

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

O.A. No. 502/2023

**IN THE MATTER OF:**

**SOCIETY FOR PROTECTION OF ENVIRONMENT AND  
BIODIVERSITY**

**...APPLICANT(S)**

**VERSUS**

**UNION OF INDIA & ORS.**

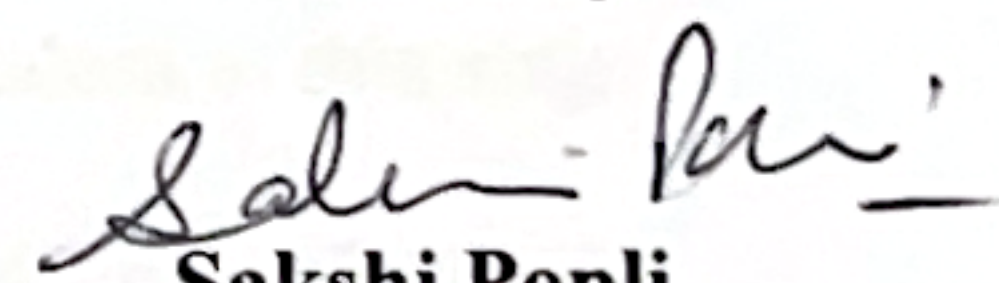
**...RESPONDENT(S)**

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**Dated: 23.12.2024**

**Filed by:**



**Sakshi Popli**

**Counsel for MoEFCC**

614, Patiala House Court, New Delhi

Mob:- 9811222660

Email: sakshipopli@gmail.com

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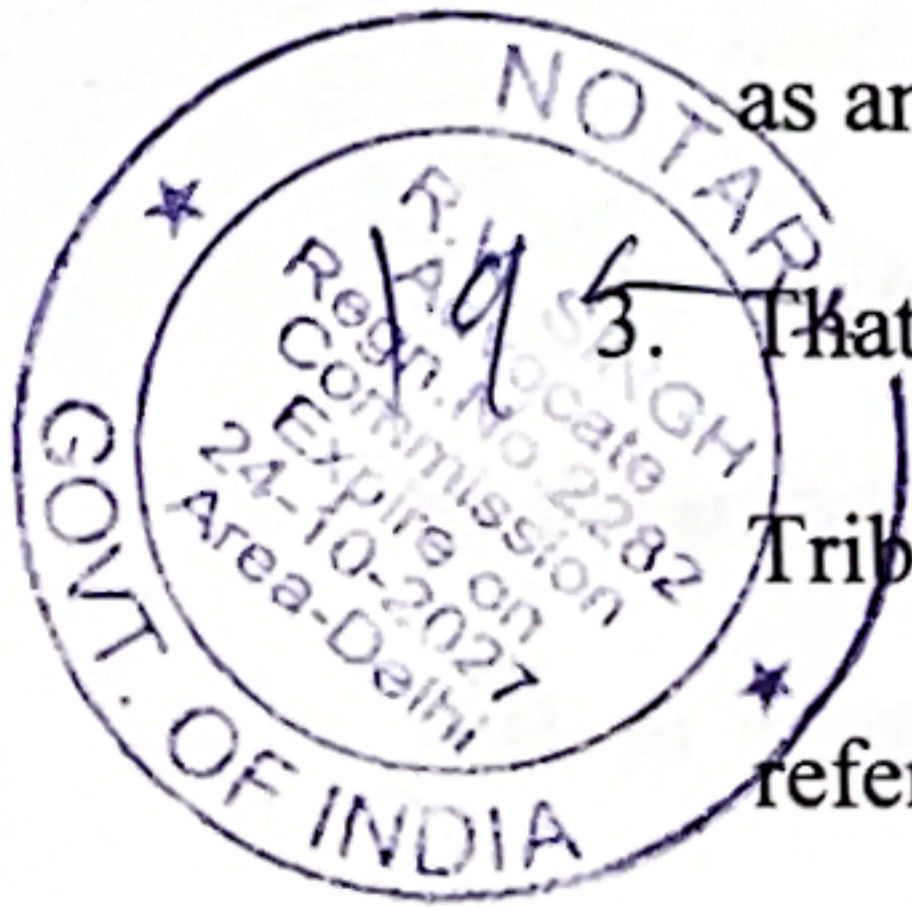
**...RESPONDENT(S)**


**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.1, i.e., MINISTRY OF  
ENVIRONMENT, FOREST & CLIMATE CHANGE**

I, Ved Prakash Mishra S/o Sh. Ram Sidh Mishra, aged about 51, currently working as Joint Secretary in the Ministry of Environment, Forest and Climate Change (MoEF&CC), do solemnly affirm and declare as under: -

1. That I am, the above-named Deponent, authorized and well conversant with the facts and circumstances of the present case and thus competent to swear the present Affidavit.
2. It is submitted that an affidavit is being filed by the answering Respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid Petition, as and when required.

