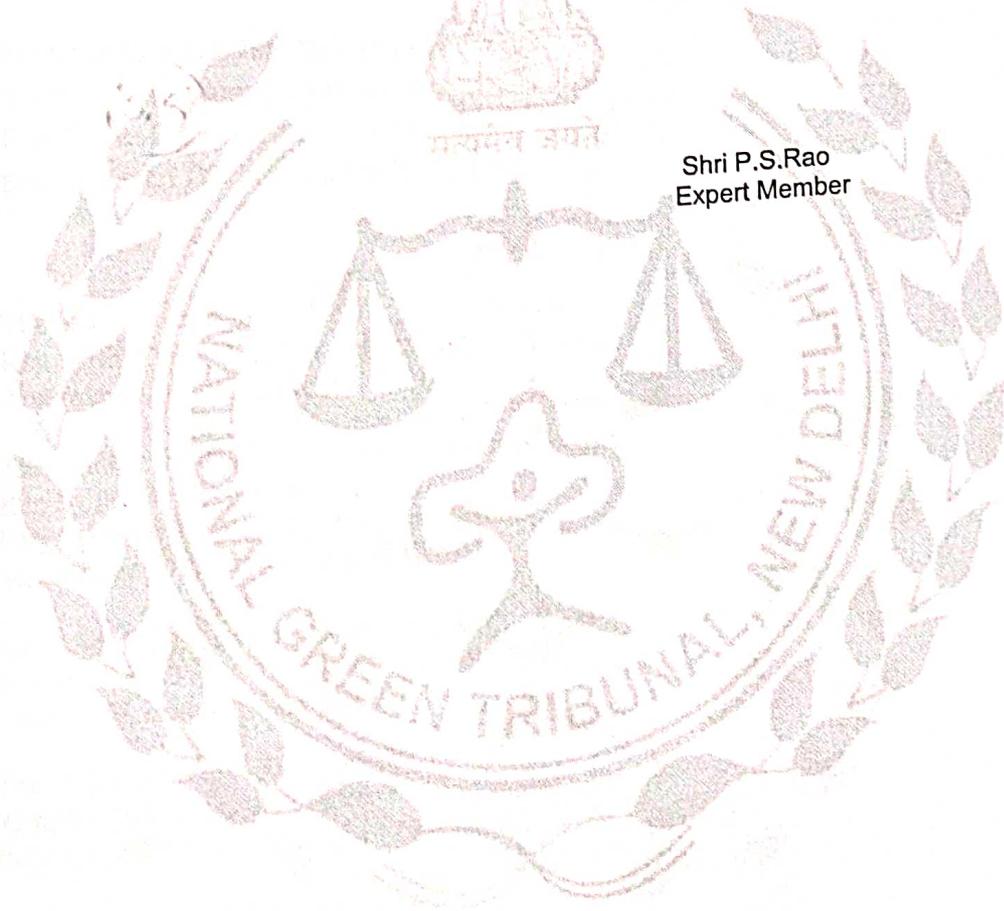
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the Central Pollution Control Board in accordance with the Bio Medical Waste Management Rules, 2016 in respect of the installation and operation of the Common Bio Medical Waste Treatment Facilities in the State of Andhra Pradesh.



Justice Dr.P.Jyothimani  
Judicial Member

Shri P.S.Rao  
Expert Member



NGT

stated in the

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**Item No.18:**

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

**M.A. No.148 of 2017 (SZ) in**

**Original Application No. 118 of 2017 (SZ)**

(Through Video Conference)

IN THE MATTER OF:

Sri Kommana Lakshmi Bala Ganeswara Rao  
S/o Sri Bhima Raju, aged about 30 years,  
Residing at Door No. 4-13, Jagannaikulapalem,  
East Godavari District, Andhra Pradesh

... Applicant(s)

*Versus*

1. The State of Andhra Pradesh,  
Rep by its Chief Secretary, Secretariat,  
Amaravathi, Andhra Pradesh- 522020
2. The Andhra Pradesh State Pollution Control Board,  
Rep by its Member Secretary,  
Paryavaran Bhavan, A-III, Industrial Estate  
Sanathnagar, Hyderabad- 500018
3. The Joint Chief Environmental Engineer,  
Andhra Pradesh State Pollution Control Board,  
Zonal Office, Hyderabad- 500018
4. The Environmental Engineer,  
Andhra Pradesh State Pollution Control Board  
Regional office, Kakinada, East Godavari District- 533001
5. M/s Godavari Bio Management  
Rep by its Managing Partner, Sri Y. Papa Rao, H. No. 2-31,  
Peddada, Pedapudi, East Godavari District.  
Andhra Pradesh- 533344

...Respondent(s)

**Date of hearing: 28.09.2021.**

**CORAM:**

**HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER**

For Applicant(s):

Mr. Y. Srinivasa Murthy.

For Respondent(s):

Ms. Madhuri Donti Reddy for R1 to R4.

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Ms. Hemalatha for Mr. Viswanathan for R5

**ORDER**

1. M.A. NO. 148 of 2017 was filed by the applicant for taking action against the respondent for non-compliance of the orders of this Tribunal passed in O.A. No. 118 of 2017 dated 05.07.2017.
2. O.A. No. 118 of 2017 was filed by the applicant seeking a direction to the Andhra Pradesh Pollution Control Board not to allow application for establishment, operation of bio-medical waste treatment facilities in the State of Andhra Pradesh to collect, transport, treat and safe disposal of bio-medical waste generated from the Hospitals/health care establishments situated in the Districts of Andhra Pradesh and without conducting the full capacity of the existing common bio-medical waste treatment facility in operation and its potential enhancement of the production and the need for establishment of fresh common bio-medical waste treatment facility in the State of Andhra Pradesh granting such permission to any person is illegal, arbitrary, capricious, high handed, violative of all cannons of law and justice and consequentially modify the orders passed by the Andhra Pradesh Pollution Control Board issued in favour of 5<sup>th</sup> respondent herein and for such other common bio-medical waste treatment facility in the State of Andhra Pradesh.
3. This Tribunal by order dated 05.07.2017 disposed of the case by giving certain directions which reads as follows:

“ In view of the same, we dispose of the application with a direction to the Board to strictly follow its own guidelines and the guidelines framed by the Central Pollution Control Board in accordance with the Bio Medical Waste Management Rules, 2016 in respect of the installation and operation of the Common Bio Medical Waste Treatment Facilities in the State of Andhra Pradesh.”
4. According to the applicant directions issued by this Tribunal had been

violated and that prompted the applicant to file an application for initiating prosecution against the respondent for violating the direction of this Tribunal.

5. The 2<sup>nd</sup> respondent had filed a counter affidavit contending that the application under Section 28 of the National Green Tribunal Act, 2010 is not maintainable and the same is liable to be dismissed. There is no specific direction given to be complied with by the Pollution Control Board and only a general direction has been given in respect of establishment of bio-medical waste treatment facility strictly following the guidelines issued by the Central Pollution Control Board in accordance with the Bio-Medical Waste Management Rules, 2010. They have never violated any of the provisions.
6. In East Godavari District, M/s EVB Technologies Ltd. established a common bio-medical waste treatment facility at Kanavaram village, Rajanagararam Mandal in the year 2004. They were handling bed strength of approximately 11087 numbers covering 616 health care centres as of 23.09.2017. Since the bed strength had exceeded 10,000, two applications were received by respondent-Board for grant of consent to establish a new Common Bio-Medical Waste Treatment facility in the East Godavari District from M/s M.C.V. Eco system, Kadiyam Village and mandal, East Godavari District and M/s Godavari Bio Medical Management, Marrisudi Village, Rangampetta Mandal, East Godavari District.
7. The respondent-Board had rejected the consent to establishment application of M/s M.C.V. Eco Systems on 16.06.2015 since the proposed area was within a distance of about 20 kms from the existing facility and further, the bed strength was only 10,900 at that point of time.
8. M/s M.C.V. Eco Systems approached the Hon'ble High Court of Telangana by filing writ petition as W.P. No. 45825 of 2016 wherein respondent Board

undertook to consider their application in accordance with the revised guidelines of Central Pollution Control Board. As per order dated 07.02.2017, the application was again rejected for want of environment clearance and in view of small water bodies existing at a distance of about 26, 540 and 750 mts in the northern direction of the site.

