

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

**Original Application No. 507/2014**

**IN THE MATTER OF:**

**MAHESH DUBEY**

S/o Late Lal Mani Dubey  
R/o Gond Para Bilaspur,  
Chhattisgarh-495001.

..... **Applicant**

***Versus***

**1. CHHATTISGARH ENVIRONMENT CONSERVATION BOARD**

Through the Member Secretary  
Commercial Complex, Chhattisgarh Housing Board Colny,  
Kabir Nagar, Raipur,  
Chhattisgarh.

**2. DEPARTMENT OF HEALTH, CHHATTISGARH**

Through its Principal Secretary  
Mantralaya, Mahanadi Bhawan  
Raipur, Chhattisgarh.

**3. DEPARTMENT OF URBAN DEVELOPMENT AND ENVIRONMENT,  
CHHATTISGARH**

Through Principal Secretary,  
Mantralaya, Mahanadi Bhawan  
Raipur, Chhattisgarh.

**4. COLLECTOR, DISTRICT BILASPUR**

Collectorate, Mungeli Road  
Bilaspur-495 001.(Chhattisgarh).

**5. COLLECTOR, DISTRICT, RAIGARH**

Office of the Collector,  
Raigarh496 001.(Chhattisgarh).

**6. COLLECTOR, DISTRICT, SURGUJA**

Office of the Collector,  
Ambikapur-District Sarguja  
(Chhattisgarh).

**7. COLLECTOR, DISTRICT, KORBA**

Office of the Collector,  
Korba-495677  
(Chhattisgarh).

**8. COLLECTOR, DISTRICT, KORIA**

Office of the Collector,  
Balunthpur, District Kororia  
(Chhattisgarh).

**9. COLLECTOR, DISTRICT, MUNGELI**

Office of the Collector,  
Mungeli, District Mungeli,  
(Chhattisgarh).

**10. COLLECTOR, DISTRICT, JASHPUR**

Office of the Collector,  
Jashpur Nagar, District Jashpur  
(Chhattisgarh).

**11. MUNICIPAL CORPORATION, BILASPUR**

Through the Commissioner  
Bilaspur-495001  
Chhattisgarh.

**12. MUNICIPAL CORPORATION, RAIGARH**

Through the Commissioner  
Raigarh-496001  
Chhattisgarh, India.

**13. MUNICIPAL CORPORATION, AMBIKAPUR**

Through the Commissioner  
Ambikapur District Surgjuta-497 229.  
Chhattisgarh.

**14. MUNICIPAL CORPORATION, KORBA**

Through the Commissioner  
Korba-495677  
Chhattisgarh, India.

**15. MUNICIPAL CORPORATION, CHIRIMIRI**

Through the Commissioner  
Chirimiri, District Kororia  
Chhattisgarh, India.

.....**Respondents**

**COUNSEL FOR APPELLANT:**

Mr. Rahul Chaudhary, Mr. Ritwick Dutta, Mr. Saurabh Sharma, Ms. Maneka Kaur, Mr. MahekRastogi, Ms. Meera Gopal, Mr. Sudiep Srivastava,

**COUNSEL FOR RESPONDENTS:**

Ms. YogmayaAgnihotri, Mr. Rohit K. Singh for Respondent No. 1  
Mr. C.D.Singh, AAG, Mr. Sandeep Pathak, Ms. SmuyaKalra, MsSylovaMohapatra, Mr. DarpanBhuyan,for Respondent Nos. 2,3,9.  
Mr. J.P. Mishra for Respondent Nos.5,7, 12,14.  
Mr Siddhartha S. Chouhan, Ms.Anushri Singh, MR. RanjeetDwivedi, Mr. S.S.Chauhan, for Respondent No.6.

Mr. Nitin Lonkar, Ms. SonaliSuryawanshi, AjitWagh, Mr. Aditya Gagar, for Respondent No.11.  
Mr Siddhartha S. Chouhan, Mr. Rajeev for Respondent No.13.  
Mr. ApoorvKurup, Mr. Vilas C.Shukla, Mr. AanitaChimni, Mr. ChanakyaBoxipatra for Respondent No.15

**JUDGEMENT**

**PRESENT:**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**  
**Hon'ble Mr.Justice Raghuvendra S. Rathore (Judicial Member)**  
**Hon'ble Mr. Bikram Singh Sajwan (Expert Member)**  
**Hon'ble Mr. Ranjan Chatterjee (Expert Member)**

**Reserved on: 8<sup>th</sup> September, 2016**

**Pronounced on: 15<sup>th</sup> December, 2016**

- 1. Whether the judgment is allowed to be published on the net?**
- 2. Whether the judgment is allowed to be published in the NGT Reporter?**

**RAGHUVENDRA S. RATHORE (JUDICIAL MEMBER)**

Improper disposal and serious mis-management of bio-medical waste in the State of Chattisgarh is the primary issue

raised by the Applicant in this case filed in the year 2014. Accordingly, the Applicant has prayed for directions against Chhattisgarh Environment Conservation Board (CECB) to ensure compliance of the Bio-Medical Waste (Management and Handling) Rules, 1998. Further it has been prayed that the Department of Health of the State be directed to give report in respect of measures taken by it, since inception of the Rules, 1998 in respect of management and handling of the medical waste. The directions have also been sought for disposal of bio-medical in approved and identified sites, as has been provided under the Rules of 1998. The health care facilities of the State be directed to restore and rehabilitate the areas, which have been affected by illegal dumping of the waste, as per the Principle of 'Polluter Pays'. The Applicant has also sought direction for taking action against the hospitals of district Bilaspur, Mungeli, Raigad, Jashpurnagar, Sarguja, Korba and Korea for non-compliance of the provisions of the Bio-Medical (Management & Handling) Rules, 1998.

The Applicant has also made reference to the Municipal Solid Waste (Management & Handling) Rules, 2000, but considering the Application in its entirety and the thrust of submissions made before us, on behalf of the Applicant, it reveals that the primary consideration is relating to mishandling of the bio-medical waste in the State of Chhattisgarh and for seeking appropriate directions from this Tribunal against the State Government and authorities

to ensure proper and effective compliance of the Bio-Medical Rules 1998.

