

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

Principal Bench New Delhi

Execution Application No. 49/2023

In

Original Application No. 710/2017

In the matter of:

Shailesh Singh

Applicant

Versus

Sheela Hospital & Trauma
Center, Shahjahanpur & Ors.

. Respondents

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2.	Annexure- I A copy of Hon'ble NGT order dated 15.07.2019 in O.A No. 710/2017 titled as Shailesh Singh Vs. Sheela Hospital & Trauma Center, Shahjahanpur & Ors.	
3.	Annexure-II A copy of letter dated 01.12.2021 issued by CPCB to SPCBs & PCCs.	



V.P. Yadav
Scientist F, CPCB
Delhi-110032

Dated: 23.02.2024

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (PB)
AT NEW DELHI
EXECUTION APPLICATION NO. 49/2023
IN
ORIGINAL APPLICATION NO. 710/2017**

SHAILESH SINGH

APPLICANT

VERSUS

**SHEELA HOSPITAL & TRAUMA CENTRE,
SHAHJAHANPUR & ORS.**

RESPONDENTS

**SHORT REPLY TO THE EXECUTION APPLICATION (E.A) ON
BEHALF OF RESPONDENT NO. 9 i.e CENTRAL POLLUTION
CONTROL BOARD (CPCB)**

MOST RESPECTFULLY SHOWETH

1. That in the present application, the applicant has alleged that this Answering Respondent No.9 has not complied with the directions passed by Hon'ble National Green Tribunal (hereinafter referred as Hon'ble NGT) in its order dated 12.03.2019 through Para No.15 in the matter of Original Application No. 710 of 2017 filed by Shailesh Singh Vs Sheela Hospital & Trauma Centre, Shahjahanpur & Ors. with connected Original Application No. 711 of 2017, Original Application No. 712 of 2017 and Original Application No. 713 of 2017, wherein it was directed that:



“15. In view of the above, we direct all the States and Union Territories to ensure that reports in terms of Rule 13 are furnished to the CPCB positively within one month or on or before 30th April, 2019 for the period the reports are due as per rules. The CPCB may furnish a status report of compliance of BMW Rules after proper analysis to this Tribunal within one month thereafter by e-mail at ngt.filing@gmail.com. It is made clear that any failure in this regard will result in the defaulting States being required to pay compensation to be deposited with the CPCB at the rate of Rupees one Crore per month after 01.05.2019. All the States may also

prepare their respective action plans for compliance of Rules within one month and furnish the same to the CPCB. The CPCB may give its comments on the action plan to this Tribunal within one month thereafter by e-mail at ngt.filing@gmail.com..... ”.

2. That it is humbly submitted by this Answering Respondent No.9, that the Original Application No. 710 of 2017 was related to non-compliance to Bio-medical Waste Management Rules, 2016 (hereinafter referred as BMW Rules, 2016) by States/UTs. In this regard, it is humbly submitted that this answering Respondent that is Central Pollution Control Board has complied with all the directions passed by Hon'ble National Green Tribunal. In the said matter, as per directions of Hon'ble NGT, the CPCB has identified following 12 key performance indicator to assess biomedical waste management scenario in States/UTs;
 - i. Inventory of all Healthcare Facilities and biomedical waste generation;
 - ii. Authorization to all Healthcare Facilities including non-bedded HCFs.
 - iii. Facilitate setting-up adequate number of Common Biomedical Waste Treatment Facilities to cover entire State or all HCFs;
 - iv. Constitution of State Advisory Monitoring Committee and District Level Monitoring Committee;
 - v. Implementation status of Barcode system;
 - vi. Monitoring of Healthcare Facilities other than hospitals/clinics such as Veterinary Hospitals, Animal Houses, AYUSH Hospitals etc.;
 - vii. Monitoring infrastructure of State Pollution Control Boards/Pollution Control Committee (hereafter will be referred as SPCBs/PCCs);
 - viii. Training and Capacity Building of officials of SPCBs/PCCs and Healthcare Facilities;
 - ix. Installation of OCEMS by Common Biomedical Waste Treatment Facilities as a self-monitoring tool and transmission of data with servers of SPCBs/ CPCB;