9. So far as, the application of M/s Godavari Bio Medical Management was concerned, the same was rejected on 17.12.2016. They were directed to obtain the environment clearance and then approach the respondent Board for grant of consent to establish. They approached the Regional office of the respondent Board at Kakinada with a request to conduct public hearing by their letter dated 20.06.2017. Accordingly, conducting of the public hearing was facilitated by the respondent Board and the public hearing was held on 28.07.2017. The Joint Collector and the Additional District Magistrate, East Godavari District supervised the entire public hearing proceedings.
10. In the meanwhile, M/s M.C.V. Eco Systems filed application O.A. No. 257 of 2017 before this Tribunal praying for a declaration and also filed writ petition before the Hon'ble High Court of Telengana as W.P. 5720 of 2018 as regards non-issuance of consent to establish for their unit.
11. On 28.06.2017, they have submitted revised environmental management plan reports along with executive summary of EIA and EMP reports for conducting public hearing. On 28.07.2017 the public hearing was conducted at the proposed site and same was communicated to Member Secretary, SEIAA and Government Officials. Environment clearance was granted to M/s Godavari Bio Management. Thereafter, on 30.10.2018 the application for consent to establish was received from M/s Godavari Bio Management and the same was forwarded to the Board with recommendation and later it was granted.

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12. The application of M.C.V. Eco Systems was not considered as in-principle permission has been given to the M/s Godavari Bio Management for environment clearance and the process was in progress. So according to them, there is no merit in the application and they prayed for dismissal of the application.
13. When the matter came up for hearing today, Mr. Y. Srinivasa Murthy, Learned Counsel appearing for the applicant submitted that the application can be disposed of on the basis of the further study to be conducted by Andhra Pradesh Pollution Control Board on the basis of the direction given by the Hon'ble High Court of Andhra Pradesh to conduct 'Gap Analysis Study' and if more facilities are required directing them to take appropriate steps for establishment of further bio-medical waste treatment facility.
14. Learned Counsel appearing for the Pollution Control Board submitted that on the basis of the direction given by the Hon'ble High Court of Andhra Pradesh, they have called for a global tender for conducting such study but necessary tenders were not obtained and now they have entrusted the same to M/s Andhra Pradesh Environment Management Corporation Limited for this purpose and once the study is completed, they will be taking further steps for establishing any further such facilities in Andhra Pradesh, if so suggested in the study. Even as per the direction issued by this Tribunal in O.A. No. 118/2017, there was no specific direction to do certain things by the Pollution Control Board but they have been directed to follow the guidelines provided by the Central Pollution Control Board and the Bio-Medical Waste Management Rules, 2010 which was in existence at that time and there is no necessity to initiate any prosecution as sought for in the application as these are there are other legal remedies available against the order, if any passed by the Board. So under such circumstances, the liberty

sought for by the Learned Counsel for the applicant to participate in the future proceedings to be initiated by the Pollution Control Board is not affected by virtue of the disposal of this application as it can only be treated as a new application if at all any further facility to be established on the basis of study conducted by the Pollution Control Board. So, under such circumstances, leaving open the right of the applicant to apply afresh for any bio-medical waste treatment facility if at all the Government intends to establish in future is left open.

15. With the above directions and observations, this M.A. No. 148 of 2017 is disposed off.

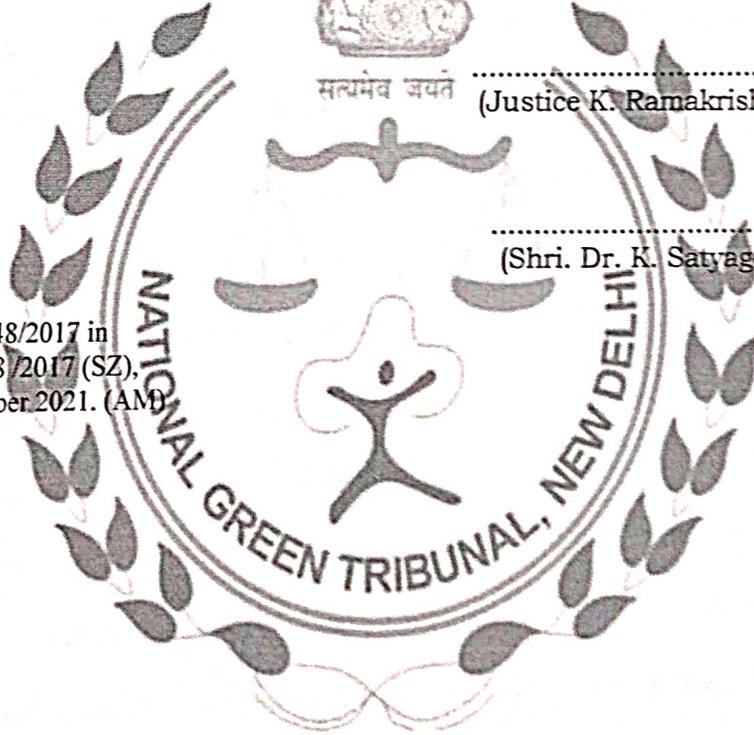


सत्यमेव जयते

.....J.M.  
(Justice K. Ramakrishnan)

.....E.M.  
(Shri. Dr. K. Satyagopal)

M.A. No. 148/2017 in  
O.A. No.118/2017 (SZ),  
28<sup>th</sup> September 2021. (AM)





# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY  
भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)  
प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 887] नई दिल्ली, बृहस्पतिवार, अप्रैल 30, 2015/वैशाख 10, 1937  
No. 887] NEW DELHI, THURSDAY, APRIL 30, 2015 /VAISAKHA 10, 1937

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय  
अधिसूचना  
नई दिल्ली, 17 अप्रैल, 2015

का.आ. 1142(अ).— केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उपधारा (1) और धारा 3 की उपधारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोक हित में उक्त नियम के नियम 5 के उपनियम (3) के खंड (क) के अधीन सूचना की आवश्यकता से छूट के पश्चात्, भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितंबर, 2006 का निम्नलिखित और संशोधन करती है, अर्थात्:-

उक्त अधिसूचना की अनुसूची में मद 7(घ) और उससे संबंधित प्रविष्टियों के पश्चात् निम्नलिखित मद और प्रविष्टियां अंतःस्थापित की जाएगी, अर्थात्:-

(1)	(2)	(3)	(4)	(5)
"7(घ)(क)	जैव-चिकित्सा (बायो-मैडिकल) अपशिष्ट उपचार सुविधाएं		सभी परियोजनाएं	

[फा.सं.3-9/2014-आईए.III]

मनोज कुमार सिंह, संयुक्त सचिव

टिप्पण: मूल नियम भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii) में अधिसूचना सं.का.आ.1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और निम्नानुसार पश्चात्तवर्ती संशोधन किए गए :-

1. का.आ.1737(अ), तारीख 11 अक्तूबर, 2007;
2. का.आ.3067(अ), तारीख 1 दिसंबर, 2009;
3. का.आ.695(अ), तारीख 4 अप्रैल, 2011;
4. का.आ.2893(अ), तारीख 13 दिसंबर, 2012;

(34)

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5. का.आ.674(अ), तारीख 13 मार्च, 2013;
6. का.आ.2559(अ), तारीख 22 अगस्त, 2013;
7. का.आ.2731(अ), तारीख 9 सितंबर, 2013;
8. का.आ.562(अ), तारीख 26 फरवरी, 2014
9. का.आ.637(अ), तारीख 28 फरवरी, 2014;
10. का.आ.1599(अ), तारीख 25 जून, 2014;
11. का.आ.2601(अ), तारीख 7 अक्टूबर, 2014;
12. का.आ.3252(अ), तारीख 22 दिसंबर, 2014;
13. का.आ.382(अ), तारीख 3 फरवरी, 2015;
14. का.आ.811(अ), तारीख 23 मार्च, 2015; और
15. का.आ.996(अ), तारीख 10 अप्रैल, 2015 ।

**MINISTRY OF ENVIRONMENT AND FORESTS  
NOTIFICATION**

New Delhi, the 17th April, 2015

**S.O.1142(E).**— In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 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 further amendments to the notification of the Government of India, in the Ministry of Environment and Forests number S.O.1533(E), dated the 14th September, 2006 after dispensed with the requirement of notice under clause(a) of sub-rule(3) of the said rule 5 in public interest, namely:—

In the said notification, in the Schedule, after item 7(d) and the entries relating thereto, the following item and entries shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"7(da)	Bio-Medical Waste Treatment Facilities	-	All projects	-

[F. No. 3-9/2014-IA.III]

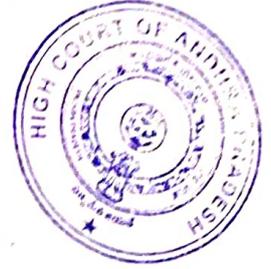
MANOJ KUMAR SINGH, Jt. Secy.

