

Udho Prasad Sharma vs Central Pollution Control Board on 29 July, 2022

Item No. 06

(Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(By Video Conferencing)

Original Application No. 544/2022

Udho Prasad Sharma

Applicant

Versus

Central Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 29.07.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Sunil Pillai, Advocate

ORDER

1. This is an Original Application under Section 14,15,16,17 and 18 (1) of National Green Tribunal Act, 2010 filed by one Udho Prasad Sharma raising a grievance that Respondent Nos. 2, 4 and 6 are not taking effective steps in respect of non-compliance of Bio-Medical Waste Management Rules, 2016 (hereinafter referred to as 'Rules, 2016') by Respondent Nos.

3, 5 and 7 who are all Government Medical Colleges and Hospitals at Bilaspur, Chandigarh and Delhi respectively.

2. It is contended that the Proponents are not observing Rules, 2016 strictly; Bio-medical waste categorized as yellow, red, white and blue are not being treated strictly in accordance with the procedure prescribed under the Rules and Authorities/Statutory Regulators responsible for implementation of the above Rules, are not taking any effective remedial action against the said Proponents.

3. Learned Counsel for the Applicant drew our attention to a copy of letter dated 09.02.2017 which shows that bio-medical waste was categorized as yellow, red, white and blue. It is alleged that the waste is not being treated as per Rules, 2016. However, there is no averment in the entire application that the said waste is not being treated and managed as per the provisions of Bio-Medical Waste Rules, 2016.

4. He also drew our attention to Page 35 and 37 of Original Application which are the orders passed by Statutory Regulator imposing compensation for violation of Rules, 2016 upon two individual proponents namely M/s Tej Diagnostic Centre, Kedarpur Bhatti Road, Ambikapur, District Surguja, Chhattisgarh and M/s Day Care Clinic, MG Road, Near Dashmesh School, Ambikapur, District Surguja, Chhattisgarh. We find from record that firstly, proceedings have been initiated by State PCB officials and finding violation of Rules, 2016, compensation has been imposed. Matter has become final. Further, two individual proponents are not party to the original application. In fact, no grievance has been raised in this O.A. against the said proponents. Therefore, the issue regarding those proponents cannot be examined in the matter.

5. Besides, we may place on record that the issue with regard to compliance of Bio-Medical Waste Rules, 2016 has been considered in detail by this Tribunal in O.A. No. 710/2017, Shailesh Singh Vs. Sheela Hospital and Trauma Centre, Shahjahanpur & Ors. connected with several other Original Applications and in the order dated 18.01.2021, in the light of status of compliance projected vide CPCB report dated 13.01.2021, this Tribunal has said:-

"2. Grievance in these matters is that the rules are not being enforced by the Hospitals named as respondents in the Applications in the State of UP. However, in the course of proceedings, this Tribunal extended the scope of consideration to the entire Country, as situation in most of the States/UTs requires intervention for compliance of Rules. Vide order dated 16.1.2019 in OA 606/2018, this Tribunal required Chief Secretaries of all States/UTs to monitor compliance of these Rules with other significant environmental issues in the interest of public health and environment and by later order, the Chief Secretaries were directed to set up monitoring cells directly under them. Directions were also issued in the present matter for constitution of District Environmental Committees at District level under the District Magistrates for such compliances. There are acknowledged gaps in terms of the giving of authorizations as well as in the segregation, treatment and disposal of waste.

3. The matter was reviewed vide order dated 22.01.2020 with reference to earlier proceedings and the report of the CPCB. It was noted in an earlier order that unscientific disposal of bio-medical waste had potential of serious diseases such as Gastrointestinal infection, Respiratory infection, Eye infection, Genital infection, Skin infection, Anthrax, Meningitis, AIDS, Haemorrhagic fevers, Septicaemia, Viral Hepatitis type A, Viral Hepatitis type B and C, etc. Such unscientific disposal also causes environmental pollution leading to unpleasant smell, growth and multiplication of vectors like insects, rodents and worms and may lead to the

transmission of diseases like typhoid, cholera, hepatitis and AIDS through injuries from syringes and needles contaminated with various communicable diseases. The Tribunal referred to the news article published in "Dainik Jagran"

dated 06.10.2017 stating as follows:-

"That the Gautam Buddha Nagar is the only district where a survey of 66 hospitals was conducted in October 2017 where 23 were found doing the management of Biomedical waste. 18 hospitals of which have been issued notices by the Regional Officer, UPPCB, GuatamBudh Nagar."

4. Reference was also made to the report of the CAG placed on its website in May, 2017 as follows:

"Inadequate facility of bio-medical waste (BMW) treatment. As per the report paragraph 2.1.9.5 there were 8,366 Health Care Establishments (HCEs) out of which 3,362 HCEs were operating without authorization. Total BMW generated in the State was 37,498 kg/day out of which only 35,816 kg/day was treated and disposed of. BMW of 1,682 kg/day was being disposed of untreated due to inadequate treatment facility. But UPPCB failed to monitor unauthorised operation and untreated disposal of BMW and did not take any action against the defaulters."

5. The Tribunal also referred to earlier directions and the report of the CPCB about the status of compliance dated 15.11.2019 based on information received from different States/UTs. The information related to the monitoring of the Health Care Facilities (HCFs), grant of authorizations, adequacy of common treatment facilities, constitution of State/District Advisory Committees, Barcodes system in every HCF and CBWTFs, training and capacity building of the Departments and workers, installation of online systems for monitoring, giving of reports, compliance of standards, etc. The Tribunal held that there was need for consolidated status report with statistics and recommendations. As already noted, vide order dated 15.7.2019, direction was issued for preparation of District Environment Plans as per Articles 243G, 243W and 243ZD read with Schedules 11 and 12 of the Constitution. The District Magistrate as head of the District Planning Committee was to monitor compliance of environmental norms, including Bio Medical Waste Management Rules once every month and send a report to the Chief Secretary. Relevant part of the order is extracted below:

"We find it necessary to add that in view of Constitutional provisions under Articles 243 G, 243 W, 243 ZD read with Schedules 11 and 12 and Rule 15 of the Solid Waste Management Rules, 2016, it is necessary to have a District Environment Plan to be operated by a District Committee (as a part of District Planning Committee under Article 243 ZD) with representatives from Panchayats, Local Bodies, Regional Officers, State PCB and a suitable officer representing the administration, which may in turn be chaired and monitored by the District Magistrate. Such District Environment Plans and Constitution of District Committee may be placed on the website of Districts concerned. The monthly report of monitoring by the District

Magistrate may be furnished to the Chief Secretary and may be placed on the website of the District and kept on such websites for a period of one year. This may be made operative from 1.08.2019."

