Item No.2

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)

Appeal No. 73/2021
(I.A. No. 01/2022)

Puneet Jain — Applicant (s)

Versus

Madhya Pradesh State Environment Impact Assessment Authority (SEIAA) — Respondent(s)

Date of hearing: **05.04.2022**

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

For Applicant (s): Mr. Rohit Sharma, Adv.

For Respondent(s): Mr. Sachin K. Verma, Adv.

Mr. Yadvendra Yadav, Adv.

ORDER

1. Challenge in this appeal is the order dated 27th January, 2021 passed by Respondent No.1 i.e. Madhya Pradesh State Environment Assessment Authority (MPSEIAA) whereby and where under the online application for Environment Clearance for Common Bio-Medical Waste Treatment Facility (CBWTF) was considered by the authority and on the basis of the recommendations of the SEAC meeting held on 17th December, 2020, prior Environmental Clearance was accorded under the provisions of EIA notification, 2006 on the following terms:

"(i) The project is proposed for establishing a new Common Bio Medical Waste Treatment Facility on PLOT No. E-47/A, D-41/C, D-42/A, E-48/B, D-43/B, E-47/C, E-48/A, D-42/B, D-43/A Sector C Sanwer Road Industrial Area Indore (M.P) in notified Industrial

area. The site is located at geographical co-ordination Latitude 22°46'18 04' N to Longitude 75° 51'26.18 E.

(vii) There is no National park/Sanctuaries, Eco-sensitive areas (DFO letter dated 08.07.2019) critically polluted areas and inter-State boundaries within 10 km of the proposed site; hence general conditions are not attracted as per EIA notification 2006 its amendments.

(ix) The project is proposed for setting up of the Common Bio-Medical Waste Treatment Facility for treatment of biomedical waste with 300 kg per hour (2 nos) incinerator static with dry scrubbing system and ceramic filters also incinerator, autoclave shredder, plastic processing and effluent treatment. Initially one incinerator will be installed and in future another incinerator will be installed as per requirement of the project.

(xiv) As per the guideline, A CBWTF located within the respective State/UT shall be allowed to cater healthcare units situated at a radial distance of 75 km. however, in a coverage area where 10,000 beds are not available within a radial distance of 75 km, existing CBWTF in the locality (located within the respective State/UT) may be allowed to cater the healthcare units situated up to 150 km radius w.r.t its location provided the Bio-Medical waste generated is collected, treated and disposed of within 48 hours as stipulated under the BMWM Rules.

Latest status of Existing Common Bio-Medical Waste Treatment Facilities (CBWTF) and its coverage area						
SN	*Name of the CBWTF*	*Coverage area (District)*	*No. of HCFs*	*No. of member HCF*	*BMW collected*	*No. of vehicle*
1	*Hoswin Incinerator Pvt Ltd indore*	*Indore, Khandwa, Khanrone, Badwani, etc*	*1247*	*903*	*3584*	*16*
2	*Bhopal Incinerator Pvt. Ltd Bhopal*	*Bhopal, Raisen*	*>1000*	*626*	*1345*	*10*
3	*Environment protection corp Sehore*	*Sehore, Harda, Vidhisa Betul Hosangabad*	*290*	*243*	*525*	*06*

4	*Elite Engineers, Jabalpur*	*Jabalpur, Katni, Mandla, Siloni*	*514*	*343*	*1288*	*10*
5	*Davis Surgico (J.A. Group of Hospital Gwalior)*	*Gwalior, Datia, Bhind, Morena, Syopur*	*>1000*	*416*	*885*	*06*
6	*Davis Surgico (Bundelkhand Medical of College, Sagar)*	*Sagar*	*184*	*66*	*120*	*03*
7	*Indo water management control corp Satna*	*Satna,Rewa, Sidhi, Singrauli, Panna, Chhatarpur, Tikamgarh, Damoh*	*691*	*398*	*658*	*12*
8	*MP Bio Medical Waste Disposal system Umana*	*Shadole Annupur, Umaria*	*113*	*60*	*113*	*05*
9	*Bio Medical Waste system Ratlam*	*Ratlam, Neemuch, Mandsour*	*222*	*159*	*250*	*05*
10	*JK Medical Waste Management System Chanden Ashok Nagar*	*Guna, Shivpuri, Ashok nagar*	*112*	*56*	*150*	*04*
11	*Chandra Project Chhindwara*	*Chhindwara*	*114*	*56*	*46*	*01*
12	*People College of Medical Science & Research Center Bhopal*	*People group of hospital, Bhopal*	*05*	*05*	*85*	*01*

Covered area

Location	*Total no. of HCFs being covered*	*Total number of Beds*	*Estimated quantity*
Around 150 KM	*935*	*19113*	*10000 kg per day*

Based on the information submitted at Para i to xxii above and others, the State Level Environment Impact Assessment Authority considered the case in its 653rd meeting held on 08.01.2021 and decided to accept the recommendations of 469th SEAC meeting held on dated 17.12.2020.

Hence, Prior Environmental Clearance is accorded under the provisions of EIA notification dated 14th September, 2006 and its amendments for the proposed common bio medical waste treatment facility at plot no E-47/A, D-41/C, D-42/A, E-48/B, D-43/B, E-47/C, E-48/A, D-42/B, D-43/A Sector C Sanwer Road Industrial

Area Indore (M.P) proposed capacity- for treatment of 300 kg per hour through incinerator with dry scrubbing system and ceramic filters based bio medical incinerator project by m/s agnimitra Dr. Ankur agrawal partner 10 yashwant niwas road dist indore MP subject to the compliance of the standard conditions and the following additional specific conditions as recommended by SEIAA and SEAC in its meetings.

A. Specific Conditions as recommended by SEIAA

(a) This EC will be subject to the location criteria to be decided by the MPPCB specially the proximity to the human settlement.

(b) PP will take prior permission of MPPCB for establishing CBWTF at the site in reference to revised guidelines of CPCB 2016 for CBWTF before installation.

(c) Guidelines of CPCB/MPPCB for Bio Medical Waste Common Hazardous Wastes Incinerators shall be followed.

B. Specific Conditions as recommended by SEAC

a. The Project proponent shall obtain consent to establish/operate under the provisions of Air (Prevention and Control of Pollution) Act, 1981, and Water (Prevention and Control of Pollution) Act 1974 from the concerned State Pollution Control Board/ Committee.

