

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

Miscellaneous Application No. 71/2023
IN
Original Application No.186/2022

Rajesh Kumar

Applicant

Versus

State of Punjab

Respondent

Date of hearing: 24.07.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): None

Respondent(s): Mr. Naginder Benipal, Ms. Anjali Pandey and Mr. Shubham Saini, Advocates for PPCB with Mr. Rajesh Kumar, Environmental Engineer and Mr. Shukwant Singh, Assistant Environmental Engineer

ORDER

1. This Original Application was registered in exercise of *suo-moto* jurisdiction on a letter petition dated 28.01.2022, sent by Rajesh Kumar son of Kishan Lal, resident of H.No. M3/538, S.D. School Wali Galim Guru Ram Dass Nagar, Tehsil and District Amritsar, (State of Punjab), complaining that hospitals situated in Pathankot, particularly in the areas mentioned in Annexure-A to the letter petition, are illegally and unscientifically disposing of bio medical waste on streets, roads and vacant land in violation of Bio Medical Waste Management Rules, 2016 (hereinafter referred to as '**BMWM Rules, 2016**'), and causing health hazard and damage to environment.

2. Initially, Tribunal thought it expedient to obtain a Factual Report and constituted a Joint Committee comprising Central Pollution Control Board (hereinafter referred to as '**CPCB**'), Punjab State Pollution Control Board (hereinafter referred to as '**PSPCB**'), Municipal Corporation, Pathankot and District Magistrate, Pathankot. The Committee was required to submit report within four weeks.

3. Pursuant to order dated 20.04.2022, Joint Committee submitted its Report vide email dated 18.08.2022. Report shows that random visit was conducted by Committee at various hospitals in Pathankot on 14.07.2022 and Common Bio Medical Waste Treatment Facility (hereinafter referred to as '**CBWTF**') operated by M/s Bio Medical Waste Treatment Plant Pvt. Ltd., Village Pangoli, defence road, Pathankot. The observations made by Joint Committee pursuant to above inspection read as under:

4.0 Salient Observations: 1. *The committee carried out random Survey of 08 Health Care Facilities (HCFs) located at Pathankot. The Committee verified the status of :-*

(i) Segregation at the point of generation of waste in colour coded containers

(ii) In-house transportation of BMW

(iii) Temporary storage of BMW within HCFs

(iv) Records of waste generation and housekeeping.

(v) Status of agreement with Common bio-medical waste treatment facility (CBWTF)

(vi) Status of Authorization BMW Rules, 2016.

2. During visit, committee observed that HCFs have requisite facilities for handling the biomedical waste generated and these were found satisfactory.

3. The committee observed that Hospitals have provided posters/placards for bio- medical waste segregation in all the wards and temporary waste storage areas.

4. As informed by the representatives HCFs the bio-medical waste is collected on daily basis from all the wards at a fixed interval of time. Dedicated staff along with supervisor for in-house collection and management of the same have been engaged.

5. On the day of inspection, the committee observed that each bag of biomedical waste at the temporary storage area of health care facilities was provided with bar code label for tracking of the same according to the CPCB guidelines.

6. The records provided by HCF operators and bar code generated receipts indicate collection time along with quantity of different category of wastes with colour coding. The bio-medical waste generated from hospitals is lifted daily by the CBWTF for final disposal. O. A. No. 186/2022-4- Rajesh Kumar Vs. State of Punjab

7. Based on the petitioner's complaint, the committee visited the backyards of the hospitals/Diagnostic centres and its surrounding solid waste collection area to check any illegal and unscientific disposal of biomedical waste. During visit, no bio medical waste was found dumped in these areas.

8. During visit, committee checked thep general waste containers of the hospitals to verify if there was any disposal of bio medical waste mixed with general waste. No bio medical waste was found mixed with general waste. The representatives informed that general waste is lifted by Municipal Corporation, Pathankot and is disposed off as per the Solid Waste Management Rules, 2016.

9. The CBWTF operator informed that all the member HCFs have been allotted bar code system for tracking of biomedical waste from source of generation to final disposal (CBWTF).

10. The representative of PPCB informed that all the HCFs located at Pathankot have valid agreements with the CBWTF.

11. The committee visited the CBWTF to verify the operating practices for handling and treatment of the biomedical waste.

12. The CBWTF operator does not have valid authorization (since 30/06/2022) under the Bio-medical Waste Management Rules, 2016. However, the operator has applied for the same, which is pending with the PPCB.

13. The CBWTF operator has 13 no. dedicated transportation vehicles fitted with GPS for collection and transportation of the bio-medical waste from member HCFs.