6. The matter was last considered on 20.07.2020 in the light of the consolidated report filed by the CPCB on 18.07.2020. It was observed:-

"1to4.....XXX.....XXX.....XXX

5. In above background, the CPCB has filed a consolidated report on 18.07.2020 with reference to the action points in terms of earlier orders including preparation of action plans, monitoring compliance and recovering compensation for violations. The CPCB received revised reports from 33 States/UTs and assessed the compliance status. The overall bio-medical waste management scenario has been summarized as follows:

"(i) An inventory of about 2,70,416 nos. of Healthcare Facilities (HCFs) with 97,382 bedded and 1,73,831 non-

bedded HCFs was reported. Out of these 2,70,416 nos of HCFs, only 1,10,356 HFCs are authorized till the year 2019.

(ii) Total generation of bio-medical waste is about 614 tonnes per day out of which about 534 tonnes per day is treated through CBWTFs as well as captive treatment facilities.

(iii) About 57 tonnes per day of biomedical waste is treated by captive treatment facilities and about 472 tonnes per day of biomedical waste is treatment by CBWTF.

(iv) Summary of bio-medical waste management scenario in the country is given below:

- No. of Healthcare Facilities (HCFs) :2,70,416

- No. of bedded HCFs :97,382

- No. of non-bedded HCFs :1,73,831

- No. of beds :22,06,362

- No. of CBWTFs :200*+28**

- No. of HCFs granted authorization :1,10,356

- No. of HCFs having Captive Treatment Facilities :12,326

- No. of Captive Incinerators Operated by HCFs :120
- Quantity of bio-medical waste generated in Tonnes/day :614
- Quantity of bio-medical waste treated in Tonnes/day :534
- No. of HCFs violated BMW Rules :27,301
- No. of show-cause notices/Directions issued to defaulter HCFs :16,956 Note: (i) *-CBWTFs in operation (ii) **-CBWTFs under installation State specific data pertaining, generation, treatment and disposal of biomedical waste including details of waste management infrastructure is summarized into a data Table given at Annexure V."

6. In Para 4 of the report, it is stated that State of Rajasthan and Nagaland have not yet filed their revised action plans. In para 5.1 under the heading 'Inventory of all healthcare facilities (HCFs) and biomedical waste general', it is stated that 25 States/UTs have completed their inventories and 10 States/UTs namely; Assam, Kerala, Mizoram, West Bengal, Jharkhand, Chhattisgarh, Goa, Gujarat, Meghalaya and Uttarakhand have yet to do it. In para 5.2 under the heading 'Authorization to all Healthcare Facilities including non-bedded HCFs', it is stated that as per the Annual report submitted by SPCBs/PCCs, out of 2,70,416 healthcare facilities, only 1,11,122 no. of health care facilities have applied for authorization and 1,10,356 HCFs have obtained authorized under BMW Rules, 2016.

Thus, apart from those who have applied and those who have obtained authorization, there are about 50,000 HCFs who have neither applied nor taken the authorization. The said States may expedite the process and complete the same positively by 31.12.2020 and file a compliance report with the CPCB. In para 5.3 under the heading 'Facilitate setting-up adequate number of Common Biomedical Waste Treatment Facilities (CBWTFs) to cover entire State or all HCFs', it is stated that there is no CBWTF in seven States and UTs namely; Andaman & Nicobar, Arunachal Pradesh, Goa, Lakshadweep, Mizoram, Nagaland and Sikkim to cater service of treatment and disposal of biomedical waste and these States are managing disposal of biomedical waste with existing captive treatment facilities installed by HCFs or by deep burial of waste. These States have reported that they are under the process of setting up of new CBWTFs. In para 5.5 under the heading 'Implementation status of Barcode system', it is stated that only 4 States have implemented the barcode system. The remaining have either partially implemented or not established such system. In para 5.6 under the heading 'Monitoring of Healthcare Facilities other than hospitals/clinics such as Veterinary Hospitals, Animal Houses, AYUSH Hospitals, etc', it is stated that Andaman & Nicobar, Assam, Jammu & Kashmir, Manipur, Andhra Pradesh, Chhattisgarh, Karnataka, Meghalaya, Nagaland, Rajasthan and Tripura have not provided any information regarding monitoring of veterinary hospitals, animal houses etc. CPCB has conducted random inspections of veterinary hospitals/animal houses, whereby following common discrepancies were observed:

- Majority of veterinary Hospitals have not obtained authorization obtained from prescribed authority, that is the SPCBs/PCCs;
- The Hospitals have not registered with the CBWTFs for treatment and disposal of BMW generated in their veterinary hospitals;
- No segregation of waste at source is practiced through separate color-coded collection bins;
- No records are maintained about waste generation, collection, transportation, treatment and disposal, etc. CPCB has communicated the above short-comings to Departments of Animal Husbandry of all the concerned States.

7. In para 5.7 under the heading 'Monitoring infrastructure of SPCBs/PCCs', it is stated that various States/UTs have not given any information regarding their monitoring infrastructure. In para 5.9 under the heading 'Installation of OCEMS by CBWTFs and transmission of data to servers of SPCBs/ CPCB', it is stated that 150 out of 200 CBWTFs have connected with Central server of CPCB for transmission of online continuous Emission Monitoring Systems. CBWTFs in States/UTs namely Gujarat, Tamil Nadu, MP and West Bengal have installed CBWTFs in all facilities, however some of the CBWTFs are yet to connect with CPCB server. State-wise list of connectivity of with CPCB server is given at Annexure-V.

8. The above gaps need to be bridged having regard to the significance of scientific disposal of bio-medical waste. Individual averments with regard to the concerned hospitals mentioned in O.A Nos. 710/2017, 711/2017, 712/2017 and 713/2017 may also be verified and appropriate action taken in accordance with law and a specific report given by the concerned State PCBs to the CPCB. CPCB may include such information in its next report.

9. We also reiterate earlier direction for constitution of District Planning Committees to monitor District Environment plans covering important environmental issues. Monitoring at District level may go long way in protection of environment and public health and compliance of Constitutional mandate. It will be appreciable that the State PCBs/PCCs collect information on the subject from the District Magistrates and furnish reports in this regard to the CPCB. We also find it necessary to require PCBs/PCCs to ascertain status of compliance of norms by the CBWTFs, specially that no biomedical waste is disposed by CBWTFs at any place in an illegal manner and report the same to the CPCB.

10. Let all the States/UTs which are lacking in compliance take further steps and give their reports to the CPCB online. A further consolidated report be compiled by the CPCB based on information collected from all the State PCBs/PCCs as on 30.11.2020. The report may be filed by 31.12.2020 by e-mail at judicial- ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

7. Accordingly, the CPCB has filed its report dated 13.01.2021 giving the status of the compliance of the Rules as follows:-

"3. Bio-medical Waste Management Scenario:

As per the annual information, submitted by 34 SPCBs/PCCs, there are 3,19,907 no. of Health Care Facilities (HCFs) out of which 1,06,643 no. of HCFs are bedded and 2,15,336 no. of HCFs are non-bedded facilities such as clinics, blood banks, etc. Out of 3.19 lakh healthcare facilities 1.55 lakh facilities granted authorization under the BMW Rules. It is observed that number of authorizations have increased by 40% compared to earlier inventory. Similarly, the number of healthcare facilities brought under regulation have been increased 20% from 2,70,416 to 3,19,907 facilities.

