

Item No. 05

Court No. 1

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

(By Video Conferencing)

Original Application No. 237/2020  
IN  
Original Application No.180/2017(WZ)  
(M.A. No. 383/2017)

Purva Pravin Bora & Ors.

Applicant(s)

Versus

MoEFCC& Ors.

Respondent(s)

Date of hearing: 12.03.2021

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

Applicant: Mr. Asim Sarode, Advocate

Respondent(s): Mr. Rakesh Mahajan, Advocate & Mr. Rahul Garg, Advocate for MoEF&CC  
Ms. Manasi Joshi, Advocate for MPCB.  
Mr. Sameer Khale, Advocate for Respondent No. 5.  
Mr. Abhinav Shrivastava, Advocate & Mr. Karan Kohli, Advocate for  
Respondent Nos. 8 & 10.  
Mr. Kapil Arora, Advocate for Respondent No. 11.

**ORDER**

1. Prayer in this application is to enforce the mandate of Rule 17(3) of the Solid Waste Management (SWM) Rules, 2016, requiring the manufacturers and brand owners of sanitary napkins and diapers to provide a pouch or wrapper for disposal of each napkin or diapers along with the packet of their sanitary products.

2. During the hearing our attention has been drawn to order dated 03.08.2017 of the NGT, Bhopal Bench in *O.A. 30/2015, PC Sharma v. M/s Proctor and Gamble Home & Ors.*, directing enforcement of the said rule.

Against the said order, Civil Appeal Diary No. 46725/2019, *M/s. Procter and Gamble Home Products Limited v. PC Sharma & Ors.* has been filed in the Hon'ble Supreme Court wherein, on 27.01.2020, following order has been passed:-

“Delay condoned. Issue notice, returnable in four weeks.

Dasti service be effected on the respondents in addition.

Liberty is granted to the petitioner to file additional documents.

Status quo, as on today, shall remain in force until further orders.”

### **Procedural History of present Application**

3. The application was filed on 10.11.2017. On 19.12.2017, notice was issued to all the respondents, namely, MoEF&CC, the Maharashtra Pollution Control Board (MPCB), the Director, Health Department, Government of Maharashtra, the Pune Municipal Corporation (PMC), the Municipal Corporation of Greater Mumbai (MCGM), the Nagpur Municipal Corporation (NMC) and the Secretary, Department of Urban Development, Government of Maharashtra, Johnson & Johnson Private Ltd., Unicharm India Private Ltd., Kimberly-Clark Lever Ltd. and Procter and Gamble India.

4. On 17.03.2020, while adjourning the matter at the instance of the MoEF&CC, the Tribunal noted the deleterious impact of non-compliance of the rules as follows:

“2. *It is contended that waste management system for disposal of waste sanitary napkins mentioned in the Solid Waste Management Rules, 2016 are not yet being implemented in the State of Maharashtra. As a result of this, there has been degradation of environment and harm caused to the general public as well as those handling such waste.*

3. *It is stated that incineration of such waste which has been practiced widely has also proven to be deleterious to the environment as the disposable absorbent hygiene products are made of multiple layers of cellulose or wood-pulp, LDPE plastic polymers and polyacrylate. It is further contended inter-alia*

that when such complex plastic polymer products are burnt at lower temperatures they typically release asphyxiant and irritant gases into the atmosphere. **The biodegradable components, such as cellulose or wood-pulp in absorbent hygiene products often contain furans (due to use of pesticides) and dioxins (due to a chlorine-bleach process) which are among the most deadly toxins being highly carcinogenic even in trace quantities. When absorbent hygiene products are burnt these toxins are released into the atmosphere and can travel a long way from the point of emission. Dioxins are additionally hormone disruptors that cause reproductive and developmental problem, damage the immune system, and can be transmitted by mothers directly to their unborn babies.** In the absence of scientific knowledge about the individual and combined effects of different kinds of chemicals present in the waste or formed during incineration, experts advise on adopting the precautionary principle and refraining from incinerating plastic waste.