**BRIEF FACTS OF THE CASE:**

2. The Applicant is a resident of State of Chhattisgarh and being a public spirited person associated with social organization, has approached this Tribunal after having witnessed negligent and casual manner in which the State Govt. has been handling the issue. He is said to have approached the Authorities concerned on several occasions and made complaint after complaint, but without any success. According to him, there is unbelievable carelessness and grave negligence by the medical and health care facilities, which has made the life of the residents unsafe and hazardous. The Applicant has, apart from the State Govt., specifically made the Collectors of the various districts and Municipal Corporations of the concerning cities as Party-Respondents in the present case, who are also responsible for proper implementation of provisions of the Bio-Medical (Management & Handling) Rules, 1998.

3. The applicant alleges that there is lack of implementation of Bio-Medical Rules and it is for this reason that the State Pollution Control Board (SPCB), Chhattisgarh, had given about eighteen (18) Notices to the Hospitals, including Govt. Hospitals for improper disposal of medical waste. The Annual Information Report (AIR) is used as information on bio-medical waste



management for the year 2012, as given by the Central Pollution Control Board (CPCB), which mentions that out of about 740 health-care facilities in Chhattisgarh only 181 have their own treatment plants. The rest have either applied for operation of treatment plant or for using private agencies for the purpose of treatment and handling of bio-medical waste. After 2012, the State has failed to provide any information to the CBCB regarding the management of bio-medical waste. The AIR, 2013 brought out by CPCB on 7.5.2014, states that Chhattisgarh has defaulted in submitting compliance. CECEB, is under staffed and does not have enough manpower strength and capacity to carry out regular monitoring exercise in various medical facilities or any industry. Bilaspur Regional Office, which covers districts of Bilaspur, Mungeli and Janjgir districts has staff of only ten (10) members. Moreover, the health care facilities are failing at the first step itself, that is to say no segregation of the bio-medical waste in colour coded bags and bins; and in case where there is segregation, such bio-medical waste is not being sent to the bio-medical waste treatment facility for proper treatment and disposal. Therefore, neither medical facilities are doing their duty nor the prescribed authority is taking notice of the situation. The medical waste is being constantly mixed with municipal waste and is scattered and piled up at public places even in the main districts of the State of Chhattisgarh.

- 4.** The waste which is a mix of different categories is stored for days together and is being thrown along with Municipal general waste. The most susceptible to diseases from bio-medical waste are waste and rag pickers and stray animals, which are often seen in the areas of unregulated dumping. The rag pickers collect the material like syringe with needle, tubes etc. from the waste and in the process, end up in catching various infections and diseases. The World Health Organization (WHO), had in October, 2011 published a report that improper disposal of health care waste has led to 21million Hepatitis B virus infections; 2 million Hepatitis C virus infections; and at least 26,000 HIV infections.
- 5.** Though fully aware of grave situation, CECB, has only issued show cause Notices, under the Rules of 1998, to 181 Hospitals for non-complying with the Rules of 1998, while disposing bio-medical waste. It is noteworthy that the said list of defaulting Hospitals includes Govt. Medical Institutions such as AIIMS Raipur, Dr. Bhimrao Ambedkar Hospital, Raipur, Chhattisgarh Institute of Medical Science, Bilaspur etc. In fact, indifferent attitude shown by these Hospitals is a matter of serious and grave concern.
- 6.** The case of the Applicant is that the Authorities concerned are negligent and casual in handling the issue. The dispassion by the Health Department; indifference of the Environment Department; unbelievable degree of carelessness and negligence by various

medical and health care facilities in the city towards relevant laws and the people of the State, would be evident if one passes through the region. Such is the unsafe and hazardous situation in State of Chhattisgarh, although to safeguard the health and environment is the duty of the State.

**7.** The Hospitals and other medical facilities in the State along with the nodal agencies and authorities have shown dangerous levels of carelessness; total non-application of mind in respect to proper storage and disposal of bio medical waste. The situation is gruesome as the institutions like the Community Health Center at Basna, on which more than a thousand residents depend for health security, instead of being a facility for health recovery of patients is feared of putting the health of even a fit man at risk. Further the case of Applicant is that irrespective of legislations like the Bio-Medical (Management & Handling) Rules, 1998, the Environment (Protection Act) 1986 and the Central Pollution Control Board's guidelines directing for proper disposal and handling of bio-medical waste, the citizens of the State of Chhattisgarh are being constantly exposed to a life threatening situation.

**8.** As per the Bio-Medical Rules of 1998, the waste like microbiological and biotechnical wastes are to be given treatment under the Schedule by local autoclaving/microwaving/incineration. But in the State of



Chhattisgarh, most of such like waste is found in haphazard manner, which is being collected in bags and dumped either at any garbage dumping site or is handed over to rag pickers. The waste sharps (needles, syringes, blades, glasses etc.) which may cause puncture or cut are to be disinfected by chemical treatment/autoclaving/micro-waving and mutilation/shredding. But such waste is also found in haphazard manner after being collected in bags and is being dumped as garbage dump or handed over to the pickers. The solid waste (Items contaminated with blood, body fluids including cotton, dressing, soiled plaster casts, lines, beddings etc.) are to be treated and disposed of by incineration/autoclaving and microwaving. However, in the State of Chhattisgarh, some of the medical facilities are having incinerators, but most of the medical facilities dump such waste in garbage. In respect of solid waste (generated from disposable items) other than the waste sharps such as tubing, catheters, intravenous sets etc. which are to be disinfected by biochemical treatment/autoclaving/microwaving and mutilation/shredding, but nothing of that sort is being done in the State of Chhattisgarh.

**9.** The Respondents have contested the case of the Applicant through their replies on the ground that there is no violation of any of the Laws and the Govt. authorities are doing their work as per the relevant Rules in respect of bio-medical and Municipal Solid Waste (MSW). The Applicant has also made Govt.

authorities, District Collectors and Municipal Commissioners of the main cities of State of Chhattisgarh, totalling fifteen (15) in number, as party respondents. However, the main party in these proceedings are CECEB, department of health Chhattisgarh and department of Environment of State of Chhattisgarh. The other Respondents have filed their replies but broadly speaking they are the parties under the above referred departments of the State and authorities like CECEB. Therefore, it would be proper to consider the stand taken by the main Respondents and their replies filed before the Tribunal.