- x. Preparation of Annual Compliance Status Reports;
 - xi. Compliance by Common Facilities (emission/discharge standards, barcoding, proper operation, etc.);
 - xii. Compliance by Healthcare Facilities (Segregation, pretreatment, on-site storage, barcoding and other provisions etc.)
3. That with reference to aforesaid Key Performance Indicators and as per directions of Hon'ble NGT, the States/UTs submitted its reports to CPCB for the period 2019 to 2020. The reports were further compiled by CPCB, the gaps were communicated to respective States/UTs to ensure compliance with respect to gaps and submitted the latest updated compliance reports to Hon'ble NGT from time to time vide reports dated 14-05-2019, 10-07-2019, 15-11-2019 and 14-01-2021.
 4. That with reference to issue raised in present execution application regarding submission of Annual Report of information submitted by States/UTs in Compliance of BMWM Rules, 2016 and aforesaid order dated 12-03-2019 of Hon'ble NGT, it is humbly submitted that all State Pollution Control Board's and Pollution Control Committee's had submitted Annual Report information for year 2017 to CPCB before 30-04-2019. Subsequently, CPCB had filed report before Hon'ble NGT on 14-05-2019 indicating status of compliance to BMWM Rules, 2016 by State and UTs along with action plan on compliance to BMWM Rules, 2016. The said report filed by CPCB was considered by Hon'ble NGT at Para No. 6 of order dated 15-07-2019 passed in OA No. 710/2017. Copy of order dated 15-07-2019 is annexed herewith as **ANNEXURE-I**.
 5. That the matter was further heard on 22-01-2020 and 20-07-2020. Accordingly, in compliance of directions of Hon'ble NGT, CPCB has filed Status reports on 14-01-2021 before Hon'ble NGT indicating state-wise status of compliance of BMWM Rules, 2016.
 6. Subsequently, the matter of OA No. 710 of 2017 with connected OA No. 711 of 2017, OA No. 712 of 2017 & OA No. 713 of 2017 filed by Shailesh Singh was disposed of by Hon'ble NGT on 18.01.2021 directing to ensure compliance to Biomedical Waste Management Rules, 2016 by every State Pollution Control Board and Pollution Control Committee.



7. That further in compliance to orders of Hon'ble NGT passed in the matter, CPCB vide letter dated 01-12-2021 directed all the SPCBs and PCCs to review and ensure effective compliance to BMWM Rules, 2016 in their respective States / Union Territory. In this regard, CPCB also convened a meeting with State Boards on 03.12.2021 to discuss the order of Hon'ble NGT and its compliance. Copy of letter dated 01-12-2021 is annexed herewith as **Annexure-II**.
8. That in view of above, it is humbly submitted that this answering Respondent has complied with all the directions passed by Hon'ble NGT and has also submitted reports on the status of compliance to the BMWM Rules, 2016 in every State and Union Territory through consolidated reports filed in above matter. The said reports also contained the way forward in having better implementation of BMWM Rules, 2016.
9. That the answering respondent herein further craves leave to file further reply, if needed, in future to comply with the orders of the Hon'ble Tribunal in its letter and spirit.
10. That in light of above, this answering Respondent shall abide by the order(s) or direction(s), passed by this Hon'ble Tribunal, in the interest of justice.



V.P. Yadav

Scientist F, CPCB
विजय प्रकाश यादव / Vijay Prakash Yadav
 निदेशक/ Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 (M/o Environment, Forest & Climate Change, Govt. of India)
 परिवेश भवन, पूर्वी अखण्ड नगर, दिल्ली-110029
 Parivesh Bhawan, East Arjun Nagar, Delhi-110029

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (PB)
AT NEW DELHI
EXECUTION APPLICATION NO. 49/2023
IN
ORIGINAL APPLICATION NO. 710/2017**

In the matter of:

Shailesh Singh

....Applicant

versus

Sheela hospital & trauma
center, Shahjahanpur & ors.

.....Respondents

AFFIDAVIT

I, V.P. Yadav working as Scientist- F, in Central Pollution Control Board, office at Parivesh Bhawan, East Arjun Nagar, Delhi-110032, do hereby solemnly affirm and declare as under:-

A. That I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present affidavit in my official capacity as under:

B. That the contents of the annexed short reply have been drafted by me and the contents of the same are true and correct on the basis of the record of the case as maintained in the day-to-day affairs of the CPCB and the contents of the short reply may kindly be treated part of this affidavit and the same are not repeated herein for the sake of brevity.