Out of 3,19,907 no. of HCFs, about 75 % of them utilising services of CBWTFs, while 18,552 No. of HCFs, that is 5.8% of HFs are having captive bio-medical waste treatment and disposal facilities. There is no information on about 20% of HCFs since those facilities are yet to be brought under authorization process.

There are 202 no. of CBWTFs in the country and apart from it, 36 facilities are under construction. As per inventory, total generation of bio-medical waste is about 615 tonnes per day out of which about 541 tonnes per day of bio-medical waste are treated and disposed through authorized facilities. The quantity disposed through CBWTFs is about 486 tonnes per day, while 55 tonnes per day is disposed by captive facilities.

A summary of bio-medical waste management scenario in the Country is given below:

> No. of HCFs	: 3,19,907
> No. of bedded HCFs	: 1,06,643
> No. of non-bedded HCFs	: 2,15,336
> No. of beds	: 24,86,823
> No. of CBWTFs	: 202* + 36**
> No. of HCFs granted authorization	: 1,55,103
> No. of HCFs having Captive Treatment Facilities	: 18,552
> No. of Captive Incinerators Operated by HCFs	: 130
> Quantity of bio-medical waste generated in Tonnes/day	: 615
> Quantity of bio-medical waste treated in Tonnes/day	: 541
> No. of HCFs violated BMW Rules	: 28,816

No. of Show-cause notices/Directions issued > to defaulter HCFs : 17,196 Note: * - CBWTFs in operation** - CBWTFs under installation Note: Above data is subject to minor corrections since, anomalies observed in data received from some of the States has been communicated to respective SPCBs/PCCs vide letter dated 15.12.2020 for necessary clarification and rectification.

The above data with respect to number of healthcare facilities and corresponding authorizations pertains to the year 2019. Compliance on authorizations has been further increased as per status report submitted by 29 SPCBs/PCCs in this matter. The same will reflect in annual compliance report for the year 2020, which would be available after submission of reports by SPCBs/PCCs by July, 2021.

4. Status of Compliance to BMW Rules, 2016 CPCB identified 12 Key Performance Indicators (KPIs) to assess States with respect to effectiveness in monitoring, ensuring compliance and implementation of BMW Rules, 2016. These indicators in different in States/UTs, have been monitored and gaps / discrepancies observed for improvement were communicated to State Pollution Control Boards and Pollution Control Committees.

CPCB has requested SPCBs/PCCs to submit information relating to the following 12 KPIs in a prescribed form:

1. Inventory of all Healthcare Facilities and biomedical waste generation
2. Authorization to all Healthcare Facilities including non- bedded HCFs
3. Facilitate setting-up adequate number of Common Biomedical Waste Treatment Facilities (CBWTFs) to cover entire State or all HCFs
4. Constitution of State Advisory Monitoring Committee and District Level Monitoring Committee
5. Implementation status of Barcode system
6. Monitoring of Healthcare Facilities other than hospitals/clinics such as Veterinary Hospitals, Animal Houses, AYUSH Hospitals etc.
7. Monitoring infrastructure of SPCBs/PCCs
8. Training and Capacity Building of officials of SPCBs/PCCs and Healthcare Facilities
9. Installation of OCEMS by CBMWTs as a self-monitoring tool and transmission of data with servers of SPCBs/ CPCB
10. Preparation of Annual Compliance Status Reports
11. Compliance by Common Facilities (emission/discharge standards, barcoding, proper operation, etc.)

12. Compliance by Healthcare Facilities (Segregation, pre-

treatment, on-site storage, barcoding and other provisions etc.) 4.1 Submission of report by SPCBs/PCCs CPCB has followed-up with SPCBs/PCCs for submission of State specific reports on compliance along with action taken on gaps identified by CPCB. Reports have been submitted by all SPCBs/PCCs except 06 SPCBs/PCCs namely Arunachal Pradesh, Daman & Diu, Goa, Jharkhand, Karnataka and Nagaland.

4.2 Inventory of Biomedical Waste Generating Units:

Inventory of biomedical waste generating units is an essential requirement to manage biomedical waste. It will help in planning and implementation, through authorization process, thereby waste generated from facilities can be accounted for proper collection and disposal.

As per the information received from States, 23 SPCBs/PCCs have completed the inventory as on 30.11.2020. It is reported that inventory in in process in Maharashtra and Rajasthan.

It is pertinent to mention that inventory of Healthcare Facilities and grant of authorization has been completed by many States. However, data pertaining to the same is expected to be mentioned in Annual Report for the year 2020. As per current compliance status report submitted in the matter, State-wise number of Healthcare Facilities (bedded and non-bedded) along with their authorization status received from 29 SPCBs/PCCs is given below:

Table: Status of Authorization of Healthcare Facilities

Name of State/UT	Total HCFs	Bedded HCFs	Non-bedded HCFs	Authorized HCFs	Authorization Status
1 Andaman	183	39	144	79	104 43%
2 Andhra Pradesh	10225	7078	3147	8688	1537 85%
3 Assam	1043	582	461	1043	0 100%
4 Bihar	24996	4821	20174	5629	19367 23%
5 Chandigarh	890	49	841	890	0 100%
6 Chhattisgarh	5374	2302	2887	5189	185 97%
7 Delhi	10277	1225	9052	9916	361 96%
8 Gujarat	31360	11289	20079	27920	3440 89%
9 Haryana	6193	3054	3139	6006	187 97%
10 Himachal Pradesh	8800	585	8215	3927	4873 45%
11 J&K	6606	1541	5065	604	6002 9%
12 Kerala	13869	2126	11743	6735	7134 49%
13 Lakshadweep	46	10	36	39	7 85%
14 Madhya Pradesh	8527	4100	4527	6270	2257 74%
15 Maharashtra	63642	20231	43411	24902	38740 39%
16 Manipur	712	145	567	712	0 100%
17 Meghalaya	903	181	722	650	253 72%
18 Mizoram	654	106	548	135	519 21%
19 Odisha	3624	1501	2123	3302	322 91%
20 Puducherry	387	86	301	212	175 55%
21 Punjab	9871	3814	6057	8178	1693 83%
22 Rajasthan	8583	6254	2329	7070	1513 82%
23 Sikkim	287	34	253	287	0 100%
24 Tamil Nadu	23935	7099	16836	23935	0 100%
25 Telangana	6542	3742	2800	6518	24 100%
26 Tripura	1743	158	1585	870	873 50%
27 Uttarakhand	3582	1683	1899	2851	731 80%
28 Uttar Pradesh	25411	13670	11741	21531	3880 85%
29 West Bengal	8509	3008	5501	8488	21 100%
Total	286774	100513	186183	192576	

94198 67% The data indicates that 18 States/UTs namely Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Delhi, Gujarat, Haryana, Lakshadweep, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Uttarakhand, Uttar Pradesh and West Bengal have achieved more than 80% authorization of inventoried HCFs. The overall efficiency of authorizations issued in the country is 67% however the same need to be improved in every State and UT. There is a need for expediting the process of authorizing healthcare facilities, so that waste generated from facilities can be verified for proper collection and disposal.

