Item No.10

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Physical Hearing with Hybrid Option)

Original Application No.84/2025(CZ)

M/s Medical Pollution Disposal Committee Applicant(s)

Vs.

Madhya Pradesh Pollution Control Board Respondent(s)

Date of Hearing: 12.02.2026

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER

For Applicant (s): Mr. Sachin Kumar Verma, Adv.

For Respondent(s): Ms. Parul Bhadoria, Adv. for MPPCB

ORDER

1. This application has been filed for the following relief -

   i. The Tribunal may graciously be pleased to direct the Respondent to enable the applicant by providing Id and password to resubmit the renewal application for Consent to operate for the CBWTF Plant at Village Dumduma, Tehsil Karera District Shivpuri, Madhya Pradesh, in the imminent interest of Justice.

   ii. Any other relief which the Hon'ble Tribunal deems fit in favour of the applicant may also be granted.

2. It is argued on behalf of the applicant that the Applicant under the ages of Medical Pollution Control Committee is a Non-Government Organisation (NGO) registered under Societies Act vide registration no. K-27356 dated 17/06/2001. The Applicant has established the CBWTF Plant in the year

2006 and accordingly the applicant applied for authorisation, in pursuance of the application submitted by the Applicant, the respondent granted authorisation/CTE vide order dated 28/05/2007 for handling, reception, segregation, storage, transport, treatment and Disposal of Bio-Medical Waste in accordance with rule 7 (4) of Bio-Medical Waste (Management & Handling) Rules 1998.

3. It is further submitted that due to the occurrence of the land dispute at the subjective site the work of disposal of the Bio-Medical waste was stopped and during this the applicant society had accorded permission from respondent MPPCB for transportation, treatment and scientific disposal of the Bio-Medical waste generated within the territorial jurisdiction of Karera CBWTF Unit at Jhansi CBWTF Unit. Thereafter the applicant again applied for renewal vide application dated 10/04/2017 and again on 03/07/2018 applied for renewal of the CTE/CTO and deposited the relevant fees and requested for generating the ID and Password for renewal under Air/ Water Act. The respondent vide order dated 13/07/2019 rejected the Air/Water Consent and renewal application of the Applicant for operation of the subjective CBWTF Plant on the pretext that the Applicant is not having environment clearance from the competent authority.
4. Submission of the learned counsel for the applicant are that the amended notification dated 17.04.2015 inserting entry 7(da) in the schedule providing requirement of prior EC is not applicable in the case of applicant. The question raised by the applicant are debatable and legal in nature, thus issue notice to the respondents. Returnable within four weeks.
5. Notices were issued to the respondent with direction to submit the reply. Reply by the State PCB has been filed. In response to the reply, rejoinder has been filed. Heard the argument and perused the records.
6. Contention of the learned counsel for the applicant are that the Bio-Medical Waste is one of the most hazardous waste generated in today's times. It is a

waste which is generated during the diagnosis, treatment or immunisation of human beings or animals or research activities pertaining thereto or in the production or testing of biological or in heath campus. The major sources of Bio Medical Waste generations are hospitals, nursing homes, clinic, dispensary, veterinary institutions, animal houses, pathological laboratories, blood banks, health care facilities and clinical establishments.

7. The legislation pertaining to disposal of Bio Medical Waste came into existence for the first time by virtue of notification dated 20th July 1998 wherein the Ministry of Environment Forest and Climate Change notified the Bio-Medical Waste (Management and Handling) Rules, 1998. The treatment and disposal of Bio Medical Waste was carried out by way of installation of captive incinerators or on-site Incinerators. With passage of time, it was realised that in order to reduce adverse effect of the Bio Medical Waste is likely to pose on human health and environment, a Common Bio Medical Waste Treatment Facility (hereinafter referred as "CBWTF") needs to be established. Accordingly, Bio Medical Waste Management Rules, 2016 were introduced restricting occupiers from establishing on- site or captive bio medical waste treatment and disposal facility, in case a service of common bio medical waste treatment and disposal facility is available within a distance of 75 kms.

8. In the Year 2016, the Central Pollution Control Board, which is statutory body and serves as a field formation and also provides technical services to the Ministry of Environment and Forests formulated a guideline, namely Revised Guidelines for Common Bio-Medical Waste Treatment & Disposal Facility. In the said guidelines, the rationale behind having a Common Bio-Medical Waste Treatment & Disposal Facility instead of Captive Incinerator is well explained and the said guidelines are mandatory in nature.

9. The guidelines of the CPCB are in consonance with the various Judgments passed by the Hon'ble National Green Tribunal and have a binding effect on

every State Pollution Control Board including the, Madhya Pradesh Pollution, Control, Board. The guidelines categorically highlights in its introduction as under:

> *"The Bio-medical Waste Management Rules, 2016 (hereafter referred as BMWM Rules) restricts occupier for establishment of on-site or captive bio-medical waste treatment and disposal facility, if a service of 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 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. The CBWTFS are also required to set up based on the need for ensuring environmentally sound management of bio-medical waste keeping in view the techno-economic feasibility and viable operation of the facility with minimal impact on human health and environment Since 1998, the CBWTF as an option for treatment of Bio Medical Waste also being legally introduced in India considering the likely impacts that may cause to the patients undergoing treatment because of operations 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. 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."

