

Item No. 03

Court No. 1

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

Execution Application No. 13/2019
IN
Original Application No. 247/2017

Central Pollution Control Board

Applicant

Versus

State of Andaman & Nicobar & Ors.

Respondent(s)

Date of hearing: 08.01.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Rajkumar, Advocate for CPCB

ORDER

1. The issue for consideration is the implementation of Plastic Waste Management Rules, 2016 (PWM Rules), including Extended Producer Responsibility (EPR) in terms of Rule 9(4).

2. The Execution application has been filed by the CPCB for execution of order of this Tribunal dated 20.07.2018 in OA 247/2017 directing enforcement of the PWM Rules. The Tribunal considered the grievance of the CPCB that order issued under Section 5 of the Environment (Protection) Act, 1986 for enforcement of the PWM Rules was not being complied with by most of the States/UTs/PCBs/PCCs/Local Bodies/ Panchayats. The Tribunal issued notice to 71 respondents in the application and heard the matter but found that the States/UTs were neither complying with the rules nor had

any legal objection to do so. They were merely failing in performing their duty. The Tribunal directed all the States/UTs to take steps in accordance with PWM Rules.

3. It is well known that unscientific management of plastic waste is a serious hazard for the environment and public health.¹

4. Directions for enforcement of the PWM Rules have also been issued by the Hon'ble Supreme Court inter alia in *Karuna Society for Animals and Nature v. UOI*, (2015) 2 SCC 355 and (2016) 14 SCC 303. In the second matter, directions of the Hon'ble Supreme Court are as follows:

"2. This petition is filed by the Karuna Society for Animals & Nature & Ors. seeking for issuance of the appropriate directions under Section 5 of the Environment (Protection) Act, 1986, prohibiting the use, sale and disposal of plastic bags in all municipalities and municipal corporations, in the country inter alia, with following prayers :

- 1.) the Respondent No. 1 to issue appropriate directions under Section 5 of the Environment (Protection) Act, 1986 prohibiting the use, sale and disposal of plastic bags in all municipalities and municipal corporations;*
- 2.) the Respondent No. 1 to issue appropriate directions to all State Governments and municipalities/municipal corporations to forthwith prohibit and/or to phase out in a time bound manner the "open garbage disposal system" and to remove open garbage receptacles;*
- 3.) the Respondent No. 1 to issue appropriate directions to State Governments, municipal corporations and municipalities requiring them to implement door to door garbage collection and to ensure that waste storage facilities are built and managed such that animals are not allowed to move around in the vicinity of such facilities;*
- 4.) the Respondent No. 1 issue appropriate directions to State Government/Municipal Corporation and municipalities to require segregation of all plastic waste across the municipal solid waste collection and disposal chain/systems; and*
- 5.) the Respondent State Governments to issue appropriate directions prohibiting the use, sale and disposal of plastic bags in all municipalities and municipal corporations within their territory.*

¹ https://givingcompass.org/article/10-facts-about-plastic-pollution-you-absolutely-need-to-know/?gclid=EAlalQobChMIwue1ncOV7glVvYdLBR2vogKOEAAAYASAAEgLyYvD_BwE
<https://plasticpollutioncoalition.zendesk.com/hc/en-us/articles/222813127-Why-is-plastic-harmful->

6.) *the Respondent No. 1 and the 19th Respondent to provide animal shelters, rescue homes and veterinary services for stray cattle to provide amelioration for suffering animals.*

3. *In support of the above reliefs the averments made in the petition and number of documents were produced which relate to protection of animals and also for the protection of environment. **The use of plastic by the residents in the above areas, which is often consumed by the animals adversely affects their digestive tract resulting in their death and postmortem of such dead animals will be conducted ultimately polluting the whole of the areas where the public residents are residing thereby the public residents would suffer on account of unhygienic conditions that would prevail in the area.***

4. *After hearing the learned counsel for the parties and perusing the prayers made in the petition and the material evidence produced for our perusal, **it is evident that the situation is very alarming but it is not for this Court to monitor the functioning of concerned authorities & local authorities to see that the areas of the local self Government are not polluted. Accordingly, we direct the Union of India and the State Governments to consider the prayers in the petitions and take all necessary steps in the matter in accordance with law by constituting committees consisting of competent persons who have got sufficient knowledge on the subject matter. The Central Government may also set up an appropriate monitoring mechanism in the matter. In our considered view the respective regional National Green Tribunal benches can monitor and regulate the cases by passing/giving orders or directions to all the concerned statutory authorities and local self governments in the country for discharge of their constitutional and statutory duties.***