**10.** CECEB- Respondent No.1 has submitted their reply, not para wise, to the original Application. It is stated by them that the answering Respondent is committed to implement the laws relevant to conservation of environment and control of pollution in all respect including safe disposal of bio medical waste as well as MSW. Further, it is stated that all precautionary and preventive measures have been initiated to control pollution with safeguards. According to the Respondents, they are implementing the Bio Medical Waste Rules, 1998 in the State of Chhattisgarh. It has been categorically stated that there is no negligence and casual approach in handling of waste being carried out. So far as the Respondent No.1 is concerned, it has further stated that they are responsible for compliance of the Rules of 1998 and the Rules of 2000. They are sharing responsibilities with the District Municipal

Commissioners and the Chief Municipal officer of the local bodies to implement the work relating to segregation, transportation, collection and safe disposal of MSW as well as bio medical waste separately with enforcement of the provisions of the Rules of 1998 framed under the Environment (Protection) Act, 1986. It is also stated that site of dumping/disposal of city garbage/municipal waste has been identified by the Municipal authorities in village Kachhar near Senadari, in Bilaspur district. The solid municipal waste is being disposed of at the identified site. Nagar Nigam, Bilaspur has provided one acre of land to common treatment facility for bio medical waste site. Bio medical waste, according to the Respondent No.1, is being segregated at the source by the operators of the common treatment facility and is being disposed of at the site by using chemical treatment and deep burial methodology.

**11.** The Respondent has also submitted that Nursing Homes, health care facility and hospitals of Bilaspur town are complying and implementing the provisions of Rules,1998. The waste generated from the hospitals is being collected, segregated and transported by the operators of common treatment facility and is being disposed of at the identified site in village Kachhar with chemical treatment and deep burial method. It is also stated that neither any waste contained needles and blade, including waste sharp with contained blood and body fluid cotton is being

collected at source and being disposed of by deep burial method and no bio medical waste is being mixed in MSW. The instructions in this regard have already been given by the answering Respondent, to the Municipal authorities as well the operators of common bio medical waste treatment facility.

**12.** Further it is stated by the Respondent that hospitals, nursing homes and health care facilities are having agreement with common treatment facility to collect, segregate, transport, treat and dispose of respective bio medical waste as categorized in Schedule-I. Hence, no bio medical waste is being disposed of in the hospital or outside it. In all 161 authorizations have been issued to the hospitals/nursing homes/health care facilities by the Respondents, from time to time. The bio medical waste is said to be collected in colour coded bins/containers at all the hospitals/nursing homes/health care facility, along with pathological labs as mentioned in the Rules. Similarly, it is said that segregation of bio medical waste is being carried by the hospitals at source in colour coded plastic, carry bags and same are being disposed of at earmarked site by deep burial methodology.

**13.** It is submitted that the regular inspections of hospitals/nursing homes and common bio medical treatment facility is being carried out by the Respondent. Notices/directions have been issued to the hospitals, nursing homes, etc. for

violation and non-compliance of the conditions incorporated in the authorizations, which are issued by the Board. It is said that answering respondent on finding violation and non-compliance of any conditions incorporated in the authorization, has filed cases under the Rules 1998 against Chhattisgarh Institute of Medical Science, Bilaspur.

**14.** Respondents have also submitted that there is no mixing of bio medical waste with MSW by the authorities. The disposal site of MSW is far away from Bilaspur city i.e. around 16km, near Kachhar village. The site has been earmarked by the Municipal authorities. The city garbage/MSW are being disposed of at the site separately. One acre of land has already been provided to M/s Enviro Care International, Bilaspur for infrastructure development of common treatment bio medical waste disposal site. This site is also away from MSW landfill site. A common bio medical waste treatment and disposal facilities have been authorized by the Respondents for dealing in collection, transportation, treatment and scientific disposal of bio medical waste generated from hospitals/nursing homes/health care facility located in the Municipal areas of Bilaspur city. The said common facility is in operation since October, 2008. The Board has already accorded authorization on 13<sup>th</sup> October, 2008 for collection, segregation, transportation and treatment along with disposal of bio medical waste. Similarly, common bio medical facility had also been



developed in July, 2003 at Durg-Bhilai and Raipur. The name of the operators is M/s E-Tech Project P Ltd. Elite industrial area, Bhilai and Aroma social service Sansthan, branch Bade Rampur in district Raigad are also engaged under the common bio medical waste facility since 2005.

**15.** As per Rules of 1998, a committee has been constituted under the supervision of health department in accordance with the Nursing Home Act. The Respondents are also supervising the compliances, as per provisions of Rules of 1998 along with hospital waste management. It is also regularly monitoring health facilities and bio medical common treatment facility. The Respondents are regularly submitting annual report/information on bio medical waste management to CPCB, New Delhi.

**16.** It has been submitted by the Respondents that the man power available in the Board for periodical supervision, overseeing and implementation of the Rules/Regulations is inadequate. Despite this regular monitoring is being carried out by the Respondent. Bilaspur, Regional Office covers Bilapur, Mungeli and Janjgir-Champa districts, but common facility for bio medical waste is being implemented at Bilaspur instead of Mungeli, Janjgir- Champa districts. The waste from Mungeli is included in the common facility. The bio medical waste generated from Janjgir-Champa district is being transported and disposed of at Korba bio medical common facility. The Respondents have denied

that segregation of bio medical waste is being done by the hospital management at source and collected in colour coded bins or containers and the same is being disposed of in secured land of common facility. The Regional office, Bilaspur, on finding violation of Rules of 1998, has filed Court cases against the Dean of Chhattisgarh Institute of Medical Science, Bilaspur, on 23<sup>rd</sup> June, 2014 and the same is pending adjudication.

**17.** The Respondents have also averred that the concerned authorities are performing duties as per the Rules of 1998. Common treatment plant is already in service since 2007-08. The common bio medical facilities are also being developed at Korba and Raipur districts. The total quantity of bio medical waste is being collected by the operators of the common treatment facility and disposed of by using deep burial method.in accordance to the Rules. There is no mixing of bio medical waste with MSW.

**18.** The Respondents have further stated that bio medical waste generated at different hospitals, nursing homes, health care facility and pathological labs are being segregated at source and is being collected and transported by the operators for common treatment facility. After treatment/disinfection the bio medical waste is being disposed of at the earmarked disposal site by using deep burial method. Hence, no mixing activity in the MSW is being done. It is submitted that no rag pickers are allowed to collect the plastic waste at the bio medical waste disposal site, as deep burial methodology is being used by the operators and the plastic waste,

syringe, intravenous sets etc. are being treated chemically and deposited of after shredding. The treatment and disposal option, as mentioned in the Schedule-I, specifies categories of bio medical waste in Rules of 1998.