3. That the present Original Application was listed for hearing before this Hon'ble Tribunal on 18.08.2023, when this Hon'ble Tribunal *vide* order dated 18.08.2023 referred the matter to MoEF&CC directing that in consultation with the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs)/Pollution Control Committees (PCCs), the MoEF&CC had to clarify and take immediate



  
**(वेद प्रकाश मिश्रा)**  
**VED PRAKASH MISHRA)**  
 संयुक्त सचिव/Joint Secretary  
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
 M/o Environment Forest and Climate Change  
 भारत सरकार, नई दिल्ली  
 Govt. of India, New Delhi

measures for proper implementation of the Framework on identification of material generated from industrial process as waste or by-product and to submit an action taken report before this Tribunal.

4. It is submitted that the Action Taken Report on implementation of the Framework on Identification of Materials generated from Industrial Processes as Wastes or By-Products was submitted by CPCB after concurrence from the Ministry.
5. It is also submitted that the answering respondent in terms of the direction passed by the Hon'ble Tribunal *vide* order 02.02.2024 filed a compliance affidavit dated 02.04.2024.
6. That the Hon'ble Tribunal *vide* order dated 09.09.2024 had further directed the answering respondent to file a reply affidavit with the issues raised in the original application.
7. It is submitted that the answering respondent has issued direction under section 5 of Environment (Protection) Act, 1986 on 27.09.2024 to all SPCBs/PCCs for submission of Action Taken Report to CPCB within 20 days for compilation and further submission to MoEF&CC. The said directions will help the SPCBs/PCCs in evaluating the current enforcement status of the Hazardous and Other Wastes (Management and Transboundary Movement) (HOWM) Rules, 2016 as amended from time to time and establishing opportunities for improvement in regulatory practices (Copy of direction attached as **Annexure R1**).
8. It is also submitted that CPCB also issued direction on 25.11.2024 to all the SPCBs/PCCs specifically regarding the implementation of the CPCB's "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-



(VED PRAKASH MISHRA)  
Joint Secretary  
Ministry of Environment, Forest and Climate Change  
Government of India

9. It is further submitted that the issue of inclusion the framework as a part of rules was discussed in the review meeting held on 6th and 9th December, 2024 relating to the status of implementation of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as amended from time to time. In this regard, it was informed by the participants that all the guidelines/SOPs including the framework developed by CPCB are being implemented by the SPCBs/PCCs.

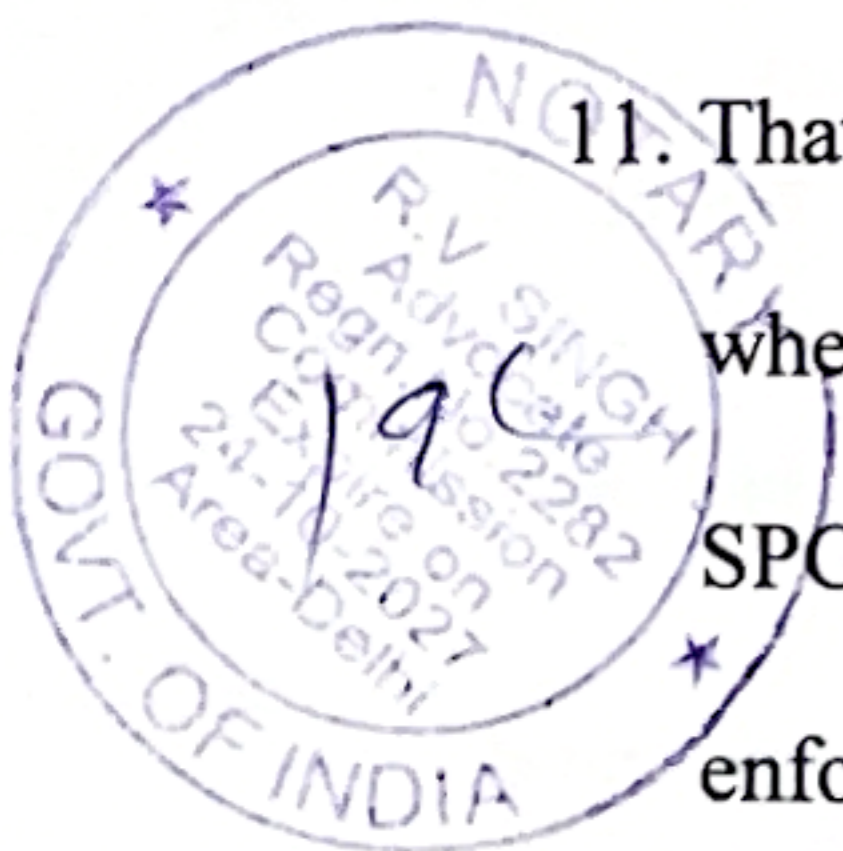
SPCBs/PCCs are currently evaluating the applications received for the identification of material as a "By-product" in accordance with the framework issued by the CPCB. Incorporating the guidelines into the regulations may not be practical, as the management of hazardous waste is a complex and evolving field. This necessitates regular revisions, particularly considering the challenges of ground-level implementation. Making the guidelines part of the regulations and amendments thereof will impede the implementation/ updation of the same.

