

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

**Original Application No. 804/2017
(M.A. No. 651/2018)
(Earlier OA No. 36/2012)**

IN THE MATTER OF:

Rajiv Naryana & Anr. Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present:

Applicant	Mr. Raj Panjwani, Sr. Adv., Mr. Rahul Choudhary and Ms. Meera Gopal, Advs.
Respondents:	Mr. B.V. Niren and Mr. Kshitij Mudgal, Advs. for CGWA Mr. Raj Kumar, Adv. for CPCB Mr. Vikas Malhotra, Adv. for Ministry of Environment, Forest and Climate Change Mr. Amit Tiwari, Adv. Mr. Mukesh Verma, Adv. for UPPCB Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar and Mr. Sandeep Mishra, Advs. for GNCTD Mr. Rahul Verma and Mr. Ankit Verma, AAG for State of Uttarakhand Mr. Sandeep Mishra, Adv. and Mr. Dinesh Jindal, LO, Delhi Pollution Control Committee Mr. Shiv Mnagal Sharma, Mr. Saurabh Rajpal, Mr. Adhiraj Singh and Mr. Vikramjeet Singh, Advs. for State of Rajasthan/RSPCB Mr. Anil Grover, AAG & Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana & HSPCB Mr. Naveen Kumar and Mr. Prabhat Kumar, Advs. for M/s. Rathi Steel & Power Ltd. Mr. Manish Kumar, Adv. for State of HP Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. Mr. Pradeep Misra and Mr. Daleep Dhyani, Advs. Mr. Amit Tiwari, Adv for State of Uttar Pradesh Mr. Dinesh Jindal, LO, DPCC

Date and Remarks	Orders of the Tribunal
Item No. 07 July 30, 2018 ss	<p>1. The Original Application No. 36 of 2012 was filed seeking action for non-compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The said application was disposed of on 25th October, 2017, with a direction that an independent application may be filed in relation to management of bio-medical hazardous wastes. The States may file their status reports, if not already filed. The status report was to be filed with respect to the directions already issued on dated 29th August, 2017, with respect to following:</p> <p style="text-align: center;">“1. As to what is the total generation of hazardous waste in their respective States. 2. Which agencies have been authorized in terms</p>

	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p><i>of rules to collect, transport, disposed of and the process of the hazardous wastes.</i></p> <p>3. <i>What is the capacity of the plants which have been given due authorization for that purpose.</i></p> <p>4. <i>What happens and how the remnant hazardous waste is being dealt with.</i></p> <p>5. <i>The members who have been allotted any of the authorized plants and are not sending hazardous waste to those plants. What action the concerned authorities i.e. the State Government and the respective States and State Pollution Control Boards have taken so far, against such members. These details should be filed within one week from today.”</i></p> <p>2. The matter was thereafter registered as Original Application No. 804 of 2017. On 15th January, 2018, this Tribunal considered the report of the joint inspection team dated 12th December, 2017. The Tribunal noted that M/s. Rathi Steel was abstracting water through borewell without authorisation. The Rathi Steel was required to respond and the Central Ground Water Authority was directed to dispose of the pending application of M/s. Rathi Steel.</p> <p>3. Thereafter, the States of Uttar Pradesh, Rajasthan, Haryana, Delhi and Uttarakhand have filed their respective status reports which have been subject matter of consideration before this Tribunal on several earlier hearings. Today, we propose to dispose of the matter of consideration of the said reports.</p> <p>4. First of all we have taken up for consideration the latest status report filed by the State of Haryana on 07th September, 2017. The report states that there is only one Common Treatment, Storage and Disposal Facility (CTSDF) in district Faridabad. The CTSDF has been authorized to process 50000 MTA Hazardous Waste for</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>Processing as fuel in Cement Industries. Apart from the said facility, 108 units have been authorised to process recyclable hazardous waste. The capacity of secured landfill for hazardous waste is 32 years and incineration capacity is 7040 MTA. Learned counsel for the State of Haryana states that the units which were found to be non-compliant have been closed.</p> <p>5. The stand of the State of Uttar Pradesh is that 1835 units are operating as on 13th September, 2017, and all the said units are complying with the rules.</p> <p>6. The stand of the State of Rajasthan is that 35 units are violating the rules for which Show Cause Notice had been issued, but no action has been taken as on 21st September, 2017.</p> <p>7. The stand of the NCT Delhi is that 1100 units are operating as on 23rd March, 2018. All the 1100 units are operating without complying with the rules.</p> <p>8. The stand of the State of Uttarakhand is in the status report filed on 06th March, 2018 is that directions have been issued for closure of 5 units and the other units were found to be compliant with the rules.</p> <p>9. The stand of Central Pollution Control Board is that it has no role to play as action under the rules is to be taken by the State Boards.</p> <p>10. The question which arises for consideration is whether the Central Pollution Control Board and the State Pollution Control Boards have performed their duties. Rules 20 of the rules requires returns to be filed by the occupiers handling hazardous and other wastes. The State</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>Pollution Control Boards have to submit report by 30th September every year to the Central Pollution Control Board. The Central Pollution Control Board has to prepare a consolidated review report every year. There is nothing to indicate that Central Pollution Control Board has prepared such reports, as no affidavit have been filed by the Central Pollution Control Board though the Central Pollution Control Board is party to the proceedings.</p> <p>11. From the information furnished by the Delhi Pollution Control Committee, it is patent that there is flagrant violation of the rules and hazardous waste is being generated for which no action is being taken. Rule 7 permits suspension and cancellation of authorization and if there is no authorization the same is certainly in violation of Environment (Protection) Act, 1986 for which action can be taken apart from action for violation of Rule 8 and 9. The Central Government as well as the Central Pollution Control Board under section 18 of the Water (Prevention and Control of Pollution) Act can direct the State Boards to take action and in default can take over the State Board. Action can also be taken under rule 23 for recovering the financial penalty for violation of the rules. Needless to say that those units which are found to be non-compliant must be forthwith closed, apart from action taken and not allowed to operate till they become compliant.</p> <p>12. We accordingly direct as follows:-</p> <p>(i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>capacity at appropriate locations within three months from today and forthwith imitate action against erring units.</p> <p>(ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.</p> <p>(iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application.</p> <p>The application stands disposed of.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">30.07.2018</p>
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