**19.** It is stated that the Respondent is regulatory authority working under the Municipal Housing and Environment, Govt. of Chhattisgarh and is looking after the matters relating to violation of Rules of 1998. It has issued several Notices to the hospitals/health facilities, which are established in the State, pertaining to compliance of all the conditions incorporated in the authorization and the Rules of 1998. Even legal action has also been initiated by the answering Respondent for proper compliance of conditions under the Rules of 1998 and the Respondents have prayed for proper orders, as deemed fit and to undertake to comply with all the directions of the Tribunal, which are to be issued by it in the interest of protection of environment and sustainable development.

**LEGAL PROVISIONS:**

**20.** The Ministry of Environment and Forest (MoEF) vide Notification dated 20.7.1998 had framed the Bio-Medical Waste (Management & Handling) Rules, 1998. These Rules were framed with the purpose of controlling improper disposal and handling of bio-medical waste in the country and also made applicable to all the persons, who generate, collect, receive, store, transport, treat,

dispose, or handle bio medical waste in any form. The relevant Rules of 1998 are as under:

### Bio-Medical Waste (Management and Handling) Rules, 1998

**"3. DEFINITIONS:** *In these rules unless the context otherwise requires:-*

(3) **"Authorisation"** means permission granted by the prescribed authority for the generation, collection, reception, storage, transportation, treatment, disposal and/or any other form of handling of bio-medical waste in accordance with these rules and any guidelines issued by the Central Government;

(4) **"Authorised person"** means an occupier or operator authorised by the prescribed authority to generate, collect, receive, store, transport, treat, dispose and/or handle bio-medical waste in accordance with these rules and any guidelines issued by the Central Government;

(5) **"Bio-medical waste"** means any waste, which is generated during the diagnosis, treatment or immunisation of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals, and including categories mentioned in Schedule I;

(6) **"Biologicals"** means any preparation made from organisms or micro-organisms or product of metabolism and biochemical reactions intended for use in the diagnosis, immunisation or the treatment of human beings or animals or in research activities pertaining thereto;

(8) **"Occupier"** in relation to any institution generating bio-medical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, by whatever name called, means a person who has control over that institution and/or its premises;

(9) **"Operator of a bio-medical waste facility"** means a person who owns or controls or operates a facility for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste;

**4. DUTY OF OCCUPIER.**-It shall be the duty of every occupier of an institution generating bio-medical waste which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment.

### **5. TREATMENT AND DISPOSAL**

(1) Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards prescribed in Schedule V.

(2) Every occupier, where required, shall set up in accordance with the time-schedule in Schedule VI, requisite bio-medical waste treatment facilities like incinerator, autoclave, microwave system for the treatment of waste, or, ensure requisite treatment of waste at a common waste treatment facility or any other waste treatment facility.

### **6. SEGREGATION, PACKAGING, TRANSPORTATION AND STORAGE**

(1) Bio-medical waste shall not be mixed with other wastes.

(2) Bio-medical waste shall be segregated into containers/bags at the point of generation in accordance with Schedule II prior to its storage,



transportation, treatment and disposal. The containers shall be labeled according to Schedule III.

(3) If a container is transported from the premises where bio-medical waste is generated to any waste treatment facility outside the premises, the container shall, apart from the label prescribed in Schedule III, also carry information prescribed in Schedule IV.

(4) Notwithstanding anything contained in the Motor Vehicles Act, 1988, or rules thereunder, untreated biomedical waste shall be transported only in such vehicle as may be authorised for the purpose by the competent authority as specified by the government.

(5) No untreated bio-medical waste shall be kept stored beyond a period of 48 hours:

Provided that if for any reason it becomes necessary to store the waste beyond such period, the authorised person must take permission of the prescribed authority and take measures to ensure that the waste does not adversely affect human health and the environment.

<sup>4</sup>[(6) The Municipal body of the area shall continue to pick up and transport segregated non-bio-medical solid waste generated in hospitals and nursing homes, as well as duly treated bio-medical wastes for disposal at municipal dump site.]

7. Prescribed authority.- <sup>5</sup>[(1) <sup>6</sup>[Save as otherwise provided,] the prescribed authority for enforcement of the provisions of these rules shall be the State Pollution Control Boards in respect of States and the Pollution Control Committees in respect of the Union Territories and all pending cases with a prescribed authority appointed earlier shall stand transferred to the concerned State Pollution Control Board, or as the case may be, the Pollution Control Committees.]

[(1-A) The prescribed authority for enforcement of the provisions of these rules in respect of all health care establishments including hospitals, nursing homes, clinics, dispensaries, veterinary institutions, animal houses, pathological laboratories and blood banks of the Armed Forces under the Ministry of Defence shall be the Director-General, Armed Forces Medical Services.]

(2) The prescribed authority for the State or Union Territory shall be appointed within one month of the coming into force of these rules.

(3) The prescribed authority shall function under the supervision and control of the respective Government of the State or Union Territory.

(4) The prescribed authority shall on receipt of Form I make such enquiry as it deems fit and if it is satisfied that the applicant possesses the necessary capacity to handle bio-medical waste in accordance with these rules, grant or renew an authorization as the case may be.

(5) An authorization shall be granted for a period of three years, including an initial trial period of one year from the date of issue. Thereafter, an application shall be made by the occupier/operator for renewal. All such subsequent authorization shall be for a period of three years. A provisional authorization will be granted for the trial period, to enable the occupier/operator to demonstrate the capacity of the facility.

(6) The prescribed authority may after giving reasonable opportunity of the being heard to the applicant and for reasons thereof to be recorded in writing, refuse to grant or renew authorization.

(7) Every application for authorization shall be disposed of by the prescribed authority within ninety days from the date of receipt of the application.

(8) The prescribed authority may cancel or suspend an authorization, if for reasons, to be recorded in writing, the occupier/operator has failed to comply with any provision of the Act or these rules:



*Provided that no authorization shall be cancelled or suspended without giving a reasonable opportunity to the occupier/operator of being heard.”*

**21.** Earlier the Bio-Medical Waste (Management and Handling) Rules, 1998, published by the erstwhile Ministry of Environment and Forest, were prevailing for regulation framework for management of bio-medical waste generated in the country.