4. *It is submitted that sanitary napkins cannot be considered as plastic waste according to the Plastic Waste Management Rules, 2016 and also do not find mention in the Biomedical Waste Management Rules, 2016. Therefore, the Solid Waste Management Rules 2016 is the only legal document which creates legal liability for the Central and State Government to look after management of sanitary napkins considering it as solid waste.”*

5. Vide order dated 18.06.2020, the Tribunal took note of the Swachh Bharat Mission Guidelines (SBM-G) and Menstrual Hygiene Management (MHM), giving details of various options in handling the situation for control of pollution. The relevant extracts from the said order are as follows:-

“7. Applicant further argued that Menstrual Hygiene Management (MHM) is an integral part of the Swachh Bharat Mission Guidelines (SBM-G). The MHM Guideline (Dec 2015) is issued by the Ministry of Drinking Water and Sanitation to support all adolescent girls and women. It outlines what needs to be done by state governments, district administrations, engineers and technical experts in line departments; and school head teachers and teachers, and quoted guidelines as below:

“3. Barring some isolated practices, sanitary waste management is not implemented according to the provisions under SMW Rules, 2016. The initiatives made were mainly for disposal of used sanitary napkins for menstrual waste stream. No initiatives were reported for collection and disposal of other sanitary wastes such as infant diapers, adult diapers, tampons, condoms, incontinence sheets and other similar waste is yet to be evolved in the country by the key

stakeholders namely Consumer, Producers and Local Authorities.

### 6.0 Waste Management Options

Option	Type of waste	Where to Use	Specifications/ Pollution control norms
Low-cost, Locally made incinerators	Napkins and other wastes. Best suited for ads with high cellulose content, not those that have super absorbent polymers (SAP)	Rural Girls School, Colleges, Institutions, Hostels etc.	<ul style="list-style-type: none"> <li>• Manually operated</li> <li>• Minimum Size: 3' × 3' × 3'</li> <li>• Design: As given in MHM Guidelines, Technical Guide 2</li> <li>• Capacity should be ~200 Napkins/Day</li> <li>• Comprises of two chambers (for firing and ash collection)</li> <li>• An emission control system along with a door for firing</li> <li>• Made of brick masonry</li> <li>• Opacity of the smoke shall not exceed 20%.</li> <li>• All the emissions to air other than steam or water vapor shall be odorless and free from mist, fume and droplets.</li> <li>• Operation temperature reaches up to 300°C</li> <li>• Assure 100% burning effectiveness.</li> <li>• The incineration chamber shall be designed to</li> </ul>

			<p>include an auxiliary gas or oil burner to be used as necessary to maintain the prescribed minimum combustion temperatures.</p> <ul style="list-style-type: none"> <li>• If diesel is used, low Sulphur diesel shall be used as fuel in the incinerator.</li> <li>• Compliance to General Emission Standards for air pollutants notified under E (P) Act, 1986 or as may be prescribed by SPCBs/PCCs.</li> </ul>
Electric Incinerators	Bulk amount of napkin wastes	Girls toilets, community toilets, complexes, Malls, Society Complex etc.	<ul style="list-style-type: none"> <li>• Ensure complete burning of napkin.</li> <li>• Ensure instant disposal in a scientific and hygienic way with fully automatic way and burn completely.</li> <li>• Burns 150 to 200 napkins/day, can be programmed for cycles/day</li> <li>• Self-disposal by user by directly putting into the incinerator.</li> <li>• Ash generation should not exceed more than 5% per napkin</li> </ul>

			<ul style="list-style-type: none"> <li>• Ash should be collected in separate tray and ensure stack on that tray.</li> <li>• Auto power &amp; thermal cut-off and automatic temperature maintenance should be there for safety of user.</li> <li>• Inside refractory lining should be excellent heat retention to avoid thermal loss.</li> <li>• The residence time for gaseous products in the combustion chamber will be designed to be at least 2 seconds to ensure complete combustion.</li> <li>• The emission from incinerators shall comply the General Emission Standards mentioned under Standard for incineration section in SWM Rules, 2016.</li> </ul>
High-temperature incinerators for bio-medical waste	Incinerate all types of pads (those with high cellulose content, high	Waste burnt at Central/combined incinerator facility	<ul style="list-style-type: none"> <li>• The incinerator shall be designed for capacity more than 50 kg/hr.</li> <li>• The double chamber incinerator shall</li> </ul>