14. The CBWTF operator collects bio medical waste from all the HCFs located at Pathankot, Gurdaspur & Hoshiarpur Districts and

about 50% of HCFs located at Jalandhar City. The facility covers a distance of approximately 100 Kms.

15. The facility has total 1675 members HCFs having total 11650 no. of beds. However, the facility is authorized to cover 1568 HCFs having 11150 no. of beds as per the BMW authorization issued by PPCB for period of 20/05/2022 to 30/06/2022.

16. As per data provided by the CBWTF operator, all an average about 2730 kg/day of biomedical Waste is collected from member HCFs, out of which yellow category waste is 850 Kg/day, Red category waste is 1300 kg/day, Blue category waste is 550 Kg/day and White category waste is 30.00 kg/day and disposed of the same. The facility is handling biomedical waste as per the quantity authorized in the BMW authorization.

17. The CBWTF operator has installed one incinerator of capacity 150kg/hr for incineration, 02 Autoclaves of total capacity 4850 Lit/batch (2850 Lit/batch & 2000 Lit/batch) for autoclaving and 02 shredders of total capacity 550 Kg/hr (250 kg/hr & 300 kg/hr) for shredding.

18. The CBWTF operator has installed Online Continuous Emission Monitoring System (OCEMS) for monitoring CO, CO2, PM, NOX in flue gases along with temperature in primary and secondary chamber of incinerator. The OCEMS is connected with CPCB & PPCB server.

19. As per records provided by CBWTF operator, the facility has made requisite arrangement for treatment of the biomedical waste generated from the covered area.

20. It is evident from the above data at there is no gap in waste generation and treatment. The CBWTF has suitable arrangement for treatment of the biomedical waste generated in the area covered by it.

21. As per record provided by PPCB, 28 HCFs mentioned in the list have valid authorization, 17 HCFs do not have valid authorization (Expired) and 08 HCFs have been closed.

22. As per record provided by PPCB, 45 HCFs have valid Agreement (Membership) with CBWTF and the 08 remaining HCFs are closed.

The summarised status of these HCFs is tabulated below:

Status of Valid authorization Under BMW Rules,2016				
Total HCFs (mentioned in Petitioner’s	HCFs having valid authorization	HCFs with Expired authorization	Closed	

<i>writ)</i>	<i>Under BMW Rules,2016</i>	<i>under BMW Rules, 2016</i>	
53	28	17	08
Status of Valid Agreement with CBWTF			
Total HCFs (mentioned in Petitioner’s writ)	HCFs having valid agreements (As per list)	HCFs not having valid agreement with CBWTF/closed	
53	45	08	

Suggestions /Recommendations

- 1. The Punjab Pollution Control Board shall take necessary action against the hospitals operating without valid authorization under the Biomedical Waste Management Rules, 2016.*
- 2. In view of the above submissions, it is humbly prayed that the report as above may please be taken on record and suitable orders be passed in the matter please.”*

4. The above Report was considered by Tribunal on 30.08.2022 found that there is a CBWTF in Pathankot for treatment of bio-medical waste generated from health care facilities which has requisite arrangements for handling bio-medical waste generated by such health care facilities and there is no gap in waste generation and treatment at Pathankot. Joint Committee also observed that there is adequate compliance of BMW Rules, 2016 in management and disposal of waste by CBWTF.
5. Tribunal however, found that CBWTF was authorized to cover only 1568 health care facilities but actually had 1675 health care facilities registered with it and numbers of total 11650 beds and CBWTF has applied for further authorization and application is pending with PSPCB but no decision was taken thereof. It also found with regard to authorization of health care facilities, number of applications were pending for disposal before PSPCB.
6. Making observation that PSPCB cannot keep statutory applications pending for long without any valid reason Tribunal directed

it to dispose of all such applications and take remedial action and disposed of original application. Relevant extract of the order dated 30.08.2022, as contained paras 5, 6 and 7 is reproduced as under:

7. *It may be observed here that PPCB, consistently with its statutory obligation to ensure compliance with environmental norms/Bio-Medical Waste Management Rules, 2016, cannot allow/suffer commencement/ continuation of operation before grant of /renewal of valid authorization. PPCB is duty bound to ensure that not only applications for renewal of authorization are submitted and disposed of before expiration of the validity period of authorization but also appropriate action is taken against non compliant operators/defaulters.*
8. *Accordingly, PPCB is directed to dispose of all applications for renewal pending before it and also take appropriate remedial action for closure and imposition of environmental compensation against non-compliant operators/defaulters within two months from the date of receipt of a copy of this order and send compliance report by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF to learned Registrar General of this Tribunal, who may direct listing of the matter before this Tribunal for further directions, if so considered to be necessary.*
9. *With these directions the application is disposed of as no further intervention is warranted at this stage.”*