499/24

VERIFICATION

Verified at Delhi on this 23 day of February, 2024 that the contents of the above short reply are correct and true on the basis of the record of the case as maintained in the day- to- day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

Identify the Deponent who has assigned the thumb impression in his presence

ATTESTED
[Signature]
NOTARY PUBLIC DELHI
Appointed by Central
GOVT. OF INDIA
23 FEB 2024

[Signature]

DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
निदेशक/ Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
(Ministry of Environment, Forest & Climate Change, Government of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

[Signature]

DEPONENT

विजय प्रकाश यादव / Vijay Prakash Yadav
निदेशक/ Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
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(Ministry of Environment, Forest & Climate Change, Government of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Item Nos.01 to 04

Court No. 1

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

Original Application No.710/2017
WITH
Original Application No.711/2017
WITH
Original Application No.712/2017
WITH
Original Application No.713/2017

Shailesh Singh

Versus

Applicant(s)

Sheela Hospital & Trauma Centre,
Shahjahanpur &Ors.

Respondent(s)

WITH

Shailesh Singh

Versus

Applicant(s)

Kailash Hospital and Heart Institute&Ors.

Respondent(s)

WITH

Shailesh Singh

Versus

Applicant(s)

Shri Ganga Charan Hospital (P) Ltd.,Bareilly &Ors.

Respondent(s)

WITH

Shailesh Singh

Versus

Applicant(s)

Katiyar Nursing Home, Hardoi&Ors.

Respondent(s)

Date of hearing: 15.07.2019

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

For Applicant(s): Ms. Preeti Singh and Ms. Swati Jindal, Advocate

For Respondent (s): Mr. Balendu Shekhar, Advocate for MoEF&CC
 Ms. Pinky Anand, ASG, Mr. G.G. Gorge, Mr. Hemant Arya, Advocates for State of U.P
 Mr. Anant Agarwal, Ms. Sweta Rani, Advocates for Respondent No. 3&5 in O.A No. 712/2019.
 Mr. TVS Raghavendra Sreyas, Advocate for APPCB
 Mr. Pradeep Misra, Advocate for UPPCB
 Mr. Rahul Verma, Addl. A.G for State of Uttarakhand
 Mr. Rajat Navet, Advocate for R-9
 Ms. Sakshi Popli, Advocate for DPCC
 Mukesh Verma, Advocate for State PCB
 Mr. Sharmistha, Advocate for APPCB
 Ms. Soumyajit Pani, Advocate for State of Odisha
 Mr. Suyash Singh, Advocate for Sheela Nursing Home, Chandigarh and Katiyar
 Mr. LeishangthemRoshmanikh, Advocate for State of Manipur
 Mr. Rahul Khurana, Advocate for State of Haryana and HSPCB
 Mr. K.V Jagdishraman G. Indira, Adovocate for UT of Andaman & Nicomabr
 Mr. H.S.K EnatoliSema, Advocate for State of Nagaland & NPCB
 Mr. Shubham Bhalla, Advocate for UT, Chandigarh.

ORDER

1. The issue raised in these applications is non - compliance of the provisions of Bio-medical Waste Management Rules, 2016 (BMW Rules) by the States and UTs.
2. The matter was reviewed vide order dated 12.03.2019. It was noted that unscientific disposal of bio-medical waste had potential of serious diseases such as Gastrointestinal infection, Respiratory infection, Eye infection, Genital infection, Skin infection, Anthrax, Meningitis, AIDS, Haemorrhagic fevers, Septicaemia, Viral Hepatitis type A, Viral Hepatitis type B and C, etc. Such unscientific disposal

also causes environmental pollution leading to unpleasant smell, growth and multiplication of vectors like insects, rodents and worms and may lead to the transmission of diseases like typhoid, cholera, hepatitis and AIDS through injuries from syringes and needles contaminated with various communicable diseases. The Tribunal referred to the news article published in “Dainik Jagran” dated 06.10.2017 stating as follows:-

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

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

“Inadequate facility of bio-medical waste (BMW) treatment. As per the report paragraph 2.1.9.5 there were 8,366 Health Care Establishments (HCEs) out of which 3,362 HCEs were operating without authorization. Total BMW generated in the State was 37,498 kg/day out of which only 35,816 kg/day was treated and disposed of. BMW of 1,682 kg/day was being disposed of untreated due to inadequate treatment facility. But UPPCB failed to monitor unauthorised operation and untreated disposal of BMW and did not take any action against the defaulters.”