	<p>moisture content, and those with SAP) and all types of bio-medical waste</p>		<p>preferably be designed on "controlled-air" incineration principle, as particulate matter emission is low in such incinerator. Minimum 100% excess air shall be used for overall design.</p> <ul style="list-style-type: none"> <li>• No incinerator shall be allowed to operate unless equipped with Air Pollution Control Device (APCD).</li> <li>• The incineration ash shall be stored in a closed sturdy container in a masonry room to avoid any pilferage. Finally, the ash shall be disposed in a secured landfill.</li> <li>• Emission control measures must be followed as per Schedule II of the Bio-medical Waste Management Rules, 2016, notified under the Environment (Protection) Act 1986.</li> <li>• The location, structural design etc. of</li> </ul>
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			<p><i>the incinerator shall be as per the guidelines of Bio-medical Waste Rules, 2016, published by CPCB under Guidelines for Bio-medical Waste Incinerator, 2017.</i></p> <ul style="list-style-type: none"> <li>• <i>A skilled person shall be designated to operate and maintain the incinerator.</i></li> </ul>
<i>Deep burial</i>	<i>compostable sanitary pads (e.g., made of Natural fibres), not pads made of bleached cellulose, SAP, and plastic covering</i>	<i>Villages and small towns</i>	<ul style="list-style-type: none"> <li>• <i>Once the used absorbent material is put inside the burial pit, it should be covered with soil or sand. It should not be kept exposed to open air.</i></li> <li>• <i>The pit should be constructed at a distance of about 5 to 7 meters from drinking water source</i></li> <li>• <i>Depending upon the number of users the size can vary.</i></li> <li>• <i>Minimum Specificatio: 0.5 m × 0.5 m × 1.0 m, or even better 1.0 m × 1.0 m × 1.0 m (l×b×d).</i></li> <li>• <i>The technical descriptions must be followed as per Technical Guide 2,</i></li> </ul>



			<i>notified under MHM National Guidelines, December 2015.</i>
<i>Composting</i>	<i>Used paper, tissues, cloth based absorbents and even some sanitary napkins (if they made only of wood pulp and non-woven cotton) Commercial disposable pads will not compost</i>	<i>Composting can be made in communities (both urban and rural), and schools, encouraging for community based and community led composting</i>	<ul style="list-style-type: none"> <li>• <i>Used menstrual absorbent should be mixed and covered with materials such as leaves, dried plants or other bio-degradable material.</i></li> <li>• <i>The need to be properly moist, which might requires watering during dry periods.</i></li> <li>• <i>Once the pit is filled, it should be covered properly with soil so as to avoid smell, destruction from rodents, etc.</i></li> <li>• <i>Minimum Specification: 0.5 m × 0.5 m × 1.0 m, or even better 1.0 m × 1.0 m × 1.0 m (l×b×d).</i></li> <li>• <i>The technical descriptions must be followed as per Technical Guide 2, notified under MHM National Guidelines, December 2015.</i></li> </ul>
<i>Pit burning</i>	<i>Plain cotton clothes of degradable sanitary</i>	<i>Rural area, where there are no better options</i>	<ul style="list-style-type: none"> <li>• <i>The burning should be carried out at about 1 m</i></li> </ul>

	<i>material</i>	<i>available</i>	<p><i>depth with some good burning material like dried wood or sometimes kerosene oil or fuel is used.</i></p> <ul style="list-style-type: none"> <li>• <i>During the burning, there should be safety measures, such as a dedicated personal and avoid contact by unauthorized students.</i></li> <li>• <i>Minimum specification: 0.5 m × 0.5 m × 1.0 m; 1.0 m × 1.0 m × 1.0 m (l×b×d).</i></li> <li>• <i>The technical descriptions must be followed as per Technical Guide 2, notified under MHM National Guidelines, December 2015.</i></li> </ul>
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8. *As per the mandate given under the SWM Rules, 2016 the Producers shall involve in following activities:*