In order to implement the said rules more effectively and to improve the collection, segregation, processing, treatment and disposal of the bio-medical waste in an environmentally sound management, thereby reducing the bio-medical generation and its impact on the environment, the Central Government reviewed the existing rules. Therefore, in exercise of power conferred by Section 6, 8 and 25 of the Environment (Protection) Act, 1986 and in supersession of Bio-Medical Waste (Management and Handling) Rules, 1998 the Central Government made new rules which came into effect from its publication in the official gazette. on 28<sup>th</sup> March, 2016

**22.** The New rules are called the Bio-Medical Waste Management Rules, 2016.

Rule 2 provides the area in which it is applicable, it reads as under:

**“2. Application.-**

*(1) These rules shall apply to all persons who generate, collect, receive, store, transport, treat, dispose, or handle bio medical waste in any form including hospitals, nursing homes, clinics, dispensaries, veterinary institutions, animal houses, pathological laboratories, blood banks, ayush 2 hospitals, clinical establishments, research or educational institutions,*

health camps, medical or surgical camps, vaccination camps, blood donation camps, first aid rooms of schools, forensic laboratories and research labs.

(2). These rules shall not apply to,-

(a) radioactive wastes as covered under the provisions of the Atomic Energy Act, 1962(33 of 1962) and the rules made there under;

(b) hazardous chemicals covered under the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 made under the Act;

(c) solid wastes covered under the Municipal Solid Waste (Management and Handling) Rules, 2000 made under the Act;

(d) the lead acid batteries covered under the Batteries (Management and Handling) Rules, 2001 made under the Act;

(e) hazardous wastes covered under the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 made under the Act;

(f) waste covered under the e-Waste (Management and Handling) Rules, 2011 made under the Act; and

(g) hazardous micro organisms, genetically engineered micro organisms and cells covered under the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms, Genetically Engineered Micro organisms or Cells Rules, 1989 made under the Act.

**3. Definitions.**- In these rules, unless the context otherwise requires, -

(c) "authorisation" means permission granted by the prescribed authority for the generation, collection, reception, storage, transportation, treatment, processing, disposal or any other form of handling of bio-medical waste in accordance with these rules and guidelines issued by the Central Government or Central Pollution Control Board as the case may be;

(d) "authorised person" means an occupier or operator authorised by the prescribed authority to generate, collect, receive, store, transport, treat, process, dispose or handle bio-medical waste in accordance with these rules and the guidelines issued by the Central Government or the Central Pollution Control Board, as the case may be; 3

(e) "biological" means any preparation made from organisms or micro-organisms or product of metabolism and biochemical reactions intended for use in the diagnosis, immunisation or the treatment of human beings or animals or in research activities pertaining thereto;

(f) "bio-medical waste" means any 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 health camps, including the categories mentioned in Schedule I appended to these rules;

(m) "occupier" means a person having administrative control over the institution and the premises generating bio-medical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, health care facility and clinical establishment, irrespective of their system of medicine and by whatever name they are called;

(n) "operator of a common bio-medical waste treatment facility" means a person who owns or controls a Common Bio-medical Waste Treatment Facility (CBMWTF) for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste;

**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 sterilisation on-site in the manner as prescribed by the World Health Organisation (WHO) or National AIDS Control Organisation (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); 5*

*(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; 6*

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

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

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



- (g) undertake appropriate medical examination at the time of induction and at least once in a year and immunise all its workers involved in handling of bio-medical waste for protection against diseases, including Hepatitis B and Tetanus, that are likely to be transmitted while handling bio-medical waste and maintain the records for the same;
- (h) ensure occupational safety of all its workers involved in handling of bio-medical waste by providing appropriate and adequate personal protective equipment;
- (i) report major accidents including accidents caused by fire hazards, blasts during handling of biomedical waste and the remedial action taken and the records relevant thereto, (including nil report) in Form I to the prescribed authority and also along with the annual report;
- (j) maintain a log book for each of its treatment equipment according to weight of batch; categories of waste treated; time, date and duration of treatment cycle and total hours of operation;
- (k) allow occupier, who are giving waste for treatment to the operator, to see whether the treatment is carried out as per the rules;
- (l) shall display details of authorisation, treatment, annual report etc on its web-site;
- (m) after ensuring treatment by autoclaving or microwaving followed by mutilation or shredding, whichever is applicable, the recyclables from the treated bio-medical wastes such as plastics and glass, shall be given to recyclers having valid consent or authorisation or registration from the respective State Pollution Control Board or Pollution Control Committee;
- (n) supply non-chlorinated plastic coloured bags to the occupier on chargeable basis, if required;
- (o) common bio-medical waste treatment facility shall ensure collection of biomedical waste on holidays also;
- (p) maintain all record for operation of incineration, hydroor autoclaving for a period of five years; and
- (q) upgrade existing incinerators to achieve the standards for retention time in secondary chamber and Dioxin and Furans within two years from the date of this notification.

**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. 8

(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.*

**9. Prescribed authority.**-(1) *The prescribed authority for implementation of the provisions of these rules shall be the State Pollution Control Boards in respect of States and Pollution Control Committees in respect of Union territories.*

(2) *The prescribed authority for enforcement of the provisions of these rules in respect of all health care establishments including hospitals, nursing homes, clinics, dispensaries, veterinary institutions, animal houses, pathological laboratories and blood banks of the Armed Forces under the Ministry of Defence shall be the Director General, Armed Forces Medical Services, who shall function under the supervision and control of the Ministry of Defence.* 9

(3) *The prescribed authorities shall comply with the responsibilities as stipulated in Schedule III of these rules.*

**10. Procedure for authorisation.**-*Every occupier or operator handling bio-medical waste, irrespective of the quantity shall make an application in Form II to the prescribed authority i.e. State Pollution Control Board and Pollution Control Committee, as the case may be, for grant of authorisation and the prescribed authority shall grant the provisional authorisation in Form III and the validity of such authorisation for bedded health care facility and operator of a common facility shall be synchronised with the validity of the consents.*

(1) *The authorisation shall be one time for non-bedded occupiers and the authorisation in such cases shall be deemed to have been granted, if not objected by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents.*

(2) *In case of refusal of renewal, cancellation or suspension of the authorisation by the prescribed authority, the reasons shall be recorded in writing: Provided that the prescribed authority shall give an opportunity of being heard to the applicant before such refusal of the authorisation.*

(3) *Every application for authorisation shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorisation is granted under these rules.*



(4) In case of any change in the bio-medical waste generation, handling, treatment and disposal for which authorisation was earlier granted, the occupier or operator shall intimate to the prescribed authority about the change or variation in the activity and shall submit a fresh application in Form II for modification of the conditions of authorisation.