**Note:-** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended as follows:-

1. S.O.1737(E) dated the 11th October, 2007
2. S.O. 3067(E) dated the 1st December, 2009
3. S.O.695(E) dated the 4th April, 2011
4. S.O.2896(E) dated the 13th December, 2012
5. S.O.674(E) dated the 13th March, 2013
6. S.O.2559(E) dated the 22nd August, 2013
7. S.O. 2731(E) dated the 9th September, 2013
8. S.O. 562(E) dated the 26th February, 2014
9. S.O.637(E) dated the 28th February, 2014
10. S.O. 1599(E) dated the 25th June, 2014
11. S.O. 2601 (E) dated 7th October, 2014
12. S.O. 3252(E) dated 22nd December, 2014
13. S.O. 382 (E) dated 3rd February, 2015
14. S.O. 811(E) dated 23rd March, 2015
15. S.O. 996(E) dated 10th April, 2015.

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HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI  
(Special Original Jurisdiction)



WEDNESDAY, THE SEVENTH DAY OF AUGUST  
TWO THOUSAND AND NINETEEN

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE C.PRAVEEN KUMAR  
AND  
THE HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO: 11250 OF 2018

Between:

M/s. Safenviron (Unit-II), A Proprietary Concern, Rep. by Velagapudi Venkateswar Rao, S/o. Nageswara Rao, Aged about 61 years, R/o. Door No.29-3-14, Venkateswara Rao Street, Governorpet, Vijayawada - 520002.

...PETITIONER

AND

1. State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Environment and Forests, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.
2. A.P. Pollution Control Board, Rep. by its Member Secretary, Door No.33-26-14D/2, Near Sunrise Hospital, Chalamalavari Street, Kasturibaipet, Vijayawada - 520008.
3. Central Pollution Control Board, Rep. by its Member Secretary, Parivesh Bhawan, East Arjun Nagar, New Delhi - 110032.
4. M/s. Hygiene Biomed Services, 11-8-29, Jagannadham Street, Kothapet, Vijayawada -520001.
5. A.P. State Environment Impact Assessment Authority, (SEIAA), Rep. by its Member Secretary, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare the proceedings of the 2<sup>nd</sup> respondent in issuing Letter No.1/APPCB/HO/UH-IV/BMW/In-Principle/2018-571 dated 07.02.2018 whereby the 2<sup>nd</sup> respondent has issued In-Principle Permission for establishment of second CBMWTF in favour of the 4<sup>th</sup> respondent at G. Konduru Mandal, Krishna District, as illegal, contrary to the Bio-Medical Waste Management Rules, 2016 and the guidelines framed by the 3<sup>rd</sup> respondent dated 21.12.2016 with regard to the establishment of Common Bio-Medical Waste Treatment and Disposal Facilities and to set aside the same and to issue a consequential direction to the 2<sup>nd</sup> respondent to act in accordance with law in relation to establishment of CBMWTFs in Krishna District.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Letter No.1/APPCB/HO/UH-IV/BMW/In-Principle/2018-571 dated 07.02.2018 whereby the 2<sup>nd</sup> respondent has issued In-Principle Permission for

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establishment of second CBMWTF in favour of the 4<sup>th</sup> respondent at G. Konduru Mandal, Krishna District, pending disposal of the Writ Petition.

**IA NO: 1 OF 2019**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to DIRECT the Respondent Nos.1, 2, 4 and 5 not to proceed with public hearing proposed to be held on 20.06.2019 at around 11.00 Am at the Zilla Parishad High School Premises, G.Konduru Village and Mandal, Krishna District in relation to the proposals of the 4th Respondent to establish the CBMWTF in Krishna District to consider any applications for grant of prior Environmental Clearance (EC) for a Common Bio Medial Waste Treatment Facility in the Krishna District in its proposed meeting or on any subsequent dates pending disposal of the above Writ Petition.

**IA NO: 2 OF 2019**

**Between:**

M/s. Hygiene Biomed Services, 11-8-29, Jagannadham Street, Kothapet, Vijayawada - 520001.

**AND**

...Petitioner/Respondent No.4

1. M/s. Safenviron (Unit-II), A Proprietary Concern, Rep. by Velagapudi Venkateswar Rao, S/o. Nageswara Rao, Aged about 61 years, R/o. Door No.29-3-14, Venkateswara Rao Street, Governorpet, Vijayawada - 520002.

...Respondent/Petitioner

2. State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Environment and Forests, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.

3. A.P. Pollution Control Board, Rep. by its Member Secretary, Door No.33-26-14D/2, Near Sunrise Hospital, Chalamalavari Street, Kasturibaipet, Vijayawada - 520003.

4. Central Pollution Control Board, Rep. by its Member Secretary, Parivesh Bhawan, East Arjun Nagar, New Delhi - 110032.

5. A.P. State Environment Impact Assessment Authority, (SEIAA), Rep. by its Member Secretary, Hyderabad.

...Respondents/Respondents 1,2,3, & 5

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order Dt. 19.06.2019 passed in IA No. 1 of 2019 in W.P No. 11250 of 2018 and dismiss the writ petition.

**Counsel for the Petitioner(s): SRI. P VENKAI AH NAIDU**

**Counsel for the Respondent No.1: GP FOR FORESTS (AP)**

**Counsel for the Respondents 2, & 5: SRI. GURRAM RAMAHENDRA RAO, S.C**

**Counsel for the Respondent No 3: SRI. K. LAKSHMAN  
ASST SOLICITOR GENERAL**

**Counsel for the Respondent No 4: M/s. N. ASWARTHA NARAYANA**

**The Court made the following: ORDER**

THE HON'BLE THE ACTING CHIEF JUSTICE C. PRAVEEN KUMAR  
AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.11250 OF 2018

ORDER: (Per Hon'ble Sri Justice M. Satyanarayana Murthy)

This writ petition is filed under Article 226 of the Constitution of India, questioning the Letter No.1/APPCB/HO/UH-IV/BMW/In-Principle/2018-571 dated 07.02.2018 whereby the 2<sup>nd</sup> respondent has issued "**In-Principle**" Permission for establishment of second Common Bio Medical Waste Treatment Facility (for short 'CBMWTF') in favour of the 4<sup>th</sup> respondent at G. Konduru Mandal, Krishna District, as illegal, contrary to the Bio Medical Waste Management Rules, 2016 and the guidelines framed by the 3<sup>rd</sup> respondent dated 21.12.2016 for establishment of Common Bio-Medical Waste Treatment & Disposal Facilities and to set aside the same and to issue a consequential direction to the 2<sup>nd</sup> respondent to act in accordance with law in relation to establishment of CBMWTFs in Krishna District.

The petitioner herein is engaged in rendering the service of disposal of biomedical waste in accordance with the Rules made by the Government of India. It is submitted that the Government of India has notified Bio-Medical Waste (Management & Handling) Rules, 1998 and thereafter has notified new set of Rules on 28.03.2016 in supersession of originally notified Rules. The said notification was done in exercise of the powers conferred under Sections 6, 8 and 25 of the Environment (Protection) Act, 1986. The said Rules apply to all persons who generate, collect, receive, store, transport, treat, dispose or handle bio-medical waste in any form including hospitals, nursing homes, clinics, dispensaries, veterinary institutions, animal houses, pathological laboratories, blood banks, ayush

hospitals, clinical establishments, research or educational institutions, health camps, medical or surgical camps, vaccination camps, blood donation camps, first aid rooms of schools, forensic laboratories and research labs. The Occupier of the premises generating bio-medical waste has to take all necessary steps to ensure that the COS waste is handled without any adverse effect to human health and the environment and in accordance with the Rules. Under the Rules, an Operator of a common bio-medical waste treatment facility means a person who owns or controls a Common Bio-medical Waste Treatment Facility (CBMWTF) for the collection, storage, treatment, disposal or any other form of handling of bio-medical waste.