10. The Applicant has established the CBWTF Plant in the year 2006 and accordingly the applicant applied for authorisation before the respondent on 23/10/2006 and 22/01/2007, in pursuance of the application submitted by the Applicant, the respondent granted authorisation/CTE vide order dated 28/05/2007.The Applicant in the year 2007 after obtaining the authorization vide order dated 28/05/2007 from Respondent was operating/running a Common Bio-Medical Waste Treatment Facility at Khasra No. 81C/173/3 74/4 at Village Dumduma, Tehsil Karera District Shivpuri for handling, reception, segregation, storage, transport, treatment and Disposal of Bio-Medical Waste in accordance with rule 7 (4) of Bio-Medical Waste (Management & Handling) Rules 1998.

11. The authorization issued by the Respondent was subject to the running of the Common Bio-Medical Waste Treatment at Shivpuri for collection, transportation, treatment & Disposal of Bio-Medical Waste of the Health Care Centres located in 150 km radius from Shivpuri within Madhya Pradesh as per the Guidelines of Central Pollution Control Board 2003. In pursuance of the authorization issued in favour of the Applicant, the Applicant vide letter dated 30/11/2007 informed the respondent that the Common Bio-Medical Waste Treatment Facility is operational at Village Dumduma, Tehsil Karera District Shivpuri (M.P.).

12. That due to the occurrence of the land dispute at the subjective site the work of disposal of the Bio-Medical waste at the Common Bio-Medical Waste Treatment Facility was stopped and after resolution of the Land Dispute the plant was repaired and was re-started on 10/02/2008 and the same was duly informed to the respondents. Thereafter, again damage was done by the local villagers/landowners to the CBWTF Plant and accordingly the complaint was filed before Police Inspector, Police of Police Station Karera, Shivpuri, Madhya Pradesh on 11/03/2008 for carrying necessary action due to which the work was again stopped all this episode was well informed to MPPCB.

13. During the period started from 2007-2016 when the CBWTF plant of Village Dumduma Tehsil Karera, District Shivpuri was non-operational the respondent MPPCB had accorded permission to transport, treat and scientific disposal of the Bio-Medical waste generated within the territorial jurisdiction of Karera CBWTF Unit at Jhansi CBWTF Unit which was also operated by the Applicant society.

14. In response to the above contention learned counsel for the State Pollution Control Board, Ms. Parul Bhadoria has argued that the Respondent admits that the applicant, M/s Medical Pollution Disposal Committee, was initially

granted authorization under Rule 7(4) of the BMW (M&H) Rules, 1998, for management/treatment/disposal of biomedical waste at Village Dumdhana, Tehsil Karera, District Shivpuri (M.P.), vide letter No. 95/BMW/MPPCB/2007 dated 28.05.2007. This authorization was valid for one year from the date of commissioning of the facility. As the CBWTF was not established within the stipulated period, the authorization was rejected vide Board's letter No. 67 dated 20.03.2012. In view of the land dispute at the initial site, the applicant had applied on 07.02.2005 for authorization from the Board for temporary transportation and treatment at the CBWTF facility of M/s Medical Pollution Disposal Committee, Jhansi, which was updated on 12.06.2007.

15. M/s Medical Pollution Disposal Committee, Jhansi, was granted authorization under Rule 7(4) of the BMW (M&H) Rules, 1998, valid for one year from the date of issue vide Board's vide letter No. 260/BMW/MPPCB/2007 dated 01.12.2007. This authorization was renewed from 01.12.2008 to 31.11.2011 vide letter No. 276/BMW/MPPCB/2011 dated 16.11.2011, and further from 01.12.2012 to 31.12.2016 vide letter No. 66/BMW/MPPCB/2014 dated 04.04.2014. The Respondent filed online CTE Fresh Application No. 720767 dated 22.09.2018 on the Board's XGN portal under Section 21 of the Air (Prevention & control of pollution) Act 1981, Section 25 of the Water (Prevention & control of pollution) Act (1974), Section 10 of the Bio medical Waste (Management) Rules, 2016, and Section 6(1) of the Hazardous and Other Wastes (Management & transboundary movement) Rules, 2016, for setting up the CBWTF at Village Dumdhana, Tehsil Karera, District Shivpuri.

16. The Respondent rejected the CTE fresh application vide Rejection Order No. 117653 dated 14.10.2019 for the following reasons.

i. The applicant commenced operational activities without obtaining environmental clearance.

ii. The authorization granted on 28.05.2007 was already rejected on 20.03.2012 as the facility was not established in time.

iii. The current application seeks CTE without complying with the mandatory environmental clearance requirement as per the amended EIA Notification, 2006, and is therefore erroneous and illegal. The application may be reconsidered only upon rectification of these deficiencies.

17. The updated legal framework clearly mandates environmental clearance in addition to any authorization under BMW Rules, and the post-amendment provisions are applicable. Any future application by the applicant will be processed as per the applicable Rules only after submission of valid environmental clearance. The Tribunal may therefore direct the applicant to obtain EC before applying for CTE/CTO under the revised EIA Notification (dated 14.09.2006 as amended). Applicant failed to file any appeal before the Appellate Authority constituted under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974, and Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 within the statutory period of thirty days from the date of communication of the rejection order dated 14.10.2019. As per statutory provisions, such appeal ought to have been preferred within thirty days, with the Appellate Authority empowered to condone delay up to a further sixty days only upon sufficient cause being shown—none of which was done by the Applicant. The applicant failed to avail this statutory remedy. The Applicant's planned CBWTF squarely falls within Entry 7(da) of the Schedule to the EIA Notification 2006, inserted by the Ministry's amendment dated 17 April 2015. This amendment unequivocally mandates that all CBWTFs must obtain prior Environmental Clearance (EC) before establishment or operation. Post-amendment, it is legally impermissible to

grant authorization under the BMW Rules or consent to operate under the Air/Water Acts without a valid EC, as the statutory scheme now makes EC a pre-condition. The rejection order dated 14 October 2019, under Order No. 117653, was issued in strict compliance with the amended EIA Notification and BMW Rules. CBWTF proposed, established, expanded, modernized or modified after 17th April 2015 must obtain an EC before consideration of any CTE/CTO application.