4.5 Infrastructure for treatment and disposal of biomedical waste:

There are 202 CBWTFs in the country with cumulative treatment and disposal capacity of 1200 MT/day, of which incineration capacity is 814 MT/day. The present generation of 615 MT/day may look adequate at national perspective, however, at individual State's level availability of CBWTFs may vary. It is evident from the fact that States namely Assam, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Manipur, Meghalaya, Odisha, Puducherry, Rajasthan, Tamil Nadu and Uttarakhand use deep burial pits for disposal of BMW, however as per BMW Rules, 2016 use of deep burials is allowed only in remote or rural areas where there is no access of CBWTF. These States/UTs required to ensure that deep burial pits are authorized by respective SPCB/PCC and as per the standard prescribed under said Rules. SPCBs/PCCs should also strive to facilitate installation of CBTFs wherever possible to cover as many Healthcare facilities so that the burden of landfilling infectious (Yellow category) biomedical waste can be reduced.

Capacity utilization of CBWTFs vary among States/UTs depending on available infrastructure in a specific coverage area of 75Km, number of CBWTFs, geographical distribution in the State, population density in particular coverage area as well as connectivity of HCFs with CBWTFs. Therefore SPCBs/PCCs should relook at the available infrastructure considering above factors.

In States namely Assam, Jammu Kashmir, Kerala, Odisha, Pondicherry and Tamil Nadu, the capacity utilization of existing common infrastructure has exceeded 75%, therefore these States may examine the need for additional facilities by conducting gap analysis in each coverage area. While States namely A&N, Arunachal, Goa, Lakshadweep, Mizoram, Nagaland, Sikkim and Tripura does not have common facilities for treatment & disposal of biomedical waste, should facilitate setting up of new facilities of appropriate capacities.

SPCBs/PCCs namely Assam, Tamil Nadu and Uttarakhand have already conducted gap analysis to assess requirement of additional CBWTFs and accordingly they are under process of setting up of additional CBWTFs. All the remaining SPCBs/PCCs are required to require to conduct gap analysis for entire State to ensure coverage of common facilities in entire population and State's geographical area so as to

minimize usage of deep burial pits for disposal of biomedical waste.

Mizoram SPCB has submitted proposal seeking financial assistance from Ministry of Environment Forest & Climate Change.

State-wise details on Common Infrastructure and capacity utilization BMW CBWTF

BMW Name of No of Authorized capacity S. No Treatment State Generation CBWTFs Capacity utilized (Tons/day) (Tons/day) Andaman 0.7 0 0.7 1 No CBWTF NA and Nicobar Islands 2 Andhra 15.1 12 15.1 44.4 34% Pradesh 3 Arunachal 0.4 0 0.4 No CBWTF NA Pradesh 4 Assam 8.8 1 6.2 7.2 86% 5 Bihar 34.8 4 10.8 45.3 24% 6 Chandigarh 3.9 1 3.9 6.5 60% 7 Chhattisgarh 3.7 4 4.3 22.8 19% 8 Dadar Nagar 0.3 Sent to 0.3 Sent to NA Haveli Surat Surat CBWTF CBWTF 9 Delhi 28.8 2 28.8 62.8 46% 10 Goa 1.5 0 1.5 No CBWTF NA 11 Gujarat 36.4 20 36.4 103.9 35% 12 Haryana 14.8 11 14.8 83.4 18% 13 Himachal 3.4 2 3.4 9.2 37% Pradesh 14 Jammu and 7.3 4 7.7 9.8 79% Kashmir 15 Jharkhand 5.9 3 5.9 13.1 45% 16 Karnataka 77.5 27 36.3 108.4 33% 17 Kerala 42.9 1 40.3 48.0 84% 18 Lakshadweep 0.1 0 0.1 No CBWTF NA 19 Madhya 17.8 14 17.3 46.5 37% Pradesh 20 Maharashtra 62.3 31 62.3 130.9 48% 21 Manipur 1.0 1 0.9 2.6 35% 22 Meghalaya 1.2 0 0.9 0.8 Inadequate capacity 23 Mizoram 0.9 0 0.9 No CBWTF NA 24 Nagaland 0.6 Nil 0.6 No CBWTF NA 25 Odisha 18.0 5 17.4 14.9 Inadequate capacity 26 Puducherry 5.9 1 5.9 5.9 No additional capacity 27 Punjab 16.1 5 16.1 29.1 55% 28 Rajasthan 20.7 8 18.5 35.3 52% 29 Sikkim 0.5 0 0.5 No CBWTF NA 30 Tamil Nadu 58.3 8 58.3 72.9 80% 31 Telangana 20.5 11 20.5 118.7 17% 32 Tripura 1.4 0 1.4 No CBWTF NA 33 Uttarakhand 3.8 2 3.8 7.5 51% 34 Uttar Pradesh 52.5 18 52.5 91.3 58% 35 West Bengal 41.6 6 41.6 79.9 52% TOTAL 615 202 541 1200 45% Note: (i) In States where there is no CBWTFs, the biomedical waste is disposed off through captive treatment facilities (incineration or deep burial) installed by HCFs.
--

(ii) Disposal by incineration is considered as 60% waste generated.

(iii) The capacity of autoclave has been calculated considering 6 batches per day.

4.6 Implementation of Barcode System Rules envisage implementation of barcode system by CBWTFs and HCF to track movement of biomedical waste between points of generation till its disposal at common facilities. As per status reports, only 04 States/UTs namely Bihar, Kerala, Punjab and West Bengal have adopted barcode system for tracking of biomedical waste.

22 States/UTs namely Andaman & Nicobar, Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Odisha, Puducherry, Rajasthan, Sikkim, Tamilnadu, Telangana, Uttar Pradesh and Uttarakhand have reported that they are under process of adoption of Barcode system.

03 States/UTs namely Mizoram, Meghalaya and Sikkim submitted that there is no CBWTFs in operation and hence barcode system is not adopted yet. However, as per CPCB guidelines, in case

the areas not covered by CBWTFs, concerned SPCB will be responsible for implementation of barcode system.

Hon'ble Supreme Court while hearing a matter of improper disposal of BMW in WP(C) 13029 of 1985, directed Ministry of Environment Forest & Climate Change and Central Pollution Control Board to implement the Barcode system through Centralized system. Accordingly, CPCB has already submitted technical proposal to MoEF&CC envisaging integration of all barcode systems into a central portal operated by CPCB. Further, as suggested by MoEF&CC, CPCB has constituted a Technical Committee to advise on planning and implementation of Barcode System at Central Level.

4.7 Monitoring of Healthcare Facilities other than Hospitals / Clinics Healthcare Facilities like Veterinary Hospitals, AYUSH hospitals, Animal Houses etc. also come under the purview of BMW Rules, 2016 and are responsible for ensuring scientific disposal of biomedical waste. CPCB has advised SPCB/PCCs for carrying out monitoring of such HCFs and also to ensure their authorization.