4. It was also noted that on 06.02.2019, this Tribunal had required the State of Uttar Pradesh to furnish performance guarantee in the sum of Rs. 10 Crores. We are informed that vide order dated 03.05.2019, the said direction stands stayed by the Hon'ble Supreme Court in *Civil Appeal No(s). 4287-4290/2019, State of Uttar Pradesh & Ors. Etc. v. Shailesh Singh & Ors. Etc.*
5. The Tribunal noted that the steps taken in the State of Uttar Pradesh for compliance of the BMW Rules were inadequate. The regulatory regime was required to be stern in view of impact on public health by unscientific disposal of bio-medical waste. Such unscientific disposal must result in prosecution and recovery of deterrent compensation so that non-compliance is not profitable. The Tribunal noted that not a single person was shown to have been convicted in spite of large violation, nor any compensation was shown to have been recovered. No scale of compensation had been laid down, no action plan had been prepared. The unsatisfactory state of affairs was not confined to the State of Uttar Pradesh, Punjab, Haryana and Uttarakhand who were before the Tribunal but also to the other States. The BMW Rules provide for furnishing of annual reports by the States to the CPCB and by the CPCB to the MoEF&CC and also being made available on the website of the concerned State. The Tribunal directed all the States and UTs to furnish such reports by 30.04.2019, for the period such reports were due before 30.04.2019, failing which the defaulting States will be required to pay compensation at the rate of Rs. 1 Crore per month after 01.05.2019. The States were also required to prepare

their respective action plans within one month. The Tribunal also directed the CPCB to furnish its comments on the action plans and to undertake study and prepare a scale of compensation to be recovered from the violators of BMW Rules without prejudice to the State PCBs taking steps for recovery of compensation from the polluters or laying down their own scales which should not be less than the scale of the CPCB.

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

2.3.1 Inventory of HCFs and Biomedical Waste

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

As per annual information, out of 559 tonnes, about 518 tonnes of biomedical waste generated per day is treated and disposed through 198 no. of common facilities and 9,841 captive treatment facility installed by Healthcare facilities. However, quantity of biomedical waste

reported is not reliable or accurate since inventory of healthcare facilities and biomedical waste generation is not yet completed by all States.

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

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

2.3.2 Operation of Healthcare Facilities without

Authorization: *As per BMW Rules, 2016, Healthcare Facilities are required to obtain authorization under said Rules, irrespective of quantity of biomedical waste generation. Annual information indicates that out of 2,38,259 of HCFs, only 97,099 (40%) no. of HCFs have applied for authorization and 84,805 (35%) HCFs are granted authorization under BMW Rules, 2016. This indicates that about 25 % of the identified HCFs are not yet authorized by SPCBs and biomedical waste management by such facilities could not be monitored.*

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

2.3.5 States without Common Treatment & Disposal

Facilities: States like Arunachal Pradesh, Andaman & Nicobar, Goa, Lakshadweep, Mizoram, and Nagaland & Sikkim are not having CBWTF for the treatment & disposal of biomedical waste.

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

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

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

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

3.2 Key Performance Indicators: CPCB has identified the following Key Performance Indicators for assessing treatment and disposal of biomedical waste, and effectiveness in implementation of BMWM Rules, 2016;

- (1) *Inventory of all Healthcare Facilities and biomedical waste generation.*
- (2) *Authorization to all Healthcare Facilities including non-bedded HCFs.*
- (3) *Facilitate setting-up adequate number of Common Biomedical Waste Treatment Facilities (CBWTFs) to cover entire State or all HCFs.*
- (4) *Constitution of State Advisory Monitoring Committee and District Level Monitoring Committee.*
- (5) *Implementation status of Barcode system.*
- (6) *Monitoring of Healthcare Facilities other than hospitals/clinics such as Veterinary Hospitals, Animal Houses, AYUSH Hospitals etc.*

Review of Action Plans:

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

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

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

2.0 Environmental Compensation for Healthcare Facilities (HCFs):

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

Where;

HR – Health Risk factor

T- Type of Healthcare Facility

S – Size of Health Care Facility

R – Environmental Compensation factor

N – Number of days of Violation

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

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

2.1 Deterrent Factor for Healthcare Facilities:

Incremental effect on Environmental compensation charges are given below:

Scenario	Applicable ECC
<i>Up to 15 days from target date</i>	<i>Original ECC</i>
<i>Between 15 to 30 days beyond target date</i>	<i>Two times</i>
<i>Fails to comply in 2 nd</i>	<i>Two times</i>

<i>inspections including new violations if any</i>	
<i>Between 30 to 45 days beyond target date</i>	<i>Four times</i>
<i>Fails to comply in 3rd inspections including new violations if any</i>	<i>Four times</i>
<i>Beyond 60 days from target date</i>	<i>Closure of HCF</i>
<i>Fails to comply in 4th consecutive inspection</i>	<i>Closure of HCF</i>