5. *With the aforesaid directions & observations, the prayers extracted above are allowed to the above extent and the Writ Petitions are disposed of.*

6. *The petitioners are at liberty to give their suggestions to the concerned authorities and approach concerned statutory authorities/Tribunal in case of violation of statutory provisions in accordance with law.”*

5. The CPCB issued directions on 30.06.2016 to implement the thickness norms for carry bags, constitution of squads for vigilance, preventing littering of plastic waste in public, submission of annual reports and action plan for management, quantification and characterization in every city/town of all the States/UTs. The PWM Rules lay down conditions for manufacture, import, stocking, distribution sale

and use of carry bags, plastic sheets, multilayer packaging etc. and waste management. Responsibilities are assigned to local bodies, waste generators, producers, importers and brand owners. Provisions include protocols for compostable plastic material, marking and labelling. State PCBs/PCCs are the authorities for enforcement. State level monitoring Committees are to be constituted for coordination with other authorities. There is a provision for registration for manufacturers, producers and recyclers. Responsibility is also assigned to the retailers and street vendors. Reports are to be filed by recyclers/processors with the local bodies, by local bodies with the Urban Development Departments and PCBs/PCCs, by PCBs/PCCs to CPCB and by CPCB to the Central Government. According to CPCB compliance of the Rules is not taking place.

6. The matter has been considered on several occasions. Specific directions were issued to all the States/UTs to ensure the compliance of the PWM Rules and to furnish information to the CPCB under the relevant heads. Thereafter, **as per report of the CPCB filed on 30.05.2019, it was found that there was huge gap in preparation and execution of action plans for implementation of the PWM Rules. The Tribunal also noted that implementation of Extended Procedures Responsibility (EPR) remained a challenge for which MoEF&CC had to finalize a policy framework.**

7. On 06.12.2019, the Additional Secretary, MoEF&CC appeared in person and submitted that three models were being debated in this regard. The Tribunal, vide order dated 6.12.2019, after referring to earlier proceedings and stand of the concerned parties, issued following directions:-

“11. Accordingly, Ms. Nidhi Khare, Additional Secretary, MoEF&CC is present in person and has handed over action taken during the hearing mentioning inter-alia that three models were being considered as follows:-

“Model 1 —Fee based model

- Under the fee based model the producers/importer/brand owner is required to contribute to the EPR corpus fund at the central level/State level.
- The amount to be contributed by each of the producers/importer/brand owner will be decided based on the amount of plastic being introduced into the market by the producers/importer/brand owner. Normative cost based on the cost of recycling may be adopted.
- The collected funds shall be utilized for creation of infrastructure for the management of plastic waste in Smaller municipalities.
- There is a need to build the capacities of the ULB in terms of infrastructure development and their expertise so that the waste management can happen systematically under the EPR mechanism.
- Secondly, an important factor which is indirectly contributing to the cleanliness of the city are the rag pickers/assemblers/recyclers. They are anyway contributing to the mechanism of EPR without any benefit. This fraction of the stakeholders shall be supported for the better management of the waste under the mechanism of EPR under this model.
- Thirdly the component of Information, Education and Communication (IEC) activity shall be supported through the component of EPR to achieve an effective waste segregation, collection, transportation and recycling.

Model 2 — PRO based model and Plastic Credit Model

Under this model, the objective is to establish a Producer Responsibility Organization (PRO) to lead on implementation and provide funding required under the Rules on behalf of producers to support plastic recycling while also promoting the ease of doing business for all stakeholders.

Local bodies and some states do not have the expertise or resources to design, implement and manage effective local plastic waste management programs. This can be addressed by having an industry self-managed PRO take on the responsibility for discharging producer's national and state legal obligations in a more efficient and cost effective manner by applying industry's

experience gained through successful producer responsibility programs implemented in other jurisdictions.

