

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

ORIGINAL APPLICATION NO. 199 OF 2014

IN THE MATTER OF

ALMITRA H. PATEL & ANR.

APPLICANTS

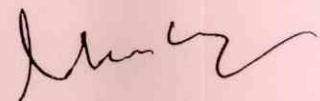
VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

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(Mantu Kumar Choudhury)
Scientist-E
Central Pollution Control Board
mantu.choudhury@rediffmail.com
Mob: 9868129126

Delhi
19.09. 2016

FAHIMUL HASSAN
LEGAL ASSISTANT
I.D No. 3926
Mob. No. 9871885906

(Through Counsel)

FILED BY

VIJAY PANJWANI
ADVOCATE *for CPEB*
9818 47 5018

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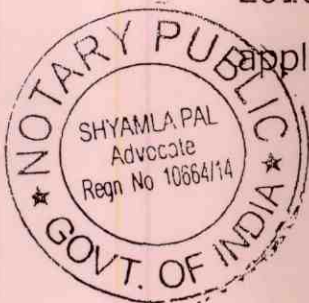
AFFIDAVIT ON BEHALF OF THE CENTRAL POLLUTION CONTROL BOARD, PARIVESH BHAWAN, CBD-CUM-OFFICE COMPLEX, EAST ARJUN NAGAR, DELHI – 110032, IN COMPLIANCE OF THIS HON'BLE TRIBUNAL'S ORDER, DATED 08.09.2016 IN THE ABOVE MATTER.

I, Sri Mantu Kumar Choudhury working as Scientist- 'E' in Central Pollution Control Board, Parivesh Bhawan, East-Arjun Nagar, Delhi – 110032 do hereby solemnly affirm and declare as under:

2. That I, in the capacity of the Scientist-E of the Central Pollution Control Board (CPCB), am fully conversant with the facts of the case and hence competent to swear this affidavit.

Entry No. 3098/6
3.

That, this Hon'ble Tribunal Vide its order dated 08th September, 2016 ordered to respond to the Applications submitted by the applicant to the Hon'ble Tribunal as under;



"We do expect that Central Pollution Control Board; the MoEF and State Board which are the highest regulatory authorities and advisors to the respective Governments on the matters relating to pollution, to respond to these suggestions, deficiencies, if any, in the Rules of 2016 as well as the methodology that

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should be adopted for dealing with the solid waste management.

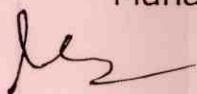
The suggestions made by the Applicant should also be considered by all other Respondents and give their suggestions, either to accept or reject thereof."

4. That, Central Pollution Control Board has received the copies of the applications dated 06.05.2016, 30.07.2016 and 07.09.2016 filed by the Applicant through its Learned Counsel on 08.09.2016.
5. That, it is humbly submitted that the Applicant, Smt. Almitra H. Patel personally visited the Central Pollution Control Board (CPCB) on 09.09.2016 at 3.00 PM and discussed about the contents of her applications dated 06.05.2016, 30.07.2016 and 07.09.2016 with Dr. A. B. Akolkar, Member Secretary and Sh. M. K. Choudhury, Scientist-E. Further, the applicant requested to furnish comments on the suggestions to the Hon'ble Tribunal.
6. The contents of the above 03 applications are summarized below and comments on the suggestions are given in the following paras;

CPCB's Comments on the Application dated 06.05.2016

7. That the applicant through her application has praised the newly notified Solid Waste Management Rules, 2016 (herein referred as SWM Rules, 2016) and stated to be 'very good' as they lay down detailed duties of waste generators, civic bodies and various Central Government and State Officials and regulatory agencies.

The applicant submitted four immediate actions which this Hon'ble Tribunal could consider for improvement of Solid Waste Management as under;



(i) **Ban on short life PVC and chlorinated plastics:**

That, it is humbly submitted that CPCB agrees with the applicant for phasing out short life PVC or chlorinated plastics from packaging materials especially for food/edible items. Rule 9 (3) of the Plastic waste management Rules, 2016 also specify that manufacture and use of non-recyclable multi-layered plastic if any should be phased out in two years time.

The Rule 4 of the Plastic Waste Management Rules, 2016 (herein referred as PWM Rules) specifies the conditions for the manufacture, importer, stocking, distribution, sale and use of carry bags plastic sheets or like, or cover made of plastic sheet and multi-layer packaging that; the plastic material, in any form including Vinyle Acetate –Maleic Acid- Vinyle Chloride Copolymer shall not be used in any package for packing gutka, pan masala and tobacco in all forms. However, manufacture of PVC or chlorinated plastics is not restricted under PWM Rules, 2016. The applicant has also urged exemption of PVC materials for using in construction activities which have a longer life.