Grounds of Appeal

2. After the issue of Environment Clearance, aggrieved by the order, the Applicant challenged it on the following grounds:

(i) That, the bio-medical waste is one of the most hazardous waste generated in today's time and prior to the introduction of the Bio-Medical Waste Rules 1998, there was a concept of Captive Incinerator. Since the responsibility of Captive Incinerator was to treat the generated bio-medical waste in its own plant, therefore, there was no transparency and supervision by the concerned departments over the effectiveness of the Captive Incinerator. Since the treatment of the bio-medical waste is of utmost importance and is highly hazardous in nature, therefore, the concept of Common Bio-Medical Waste Treatment Facility was introduced, whereby, the generators of bio-medical waste were duty bound to send their waste to a Common Bio-Medical Waste Treatment Facility, which in

turn, would incinerate the entire waste at a prescribed temperature. The limited establishment of Common Bio-Medical Waste Treatment Facility was done looking at the vulnerable pollutants and emissions likely to be emitted after burning of the bio-medical waste.

(ii) That, in the city of Indore, a Common Bio-Medical Waste Treatment Facility, namely, Hoswin Incinerator Pvt. Ltd. is already in operation since long time and is catering the bio-medical waste generated in and around the city of Indore.

(iii) That the Central Pollution Control Board (Respondent No.2 herein) in the Year 2016, issued guidelines categorically highlighting the citing criteria and the coverage area of one single Common Bio-Medical Waste Treatment Facility. In terms of the guidelines, there has to be a radial distance of 75 Kms. between the two Common Bio-Medical Waste Treatment Facilities and this embargo of maintaining a distance of 75 Kms. was proposed in the guidelines only on account of the fact that the nature and operation of Common Bio-Medical Waste Treatment Facility is extremely hazardous in nature. The relevant abstract of Central Pollution Control Board's guidelines is reproduced hereunder:

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

A CBWTF located within the respective State/UT shall be allowed to cater healthcare units situated at a radial distance of 75 KM.

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

(iv) that the area where the unit of the Respondent No. 3 is proposed to be established is not permissible in terms of order bearing No. F/6-1/2021/A73 dated 08.06.2021 issued by Government of MP (MSME) which also published a list of prohibited activities under which at serial no. 3 urban waste and waste collection is a prohibited activity.

(v) That, the area where the CBWTF of the Respondent No. 3 is also not conducible to be established being contrary to the guidelines issued by CPCB as a new Common Bio-Medical Waste Treatment Facility shall be permitted to be establish only if the existing CBWTF in the locality has exhausted its limits of catering bio-medical waste from 10,000 Beds and in case of any surplus bio-medical waste generating over and above 10,000 Beds, new Common Bio-Medical Waste Treatment Facility may be granted permission. Despite the aforesaid observations, the Environmental Clearance has been issued in favour of the Respondent No.3 by the Respondent No.1, which is bad in the eyes of law.

3. The matter was taken up by this Tribunal on 09th November, 2021 and the Respondent was directed to submit their reply. Respondent has submitted their reply which is on record. We have heard the learned counsel for the parties and perused the record.

4. It is argued that in the 21st century with increased use of disposable material and the presence of dreaded disease like Hepatitis B and AIDS, it is utmost important to take care of the infected and hazardous waste to save the mankind from disaster. The Health care institution or

hospitals which are responsible for care of morbid population are emitting voluminous quantity of rubbish, garbage and bio medical waste matter each day from wards, operation theatre and outpatient areas. Proper management of hospital waste is essential to maintain hygiene, aesthetics, cleanliness and control of environmental pollution. The hospital waste like body parts, organs, tissues, blood and body fluids along with soiled linen, cotton, bandage and plaster casts from infected and contaminated areas are very essential to be properly collected, segregated, stored, transported, treated and disposed of in safe manner to prevent hospital acquired infection. Various communicable diseases, which spread through water, sweat, blood, body fluids and contaminated organs, are important to be prevented. The bio medical waste scattered in and around the hospitals invites flies, insects, rodents, cats and dogs that are responsible for the spread of communication disease like plague and rabies. Rag pickers in the hospital, sorting out the garbage are at a risk of getting tetanus and HIV infections. The recycling of disposable syringes, needles, IV sets and other article like glass bottles without proper sterilization are responsible for Hepatitis, HIV, and other viral diseases. It becomes primary responsibility of Health administrators to manage hospital waste in most safe and eco-friendly manner.

5. The Central Government in exercise of powers conferred by Environment (Protection) Act, 1986 made Bio-Medical Waste(Management and Handling) Rules, 1998 in short: (1998 Rules) and looking at the continuous need for improvisation of the technique involved in disposing off bio medical waste, the Rules were amended in the year 2016 and then in the year 2019. Under the said Rules, the Prescribed Authority for the implementation of Bio Medical Norms is Madhya Pradesh Pollution Control Board.

6. The State Government directed all the operators of all the Plants in state to ensure strict the compliance of 1998 Rules and to prepare a list of all Veterinary Hospitals Nursing Home, Clinic, Dispensary, Veterinary Institution, Animal House, Pathological Laboratory, Blood Bank, Health Care Facility and Clinical Establishment and forward it to Health Department, Environment Department and Pollution Control Board.

7. In order to discharge the biomedical waste, a common biomedical waste treatment facility (hereinafter referred as treatment facility) is installed which consists of an incinerator, auto clave and other machineries. The need for shifting from captive incinerator to treatment facility arose due to the hazardous impact and extreme vigilance required for treating the biomedical wastes.

8. Learned counsel for the CPCB has argued that as per Environment Impact Act Notification, 2006 as amended vide notification of S.O.1142 E dated April 17, 2015, 'bio-medical waste treatment facility' is categorized under item 7 (da) in the schedule and requires 'Environmental Clearance' from the State Environment Impact Assessment Authority (SEIAA). As per the guidelines issued by CPCB, a facility may require Environmental Clearance' as follows:

a) Expansion and modernization with additional treatment capacity of existing bio-medical waste treatment facility (excluding augmentation of incineration facility for compliance to the residence time as well as Dioxins and Furans without enhancing the existing treatment capacity)

b) In case of any expansion in the treatment capacity or relocation of the existing CBWTF.