*“(a) Provide wrapping pouches OR Provide suitable self-wrapping (sealing straps) for the used sanitary waste so that the sanitation staff (Safai Karmachari) are not exposed to sanitary waste during handling. Wrapping system or pouches provided by Producers shall have symbols for easy identification of waste thereby prompting the workers not to open the pack for examination.*

*(b) Work with local agencies for achieving segregated collection and disposal of sanitary waste.*

*(c) Indulge in providing mass education and awareness in proper handling and segregation and disposal of sanitary napkins.*

*(d) Explore the possibility of using recyclable materials in their products.*

**i. By Private Agencies:**

- a. Segregated sanitary waste can be disposed by Incineration through authorised common Biomedical Waste Treatment and Disposal Facilities. An authorised waste picker by local authorities (as per SWM Rules, 2016) can provide such services on commercial basis. The SPCBs/PCCs may authorise common CBWTDFs to receive sanitary waste from such service providers, only in case the existing CBMWTDF has adequate capacity to dispose the same.*
- b. In small cities, the sanitary wastes can be composted if cotton/clothes are separated from the products. Otherwise, the sanitary waste will go along with dry waste for disposal.*
- c. In Class I cities sanitary waste can be landfilled. The sanitary wastes also can be utilized in waste-to-energy or co-processing in cement kilns/power plants.*

**ii. At SPCBs/PCCs Level:**

*SPCBs/PCCs may allow sale and operation of mini and modular incinerators for disposal of sanitary napkins. Modular incinerators can be promoted only in case of remote locations (military establishments, camps etc.) or for the areas having no access to common incinerators. For allowing such modular incinerators, SPCBs shall ensure the following;*

- a. Depending on type of technology provider, modular incinerators can be based on twin chamber incineration, Magnetic Pyrolysis Furnaces, plasma pyrolysis furnaces, electrically operated furnaces, Clay-pot (Matka incinerator) etc.*
- b. Modular incinerators may have to demonstrate compliance to general emission standards for air emissions notified under E (P) Act, 1986 or as may be prescribed by SPCBs/PCCs. In this regard, they shall produce test certificate from EPA recognized/ accredited laboratory so as to sell their Product.*
- c. Considering low volume of flue gases, the cleaned flue gases after complying with standards shall be vented through stacks of height atleast 2m above the roof or the nearest building or as may be decided by SPCBs.*

- d. SPCBs may randomly verify functioning of such incinerators, and in case of non-compliance to emission standards, they shall direct the manufactures/Producers to not to place their Products on the market.
- e. Convergence and coordination with different ministries, departments and schemes and awareness creation around sanitary waste management through well targeted commutations and media plans.
- f. The SBCSs is also responsible for identifying district level resources people and implementing partners, to assist the process of orienting all relevant district and sub district personals.
- g. SPCBs shall organize the collaborative orientation programmes between the SWM Cell/ WSSO, Department of Education, Department of Women & Child Development, Department of Health and P&RD.

**iii. At ULB/Local Level:**

*As per the mandate, the ULBs in association or assistance with Producers shall make necessary arrangements for collection and disposal of sanitary waste. The following options are envisaged for disposal;*

- a. *Send the segregated sanitary waste to available waste management options/incinerators for final disposal/incineration. (These incinerators may be of TSDFs or CBMWTFs)*
- b. *The sanitary waste, if collected as part of segregated non-recyclable dry-waste may feed for Waste to Energy plants.*
- c. *ULBs may also install a stand-alone common incinerator for disposal of sanitary waste and other wastes (such as STP/drain sludge).*
- d. *Create awareness of the negative consequences of poor waste management on health and the environment due to sanitary waste.*
- e. *Develop waste management systems at the local level and facilitate access to water, sanitation and waste disposal for women and girls, especially in rural areas.*
- f. *Involve women in the design of sanitation and waste management structures to ensure menstrual waste-related needs for disposal, collection and treatment are taken into account.*
- g. *Support from private sectors in development of menstrual waste management products that are*