As per the compliance reports, all SPCBs/PCCs have reported that they have included facilities other than clinics and hospitals in their inventory, except Assam, Kerala and Lakshadweep.

4.8 Monitoring Infrastructure of SPCBs/PCCs and organizing training programs Andaman & Nicobar, Lakshadweep, Manipur and Rajasthan have informed that they are under process of upgradation of their laboratories for conducting emission monitoring and effluent analysis. Remaining SPCBs/ and PCCs have adequate infrastructure to conduct monitoring to very compliance to standards / norms prescribed under BMW Rules, 2016.

Training program is ongoing activity of State Boards and as informed every SPCB and PCC conducts training program regularly for Healthcare workers and State Board officials.

4.9 Installation of Online Continuous Emission Monitoring System As per rules, every CBWTF with incinerator facility is required install online continuous emission monitoring system (OCEMS) and report the real time emission data to SPCB and CPCB servers. As per status report, 75% of CBWTFs have installed OCEMS systems. States namely Andhra Pradesh, Assam, Chandigarh, Delhi, Haryana, Himachal Pradesh, Puducherry, Punjab, and Telangana, have ensured data transfer from all CBWTFs in respective States.

One or more CBWTFs in the States namely Bihar, Chhattisgarh, Gujarat, Jharkhand, Jammu & Kashmir, Karanataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamilnadu, Uttarakhand, Uttar Pradesh and West Bengal have yet connected with CPCB server. None of the CWBTFs in Odisha and Manipur have installed OCEMS.

As per information available at CPCB OCEMS server, about 153 out of 202 CBWTFs have installed OCEMS analyzers and transmitting data to CPCB server. State-wise details is given below:

Total no. of CBWTFs OCEMS installed and data S. No Name of State transmitted to CPCB (As per AR 2019) Pradesh Daman &Diu and Waste handover to Gujarat Waste handover to Gujarat 8 Dadra & Nagar facility facility Haveli 4.10 Submission of Annual Report of Biomedical Waste Management Except Nagaland SPCB, every State Board has submitted annual compliance Report on Biomedical Waste Management for the year 2019. Gaps identified in compliance reports have been communicated to concerned SPCB/PCC for clarification.

4.11 Compliance by CBWTFs and HCFs As per status reports, SPCBs/PCCs have been conducting monitoring of CBWTFs and HCFs for verification of compliance.

As per Annual report, SPCBs/PCCs have observed 28816 violations against which 17196 directions / Notices were issued against defaulting HCFs and CBWTFs. State-wise details of action taken is given below;

Total No. of show cause Total no. of violation by HCFs & notices/Directions issued S. No Name of State CBWTFs to defaulter HCFs/CBWTFs Pradesh Daman &Diu and Haveli 9 Delhi 3597 1004 11 Gujarat 3068 3068 24 Nagaland Nil Nil 27 Punjab 3139 3139 28 Rajasthan 364 2573 29 Sikkim Nil Nil 4.12 Comparative Evaluation of States Effectiveness of States in implementing BMWM Rules based Key Performance Indicators have been assessed relatively based on a quantifiable score, where equal weightage is given to each performance indicator with a score of 2 is given for initiatives taken for implementation, 1 for under progress action points and Nil for non-implemented action points. Seven States not having common facilities have been excluded for relative evaluation. Higher score against a State will only indicate where the States stands despite needing more actions on ground for effective implementation of BMWM Rules. Accordingly, comparative evaluation on implementation of Rules by 28 States/UTs against a total score of 24 is give in Table below.

Indicative & Relative performance of States in implementation of Rules S. No Name of State Score (out of 24) Note: This table indicate only the relative standing of 28 States on implementation of Rules and higher score against a State should not be taken as full implementation of Rules.

State specific information on implementation of BMWM Rules, 2016 compiled as per the status reports submitted by SPCBs/PCCs is given at Annexure III.

5. Actions taken by SPCBs/PCCs and Scope of Improvement CPCB has assessed the implementation status of 29 States based on status reports submitted SPCBs/PCCs. Assessment based on State-wise activities pertaining to implementation of BMWM Rules and scope of further improvement are given at Annexure IV.

6. Over-all observations and Recommendations

(i) It is noticed that, consequent to directions issued by Hon'ble NGT, there has been 20% increase in number of HCFs identified and 40% increase in number of HCFs brought under the process authorization under BMWM Rules, 2016. This would result in improvement in management of

biomedical waste. However, there is no information on about 20% of the identified HCFs since those facilities are yet to be brought under authorization process. SPCBs/PCCs should therefore, compete the remaining task expeditiously.

(ii) It is observed that out of 3,19,907 no. of HCFs, about 75 % of them utilising services of CBWTFs, while 18,552 No. of HCFs, that is 5.8% of HCFs are having captive bio- medical waste treatment and disposal facilities. Since most of the captive facilities utilize deep burial method of disposal, the objective of the States should be to extent possible minimize disposal of biomedical waste through captive facilities and facilitate availability of CBWTFs for final disposal.

(iii) The data indicates that only 10 States/UTs namely Chhattisgarh, Haryana, Lakshadweep, Manipur, Nagaland, Puducherry, Tamil Nadu, Telangana, Uttar Pradesh and West Bengal have achieved more than 80% authorization of inventoried HCFs. The overall efficiency of authorizations in the country is far from satisfactory at 48%. Therefore, all SPCBs/PCCs should expedite the process of authorizing healthcare facilities, so that waste generated from facilities can be verified for proper collection and disposal.

(iv) The present generation of 615 MT/day of biomedical waste may look adequate at national perspective, however, at individual State's level availability of CBWTFs may vary. It is evident from the fact that despite having CBWTFs, States namely Assam, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Manipur, Meghalaya, Odisha, Puducherry, Rajasthan, Tamil Nadu and Uttarakhand still use deep burial pits for disposal of BMW as the existing CBWTFs fail to cover entire State.

(v) Capacity utilization of CBWTFs vary among States/UTs depending on available infrastructure in a specific coverage area of 75Km, number of CBWTFs, geographical distribution in the State, population density in particular coverage area as well as connectivity of HCFs with CBWTFs. Therefore, SPCBs/PCCs should relook at the available infrastructure and facilitate new CBWTFs to cover entire population and State's geographical area so as to minimize usage of deep burial pits to the extent possible.

(vi) In States namely Assam, Jammu Kashmir, Kerala, Odisha, Pondicherry and Tamil Nadu, where the capacity utilization of existing common infrastructure has exceeded 75%, these States may examine the need for additional facilities by conducting gap analysis in each coverage area.

(vii) States namely A&N, Arunachal, Goa, Lakshadweep, Mizoram, Meghalaya, Nagaland, Sikkim and Tripura do not have common facilities for treatment & disposal of biomedical waste, should facilitate setting up of new facilities of appropriate capacities in consultation with State Governments.

(viii) Having 4 years completed since re-notification of Rules, SPCBs/PCCs may now act strictly against non- complying HCFs. They may consider imposition of ECC as per the guidelines issued by CPCB in compliance with Orders of Hon'ble NGT.