9. As per Rule 12(4) of BMWM Rules, 2016 State Government shall constitute District Level Monitoring Committee in the districts under the Chairmanship of District Collector or District Magistrate or Deputy Commissioner or Additional District Magistrate to monitor the compliance

of the provisions of these rules in the health care facilities generating bio-medical waste and in the common biomedical waste treatment and disposal facilities. Further, as per Schedule III, State Government may take advice of State Pollution Control Boards on implementation of these Rules.

10. As per Rule 10 of BMWM Rules, 2016 every operator of CBWTF is required to obtain authorization under said rules from concerned State Pollution Control Board or Pollution Control Committee for ensuring that biomedical waste is collected, received, stored, transported, treated, processed, disposed or handled in line with the provisions under BMWM Rules, 2016, quoted below:

"

4. *Duties of the Occupier.- It shall be the duty of every occupier to-*

(a) take all necessary steps to ensure that bio-medical waste is handled without any adverse effect to human health and the environment and in accordance with these rules;

(b) make a provision within the premises for a safe, ventilated and secured location for storage of segregated biomedical waste in colored bags or containers in the manner as specified in Schedule I, to ensure that there shall be no secondary handling, pilferage of recyclables or inadvertent scattering or spillage by animals and the bio-medical waste from such place or premises shall be directly transported in the manner as prescribed in these rules to the common bio-medical waste treatment facility or for the appropriate treatment and disposal, as the case may be, in the manner as prescribed in Schedule I;

(c) pre-treat the laboratory waste, microbiological waste, blood samples and blood bags through disinfection or sterilization on-site in the manner as prescribed by the World

Health Organization (WHO) or National AIDs Control Organization (NACO) guidelines and then sent to the common bio-medical waste treatment facility for final disposal;

(d) phase out use of chlorinated plastic bags, gloves and blood bags within two years from the date of notification of these rules;

(e) dispose of solid waste other than bio-medical waste in accordance with the provisions of respective waste management rules made under the relevant laws and amended from time to time;

(f) not to give treated bio-medical waste with municipal solid waste;

(g) provide training to all its health care workers and others, involved in handling of bio medical waste at the time of induction and thereafter at least once every year and the details of training programmes conducted, number of personnel trained and number of personnel not undergone any training shall be provided in the Annual Report;

(h) immunise all its health care workers and others, involved in handling of bio-medical waste for protection against diseases including Hepatitis B and Tetanus that are likely to be transmitted by handling of bio-medical waste, in the manner as prescribed in the National Immunisation Policy or the guidelines of the Ministry of Health and Family Welfare issued from time to time;

(i) establish a Bar- Code System for bags or containers containing bio-medical waste to be sent out of the premises or place for any purpose within one year from the date of the notification of these rules;

(j) ensure segregation of liquid chemical waste at source and ensure pre-treatment or neutralisation prior to mixing with other effluent generated from health care facilities;

(k) ensure treatment and disposal of liquid waste in accordance with the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(l) ensure occupational safety of all its health care workers and others involved in handling of biomedical waste by providing appropriate and adequate personal protective equipments;

(m) conduct health check up at the time of induction and at least once in a year for all its health care workers and others involved in handling of bio- medical waste and maintain the records for the same;

(n) maintain and update on day to day basis the bio-medical waste management register and display the monthly record on its website according to the bio-medical waste generated in terms of category and colour coding as specified in Schedule I;

(o) report major accidents including accidents caused by fire hazards, blasts during handling of biomedical waste and the remedial action taken and the records relevant thereto, (including nil report) in Form I to the prescribed authority and also along with the annual report;

(p) make available the annual report on its web-site and all the health care facilities shall make own website within two years from the date of notification of these rules;

(q) inform the prescribed authority immediately in case the operator of a facility does not collect the bio-medical waste within the intended time or as per the agreed time;

(r) establish a system to review and monitor the activities related to bio-medical waste management, either through an existing committee or by forming a new committee and the Committee shall meet once in every six months and the record of the minutes of the meetings of this committee shall

be submitted along with the annual report to the prescribed authority and the healthcare establishments having less than thirty beds shall designate a qualified person to review and monitor the activities relating to bio-medical waste management within that establishment and submit the annual report;

(s) maintain all record for operation of incineration, hydro or autoclaving etc., for a period of five years;

(t) existing incinerators to achieve the standards for treatment and disposal of bio-medical waste as specified in Schedule II for retention time in secondary chamber and Dioxin and Furans within two years from the date of this notification.

5. *Duties of the operator of a common bio-medical waste treatment and disposal facility.-It shall be the duty of every operator to –*

(a) take all necessary steps to ensure that the bio-medical waste collected from the occupier is transported, handled, stored, treated and disposed of, without any adverse effect to the human health and the environment, in accordance with these rules and guidelines issued by the Central Government or, as the case may be, the central pollution control board from time to time;

(b) ensure timely collection of bio-medical waste from the occupier as prescribed under these rules;

(c) establish bar coding and global positioning system for handling of bio- medical waste within one year;

(d) inform the prescribed authority immediately regarding the occupiers which are not handing over the segregated bio-medical waste in accordance with these rules;

(e) provide training for all its workers involved in handling of bio-medical waste at the time of induction and at least once a year thereafter;

(f) assist the occupier in training conducted by them for bio-medical waste management;

(g) undertake appropriate medical examination at the time of induction and at least once in a year and immunise all its workers involved in handling of bio-medical waste for protection against diseases, including Hepatitis B and Tetanus, that are likely to be transmitted while handling bio-medical waste and maintain the records for the same;

(h) ensure occupational safety of all its workers involved in handling of bio-medical waste by providing appropriate and adequate personal protective equipment;

(i) report major accidents including accidents caused by fire hazards, blasts during handling of biomedical waste and the remedial action taken and the records relevant thereto, (including nil report) in Form I to the prescribed authority and also along with the annual report;

(j) maintain a log book for each of its treatment equipment according to weight of batch; categories of waste treated; time, date and duration of treatment cycle and total hours of operation;

(k) allow occupier , who are giving waste for treatment to the operator, to see whether the treatment is carried out as per the rules;

(l) shall display details of authorisation, treatment, annual report etc on its web-site;

(m) after ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as plastics and glass, shall be given to recyclers having valid consent or authorisation or registration from the respective State Pollution Control Board or Pollution Control Committee;

(n) supply non-chlorinated plastic coloured bags to the occupier on chargeable basis, if required;

(o) common bio-medical waste treatment facility shall ensure collection of biomedical waste on holidays also;

(p) maintain all record for operation of incineration, hydroor autoclaving for a period of five years; and

(q) upgrade existing incinerators to achieve the standards for retention time in secondary chamber and Dioxin and Furans within two years from the date of this notification.

