

Item No. 07

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 126/2021

(With report dated 24.03.2022)

Varun Sheokand

Applicant

Versus

Central Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 25.03.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Ms. Mansi Chahal, Advocate

Respondent: Mr. Rahul Khurana, Advocate for HSPCB & Haryana

ORDER

1. Grievance in this application is against unscientific disposal of bio-medical waste in Faridabad, in violation of Bio-Medical Waste Management Rules, 2016 (BMW Rules). It is stated that while 14 to 15 tons of bio-medical waste is generated daily and there are 7422 bedded hospitals, there is only one Common Bio-Medical Waste Treatment Facility. This is resulting in unscientific disposal of the waste leading to creating hazard for public health. The applicant has sent representations on 02.03.2021 and 15.03.2021 to the Municipal Corporation and Deputy Commissioner, Faridabad, the State PCB and the Chief Secretary but to no effect. The issue also appeared in "*Dainik Jagran*" dated 19.05.2021. The applicant has also relied on order of this Tribunal dated 18.01.2021

in O.A. No. 710/2017, *Shailesh Singh v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors. and other connected matters* directing as follows:-

*“11. From the above it is seen that there are huge gaps in the compliance of authorization regime. **In some of the States, compliance is ranging from 17% to 38% only.** We also note underutilization of the common bio-medical facilities at many places. **Adequacy of facilities and their siting may need review. Such facilities must obtain requisite Environmental Clearance (EC). Recycling of waste will only be through authorized recyclers. As observed earlier, it is utmost necessary to ensure that hazardous bio-medical waste is not mixed with the general waste.** CPCB needs to review the compliance status from time to time, atleast once in every quarter and issue directions based on the observations from the reports received.*

*12. CPCB may ensure that for strict compliance of the rules, the compensation regime is duly applied against the defaulters, following due process. Standards of handling of BMW need to be duly complied. **The authorities must ensure that waste is disposed of only through authorized agencies, common facilities are located as per siting guidelines and they must have EC. There should be no pilferage by unauthorized recyclers. Adequate number of common bio-medical facilities should be set up. The Chief Secretaries of all the States/UTs may oversee compliance atleast every quarter in terms of direction of this Tribunal vide order dated 16.01.2019 in O.A. No. 606/2018 followed by further orders. The Chief Secretaries may inter-alia ensure that authorization is secured by every health care facility in their respective jurisdiction and also there is adherence to the norms.** Similarly, the District Magistrates may, at their level, take necessary steps in their Districts, in accordance with the District Environmental Plans. As found by the Oversight Committee for UP, ETPs are either not provided or are not functional in various health care facilities as required under the Rules. Compliance in this regard may be ensured in all States/UTs. While permitting deep burials, it may be ensured that ground water contamination does not take place.”*

2. Having regard to the averments in the application, to verify compliance of directions in order dated 18.2.2021 in *Shailesh Singh, supra*, the Tribunal directed the Chief Secretary, Haryana to furnish a status report about the compliance of BMW Rules vide order dated 15.06.2021.

3. In pursuance of above, a status report has been filed by the Chief Secretary, Haryana on 24.3.2022 as follows:-

“4. That in compliance of order dated 18 January 2021 passed by this Hon'ble Court in OA No- 710 of 2017 (Shailesh Singh v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.), the Haryana State Pollution Control Board (HSPCB) has already issued the following directions to all stakeholders vide separate letters dated 23 April 2021 to comply with the said order:-

- (i) Vide letter dated 23 April 2021 (Annexure-A), all CBWTFs have been directed to recycle the plastic waste through authorized recycler and all the CBWTFs are engaged with authorized recyclers for recycling of plastic waste to prevent the pilferage by unauthorized recyclers.*
- (ii) Vide letter dated 23 April 2021 (Annexure-B), All Regional officers of the Haryana State Pollution Control Board have been directed to ensure that the authorization is secured by every Health Care Facilities(HCFs).*
- (iii) Vide letter dated 23 April 2021 (Annexure-C), Health Department and Indian Medical Association, Haryana have been directed to ensure that the hazardous bio medical waste is not mixed with the general waste and every HCFs may secured the authorization under BMW Rules, 2016.*
- (iv) Vide letter dated 23 April 2021 (Annexure-D), All District Magistrates have been directed to take the necessary steps in their districts in accordance with the District Environment Management Plan.*

5. That as per the Annual Report 2020 pertaining to the Bio Medical Waste Management Rules a total number of 6,163 HCFs are authorized in the State of Haryana, out of which 3,168 are Bedded HCFs having 59,005 beds. The total waste generation by these HCFs is 19,217 kg/day (15,883kg/day generated by bedded HCFs and 3,334 kg/day is generated by the non-bedded HCFs).