As per Rule 5, it is the duty of every Operator to take all necessary steps to ensure that the bio-medical waste collected from the Occupier is transported, treated and disposed of without any adverse effect to the human health and environment. Various other duties of the Operator are also provided under the said Rule. The mode of treatment and disposal of the bio-medical waste is provided under Rule 7. Occupier shall handover segregated waste as per Schedule - I to common bio-medical waste treatment facility for treatment, processing and final disposal. Rule 8 provides for segregation, packaging, transportation and storage of the bio-medical waste. Under Rule 9, the prescribed authority for implementation of the provisions of these Rules shall be the State Pollution Control Boards in respect of the States. The procedure for authorizing an Occupier or Operator handling bio-medical waste is provided under Rule 10. An Operator has to make an application in Form - II to the State Pollution Control Board for grant of authorization and the prescribed authority shall grant the provisional authorization in Form - III and the validity of such

authorization for bedded health care facility and Operator of a common facility shall be synchronized with the validity of the consents.

The 3<sup>rd</sup> respondent/Central Pollution Control Board has issued revised guidelines for common biomedical waste treatment and disposal facilities, in furtherance to the Rules above mentioned. The criteria for development of a new CBWTF for a locality or region are provided for in the said guidelines. The State Pollution Control Board is required to prepare an inventory or review with regard to the biomedical waste generation atleast once in five years in the coverage areas of the existing biomedical waste treatment and disposal facility. As per the Para 2(b) of the guidelines, the Pollution Control Board is required to conduct gap analysis with reference to coverage area of the biomedical waste generation and also projected over a period of next 10 years, adequacy of existing treatment capacity of the CBWTF in each coverage area of radius 75 kms as given in Annexure - I. The guidelines further lay down at Para 8 as under:

*"(a) A CBWTF, located within the respective State / UT shall be allowed to cater health care units situated at a radial distance of 75 KM. However, in a coverage area where 10,000 beds are not available within a radial distance of 75 KM, existing CBWTF in the locality (located within the respective State / UT) may be allowed to cater the health care units situated upto 150 KM radius with reference to its location provided the biomedical generated is collected, treated and disposed of within 48 hrs as stipulated under the BMWM Rules.*

*(b) In case, number of beds is exceeding 10000 beds in a locality (i.e., coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located."*

As per the guidelines, a CBWTF is allowed to cater healthcare units situated at a radial distance of 75 KM. In case the number of beds in a locality is exceeding 10000 and the existing treatment capacity is not

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adequate, then only a new CBWTF may be allowed in such a locality that too only to cater to such additional bed strength of the HCFs in that locality. Such restrictions are necessary in order to ensure the economic feasibility and viability operation with minimal impact on human health and environment as the CBWTFs are required to set-up, based on the need for ensuring environmentally sound management of biomedical waste.

The petitioner, being an Operator under the Rules, has applied to the 2<sup>nd</sup> respondent on 15.11.2006, for Consent for Establishment of a Common Bio Medical Waste Treatment Facility (CBWTF), at Jaggaiahpetta Mandal, Krishna District in an area of 1.8 acres of land with installed capacity of incinerator - 270 kg / hr at a total cost of Rs.45 lakhs. The officials of the 2<sup>nd</sup> respondent have inspected the site and after careful scrutiny of the application, has issued Consent Order for Establishment in Order No.619/APPCB/BMWM/CWTF/2006-314, dated 07.05.2007. The petitioner has established the CBWTF as per the above mentioned Consent given by the 2<sup>nd</sup> respondent/A.P. Pollution Control Board and sought for the Consent for Operation of the 2<sup>nd</sup> respondent/ A.P. Pollution Control Board. The same was given by the 2<sup>nd</sup> respondent in Order No.619/APPCB/CBMWTF/VJY/CFO/2010-77 dated 08.04.2010 subject to the terms and conditions mentioned therein. The said Consent was valid upto 28.02.2011. It was subsequently renewed from time to time and the same is presently valid upto 28.02.2022. The petitioner has been operating the CBWTF successfully and it is having a capacity to handle the bio-medical waste generated from more than 20000 beds. The existing HCFs in Krishna District are 852 and their enrolled bed strength is 11754 at present. Thus the petitioner is having more than required capacity to handle the biomedical waste generated from the existing beds in the entire

Krishna District and there is no requirement to authorize to any other CBWTF.

The 4<sup>th</sup> respondent has applied for Consent for Establishment of a CBWTF at Loya Village, G.Konduru Mandal, Krishna District to the 2<sup>nd</sup> respondent. On coming to know about the same, the deponent herein has submitted a representation to the 2<sup>nd</sup> respondent on 14.02.2018 bringing to its notice about the existing capacity of the petitioner vis-à-vis the total number of beds in the existing HCFs of Krishna District and questioned maintainability of the application of the 4<sup>th</sup> respondent under the guidelines issued by the 3<sup>rd</sup> respondent. It was also contended that there is every requirement to conduct gap analysis considering the factors such as coverage area of the BMW generation, projected BMW for the next 10 years and also the adequacy of the existing treatment facility and submit the report to the CPCB before granting permission to a new CBWTF in the same locality. It was also pointed out that the petitioner is having capacity to handle biomedical waste of more than 20000 beds and the same is evident from the letter of the APPCB dated 20.12.2017 when the petitioner was required to handle the biomedical waste pertaining to the East Godavari District due to the existing CBWTF was non-functional due to modernization. The petitioner has handled the biomedical waste generated from more than 12000 beds of East Godavari District in addition to the biomedical waste generated from more than 11000 beds of Krishna District simultaneously.

Despite the objections filed by the petitioner opposing the application of the 4<sup>th</sup> respondent for grant of CFE, the 2<sup>nd</sup> respondent has issued letter dated 07.02.2018 describing it as In-Principle Permission in favour of the 4<sup>th</sup> respondent for establishing CBMWTF at G. Konduru

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Mandal, Krishna District. This appears to be based on a report of the District Medical & Health Officer that there are 617 private hospitals with a bed strength of 16,376 (excluding Government hospitals) in Krishna District. It further states that the existing CBMWTF in Krishna District is covering 752 HCFs with 12848 bed strength and there are about 3888 bed strength uncovered by the existing CBMWTF. Further there are number of veterinary hospitals, dispensaries, dental hospitals, ayurvedic and homeopathic hospitals which need to be covered under the BMWM Rules. Basing on such report, the 2nd respondent has issued the In-Principle Permission in favour of the 4th respondent for establishing a second CBMWTF at Krishna District.

It is the specific contention of the petitioner that the 2<sup>nd</sup> respondent has quoted facts and figures wrongly in the above mentioned letter dated 07.02.2018, issued in favour of the 4th respondent, while making out a case for permitting a second CBMWTF in Krishna District. The same is clear from the report of the Environmental Engineer of the 2nd respondent in Letter No.BMW/PCB/RO-VJA/2017-268 dated 24.06.2017. In the said report it is clearly brought out that the distance between the existing CBMWTF of the petitioner and the proposed CBMWTF of the 4<sup>th</sup> respondent are within a radial distance of about 48 KMs. It is also pointed out that out of the 617 private hospitals with total bed strength of 16376 (excluding Government hospitals) on verification it is found that 58 HCFs with bed strength of 4438 are repeated/closed. Therefore the actual number of HCFs in the list of the DMHO is 559 only and their bed strength is 11938. When the petitioner is operating such CMBTF covering more than 12,000 bed strength within Krishna District, there is no need to establish another CMBWTF and that too, without conducting any gap analysis as per the revised rules applicable as on date. Thus, the

**"in-principle"** permission granted in favour of the 4<sup>th</sup> respondent is contrary to the rules and guidelines and the rules does not permit grant of any such in-principle permission, except granting consent for establishment in favour of the application of CBMWTF, but inventing different concept of in-principle permission, the second respondent is engaging the 4<sup>th</sup> respondent to establish CBMWTF, contrary to the guidelines and therefore, requested to declare Letter No.1/APPCCB/HO/UH-IV/BMW/In-Principle/2018-571 dated 07.02.2018 issued by the 2<sup>nd</sup> respondent as illegal and prayed to set-aside the same.