6. *Duties of authorities.-The Authority specified in column (2) of Schedule-III shall perform the duties as specified in column (3) thereof in accordance with the provisions of these rules.*

7. *Treatment and disposal.-*

(1) Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards provided in Schedule-II by the health care facilities and common bio-medical waste treatment facility.

(2) Occupier shall hand over segregated waste as per the Schedule-I to common bio-medical waste treatment facility for treatment, processing and final disposal: Provided that the lab and highly infectious bio-medical waste generated shall be pre-treated by equipment like autoclave or microwave.

(3) No occupier shall establish on-site treatment and disposal facility, if a service of `common biomedical waste treatment facility is available at a distance of seventy-five kilometer.

(4) In cases where service of the common bio-medical waste treatment facility is not available, the Occupiers shall set up requisite biomedical waste treatment equipment like incinerator, autoclave or microwave, shredder prior to commencement of its operation, as per the authorisation given by the prescribed authority.

(5) Any person including an occupier or operator of a common bio medical waste treatment facility, intending to use new technologies for treatment of bio medical waste other than those listed in Schedule I shall request the Central Government for laying down the standards or operating parameters.

(6) On receipt of a request referred to in sub-rule (5), the Central Government may determine the standards and operating parameters for new technology which may be published in Gazette by the Central Government.

(7) Every operator of common bio-medical waste treatment facility shall set up requisite biomedical waste treatment equipments like incinerator, autoclave or microwave, shredder and effluent treatment plant as a part of treatment, prior to commencement of its operation.

(8) Every occupier shall phase out use of non-chlorinated plastic bags within two years from the date of publication of these rules and after two years from such publication of these rules, the chlorinated plastic bags shall not be used for storing and transporting of bio-medical waste and the occupier or operator of a common bio-medical waste treatment facility shall not dispose of such plastics by incineration and the bags used for storing and transporting biomedical waste shall be in compliance with the Bureau of Indian Standards. Till the Standards are published, the carry bags shall be as per the Plastic Waste Management Rules, 2011.

(9) After ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as plastics and glass shall be given to such recyclers having

valid authorisation or registration from the respective prescribed authority.

(10) The Occupier or Operator of a common bio-medical waste treatment facility shall maintain a record of recyclable wastes referred to in sub-rule (9) which are auctioned or sold and the same shall be submitted to the prescribed authority as part of its annual report. The record shall be open for inspection by the prescribed authorities.

(11) The handling and disposal of all the mercury waste and lead waste shall be in accordance with the respective rules and regulations.

8. *Segregation, packaging, transportation and storage.*

-(1) No untreated bio-medical waste shall be mixed with other wastes.

(2) The bio-medical waste shall be segregated into containers or bags at the point of generation in accordance with Schedule I prior to its storage, transportation, treatment and disposal.

(3) The containers or bags referred to in sub-rule (2) shall be labeled as specified in Schedule IV.

(4) Bar code and global positioning system shall be added by the Occupier and common bio-medical waste treatment facility in one year time.

(5) The operator of common bio-medical waste treatment facility shall transport the bio-medical waste from the premises of an occupier to any off-site bio-medical waste treatment facility only in the vehicles having label as provided in part 'A' of the Schedule IV along with necessary information as specified in part 'B' of the Schedule IV.

(6) The vehicles used for transportation of bio-medical waste shall comply with the conditions if any stipulated by the State Pollution Control Board or Pollution Control Committee

in addition to the requirement contained in the Motor Vehicles Act, 1988 (59 of 1988), if any or the rules made there under for transportation of such infectious waste.

(7) Untreated human anatomical waste, animal anatomical waste, soiled waste and, biotechnology waste shall not be stored beyond a period of forty –eight hours:

Provided that in case for any reason it becomes necessary to store such waste beyond such a period, the occupier shall take appropriate measures to ensure that the waste does not adversely affect human health and the environment and inform the prescribed authority along with the reasons for doing so.

(8) Microbiology waste and all other clinical laboratory waste shall be pre-treated by sterilisation to Log 6 or disinfection to Log 4, as per the World Health Organisation guidelines before packing and sending to the common bio-medical waste treatment facility.

18. Liability of the occupier, operator of a facility.-

(1) The occupier or an operator of a common bio-medical waste treatment facility shall be liable for all the damages caused to the environment or the public due to improper handling of bio- medical wastes.

(2) The occupier or operator of common bio-medical waste treatment facility shall be liable for action under section 5 and section 15 of the Act, in case of any violation."

11. The Schedule 1 of the rule provides the category of the bag which required to be used as a container and disposal option.

12. Part II of the rules provide as follows:-

"

1. *All plastic bags shall be as per BIS standards as and when published, till then the prevailing Plastic Waste Management Rules shall be applicable.*
2. *Chemical treatment using at least 10% Sodium Hypochlorite having 30% residual chlorine for twenty minutesor any other equivalent chemical reagent that should demonstrate Log104 reduction efficiency for microorganisms as given in Schedule-III.*
3. *Mutilation or shredding must be to an extent to prevent unauthorized reuse.*
4. *There will be no chemical pretreatment before incineration, except for microbiological, lab and highly infectious waste.*
5. *Incineration ash (ash from incineration of any bio-medical waste) shall be disposed through hazardous waste treatment, storage and disposal facility, if toxic or hazardous constituents are present beyond the prescribed limits as given in the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 or as revised from time to time.*
6. *Dead Fetus below the viability period (as per the Medical Termination of Pregnancy Act 1971, amended from time to time) can be considered as human anatomical waste. Such waste should be handed over to the operator of common bio-medical waste treatment and disposal facility in yellow bag with a copy of the official Medical Termination of Pregnancy certificate from the Obstetrician or the Medical Superintendent of hospital or healthcare establishment.*
7. *Cytotoxic drug vials shall not be handed over to unauthorised person under any circumstances. These shall be sent back to the manufactures for necessary disposal at a single point. As a second option, these may be sent for incineration at common bio-medical waste treatment and*

disposal facility or TSDFs or plasma pyrolys is at temperature >1200 0C.

