

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi

Original Application No. 15/2014

In the Matter of: -

Him Jagriti Uttaranchal Welfare Society

Applicant(s)

Vs.

Union of India & Ors.

Respondent(s)

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(Divya Sinha)

Scientist 'E'

Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi-110032

Place: Delhi

Date: 12.10.2020

CENTRAL POLLUTION CONTROL BOARD, DELHI

Date: 12-10-2020

Report in the matter of Him Jagriti Uttaranchal Welfare Society Vs. Union of India & Ors. O. A. No. 15/2014

1.0 Background:

Issue for consideration is restriction on use of plastic bottles and multi layered plastic packages used for packaging of carbonated soft drink and liquor as well as other items, in view of the adverse impact on the environment and health.

Vide order dated 31.05.2019, Hon'ble NGT constituted an Expert Committee comprising of the representatives of FSSAI, BIS, CPCB and DGHS to consider whether any further regulatory provisions are required on the subject of restrictions on the packaging by use of plastic material and if so to what extent. The Nodal agency for coordination was the FSSAI.

FSSAI, the nodal agency filed the last report dated 15-2-2020 with Hon'ble NGT having 12 specific action points (enclosed at **Annexure-A**) for restriction of plastic packaging. Out of 12 specific points, CPCB was responsible agency for providing status on Extended Producer Responsibility (EPR) under Plastic Waste Management (PWM) Rules.

Vide Order dated 10.09.2020 in the matter, Hon'ble NGT directed as follows:

“---let action taken report be now filed by the FSSAI, DGHS, MoEF&CC, the CPCB and the BIS before the next date---”

2.0 Action Taken by CPCB:

Following actions have been taken by CPCB for implementing Extended Producer Responsibility (EPR) under Plastic Waste Management (PWM) Rules, 2018:

2.1 Registration of Brand Owners/Producers:

CPCB has issued registration to 162 Brand-Owners (BO) and 4 Producers under provisions of Plastic Waste Management Rules, 2018 having total Extended

Producer Responsibility (EPR) target for collection and disposal of approx. 7 Lac TPA plastic waste.

2.2 Directions to SPCBs/PCCs:

Directions under Section 5 of Environment (Protection) Act, 1986 have been issued to all SPCBs/PCCs for identification of the Brand owners/ producers who are operating without Registration from SPCB/PCC/ CPCB in their State/UT and to take action against the defaulting units as per provisions of PWM Rules, 2018 which shall include closure of their operations, and levying Environmental Compensation. List of Brand owners whose application for registration with CPCB is pending with applicants for long and are non-compliant during this period has also been forwarded to SPCBs/PCCs for necessary action.

2.3 Show Cause Notices for Closure of operations & Levying Environment Compensation:

CPCB has issued Show Cause Notices to 6 Brand Owners/Producer (namely M/s. Bisleri International Pvt. Ltd., M/s. Hindustan Coca Cola Beverages Pvt. Ltd., M/s. Pepsico India Holding Pvt. Ltd., M/s. Flipkart Private limited, M/s. Patanjali Peya Pvt. Ltd. and M/s. NourishCo Beverages Limited) for non-compliance of Provisions of PWM Rules, 2018 in October,2020.

3.0 Institute Concept of Plastic Foot Print:

The concept of Plastic Foot Print was discussed during Expert Committee meeting in August 2020 and concerned industries were identified (**Annexure-B**). However, CPCB has not received any data on subject matter from the industry /FSSAI as stated against actionable point no.1 of last report dated 15-2-2020. The subject matter is also not addressed in PWM Rules,2018. FSSAI may provide further details/requisite data on the matter to CPCB for consideration.

Action Taken Report on the Hon'ble NGT order dated 14/10/19 passed in O.A. No. 15/2014 on the Expert Committee report in the case Him Jagriti Uttaranchal Welfare Society Vs. Union of India & Ors.

Background:

The Hon'ble NGT had constituted an Expert Committee (EC) comprising of the representatives of BIS, CPCB, DGHS and FSSAI (Nodal Agency) to examine the regulatory provisions on restriction of plastic packaging and related issues. The EC had submitted its report to the Hon'ble NGT with recommendations and responsibilities of various stakeholders in reducing the usage of plastics and also in managing the plastic waste. The Hon'ble NGT has issued an order dated 14/10/19 passed in O.A. No. 15/2014 on the report submitted by the Expert Committee and directed to take further follow up action within three months and furnish an action taken report before the Tribunal. In this connection, the actionable points of different agencies were identified and communicated by FSSAI. The action taken by various agencies are compiled and placed below:

A) Manufacturer / User Industries of Plastic Packaging Materials:

S.No.	Actionable Point	Agency Responsible	Action Taken
(1)	Institute concept of plastic footprint	Manufacturer / User Industries of Plastic Packaging Materials	A concept note on plastic footprint was prepared based on a literature review. To start with, initially few big food companies were included for the food categories identified by the EC. A meeting was held on 20th Jan, 2020 at FSSAI, HQ with businesses for deliberation on the concept. Approved minutes of the meeting were circulated among the industry for necessary action. Details are annexed at A (1). Industry members pointed out that the data with respect to plastics

			are already being submitted to the CPCB and this scheme would be a repetition of the same. Hence the CPCB may consider and take the concept forward and also directly submit progress report to the Hon'ble NGT.
(2)	Discourage small pack sizes: To explore the possibilities of restricting small packs of commodities such as water, shampoo, sauce, pickle etc as it constitutes to the major plastic waste and litter and their collection is economically non-viable.	Legal Metrology	Letter No WM-19(109)/2019 dated 13/01/2020 received from Legal Metrology, Department of Consumer Affairs stating that "the use of small pack sizes is not restricted/prohibited under the Legal Metrology (Packaged Commodities) Rules, 2011. Small pack sizes facilitate pre packaged goods to reach the small consumers and also prevent wastages when requirement is less". Letter annexed at A (2).
(3)	Commitment to reduction of plastics in packaging	Manufacturer / User Industries of Plastic Packaging Materials	i) A meeting was conducted on 17 th September, 2019 to discuss the follow-up action on the Report of the Expert Committee submitted to Hon'ble National Green Tribunal (NGT) and participation of the F&B industry in plastic waste free India campaign under the chairmanship of CEO, FSSAI. Minutes of the meeting are annexed at A(3)i). https://fssai.gov.in/upload/uploadfiles/files/Minutes_Meeting Stakeholders Plastic Waste Free India 18 09 2019.pdf

			<p>ii) FSSAI had organized a Campaign on 24th September 2019 on the theme Plastic Waste Free Food Sector - Towards Safer and Sustainable Food Packaging and was graced by the Union Minister for Health and Family Welfare, Dr. Harsh Vardhan, where twenty-two of the top food companies including multinational companies committed themselves to effectively manage plastic waste in their operations and reduce their plastic footprint in the coming years. Copy of the voluntary pledges taken by these companies are annexed at A (3) ii).</p> <p>Since the Industries already submit the plastic consumption data to CPCB, they may also submit their compliance with respect to the pledge taken by them to reduce plastics. https://fssai.gov.in/upload/press release/2019/09/5d8a03cc10b7dPress Release Plastic Waste Free 24 09 2019.pdf</p>
(4)	Encourage alternatives to plastics.	Manufacturer / User Industries of Plastic Packaging Materials	<p>With respect to the use of alternate/recyclable/reusable packaging materials, Companies have also committed to implement them in a time bound manner-annexure attached at A (3) ii) may be referred to.</p> <p>FSSAI has also taken steps to promote alternatives and to reduce plastics by;</p> <p>i) Issuing guidelines for the use of bamboo as an alternative to plastics</p>

			<p>such as straws, plates, bowls, and cutlery. Copy annexed at A (4) ii). https://www.fssai.gov.in/upload/advisories/2019/09/5d6e4cd671207Letter Bamboo Food Material 03 09 2019.pdf</p> <p>ii) Permitting serving of drinking water in paper sealed reusable glass bottles for captive use within the hotel premises subject to certain conditions. Copy annexed at A (4) iii). https://www.fssai.gov.in/upload/advisories/2019/09/5d766553bfdacOrder Paper Sealed Glass Bottle 09 09 2019.pdf</p>
(5)	Effective Extended Producer's Responsibility (EPR) framework	CPCB	<p>The Hon'ble NGT vide Order dated 4-12-2019 in OA 247/2017 & 376/2016 has directed MoEF&CC to finalize National Framework on EPR within 3 months and furnish report by 29-4-2020. The three models viz 1) Fee based model 2) PRO based model and 3) Plastic credit Model presently under consideration at MoEF&CC have been included at Para 11 of the said Order. Hon'ble court has directed CPCB to submit report on Environmental Compensation regime for improper Plastic Waste Management in four weeks after finalization of National Framework on EPR by MoEF&CC. Details and annexure received through email from CPCB is annexed at A(5).</p>

B) Final consumers / Users of plastic packaged articles and food stuff:

<p>(1)</p>	<p>Eliminate/Ban single use plastics; Use of alternatives to plastics; Improved Litter Management; Better Plastic Disposal.</p>	<p>All States/UT's establishments, agencies, institutions, organizations including government/nongovernment, food/non-food operators such as roadways, schools, colleges and university campuses, E-commerce groups, corporate campuses, hotels,</p>	<p>i) FSSAI has directed the Commissioners of Food Safety of all the states and union territories to create awareness and to educate the public on use of alternatives to plastics, proper plastic disposal and litter management. Copy annexed at B) (1) i). They may take this forward and organise such campaigns/awareness programmes and for which a progress report may be submitted to the Hon'ble NGT directly.</p> <p>https://www.fssai.gov.in/upload/advisories/2019/12/5e09dbd43b8a3Letter Plastic Disposal 30 12 2019.pdf</p> <p>All the concerned States and Union Territories may ensure the compliance with Eliminate/Ban single use plastics; Use of alternatives to plastics; Improved Litter Management; Better Plastic Disposal and submit the progress in this regard directly to the Hon'ble NGT.</p> <p>ii) FSSAI launched "Eat Right India for Sustainable Living" campaign on 12th September 2019 as a call to action for plastic waste management and reduction of plastic footprint in the F&B industry. The activities planned as part of this are in accordance with the timelines of Swachhata Hi Seva 2019 campaign. FSSAI had organized this Campaign from 12 Sep – 02 Oct, 2019 to free houses,</p>
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		<p>marriage, banquet and community halls.</p>	<p>offices and workplaces from single use plastic. The two campaigns are in complete alignment with each other and will help accelerate the vision of Hon'ble Prime Minister to free our houses, offices and workplaces from single use plastic and were organized on 12th September 2019 (MGF Mall, Gurugram); 24th September 2019 (Jahangir Puri, New Delhi); 24th September 2019 (Atrium, Infiniti Mall, Malad, Mumbai) and 23-29th September 2019 (FDA Bhawan, New Delhi). Copy annexed at B) (1) ii)</p> <p>https://fssai.gov.in/upload/uploadfiles/files/Report Swachhata Hi Seva Campaign 15 11 2019.pdf</p> <p>iii) To kick-start the movement, the Indian Cricket Captain, Shri Virat Kohli had reached out to millions of fans through his social media accounts (Twitter, Instagram and Facebook) in this regard. Copy annexed at B) (1) iii).</p> <p>https://fssai.gov.in/upload/uploadfiles/files/Press Release EatRightIndia 12 09 2019.pdf</p> <p>iv) FSSAI has itself taken up an initiative for reduction and where possible elimination of plastics in its head office and regional offices across the country.</p> <p>v) FSSAI had requested the Ministry of Housing and Urban Affairs to direct the state Municipal Authorities to take appropriate action</p>
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			vide letter File No. 1-95/Stds/Misc/SP (L&C/A)/FSSAI-2015 (pt-4) dated 20 th December, 2019 as annexed at B) (1) v).
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C) Municipal bodies/other organizations promoting circular economy:

(1)	Development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers as mentioned in the Plastic Waste Management Rules	MoEFCC	<p>i) The MoEFCC has briefed that, for proper regulation and sound recycling of plastic, provisions have been made for registration of all plastic recyclers with respective State/UT Pollution Control Boards/Committees. Every Urban Local body has been made responsible for setting up of infrastructure for collection, segregation and processing, including recycling and disposal of plastic waste. The local bodies have also been mandated to create awareness among all stakeholders about their respective responsibilities. ATR submitted by MoEFCC is annexed at C) (1) i). They may be asked to submit the progress report to the NGT directly.</p> <p>ii) FSSAI had also requested the Ministry of Housing and Urban Affairs to direct the state Municipal Authorities to take appropriate action and submit a progress report. Letter no. File No. Q-16019/5/2018-CPHEEO (C.No.9040276) dated 08/01/2020 received from them is attached at C) (1) ii).</p>
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D) Citizens and consumers

(1)	Awareness programmes amongst public for proper plastic disposal & litter management	All States/Union Territories and Business Operators	<p>i) FSSAI has organized various campaign and awareness programmes under the "Eat Right India for Sustainable Living" initiative and have also directed the States/Union Territories to take this forward and to submit a progress report to the Hon'ble NGT directly. Action taken at item "B" with annexure may be referred.</p> <p>ii) FSSAI has organized a Food Dialogue on Food for the Planet: Plastic Free F&B on 27th December, 2019 at the 2nd Eat Right Mela, Delhi NCR with the National Street Food Festival at the Jawaharlal Nehru Stadium, New Delhi held during 25th-29th December, 2019.</p>
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E) Science and Research Institution

(1)	Science and research institutions must be encouraged for working in the direction of developing environmental friendly packaging materials and plastic waste management systems which can be used on commercial basis.	FSSAI	<p>i) FSSAI has constituted a specific Scientific Panel on Packaging to deal with challenges in the area and to address through the regulations. Copy of the order is annexed at E) (1) i).</p> <p>FSSAI has established a network of research and academic institutions working in the area of food and nutrition referred to as Network for Scientific Co-operation for Food Safety and Applied Nutrition (NetSCoFAN). FSSAI has formed a Safer and Sustainable Packaging Group (SPG) dealing in food contact packaging materials comprising of expert research institutions in the area such as Indian</p>
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			Institute of Packaging (IIP), Central Pulp and Paperboard Research Institute (CPPRI), Indian Institute of Technology - Guwahati, Gandhinagar; Indian Institute of Toxicology Research (IITR), Defence Food Research Laboratory (DFRL), NDRI, CIFT, BHU and IRMRA. Copy of the order annexed at E) (1) ii).
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F) Regulatory Action