10. It is further submitted that, besides technical guidelines and Standard Operating Procedures (SOPs) for management of hazardous and other wastes, the Central Pollution Control Board has developed 111 SOPs for utilising 79 types of industrial hazardous wastes till date under rule (9) of HOWM Rules, 2016.

11. That, the schedule VII of HOWM Rules, 2016 specifies the duties of various authorities wherein the task of monitoring and action for violation of rules is to be taken by SPCBs/PCCs. Therefore, SPCBs/PCCs are the nodal agencies to ensure the enforcement and implementation of HOWM Rules, 2016 on ground.

12. Therefore, the above-mentioned directions issued to the concerned authorities and meetings with all the SPCBs/PCCs are being undertaken to ensure the implementations of provisions of the HOWM Rules, 2016 and guidelines/SOPs (including framework) issued/made thereunder.

(वेद प्रकाश मिश्रा)  
(VED PRAKASH MISHRA)  
संयुक्त सचिव/Joint Secretary  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
M/-  
Govt. of India, New Delhi

13. That in view of the aforementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to pass such other order and further order(s) as this Hon'ble Court may deem fit and necessary in the interest of justice.

**DEPONENT**  
(वेद प्रकाश मिश्रा)  
(VED PRAKASH MISHRA)  
संयुक्त सचिव/Joint Secretary  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
M/o Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

**VERIFICATION**

Verified at \_\_\_\_\_ on this **23 DEC 2024** day of \_\_\_\_\_, 2024 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from.

I identified the deponent/executant who has signed in my presence.



**DEPONENT**  
(वेद प्रकाश मिश्रा)  
(VED PRAKASH MISHRA)  
संयुक्त सचिव/Joint Secretary  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
M/o Environment, Forest and Climate Change  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

solemnly affirmed before me, read over & explained to the deponent.

Notary Public. DELHI

**23 DEC 2024**

File No. HSM-11/45/2023-HSM  
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE  
GOVERNMENT OF INDIA  
(HSM Division)

\*\*\*

Indira Paryavaran Bhawan  
Jorbagh Road,  
Aliganj New Delhi-110003  
Date: 27.9.2024

ORDER

**Sub: Directions under Section 5 of the Environment (Protection) Act, 1986, for compliance of provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 -reg.**

**WHEREAS**, the Central Government has notified the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein referred to as HOWM Rules), under the Environment (Protection) Act, 1986, in supersession of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008, for safe and environmentally sound management of hazardous and other wastes;

**WHEREAS**, as per Rule 6 of the HOWM Rules, the occupier engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of hazardous and other waste shall obtain authorisation from State Pollution Control Board/Pollution Control Committee (herein referred to as SPCB/PCC);

**WHEREAS**, as per Rule 4.(2) of the HOWM Rules, the occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes;

**WHEREAS**, as per Rule 4.(3) of the HOWM Rules, the hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorized actual user or shall be disposed of in an authorized disposal facility;

**WHEREAS**, as per Rule 8 of the HOWM Rules, hazardous and other wastes shall not be stored for a period exceeding ninety days;

**WHEREAS**, as per Rule 9 of the HOWM Rules, utilisation of hazardous and other wastes shall be carried in accordance with the provisions laid down under the said Rules;