8. *Residual or discarded chemical wastes, used or discarded disinfectants and chemical sludge can be disposed at hazardous waste treatment, storage and disposal facility. In such case, the waste should be sent to hazardous waste treatment, storage and disposal facility through operator of common bio-medical waste treatment and disposal facility only.*

9. *On-site pre-treatment of laboratory waste, microbiological waste, blood samples, blood bags should be disinfected or sterilized as per the Guidelines of World Health Organisation or National AIDS Control Organisation and then given to the common bio-medical waste treatment and disposal facility.*

10. *Installation of in-house incinerator is not allowed. However in case there is no common biomedical facility nearby, the same may be installed by the occupier after taking authorisation from the State Pollution Control Board.*

11. *Syringes should be either mutilated or needles should be cut and or stored in tamper proof, leak proof and puncture proof containers for sharps storage. Wherever the occupier is not linked to a disposal facility it shall be the responsibility of the occupier to sterilize and dispose in the manner prescribed.*

12. *Bio-medical waste generated in households during healthcare activities shall be segregated as per these rules and handed over in separate bags or containers to municipal waste collectors. Urban Local Bodies shall have tie up with the common bio-medical waste treatment and disposal facility to pickup this waste from the Material Recovery Facility (MRF) or from the house hold directly, for final disposal in the manner as prescribed in this Schedule."*

13. Respondent had submitted that that while issuance of guidelines the Respondent No. 2 CPCB has not stated anywhere in the guidelines that any deviation therefrom would render the action taken a nullity. Factually the establishment of more units of CBWTF is per se environment friendly activity because it provides more options and cost cutting for the user health care units as such the CPCB guidelines are not mandatory guidelines as far as it relates to having a unit within the radial distance of 75 KM. The MPPCB has already given CTE to more than one unit within 75 KM radial distance in other cities/towns e.g. Bhopal and Jabalpur, to provide more options to the users so that to cater the bio medical waste generated in the area more effectively, also its segregation, collection and scientific disposal within the prescribed time limit of 48 hours.

14. The SEIAAs as per the EIA notification dated 14/09/2006 shall base its decision on the recommendation of the State or the State Level Expert Appraisal Committee which shall screen, scope, appraise project or activities as per the applicable category respectively. In this matter under reply the Madhya Pradesh State Pollution Control Board had already issued the consent to establish in the favour of the Project Proponent and the Respondent No. 1 as per the mandate of MoEF & CC and the EIA notification dated 14/09/2006 amended upto date has issued the EC dated 27/01/2021 which is under challenge in this present appeal therefore in absence of challenging the valid consent to establish issued by MPPCB the appeal is not maintainable in the eyes of law therefore deserves to be dismissed on this count alone.

15. It is further argued that the guidelines issued by CPCB are not notified therefore in view of the Judgment rendered by the Hon'ble Apex Court reported as *2014(10) SCC 673 Gulf Goans Company Limited Vs. Union of India)* has held that where the alleged

environmental guidelines were not Gazzetted held same were not enforceable the relevant paragraphs of the Judgment are quoted below:-

> ***"22.*** *It is also essential that what is claimed to be a law must be notified or made public in order to bind the citizen. In Harla v. State of Rajasthan [AIR 1951 SC 467 : 1952 Cri LJ 54] while dealing with the vires of the Jaipur Opium Act, which was enacted by a resolution passed by the Council of Ministers, though never published in the Gazette, this Court had observed: (AIR p. 468, para 8)*
>
> *8. … Natural justice requires that before a law can become operative it must be promulgated or published. It must be broadcast in some recognizable way so that all men may know what it is, or, at the very least, there must be some special rule or regulation or customary channel by or through which such knowledge can be acquired with the exercise of due and reasonable diligence. The thought that a decision reached in the secret recesses of a chamber to which the public have no access and to which even their accredited representatives have no access and of which they can normally know nothing, can nevertheless affect their lives, liberty and property by the mere passing of a resolution without anything more, is abhorrent to civilised man."*
>
> ***21.*** *In the absence of due authentication and promulgation of the guidelines, the contents thereof cannot be treated as an order of the Government and would really represent an expression of opinion. In law, the said guidelines and their binding effect would be no more than what was expressed by this Court in State of Uttaranchal v. Sunil Kumar Vaish [(2011) 8 SCC 670 : (2011) 4 SCC (Civ) 325 : (2011) 3 SCC (Cri) 542 : (2011)*

2 SCC (L&S) 410] in the following paragraph of the report: (SCC p. 678, paras 23-24)

23. *It is settled law that all executive actions of the Government of India and the Government of a State are required to be taken in the name of the President or the Governor of the State concerned, as the case may be [Articles 77(1) and 166(1)]. Orders and other instruments made and executed in the name of the President or the Governor of a State, as the case may be, are required to be authenticated in the manner specified in the rules made by the President or the Governor, as the case may be [Articles 77(2) and 166(2)]. In other words, unless an order is expressed in the name of the President or the Governor and is authenticated in the manner prescribed by the rules, the same cannot be treated as an order on behalf of the Government.*

24. *A noting recorded in the file is merely a noting simpliciter and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, can such noting be treated as a decision of the Government. Even if the competent authority records its opinion in the file on the merits of the matter under consideration, the same cannot be termed as a decision of the Government unless it is sanctified and acted upon by issuing an order in accordance with Articles 77(1) and (2) or Articles 166(1) and (2). The noting in the file or even a decision gets culminated into an order affecting right of the parties only when it is expressed in the name of the President or the Governor, as the case may be, and authenticated in the manner provided in Article 77(2) or Article 166(2). A noting or even a decision recorded in the file can always be reviewed/reversed/overruled or overturned and the court cannot take cognizance of the earlier noting or decision for exercise of the power of judicial review."*

20. *Clause (2) of Article 77 also provides for the authentication of orders and instruments in a manner as may be prescribed by the Rules. In this regard, vide S.O. No. 2297 dated 3-11-1958 published in the Gazette of India, the President has issued the Authentication (Orders and Other Instruments) Rules, 1958. The said Rules have been superseded subsequently in 2002. Admittedly, the provisions of the said 1958 Rules had not been followed in the present case insofar as the promulgation of the guidelines is concerned.*