18. Learned counsel for the State PCB has submitted that the order of rejection was communicated to the applicant and he was at liberty to file an appeal before against the order, but he failed to file any appeal, thus this application is not maintainable.

19. Learned counsel for the respondent has filed a rejoinder and submitted that even the authorisation dated 28/05/2007 was never rejected, it is further clarified that on the pretext of wrong advice of the consultant the Applicant/Project Proponent wrongly applied the CTE whereas the renewal of CTO was required, therefore on 22/09/2018 it was rejected on 14/10/2019 for want of prior EC which was never be a legal requirement for the CBWTF Plant of the Applicant/Project Proponent as it was operational for 3 months in the year 2007 itself, therefore it will not come in the way for the appraisal of fresh renewal consent to operate.

20. The main contention of the Applicant/Project Proponent in the present original application is that since the applicant CBWTF unit was established and became operational during the year 2007 itself therefore, the condition for post requirement of EC will not be applicable retrospectively as per the judgment rendered by the NGT in 2017 SCC Online NGT 1984 titled as D. Swamy Versus Karnataka State Pollution Control Board (OA NO. 169/2016 (SZ) wherein the Hon'ble Tribunal has categorically mentioned that once the project is already established, no such exercise can be undertaken, the EIA

Notification 2006 provides prior EC and not post EC. The relevant portion of the order dated 10/15/2017 is quoted as under:-

> *"28. The Notification S.O.1142 (E) which was quoted above, does not show that retrospective operation was intended. There is nothing in the Notification to assume that retrospective operation is implied. First of all, Paragraph 2 of the Regulations, 2006 contemplates prior EC, before establishing the unit or industry which require EC. What is provided under Paragraph 2 is that prior EC is required for all new projects or activities listed in the Schedule to the notification from the Central Government in the Ministry of Environment and Forests or at the State level the State Environment Impact Assessment Authority (SEIAA) as the case may be, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity. Therefore, by amending the Regulations, 2006, inserting a new project within the ambit of the EIA Notification, 2006 requiring prior EC which was not required earlier when the project was established, it can never be provided that prior EC is required for such project, before preparation of land or before any construction work is started started. If retrospective operation is to be given for all such projects, established prior to the date of the amendment of the Schedule to EIA Notification, 2006 requiring prior EC, it would open the Pandora's box, as projects which have been established long back prior to the date of amendment would also require to take prior EC, which itself is impossible as it was established earlier. Paragraph 2 of the EIA Notification, 2006 specifically provides that EC is to be taken prior to the starting of any construction work or preparation of land by the project*

management, except for securing the land. Therefore, we have no hesitation to hold that the EIA Notification, S.O.1142(E) dated 17.04.2015 has no retrospective effect and would operate only prospectively from 17.04.2015. Therefore, we cannot agree with the contention of the learned counsel appearing for the applicant that as entry 7(da) was inserted in the Regulations, 2006, by Notification dated 17.04.2015, respondent No. 3 is bound to obtain prior EC, even if he has established the project prior to 17.04.2015."

21. The applicant has filed some RTI records, but none of the records proves that the unit was in continues operation.

22. Learned counsel for the respondent State PCB has submitted that the EC is mandatory and without EC the consent condition cannot be granted by the State PCB and accordingly the applicant was intimated to obtain the prior environmental clearance from the competent authority but he failed to do so, and by means of filing this application with the relief for providing the ID and password the relief is indirectly for declaration that EC is not required for the project and on this ground the application is not maintainable.

23. This application is indirectly for the declaration and as per rules the application is not maintainable. So far as the ID and password are concerned the learned counsel for the State PCB has submitted that the applicant has his own ID and password as already issued and since the unit was never operational at any point of time, thus it was non-operational and hence the EC has not been obtained nor applied by the project proponent.

24. The Learned Counsel for the State Pollution Control Board, Ms. Parul Bhadoria has argued the requirement of EC and other legal formalities, which is required to be taken by the unit for operation of biomedical treatment facility.

"7.0 Requirement of Environmental Clearance:

Ministry of Environment, Forest & Climate Change (MoFE & CC), notified amendment to the EIA Notification 2006 and published vide MoEF & CC Notification of S.O. 1142 (E) dated April 17, 2015 According to this notification, the bio-medical waste treatment facility is categorized under the Item 7 (da) in the schedule, requiring environment clearance from the State Environment Impact Assessment Authority (SEIAA) Therefore the CBWTF operator is also required to obtain Environment Clearance (EC) from the respective SEIAA or Ministry of Environment Forest & Climate Change (MoEF & CC) as the case may be, before any construction work or preparation of land by the projects management which include the following:

(7.1) All new projects or activities pertaining to the bio-medical waste treatment facility; and

(7.2) Expansion and modernization with additional treatment capacity or 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). (7.3) Any expansion or modification in the treatment capacity or relocation of the existing CBWTF (requires compliance to the relevant provisions notified under the Environment (Protection) Act, 1986 by the MoFE &CC.