**WHEREAS**, as per Rule 17 of the HOWM Rules, the occupier handling hazardous or other wastes shall ensure that hazardous and other wastes are packaged and labelled as per Form 8 of the HOWM Rules;

**WHEREAS**, as per Rule 19 of the HOWM Rules, the sender of the waste are required to maintain manifest system (movement document) for sending the hazardous waste and other wastes for disposal to disposal facility or actual user or recyclers;

**WHEREAS**, as per Rule 20 of the HOWM Rules, the occupier handling hazardous or other waste shall maintain records in Form 3 and also submit annual returns to SPCB/PCC in Form 4;

**WHEREAS**, as per Rule 23.(1) of the HOWM Rules, the occupier, importer or exporter and operator of the disposal facility shall be liable for all damages caused to the environment or third party due to improper handling and management of the hazardous and other waste;

**WHEREAS**, as per Rule 23.(2) of the HOWM Rules, the occupier and the operator of the disposal facility shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by SPCB with the prior approval of the Central Pollution Control Board;

**WHEREAS**, it has been observed that some units that are generating, handling or storing hazardous waste are not complying with the provisions of HOWM Rules, 2016 and no action is being taken by the SPCBs/PCCs against such units.

**NOW, THEREFORE**, in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, directions are hereby issued to all SPCBs/PCCs:

(a) To ascertain monitoring of compliance of various provisions of the HOWM Rules, 2016 and taking actions against violation of these rules.

(b) Units generating hazardous wastes and not possessing authorisation shall be closed till they obtain authorisations and make arrangement for handling/disposal/recycling/utilization of hazardous wastes in accordance with provisions of the HOWM Rules;

(c) Further, the following shall also be enforced immediately:

(i) All units shall maintain daily records with regard to generation and management of hazardous wastes being generated as required under Rule 20.(1) of the HOWM Rules 2016.

(ii) Units, not having their captive hazardous waste disposal facility, shall possess membership with common TSDFs and send their hazardous wastes regularly for disposal by not storing beyond a period of ninety days in accordance with Rule 8 of the HOWM Rules;

(iii) Units shall not send their wastes for recycling or utilization to the parties who are not authorised for recycling/utilization for the same.

(iv) All units shall maintain manifest system for all types of hazardous waste as required under Rule 19 of the HOWM Rules 2016;

(v) All units shall submit annual return to SPCBs/PCCs with regard to generation and management of hazardous wastes in Form 4 as required under Rule 20.(2) of the HOWM Rules 2016;

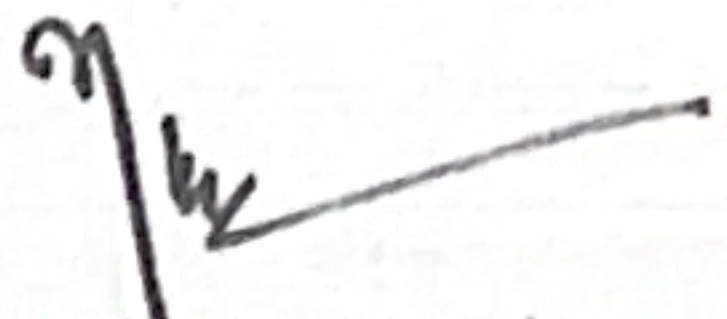
(vi) All units shall label the packaged hazardous wastes with the requisite information in Form 8 as prescribed under Rule 17 of the of the HOWM Rules 2016;

(vii) All units shall store their hazardous wastes in their premises under a dedicated covered storage area; and

(vii) SPCB/PCCs shall provide the list of Hazardous Waste generating industries.

(d) Penalties are levied on non-complying units in States/UTs in compliance with provisions stipulated under Rule 23.(2) of the HOWM Rules, 2016.

The action taken report (ATR) shall be submitted to the Central Pollution Control Board (CPCB) within 20 days from the date of issue of these directions. CPCB shall review the ATRs and submit comments/remarks on the same to MoEF&CC for further action in the matter.



(Naresh Pal Gangwar)

Additional Secretary to the Government of India

*Encl.: As Above*

**To:**

1. Chairman of all State Pollution Control Boards and Pollution Control Committees.
2. Member Secretary, Central Pollution Control Board

**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. PSO to Secretary (EF&CC)
4. PPS to SS(TK) & Chairman CPCB
5. PPS to AS(NPG)