*environmentally friendly and accessible for women and girls.*

- h. Industrial Groups/ Commercial Groups to involve in sanitary waste management (collection to disposal) under Corporate Social Responsibility (CSR) and promotion of Extended Producers Responsibilities (EPR) for providing pouch /wrappers for safe handling of sanitary wastes and decentralized deposit centres.*
- i. Ensure implementation of sanitary waste guidelines and policies and monitoring of KPI and inclinators.*
- j. ULBs must conduct the training sessions in schools and communities along with the key messages of Hygienic practices as per the MHM Guidelines.”*

6. Vide last order dated 19.10.2020, the Tribunal analysed the statutory provisions of the SWM Rules, 2016. However, the matter was referred to the Principal Bench for final consideration. Relevant extracts from the said order are as follows:-

*“7. As per the mandate given under the SWM Rules, 2016 the Producers shall involve in following activities:*

*“(a) Provide wrapping pouches OR Provide suitable selfwrapping (sealing straps) for the used sanitary waste so that the sanitation staff (Safai Karmachari) are not exposed to sanitary waste during handling. Wrapping system or pouches provided by Producers shall have symbols for easy identification of waste thereby prompting the workers not to open the pack for examination.*

*(b) Work with local agencies for achieving segregated collection and disposal of sanitary waste.*

*(c) Indulge in providing mass education and awareness in proper handling and segregation and disposal of sanitary napkins.*

*(d) Explore the possibility of using recyclable materials in their products.*

***i. By Private Agencies:***

*a. Segregated sanitary waste can be disposed by Incineration through authorised common Biomedical Waste Treatment and Disposal Facilities. An authorised waste picker by local authorities (as per SWM Rules, 2016) can provide such services on commercial basis. The SPCBs/PCCs may authorise common CBWTDFs to receive sanitary waste from*

*such service providers, only in case the existing CBMWTDF has adequate capacity to dispose the same.*

*b. In small cities, the sanitary wastes can be composted if cotton/clothes are separated from the products. Other-wise, the sanitary waste will go along with dry waste for disposal.*

*c. In Class I cities sanitary waste can be landfilled. The sanitary wastes also can be utilized in waste-to-energy or coprocessing in cement kilns/power plants.*

**ii. At SPCBs/PCCs Level:**

*SPCBs/PCCs may allow sale and operation of mini and modular incinerators for disposal of sanitary napkins. Modular incinerators can be promoted only in case of remote locations (military establishments, camps etc.) or for the areas having no access to common incinerators. For allowing such modular incinerators, SPCBs shall ensure the following;*

*a. Depending on type of technology provider, modular incinerators can be based on twin chamber incineration, Magnetic Pyrolysis Furnaces, plasma pyrolysis furnaces, electrically operated furnaces, Clay-pot (Matka incinerator) etc.*

*b. Modular incinerators may have to demonstrate compliance to general emission standards for air emissions notified under E (P) Act, 1986 or as may be prescribed by SPCBs/PCCs. In this regard, they shall produce test certificate from EPA recognized/accredited laboratory so as to sell their Product.*

*c. Considering low volume of flue gases, the cleaned flue gases after complying with standards shall be vented through stacks of height atleast 2m above the roof or the nearest building or as may be decided by SPCBs.*

*d. SPCBs may randomly verify functioning of such incinerators, and in case of non-compliance to emission standards, they shall direct the manufactures/Producers to not to place their Products on the market.*

*e. Convergence and coordination with different ministries, departments and schemes and awareness creation around sanitary waste management through well targeted commutations and media plans.*

*f. The SBCSs is also responsible for identifying district level resources people and implementing partners, to assist the process of orienting all relevant district and sub district personals.*

*g. SPCBs shall organize the collaborative orientation programmes between the SWM Cell/ WSSO, Department of Education, Department of Women & Child Development, Department of Health and P&RD.*