***8.0 Location criteria of Common Bio-Medical Waste Treatment Facility**:*

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) The location shall be decided in consultation with the State Pollution Control Board (SPCB)

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.

(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 nonavailability of such a land, the buffer zone distance from the notified residential area may by 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; (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 is not in a position to resolve the issue relating to buffer zone while selecting the site for CBWTFs, in such a case, SPCBs 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 Environment Impact Assessment 2006 and further amendments notified under the

Environment (Protection) Act, 1986 provided that there is no CBWTF exist within 150 KM distance from the existing TSDF.

9.0 Land requirement for CBWTFs:

Sufficient land shall be allocated to the CBWTF to provide all requisite systems which include dedicated for storage of waste (both treated and untreated), waste treatment equipment vehicle washing facility, vehicle parking space, ETP, incineration ash storage area , administrative office room, space for DG set etc:

(a) Preferably a CBWTF shall be set up on a plot size of not less than one acre in all the areas However, a CBWTF can be developed in adjacent plots but cannot be set up in two or more different plots located in different areas. Separate plots can be permitted only for vehicle parking if located in the close vicinity of the proposed CBWTFs or the existing CBWTFs.

(b) In case of upcoming or new CBWTFs (both in municipal limits with population more than 25 lakh or in rural areas), the land area requirement may be relaxed (but in any case not less than 0.5 acre) by the SPCB with additional control measures such as zero liquid discharge, increase in stack height stringent emission norms, odor control measures or any other measures felt necessary by the prescribed authority on case-to case basis, only in consultation with CPCB.

10. Collection and transportation of bio-medical waste

The collection and transportation of bio-medical waste shall be carried out in a manner so as to prevent any possible hazard to human health and environment. Collection and transportation are the two operations where the chances of segregated bio-medical waste coming in contact with the public, rag pickers, animals/birds, etc. are high Therefore all care shall be taken to ensure that the segregated bio-medical waste handed over by the healthcare units reach CBWTF without any damage, spillage or unauthorized access by public / animals etc. A responsible person from the CBWTF operator shall always accompany the vehicle to supervise the collection and transportation of bio-medical waste. Also for the private transportation of the bio-medical Waste, the CBWTF operator should be made responsible for collection and transportation of bio-medical waste.

(a) Collection of bio-medical waste:

Generator of the bio-medical waste is responsible for providing segregated waste in accordance with the provisions of the bio-medical waste management rules, 2016 to the CBWTF operator. Dedicated temporary storage at healthcare unit shall be designated. The colored bags handed over by the healthcare units shall be collected in similar colored containers with proper cover. Each bag shall be labeled as per Schedule IV of the bio-medical waste management rules as well as with bar coding system (to be complied by the occupier or operator of a CBWTF as per BMWM rules) so that at any time the healthcare units can be traced back that are not segregating the bio-medical waste as per BMWM rules The coloured containers should be strong enough to withstand any possible damage that may occur during loading transportation or unloading of such containers These containers

shall also be labeled as per Schedule IV of the Rules Sharps shall be collected in puncture resistant container The person responsible for collection of bio-medical wastes shall also carry a register with him to maintain the records such as name of the healthcare unit the type and quantity of waste received time at which waste collected from the member HCF signature of the authorized person from the healthcare unit etc. During transportation the containers should be covered in order to prevent exposure of public to odour and contamination.

(b) Transportation of the collected bio-medical waste to the CBWTF:

All the vehicle used by the CBWTF operator shall not be sub-letted or contract vehicle should not be used by the CBWTF operator. All the vehicles owned by the CBWTF operator and intended only for collection of bio-medical waste from the member healthcare facilities should be registered under the Motor Vehicle Act with the respective RTO/Transport Department and such vehicle numbers should also be registered with the respective SPCB for the purpose of collection of bio-medical waste from the member health care facilities. The bio-medical waste collected in designated coloured containers shall be transported to the CBWTF in a fully covered vehicle Such vehicle shall be dedicated for transportation of bio-medical waste only. Depending upon the volume of the wastes to be transported, the vehicle may be a two or three wheeler light motor vehicle or heavy duty vehicle In either cases the vehicle must possess the following:

(i) Transportation vehicle shall be fitted with GPS to track the movement of the vehicle.

(ii) *Separate cabins shall be provided for driver/staff as well as for placing the designated colour coded bio-medical waste containers.*

(iii) Two wheelers registered under the Motor Vehicle Act shall be permitted for collection of bio-medical waste only from the clinics or dispensaries located in places where the lanes are narrow and not easily accessible to four wheeler vehicles. Such two wheeler vehicle (s) should have a provision of a suitable fixed waste collection box marked with bio-hazard symbol contact details proper lid emergency spill collection procedure first aid box and manifest record in accordance with the BMWM rules.

(iv) The base of the waste cabin shall be leak proof to avoid pilferage of liquid during transportation.

(v) The waste cabin may be designed for storing waste containers in tiers and also should be provided with a lighting provision.

(vi) The waste cabin shall be so designed that it is easy to wash and disinfect.

(vii) The inner surface of the waste cabin shall be made of smooth surface to minimize water retention.