19. *Article 77 of the Constitution provides the form in which the Executive must make and authenticate its orders and decisions. Clause (1) of Article 77 provides that all executive action of the Government must be expressed to be taken in the name of the President. The celebrated author H.M. Seervai in Constitutional Law of India, 4th Edn., Vol. 2, 1999 describes the consequences of government orders or instructions not being in accordance with clauses (1) or (2) of Article 77 by opining that the same would deprive the orders of the immunity conferred by the aforesaid clauses and they may be open to challenge on the ground that they have not been made by or under the authority of the President in which case the burden would be on the Government to show that they were, in fact, so made. In the present case, the said burden has not been discharged in any manner whatsoever. The decision in Air India Cabin Crew Assn. v. Yeshaswinee Merchant [(2003) 6 SCC 277, p. 311, para 72 : 2003 SCC (L&S) 840] , taking a somewhat different view can, perhaps, be explained by the fact that in the said case the impugned directions contained in the government letter (not expressed in the name of the President) was in exercise of the statutory power under Section 34 of the Air Corporations Act, 1953. In the present case, the impugned guidelines have not been issued under any existing statute."*

16. And that the Appellant has also not impleaded the necessary parties in this Appeal like MPPCB, therefore in absence of necessary party the Appeal suffers from inherent defect of mis-joinder of necessary party and therefore deserves to be dismissed summarily at this stage.

17. Respondent No.2, Central Pollution Control Board in its reply had submitted as follows:

> (i) That the averments contained in Paragraph No. 3.5 of the Appeal Application are referring the provisions of Revised Guidelines for Common Biomedical Waste Treatment Facility prepared by Central Pollution Control Board, Respondent No. 02. In this regard, it is humbly submitted that the said CPCB guidelines suggested the coverage area of 75 km for CBWTF to cover 10,000 beds with flexibility of extending coverage area upto 150 km of 10,000 beds were not available within 75 km. however, CBWTFs require to ensure that the waste is treated & disposed within 48 hours.
>
> (ii) SPCB may assess the quantity of biomedical waste generation for next 10 years, adequacy of existing CBWTFs in terms of capacity and compliance to prescribed norms in the region. Based on such gap analysis, additional CBWTFs may be considered as to ensure effective implementation of BMWM Rules, 2016.
>
> Respondent No. 02 directed State Environment Impact Assessment Authority to follow CPCB revised guidelines prior to grant Environment Clearance to any new CBWTF. It is emphasized that the guidelines issued by the Answering Respondent are mandatory in nature and are aimed at ensuring proper, effective and organized disposal of Biomedical Waste and have been circulated to all States for enforcement.

18. The contention of the learned counsel for the CPCB is based on the revised guidelines for CBWTF, where it has been provided that A Common Bio-medical Waste Treatment and Disposal Facility (CBWTF) is a set up where biomedical waste generated from member health care facilities is imparted necessary treatment to reduce adverse effects that this waste may pose on human health and environment. The treated recyclable waste may finally be sent for disposal in a secured landfill or for recycling. According to the Bio-medical Waste Management Rules, 2016, "bio-medical waste treatment and disposal facility" means any facility wherein treatment, disposal of bio-medical waste or processes incidental to such treatment and disposal is carried out, and includes common bio-medical waste treatment facilities and "operator of a common bio-medical waste treatment facility" means a person who owns or controls a Common Bio-medical Waste Treatment and Disposal Facility (CBWTF) for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste. The Bio-medical Waste Management Rules, 2016 restricts occupier for establishment of on-site or captive bio-medical waste treatment and disposal facility, if a service of common bio- medical waste treatment and disposal facility is available within a distance of seventy-five kilometer, as installation of individual treatment facility by health care facility (HCF) requires comparatively high capital investment. In addition, it requires separate dedicated and trained skilled manpower and infrastructure development for proper operation and maintenance of treatment systems. The concept of CBWTF is not only addresses such problems but also prevents proliferation of treatment technologies in a particular town or city. In turn, it reduces the monitoring pressure on regulatory agencies. By running the treatment equipment at CBWTF to its full capacity, the cost of treatment of per kilogram bio-medical waste gets significantly reduced. Its considerable advantages have made CBWTF popular and proven concept in most part of the world. Considering the likely impacts that may cause to the patients undergoing treatment because of operation of the captive treatment equipment within the health

care facilities (HCFs), now the Bio-medical Waste Management Rules, 2016 restricts the Occupier (i.e., HCF) for ensuring treatment and disposal of generated bio-medical waste through a CBWTF, located within a distance of 75 KM. Further, these rules eased the bottleneck in upbringing the CBWTF by making department in the business allocation of land assignment in the State or UT administration responsible for providing a suitable site (s) within its jurisdiction. The concept of CBWTF is also being widely accepted in India among the healthcare units, medical associations and entrepreneurs. In order to set up a CBWTF to its maximum perfection, care shall be taken in choosing the right technology, development of CBWTF area, proper designing of transportation system to achieve optimum results etc. Key features of CBWTF have been addressed in the subsequent sections. The Bio-medical Waste Management Rules, 2016 mandates that the operator of a CBWTF authorised by the prescribed authority is required to take all necessary steps to ensure that the bio-medical waste collected from the occupier is transported, handled, stored, treated and disposed of, without any adverse effect to the human health and the environment, in accordance with the BMWM Rules and the guidelines issued by the Central Government or the Central Pollution Control Board (CPCB) from time to time. Therefore, these guidelines have been prepared with an aim to have uniformity in ensuring site selection, allowing and establishment of a state-of-the-art CBWTF, operation as well as verification of compliance to the BMWM Rules, 2016 throughout the country. However, any other aspects which are not been covered under these guidelines and needs attention, in such a case, the prescribed authority may take suitable action in the interest of protection of the environment in consultation with MoEF & CC/CPCB. Also, it is pertinent to mention here that these guidelines are mandatory henceforth under the Bio-medical Waste Management Rules, 2016.