Respondent No.2 filed detailed counter affidavit, denying material allegations, while admitting two grounds of in-principle consent and admitting operation of CBWTF of this petitioner. The second respondent also admitted about issue of revised guidelines and procedural aspects for Common Bio-medical Waste Treatment and Disposal Facilities, for all upcoming or new CBMWTFs and for existing CBMWTFs to expand or enhance the existing treatment capacity or modernize the existing treatment equipment with new equipment with enhancement in the existing treatment capacity.

The 2<sup>nd</sup> respondent also admitted that, prior to allowing new CBMWTF the Board is required to prepare an inventory or review with regard to the bio-medical waste generation at least once in five years in the coverage area of the existing bio-medical waste treatment and disposal facility and that the Board is also required to extrapolate the coverage-area wise bio-medical waste generation for the next ten years. That Board is obligated to conduct gap analysis with respect to coverage area of the bio-medical waste generation also project over a period of next ten years, adequacy of existing treatment capacity of CBMWTF in each coverage area

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of radius i.e. 75 KM and the Board will fulfil all its obligations under the CPCB Guidelines and Rules, including conduction of gap analysis. As per the CPCB Guidelines:

A. Ministry of Environment, Forest & Climate Change (MoEF & CC), notified amendment to the EIA Notification 2006 and published vide MoEF & CC Notification of S.O. 1142 (E) dated April 17, 2015. According to this notification, the "bio-medical waste treatment facility" is categorized under the Item 7 (da) in the schedule, requiring environmental clearance from the State Environment Impact Assessment Authority (SEIAA). Therefore, the CBMWTF operator is also required to obtain 'Environmental Clearance (EC)' from the respective SEIAA or Ministry of - Environment, Forest & Climate Change (MoEF & CC), as the case may be, before any construction work, or preparation of land by the projects management, which include the following:

- a) All new projects or activities pertaining to the bio-medical waste treatment facility; and
- b) 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).
- c) Any expansion or modification in the treatment capacity or relocation of the existing CBMWTF (requires compliance to the relevant provisions notified under the Environment (Protection) Act, 1986 by the MoEF & CC".

B. As far as possible, the CBMWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMW Rules (i.e., within 48 hours). Also, the location of the CBMWTF should be in conformity to the CRZ Norms and other provisions notified under the Environment (Protection) Act, 1986. The location shall be decided in consultation with the State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC). The location criteria for development of a CBMWTF are as follows:

- (a) A CBMWTF shall preferably be developed in a notified industrial area without any requirement of buffer zone (or)
- (b) A CBMWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (BAT) by the proponent of CBMWTF; (ii) prescribing stringent standards for operation of the CBMWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBMWTF and (iv) in case of any complaints from the public, then CBMWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity. If SPCB/PCC is not in a position to resolve the issue relating to buffer zone while selecting the site for CBMWTFs, in such a case, SPCBs/PCCs may refer the matter to CPCB.

(c) The CBMWTF can also be developed as an integral part of the Hazardous Waste Treatment Storage and Disposal Facility (TSDF) subject to obtaining of necessary approvals from the authorities concerned including environmental clearance as per Environmental Impact Assessment 2006 and further amendments notified under the Environment (Protection) Act, 1986, provided there is no CBMWTF exist within 150 KM distance from the existing TSDF.

C. Sufficient land shall be allocated to the CBMWTF to provide all requisite systems which include dedicated space for storage of waste (both treated and untreated), waste treatment equipment, vehicle washing bay, vehicle parking space, ETP, incineration ash storage provision, administrative room, space for DG Set etc.,. Preferably, a CBMWTF shall be set up on a plot size of not less than one acre in all the areas. However, a CBMWTF can be developed in adjacent plots but cannot be set up in two or more different plots located in different areas. Separate plots can be permitted only for vehicle parking if located in the close vicinity of the proposed CBMW IFs or the existing CBMWTFs.

D. A CBMWTF located within the respective State/UT shall be allowed to cater healthcare units situated at a radial distance of 75 KM. However, in a coverage area where 10,000 beds are not available within a radial distance of 75 KM, existing CBMWTF in the locality (located within the respective State/UT) may be allowed to cater the healthcare units situated upto 150 KM radius w.r.to its location provided the bio-medical waste generated is collected, treated and disposed of within 48 hours as stipulated under the BMWM Rules.

E. In case, number of beds is exceeding >10,000 beds in a locality (i.e. coverage area of the CBMWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBMWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located.

Further, it is contended that, the Board is maintaining inventory of Health Care Facilities (HCFs) along with bed strength for Krishna district. As part of gap studies that needs to be done before taking a decision on a new CBMWTF, the Board obtained report from the DM&HO Office. The DM&HO report says that there are 617 nos. of private hospitals with bed strength of 16,376 excluding Government hospitals in Krishna District, which is much more beyond 10,000 beds for which a second CBMWTF should be allowed. In addition to the above there are veterinary hospitals, dispensaries, ayurvedic and homeopathic hospitals which also generate bio medical waste and that are not registered with APPCB and not tied up with CBMWTF for treatment and disposal of their waste. That as per the

Guidelines issued by CPCB for establishment of new CBMWTF, if the number of beds is exceeding 10,000 beds in a locality (i.e. coverage area of in a locality lie coverage area of the CBMWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBMWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFS located. As per the above information the existing CBMWTF is treating and disposing the bio medical waste generated from the bed strength exceeding by 6376 nos. over 10,000 no. of beds from HCFs in Krishna District at present. The capital of residual Andhra Pradesh came in this area, the number of prospective hospitals and their bed strength would be more for future consideration and in addition to that there are veterinary hospitals, dispensaries, ayurvedic and homeopathic hospitals which are also generates bio medical waste and that are not tied up with existing CBMWTF.

The 2<sup>nd</sup> respondent admitted that on 22-03-2017, the Board has extended the validity of Consent for Operation (CFO), Hazardous Waste Authorization and Bio-Medical Waste Authorization Order to the petitioner for a further period of 5 (five) years i.e. upto 28-02-2022, under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 (herein after called "Water Act") and under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 (herein after called "Air Act") and Authorization under Rule-6 of the Hazardous & Other Wastes (Management & Transboundary, Movement) Rules, 2016 and BMW Authorization under Rule 10 of the Bio Medical Waste Management Rules, 2016. It is not correct that the petitioner has been operating the CBMWTF

successfully. The Board officials inspected the petitioner's CBMWTF on 21.04.2016 and observed the following violations:

- a. The facility is loading discarded medicines into incinerator manually.
- b. No storage/treatment of BMW from HCFs is observed during the inspection in the facility. The facility is obtaining discarded medicines in white bags and handling manually. These bags are stored openly in the premises.
- c. The venturi scrubber attached to incinerator is not in operation. No water circulation in the scrubber.
- d. Two Burners attached to the incinerator are not in operation.
- e. No log book of Incinerator /Autoclave/Shredder, diesel consumption, log books of vehicles, Manifest copies, Daily register of BMW collected from HCFs and route wise collection are maintained/available at the facility.
- f. No records are maintained regarding treated plastic waste disposed to authorized recyclers.
- g. The facility is yet to dispose incineration ash to TSDF. Ash stored in the concrete pits is observed to be mixed with Scanned glass, syringes etc.,

The above mentioned violations are reviewed in the External advisor committee (Task Force) meeting of A.P. Pollution Control Board on 25.06.2016 and the Board vide order dated 23.07.2016 issued the following directions to the Petitioner:

- a. The facility shall maintain/autoclave/shredder, daily diesel consumption, log book of vehicles, manifest copies, daily register of BMW collected from HCFs (HCF wise) and route wise collection and these records shall be available in factory premises.
- b. The facility shall not collect un-segregated Bio Medical Waste from the HCFs.
- c. The facility shall furnish the list of HCFs that are not segregating bio medical waste to EE, RO, Vijayawada within 1 month.
- d. The CBMWTF shall submit action plan with specific time frames for compliance of all conditions of CFO and BMW rules and in case of non compliance of BMW Rules, prosecution shall be launched against CBMWTF.

It is submitted that, till now, no compliance report on these directions have been submitted by the operator. Further, the Board officials inspected the petitioner's CBMWTF on 27.05.2017 and observed the following violations:

- a. The connection between the incinerator stack and the ID fan is dislocated with opening in the stack.