(viii) The waste cabin shall have provisions for sufficient openings in the rear and/or sides so that waste containers can be easily loaded and unloaded.

(ix) *The vehicle shall be labeled with the bio-hazard symbol (as per Schedule IV of the BMWM rules) and should display the name address and contact telephone and mobile number of the CBWTF.*

(x) *The vehicle driver should carry always valid registration of the vehicle obtained from the concerned transport authority and also carry valid pollution under control certificate issued by the authorized certificate issuing agency.*

Depending upon the area to be covered under the CBWTF the route of transportation shall be worked out. The transportation routes of the vehicle shall be designed for optimum travel distance and to cover all member healthcare units of the CBWTF. The CBWTF operator should ensure online and real time tracking & monitoring provisions (GPS provision) should be given access with passwords to the SPCB and CPCB to cross check the movement of the transportation vehicles on any time by the SPCB/CPCB. As far as possible the transportation shall be carried out during non-peak traffic hours.

If the area to be covered is very large, a satellite station may be established to store the bio-medical waste collected from the adjoining areas The wastes so stored at satellite may then by transported to the CBWTF in a large vehicle.

It shall be ensured that the total time taken from generation of bio-medical waste to its treatment which also includes collection and transportation time shall not exceed 48 hours.

11. Coverage Area of CBWTF:

As per guideline of CPCB the suggested coverage area for development of a CBWTF is as follows:

(a) 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.to its location provided the bio-medical waste generated is collected treated and disposed of within 48 hours as stipulated under the BMWM rules.

(b) In case number of beds is exceeding > 10,000 in a locality (i.e. coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate in such a case a new CBWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986 to cater services only to such additional bed strength of the HCFs located.

(c) In case of hilly areas considering the geography only one CBWTF with adequate treatment capacity may be developed covering at least two district to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc. Should be done as per the criteria suggested under these guidelines and the treatment charges to be prescribed by the respective SPCB/PCC in consultation with State Advisory Committee to be constituted under the BMWM rules by the respective State Government or UT Administration.

x……x……x……x……

25. It is to be noted that in the OA No. 269/2024 this Tribunal has constituted a high-level committee directing the PCB to analyse the generation and capacity of treatment of the biomedical waste in the State of Madhya Pradesh and the committee has submitted certain recommendations, which are as follows:

14.0 Outcome of Review / Recommendations:

14.1 Based on the review of treatment capacity of existing common Biomedical Waste Treatment Facilities, its coverage area distribution and the waste being collected by these common facilities.

- *It is observed that an immediate action should be initiated for strengthening of collection and transportation system. These facilities shall collect entire BioMedical Waste from all the areas to abolish deep burial practice resulted due to transportation difficulties.*
- *It is also observed that some facilities are not covering entire area with respect to collection of Biomedical waste from government hospitals located in remote areas like Community Health centers (CHCs) Primary Health Centers(PHCs) dispensaries etc. Therefore centralized Bar Code system as suggested by CPCB shall be implemented for service delivery and its effective tracking.*
- *At present 18 Facilities are in operation covering 52 districts of Madhya Pradesh. The total Biomedical waste generation in the state is 15.64 MT/Day whereas the total treatment capacity of running*

CBWTFs is 62 MT / day which is 4.0 times as compared to total quantity of waste generation.

- *As per information received from Regional offices, available in the record, from health & veterinary department and other stake holders and considering the previous trend of waste generation it is likely to be increased up to 31MT/Day from 15.64 MT/Day after 10 years (2032) .*
- *As per above fact the treatment capacity of the existing CBWTFs is more than sufficient.*
- *The existing facilities should strengthen themselves by installing best available technology for Incinerator, shredders, ETP, sharp waste destruction devices, Air Pollution Control and monitoring equipments etc. (If required)*
- *In figure number 04, circles of 75 km radius are drawn keeping existing CBWTF as centre of circle. The area of circle indicates the coverage area of particular CBWTF. Some circles are intercepting which shows the common area of CBWTFs where in these facilities are covering the HCFs with mutual understanding. Few districts in this map are reflected beyond the 75 km circle. It has come to the knowledge of committee that these left over districts are also being covered by nearby facilities.*
- *It is suggested that the biomedical waste management division of MP Pollution Control Board shall look into this matter critically and if it is found that nearby CBWTF is not collecting waste from these*

areas despite notices and opportunity of hearing then new facilities may be allowed in these areas.

14.2 Recommendations:-

- *Looking in to the current scenario of Biomedical Waste Management and future growth of state, the committee has arrived on the following conclusions and recommendations that :-*

    1. *Prescribed authority (MPPCB),CBWTFs and other stake holders shall ensure compliance of Hon. National Green Tribunal Orders issued from time to time.*
    2. *A committee comprising Health department, association of nursing homes, representative of CBWTFs, and representative of CPCB local office and unit head of MPPCB shall be constituted to resolve the issues of CBWTFs and Bio-Medical Waste Management. Such committee shall meet once in a Year in First week of December.*
    3. *CBWTFs shall issue membership certificates to member health care facilities for such number of beds only as mentioned in the consent/authorization letter of MPPCB and CBWTF shall issue QR code to every member.*
    4. *CBWTFs shall ensure implementation of Centralized Bar-Code system as directed by Central Pollution Control Board. For non-bedded HCFs provision of " Service on call" may be allowed.*