(ii) **RDF to Cement Plants:**

It is humbly submitted that Rule 18 of SWM Rules, 2016 specifies that Industrial units located within one hundred km from refused derived fuel (RDF) plants and waste to Energy Plants; that such plants shall make arrangement within six months from the date of notification of these rules to replace at least five percent of their fuel requirement by RDF so produced.

Also, Rule 11 (a) & (b) of the SWM Rules, 2016 specify the duties of Secretary-In -Charge, Urban Development in the state or UTs to prepare a state policy and solid waste management strategy for the state or the union territory in consultation with stakeholders including representative of waste pickers, self help group and similar groups working in the field of waste



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management consistent with these rules, national policy on solid waste management and national urban sanitation policy of the ministry of urban development, in a period not later than one year from the date of notification of these rules; while preparing State policy and strategy on solid waste management, lay emphasis on waste reduction, reuse, recycling, recovery and optimum utilisation of various components of solid waste to ensure minimisation of waste going to the landfill and minimise impact of solid waste on human health and environment. Such state policy/ strategy should reflect detailed procedures including rate of RDF supply to cement industries/power plants for effective utilization of RDF in the respective state/UT.

It is also submitted that Rule 6 (b) of the SWM Rules, 2016 specifies duty of Ministry of Urban Development to formulate national policy and strategy on solid waste management including policy on waste to Energy in consultation with stakeholders within six months from the date of notification of these rules. The said national policy on waste to energy may also indicate mode of payment, procedures for supply of RDF to cement plants/ power plants.

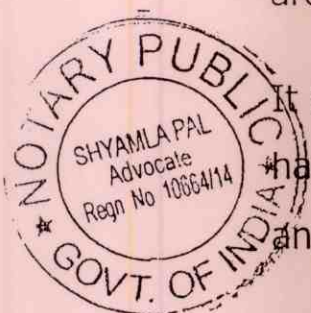
(iii) **Buffer Zone:**

It is submitted that the Central Pollution Control Board is in the process of preparing the 'National Guidelines for Buffer Zone around waste processing and disposal facilities'.

It also submitted that 500 meter Buffer Zone around dump yards has been notified by the Municipal authority of Puduchery (UT) and Dhanbad (Jharkhand).

(iv) **Tipping Fee:**

It is humbly submitted that though the '**Tipping fee**' term has been defined in the SWM Rules, 2016, but it is not mentioned in any para /Rule for its application. However, for effective



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management of Solid waste management, the terminology, 'Tipping Fee' may be included with more clarity in the State Policy/ Strategy linking to output of solid waste management.

CPCB's comments on the Application dated 30.07.2016

6. That, the Applicant vide its application dated 30.07.2016 has stated at para 1 that "SWM Rules, 2016 provide for wet waste to be composted and combustible residue for Waste to Energy."

It is humbly submitted that, Rules 15 (v) of the SWM Rules, 2016 has mentioned that "... Preference shall be given to decentralized processing to minimize transportation cost and environmental impacts such as

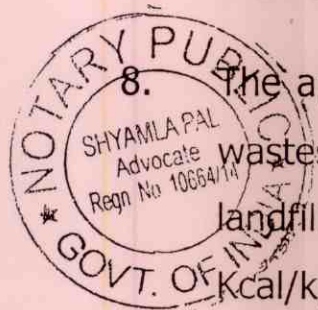
- (a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;
- (b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns";

Thus, the wet waste also can be processed in anaerobic digestion for production of biogas followed by generation of heat energy.

7. The applicant at para 2 has praised the new SWM Rules, 2016 as "Excellent" for making provisions in the rules for separate collection, storage, transportation, recycling and processing of segregated wastes. CPCB has no comment to make on it.

8. The applicant cited at para 3 that Rule 15 (zi) specified types of wastes that should go for sanitary landfill and Rule 21 (1) ban on landfilling of non-recyclable waste having calorific value 1500 Kcal/kg or more.

It is submitted that the aforesaid Rules 15(zi) and 21 (1) are in place and have no contradiction. The objective of these rules is to have maximum utilization of solid wastes and minimum waste that go for sanitary landfill.