19. The criteria for development of a new CBWTF for a locality or region is as follows:

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

20. The location criteria as provided in the guidelines are as follows:

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

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

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

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

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

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

21. The contention of the learned counsel for the Applicant is that in view of the letter addressed to the Appellant issued from the District Trade and Industry Centre, Ujjain, the clearance should have not been issued to the Project Proponent. In reply thereof, it has been submitted by the learned counsel for the State that the CBWTF is governed by the Bio Medical Waste Management Rules, 2016 and the guidelines issued by the CPCB and thus the letter correspondence is of no importance in the subject matter. The matter of non-compliances and remedial measures were taken up by the Principal bench of this Tribunal in O.A. No. 95 of 2018 titled as Aryavart Foundation vs. M/s Vapi Green Enviro Ltd. & Ors. on 05th February, 2021 where it has been observed as follows:

"

*xviii. As per the information furnished by SPCBs / PCCs, about **10.71 Million MT of hazardous waste was generated** during 2018-19 by 69,054 units. About 45 % of waste is utilized / recycled and about 31 % of waste is disposed through TSDFs / SLFs*

xix. *There are 42 Common HW Treatment, Storage and Disposal Facilities (TSDFs) available in 18 States / UT, which includes 18 integrated TSDFs, having both Secured Landfills and Incinerators. In remaining 17 States / UTs the generated waste is mostly stored at occupier's premises.*

xx. *About 1,050 applications for utilization of different categories of HW under Rule 9 of HOWM Rules, 2016 have been received at CPCB. Upon technical examination and evaluation followed by successful trial runs, 54 SOPs for utilization of 40 different categories of HW have been developed and circulated to all SPCBs / PCCs. Gujarat is in forefront in utilising the hazardous wastes in industrial processes*

xxi. *As per compiled information from the Annual Reports of 2018, there were 2,70,416 Health Care Facilities (HCFs) reported in the country, 97,382 of HCFs bedded and 1,73,831 non-bedded. About 41 % of HCFs, 1,10,356 HFCs have obtained authorization under BMWM Rules, 2016.*

xxii. *About 615 TPD of biomedical waste was generated by the HCFs and 534 TPD of waste is treated and disposed. There were 200 Common Biomedical Waste Treatment Facilities (CBWTFs) and 12,326 captive treatment facilities installed by HCFs for the treatment & disposal of biomedical waste. In addition, 28 CBWTFs were under construction.*

xxiii. *All States / UTs; except Arunachal Pradesh, Goa, Jharkhand, Kerala and Uttarakhand had granted more than 75 % authorizations to the Health Care Faculties (HCFs), applied for authorization under the Bio-Medical Waste Management Rules.*

xxiv. *Municipal Solid Waste generation in the country was reported as 1,62,836 TPD.* ***About 92 % (1,49,346 TPD) of waste is collected and 37 % (60,683 TPD) of the collected waste is treated. About 27 % (44,835 TPD) of total waste is landfilled in 3,115 dumpsites. The remaining 43,828 TPD of solid waste was unaccounted, littered and dumped in drains, canals and low-lying areas***

Overall Recommendations: *Based on the information gathered through questionnaires, visits of the Expert Teams for auditing and interactions, the following general recommendations are made:*

i. The State Governments should allow the recruitment of the staff required by the respective SPCB and if needed, comprehensive assessments may be carried out for building suitable infrastructure for effective and improved performance.

ii. Based on the information collected on manpower at SPCBs, it was observed that large number of sanctioned posts are still vacant. It is recommended that recruitment process may be outsourced availing professional services, wherever internal shortcomings were observed.

iii. The State should prepare / revisit their Environmental Policies incorporating all the current aspects concerning the sustainability of the development, conservation of the resources and the objectives of the Environment Legislation of the country.

iv. The State Environmental Status Reports should be prepared / updated by the SPCBs incorporating the aspects of environmental quality parameters.

v. The States should prepare / update their industrial siting policies / criteria and regulated strictly as per the criteria

vi. The SPCBs should ensure preparation and submission of their annual reports with complete inventory details as per the timelines specified under the rules.

vii. All the SPCBs should ensure issuing the consolidated consents & authorization from the year 2021 by processing all applications online in transparent manner.

viii. The SPCBs should prepare / update the protocols for regular inspection of the polluting industries for timely identification of & action against the defaulters.

ix. The Online CEMS data generated from the system should be used for surveillance and monitoring for identifying habitual and frequent violators.

x. The SPCBs / PCCs should prescribe the inlet standards for CETPs for compliance of member industries.

xi. The States and UTs should adopt 'Online Tracking' for all wastes from generation point to final disposal point. A national tracking system initiated by CPCB may be shared with SPCBs.

xii. The SPCBs should ensure 100 % compliance of the Batteries Management Rules, 2001 and submission of the report to CPCB by December, 2020.

xiii. The SPCBs should develop & upgrade their laboratories and obtain the NABL Accreditation and MoEF&CC recognition on top priority by 2021.

xiv. The SPCBs should identify air & water quality monitoring locations covering the district headquarters, minor rivers, ponds, lakes and other important water bodies of the State / UT.

xv. The SPCBs / PCCs, situated along the main coastline, should establish a representative number of stations / locations for the monitoring of coastal waters in the range of 80 to 150 stations.

It is expected that the State Pollution Control Boards and Pollution Control Committees prepare comprehensive plans for strengthening the organisations and also incorporate short-term & long-term actions for abatement and control of pollution with budgetary estimates and obtain required approvals from the respective departments under State Government and UT Administration."