(ix) Incidents of illegal dumping of biomedical waste are reported from time to time, and such incidents were also reported during COVID19 pandemic period. CPCB has prepared separate guidelines for "Monitoring Compliance of Common Biomedical Waste Treatment Facilities by State Pollution Control Boards / Pollution Control Committees" which provide check-lists for monitoring CBWTFs specially to monitor illegal handling of biomedical waste. Said guidelines gives guidance to State Boards to verify Operational Compliance, Adequacy of Infrastructure, Reporting of data and Inspections & Monitoring. SPCBs/PCCs should periodically verify operations of CBWTFs as per said check list. A copy of the same is given at Annexure V.

(x) Compliance of CBWTF is an important factor since CBWTFs release combustion gases and handles highly infectious wastes from multiple hospitals. SPCBs should therefore consider closing down or restrict operation of non-complying CBWTFs till they time it demonstrates compliance, and mean while arrangement should be made to transport waste collected from member HCFs of such non-compliant facilities to another CBWTF nearby. SPCBs should also treat non-complying facilities as inadequate and allow new compliant facilities in same coverage area.

(xi) As per Rules, implementation of barcode system is mandatory to track movement of BMW, this system would also help in daily accounting of BMW. Despite the lapse of 3 years given for implementation of the system, only 04 States/UTs namely Bihar, Kerala, Punjab and West Bengal have adopted barcode system and 22 States/UTs are under process of adoption of the same. While there is some improvement implementing barcoding system, it is reported that HCFs are not joining the system. This indicates that SPCBs have failed to implement this provision effectively.

(xii) There has been improvement in submission of Annual compliance status reports by SPCBs. SPCBs/PCCS shall continue the same and they may prepare State specific Annual reports and upload the same in respective websites.

(xiii) About 75% of CBWTF have installed online continuous emission monitoring system (OCEMS) and real time emission data transmitted to SPCB and CPCB servers. States namely Bihar, Chhattisgarh, Gujarat, Jharkhand, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamilnadu, Uttarakhand, Uttar Pradesh and West Bengal should ensure that all CBWTFs in their State install OCEMS systems. Odisha and Manipur should ensure installation of OCEMS in their States in time bound manner."

8. We may also note that Oversight Committee constituted by this Tribunal for the environmental issues in the State of U.P., headed by Justice S.V.S. Rathore, a former Judge of the Allahabad High Court, has furnished two reports dated 13.08.2020 and 08.01.2021. In the first report the recommendations are as follows:-

"8. Recommendation In view of the above, we recommend as follows:

1. There is an elaborate track and trace system of BMW prescribed in the Rules in which all the coloured bags are bar-coded and the movement of trucks is tracked through GPS. However, barring a small pilot in Lucknow, none of the operators is

using a bar-coding system which puts a big question mark on the reliability of the data. State PCB must ensure that the bar-coding system be strictly followed failing which action under law be initiated against the concerned operators.

2. There are large infrastructural gaps in HCFs due to which they are not complying with BMW Rules. 452 HCFs out of 530 HCFs with an operating capacity of more than 100 beds do not have STPs/ETPs. Even in Government facilities, out of 1027 HCFs comprising of District Hospitals and CHCs 564 HCFs do not have collection sheds where biomedical waste can be collected. As far as PHCs are concerned, only 628 PHCs out of 3620 PHCs have deep burial pits. There is no permanent agreement for BMW disposal in 2992 PHCs. The progress of the construction of ETPs in District Hospitals is also very slow. This year, only 40 District Hospitals have been taken up for ETP construction, leaving the balance for Phase-II and all the 853 CHCs for Phase-III. These infrastructure gaps must be addressed immediately, failing which action under EPA, 1986 be initiated against the defaulters.

3. Compliance with Biomedical Waste Rules 2016 appears to be lax. There are still 2483 HCFs that have not taken authorization under BMW Rules. Out of these, 441 HCFs are Government HCFs against which no prosecution has been launched so far. All these facilities must be immediately inspected and authorizations be issued. Gaps in infrastructure must be addressed within one month and responsibility for non-compliance be fixed. Let the State PCB apprise this Committee and Hon'ble NGT about the enforcement action taken by them on the above points within one month.

4. While we are getting information about the Health Department, there appears to be total communication gap with the Animal Husbandry Department and Ayush Department. The Committee could not get information of BMW Rules Compliance in any of the Veterinary Hospitals or Ayush Hospitals. While Health Department has a monitoring mechanism for BMW, these departments have not created any such mechanism for monitoring the progress of BMW Rules in their Hospitals. Chief Secretary may be directed to monitor the progress with Principal Secretaries of these Departments and ensure filing of compliance report before NGT. Responsibility for negligence, if any found out, maybe fixed.

5. An important gap area noticed is the disposal of radioactive materials. With the proliferation of radiotherapy, nuclear medicine, X Rays, CT Scans and other equipments using radioactive materials, there is an urgent need to ensure foolproof disposal of these highly volatile materials. This is an area where health department must develop standard protocols and build capacity for all the stakeholders.

6. By far the most important aspect is capacity building amongst the stakeholders. Pollution in Hospitals is a constant challenge. The nature and extent of infections keep on varying, the latest being COVID-19. Hence the SOPs also keep on changing to meet the exigencies. What is required is to continuously keep organizing capacity

building workshops for all stakeholders- doctors, paramedics, other hospital staff, laboratory staff, blood bank staff, private practitioners, nursing homes and the HCFs. We feel that capacity building endeavor by the State Government needs to be increased manifold.

7. Lastly, the meetings of the State Advisory Committee and District Advisory Committee should take place more frequently."

9. In the second report summary of status of compliance has been furnished, as follows:-

"V. SUMMARY OF THE COMPLIANCE STATUS AS ON 06.01.2021 S. Directions of Hon'ble Concerned Compliance Status No Tribunal Department 1 Complete inventory of UPPCB Complied Healthcare Facilities (HCFs) and Biomedical There are 25,411 (bedded: 13,670; Non-bedded:

waste generation 11,741) Health care facilities. Of these, 21,531 (bedded: 11,434; Non-bedded: 10,097) have been authorized by the State Pollution Control Board and notice has been sent to all unauthorized HCFs.

These Facilities are presently generating 52.5 TPD of Bio Medical Waste.

There are 18 Common Biomedical Waste Treatment Facilities (CBTF) in the entire State with treatment capacity of 54.4 TPD.

2 Authorization to all non- UPPCB Partially complied bedded HCFs like clinics, There are 25,411 (bedded: 13,670; Non-bedded:

laboratories, research 11,741) Health care facilities. Of these, 21,531 (bedded: 11,434; Non-bedded: 10,097) have been institutes as well as authorized by the State Pollution Control Board and veterinary hospitals, etc. notice has been sent to all unauthorized HCFs. identified in inventory of HCFs within 3 months

3. Adequate number of UPPCB Complied Common Facilities to cover Total biomedical waste generation: 52.5 all HCFs in the State. [Also MT/day to ensure an adequate Total capacity of CBWTFs operating in the State:

54.4 ton/day number of Common Biomedical] 4 Constitution of State and UPPCB/Healt Partially Complied District Advisory h Department Committees State and District Advisory Committees have been constituted.