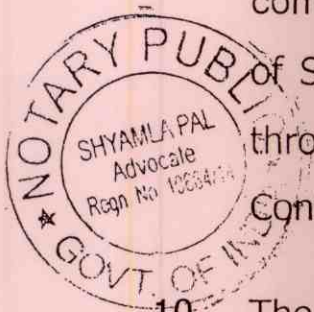
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9. That, the averment made at para 4 regarding misunderstanding on suitable feedstock for WTE especially by burn technologies like incineration of waste that utilizing mixed waste in WTE plants; and misunderstanding of Indian national imperatives to produce more organic manure to revitalize carbon depleted soil that Government of India has announced a Rs. 1500 per ton of Compost Marketing Assistance scheme.

It is submitted that Rule 15 of the SWM Rules, 2016 clearly specify the duties of Municipal authorities for separate collection, storage, transportation of segregated wastes to processing or disposal facilities. The rule 21 (1) & (2) of SWM Rules, 2016 specifies that non recyclable waste having calorific value of 1500 K/cal/kg or more shall not be disposed of on landfills and shall only be utilised for generating energy either or through refuse derived fuel or by giving away as feed stock for preparing refuse derived fuel. High calorific wastes shall be used for co-processing in cement or thermal power plants.

It is also submitted that Rule 7 of SWM Rules, 2016 specifies duty of Department of Fertilisers, Ministry of Chemicals and Fertilizers through appropriate mechanisms, to provide market development assistance on city compost; and ensure promotion of co-marketing of compost with chemical fertilizers in the ratio of 3 to 4 bags: 6 to 7 bags by the fertilizer companies to the extent compost is made available for marketing to the companies. Rule 8 of SWM Rules, 2016 specifies duty of the Ministry of Agriculture through appropriate mechanisms, to provide flexibility in Fertilizer Control Order for manufacturing and sale of compost.

10. The applicant at para 5, has cited the Directions of the Hon'ble Tribunal in the matter in OA 199 of 2014 vide Order dated 20.03.2015 regarding Direction No. 7: "There would be complete segregation of waste into wet waste and dry waste without fail. No wet waste would be directly put into the incinerator or for

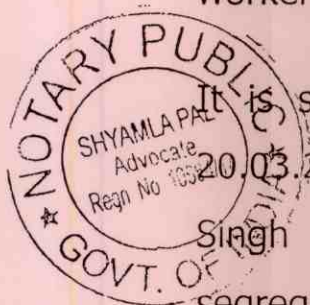


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power generation, except specially permitted.The composted waste shall be transported and incentives be provided to farmers to use as a fertilizer." The order issued by Hon'ble Tribunal in OA 199 of 2014 at Direction 11: "...first effort should be made for composting of wet waste."

It is humbly submitted that CPCB agrees with both the orders passes by the Hon'ble Tribunal. The wet waste mostly contained biodegradable wastes that undergo decomposition in natural environment causing nuisance to environment by generating leachate and foul smell. The selected wet waste (food/fruits) also can be processed in anaerobic digester for generation of biogas.

11. **Composting:** The applicant at para 6 (1), has cited the Directions of the Hon'ble Tribunal in the matter in OA 199 of 2014 vide Order dated 20.03.2015 regarding Direction No. 8: "the remaining MSW ... shall be further segregated into recyclable and non-recyclable waste, particularly plastic and other wastes... and can be provided to the person or the firm authorized for handling recyclable plastic and allied waste for making RDF". The Hon'ble Trinubal judgement in Capt. Mall Singh Vs Punjab PCB and ors. also directed that "Particularly the plastic would not be put into the dump pits and will be recycled." Rule 15 (r), (zc) & (zg) of SM Rules, 2016 specified duty of local bodies to transport, educate workers and practice segregation of solid waste.



It is submitted that the order of the Hon'ble Tribunal dated 20.03.2015 and the Judgement passed in the matter of Capt. Mall Singh Vs Punjab PCB are at par SWM Rules, 2016. The segregation of waste is essential for effective processing and disposal of waste. Biodegradable wastes can be composted and plastic wastes can be recycled for getting valuable products. Plastic wastes are generally bulky and less compactable that occupy larger space in landfills and reduce life span of landfills.

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Therefore, only inert and processed rejects should go to the landfills.

12. **Recyclables:** That, applicant at para 6(2), has cited duties of waste generators specified in Rule 4 (6, 7 & 8) of SWM Rules, 2016 regarding processing and disposal of biodegradable waste through composting or biomethanation within the premises as far as possible. The applicant also mentioned duties of Department of Fertilizers, Ministry of Agriculture, District Magistrate/District Collector, Secretary-in-Charge of village Panchayats and Central Pollution Control Board.