12. The environmental law principles, which this Tribunal is mandated to apply under sections 20 and 15 of the NGT Act, 2010, are – 'sustainable development', 'precautionary' and 'polluter pays'. In Hanuman Laxman, (2019) 15 SCC 401, (paras 142-156), significance of environmental rule of law has been highlighted to achieve sustainable development goals for prosperity, health and well being. ***This requires filling of gap between law and enforcement****. In T.N. Godavarman Thirumulpad v. Union of India, (2002) 10 SCC 606, at page 621****,*** *it was observed that the State has to*

"forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Therefore, ***hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment.*** *Environmental protection, therefore, has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is constitutional imperative on the Central Government, State Governments and bodies like municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve the man-made environment and natural environment."*

*13. In A.P. Pollution Control Board v. Prof. M.V. Nayudu, (1999) 2 SCC 718, at page 732, it was observed "..****Good governance is an accepted principle of international and domestic laws. .....It includes the need for the State to take the necessary "legislative, administrative and other actions" to implement the duty of prevention of environmental harm****...". In Techi Taga Tara, supra, the Hon'ble Supreme Court referred to several Committees on* ***need for revamping the regulatory bodies by appointing persons of outstanding ability and high reputation to the State PCBs and equipping them with laboratories and other equipment for performing statutory functions****. Apart from the Tribunal being approached under sections 14 and 15 by aggrieved parties, pointing out degradation of environment and inaction of the statutory regulators, the Hon'ble Supreme Court has required this Tribunal to monitor compliance of such statutory obligations for protecting environment. This is not possible unless the statutory regulators are effective. Significant issues so referred by the Hon'ble Supreme Court include a) liquid waste management, (2017) 5 SCC 326, Paryavaran Suraksha vs. Union of India & Ors. wherein it was directed that requisite STPs, ETPs, CETPs must be set up by 31.3.2018, failing which coercive*

measures may be taken against concerned authorities, to enforce statutory mandate of the Water (Prevention and Control of Pollution) Act enacted in 1974, prohibiting any water pollution, making it a criminal offence. b) compliance of solid waste management rules. Vide order dated 2.9.2014 in WP 888/1996, Almitra H. Patel Vs. Union of India & Ors. on the file of the Supreme Court, the issue has been referred to this Tribunal for monitoring compliance of Solid Waste Management Rules. c) In (2015) 12 SCC 764, MC Mehta v. UOI, issue of rejuvenation of Ganga stands referred to this Tribunal. d) Vide order dated 24.7.2017 in WP 725/1994, 'And quite flows Yamuna', rejuvenation of Yamuna stands referred to this Tribunal. It is not necessary to refer to several other orders. Finding that statutory regulators were not effective and serious damage was continuing, the Tribunal has appointed independent monitoring Committees[1] on several issues.

In substance, monitoring of the enacted environmental laws including the Water Act, Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and Rules framed thereunder needs to be reviewed and made effective in the interest of protection of environment and public health. This is not possible unless the regulatory bodies are duly manned and equipped and function efficiently. The report shows that it is not happening and there are huge gaps. With such gaps, it is only a dream to expect clean environment – fresh water or fresh air. Irreversible degradation of environment is bound to result in avoidable deaths and diseases and loss of scarce and good quality water, air and soil and biodiversity.

(IV) With regard to ***bio-medical waste,*** *the matter has been dealt with in OA 710/2017, Shailesh Singh, v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors., with regard to*

***hazardous waste**, matter has been dealt with in OA 804/2017, Rajiv Narayan v. Union of India & Ors., with regard to **e-waste,** matter has been dealt with in OA 512/2017, Shailesh Singh v. State of UP, with regard to **plastic waste**, matter has been dealt with in EA 13/2019 in OA 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors. for laying down liability to pay compensation for non-compliance.*

15. The failure of monitoring has been found to have direct nexus to atleast 10 industrial accidents [2] which have taken place in the recent past which have been dealt with by this Tribunal.

17. As earlier observed, damage to environment is directly linked to the public health and neglecting compliance of environmental norms results in deaths and injuries. Violation of environmental norms needs to be taken as seriously as preventing crimes of homicides and assaults. It is more serious as the victims may be wide spread and unidentified. The consequences may even affect future generations. The compliance status is directly linked to effectiveness of monitoring which requires that the key office bearers of statutory regulators and oversight bodies are qualified, competent and reputed and exclusively dedicated to such work, instead of devoting part time, while simultaneously holding other positions. In this regard, the Tribunal has made observations vide order dated 02.02.2021 in OA 231/2014, Doaba Paryavaran Samiti v. State of U.P & Ors, finding that the Member Secretary of the PCB in UP was only devoting part-time, while holding several other positions. Adequate and well-equipped laboratories and effective machinery for implementation of "Polluter Pays" principle for assessment and collection of compensation is another important aspect of environmental governance.

20. *Further, for improving monitoring and planning, authentic data needs to be compiled at all levels. Initiative will have to be taken consistent with Digital India initiatives by the MoEF/MoJS/MoUD/CPCB and based on such policy decisions, the Environment departments of all States/UTs will have to compile data in their respective jurisdiction, preferably Districtwise. On that basis District Environment Data Grid (DEDG), State Environment Data Grid (SEDG) and National Environment Data Grid (NEDG) can be set up and continuously updated. The Grid can be connected to online monitoring systems. Comprehensive Environment Pollution Index (CEPI) is being prepared limited to the Industrial Area but the Grid can cover larger areas and aspects and can be source of research and planning. It can also facilitate monitoring of and be in sync with other government initiatives such as National Mission for Clean Ganga, Swachh Bharat and Jalshakti Abhiyan etc. Based on such data, it may also be easier to study 'carrying capacity' of different areas to plan siting policy for various activities."*

22. In light of the above averments, the learned counsel appearing for the CPCB has submitted that the matters are being regularly monitored by the State authorities or authorities concerned for proper disposal of the waste generated through the hospitals. The law should be interpreted in the beneficial way because the CBWTF is a beneficial legislation which is intended to achieve the target of disposal of all waste materials generated from the hospitals within a specified area and it does not prohibit establishment of any other facility in accordance with the gap of generation and disposal capacity.

23. In view of the above facts while considering the Environment Clearance of the application, the Respondent/the Competent Authority have gone through the proposal and the guidelines issued by the CPCB

and total generation of BMW and also considered the existing CBWTF and its coverage area which has been given place at point no. XIV in the order impugned and in light of the coverage area, total number of beds and estimated quantity, the recommendation was issued in accordance with the rules and guidelines. There is no illegality or irregularity while passing the order impugned and this Tribunal is of the view that the order passed is in accordance with the provisions of law and within the jurisdiction. Nothing has been shown to be in contravention of any provisions of Bio Medical Management Rules or the guidelines issued by the CPCB and thus the appeal has no merit and deserved to be dismissed and accordingly **dismissed**.

Sheo Kumar Singh, JM

Arun Kumar Tyagi, JM

Dr. Arun Kumar Verma, EM

Dr. Afroz Ahmad,EM

05th April 2022
Appeal No. 73/2021 (CZ)
PU