5. *CBWTFs shall be directed to strengthen waste transportation and collection facilities for effective collection, treatment & disposal of BMW from CHC, PHC, veterinary and other small health care facilities located in remote and rural areas to abolish the practice of Deep Burial in State.*
6. *Health Directorate and Veterinary department shall display the List of their facilities on their websites along with PCB-ID, Consent Letter and CBWTF Membership as per BMWM Rules. Department should also ensure compliance of Bar Code system along with budgetary provisions for the same.*
7. *The facilities practicing deep burial shall be identified and brought under CBWTF coverage to protect ground water contamination and pollution in nearby areas.*
8. *If CBWTF covering remote rural areas and find difficult to collect waste in single trip by collection vehicle then Satellite station may be established with prior permission of the MPPCB to store the biomedical waste so collected from adjoining rural areas with small dedicated vehicle like two wheelers & e-rickshaw fitted with prescribed compartments & safety measures. The wastes so stored at satellite station may then be transported to the respective CBWTFs ensuring that the total time taken from*

generation to treatment of BMW shall not exceed 48 hours. In case the waste is not collected within stipulated time then the facility of disinfection may be developed at such satellite stations.

9. *All the CBWTFs must share their On-line monitoring data, camera images to the CPCB and SPCB servers.*
10. *As per para 8 of Revised Guidelines for Common Bio-medical Waste Treatment Facilities published by CPCB the provisions suggested for coverage area for development of a CBWTF is as follows:-*

    (a) 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.to its location provided the bio-medical waste generated is collected, treated and disposed of within 48 hours as stipulated under the BMWM Rules.

    (b) In case, number of beds is exceeding >10,000 beds in a locality (i.e. coverage

area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such a locality in compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located.

11.CTE for new CBWTFs shall only be considered for particular districts, which are situated at a distance more than 150 Km away from any operational or proposed CBWTF having valid CTE and EC. As state already has 4 times treatment capacity in comparison to existing Bio-Medical waste generation.

12. All CBWTFs shall display the list of Bedded and non-bedded member HCFs in each district and upload the waste handling, resource consumption data on their respective website for the information of general public.

13. Proposal for revision of BMW disposal rates for CBWTFs is to be decided by the State Level Advisory Committee. Efforts should be made to finalize the same, considering economic sustenance by mutual consultation with all stake holders and revision of rate may be done on certain reasonable time periods based on WPI (wholesale price Index) and CPI (consumer Price index).

14. Health Directorate and Veterinary department shall display the List of their health care facilities on their website along with PCB ID, Consent Letter and CBWTF Membership as per BMWM Rules.

15. It has brought to the notice of committee that few facility operators are trying to Capture coverage areas of another existing facility showing their future expansion and applying before SEIAA for Environmental Clearance (EC) and after getting EC they applied to PCB and insist to issue CTE because they have obtained EC. This practice is the root cause of litigation & dispute among CBWTF operators. Therefore it is strongly felt that there should be proper coordination between SEIAA & MPPCB to control such unhealthy competition which may cause adverse affect on the functioning of Common facilities and regulatory authorities. Therefore SEIAA & SEAC must consider the prior opinion of the Board before issuing EC to any new CBWTFs to prevent trend of mushrooming of CBWTFs in the state.

16. SPCB shall undertake third party audits (through competent institute of national repute) of the common bio-medical waste treatment facilities in the State in light of CPCB directions and conditions imposed by MPPCB in consent/authorization letter.

17. The household bio-medical waste has to be collected by Municipal Authority separately and be disposed of in designated CBWTF after executing an MoU.

18.The CBWTFs in consultation with prescribed authority shall chalk out a comprehensive plan for safe disposal of sharp waste stored in sharp waste pits through nearby foundry units.

19. It is revealed from the record that there are about 18000 beds in the states which are still to be covered by CBWTFs. Therefore special drive must be conducted by all the CBWTFs so that each HCFs/waste generating establishment must be covered by common facilities within 03 months and report the same to concerning regional office of MPPCB.

20. There is a need of execution of MoU amongst the nearby CBWTFs with clear understanding of collection / transportation and treatment of entire waste in case of shut down or closure of facility due to any reason.

21. It has been observed that the number of beds available in the record of CMHO often differ from the record available in the Board. Therefore it is suggested that software of registration of Health Care Units with CMHO shall be integrated with the XGN software of MPPCB."

26. Learned counsel for the Respondent has submitted that the CPCB has issued revised guidelines for common bio medical waste treatment and disposal facilities uploaded on the website of Parivesh Portal on 21.12.2016, which is as follows :-

> ***"1) Criteria for development of a new Common Bio-medical Waste Treatment and Disposal Facility for a locality or region.***
>
> *Prior to allowing any new CBWTF, following criteria or steps may be followed:*
>
> *a) Prescribed authority under the BMWM Rules, 2016 [i.e., State Pollution Control Board (SPCB) in the respective State or Pollution Control Committee (PCC) in the respective Union Territory Administration] is required to prepare an inventory or review with regard to the bio-medical waste generation at least once in five years in the coverage areas of the existing bio-medical waste treatment and disposal facility. The prescribed authority is also required to extrapolate the coverage-area wise bio-medical waste generation for the next ten years.*
>
> *b) SPCB/PCC is required to conduct gap analysis w.r.t. 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.*
>
> *All the SPCBs and PCCs shall conduct the gap analysis and based on the gap analysis, action plan for development of new CBWTFs is required to be prepared and submitted to MoEF & CC & CPCB within six months'*

time. In case of States/UTs, where no CBWTF is available, in such a case, SPCB/PCC being prescribed authority under the BMWM Rules is required to submit the detailed proposal to MoEF & CC/MoH & FW through the respective State Government or UT Administration. Also, the option of forming association by the group of heath care facilities (HCFs) to develop their own CBWTF also be encouraged following these guideline. In case, any coverage area requires additional treatment capacity , in such a case, action may be initiated by the prescribed authority for allowing a new CBWTF in that locality without interfering the coverage area of the existing CBWTF and beds covered by the existing CBWTF.