6. That as per the latest inventory of HSPCB, there are 6,476 HCFs, out of which 6,328 HCFs which have already obtained authorization from HSPCB and the remaining HCFs have been issued Show Cause Notices for non-compliance and action shall be taken against non-compliant HCFs as per law. The total Bio Medical Waste collected and disposed off by the CBWTFs during the year 2021 is around 20 tonnes/day.

7. That there are 11 authorized Common Bio Medical Waste Treatment Facilities (CBWTF) in the State of Haryana for treatment and disposal of bio medical waste generated by HCFs. The total incineration capacity of these CBWTFs is around 36 tonnes/day and the autoclave capacity is around 30 tonnes/day, against the waste generation of approximately 20 tonnes/day (as per annual report of 2020) in the State. All the existing CBWTFs have installed Online Continuous Emission/Effluent Monitoring Stations (OCEMS) which have been connected to the servers of Central Pollution Control Board (CPCB) and HSPCB for monitoring. All CBWTFs have made

the agreement with authorized recyclers to recycle the plastic received as Bio Medical waste from the HCFs.

8. That the monitoring of HCFs is carried out according to the mandatory inspection policy framed by the Board vide order dated 11 February 2020. The inspection of every CBWTF is carried out on quarterly basis.

That State Level Advisory Committee (SLAC) constituted by Govt. vide order dated 26 June 2018 under the provisions of BMW Rules, 2016 is also conducting review meetings with various concerned departments/stakeholders to ensure the compliance of various directions issued from time to time under BMW Rules, 2016 and proper management of bio medical waste including COVID-19 waste. Till date 7 such meetings have been conducted at state level and relevant instructions/directions were issued to the concerned departments for compliance.

9. That the HSPCB has also assigned a Gap Analysis Study to the Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh with reference to the bio medical waste generation and treatment capacity of existing CBWTFs. The final report of said study is likely to be received by 31 March 2022.

10. With respect to allegations made in OA regarding generation of Bio Medical Waste in Faridabad and treatment capacity of Common Bio Medical Waste Treatment Facility operational in the said area, the following data received from the Haryana State Pollution Control Board is as under:

- (a) The CBMWTF mentioned in the OA is being run by M/s Golden Eagle Waste Management Company (hereinafter referred as to 'operator of facility') at village 'Jasana', Tigaon Road, Faridabad. The said operator covers three districts i.e. Faridabad, Palwal and Nuh (Mewat). The Bio-Medical Waste generated from these districts is being collected, transported, processed and disposed of at above mentioned Common Bio Medical Waste Treatment Facility (here in after referred as to 'facility').*
- (b) As per annual report submitted for the year 2020, the waste generated and disposed of in these districts is 1,953Kg/day. (1,523Kg/day in District Faridabad under Regional Office of Faridabad and Ballabgarh, 250Kg/day in District Palwal and 180Kg/day in District Nuh-Mewat under Regional Office of Palwal). The capacity of the facility in question is 3,600Kg/Day (incineration capacity of CBWTF is around 1800 Kg/day and autoclave capacity is around 1800Kg/day)*
- (c) At present, 916 HCFs have obtained authorization from the Board under Bio Medical Waste Management Rules, 2016 in these three districts. Out of 916 HCFs, 363 HCFs are bedded HCFs having 10,039 beds and 553 are non-bedded HCFs. The data of Bio Medical waste generated and sent to treatment facility during the last eight months i.e., from June*

2021 to January 2022 has been compiled and is presented as under:-

Month	Average quality of Bio-medical waste generated and transported from Health Care Facilities in District Faridabad, Palwal, Nuh-Mewat (in Kg/day)
June, 2021	2050.00
July, 2021	1876.96
August, 2021	2092.17
September, 2021	2559.87
October, 2021	2713.33
November, 2021	2482.71
December, 2021	1766.81
January, 2022	1799.37
Average of BMW Generated (per day)	2167.65

Thus, the waste generated per day and transported to the facility in above mentioned three districts at present is approximately 2,167.65 Kg/day which is less than the capacity of the facility in question.

11. As per the directions of Hon'ble NGT a review meeting was held on 11 March 2022 under the Chairmanship of Chief Secretary, Haryana regarding the daily generation of Bio Medical Waste, number of Health Care Facilities authorized, practices adopted for disposal of bio medical waste-captive or connected with CBMWTF, performance of existing CBMWTFs, plan to bridge the gap in generation and scientific disposal and the extent of environmental compensation imposed for non-compliances. The status and progress was updated by HSPCB in the said meeting. The copy of minutes of meeting dated 11 March 2022 is enclosed herewith as Annexure-E. The above report may kindly be taken on record. Since the State PCB has to collect and compile the data from the field (in addition to the already available data for the year 2020), which consumed time in the process and as such there is a delay in filing of report. Therefore, it is requested that the delay in submitting the report may kindly be condoned.”