(1)	Food Safety and Standards (Packaging) Regulations, 2018: To review the limits of heavy metals in PET and fix the limits of specific migration limits of Antimony and DEHP (Diethylhexyl-phthalate). In addition to this also explore the possibility of setting limits for Cadmium and chromium.	FSSAI	i) FSSAI has issued direction under Section 16 (5) of Food Safety and Standards Act, 2006 dated 07th February 2020 regarding operationalisation of Food Safety and Standards (Packaging) Amendment Regulations, 2020 relating to Specific Migration Limits of Antimony and DEHP and Packaging of Drinking Water. https://www.fssai.gov.in/upload/advisories/2020/02/5e3d4cdfba1ebDirection Antimony limits Packaged Drinking Water 07 02 20 20.pdf Copy annexed at F) (1) i). The specific migration limits for cadmium and chromium are proposed to be set based on research as they are unavailable.
(2)	Food Safety and Standards (Packaging) Regulations, 2018 and IS 14543 (Packaged Drinking water):	BIS and FSSAI	i) FSSAI has issued direction under Section 16 (5) of Food Safety and Standards Act, 2006 dated 07th February 2020 regarding operationalisation of Food Safety and Standards (Packaging) Amendment Regulations, 2020 relating to Specific Migration Limits

	<p>To remove the restriction on the use non-transparent bottle for drinking water to enable businesses to explore the possibilities of use of alternatives other than the PET currently in use.</p>		<p>of Antinomy and DEHP and Packaging of Drinking Water. Copy annexed at F) (1) i).</p> <p>ii) BIS has published the following Indian Standards which may be used as alternatives to plastics:</p> <ul style="list-style-type: none"> a) IS/ ISO 17088:2012 Specifications for Compostable Plastics b) IS 1107:1986 Aerated water glass bottles crown finish type c) IS 11984:1986 Glass bottles for free flowing liquids d) IS 14407: 1996 Aluminium cans for beverages – Specification <p>Formulation of new Indian Standards:</p> <ul style="list-style-type: none"> a) Indian Standards on ‘Paper based multilayer composite carton for processed liquid food products’. b) Indian Standard on ‘Compostable plastics bottles/ containers for the Packaging of Natural Mineral Water and Drinking Water’. c) Amendment to IS 14543:2016‘Packaged Drinking Water (Other than Packaged Natural Mineral Water) and IS 13428:2005 ‘Packaged Natural Mineral Water’. <p>Copy of the ATR submitted by BIS is annexed at F (2) ii).</p>
(3)	<p>Food Safety and Standards (Packaging) Regulations, 2018; IS 14534 (Guidelines for Recycling of</p>	<p>FSSAI, CPCB and BIS</p>	<p>i) The Scientific Committee of the FSSAI has approved the proposal to study and validate the protocols authorized by international agencies wrt recycled PET and its use as food contact material. The</p>

	<p>Plastics); and Plastic Waste Management Rules, 2016:</p> <p>The European Food Safety Authority (EFSA) permits the use of recycled PET in food packaging under certain set protocols. To explore the possibilities for removal of ban on use of recycled plastic in food packaging after a scientifically validated method of pre-cleaning of plastic waste is developed to ensure that the final product using recycled material does not pose any health risk.</p>		<p>research activity will be taken up by Safer and Sustainable Packaging Group (SPG) under the NetSCoFAN initiative.</p> <p>ii) BIS has published IS 16630 (Part 1): 2018 'Plastics- Post Consumer Poly Ethylene Terephthalate PET Bottle Recyclates Part 1 Designation System and Basis for Specifications'. This standard establishes a designation system for post-consumer poly (ethylene terephthalate) (PET) bottle recyclates, which may be used as the basis for specifications. This standard is applicable to all PET bottle recyclates. It applies to material ready for normal use in the form of powder, flakes or pellets. However, BIS will participate in the development of a processes, which may be use to produce recycled PET intended for foodpackaging applications by FSSAI. Further, IS 14534:2016 'Plastics — Guidelines for the Recovery and Recycling of Plastics Waste' will be amended after removal of ban on use of recycled PET in food packaging by MoEF&CC and FSSAI. Copy of the ATR submitted by BIS annexed at F (1) ii).</p>
(4)	<p>Legal Metrology (Packaged Commodities) Rules 2011:</p> <p>To explore the possibilities of restricting small packs of commodities such as water,</p>	Legal Metrology	<p>i) Letter No WM-19(109)/2019 dated 13/01/2020 received from Legal Metrology, Department of Consumer Affairs stating that "the use of small pack sizes is not restricted/prohibited under the Legal Metrology (Packaged Commodities) Rules, 2011. Small pack sizes help pre packaged goods to reach the small consumers and also</p>

	shampoo, sauce, pickle etc.		prevent wastages when requirement is less". Letter annexed at A (2).
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G) Review and Monitoring