c) *SPCB/PCC shall identify the coverage area, which require additional treatment facility and bring it to the notice of the concerned department in the business allocation of land assignment in the respective State Government or UT Administration. The department in the business allocation of land assignment shall be responsible for providing suitable site in the identified coverage area for setting up of a CBWTF, in consultation with the prescribed authority (i.e., SPCB/PCC), other stakeholders and in accordance with these guidelines issued by CPCB from time to time.*

d) *Alternately, a CBWTF may also be allowed to be established on a land procured by an entrepreneur in accordance with the location criteria suggested under these guidelines.*

e) *The SPCB/PCC or concerned department in the business allocation of land assignment in the respective State*

Government or UT Administration may seek expression of interest from the proponents for development of new CBWTF (s) in the identified coverage area. Upon allocation of site to the proponent, the proponent is required to take necessary approvals as required under the Environment (Protection) Act, 1986 for development of the new CBWTF in accordance with these guidelines.

f) In the absence of expression of interest by any proponent, then SPCB/PCC shall insist health care facilities to form association and to develope its own CBWTF in line with these guidelines or to have captive treatment facilities for ensuring treatment and disposal of generated bio-medical waste as stipulated under the BMW Rules, 2016.

g) In case of any regulatory action including closure of any existing CBWTF is inevitable, the respective SPCB/PCC may take action under the BMWM Rules including for making alternate arrangement to ensure safe disposal of the biomedical waste generated from the member health care facilities of such default CBWTF through CBWTF located nearby.

h) In case of hilly areas considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc., should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee.

3) Location criteria

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."

.....x.....x.....x.....x

Continuous emission monitoring system (CEMS)

Monitoring provision for continuous monitoring of the incinerator/plasma pyrolysis stack emission shall be installed by the CBWTF operators for the parameters as stipulated by the respective SPCB/PCC as per the authorisation granted under the BMWM Rules, 2016. Other-wise, at present, all the existing CBWTF operators are required to carry out stack emission monitored using continuous emission monitoring system for the flue gas parameters such as C 2, 0 2, CO as well as primary & secondary chamber temperatures, and records maintained. The continuous emission monitoring system for stack emission should be installed as per the guidelines issued by SPCB/PCC/CPCB. Also, the real time continuous stack emission monitoring data is also required to be transmitted to the servers of the respective SPCB/PCC as well as CPCB, by all the existing CBWTF operators."

27. Learned counsel for the State PCB Ms. Parul Bhadoria has argued that due to increase of the population and the availability of the medical facilities, the new hospitals have been established post COVID-19 and calculation of bed strength has to be re-examined and re-looked in comparison to capacity to dispose the medical waste and on the basis of calculation of number of beds, the State PCB is considering the increasing CBWTF in the region.

28. It is further 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 and 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. It is stated that 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 and 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. It is also stated that Rag pickers in the hospital, sorting out the garbage are at a risk of getting tetanus and HIV infections and 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, and

it becomes primary responsibility of Health administrators to manage hospital waste in most safe and eco-friendly manner.

29. Learned Counsel further submitted that as per Environment Impact Act Notification, 2006 as amended '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."*

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

31. 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 and 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 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 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."

32. The contention of the learned counsel for the State Pollution Control Board is based on the revised guidelines for CBWTF, where it has been provided that A Common Bio-medical Waste Treatment and Disposal Facility (CBWTF) should be set up where biomedical waste generated from member health care facilities is imparted necessary treatment to reduce adverse effects and 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 Biomedical 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. Installation of 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 Biomedical 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, 2016 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.

33. 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.

34. 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 on several issues.

35. 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. 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. The failure of monitoring has been found to have direct

nexus to at least 10 industrial accidents which have taken place in the recent past which have been dealt with by this Tribunal.

36. 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.

37. 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 District wise. 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 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.

38. Constitution Bench judgment in *M.C. Mehta and Another v. Union of India and Others* (1987) 1 SCC 395 popularly known as Oleum Gas Leak Case, it was held:-

> *"We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part. Since the persons harmed on account of the hazardous or inherently dangerous activity carried on by the enterprise would not be in a position to isolate the process of operation from the hazardous preparation of substance or any other related element that caused the harm the enterprise must be held strictly liable for causing such harm as a part of the social cost for carrying on the hazardous or inherently dangerous*

activity. If the enterprise is permitted to carry on a hazardous or inherently. dangerous activity for its profit, the law must presume that such permission is conditional on the enterprise absorbing the cost of any accident arising on account of such hazardous or inherently dangerous activity as an appropriate item of its overheads. Such hazardous or inherently dangerous activity for private profit can be tolerated only on condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of the carrying on of such hazardous or inherently dangerous activity regardless of whether it is carried on carefully or not....We would therefore hold that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-`-vis the tortuous principle of strict liability under the rule in Ryland v. Fletcher (1868) LR 3 HL 330. We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be corelated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise."