**iii. At ULB/Local Level:**

*As per the mandate, the ULBs in association or assistance with Producers shall make necessary arrangements for collection and disposal of sanitary waste. The following options are envisaged for disposal;*

*a. Send the segregated sanitary waste to available waste management options/incinerators for final disposal/incineration. (These incinerators may be of TSDFs or CBMWTFs)*

*b. The sanitary waste, if collected as part of segregated non-recyclable dry-waste may feed for Waste to Energy plants.*

*c. ULBs may also install a stand-alone common incinerator for disposal of sanitary waste and other wastes (such as STP/drain sludge).*

*d. Create awareness of the negative consequences of poor waste management on health and the environment due to sanitary waste.*

*e. Develop waste management systems at the local level and facilitate access to water, sanitation and waste disposal for women and girls, especially in rural areas.*

*f. Involve women in the design of sanitation and waste management structures to ensure menstrual waste-related needs for disposal, collection and treatment are taken into account.*

*g. Support from private sectors in development of menstrual waste management products that are environmentally friendly and accessible for women and girls.*

*h. Industrial Groups/ Commercial Groups to involve in sanitary waste management (collection to disposal) under Corporate Social Responsibility (CSR) and promotion of Extended Producers Responsibilities (EPR) for providing pouch /wrappers for safe handling of sanitary wastes and decentralized deposit centres.*

*i. Ensure implementation of sanitary waste guidelines and policies and monitoring of KPI and inclinators.*

*j. ULBs must conduct the training sessions in schools and communities along with the key messages of Hygienic practices as per the MHM Guidelines.*

**8 to 12** -----xxx-----xxx-----xxx-----

**13. Accordingly, we request and direct the Registry to place the matter before the Hon'ble Chairperson for transferring this case to the Principal Bench of this Tribunal at New Delhi."**

7. Accordingly, the matter has been placed before this bench for further consideration.

#### **Consideration of the matter and final order**

8. We have perused the pleadings and heard learned Counsel for the parties. We have already noted the stand of the Applicants and the provisions of the Rules as well as guidelines dealing with the matter. We have also noted that the Bhopal Bench has already taken a view in the matter and it is now pending consideration before the Hon'ble Supreme Court. In the light of these developments, while noting that the order of status quo granted by the Hon'ble Supreme Court will bind the parties, we do not see any obstacle in disposing of the matter subject to further orders of the Hon'ble Supreme Court.

#### **Stand of the Respondents**

9. Before considering final order, we may refer to the stand of the respondents. The MoEF&CC in its affidavit filed on 05.06.2018, through its Scientist 'D', followed by second affidavit filed on 16.10.2020, has merely referred to the scheme of the Rules. The stand of the PMC is that it is collecting the waste from door-to-door and educating the users. It has given contract for collection of waste. Similar is the stand of the MCGM and NMC. The stand of the private respondent, Procter and Gamble India, is that its appeal against order 03.08.2017 of the NGT, Bhopal Bench in *O.A. 30/2015, PC Sharma v. M/s Proctor and Gamble Home & Ors.* being Civil Appeal No. 835-836/2020 is pending before the Hon'ble Supreme Court, which we have already noted earlier. It is further stated that the said respondent is complying with first limb of Rule 17(3) of the SWM Rules, 2016 and has taken steps to bring patented technology. It is trying to



conduct a pilot run by creating recycling facility in the city of Pune. Simply providing pouches along with the sanitary napkin products create more plastic waste. The PMC has installed incinerators to treat waste and a separate contract for collection of waste from school, colleges, hostels and individual societies has been given to a contractor. M/s. Johnson & Johnson Private Limited has taken identical stand. In second counter affidavit filed by M/s. Johnson & Johnson Private Limited on 22.01.2021, it is stated that 95% of the material contained in the sanitary napkins is recyclable. It is further stated that the said party is fully compliant as requirement is either to provide a pouch or a wrapper. Since, the pouch or wrapper is not available, the same is to be introduced shortly. 99% of the variants of sanitary napkins of the answering respondent already have either a pouch or a wrapper for disposal of sanitary napkins. The responsibility to demand financial assistance for waste management system is of the local body. No guidelines have been laid down by the Central Government for collection of such assistance. The CPCB provided the said party to collect 70% of plastic waste in 2019-20. It has brought back and recycled 73% of plastic waste. For the year 2020-21 it is to collect and recycle 100% plastic waste in terms of letter dated 21.02.2020 submitted to the CPCB.