**11. Advisory Committee.**-(1) Every State Government or Union territory Administration shall constitute an Advisory Committee for the respective State or Union territory under the chairmanship of the respective health secretary to oversee the implementation of the rules in the respective state and to advise any improvements and the Advisory Committee shall include representatives from the Departments of Health, Environment, Urban Development, Animal Husbandry and Veterinary Sciences of that State Government or Union territory Administration, State Pollution Control Board or Pollution Control Committee, urban local bodies or local bodies or Municipal Corporation, representatives from Indian Medical Association, common bio-medical waste treatment facility and non-governmental organisation.

(2) Notwithstanding anything contained in sub-rule (1), the Ministry of Defence shall constitute the Advisory Committee (Defence) under the chairmanship of Director General of Health Services of Armed Forces consisting of representatives from the Ministry of Defence, Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, Ministry of Health and Family Welfare, Armed Forces Medical College or Command Hospital.

(3) The Advisory Committee constituted under sub-rule (1) and (2) shall meet at least once in six months and review all matters related to implementation of the provisions of these rules in the State and Armed Forces Health Care Facilities, as the case may be.

(4) The Ministry of Health and Defence may co-opt representatives from the other Governmental and non-governmental organisations having expertise in the field of bio-medical waste management.

**12. Monitoring of implementation of the rules in health care facilities.**- (1) The Ministry of Environment, Forest and Climate Change shall review the implementation of the rules in the country once in a year through the State Health Secretaries and Chairmen or Member Secretary of State Pollution Control Boards and Central Pollution Control Board and the Ministry may also invite experts in the field of bio-medical waste management, if required.

(2) The Central Pollution Control Board shall monitor the implementation of these rules in respect of all the Armed Forces health care establishments under the Ministry of Defence.

(3) The Central Pollution Control Board along with one or more representatives of the Advisory Committee constituted under sub-rule (2) of rule 11, may inspect any Armed Forces health care establishments after prior intimation to the Director General Armed Forces Medical Services.

(4) Every State Government or Union territory Administration shall constitute District Level Monitoring Committee in the districts under the chairmanship of District Collector or District Magistrate or Deputy Commissioner or Additional District Magistrate to monitor the compliance of the provisions of these rules in the health care facilities generating bio-medical waste and in the common bio-medical waste treatment and disposal facilities, where the bio-medical waste is treated and disposed of.

(5) The District Level Monitoring Committee constituted under sub-rule (4) shall submit its report once in six months to the State Advisory Committee and a copy thereof shall also be forwarded to State Pollution Control Board or Pollution Control Committee concerned for taking further necessary action.

(6) The District Level Monitoring Committee shall comprise of District Medical Officer or District Health Officer, representatives from State Pollution Control Board or Pollution Control Committee, Public Health Engineering Department, local bodies or municipal corporation, Indian Medical Association, common bio-medical waste treatment facility and registered nongovernmental organisations working in the field of bio-medical waste management and the Committee may co-opt other members and experts, if necessary and the District Medical Officer shall be the Member Secretary of this Committee.

**13. Annual report.**-(1) Every occupier or operator of common bio-medical waste treatment facility shall submit an annual report to the prescribed authority in Form-IV, on or before the 30th June of every year.

(2) The prescribed authority shall compile, review and analyse the information received and send this information to the Central Pollution Control Board on or before the 31st July of every year.

(3) The Central Pollution Control Board shall compile, review and analyse the information received and send this information, along with its comments or suggestions or observations to the Ministry of Environment, Forest and Climate Change on or before 31st August every year.

(4) The Annual Reports shall also be available online on the websites of Occupiers, State Pollution Control Boards and Central Pollution Control Board.

**14. Maintenance of records.**- (1) Every authorised person shall maintain records related to the generation, collection, reception, storage, transportation, treatment, disposal or any other form of handling of bio-medical waste, for a period of five years, in accordance with these rules and guidelines issued by the Central Government or the Central Pollution Control Board or the prescribed authority as the case may be.

(2) All records shall be subject to inspection and verification by the prescribed authority or the Ministry of Environment, Forest and Climate Change at any time.

**17. Site for common bio-medical waste treatment and disposal facility.**-(1) Without prejudice to rule 5 of these rules, the department in the business allocation of land assignment shall be responsible for providing suitable site for setting up of common biomedical waste treatment and disposal facility in the State Government or Union territory Administration.

12

(2) The selection of site for setting up of such facility shall be made in consultation with the prescribed authority, other stakeholders and in accordance with guidelines published by the Ministry of Environment, Forest and Climate Change or Central Pollution Control Board.

**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.”

**23.** The Rules of 2016 have defined ‘bio-medical’ waste as any waste which is generated during the diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biological. This definition includes not only waste, sharps (like needles and blades) but also includes human, animal and solid waste (items

contaminated with blood and body fluids). Rule-5 read with Schedule I of the Rules divides bio-medical waste into various sub-categories and has prescribed specific treatment options and disposal for each such category under the Schedule, in order to minimize any adverse impact.

**24.** These Rules have authorized State Pollution Control Board (SPCB) for proper enforcement of its provisions in the respective States or Union Territory(s) Governments. These rules have also directed for every occupier of an institution generating, collecting, receiving, storing, transporting, treating disposing and/or handling bio-medical waste in any other manner, except such occupier of clinics, dispensaries, pathological laboratories, blood banks providing treatment/service to less than one thousand patients per month.

**25.** The legal obligation with regard to segregation of bio-medical waste, as provided for in schedule-I and II of the Rules, has been merely reduced to paper formality, irrespective of the fact that segregation of medical waste being the most important and the basic step for environmentally sound disposal of bio medical waste. But, segregation is not being done even by any single hospital or medical facilities in the State of Chhattisgarh. The Rules 4,5 and 6 puts an obligation on the occupier/owner of the medical facility to adopt ways for disposal of bio medical waste in an environmentally sustainable manner. Further, Rule-6(2) clearly



stipulates that segregation of bio medical waste has to be done at the source of its generation i.e. the medical facility/hospital. This Rule states that bio-medical waste shall be segregated into containers/bags at the point of generation in accordance with Schedule II, prior to its storage, transportation, treatment and disposal. The containers shall be labeled according to Schedule III. Rule 6(5) prescribes that no untreated bio-medical waste should be kept for more than 48 hours of its generation and Sub-rule (6) directs that the Municipal Bodies of the respective areas to pick up and transport the segregated non-bio medical solid waste generated in the Hospitals and Nursing Homes, as well as duly treated bio medical waste at Municipal dumping site for disposal.