- b. The industry was storing out dated /discarded medicines in the store rooms. It was informed that they were incinerating the same in the incinerator.
- c. The facility is yet to dispose incineration ash to the TSDF. The ash is stored in the concrete pits is observed to be mixed with glass, syringes etc..

The above mentioned violations are reviewed in the External advisory committee (Task Force) meeting of A.P. Pollution Control Board on 24.07.2017 and the Board vide order dt: 24.08.2017 issued the following directions:

- a. The industry shall maintain records on source of Expired/discarded medicines, quantity for stream-wise and details of disposal. The consolidated details shall be reported to RO, Vijayawada for every 3 months.
- b. The industry shall ensure incinerator is operated at  $>1200^{\circ}\text{C}$  while disposing the Expired / discarded medicines as per the BMW Rules, 2016. The compliance shall be reported to RO, Vijayawada as and when the Expired/discarded medicines are disposed at the existing incinerator.
- c. The industry shall furnish performance evaluation of adequacy of the existing air pollution control equipment for disposal of Expired/discarded medicines in the existing incinerator within 3 months.
- d. The industry shall immediately stop further disposal mode of Incinerator ash at onsite landfill and they shall immediately dispose the accumulated incinerator ash to TSDF, Visakhapatnam and shall report compliance to RO, Vijayawada along with manifest copies.
- e. The industry shall ensure continuous compliance of the conditions stipulated in the CFO & HWA order.
- f. The GPS system to the vehicles and Barcode system to the BMW collecting bags shall be followed immediately.

Again, the facility operator has failed to submit the compliance report on the directions issued by the Board, which clearly reflect the failure on the part of the CBMWTF to effectively operate the facility complying to the BMW Rules, 2016.

The specific contention of the 2<sup>nd</sup> respondent in the counter is that, since the petitioner is unable to operate the CBMWTF plant to cater the needs of more than 16,000 bed strength within radius of 75 kms. Therefore, the 2<sup>nd</sup> respondent issued In-Principle Permission for establishment of second CBMWTF in favour of the 4<sup>th</sup> respondent at G. Konduru Mandal, Krishna District vide Letter No.1/APPCB/HO/UH-IV/BMW/In-Principle/2018-571 dated 07.02.2018, to meet the present

needs by HCFs in Krishna District and such order of in-principle permission would not confer any right on the 4<sup>th</sup> respondent to establish, since no consent for establishment was issued by the 2<sup>nd</sup> respondent and therefore, the petitioner having violated several directions issued by the 3<sup>rd</sup> respondent/A.P. Pollution Control Board, approached this Court with unclean hands and prayed for dismissal of the writ petition.

The 4<sup>th</sup> respondent/M/s. Hygiene Biomed Services, who obtained in-principle permission to establish CBWTF admitted about the grant of in-principle permission, while contending that the bed capacity in Krishna District is more than 10,000 and the treatment capacity of the petitioner CBWTF is not adequate and in those circumstances, to cater the needs of HCFs, and to treat bio medical wastage, another CBWTF is required to be established for collection and treatment of such waste to reduce adverse effects within 48 hours, since the waste may pose a threat to human health and environment, as such the petitioner is not entitled to claim any relief in this petition due to his incapacity to treat bio medical waste for more than 10,000 beds.

The 4<sup>th</sup> respondent/ M/s. Hygiene Biomed Services admitted about obtaining Consent for Establishment of CBWTF by the petitioner, while highlighting that the petitioner violated several guidelines to treat bio medical waste for more than 10,000 beds within the radius of 75 kms. The 4<sup>th</sup> respondent denied that the present alleged bed strength is 11,938, while contending that there are 617 numbers of private hospitals with a bed strength of 16,376 excluding government hospitals and that there are about 3888 number of beds uncovered by the existing CBWTF and there are number of veterinary hospitals, dispensaries, dental hospitals,

ayurvedic and homeopathic hospitals which needed to be covered under BMWM Rules, 2016.

It is contended that, establishment of new biomedical disposal facility will be based on the guidelines only and it is specifically stated that SPCB/PCC has to conduct gap analysis, with reference to coverage area of the biomedical waste generation and also projected bio medical waste generated over a period of 10 years, adequacy of existing treatment capacity of CBWTF in each coverage area of radius of 75 kms and obtaining such in-principle permission. It is also stated that, as per revised guidelines for Common Biomedical Waste Treatment Facilities, in case, number of beds is exceeding > 10,000 beds in a locality (i.e., coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located. Therefore, the "**in-principle**" permission was granted to cater to the needs of the HUFs i.e. bed strength of 16,376 and therefore, the in-principle permission cannot be said to be illegal and contrary to any provisions of law and prayed to dismiss the writ petition.

During hearing, learned counsel for the petitioner Sri Venkaiah Naidu vehemently contended that, in-principle permission was not contemplated under any of the provisions of the Bio-Medical Waste Treatment Rules or the Pollution Control Act. Even to grant permission to new establishment of CBMWTF, certain gap analysis is required to be conducted for technical and economic viability to cater the needs of the existing bed strength. But, in the present case, the alleged in-principle

permission to establish CBMWTF was issued without complying the statutory requirements i.e. guidelines issued under the provisions of the Pollution Control Act and therefore, such in-principle permission is illegal and prayed to cancel the same.

Whereas, learned Standing Counsel appearing for Respondent Nos. 2 & 5 admitted the requirement to conduct gap analysis and issue of in-principle permission in favour of the 4<sup>th</sup> respondent to establish CBMWTF at Loya Village, G.Konduru Mandal, Krishna District and also assured that they will conduct gap analysis and other requirements before issuing Consent for Establishment and Consent for Operation in favour of the 4<sup>th</sup> respondent, strictly adhering to the rules and guidelines issued by the authorities concerned.

Whereas, learned counsel for the 5<sup>th</sup> respondent opposed the petition on the ground that the petitioner violated several directions issued by A.P. Pollution Control Board and unable to cater to the needs of 16,376 bed strength, within the radius of 75 kms i.e. operational area of the petitioner. Taking into account of the contingency to meet the immediate necessity to dispose of bio medical waste as per rules, the 2<sup>nd</sup> respondent issued in-principle permission to establish CBMWTF at Loya Village, G.Konduru Mandal, Krishna District and that there is no illegality in granting such permission and placed reliance on the judgment of Division Bench of High Court of Judicature at Hyderabad in **M/s. MCV Eco Systems v. State of Andhra Pradesh**<sup>1</sup> and requested to dismiss the writ petition.

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<sup>1</sup> W.P.No.5720 of 2018 dated 07.03.2018

Considering rival contentions, perusing the material available on record, the sole point that arises for consideration is:

***“Whether in-principle permission is contemplated under any of the provisions of Pollution Control Act or Bio Medical Waste Management Rules, 2016. If so, whether such in-principle permission is in strict adherence to the revised guidelines issued by the authorities. If not, the order issued granting in-principle permission in favour of the 4<sup>th</sup> respondent is liable to be set-aside?”***

**P O I N T:**

It is not in dispute that the 2<sup>nd</sup> respondent issued in-principle permission to the 4<sup>th</sup> respondent for the proposed establishment of CBMWTF at Loya Village, G.Konduru Mandal, Krishna District. The “*in-principle*” permission issued by the 2<sup>nd</sup> respondent on 07.02.2018 disclosed that a report from District Medical & Health Officer (DM & HO) was called for by the authority and according to the report, there are 617 private hospitals with bed strength of 16,376 excluding government hospitals and the existing common bio medical facility in Krishna District is covering 752 HCFs with 12848 bed strength and there are about 3888 bed strength uncovered by the existing CBMWTF, besides, veterinary hospitals, dispensaries, dental hospitals, ayurvedic and homeopathic hospitals which need to be covered under the BMWM Rules. The very basis for issue of in-principle permission is the report of DM & HO. The paragraphs in the in-principle permission are totally inconsistent to one another and the in-principle permission is extracted hereunder:

“The District Medical & Health Officer (DM & HO) - there are 617 Nos of Private Hospitals with a Bed strength of 16376 Nos. (excluding Government Hospitals)”

At the same time, in the third paragraph of the permission letter dated 07.02.2018, it is specifically mentioned that the existing Common Bio Medical Waste Treatment Facility (CBMWTF) in Krishna District is covering 752 nos of Health Care Facilities (HCFs) with 12,848 bed strength (as per the BMW annual report 2016 submitted to CPCB) and there are about 3888 numbers of beds uncovered by the existing CBMWTF.