The State Advisory meeting was held on 21.09.2020 regarding the disposal of excessive COVID-19 Biomedical waste generated from COVID-19 designated hospitals.

5 Barcodes system in every Health Partially complied HCF and CBWTFs Department Uttar Pradesh Medical Supply Corporation had floated a tender for bar coding and Vehicle tracking system for Biomedical waste management and its prebid meeting was on 29.05.2020. The bid submission date was on 11.07.2020.

UPMSCL has awarded the contract to the L1 Bidder and the Contract has been signed between the DG Medical and Health and VTS/ Bar coding Service Provider on 23.09.2020. As per the Contract agreement, the service provider had to get approval of the solution design and finalization of the software, which was seen by the officials of Medical care on 16.12.2020.

Both the Weblink and mobile application was found to be satisfactory as per the requirements, so the Service Provider has been given the approval by Director General Medical & Health Services on 24.12.20 and directed to Roll out and scale it up to all the districts of the state and also give the training to all the CBWTF personnel's and periodically inform DGMH as per the Contract Agreement.

The procurement of the hardware has been done and is currently being Installed on the Vehicles of the CBWTF one by one.

6 Monitoring of Healthcare Health Non-complied Facilities other than Department No information regarding Veterinary Hospitals, hospitals/clinics - Animal Houses, AYUSH Hospitals, blood banks, Pathological labs etc. has been provided.

	Veterinary Hospitals, Animal Houses, AYUSH Hospitals, blood banks, Pathological labs etc.		
7	Availability of adequate infrastructure with SPCBs/PCCs to monitor compliance	UPPCB	Complied There is adequate infrastructure avail SPCB to monitor compliance.
8	I. Training and Capacity Building of officials of health Department and SPCBs" II. Training and Capacity Building of Healthcare workers in HCFs	Health Department/ UPPCB	Partially complied BMW committees have been constitute District level Hospitals. Nodal Off been designated in each District to proper implementation of the Biomed Management Rule 2016 and all have b

TOT's for proper management and disposal of BMW.

Officers in the rank of ACMOs have been designated as Nodal Officers in each District as well as in Health care facilities to ensure proper implementation of the BMW Rule.

9 Installation of OCEMS by UPPCB Partially complied CBWTFs as a tool for self- 18 CBWTFs are operational in State, out of monitoring and which OCEMS of 14 are connected with server compliance verification by of CPCB and rest are not operational.

For connection of said 04 CBWTFs (M/s Synergy SPCBs/PCCs Waste Management Pvt. Ltd., Barabanki, Lucknow, M/s SMA Watergrace Mediawaste Management (P) Ltd., Lucknow, M/s Will Environment Inc., Kanpur, M/s MPCC, Bijauli, Jhansi) OCEMS with CPCB server, the direction has been issued under Section-5 of Environment Protection Act, 1986 vide UPPCB letter dated 10.08.2020.

10 Submission of Annual Health Complied Reports to CPCB Department The annual report of Public Health care facilities for the year 2019 has been sent to Regional Office, UPPCB and UPPCB has sent the report to CPCB. 11 Compliance to standards UPPCB Partially Complied by CBWTFs 18 CBWTFs are operational in State, out of which 15 are complied and 03 are non-

complied. The non-complying CBWTFs are M/s MPCC, Jhansi, M/s MPCC, Khalilabad, Santkabir Nagar and M/s Sangam Mediserve, Handiya, Prayagraj.

Till date SPCB has imposed EC of Rs. 1.43 Cr against 08 CBWTFs.

Prosecution under section 15 of EPA, 1986 and under Air/Water Act has been filed against 03 abovementioned CBWTFs.

12 Compliance of HCFs UPPCB Partially complied [For on-site segregation, pre-treatment of infectious There are 25,411 (bedded: 13,670; Non-bedded:

waste-yellow (h), separate 11,741) Health care facilities. Of these, 21,531 storage (bedded: 11,434; Non-bedded: 10,097) have space for BMW and been authorized by the State Pollution Control treatment of wastewater] Board and notice has been sent to all unauthorized HCFs.

Health Department has designated Nodal Officers in each District to ensure proper implementation of the Biomedical Waste Management Rules, 2016 and all have been given training of trainers (ToT) for proper management and disposal of BMW from COVID- 19 facilities (Isolation hospital and Quarantine camps/ homes).

13 Monitoring of compliance UPPCB Partially complied of BMW management as per District environmental In compliance with Rule-12(4), District Plan by the District Monitoring Committees (DMCs) have been constituted in each District headed by the Magistrates District Magistrate to monitor the implementation of the BMW Rule.

The State advisory meeting was held on 21.09.2020 regarding the disposal of excessive COVID-19 Biomedical waste generated from the COVID-19 designated hospitals.

14 Environmental UPPCB Partially complied Compensation imposed on defaulters Environmental Compensation of Rs. 7.60 Crore imposed on 141 HCFs. Out of this amount, 19.5375 Lakhs has been recovered.

Environmental Compensation of Rs. 1.43 Cr imposed on 08 CBWTFs. Out of this amount, Rs. 47 Lakhs has been recovered.

15 Action taken against UPPCB Partially complied defaulters Prosecution under Section 15 of Environmental Protection Act, (EPA)-1986 against Health Care Facilities: 04 Prosecution under Section 15 of EPA-1986, against CBWTFs: 03 Notice issued against defaulter HCFs: 3880 Show Cause Notice issued under EPA, 1986 against HCFs: 27 16 Individual averments with UPPCB/Health Department Partially complied regard to the concerned Health Department hospitals mentioned in Health Department has sent letter regarding O.As No. 710/2017, Inspection to CMO Shahjahanpur, Noida, Bareilly 711/2017, 712/2017 and Hardoi. They had to send a comprehensive and 713/2017 may also report by 1st January 2021 about compliance of be verified and appropriate action taken Biomedical waste management carried out in the in accordance with law hospitals mentioned in OAs 710/2017, 711/2017, and a specific report given 712/2017 and 713/2017. Reports of inspection by the concerned State carried out by CMO's for Ganga Charan Hospital, PCBs to the CPCB . Bareilly and Kailash Hospital, Gautam Buddha Nagar has been received by the Health Department.

10. Final recommendations of the Oversight Committee is as follows:-

"VI. RECOMMENDATIONS
COMMITTEE

BY THE OVER

In view of the above, we recommend as follows:

1. In compliance with the Biomedical Waste Management Rules, 2016, every biomedical waste management facility must obtain authorization from State Pollution Control Board. At present, there are 25,411 (bedded: 13,670; Non-bedded: 11,741) Health care facilities. Of these, 21,531 (bedded:

11,434; Non-bedded: 10,097) have been authorized by the State Pollution Control Board and notice has been sent to all unauthorized HCFs. The SPCB may be directed to inspect these facilities immediately and issue authorizations provided they are fully compliant. The responsibility for non-compliance should be fixed.