10. Pursuant to the order dated 30.08.2022 which requires PSPCB to submit Compliance, Report said report was submitted by email dated 22.02.2023. Report says that applications of 17 health care facilities which did not have valid authorization have been considered and they have been granted authorization under BMWM Rules, 2016 Status of authorization of these 17 health care facilities is given in the form a chart as under:

Sr. No.	Name & Address of the Hospital	Status	Valid upto
1.	Santosh Sohal Hospital, Kanal Road, Sujanpur, Tehsil & Distt Pathankot.	Valid	30.09.2023
2.	Gandotra Hospital,Near-Ram	Valid	30.09.2023

	<i>Lilla Ground, Mission Road, Pathankot.</i>		
3.	<i>Ghai Nursing Home, Dhangu Road, Pathankot</i>	<i>Valid</i>	<i>30.09.2023</i>
4.	<i>Jaswant Hospital, & Heart Foundation, Dalhousie Road, Pathankot</i>	<i>Valid</i>	<i>31.03.2023</i>
5.	<i>Khanna Nursing Home & Clinic, Behind Ram Lila Ground, Mission Road, Pathankot</i>	<i>Valid</i>	<i>One Time</i>
6.	<i>Kunda Hospital, Indra Colony Gali No. 1 Pathankot</i>	<i>Valid</i>	<i>31.03.2023</i>
7.	<i>Swastik Hospital, Jagat Nagar, Near-ShaniDevMandir, Dalhousie Road, Pathankot</i>	<i>Valid</i>	<i>31.03.2023</i>
8.	<i>Bhinder Hospital, Mission Road, Pathankot,</i>	<i>Valid</i>	<i>30.09.2023</i>
9.	<i>Misra Nursing Home, Dhangu Road, Pathankot.</i>	<i>Valid</i>	<i>30.09.2023</i>
10.	<i>Oberoi Nursing Home, College Road, Pathankot.</i>	<i>Valid</i>	<i>30.09.2023</i>
11.	<i>K.K. Memorial Prashar Mother & Children Care Hospital, Indira Colony , Behind Bus Stand, Tehsil & District-Pathankot</i>	<i>Valid</i>	<i>30.09.2023</i>
12.	<i>Shree Ram Mission Hospital, Mission Road, Pathankot</i>	<i>Valid</i>	<i>31.03.2023</i>
13.	<i>Ajay Heart Care & Super Speciality Centre (Old Name M.K.Mahajan Maternity & Nursing Home), Dalhousie Road, Pathankot</i>	<i>Valid</i>	<i>30.09.2023</i>
14.	<i>Mahajan Hospital, Sujanpur, Pathankot (Arya Hospital)</i>	<i>Valid</i>	<i>30.09.2023</i>
15.	<i>Vijay Mahajan Hospital, Dhangu Road, Pathankot (Mahajan Nursing Home)</i>	<i>Valid</i>	<i>30.09.2023</i>
16.	<i>Sharma Diagnostic Centre, Dhangu Road, PuraniSabziMandi, Tehsil & Distt. Pathankot</i>	<i>Valid</i>	<i>One Time</i>
17.	<i>Sandhu Hospital, Indra Colony, Pathankot (Sandhu Chest Hospital)</i>	<i>Valid</i>	<i>30.09.2023</i>

11. Report was placed before Tribunal and came up for consideration on 01.09.2023. Tribunal found Report of compliance was not in all respects with directions issued order dated 30.08.2022, hence directed PSPCB to file action taken/Status Report with regard to compliance with BMW Rules, 2016 in Pathankot by CBWTF and all health care facilities within two months.

12. Pursuant thereto action taken Report was filed by PSPCB vide email dated 24.11.2023 and the extract of said Report showing action taken by PSPCB is reproduced as under:

4. *“That in compliance to the orders dated 01.09.2023, it is respectfully submitted that there are about 214 number of Health Care Facilities (HCFs) in Pathankot, the status of which according to bed capacity is given below in tabular form:*

<i>Status of Health Care Facilities (HCFs) with bedded and non-bedded capacity including laboratories</i>							
<i>Bedded capacity</i>	<i>Above 100</i>	<i>50-100</i>	<i>31-50</i>	<i>11-30</i>	<i>1-10</i>	<i>No bed</i>	<i>Totat</i>
<i>Number of HCFs</i>	03	02	06	38	37	128	214

A list containing the name, address, category of HCFs Homeome/Clinics/Dispensaries/Veterinary/Laboratories/Ayush /Furensic lab or Research lab) with bed Capacity is enclosed herewith as Annexure-A for kind perusal.