Model 3 -Plastic Credit Model

- PRO/Producers/Importers can also obtain certificates from accredited processors [recyclers, W2Eplant operators, cement co-processors, users utilizing plastic in road] in exchange of an evidence of recycling or recovery, which will act as ERP compliance.
- Producers will be at liberty to decide options for establishing channels of collecting plastic credits with or without forming or linking with PROs.. Producers with established supply chains can establish other channels for collection/ segregating/ processing plastic waste for eg.:
 - Deposit refund schemes
 - Buy-back schemes
 - Forming social ventures involving informal sector directly.

12. Let the matter be finalized and National Framework established as far as possible within three months. Further report may be furnished before the next date by e-mail at judicial-ngt@gov.in.
13. CPCB has also filed a report in terms of direction in paragraph 15 in the order dated 17.09.2019 in O.A. No. 376/2018, Supra, on the subject of Environmental Compensation regime for improper Plastic Waste Management. The report is infact application seeking time to submit such regime in four weeks after finalization of National Framework on EPR by MoEF&CC.
14. In view of above discussion, we sum up our directions as follows:
 - a) **National Framework for extended producers liability be finalized and enforced as far as possible within three months and a report furnished by the MoEF&CC as per observations in para 12 above.**
 - b) **CPCB may give its report for compensation regime in terms of para 13 above.**
 - c) The States/UTs may finalize the time targeted action plans and give information about the implementation status to the CPCB as per recommendations in the report of the CPCB summarized in para 9 above.
 - d) An institutional mechanism be established to ensure that:
 - i. **No unregistered plastic manufacturing/recycling units is in**

operation and no unit is running in non-conforming/ residential areas.

- ii. No plastic carry bags /films <50 microns thickness should be manufactured, stocked, sold and used in cities/towns.**
- iii. Thermocol/polystyrene cups, plates, etc. used extensively and haphazardly littered are properly regulated.**
- iv. Special Environment Squads may be set up for enforcement to oversee and ensure that no litter of plastic waste takes place at historical, religious, public places and dumping of plastic waste on drains, river, banks and sea and no burning of plastic takes place in open.**
- v. The States/UTs may submit their compliance reports to CPCB quarterly in a cumulative format, failing which compensation of Rs. 1 lakh per quarter shall be levied by the CPCB. The CPCB may compile and file its consolidated report on quarterly basis before this Tribunal. First quarterly report be filed before the next date by e-mail at judicial-ngt@gov.in.”*

8. In view of above, the CPCB filed its report on 04.09.2020 which concluded as follows:-

“

- i. 15 States/UTs namely **A&N island, Assam, D & NH, Goa, Jharkhand, Karnataka, Lakshadweep, Manipur, Mizoram, Nagaland, Orissa, Rajasthan, Sikkim, U.P. and West Bengal** have not submitted compliance report on PWM and these States & UTS are required to pay compensation of Rs 1 Lakh for the quarter Oct-Dec,2019 in compliance of Hon'ble NGT Order dated December 6th, 2019.*
- ii. 80% ULBs & 10% VPs have set-up of plastic waste management system as per provision of PWM Rules; 82% ULBs & 9.1% VPs have facility for collection of segregated waste. only 59.5 % ULBS and 5.93% have provision for Material Recovery Facility. States/UTs are required to setup PWM system as per rule 7 of PWM rules 2016 in each and every ULB and GP. Emphasis has to be laid on provision of facilities for secondary segregation of waste and more emphasis in Village Panchayats*
- iii. Only 11% of the Registered brand owners have engaged with 6% ULBs for PWM. Increased engagement of brand owners with ULBs is recommended for efficient PWM*

- iv. *Timelines to be provided by States and UTs for management of plastic waste as per provisions of PWM Rules*
- v. *Capacity of recycling (5347 TPD- 80%) is only 63% is utilized which can be attributed to unequal distribution of recyclers and inefficient channelization of plastic waste. Efficient channelization of plastic waste and increased networking of recyclers required for recycling of plastic waste*
- vi. *Comparatively less quantity of plastic waste used in road making, waste to oil, co-processing and RDF preparation. Impetus required for increased use of plastic waste in these areas.*
- vii. *Registration granted for compostable plastics in only eight States & UTs as per 8a in the above table. CPCB has issued certificate to 108 manufacturers/sellers in 19 States/UTs. However Registration has been granted to only 32 units by concerned SPCBs/PCCs. Impetus required for promotion of compostable plastics in the States & UTs and bringing them under the purview of PWM Rules*
- viii. *All unregistered units to be brought under the purview of legal framework as per provision of PWM Rules*
- ix. *Most states & UTs have imposed restriction on manufacture and usage of plastic bags. Similar restrictions should be imposed on manufacture and usage of plastic sheets*
- x. *Time targeted action plan for efficient channelization and utilization of plastic waste addressing the cells marked as "GAPS" in **annexure III** as identified for the individual state to be framed and implemented in the States & UTs."*