2. As far as the implementation of barcoding for colored bags and containers containing BMW is concerned, a pilot scale project has been taken up in Lucknow district. For scaling up of the project to the entire State, the bid has been finalized and the contract has been provided to service provider. The Health Department may be directed to complete the work for implementation of barcoding and tracking of vehicles through GPS within a month positively.

3. With regard to the implementation of Biomedical Waste Management Rule, 2016, installation of ETP is mandatory for above 10-bedded hospitals. It was informed that due to some litigation the work of ETP construction has stopped. UP Jal Nigam may be directed to resolve the issue in this regard and expedite the process of ETP construction and complete the work within the specified time duration.

4. In compliance with BMW Rules 2016, disposal of BMW by deep burial is permitted only in rural or remote areas where there is no access to common bio-medical waste treatment facility. The Health Department/concerned department may be directed to follow the provisions and guidelines issued by CPCB from time to time and standards mentioned in Schedule III of BMW Rules 2016 for such facility.

5. In compliance with the Biomedical Waste Management Rules, 2016, no information is being provided by the AYUSH hospitals (since AYUSH hospitals have been given the permission for surgery) and Department of Animal Husbandry.

Chief Secretary, U.P. may be directed to monitor the progress with Principal Secretary of Medical Education, AYUSH Department and Department of Animal Husbandry. Since Health Department is the nodal department, Medical Education, AYUSH Department and Department of Animal husbandry should send their information to Health Department where it can be compiled for further communication.

6. The CPCB may be directed to lay down standard for new technologies for treatment and disposal of biomedical waste and prescribe specifications for treatment and disposal of biomedical wastes. Further, the CPCB may also be directed to undertake or support research regarding biomedical waste.

7. The SPCB may be directed to grant and renewal, suspension, refusal or cancellation of authorization under Rule 7, 8 and 10 of BMW Rules, 2016. Further, SPCB may also be directed to regularly monitor the compliance of various provisions and conditions of authorization.

8. State PCB may be directed to ensure the implementation of Biomedical Waste Management Rules 2016 and recommendations of the Advisory Committee in all health care facilities.

9. For non-compliance with BMW Rules, 2016, notice have been issued against 3880 HCFs. Prosecutions has been filed against 04 HCFs and 03 CBWTFs under Section 15 of EPA, 1986, and show cause notices have been issued against 27 HCFs under EPA, 1986. The State PCB may be directed to initiate action under the law against the non- compliant units.

10. EC of Rs. 7.17 Cr and Rs. 85 Lakhs have been imposed against 130 HCFs and 06 CBWTFs, respectively. The imposed penalty has yet not been realized. State PCB may be directed to take necessary action and ensure realization of EC as per prescribed procedure.

11. An important gap area noticed is the disposal of radioactive materials. With the proliferation of radiotherapy, nuclear medicine, X Rays, CT Scans and other equipment using radioactive materials, there is an urgent need to ensure foolproof disposal of these highly volatile materials. This is an area where health department must develop standard protocols and build capacity for all the stakeholders.

12. All the HCFs where the collection sheds are under construction shall ensure that no waste should be stored at their premises. They should regularly hand over their waste to the service provider for proper treatment and disposal on day to day basis.

13. The process of conversion of biomedical waste into clean energy i.e. hydrogen fuel using sunlight by the technique of photo reforming based on Welsh Government model may also be explored in India.

14. The approach for conversion of biomedical plastic waste into construction of bituminous road and partial replacement of cement in concrete may also be explored and researched.

15. The meetings of the State Advisory Committee and District Advisory Committee shall take place regularly to monitor and ensure compliance with BMW Rules, 2016."

11. From the above it is seen that there are huge gaps in the compliance of authorization regime. In some of the States, compliance is ranging from 17% to 38% only. We also note underutilization of the common bio-medical facilities at many places. Adequacy of facilities and their siting may need review. Such facilities must obtain requisite Environmental Clearance (EC). Recycling of waste will only be through authorized recyclers. As observed earlier, it is utmost necessary to ensure that hazardous bio-medical waste is not mixed with the general waste. CPCB needs to review the compliance status from time to time, atleast once in every quarter and issue directions based on the observations from the reports received.

12. CPCB may ensure that for strict compliance of the rules, the compensation regime is duly applied against the defaulters, following due process. Standards of handling of BMW need to be duly complied. The authorities must ensure that waste is disposed of only through authorized agencies, common facilities are located as per siting guidelines and they must have EC. There should be no pilferage by unauthorized recyclers. Adequate number of common bio-medical facilities should be set up. The Chief Secretaries of all the States/UTs may oversee compliance atleast every quarter in terms of direction of this Tribunal vide order dated 16.01.2019 in O.A. No. 606/2018 followed by further orders. The Chief Secretaries may inter-alia ensure that authorization is secured by every health care facility in their respective jurisdiction and also there is adherence to the norms. Similarly, the District Magistrates may, at their level, take necessary steps in their Districts, in accordance with the District Environmental Plans. As found by the Oversight Committee for UP, ETPs are either not provided or are not functional in various health care facilities as required under the Rules. Compliance in this regard may be ensured in all States/UTs. While permitting deep burials, it may be ensured that ground water contamination does not take place.

13. Apart from the above general directions applicable to all the States/UTs, the UP State PCB may look into the compliance status of the Hospitals, who are parties in O.A. Nos. 710/2017, 711/2017, 712/2017 and 713/2017, and give a report to the Oversight Committee for UP, headed by Justice S.V.S. Rathore, a former Judge High Court of Allahabad within two months.

The applications are disposed of in above terms."

6. This Tribunal has also said that since compliance so far has been inadequate, there is need to take remedial measures in a mission mode to be overseen by the highest authorities in the State. Society can ill afford apathy shown by the State Authorities. Data compiled on the subject has to be authentic, reconciling the conflicting data in the report of the State PCB and that of CPCB. CBTFs should be compliant with the standards and fully utilized. Gap in waste generated and treated should be abridged. State Authorities may, thus, proceed as per directions already issued by this Tribunal on the subject of compliance of norms for solid waste management, sewage and effluent treatment as well as compliance of Bio-

medical Waste Management Rules in the light of above orders.

7. This may be monitored on regular basis by the Chief Secretary, Chhattisgarh, Delhi and Administrator, Chandigarh in suitable manner in the interest of public health and safety, rule of law and for protection of environment. Compensation already assessed may be used, if necessary, by adopting coercive measures. If non-compliance continues, prosecution may be initiated and erring authorities may also be held accountable.

8. In view of above, we do not find that any further action is needed in this application. It is however, open to any party including applicant to take steps for execution of the above, if directions already issued are not being complied appropriately.

With the above observations, this applications is disposed of.

A copy of this order be forwarded to the Chief Secretary, Chhattisgarh, Delhi and Administration Chandigarh for compliance by email.

Sudhir Agarwal, JM Prof. A. Senthil Vel, EM July 29, 2022 Original Application No. 544/2022 SN