5. *That there is one Common Bio Medical Waste Treatment Facility namely Bio Medical Waste Treatment Plant Pvt. Ltd. in Pathankot,*
6. *That the Health Care Facilities of Pathankot were visited and inspected by the officers of the Punjab Pollution Control Board, Regional Office, Batala from 31.10.2023 to 7.11.2023 to verify the status of Segregation at the point of generation of waste in colour coded containers, In-house transportation of BMW, Temporary storage of BMW within HCFs, Records of waste generation and housekeeping in reference to the Bio Medical Waste Management Rules, 2016. The observations of the visiting officer are recorded herein below:*

- a) *The bio-medical waste is being collected on daily basis from all the wards of the Hospital at a fixed interval of time. Dedicated staff along with supervisor for in-house collection and management of the same engaged by the bedded hospital. Remaining HCFs have also made proper arrangement for the same.*
 - b) *At the time of inspection each bag of biomedical waste at the temporary storage area of health care facilities was provided with bar code label for tracking of the same according to the CPCB guidelines.*
 - c) *The perusal of records provided by HCF operators and bar code generated receipts indicate collection time along with quantity of different category of wastes with colour coding. The bio-medical waste generated from all the HCFs is lifted daily by the CBWTF for final disposal.*
 - d) *During visit, officers checked the general waste containers of the hospitals to verify if there was any disposal of bio medical waste mixed with general waste. No bio medical waste was found mixed with general waste. The representatives informed that general waste is lifted by Municipal Corporation, Pathankot or is disposed of as per the Solid Waste Management Rules, 2016.*
- 7) *That the visiting officer has further verified the compliance status of the Health Care Facilities with regard to the execution of agreements with Common Bio-Medical Waste Treatment Facility (CBWTF) and the provisions of the Bio Medical Waste Management Rules, 2016. The findings and observations of the visiting officer are recorded herein below:*
- a) *As per record of the Board, there are 214 HCFs in District Pathankot and all the Health Care Facilities have made valid agreement for the lifting of Bio Medical Waste with the Common Bio-Medical Waste Treatment Facility (CBWTF).*
 - b) *Out of the said 214 number of HCFs, 191 HCFs have obtained the valid authorization under the Bio Medical Waste Management Rules, 2016.*
 - c) *23 number of HCFs were found to be operating without the authorization of the Board under the Bio Medical Waste Management Rules, 2016, but the*

*HCFs were having valid agreement with the Common Bio-Medical Waste Treatment Facility. A list of 23 numbers of HCFs is enclosed herewith as **Annexure-B**.*

*d) 08 number of HCFs were found to be indulged in improper segregation of Bio Medical Waste and its storage and hence were not complying with provisions of the Bio Medical Waste Management Rules, 2016. A list of 08 number of HCFs is enclosed herewith as **Annexure-C**.*

8) That keeping in view the violation of the Bio Medical Waste Management Rules, 2016 by the Health Care Facilities as explained in para no. 7(c) and 7 (d) above, the Board has issued notice of violation of the provisions of Bio Medical Waste Management Rules, 2016 to the Health Care Facilities with proposal to impose Environmental Compensation. It is pertinent to mention here that otherwise the Health Care Facilities were having valid agreement and were disposing of their Bio Medical Waste to the Common Bio-Medical Waste Treatment Facility (CBWTF).

9) That apart from the above the Common Bio-Medical Waste Treatment Facility (CBWTF) namely Bio Medical Waste Treatment Plant Pvt. Ltd. Pathankot was also visited and inspected by the officer of the Board on 6.11.2023 and the observations of the visiting officer are mentioned herein below:

a) The CBWTF operator is having valid authorization under the Bio-medical Waste Management Rules, 2016, which is valid upto 30/06/2027.

b) The operator of the facility informed that all the member HCFs have been allotted bar code system for tracking of biomedical waste from source of generation to final disposal with CBWTF.

c) The CBWTF operator has 14 no. dedicated transportation vehicles fitted with GPS for collection and transportation of the bio-medical waste from member HCFs.

d) As per data provided by the CBWTF operator, on an average about 3174 kg/day of bio- medical Waste is collected from member HCFs, out of which yellow category waste is 882 Kg/day, red category waste is 1628 kg/day, blue category waste is 627.95 Kg/day and White category waste is 36.11 kg/day.

e) The CBWTF operator has installed one incinerator of capacity 150kg/hr for incineration, 02 Autoclaves of total capacity 4850 Lit/batch (2850 Lit/batch & 2000 Lit/batch) for autoclaving and 02 shredders of total capacity 550 Kg/hr (250 kg/hr & 300 ka/hr) for shredding of Bio Medical Waste.

f) The CBWTF operator has installed Online Continuous Emission Monitoring System (OCEMS) for monitoring of CO, CO₂, PM, NOX in flue gases along with temperature in primary and secondary chamber of incinerator. The OCEMS is connected with Central Pollution Control Board and Punjab Pollution Control Board server.

g) As per records provided by CBWTF operator, the facility has made requisite arrangements for lifting and treatment of the biomedical waste generated from the area of operation of the CBWTF.

h) The CBWTF has suitable arrangements for treatment of the biomedical waste generated in the area covered by it.