9. The matter was considered on 10.09.2020 with the reference to the directions in the order dated 16.12.2019 as follows: -

"1 to 5.xxx.....xxx.....xxx

6. *We may review the status of compliance of directions in the order of this Tribunal dated 16.12.2019, already quoted above. With regard to direction (a), it is submitted that the MoEF&CC is yet to finalize its policy though the CPCB has already given its report on the subject to the MoEF&CC. None appears for the MoEF&CC. Even in O.A. No. 15/2014 listed today, involving overlapping issues, no one appeared for the MoEF&CC which shows that **the MoEF&CC is ignoring even most serious environmental issues which is very unfortunate. Let Secretary, MoEF&CC look into the matter and take remedial action.***

However, we have come across the draft of "Guidelines Document" on 'Uniform Framework for Extended Producers Responsibility (Under Plastic Waste Management Rules, 2016)', seeking comments till 31.07.2020. It is not clear whether the policy has been so far finalised or not.

7. With regard to (b), compensation regime, the CPCB has still not finalized the same on the ground that it is waiting for the MoEF&CC finalizing its policy on the subject of EPR, which is no justification for delay by the CPCB. With regard to direction (c), the relevant information has not still been provided. With regard to direction (d), the information is not available with regard to the number of unregistered plastic units and number of such units in non-conforming/residential area. With regard to directions (ii) to (iv) of (d), adequate steps are not being taken.

We are of the view that having regard to significance of the issue, the Chairman and Member Secretary, CPCB need to hold periodic meetings by Video Conferencing with the Chairmen and Member Secretaries of all the State Boards/Committees on the subject to work out enforcement strategies, including action plans in all the Districts, involving Educational, Religious and other Institutions in the interest of public health and protection of environment. At least one District in every State should be made a model for compliance of PWM Rules in the first instance and thereafter, the entire State should be made so compliant. State PCBs/PCCs, in coordination with State Level Monitoring Committees, need to involve the District Magistrates and other concerned local authorities for effective enforcement of the statutory regime.

8. Let the MoEF&CC and the CPCB may give their action taken reports before the next date 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.”

10. Accordingly, reports have been filed by the CPCB and MoEF&CC. Reports of the CPCB are dated 12.10.2020 and 05.01.2021. The report of the MoEF&CC is dated 12.10.2020.

11. In its report dated 12.10.2020, the CPCB has mentioned the steps taken namely holding a meeting with the State PCBs by Video Conferencing on 25.09.2020, issuance of directions on 09.10.2020 for setting up institutional mechanism for enforcement of the PWM Rules, 2016 including:-

- “(i) Issuing of public notice for identification of the following:
- Unregistered units
 - Plastic Units operational in non-confirming areas
 - Units manufacturing carrybags less than 50 micron thickness

- (ii) *Creation of public grievance cell for registration and resolution of complaints*
- (iii) *Identification of institutions (State UD, Police, DM office, RWA, Industrial Associations, Industrial Development Corporations, Market Associations etc.) which will be involved in enforcement of the action plan*
- (iv) *Training of workers in these institutions*
- (v) *Launching Awareness Program for the public*
- (vi) *Identification of locations (parks, Religious places etc.) where littering is a common problem*
- (vii) *Creation of surveillance squad to prevent littering in such locations (viii)Taking punitive actions against defaulting units as per (i) above*
- (ix) *Specification of user fee for waste generator & Imposition of Spot fines for littering in the bye-laws of the local bodies for plastic waste management*
- (x) *Identification of model district level for implementation of above*
- (xi) *Timeframe for implementation of above.”*