When the existing CBMWTF is being run by this petitioner is covering 752 numbers of Health Care Facilities, irrespective of the bed strength, the question of finding 16,376 in 617 Health Care Facilities is totally inconsistent.

Even according to the letter addressed by the Environmental Engineer, Andhra Pradesh Pollution Control Board, Regional Office, Vijayawada to the Member Secretary, A.P. Pollution Control Board, Hyderabad dated 24.06.2017, the present existing unit being run by the 4<sup>th</sup> respondent by name M/s Hygiene Biomed Services is located at Dharmavarapadu Thanda Village, Jaggaiahpet Mandal, Krishna District to cater the needs of treatment and disposal of Bio medical Waste generated from Health Care Establishments and it is located at a radial distance of about 48 kms from the proposed site. It is also communicated in the letter that, as per the information available with the office, 752 nos of HCEs (Govt. - 25 nos. & Private - 727 nos) are existing in Krishna District and the total bed strength of HCEs is 12848 numbers (Private - 10772 nos & Govt. - 2076 nos). Further, as per the list of HCEs furnished by District Medical Health Officer (DMHO), submitted along with the application, there are 617 nos of private hospitals with total bed strength of 16376 (excluding Government Hospitals) and the list is verified and observed that 58 nos of HCEs with bed strength of 4438 are repeated/closed and

therefore, the actual numbers of HCEs in the DMHO list is 559 and their bed strength is 11938. Further, as per the guidelines issued by Ministry of Environment, Forest and Climate Change for the establishment of new CBMWTF, if the number of beds is exceeding 10,000 beds in a locality (i.e. coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located. Even according to the office records of the Environmental Engineer in Krishna District, the total bed strength of Health care establishments is 12848 numbers which is exceeded only by 2848 numbers over 10,000 numbers of beds and the viability for establishment of new/another is to be examined.

When the Environmental Engineer himself certified that the report of DMHO is not based on the correct information and 50 HCFs were repeated/closed as per the list submitted by him, the real HCFs and bed strength is to be examined in detail and at the same time, the other establishments like veterinary hospitals and other hospitals are to be covered by BMW Rules is also to be examined and decide the total bed strength of HCFs for treatment by the existing CBMWTF, afresh, in view of the inconsistency in the reports by various departments.

As per the revised guidelines for Common Bio-Medical Waste Treatment and Disposal Facilities issued by Central Pollution Control Board dated 21.12.2016, the meaning of "bio-medical waste treatment and disposal facility" is any facility wherein treatment, disposal of bio-medical waste or processes incidental to such treatment and disposal is carried out, and includes common bio-medical waste treatment facilities and

"operator of a common bio-medical waste treatment facility" means a person who owns or controls a Common Bio-Medical Waste Treatment and Disposal Facility (CBWTF) for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste.

The Bio-medical Waste Management Rules, 2016 (hereafter referred as BMWM Rules) restricts occupier for establishment of on-site or captive bio-medical waste treatment and disposal facility, if a service of common bio- medical waste treatment and disposal facility is available within a distance of seventy-five kilometer, as installation of individual treatment facility by health care facility (HCF) requires comparatively high capital investment. In addition, it requires separate dedicated and trained skilled manpower and infrastructure development for proper operation and maintenance of treatment systems. The concept of CBWTF is not only addresses such problems but also prevents proliferation of treatment technologies in a particular town or city. In turn, it reduces the monitoring pressure on regulatory agencies. By running the treatment equipment at CBWTF to its full capacity, the cost of treatment of per kilogram bio-medical waste gets significantly reduced. Its considerable advantages have made CBWTF popular and proven concept in most part of the world. The CBWTF are also required to set-up, based on the need for ensuring environmentally sound management of bio-medical waste keeping in view the techno-economic feasibility and viable operation of the facility with minimal impact on human health and environment. Thus, the reason for establishment of CBWTF is only to reduce pollution impact on human life. Therefore, the authorities are bound by the guidelines issued by the Central Pollution Control Board and with a view to issue complete guidelines, earlier guidelines were revised.

Guideline No.2 of the revised guidelines for Common Bio-Medical Waste Treatment and Disposal Facilities issued by Central Pollution Control Board dated 21.12.2016 deals with Criteria for development of a new Common Bio-Medical Waste Treatment and Disposal Facility for a locality or region. The following are the criteria or steps that should be followed prior to allowing any new CBWTF.

- a) Prescribed Authority under the BMW Rules, 2016 [i.e. State Pollution Control Board (SPCB) in the respective State or Pollution Control Committee (PCC) in the respective Union Territory Administration] is required to prepare an inventory or review with regard to the bio-medical waste generation at least once in five years in the coverage areas of the existing bio-medical waste treatment and disposal facility. The prescribed authority is also required to extrapolate the coverage-area wise bio-medical waste generation for the next ten years.
- b) SPCB/PCC is required to conduct gap analysis w.rto coverage area of the bio-medical waste generation and also projected over a period of next ten years, adequacy of existing treatment capacity of the CBWTF in each coverage area of radius 75 KM, as given in Annexure-I.

All the SPCBs and PCCs shall conduct the gap analysis and based on the gap analysis, action plan for development of new CBWTFs is required to be prepared and submitted to MoEF & CC & CPCB within six months' time. In case of States/UTS, where no CBWTF is available, in such a case, SPCB/PCC being prescribed authority under the BMW Rules is required to submit the detailed proposal to MoEF & CC/MOH & FW through the respective State Government or UT Administration. Also, the option of forming association by the group of health care facilities (HCFS) to develop their own CBWTF also be encouraged following these guideline. In case, any coverage area requires additional treatment capacity, in such a case, action may be initiated by the prescribed authority for allowing a new CBWTF in that locality without interfering the coverage area of the existing CBWTF and beds covered by the existing CBWTF.

- c) SPCB/PCC shall identify the coverage area, which require additional treatment facility and bring it to the notice of the concerned department in the business allocation of land assignment in the respective State Government or UT Administration. The department in the business allocation of land assignment shall be responsible for providing suitable site in the identified coverage area for setting up of a CBWTF, in consultation with the prescribed authority (i.e., SPCB/PCC), other stakeholders and in accordance with these guidelines issued by CPCB from time to time.
- d) Alternately, a CBWTF may also be allowed to be established on a land procured by an entrepreneur in accordance with the location criteria suggested under these guidelines.
- e) The SPCB/PCC or concerned department in the business allocation of land assignment in the respective State Government or UT Administration may seek Expression of interest from the proponents for development of new CBWTF (s) in the identified coverage area.

- Upon allocation of site to the proponent, the proponent is required to take necessary approvals as required under the Environment (Protection) Act, 1986 for development of the new CBWTF in accordance with these guidelines.
- f) In the absence of expression of interest by any proponent, then SPCB/PCC shall insist health care facilities to form association and to develop its own CBWTF in line with these guidelines or to have captive treatment facilities for ensuring treatment and disposal of generated bio-medical waste as stipulated under the BMW Rules, 2016.
  - g) In case of any regulatory action including closure of any existing CBWTF is inevitable, the respective SPCB/PCC may take action under the BMW Rules including for making alternate arrangement to ensure safe disposal of the bio-medical waste generated from the member health care facilities of such default CBWTF through CBWTF located nearby.
  - h) In case of hilly areas considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc., should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee.

In view of the guidelines extracted above, and as admitted by Respondent Nos. 2 & 4, as to the requirement to conduct gap analysis and based on economic feasibility and viable operational facility and issue of Consent for Establishment by the authorities of A.P. Pollution Control Board and later, issue of Consent for Establishment after its establishment, strictly adhering to the revised guidelines issued by the Central Pollution Control Board.