**26.** The Rules have explicitly divided the duty to oversee proper management and every disposal of bio medical waste amongst SPCB, CPCB, various Municipal Authorities and operator/occupier himself. But, still situation in the State of Chhattisgarh has reached tipping point, lack of proper authority and implementation is obvious from the fact that even after SPCB gave Notices to the Hospitals for improper disposal of bio medical waste, it did not dampen/curb their spirit of flouting laws.

**27.** CPCB prescribed guidelines for common bio medical waste treatment facilities and incinerators, in the year 2003. The Press release of CPCB clarifies that health being State subject, it is the responsibility of the State Govt. to take necessary steps for

monitoring disposal of bio medical waste through SPCB/Pollution Control Committees (PCC) in the Union Territories, as per the provisions of the Bio-Medical Waste (Management & Handling) Rules, 1998. The SPCB/PCC are empowered to ensure the compliance of provisions of these Rules. The Press release further highlights the provisions of the guidelines directing the Head of Hospitals to form a waste management Committee, which shall be responsible for making specific action plan for Hospital waste management and for its supervision, monitoring, implementation as well as to look after the safety of bio medical waste handlers.

**28.** Now coming to the plants for treatment of bio-medical waste, the situation is no better. There are neither adequate number of CBWTF (common bio-medical waste treatment facility) and those which have been installed are not in accordance to the prescribed parameters. In the State of Chattisgarh there are 27 districts, and as per the bio-medical rules there should be one CBWTF at every 150 kms. It is strange to note that the entire Sarguja and Bastar divisions, which are tribal dominated and schedule V areas, are not having even a single CBWTF. In both these divisions there are innumerable deaths, due to malaria, diarrhea, dengue etc, every year because of mosquitoes and garbage related menace.

**29.** In this matter where primary grievance raised by the Applicant is in respect of mis-management of bio-medical waste and its improper disposal, one of the first and foremost question

which needs consideration is in respect of the number of health care facilities, government or private, which exists in the State of Chattisgarh. A strange picture comes out on perusal of the record of the State because neither the Chattisgarh Environment Conservation Board nor the State of Chattisgarh has been able to give the correct figure of the total number of health care facilities. In the reply filed by Chattisgarh Environment Conservation Board (CECB), a report in respect of the year 2011, which was the annual report sent to the Central Pollution Control Board, has been annexed as R/1/3 (Page-167). According to the said report, the total number of health care facilities (HCF) are shown as 980. Other detail in respect of the year 2015, which has also been annexed to the report, the total number of HCF is shown as 1100 (P-171). Similarly, the CECB has also annexed the annual report in respect of the year 2013 (P-175) which disclosed the total number of HCF as 1322.

**30.** Chattisgarh Environment Conservation Board had also filed an additional affidavit on 16.02.2016 (P-408.). In para 4 of the affidavit it has been given out that total number of health care facilities in the State are 1728. Annexure II of the said additional affidavit (P-416) mentions the total number of health care facilities as 879.

**31.** On 4<sup>th</sup> April, 2016, CECB had filed an affidavit wherein it has been mentioned that the remaining health care facilities had been

inspected, which were 184. In other words, the total number of health care facilities inspected are 1063 (879+184).

**32.** Likewise, the State Government has mentioned in respect of health care facilities that the total number of private clinics are 875 (P-476). The government hospitals are said to be 509 and pathology laboratory are 249. This gives a total of 1678 (P-509) in the affidavit filed by the respondent State on 3<sup>rd</sup> December, 2003(p-398), the total number of government hospitals are 199 and private hospitals are said to be 1625 approximately. It is pertinent to mention here that the Government itself is unable to give the exact number of the state hospitals and has specifically said that the figures given by it are approximate. According to the said affidavit the total number of health care facilities comes to 1825. From the aforesaid replies/affidavits filed by the respondents, it is crystal clear that neither the health department of the State of Chattisgarh nor the authorities, namely, Chattisgarh Environment Conservation Board has been able to give the exact figures, in respect of the total number of health care facilities in the State. Such being the state of affairs in the State of Chattisgarh where even the total number of health care facilities are not known till date, one can visualize as to what sort of implementation of the Rules 1998 is being done and whether it is effectively done.



**33.** As per the affidavit filed by the respondent State on 3<sup>rd</sup> December, 2015 (P-406) there are only three CBWTFs. In the latter affidavit filed by CECB on 16<sup>th</sup> February, 2016 in para 5 (P-409), there are four CBWTFs covering the district of Raipur, Bilaspur, Korba, Durg-Bhilai and Raigarh. Again there is a question which needs to be determined as to whether the statements made on behalf of the State Government is correct or the one given by the CECB.

**34.** Further, on perusal of the record including the affidavit filed by CECB shows that out of four CBWTFs, only two are having incinerators and only one of them is having the required land area of one acre. The CBWTFs at Bilaspur is having a land area of one acre whereas, the one at Korba around 0.5 acres of land. Besides the remaining two CBWTFs at Raigarh and Bhilai-Durg are having only 1/4<sup>th</sup> of the land than the one actually required.

**35.** As regards, the inspection which are said to be carried out by CECB as per the additional affidavit dated 4<sup>th</sup> April, 2016, is a mere paper formality. Many inspection reports do not bear signature of the Facility In-charge and also the Inspecting Health Officer, (P-743, 746, 752, 755). The inspection reports on record also show that there is deep pit and open land where the disposal is being done. In one of the inspecting report (P-769), even the procedure of disposal is not mentioned and the said space have been left blank. All this bears testimony to the fact that

respondents are not serious in respect of the medical facilities abiding by the rules for disposal of bio-medical waste. A bare perusal of the inspecting reports, therefore, reveals that only formality in the name of compliance of the rules is being done by the State Government.

- 36.** Moreover, it is not clear as to how many health care facilities are operating after obtaining due authorization from the competent authorities. The affidavit filed by CECB (P-175) shows that a number of HCFs are working without authorization. The CPCB Report (P-37) shows that 315 HCFs are operating without authorization. This is the situation when total number of HCFs, according to the said report, are 740. The record further shows (P-38) that 113 health care facilities are neither having authorization nor CBWTFs. The reply filed by CECB on 18<sup>th</sup> February, 2015 (P-106-107) shows that there is no authorization even of government hospitals. Further it shows that there is mixing of municipal solid waste and bio-medical waste. It is also revealed from the pleadings of the respondents that there are total 627 HCFs which are having authorization 424 are linked with CBWTF which makes a total of 1051, whereas the total number of HCFs are said to be 1322. All these circumstances fortify the fact that in the State of Chattisgarh the rules of 1998 relating to bio-medical waste are not at all being followed.

