Item No. 1

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

Original Application No. 162/2023(CZ)

Jan Jagrukta Sewa Sansthan Rajasthan
Through Its President Applicant

Vs.

State of Rajasthan& Ors. Respondents

Date of Hearing: **07.11.2023**

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s) : None.

ORDER

1. Issue raised in this application is management and disposal of bio-medical waste in the District - Churu, Jhunjhunu and Sikar, District within the State of Rajasthan.

2. 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.

3. 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 Respondent No. 2 Rajasthan Pollution Control Board.

4. 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.

5. As per Environment Impact Act Notification, 2006 as amended vide notification of S.O.1142 E dated April 17, 2015, 'biomedical waste treatment facility' is categorized under item 7 (da) in the schedule and

requires 'Environmental Clearance' from the State Environment Impact Assessment Authority (SEIAA). It is further submitted that facility of Respondent No.3 was installed in the year 2008 which was prior to the said notification. 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.*

6. 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 advise of State Pollution Control Boards on implementation of these Rules. Also, as mentioned hereinabove the said matter is presently pending before this Tribunal in Application No. 33 of 2017 (CZ) Rajdeep Biotech Vs. C.P.C.B and Others. Appropriate directions qua shifting of the said facility have been issued by this Tribunal in the said Application. The said Application being pending, the matter is rendered sub judice and thus does not merit a reply from the Answering Respondent save to the effect that the shifting of the said Facility be ensured by the State Government.

7. 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. Response in this regard may be sought from the Respondent RSPCB.

8. In exercise of the powers conferred by section 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the Bio-Medical Waste (Management and Handling) Rules, 1998, the Central Government has framed the rules called the Bio-Medical Waste Management Rules, 2006 and relevant provisions are as follows:-

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 biomedical 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 biomedical 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 biomedical 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 biomedical 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."*

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

10. 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 minutes or 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 biomedical 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."*

11. It is alleged in this application that M/s Instromatic India Pvt. Ltd. is violating the rules and disposing the medical waste in an unscientific manner affecting the human health and causing the environmental pollution.

12. A substantial issue of environment has been raised.

13. Issue notice to the respondents, returnable within four weeks. Respondents are directed to submit their reply within six weeks through E-filing portal, preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

14. Applicant/Registry is directed to take necessary steps for service to the respondents by both ways and also on available email.

15. We deem it just and proper to call a report on the matter in issue in present Original Application, from a Joint Committee consisting of :-

i. One representative from the Collector concerned (Churu, Jhunjhunu, Sikar, Rajasthan).
ii. Chief Medical Officer, District - Churu, Jhunjhunu, Sikar, Rajasthan.
iii. One representative from State Pollution Control Board, Rajasthan

16. In each district the concerned District Magistrate, CMO and Regional Officer shall be the Member of the Committee and submit the report separately with regard to their Districts.

17. The Committee is directed to visit the place and submit the factual and action taken report within six weeks. The State PCB will be the nodal agency for coordination and logistic support.

18. Applicant is directed to supply the copy of the application and relevant documents to the Committee and Respondent(s) within a week and after compliance of service, the applicant has to submit an affidavit that the notice and copy of the application have been served upon the Committee and respondent(s).

19. The report in the matter be filed by the Committee through email at ngtczbbho-mp@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List it on **19th January, 2024.**

Sheo Kumar Singh, JM

Dr. A. Senthil Vel, EM

07th November, 2023
O.A. No. 162/2023 (CZ)
PN