Turning to the present facts of the case, except calling for report from the District Medical & Health Officer, no gap analysis as contemplated under revised guidelines are extracted above was not undertaken by the 2<sup>nd</sup> respondent and there is any amount of discrepancy with regard to bed strength in HCFs in Krishna District i.e. operational area of the petitioner. The conflict between the report of Environmental Engineer who is a competent authority and report of DM & HO, Krishna District was not resolved by the 2<sup>nd</sup> respondent. Moreover, as per the

report of Environmental Engineer, there is repetition of 50 HCFs in the DM & HOs report, but whereas as per the record available in the office of Andhra Pradesh Pollution Control Board, the total bed strength is different. Therefore, firstly the authorities have to examine the total bed strength in the operational area of 4<sup>th</sup> respondent, HCFs to be included i.e. veterinary hospitals, dispensaries, dental hospitals, ayurvedic and homeopathic hospitals under Bio-Medical Waste Management Rules and thereafter, examine techno-economic feasibility and viable operation of the facility with minimal impact on human health and environment. If, the existing CBWTF is sufficient to treat the bio-medical waste collected from HCFs in the operational area or whether any additional facility is required to be provided for the same operational area, subject to exceeding 10,000 bed strength, the 2<sup>nd</sup> respondent may grant Consent for Establishment as per rules. But, the authorities issued in-principle permission, which is not contemplated under any of the Rules of Bio Medical Waste Management Rules, 2016.

A similar issue came up for consideration before Division Bench of High Court of Judicature at Hyderabad in **M/s. MCV Eco Systems v. State of Andhra Pradesh** (referred supra), wherein, it was observed as follows:

"The National Green Tribunal, Southern Bench, in its order dated 26.05.2017 had directed the State Environment Impact Assessment Authority to pass appropriate orders in respect of grant of environmental clearance. The 5<sup>th</sup> respondent had, in turn, directed the petitioner to obtain "in principle" approval of the State Pollution Control Board. The only provision which requires the State Pollution Control Board to be consulted at this stage is Rule 17(2) of the 2016 Rules which relates to the location of the site for the facility. As Rule 17(2) requires the State Pollution Control Board to be consulted with regards location of the site, and for the Board to act as per the guidelines framed either by the Ministry of Environment, Forest and Climate Change or Central Pollution Control Board, Sri Vedula Venkata Ramana, learned Senior Counsel appearing on behalf of the petitioner, would submit that, though the petitioner had earlier made an application, seeking consent of the State

(58)

Pollution Control Board on 25.05.2015, they would, in order to avoid further delay, make an application afresh within one week from today."

Finally, the Division Bench concluded that, the views expressed by the board would relate only to the site, where the unit is sought to be located, in terms of Rule 17(2) of the 2016 Rules, and shall not be construed either as grant of, or refusal to grant, consent for establishment of the unit as it is only if, and after, the State Level Impact Assessment Authority gives its approval for prior environmental clearance. Therefore, it is difficult to accept the contention of the learned counsel for the respondent No.4 that the "in-principle" permission is acceptance of the proposed site for setting up such facility of CBMWTF. Therefore, the report was not based on revised guidelines issued by Central Pollution Control Board in 2016. Even according to the judgment, it is only for identification of site, but not exact approval and it can neither be treated as an approval permitting the 4<sup>th</sup> respondent to establish CBMWTF at a particular place or Consent for Establishment. Even according to Guideline No.6 of revised guidelines, several factors have to be taken into consideration and they are as follows:

**"Location criteria**

In the context of these guidelines, buffer zone represents a separation distance between the source of pollution in CBWTF and the receptor - following the principle that the degree of impact reduces with increased distance. The following parameters may be considered for ascertaining buffer distance on case-to-case basis:

- (i) potential for spread of infection from wastes stored in the premises.
- (ii) applicable standards for pollution control and the relative efficiency of the existing incinerators and emission control systems,
- (iii) potential of fugitive dust emission from incinerators,
- (iv) potential for discharge of wastewater
- (v) the potential for odour production,
- (vi) the potential for noise pollution,

- (vii) the risk posed to human health and safety due to exposure to emissions from incinerator,
- (viii) the risk of first aid
- (ix) Significance of the residual impacts such as bottom ash and fly ash.

As far as possible, the CBWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMWM Rules (i.e., within 48 hours). Also, the location of the CBWTF should be in conformity to the CRZ Norms and other provisions notified under the Environment (Protection) Act, 1986. The location shall be decided in consultation with the State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC). The location criteria for development of a CBWTF are as follows:

- a) A CBWTF shall preferably be developed in a notified industrial area without any requirement of buffer zone (or)
- b) A CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (BAT) by the proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity. If SPCB/PCC is not in a position to resolve the issue relating to buffer zone while selecting the site for CBWTFs, in such a case, SPCBs/PCCs may refer the matter to CPCB.
- c) The CBWTF can also be developed as an integral part of the Hazardous Waste Treatment Storage and Disposal Facility (TSDF) subject to obtaining of necessary approvals from the authorities concerned including 'environmental clearance' as per Environmental Impact Assessment 2006 and further amendments notified under the Environment (Protection) Act, 1985, provided there is no CBWTF exist within 150 KM distance from the existing TSDF."

According to Guideline No. 6(b), A CBWTF can be located at a place reasonably far away from notified residential and sensitive areas and should have a buffer distance of preferably 500 m so that it shall have minimal impact on these areas. In case of non-availability of such a land, the buffer zone distance from the notified residential area may be reduced

to less than 500 m by SPCB/PCC without referring the matter to CPCB by prescribing additional control measures such as (i) adoption of best available technologies (BAT) by the proponent of CBWTF; (ii) prescribing stringent standards for operation of the CBWTF by the SPCB/PCC; (iii) adoption of zero liquid discharge by the CBWTF and (iv) in case of any complaints from the public, then CBWTF should prove that the facility is not causing any adverse impact on environment and habitation in the vicinity. If SPCB/PCC is not in a position to resolve the issue relating to buffer zone while selecting the site for CBWTFs, in such a case, SPCBs/PCCs may refer the matter to CPCB.

Therefore, even to grant permission under Rule 17, the 2<sup>nd</sup> respondent has to take into account all the requirements laid down in Guideline No.6 of the guidelines issued by Central Pollution Control Board. But, in the present case, even to treat this order, i.e. "in-principle" permission, the 2<sup>nd</sup> respondent did not take into consideration of Guideline No.6 of the guidelines issued by the Central Pollution Control Board, but, it is based on the report of DM & HO, Krishna District, which is erroneous, even according to the report of Environmental Engineer of A.P. State Pollution Control Board. Therefore, the "in-principle" permission is neither in compliance of Guideline No.6 of the revised guidelines framed by the Central Pollution Control Board, nor contemplated under any of the rules. Therefore, the "in-principle" sanction is not in accordance with Bio Medical Waste Management Rules, 2016 or as per the provisions of Environmental Protection Act, 1986. Hence, it is held that the "in-principle" permission is not a permission to establish CBWTF. Therefore, the Andhra Pradesh Pollution Control Board is directed to examine the feasibility for establishment of CBWTF strictly adhering to the guidelines issued by Central Pollution Control Board in 2016 and take up application of the 4<sup>th</sup>

respondent. Till then, the 4<sup>th</sup> respondent is not entitled to establish CBWTF. Accordingly, the point is answered.

With the above direction, writ petition is disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed.

SD/- K.VENKAIAH  
ASSISTANT REGISTRAR



SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary, State of Andhra Pradesh, Department of Environment and Forests, A.P. Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Member Secretary, A.P. Pollution Control Board, Door No.33-26-14D/2, Near Sunrise Hospital, Chalamalavari Street, Kasturibaipet, Vijayawada - 520008.
3. The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, New Delhi - 110032.
4. M/s. Hygiene Biomed Services, 11-8-29, Jagannadham Street, Kothapet, Vijayawada -520001.
5. A.P. State Environment Impact Assessment Authority, (SEIAA), Rep. by its Member Secretary, Hyderabad.
6. One CC to SRI. P VENKAIAH NAIDU Advocate [OPUC]
7. Two CCs to GP FOR FORESTS (AP) ,High Court Of Andhra Pradesh. [OUT]
8. Two CCs to K.LAKSHMAN ASST SOLICITOR GENERAL ,High Court Of Andhra Pradesh. [OUT]
9. One CC to SRI GURRAM RAMAHENDRA RAO Advocate [OPUC]
10. Two CD Copies

RAM



HIGH COURT

DATED:07/08/2019

ORDER

WP.No.11250 of 2018



DISPOSING OF THE WP  
WITHOUT COSTS

13  
SGM  
8/8/19