It is submitted the duties specified in the SWM Rules, 2016 are in place. The duties specified to waste generator in Rule 4 (6, 7, & 8) for processing of biodegradable waste through composting /biomethanation are as far as possible, but not mandatory. The objective of processing of biodegradable waste within the premises is to minimize handling of waste by the municipality.

13. **Combustibles for Waste to Energy:** That, applicant at para 6(3), has cited the judgement (Direction 8) passed by Hon'ble Tribunal in Capt. Mall Singh Vs Punjab PCB and ors. regarding use of non recyclable plastic wastes in construction of road or such allied activity, where scientifically possible. Whatever is still un-recyclable, the same shall be put into incinerators for disposal. The above Direction has been read with the Rule 15 of the SWM Rules, 2016 that specify duties of urban local bodies for waste segregation and Rule 21 (2) that specifies "High calorific waste shall be used for co-processing in cement or thermal power plants".

It is submitted that plastic wastes, at the end-of- life after several recycling become non-recyclable. The multi-layered plastics of different materials are also found non-recyclable. Such non-recyclable plastic wastes left no option but to dispose through



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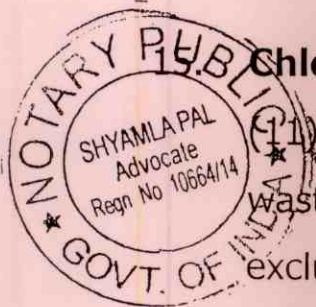
incineration in WTE plant. The non-recyclable plastic wastes can also be utilized in road construction, making door panels, etc.

It is also submitted that Rule 15(h) of the SWM Rules, 2016 the municipalities should setup material recovery facilities or secondary storage facilities for sorting of recyclable materials to separate recyclables waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities. Thus, it is obvious that mixed waste should not reach WTE plant without segregation.

14. **Landfilling:** That applicant at para 6 (4) cited Rule 15 of SWM Rules, 2016 regarding mandates for landfilling. The applicant also cited the order dated 20.03.2015 of Hon'ble Tribunal regarding disposal of incineration ash in accordance with Hazardous Waste Rules, 2008.

It is submitted that the schedule II of the Hazardous Waste Management Rules, 2016 specifies the minimum concentration of Toxicity Characteristic Leaching Procedure (TCLP) or Soluble Threshold Limit Concentration (STLC) for considering a waste as 'Hazardous waste'. The incinerator ash of a particular WTE plant may be examined as per TCLP/STLC and its disposal may be considered accordingly either in Hazardous landfill or sanitary landfills depending upon characteristics of incinerator ash.

Chlorinated plastics: That applicant at para 6 (5) cited Rule 3 (1) of SWM Rules, 2016 regarding definition of combustible waste having minimum calorific value exceeding 1500 kcal/kg excluding chlorinated plastics, wood, pulps, etc. read with the rule 3 (1) (38) of SWM Rules, 2016 regarding definition of 'RDF' that fuel derived from combustible waste fraction of solid waste like plastic, wood, pulp or organic waste, other than chlorinated materials, in the form of pellets or fluff produced by drying, shredding, dehydrating and compacting of solid waste. The



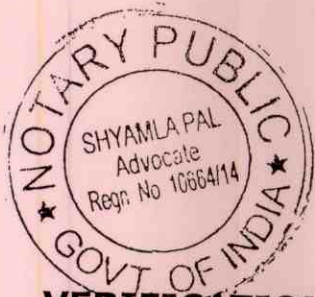
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applicant submits to ensure combustible fraction of waste free from chlorinated plastics by phasing out use-and-throw PVC applications.

It is submitted that CPCB agrees with the applicant for phasing out short life PVC or chlorinated plastics for packaging materials including packaging for food/ edible items. Rule 9 (3) of the Plastic waste management Rules, 2016 also specify that manufacture and use of non-recyclable multi-layered plastic if any should be phased out in two years time.

CPCB's Comments on the Application dated 07.09.2016

16. That, the Applicant vide its application dated 07.09.2016 has submitted a comparison chart of various waste processing options. CPCB has no comment to make on it. However, the Central Pollution Control Board has also prepared a report on "Selection Criteria for Waste Processing Technologies" and submitted to this Hon'ble Tribunal on 07.09.2016. The said report is also available in CPCB's website.



Sharma
2019/16
Identify the Deponent who has signed
Thumb Impression before me.

DEPONENT

VERIFICATION :

Verified at Delhi on this 19th day of September, 2016 that the contents of the above affidavit are correct to the best of my knowledge and belief and nothing has been concealed therein.

3098/16
ATTESTED
NOTARY PUBLIC DELHI
GOVT INDIA
20 SEP 2016

DEPONENT