#### **CPCB Guidelines on the subject**

10. Our attention has also been drawn to CPCB Guidelines for Management of sanitary waste, issued in May, 2018. The same refer to Menstrual Hygiene Management National Guidelines (December 2015) and Menstrual Hygiene Management (MHM) in the SBM-G Guidelines, 2017. The guidelines refer to Current User Practices & Implementation Status and finally lay down following guidelines to be followed at consumer level,

producers' level, private agencies and SPCBs/PCCs level, ULB and Panchayat level:-

**“7.0 Role of Customer/Producers/Private Agencies/SPCBs & PCCs/ULBs/ Villages/Panchayat/Local levels**

*The following options are suggested for disposal of sanitary waste through different stakeholders;*

**i. At Consumer Level:**

- (a) *The consumer shall wrap the sanitary waste using self-wrapping straps or keep the sanitary waste in leak-proof pouches provided by producer and dispose the same along with dry waste or keep the waste in separate bin provided at the time of door to door collection by local agency. In case separate bin is not provided by authorized waste picker, the wrapped/pouched sanitary waste should be placed in dry-waste bin for collection by authorized waste picker (during door to door collection).*
- (b) *In case Producers does not provide wrapper or Pouch, the used sanitary waste should be wrapped in old newspaper and placed in dry-waste bin for collection by authorized waste picker (during door to door collection).*

**ii. At Producers Level:**

*As per the mandate given under the SWM Rules, 2016 the Producers shall involve in following activities;*

- (a) *Provide wrapping pouches OR Provide suitable self-wrapping (sealing straps) for the used sanitary waste so that the sanitation staff (Safai Karmachari) are not exposed to sanitary waste during handling. Wrapping system or pouches provided by Producers shall have symbols for easy identification of waste thereby prompting the workers not to open the pack for examination.*
- (b) *Work with local agencies for achieving segregated collection and disposal of sanitary waste.*
- (c) *Indulge in providing mass education and awareness in proper handling and segregation and disposal of sanitary napkins.*
- (d) *Explore the possibility of using recyclable materials in their products.*

**iii. By Private Agencies:**

- (a) *Segregated sanitary waste can be disposed by Incineration through authorised common Biomedical Waste Treatment and Disposal Facilities. An authorised waste picker by local authorities (as per SWM Rules, 2016) can provide such services on commercial basis. The SPCBs/PCCs may authorise common*

*CBWTDFs to receive sanitary waste from such service providers, only in case the existing CBMWTDF has adequate capacity to dispose the same.*

- (b) In small cities, the sanitary wastes can be composted if cotton/clothes are separated from the products. Other-wise, the sanitary waste will go along with dry waste for disposal.*
- (c) In Class I cities sanitary waste can be landfilled. The sanitary wastes also can be utilized in waste-to-energy or co-processing in cement kilns/power plants.*

**iv. At SPCBs/PCCs Level:**

*SPCBs/PCCs may allow sale and operation of mini and modular incinerators for disposal of sanitary napkins. Modular incinerators can be promoted only in case of remote locations (military establishments, camps etc.) or for the areas having no access to common incinerators. For allowing such modular incinerators, SPCBs shall ensure the following;*