4. From the status of compliance as mentioned in the report, it is seen that gap analysis study is underway. Review meeting has been held under the Chairmanship of the Chief Secretary to bridge the gap in generation and scientific disposal and remedial action against the non-

compliance. However, it has been observed that there is no mention in the report regarding performance of the Facility in question with respect to adequacy of transportation with tracking, barcoding, compliance with the standards including liquid waste treatment and holding capacity and treatment with no delay.

5. We have heard learned Counsel for the applicant and for the State. Though the report shows significant compliance of the Rules, learned Counsel for the Applicant has disputed the data in the report. We have allowed filing objections since the report has been filed only on 24.3.2022, leaving no time for the applicant to file objections earlier. Objections of the applicant are:

- a) *That as per the status report, at present 916 HCF's have obtained the authorization from the Pollution Board in three districts (i.e. Faridabad, Palwal, Nuh-Mewat) and the average of BMW generated per day from these three districts is approximately 2167.65 kg/day against the total capacity of CBMWTF which is 3600 kg/day. The applicant humbly submits that **there are several non-authorized HCF's also in these districts which are operating without obtaining any authorization from the PCB's and as a result, the BMW generated from them is either thrown unscientifically in an unhygienic condition or gets dumped into the ground, posing a severe threat to the environment and on the public health.***
- b) *That in the status report, the average quantity of BMW generated from HCF's in three districts is around 2167.65 kg/day against the total capacity of CBMWTF which is 3600 kg/day, but however, **the CBMWTF situated in Faridabad i.e. M/s Eagle Waste Management operates only for 10-12 hours per day, which clearly means that out of 2167.65kg/day BMW generated, just 1083.8 kg of BMW is treated and the rest is thrown or dumped into the ground unscientifically.***
- c) *That the CBMWTF i.e. M/s Eagle Waste Management has inadequate waste storage facility as the **BMW is kept and thrown in open unscientifically which is posing a serious threat to the environment and the habitat around. Moreover, the BMW waste is mixed with the general waste and dumped unhygienically into the***

ground which is also contaminating the ground water at large. This CBMWTF is collecting the BMW more than its capacity from authorized as well as non-authorized HCF's as a result of which, some of the BMW is treated and the rest is thrown in open. Photographs showing BMW lying in open due to inadequate storage facility are annexed herewith and marked as ANNEXURE A/1.

- d) That there is no mention of the capacity of ETP installed by this CBMWTF in the status report as this unit is also engaged in discharge of harmful chemicals outside its premises, which is a clear violation of provisions of Section 25/26 of the Water Act.**
- e) That the average quantity of BMW generated from the three districts is also shown in the status report stands to be false and wrong. The district of Faridabad alone generates 14-15 tons of BMW per day. Moreover, last year in 2021, when the second wave of COVID-19 was on its peak and when there was no place in HCF's for the infected patients to get admitted in hospitals, then also, the daily generation of BMW was just 1876.96 kg/day from three districts, as per the status report, which clearly shows that the figures mentioned in the status report are nothing but totally eye-wash.**
- f) That in the state of Haryana, the generation of BMW waste is very higher in the district Gurugram & Faridabad. Moreover, after the COVID-19 pandemic, the average daily collection of BMW is 800- 1000 kgs alone of PPE including gloves, masks etc. Due to lack of proper disposal of BMW, it poses serious threat to the people's health and environment. The non-treated BMW leads to potential health effects like AIDS, hepatitis B & C, gastroenteric infections, blood stream infection and many more.**
- g) That till date, due to inadequate facility to treat the BMW in Faridabad, the BMW is thrown in open which is resulting in spreading of infections and hazardous diseases. This is also leading to the gap in the generation of the waste and its proper disposal.**

The unauthorized HCF's are also operating in violation, without obtaining any authorization from the Pollution control Board, which are also a major contributor of the BMW.

- h) That the Honourable Tribunal in its order dated 15.06.2021 specifically directed the chief secretary to give the information regarding the extent of the environmental compensation imposed for non-compliances, but there is no mention of the same in the status report."**

6. We are of the view that the objections of the applicant need to be verified and if found true further remedial action needs to be taken having regard to the acknowledged adverse impact of unscientific handling of bio-medical waste.

7. Accordingly, we dispose of this application with a direction to the Chief Secretary, Haryana and the State PCB to take further steps for ensuring compliance of bio-medical waste rules. Objections of the applicant may be verified and remedial action ensured. A status report with regard to status as on 30.4.2022 be filed before the Registrar General of NGT by 15.5.2022. If any further direction appears to be necessary, the Registrar General may place the matter before the Bench.

Subject to the above, the application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Haryana and Haryana State PCB by e-mail.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

March 25, 2022
Original Application No. 126/2021
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