12. The report mentions compliance status as follows:

“2.3 Compliance status w.r.t PWM Rules

- *CPCB has filed the status report in compliance of the Order dated 04.12.2019 on September 04, 2020. 20 states and UTs had provided the information on this matter. Subsequently, information has been received from four more States/ UTs- Assam, Goa, Odisha and Uttar Pradesh. Compliance*
- *The Compliance report as submitted by these states/UTs has been compiled by CPCB An overview of the compliance status of the States /UTs vis-a-vis 35 action points submitted by the States/UTs is given in **Table-1** below: and the detailed report is enclosed at **Annexure IV**.*
- *The compliance status of 25 States vis-a- vis major action points is enumerated below:*
 - (a) **Unregistered Plastic Units:** *615 unregistered plastic units have been reported in these 25 states/UTs. However, it is observed that the no. of such units may be much higher in the country .*
 - (b) **Ban on Carry bags & plastic sheet of thickness < 50 micron:** *All States/UTs have confirmed that they have banned the production of such items. How, such products are commonly found in circulation*
 - (c) **Littering of plastics in public place & Setting up of Special Environmental Squad:** *19 states/UTs have confirmed that confirmed that Thermocol/polystyrene cups, plates, etc. are not used extensively and haphazardly littered. 22 states/UTs have confirmed that Special Environmental Squad has been set up for enforcement to oversee and ensure that no litter of*

plastic waste takes place at public places and dumping of plastic waste on drains, river, banks and sea and no burning of plastic takes place in open. However, littering and plastic waste continues to be a common sight in the country

In view of above, State Board have been directed to set up an institutional mechanism and take necessary steps for identification of such units and take necessary action

Table-1 Overview of compliance report submitted by the States/UTs

| Sl. No. | Items | Remarks | Quantity (if provided) |
|----------------|--|---|--|
| 1 | Quantity of plastic waste generated (Annual Report form VI pt. 2,6) (TPD) | Information provided by 5 States/UTs. Assam, Delhi, Goa, Odisha, Uttar Pradesh | Total Quantity of Waste generated is 2273.68 TPD |
| 2(a) | Number of registered plastic manufacturing units | Information provided by 3 States/UTs. Delhi, Odisha, Uttar Pradesh Information not provided by 2 States: Assam, Goa, | 176 |
| 2(b) | Capacity of registered plastic manufacturing units (TPD) | Information provided by 3 States/UTs. Delhi, Odisha, Uttar Pradesh Information not provided by 2 States: Assam, Goa | 3237.54 TPD |
| 3(a) | Total No of ULBs in 20 States/ UTs | Information provided by 4 States/UTs. Assam ,Delhi, Odisha, Uttar Pradesh Information not provided by States: Goa, | 866 |
| 3(b) | No. of ULBs which have set-up of plastic waste management system as per Rule 6(2)? (including collection, segregation, channelization & processing of plastic waste) | Information provided by 3 States/UTs. Delhi, Odisha, Uttar Pradesh Information not provided by 2 States: Assam, Goa, | 675 |
| 3(c) | ULBs having facilities for collection of segregated waste | Information provided by 3 States/UTs. Delhi, Odisha, Uttar Pradesh | 672 |