- (a) Depending on type of technology provider, modular incinerators can be based on twin chamber incineration, Magnetic Pyrolysis Furnaces, plasma pyrolysis furnaces, electrically operated furnaces, Clay-pot (Matka incinerator) etc.*
- (b) Modular incinerators may have to demonstrate compliance to general emission standards for air emissions notified under E (P) Act, 1986 or as may be prescribed by SPCBs/PCCs. In this regard, they shall produce test certificate from EPA recognized/ accredited laboratory so as to sell their Product.*
- (c) Considering low volume of flue gases, the cleaned flue gases after complying with standards shall be vented through stacks of height atleast 2m above the roof or the nearest building or as may be decided by SPCBs.*
- (d) SPCBs may randomly verify functioning of such incinerators, and in case of non- compliance to emission standards, they shall direct the manufactures/Producers to not to place their Products on the market.*
- (e) Convergence and coordination with different ministries, departments and schemes and awareness creation around sanitary waste management through well targeted commutations and media plans.*
- (f) The SBCSs is also responsible for identifying district level resources people and implementing partners, to assist the process of orienting all relevant district and sub district personals.*
- (g) SPCBs shall organize the collaborative orientation programmes between the SWM Cell/ WSSO, Department of Education, Department of Women & Child Development, Department of Health and P&RD.*

**v. At ULB/Local Level:**

*As per the mandate, the ULBs in association or assistance with Producers shall make necessary arrangements for collection and disposal of sanitary waste. The following options are envisaged for disposal;*

- (a) Send the segregated sanitary waste to available waste management options/incinerators for final disposal/incineration. (These incinerators may be of TSDFs or CBMWTFs)*
- (b) The sanitary waste, if collected as part of segregated non-recyclable dry-waste may feed for Waste to Energy plants.*
- (c) ULBs may also install a stand-alone common incinerator for disposal of sanitary waste and other wastes (such as STP/ drain sludge).*
- (d) Create awareness of the negative consequences of poor waste management on health and the environment due to sanitary waste.*
- (e) Develop waste management systems at the local level and facilitate access to water, sanitation and waste disposal for women and girls, especially in rural areas.*
- (f) Involve women in the design of sanitation and waste management structures to ensure menstrual waste-related needs for disposal, collection and treatment are taken into account.*
- (g) Support from private sectors in development of menstrual waste management products that are environmentally friendly and accessible for women and girls.*
- (h) Industrial Groups/ Commercial Groups to involve in sanitary waste management (collection to disposal) under Corporate Social Responsibility (CSR) and promotion of Extended Producers Responsibilities (EPR) for providing pouch /wrappers for safe handling of sanitary wastes and decentralized deposit centres.*
- (i) Ensure implementation of sanitary waste guidelines and policies and monitoring of KPI and indicators.*
- (j) ULBs must conduct the training sessions in schools and communities along with the key messages of Hygienic practices as per the MHM Guidelines.*

**vi. At Villages/Panchayat Level:**

*At villages and Panchayat areas not having access to common incinerators, may dispose used home-made sanitary napkins made of natural tissues/paper/cloth/cotton as well as re-usable commercial cotton napkins in small **burial pits** of more than 50 cm deep or into*

*pit latrines. In case of commercial sanitary napkins made with plastic and liners, low cost incinerators like **Matka Incinerator** kept in open areas (such as open backyard, open fields, terrace of the house, etc.).”*

### **Final Order**

11. We find that the matter is governed by Rule 17 of the SWM Rules, 2016 which is to be read with the guidelines issued by the CPCB as well as other guidelines, quoted above. Thus, legal position is clear and issue is of compliance and regulation by the statutory regulatory authorities.

12. Accordingly, we dispose of this application by directing the statutory authorities to enforce compliance of the SWM Rules read with the CPCB guidelines referred to above. This will be subject to such further order as may be passed by the Hon'ble Supreme Court in the matter pending before it. Needless to say, the parties before the Hon'ble Supreme Court will be bound by the interim order of the Hon'ble Supreme Court, already quoted above.

A copy of this order be forwarded to the MoEF&CC, CPCB, State PCBs/PCCs and the Secretaries, Urban Development and Environment of all the States/UTs, who may forward the order to all the local bodies also.

In view of order in the main matter, M.A. No. 383/2017 also stands disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 12, 2021  
Original Application No. 237/2020 in  
Original Application No.180/2017(WZ)  
AVT