(1)	Sector-specific mechanisms to review and monitor the use of plastics in packaging and commitment of businesses under ' <i>Extended Producer Responsibility (EPR)</i> ' framework, managing plastic footprints, and related issues.	CPCB and FSSAI	As and when the 'Extended Producer Responsibility (EPR)' framework is being finalised and implemented, a joint review and monitoring mechanism may be put in place. The progress report with respect to the same may be appraised to the Hon'ble NGT by CPCB with concurrence from FSSAI.
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PLASTIC FOOT PRINT- A Concept Note

Background

The Hon'ble NGT had constituted an Expert Committee (EC) comprising of the representatives of BIS, CPCB and DGHS with FSSAI as nodal agency to examine the regulatory provisions on restriction of plastic packaging and related issues. The EC has submitted its report to the NGT with recommendations and responsibilities of various stakeholders in reducing the usage of plastics and also in managing the plastic waste. One of the actionable points in the report was to institute the concept of Plastic Foot Print as a part of the packaging/plastic reduction strategy.

Food packaging has been responsible for representing one of the highest environmental impacts. Packages made from polymeric materials, apart from their special features, carry some impact and such aspects should be considered for an objective assessment of packaging and its environmental role.

To understand the concept of Plastic Foot Print a literature survey on the packaging reduction strategies was done. The information gathered from various sources suggest that an existing packaging system survey may be carried out to develop an action plan to reduce plastics in packaging. Based on the survey, many strategies have been figured out by various agencies across the world which includes reduction of over and unwanted packaging, reducing thickness/layers, improving the packaging design and use of alternative materials.

Plastic Foot Print

Based on the literature review, it is concluded that a packaging system survey needs to be carried out to arrive baseline data on use of plastics. The purpose of the survey is to quantify the weights of plastics used per unit of a product in a packaging system. By comparing this packaging system weight to the weight of product it contains, a 'Packaging Ratio' can be calculated, showing the efficiency of the packaging system. The plastic footprint i.e the finished product packaging weight, derived from all materials used in the packaging system can be calculated product wise. This is necessary, so that when components of the packaging system are altered, the net effect on the total packaging system can be deduced.

Also with the recommendations of the EC, the following structure may be considered to institute the concept of plastic footprint by assessing the use of plastic materials for food packaging

The EC had identified products like confectionery and bakery products (biscuits, ice-creams, bakery products and chewing gum), Savouries/namkeens (chips, namkeen, nuts/peanuts), instant noodles and cereals, beverages (cold drinks, juices, energy drinks and hot drinks) and dairy products (milk, paneer, yoghurt and flavoured milk) for which plastic footprint may be calculated. Top manufacturers/brands of the above mentioned food categories with product names have been identified and placed at **Annex-I**.

To start with, we may initiate data collection with respect to total plastics used (in primary, secondary and tertiary packaging and plastics used during transportation and distribution) per unit of final product (say 1 tonne or 1 kl of final product). Initially the highest selling SKU/ product size for each of the product list at annex-1 may be considered. We may ask the FBO to provide this data in the proposed format given at **Annex-II**.

Based on the above data, benchmarks can be taken for individual products, or the company as a whole. The most efficient packaging system containing the least amount of plastic packaging per unit of product may be fixed as the target/limits. A system of periodic assessments of plastic footprint for each product category may be done with the help of external agencies.

This system and periodic assessments would encourage companies to adopt packaging reduction strategies that may include reducing weight of packaging, eliminating unnecessary packaging, using lightweight packaging materials, optimizing packaging size and use of recyclable (compostable) and reusable packaging material.

References:

1. *Prevent & Save - Packaging Optimization Toolkit*; <https://www.repak.ie/preventandsave>
2. *Plastic Pollution - Primer and Action Toolkit - Produced by Earth Day Network for the End Plastic Pollution Campaign, 2018.*

Major food companies along with their product proposed for covering under Plastic FootPrint Scheme.

Chocolates, Candies and Chewing Gum

- i) Mondelez (Eclairs, Gems, Perk, 5 Star and Dairy Milk)
- ii) Nestle (Kit Kat, Munch, Milkybar, Bar One)
- iii) ITC(Choco Double Eclairs, Milky Eclairs, Masala Candy)
- iv) Perfetti Van Melle(Alpenliebe, Center fresh, Mentos)
- v) Lotte(Eclairs, Coffy King, Caramel toffee)

Biscuits and Bakery Products

- i) Parle
- ii) Britannia
- iii) ITC
- iv) Priya Gold
- v) Anmol

Snacks - Savouries/Namkeens

- i) Frito Lay (PepsiCo) - Lays (Chips, Kur Kure)
- ii) ITC-Bingo(Chips, Mad Angles)
- iii) Haldiram's(Chips, Bhujia, Peanuts, Mixture, Khattameetha)
- iv) Bikanervala(Chips, Bhujia, Peanuts, Mixture, Khattameetha)
- v) Parle (Chips, Bhujia, Peanuts, Mixture, Khattameetha)