39. The Court in M.C. Mehta's case (supra) further observed as under:-

> *"31. We must also deal with one other question which was seriously debated before us and that question is as to what is the measure of liability of an enterprise which is engaged in a hazardous or inherently dangerous industry, if by reason of an accident occurring in such industry, persons die or are injured. Does the rule in Rylands v. Fletcher apply or is there any other principle on which the liability can be determined? The rule in Rylands v. Fletcher was evolved in the year 1866 and it provides that a person who for his own purposes brings on to his land and collects and keeps there anything likely to do mischief if it escapes must keep it at his peril and, if he fails to do so, is prima facie liable for the damage which is the natural consequence of its escape. The liability under this rule is strict and it is no defence that the thing escaped without that person's wilful act, default or neglect or even that he had no knowledge of its existence. This rule laid down a principle of liability that if a person who brings on to his land and collects and keeps there anything likely to do harm and such thing escapes and does damage to another, he is liable to compensate for the damage caused. Of course, this rule applies only to non-natural user of the land and it does not apply to things naturally on the land or where the escape is due to an act of God and an act of a stranger or the default of the person injured or where the thing which escapes is present by the consent of the person injured or in certain cases where there is statutory authority. Vide Halsbury Laws of England, Vol. 45 para 1305. Considerable case law has developed in England as to what is natural and*

what is non-natural use of land and what are precisely the circumstances in which this rule may be displaced. But it is not necessary for us to consider these decisions laying down the parameters of this rule because in a modern industrial society with highly developed scientific knowledge and technology where hazardous or inherently dangerous industries are necessary to carry out part of the developmental programme, this rule evolved in the 19th Century at a time when all these developments of science and technology had not taken place cannot afford any guidance in evolving any standard of liability consistent with the constitutional norms and the needs of the present day economy and social structure. We need not feel inhibited by this rule which was evolved in this context of a totally different kind of economy. Law has to grow in order to satisfy the needs of the fast changing society and keep abreast with the economic developments taking place in the country. As new situations arise the law has to be evolved in order to meet the challenge of such new situations. Law cannot afford to remain static. We have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialised economy. We cannot allow our judicial thinking to be constricted by reference to the law as it prevails in England or for the matter of that in any other foreign country. We no longer need the crutches of a foreign legal order. We are certainly prepared to receive light from whatever source it comes but we have to build up our own jurisprudence and we cannot countenance an argument that merely because the law in England does not recognise the rule of strict and absolute liability in cases of hazardous or inherently dangerous

activities or the rule as laid down in Rylands v. Fletcher as is developed in England recognises certain limitations and exceptions. We in India must hold back our hands and not venture to evolve a new principle of liability since English courts have not done so. We have to develop our own law and if we find that it is necessary to construct a new principle of liability to deal with an unusual situation which has arisen and which is likely to arise in future on account of hazardous or inherently dangerous industries which are concomitant to an industrial economy, there is no reason why we should hesitate to evolve such principle of liability merely because it has not been so done in England."

40. The Court applied the principle of Polluter pays and observed thus:-

"*The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'polluter pays' principle was promoted by the Organisation for Economic Co- operation and Development [OECD] during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in*

a modern industrialised society. Since then there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed."

41. In the case of *M.C. Mehta v. Kamal Nath and others* (2000) 6 SCC 213, the court observed as under:-

"...pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution, has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender. The powers of this court under Article 32 are not restricted and it can award damages in a PIL or a Writ Petition as has been held in a series of decisions. In addition to damages aforesaid, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner."

42. Submission of the learned counsel for the State PCB Ms. Parul Bhadoria are that there is no record maintained by the applicant as required under Section 14 of the Biomedical Waste Management Rules and there is no annual report submitted by the project proponent or monitoring by the district-level monitoring committee. If any order was passed by the State PCB or the Competent Authority, Section 16 of the Biomedical Waste Management Rules, 2016 provides the manner of appeal but no appeal has

been preferred by the applicant. Thus, this application is not applicable on that ground.

43. The contention of the applicant that unit was in operation was wrong and fictitious and to prove this fact it requires evidence like electricity use, attachment of hospitals, payment by the hospitals, registration of waste disposal, collection of waste, any inspection by the Regional Officer, Pollution Control Board or report by any other official or consent condition or employee detail or the salary details or the EPF or other document to prove that the unit was in operation. No document has been produced by the applicant that the unit was in operation. Applicant has himself admitted that the unit was non-operational from the period after 2007 and there is no document in the record of the State PCB that the unit was in operation. If applicant is aggrieved by any order of the State PCB or any competent authority coming within the purview of Schedule - I of the National Green Tribunal Act, 2010 the applicant may file appeal against the order. The application which has been framed for providing ID or password is also meaningless application because entertaining the application for providing ID and password is not the domain of the National Green Tribunal. It is a relation between the State PCB and the unit to move an application before the appropriate forum and the State PCB/statutory authority have to decide according to rules. Application as filed is not maintainable.

44. Accordingly, the **Original Application No. 84/2025 (CZ)** is **dismissed**.

Sheo Kumar Singh, JM

Sudhir Kumar Chaturvedi, EM

12th February, 2026
OA No.84/2025(CZ)
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