**37.** The respondents are also not knowing about the total quantity of bio-medical waste which is being generated in the State. Similarly, it is not revealed from the record as to what is the total quantity of bio-medical waste being treated in the State. In fact, a perusal of the response to the Original Application given by the respondents, including the affidavits, are inconsistent in respect of the total quantity of the waste generated and the one treated by the plants.

In the affidavit filed by CECB on 16<sup>th</sup> February, 2016, it is stated that the CBWTFs are treating a total quantity of 3.54 tones of medical waste per day (P-416). Further, it is given out by the respondents that the CBWTFs at Durg-Bhilai is treating 1.5 tones per day (P-444). In the later part, it has been mentioned by the respondents that 0.7 to 0.8 tones per day is being treated by Durg-Bhilai plant (P-451). It has also been mentioned that the remaining two plants are treating 0.1 tone per day whereas it is stated later that 0.13 tone per day medical waste is being treated. The total quantity of the bio-medical waste which is being treated comes to 2.54 tones per day whereas at page no.416 it is said to be 3.54 tones of waste per day. Moreover, in the affidavit filed by CECB on 18<sup>th</sup> February, 2015, it has been mentioned that the total amount of waste generated is equal to the waste which is being treated (P-167,171,175). Further, it is revealed from the averments made by the respondents that CECB had issued notice

to Durg-Bhilai CBWTF as it was not working properly (P-232). Similarly, notice was issued to the CBWTF at Rajgarh (255) and CBWTF at Bilaspur. In other words, the earlier averments made that the waste generated is equal to the waste treated is totally false and incorrect. Above all, CECB had to issue notices to hospitals stating that they have not given the details of the waste generated and waste treated (P-304). A list issued from CECB office at Raipur (P259-260) goes to show that both government and private hospitals had not given the details of waste generated and waste treated. Voluminous documents (in vol.iii) have been filed on record by CECB which shows that notices had to be issued to large number of hospitals, in respect of waste generated and waste treated.

**38.** Thus it is amply clear from the aforesaid facts and circumstances and on thorough consideration of the material on record that the State of Chattisgarh is not even knowing as to what is the total number of health care facilities in the State. It is rather strange that the documents filed on behalf of the respondents, from time to time, gives different figures, so much so, that inconsistent information has been given by the same respondent. The respondent State and its authorities have failed to check that the health care facilities being carried on by government or by private parties, should be duly authorized, in accordance to the relevant rules. The respondents are not even



aware as to how much of bio-medical waste is being generated by the health care facilities which are in existence and being run in the State. The plants installed in the State for the purpose of treating the bio-medical waste are not at all adequate in number. There are only four CBWTFs in the State, out of which only two are having incinerators, as per the relevant law. Sufficient number of CBWTFs are to be installed which is to be determined in accordance to total number of waste generated. But in the State of Chattisgarh, the CBWTFs established are totally inadequate, as for instance in the entire division of Surguja and Bastar which are 150 km away do not have even a single CBWTF. The State of Chattisgarh consists of 27 districts and it has only four CBWTFs though there should be one such plant at every 150 kms.

**39.** In our view, non-compliance of rules and law in the State of Chattisgarh is writ large. What to say about private hospitals, even the government hospitals are not authorized by the competent authority under the rules. Complete information with regard to the total quantity of waste generated in government hospitals and the quantity treated by the treating plants is not known. We are of the view that, the State of Chattisgarh has not taken adequate steps, much less to say effective steps, for implementation of the Rules of 1998 whereas treatment of bio-medical waste is a matter which requires proper and immediate attention as any delay or slackness may result in danger to human health.

**40.** Therefore, this Tribunal is very much concerned with the situation which exists in the State of Chattisgarh in respect of the implementation and execution of Bio-Medical Waste (Management and Handling) Rules. It is a dire necessity that immediate steps should be taken up by the State Government for implementation of the rules (now the Bio-Medical Management Rules, 2016). Therefore, this Original Application is being disposed of with the following directions which are to be complied with in letter and spirit and with immediate affect:

- I. That in the State of Chattisgarh a State Level Committee be constituted under the chairmanship of the Chief Secretary, Secretary Medical Health and all the Divisional Commissioners. Member Secretary, CECPB, Director General, Medical and Health, State of Chattisgarh shall be the Nodal Officer.
- II. The said Committee shall immediately hold its meeting and thereafter from time to time but not beyond the period of two months.
- III. The Committee shall immediately prepare a complete and comprehensive inventory of all the HCFs, as defined under Rules of 2016 and thereafter prepare the action plan regarding proper and effective implementation of the provisions of Bio-Medical Management Rules, 2016
- IV. The said Committee shall send its report, soon after preparing the action plan for implementation of the Rules to the

Tribunal. Thereafter, the State Level Committee shall monitor the implementation of the Bio-Medical Management Rules, 2016 by District Level Committees and send its report in three months to this Tribunal. As soon as the Report is received, the registry shall place it before the Tribunal.

V. The State Government of Chattisgarh shall constitute a committee at every district level who shall be responsible for implementing the action plan prepared by the State Level Committee and for effective implementation of Bio-Medical Management Rules, 2016.

VI. The District Level Committee shall consist of the District Magistrate as its Chairman and the Chief Medical Officer, Regional Officer, CEBCP and Superintendent of Police of the district to implement the provisions of Bio-Medical Management Rules, 2016 effectively and immediately. The execution/implementation of the relevant law shall be personal responsibility of every member of District Committee. The Chief Medical Officer of the district shall be the Nodal Officer.

**41.** Accordingly, Original Application No.507/2014 is disposed of with aforesaid directions and with no order as to cost.

.....  
**Justice Swatanter Kumar**

**Chairperson**

.....  
**Justice Raghuvendra S. Rathore**  
**Judicial Member**



.....  
**Mr. Bikram Singh Sajwan**  
**Expert Member**

.....  
**Mr. Ranjan Chatterjee**  
**Expert Member**

**New Delhi.**  
**DATE: 15<sup>th</sup> DECEMBER, 2016**

**NGT**