Instant noodles and cereals

- i) Nestle(Maggi,Flakes, Choco fills)
- ii) ITC (Yippece)
- iii) HUL (Knorr)
- iv) Nissin (Top Raman)
- v) Kelloggs(Corn Flakes, Muesli, Chocos, Oats)
- vi) Bagrys(Corn Flakes, Muesli, Chocos, Oats)
- vii) Marico(Saffola oats)
- viii) Pepsi Co(Quaker Oats)

Beverages

- i) Coca Cola(Cold drink, Soda, Energy Drinks, Drinking Water, Minute Maid)
- ii) Pepsi Co(Cold drink, Soda, Energy Drinks, Drinking Water, Tropicana)
- iii) ITC(Fruit Juices (B Naturals))
- iv) Parle Agro(Fruit Juices (Frooti))
- v) Paper Boat(Fruit Juices)

Dairy products (Milk, paneer, dahi, yoghurt and flavoured milk)

- i) Amul
- ii) Mother Dairy
- iii) Britannia

- iv) CavinKare
- v) Danone

Annexure: II

Table: 1 Packaging Data and Sales volume

Product Name (SKU details)	Primary packaging material weight(g)	Units per bundle (secondary packaging material - Nos.)	Secondary Packaging material weight (g)	Bundles per Pallet (Nos.)	Plastic Pallet weight (kg)	Tertiary packaging material (stretch wrap) weight (g)	Annual volume (Units)

Table: 2 Calculations based on Table 1

Product Name	Total Primary packaging material Weight (wt * no of units per bundle) (g)	Secondary Packaging material weight (g)	Pallet weight (pallet wt/no of bundles per pallet) (g)	Tertiary packaging material (stretch wrap wt/no of bundles per pallet) (g)	Packaging system weight (g)

Table: 3 Packaging Ratio

Product Name	Annual Volume	Product Weight (kg)	Total product weight (kg)	Packaging system weight (kg)	Packaging System weight placed on market (kg)	Packaging ratio %

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 15/2014

Him Jagriti Uttaranchal Welfare Society

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.09.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Mr. Ritwick Dutta, Advocate
Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. S. Nandakumar, Advocate for BIS

ORDER

1. Issue for consideration is restriction on use of plastic bottles and multi layered plastic packages used for packaging of carbonated soft drink and liquor as well as other items, in view of the adverse impact on the environment and health.

2. Vide order dated 14.10.2019, the Tribunal considered the report dated 30.08.2019 by the Expert Committee comprising FSSAI, BIS, CPCB and DGHS suggesting an action plan with 12 specific points, after considering the areas of concern on the subject. The Tribunal also noted the steps taken by FSSAI. The relevant extract from the said order is as follows:-

“2. The matter was last dealt with by this Tribunal vide order dated 31.05.2019. After taking note of the Notification dated 24.12.2018, issued by the Ministry of Health and Family Welfare under Section 92 of Food Safety and Standards Act, 2006, Food Safety and Standards (Packaging) Regulations, 2018 and the Food Safety and Standards (Labelling and Display) Regulations, 2018 regulations, **the Tribunal constituted an Expert Committee comprising of the representatives of FSSAI, BIS, CPCB and DGHS** to consider whether any further regulatory provisions are required on the subject of restrictions on the packaging by use of plastic material and if so to what extent. The Nodal agency for coordination was the FSSAI.

3. Accordingly, a report dated 30.08.2019 has been filed by the Expert Committee. The Committee noted following key areas of concern:

- “1) Continued use of multi polymer plastic (MPP) or multi layered plastic (MLP) with associated difficulties in its recycling.
- 2) Increasing use of small packages such as bottles used for beverages, sachets, pouches which are not viable to collect and recycle.
- 3) High capital cost involved in the presently available techniques in recycling plastics.
- 4) Inadequate reach of Extended Producer Responsibility (EPR).
- 5) Non availability of economically viable substitutes to the plastics.
- 6) Lack of consumer awareness for proper disposal of plastics and litter management.
- 7) Absence of joint regulatory mechanism with respect to plastic waste management.”

It proposed a systematic action plan with 12 specific points as follows:

“(A) Manufacturer / User Industries of Plastic Packaging Materials.

- (1) Institute concept of ‘plastic footprint’: What gets measured is managed. Therefore, in order to encourage businesses to reduce use of plastics through innovation and redesigning of their packaging, a system of quantifying the use of plastics per unit of final product (say kg of plastic used in 1000 kg/kiloliter of final product) may be put in place. A deflator or inflator may be used for use of recyclable plastics, biodegradable/compostable plastics or multilayered plastic as the case may be. A system of periodic assessments of plastic footprint for each product category may be done. In food and beverages, these categories could include confectionery and bakery products (biscuits, ice-creams, bakery products and chewing gum), namkeens (chips, namkeen, nuts/peanuts), instant noodles and cereals, beverages

(cold drinks, juices, energy drinks and hot drinks) and dairy products (milk, paneer, yoghurt and flavoured milk). Plastic footprint for each category may be benchmarked with the market average of use of plastic. This would encourage companies to adopt packaging reduction strategies that may include reducing weight of packaging, eliminating unnecessary packaging, using lightweight packaging materials, optimizing packaging size and use of recyclable (compostable) and reusable packaging material. Through a system of recognition, rewards and perhaps eventually penalties, it is hoped that the companies would work towards continuous reduction of plastics, product by product and enable businesses to demonstrate their commitment to safer environment.