3.0 Environmental Compensation for Common Biomedical Waste Treatment Facility (CBWTF):

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

Where;

PI- Pollution Index

S – Size of Operation

R – Environmental Compensation factor

N – Number of days of Violation

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

3.1 Deterrent Factor for Common Biomedical Waste Treatment Facilities:

Incremental effect on Environmental compensation charges are given below:

Scenario	Applicable ECC
<i>Up to 30 days from target date</i>	<i>Original ECC</i>
<i>Between 30 to 60 days beyond target date</i>	<i>Two times</i>

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

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

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

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

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

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

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

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

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

e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018.

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

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

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

9. Further important issues flagged for monitoring include training programs for the officers concerned with enforcement of environment norms at the ground level, reuse of treated water, recharge of ground water, conservation of water bodies.¹It has been brought to our notice that State PCBs are facing certain handicaps in performing their functions for want of adequate staff and infrastructure. While this is a matter to be reviewed by concerned Chief Secretaries, the State PCBs/PCCs are free to prepare and execute appropriate plans for utilizing the environment restoration fund with the approval of CPCB. The expenditure may include hiring of experts and consultants, expanding air and water quality monitoring network, procurement of scientific equipment, undertaking restitution remediation and specialized studies on contaminated sites so that there is effective oversight for enforcement of law. Under no circumstances these funds be spent on salaries, logistics etc.
10. The compensation regime suggested by the CPCB may be adopted. It will be open to the State PCBs/PCCs to adopt a higher scale of compensation, having regard to the problems faced in such States/UTs.
11. It is made clear that if even after two months the States/UTs are found to be non-compliant, the compensation will be liable to be recovered from the said States/UTs at the rate of Rs. 1 Crore per month till the non-compliance continues.

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

12. The CPCB may file further progress report in the matter after coordination through the concerned authorities of the States, including the State Boards/other Health Departments.
13. The Chief Secretaries may furnish their respective compliance reports as per orders passed in O.A No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016*.

Copies of this order be sent to all the Chief Secretaries, CPCB and MoEF& CC by e-mail for compliance.

List for further consideration on 18.11.2019.



Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 15, 2019

Original Application No.710/2017 and other connected matters

AK

By Speed Post

F.No. B-31011/BMW (2046/42.76)/2021/WMD- I / 9266-9267

01
December , 2021

To,

- 1) Member Secretary
(SPCB)
- 2) Principal Secretary
(Health Department)

Sub.: Review of compliance to Biomedical Waste Management Rules.

Sir,

This has reference to the order dated 27.07.2021 passed by Hon'ble National Green Tribunal in the matter of Original Application No. 180/2021 (Mukul Kumar Vs State of Uttar Pradesh & Ors). wherein it is directed that CPCB to review the compliance status of Biomedical Waste Management Rules, 2016; earlier orders of Hon'ble Tribunal and CPCB guidelines by organising video conference interaction with SPCBs/PCCs and Health Department all SPCBs and UTs. A copy of said order enclosed for ready reference.

It is also to refer the order dated 18.01.2021 passed in the matters of Original Application No. 710 of 2017 by Hon'ble Tribunal regarding compliance to BMW Rules, 2016 as well as CPCB guidelines wherein the States and UTs were directed to ensure compliance to BMW Rules, 2016 and CPCB guidelines based on recommendations given by CPCB. Copy of said order is also enclosed for ready reference.

In view of the above, a meeting is scheduled to be organised by CPCB through Video Conference on 03.12.2021 at 3:30 PM to discuss the current status of compliance of BMW Rules, 2016, as well as earlier order passed by Hon'ble NGT in the above referred matters. In this regard, It is requested to kindly nominate concerned officer to attend the said meeting to provide valuable information. Contact details of Officer attending the meeting may kindly be forwarded by e-mail at bmw.cpcb@gov.in

The link to join the above video conference will be send separately.

Your faithfully,



(V.P.Yadav)

Additional Director & Divisional Head
Waste Management –I Division

Encl.: As above

Copy to.

- (i) Regional Directorates
Central Pollution Control Board

With a request to nominate concerned officer to join the afore-said meeting.

- (ii) PS to MS

For Kind Information.

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
दिनांक... 02/12/2021
दिनांक 02/12/2021



(V.P.Yadav)