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| | | <u>Information not provided by 2 States:</u> Assam, Goa, | |
| 3(d) | ULBs having Material Recovery Facility | <u>Information provided by 3 States/UTs.</u> Delhi, Odisha, Uttar Pradesh <u>Information not provided by 2 States:</u> Assam, Goa, | Total : 40 -To be set up in UP. Rs 227 crore released for setting up 01 MRF in each of 625 ULBs by December, 2020 |
| 4(a) | Total no. of Gram Panchayat (GP) | <u>Information provided by 4 States/UTs.</u> Delhi, Odisha, Uttar Pradesh, Goa <u>Information not provided by 2 States:</u> Assam, | 65744 |
| 4(b) | Gram Panchayat which have setup of plastic waste management system as per Rule 7 | <u>Information provided by 2 States/UTs.</u> Delhi, Odisha, <u>Information not provided by 4 States:</u> Assam, Uttar Pradesh, Goa | PWM has been initiated in 90 model GPs of Odisha <u>No Gram Panchayats in Delhi</u> |
| 4(c) | GPs having facilities for Collection of segregated waste | <u>Information provided by 2 States/UTs.</u> Delhi, Odisha, <u>Information not provided by 4 States:</u> Assam, Uttar Pradesh, Goa | Segregation of waste has been initiated in 90 model GPs of Odisha |
| 4(d) | GPs having Material Recovery Facility | <u>Information provided by 2 States/UTs.</u> Delhi, Odisha, <u>Information not provided by 4 States:</u> Assam, Uttar Pradesh, Goa | In Odisha 90 Model GPs have storage units for recovery of recyclable waste. 35 Model GPs have been tagged with MRFs of nearby ULBs |
| 5(a) | No. of registered Producers/brand owners/ importers as per Rules 9 & 13 of PWM Rules? | <u>Information provided by 3 States/UTs.</u> Delhi, Odisha, Uttar Pradesh <u>Information not provided by 2 States:</u> Assam, Goa | Total : 342 |
| 5(b) | Producers/Brand Owners/Importers which have engaged with ULBs for PWM | <u>Information provided by 2 States/UTs.</u> Delhi, Uttar Pradesh <u>information not provided by 3 States:</u> Assam, Goa, Odisha, | In Uttar Pradesh 35 brand Owner/ producers have establish network for waste collection in compliance of EPR - In Delhi no Producers/ Brand owners/ Importers which have engaged |

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| | | | <i>with ULBs for PWM</i> |
| 5© | ULBs which have set up system for plastic waste management with assistance of producers been set -up? Rule (6(3))? | <u>Information provided by 2 States/UTs.</u> Delhi, Goa , <u>information not provided by 3 States:</u> Assam, Odisha, Uttar Pradesh | Zero |
| 6(a) | Number of registered plastic waste recyclers | <u>Information provided by 3 States/UTs.</u> Delhi, Uttar Pradesh Odisha, <u>Information not provided by 2 States:</u> Assam, Goa, | Total : 334 Maximum registered plastic waste recyclers are in Delhi |
| 6(b) | Capacity of recycler (TPD) | <u>Information provided by 3 States/UTs.</u> Delhi, Uttar Pradesh Odisha, <u>Information not provided by 2 States:</u> Assam, Goa | 1176 TPD Maximum Capacity of registered plastic waste recyclers is in Uttar Pradesh |
| 7 | Status of utilization of plastic waste (Annual Report form VI pt. 4 | | |
| 7(a) | Quantity of Plastic waste utilized in recycling (TPD) | <u>Information provided by 5 States/UTs.</u> Delhi, Uttar Pradesh, Odisha, | Total: 1100.47 TPD |
| 7(b) | Quantity of plastic waste utilized in recycling Road Construction | <u>Information provided by 3 States/UTs.</u> Delhi, Uttar Pradesh, Odisha, <u>Information not provided by 2 States:</u> Goa , Assam, | In U.P. 100 tons Plastic Waste used for Road construction in Kanpur, Meerut and Jhansi. - 4 6 TPA of Plastic waste used in Odisha. |
| 7(c) | Quantity of waste Co-processed in Plastic Waste in Cement kilns | <u>Information provided by 3 States/UTs.</u> Delhi, Uttar Pradesh, Odisha, <u>Information not provided by 2 States:</u> Goa Assam, | 150 TPD of plastic waste is being used in Odisha. |
| 7(d) | Quantity of waste utilized in production of RDF | <u>Information provided by 1 States/UTs.</u> Uttar Pradesh Delhi, <u>Information not provided by 4 States:</u> Goy , Assam,, Odisha, | 30 TPD of plastic waste utilized in production of RDF in U.P. No waste is being utilised in Delhi for production of RDF. |
| 7(e) | Quantity of plastic waste | <u>Information</u> | Plastic waste to oil |