- (2) Discourage small pack sizes: Lighter, portable, and cost-effective nature of single serve sachets/pouches/bottles continues to make them an attractive proposition for the low-income consumers as well as young and active millennials. Smaller pack sizes/single serve packaging also have brought better quality and premium products affordable to all the sections of the society. But on the other hand it constitutes to the major plastic waste and litter, as their collection is economically non-viable. Hence, in consultation with Legal Metrology Dept. the small pack sizes such as small water bottles, pouches, cups which constitute a considerable amount of plastic waste may not be allowed.
- (3) Reducing plastic content in multi-layered plastic (MLP): Ideal packaging materials had been tailored by combining different material with customized functionality to sufficiently protect sensitive food products and thus obtain extended shelf life. Latest feasible techniques and technologies may be employed to cut down the use of multiple polymers/plastics. More research in this area is required to be done by scientific institutions. Use of Single polymer/layer recyclable packaging materials shall be encouraged in this case.
- (4) Encourage alternatives to plastics: Bio-plastics and biodegradable plastics like Poly Lactic Acid (PLA) made from fermented plant starch etc. can be a sustainable alternative to conventional plastics. However there are limitations with the availability of resources for such material. More research in the area to reduce the cost of PLA is required to be done. There is also need to create awareness on biodegradable, compostable or bio-based plastics since their degradation requires conditions like appropriate temperature, light, hydration and/or microbial presence. Hence these have to be separately marked and disaggregated. In case, the biodegradable & compostable or bio-based plastics remain unsegregated and go in landfills just like that, it is unlikely to meet these conditions and serves no purpose. Existing packaging systems of paper based cartons with minimal plastics as coatings, composite and reusable containers made up of glass, tin, metal

and paper maybe promoted as replacements. A list of alternatives to plastic packaging materials as suggested by Centre for Science and Environment (CSE) is at Annexure-2.

- (5) *Effective Extended Producer's Responsibility (EPR) framework: The current Plastic Waste Management Rules mandate the "producer of packaging products and branded consumer goods to dispose plastic packaging waste generated due to their business activities". Even though the policy framed under these rules is fairly good but it has been confined to selected few big businesses. It is understood that National Framework on EPR for plastic waste management is being finalized. The framework may consider a system of monitoring as well as penalty provision for its non-compliance may be explored. The companies may be encouraged to use their downstream supply chain of distribution and retail for collection and aggregation of plastics for recycling. This may be quite easy in direct selling entities that use multi-layered marketing, distribution networks.*

- (B) *Final consumers/Users of plastic packaged articles and food stuff.*

Establishments, agencies, institutions, organizations including government/nongovernment, food/non-food operators such as roadways, railways, airlines, schools, colleges and university campuses, E-commerce groups, corporate campuses, hotels, marriage, banquet and community halls under this head shall take-up responsibilities on the following;

- (6) *Eliminate/Ban single use plastics: should eliminate and prohibit the usage of single serve/use plastics within their ecosystems. Recent ban by the Parliament and Indian railways is worth emulating.*
- (7) *Alternatives to plastics: They shall encourage the use of reusable and recyclable environment friendly alternatives such as jute and cloth bags, bamboo and wooden cutlery, leaf based plates, glass and metal containers etc.*
- (8) *Improved Litter Management: They should take up the responsibility of collecting all the waste in their campuses, sorting out dry and wet waste. They could also encourage their staff, teachers and students to bring such plastic waste from homes and help in collection and aggregation of such waste by tying up with businesses in plastic recycling. Dry waste can be segregated into recyclable and non-recyclable and accordingly processed. Wet waste may be sent to composting, which can be done in-house. This activity could be made a part of the social responsibility system.*
- (9) *Better Plastic Disposal: Initiatives are to be taken up, to dispose plastic waste by forming groups/clusters to set up/identify energy recovering systems such as incineration and pyrolysis. Getting adequate quantities*

of suitable plastics waste is seen as most important factor in success of such units. More organized efforts and encouragement is required for this proper disposal.