10. That the Punjab Pollution Control Board has initiated and is taking appropriate action against the Health Care Facilities in accordance with the provisions of Law which are found violating the provisions of the Bio Medical Waste Management Rules, 2016.”

13. This report was considered by Tribunal on 14.12.2023 and it found that out of 214 health care facilities, 23 do not have requisite authorization and show cause notices were issued to violators but what action was ultimately was taken not mentioned. Consequently, granting time to PSPCB to ensure compliance with rules, a further compliance Report was required to be submitted within three months.

14. Pursuant to order dated 14.12.2023, an additional Report now has been filed vide email dated 13.06.2024. Relevant extract of said Report is reproduced as under:

“Compliance Report

- a) *All the Health Care Facilities are having valid agreement for the lifting of Bio Medical Waste with the Common Bio-Medical Waste Treatment Facility (CBWTF) at Pathankot.*
- b) *All the Health Care Facilities of Pathankot have obtained authorization from the Punjab Pollution Control Board under the provisions of Bio-medical Waste Management Rules 2016.*
- c) *A letter of advisory has been issued to the Common Bio-Medical Waste Treatment Facility namely M/s Bio Medical Waste Treatment Plant (P) Ltd. Village Pangoli, Pathankot vide letter no.773 dated 13.03.2024 on the basis of the observations and recommendations of the team of officers and a reply dated 14.03.2024 has already been filed in this regard.*

Action taken against the violators

- d) *The Board has earlier imposed Environmental Compensation against 23 number of Health Care Facilities operating without authorization under the Bio-medical Waste Management Rules 2016 in accordance with the guidelines framed by the Central Pollution Control Board in compliance to the directions issued by the Hon’ble NGT vide order dated 12.03.2019 passed in O.A. No.710 of 2017 ranging from rules 66,000 upto Rupees 5,28,000/- totaling to Rupees 48,92,400/- has been imposed.*

Out of 23 defaulters, 14 number of Health Care Facilities have deposited the Environmental Compensation with the Board and remaining 09 Health Care Facilities have filed an appeal against the order of Environmental Compensation before the Secretary to Government of Punjab, Department of Science, Technology and Environment.

- e) *The Board has filed prosecution against 09 number of Health Care Facilities who had failed to obtain the authorization of the Board even after the issuance of notices of violation of Bio-medical Waste Management Rules 2016.*
- f) *Apart from the above the Board has also imposed Environmental Compensation against 08 number Health Care Facilities who were found indulged in improper segregation of Bio Medical Waste and its storage and were not complying with provisions of the Bio Medical Waste Management Rules, 2016, but otherwise having the*

authorization of the Board. All the 08 number of Health Care Facilities have deposited the amount of Environmental Compensation.

6) That it is pertinent to mention here that all the Health Care Facilities (214 in number) of Pathankot and one Common Bio-Medical Waste Treatment Facility at Pathankot are now complying with the Bio-medical Waste Management Rules 2016.

7) That the Punjab Pollution Control Board has taken appropriate action against the Health Care Facilities in accordance with the provisions of Law which are found violating the provisions of the Bio Medical Waste Management Rules, 2016. The Board will keep a watch on the operational status of the Health Care Facilities as well as the common Bio Medical Waste Treatment Facility and will take appropriate action in accordance with law, if any violation of the Bio Medical Waste Management Rules, 2016 is observed.”

15. From the above Report, it is clear that all 214 health care facilities and one CBWTF at Pathankot are complying with BMWM Rules, 2016. With regard to imposition of environmental compensation on 23 health care facilities, 14 have deposited and 9 have filed Appeal before Appellate Authority which is pending. We request Appellate Authority to take a final decision in pending Appeals at an early date and in any case within two months from today. Thereafter, consequential action would be taken by PSPCB as per orders passed by Appellate Authority.

16. With above observations/directions, this Misc. Application is disposed of.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 24, 2024
Miscellaneous Application No.71/2023
In OA 186/2022
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