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| | used in production of Waste to oil | <u>provided by 1 States/UTs.</u> Uttar Pradesh <u>Information not provided by 4 States:</u> Goa , Assam, Delhi, Odisha, | plant 1800 TPA in Mathura set up. Plastic waste to Oil plant 2 ton/day in Jhansi. In Uttar Pradesh M/s Uflex Ltd. Noida is utilizing in house non-recyclable plastic waste for the production of fuel, carbon black and gas. The capacity of the plant is 6 TPD. |
| 7(f) | Quantity of plastic waste used in other purpose (please specify) | <u>Information provided by 1 States/UTs.</u> Delhi <u>Information not provided by 4 States:</u> Goa, Assam, Uttar Pradesh, Odisha, | Nil |
| 8(a) | No. of Units registered for manufacturing compostable plastic | <u>Information provided by 3 States/UTs.</u> Uttar Pradesh , Delhi, Odisha, <u>Information not provided by 2 States:</u> Goa , Assam, | 4 No of registered manufacturing compostable plastic are in U.P. -There is no registered manufacturing compostable plastic in Delhi and Odisha. -CPCB has issued certificates to 6 nos. of compostable product manufacturers from Delhi |
| 8(b) | Total Capacity of Units manufacturing compostable plastic | <u>Information provided by 3 States/UTs.</u> Uttar Pradesh, Delhi, Odisha, <u>Information not provided by 2 States:</u> Goa, Assam | 335 Tonne per months |
| 9(a) | No. of unregistered plastic manufacturing or recycling units. (Annual Report format pt.7) | <u>Information provided by 2 States/UTs.</u> Delhi, Odisha, <u>Information not provided by 3 States:</u> roe , Assam Uttar Pradesh , | There are no unregistered plastic manufacturing or recycling units in the of Delhi and Odisha |
| 10 | Whether local bodies have framed bye-laws [Rule6 (4)]? | Information provided by 3 States/UTs: Delhi, Odisha, Assam, Information not provided by 2 States: Uttar Pradesh, Goa | In Odisha & Assam Byelaws have been framed; In Delhi, it is pending with the State Govt |
| 11 | Whether plastic carry bags & plastic sheet of thickness < 50 micron banned or not [Rule4(c)]? | Information provided by 4 States/UTs: Delhi, Odisha, Goa, Assam, | Banned in 4 States/UTs |

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|----|--|--|---|
| | | Information not provided by 1 States: Uttar Pradesh | |
| 12 | Has complete ban on plastic carry bags been imposed? (Annual Report format pt. 3) | Information provided by 4 States/UTs: Delhi, Odisha, Goa, Assam, Information not provided by 1 States: Uttar Pradesh | Banned in 3 States/UTs banned. However, in Goa there is no complete ban on carry bags imposed in ULBs jurisdiction. |
| 13 | Status of action taken on non-compliance of PWM Rules (Annual Report format pt.9) | Information provided by 2 States/UTs: Delhi, Odisha, Information not provided by 3 States: Uttar Pradesh, Goa, Assam | Action have been taken at different levels in different States /UT as specified in the individual State/UT report |
| 14 | Status of marking & labelling on plastic carry bags & multi layered packaging. (Rule 1) | Information provided by 2 States/UTs: Delhi, Odisha, Information not provided by 3 States: Uttar Pradesh, Goa, Assam | Compliance status indicated in the individual State/UT report. |
| 15 | Whether State Level Advisory Committee is constituted or not? [Rule 16] If yes, details of number of meetings conducted in a year and implementation of suggestions of committee in the last 2 years | Information provided by 3 States/UTs. Delhi, Odisha, Uttar Pradesh Information not provided by 2 States: Assam , Goa , | Constituted in 3 States which have provided information on the matter |
| 16 | Status of phasing out of manufacture and use of multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use of plastic in two years' time [Rule9-3] | Information not provided by any States: Delhi, Odisha, Uttar Pradesh, Assam, Goa | No information |
| 17 | | | |
| a | Has institutional mechanism as per para 14d of Hon'ble NGT order been established (Y/N) | Information provide by 3 States/UTs. Delhi, Odisha, Assam Information not provided by 2 States: Goa, Uttar Pradesh | Established in all the 2 States/UTs which have provided information on the matter. In Delhi, there no institutional mechanism set up for the purpose |
| b | Confirmation that no unregistered plastic manufacturing/recycling unit is operated in your jurisdiction (Y/N) | Information provide by 4 States/UTs. Delhi, Odisha, Assam, Goa Information not provided by 1 State: | Confirmed in 4 States/UTs which have provided information on the matter. |