(C) *Municipal bodies/other organizations promoting circular economy.*

(10) *All municipal bodies must be made responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers as mentioned in the Plastic Waste Management Rules.*

(D) *Citizens and consumers.*

(11) *Citizens, especially the socially engaged ones living in urban areas with wide access to information, have adopted more environmentally conscious consumption habits oriented toward recycling, reusing and composting the waste that derives from their domestic consumption. This segment of socially discerned consumers, appreciate brands that demonstrate a commitment to environmental sustainability. A more intensive public campaign, however, is needed to mainstream this kind of behavioral change to a wider public segment. Further approach of incentivizing the customers can also be explored to encourage them for plastic waste management.*

(E) *Science and Research Institution.*

(12) *Science and research institutions must be encouraged for working in the direction of developing environmental friendly packaging materials and plastic waste management systems which can be used on commercial basis. Start-ups may also be encouraged to work in this area. For the food and beverages sector, FSSAI may create a group of institutions and experts to coordinate new work in this area with leading institutions like the Indian Institute of Packaging, CIPET, IIT Delhi, IIT Guwahati, Indian Institute of Toxicological Research (IITR), National Chemical Laboratory, Pune and others."*

4. *The Committee further noted that these are not only environmental issues but also public health issues. In that view of the matter, FSSAI has taken steps to reduce the use of plastic in packaging of foods and beverages as follows:*

(1) *FSSAI has decided to permit use of liquid nitrogen dosing in PET bottles during the packaging of drinking water. This would help in strengthening the bottle thereby facilitating the manufacture with the use of bottles with lower wall thickness.*

- (2) FSSAI has initiated the process of removing the restriction on the use of returnable bottles for packaging of artificially sweetened beverages.
 - (3) FSSAI is promoting the use of bamboo as an alternative to plastics such as straws, plates, bowls, cutlery etc.
 - (4) Allow and enable hotels to keep in-house packed glass bottles in place of plastic bottles in hotel rooms.”
5. The FSSAI has also established a separate ‘Scientific Panel on Packaging and Food Contact Materials’. The Committee thereafter made following specific recommendations on regulatory aspects:
- “(1) Food Safety and Standards (Packaging) Regulations, 2018: To review the limits of heavy metals in PET and fix the limits of specific migration limits of Antimony and DEHP (Diethylhexyl-phthalate). In addition to this also explore the possibility of setting limits for Cadmium and chromium.
 - (2) Food Safety and Standards (Packaging) Regulations, 2018 and IS 14543 (Packaged Drinking water): To remove the restriction on the use non-transparent bottle for drinking water to enable businesses to explore the possibilities of use of alternatives other than the PET currently in use.
 - (3) Food Safety and Standards (Packaging) Regulations, 2018; IS 14534 (Guidelines for Recycling of Plastics); and Plastic Waste Management Rules, 2016: The European Food Safety Authority (EFSA) permits the use of recycled PET in food packaging under certain set protocols. EC recommends to explore the possibilities for removal of ban on use of recycled plastic in food packaging after a scientifically validated method of pre-cleaning of plastic waste is developed to ensure that the final product using recycled material does not pose any health risk.
 - (4) Legal Metrology (Packaged Commodities) Rules 2011: To explore the possibilities of restricting small packs of commodities such as water, shampoo, sauce, pickle etc.”
6. On the subject of review and monitoring, the Committee observed:
- “8. The Expert Committee noted that while regulatory provisions for restrictions on the packaging by use of plastic material are mostly in place, there is lack of coordinated approach and implementation of these provisions is poor. It suggested putting in place sector-specific mechanisms to review and monitor the use of plastics in packaging and commitment of businesses under ‘Extended Producer Responsibility (EPR)’ framework, managing plastic footprints, and related issues. In this, sector-specific regulators such as FSSAI (for food and beverage packaging), CDSCO (for drugs

and cosmetics packaging), Ministry of Textile (for textile packaging) etc. and the Central Pollution Control Board (CPCB) could work together to ensure better coordination. Related ministries and the Ministry of Housing and Urban Affairs and Department of Drinking Water and Sanitation could also be associated for better coordination with Swachh Bharat Mission.”

7. *In view of the above report, we direct FSSAI, BIS, CPCB, DGHS and MoEF&CC to take further follow up action based on the above report within three months and furnish an action taken report before this Tribunal by e-mail at judicial-ngt@gov.in before the next date.”*

3. Thereafter, the matter was taken up on 28.07.2020 but no action taken report was filed by FSSAI, BIS, CPCB and DGHS. Only report filed by the MoEF&CC on 14.02.2020 was that the issue of single use plastic was referred to the Committee of Secretaries which was yet to take further decision. Thereafter, seven months have passed but there is no report. There is also no appearance on behalf of the FSSAI, DGHS and MoEF&CC. The Counsel for the BIS and CPCB state that the matter is to be dealt with by the said authorities and not by them.

4. In view of above, let action taken report be now filed by the FSSAI, DGHS, MoEF&CC, the CPCB and the BIS before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

5. Since at this stage we are only considering the remedial action to be taken by the statutory authorities as per law, in terms of an action plan, and any affected individual will have independent remedy against such action, we do not propose to hear any individual party at this stage.

List for further consideration on 14.10.2020.

A copy of this order be sent to the FSSAI, DGHS, MoEF&CC, BIS and the CPCB by e-mail for compliance.

Adarsh Kumar Goel, CP

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Dr. Nagin Nanda, EM

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SN