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|---|--|---|--|
| | | Uttar Pradesh | |
| c | Confirmation that no plastic carry bags/films < 50 microns thickness is stocked, sold and used in cities/towns of State (Y/N) | Information provide by 4 States/UTs. Delhi, Odisha, Assam, Goa Information not provided by 1 States: | Yes. Confirmed in 4 States/UTs which have provided information on the matter. |
| | | Uttar Pradesh | |
| d | Confirmation that thermocol/polystyrene cups, plates etc. are not used extensively and are not haphazardly littered (Y/N) | Information provide by 3 States/UTs. Delhi, Assam, Goa Information not provided by 2 States: | Restricted in 3 States/UTs which have provided information on the matter. |
| | | Uttar Pradesh, Odisha | |
| e | Confirmation that SPECIAL Environmental Squad has been set up for enforcement to oversee and ensure that no litter of plastic waste takes place at public places | Information provide by 3 States/UTs. Delhi, Assam, Goa Information not provided by 2 States: | Yes, established all the 3 States/UTs which have provided information on the matter. |
| | | Uttar Pradesh, Odisha | |
| f | Confirmation that no burning of plastic in open take place in State/UT (Y/N) | Information provide by 3 States/UTs. Delhi, Assam, Odisha Information not provided by 2 States: | Confirmed by 3 States/UTs which have provided information on the matter. |
| | | Uttar Pradesh, Goa | |

13. Report of the CPCB dated 05.01.2021 gives the EC regime and penal action as follows:-

2.0 Provisions of Plastic Waste Management Rules:

Environmental Compensation is to be levied for the non-compliance of the following provisions of the PWM Rules, in which frequent non-compliance is observed is given in Table 1.0

Table 1: Provision of PWM Rules for which EC is to be levied

| Rule | Provisions |
|-------------|-------------------|
|-------------|-------------------|

| | |
|-----------------------|--|
| | <i>Carry bag made of virgin or recycled plastic, shall not be less than fifty microns in thickness;</i> |
| | <i>'Plastic sheet or like, which is not an integral part of multi-layered packaging and cover made of plastic sheet used for packaging, wrapping the commodity shall not be less than fifty microns in thickness except where the thickness of such plastic sheets impair the functionality of the product</i> |
| 4(e) | <i>The manufacturer shall not sell or provide or arrange plastic to be used as raw material to a producer, not having valid registration from the concerned State Pollution Control Boards or Pollution Control Committee</i> |
| 4(f) | <i>Sachets using plastic material shall not be used for storing, packing or selling gutkha, tobacco and pan masala;</i> |
| 4(h) | <i>Carry bags made from compostable plastics shall conform to the Indian Standard:IS 17088:2008 titled as Specifications for Compostable Plastics, as amended from time to time. The manufacturers or seller of compostable plastic carrybags shall obtain a certificate from the Central Pollution Control Board before marketing or selling;</i> |
| 4 (i) | <i>Plastic material, in any form including Vinyl Acetate - Maleic Acid - Vinyl Chloride Copolymer, shall not be used in any package for packaging gutkha, pan masala and tobacco in all forms</i> |
| <u>6(1) & (7)</u> | <i>Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.</i> |

| Rule | Provisions |
|---------------------------|--|
| <u>6(2)(g) & 7(c)</u> | <i>Ensuring that open burning of plastic waste does not take place</i> |
| <u>8(1)(a)</u> | <i>The waste generator shall take steps to minimize generation of plastic waste and segregate plastic waste at source</i> |
| <u>8(1)(b)</u> | <i>The waste generator shall Not litter the plastic waste</i> |
| <u>9(1)</u> | <i>The producers, within a period of six months from the date of publication of these rules, shall work out modalities for waste collection system based on Extended Producers Responsibility and involving State Urban Development Departments, either individually or collectively, through their own distribution channel or through the local body concerned;.</i> |

| | |
|----------------------------|--|
| <u>9(2)</u> | <i>Primary responsibility for collection of used multi-layered plastic sachet or pouches or packaging is of Producers, Importers and Brand Owners who introduce the products in the market. They need to establish a system for collecting back the plastic waste generated due to their products</i> |
| <u>13 (1) & 13 (2)</u> | <p><i>(1) No person shall manufacture carry bags or recycle plastic bags or multi-layered packaging unless the person has obtained a registration from the State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned, as the case may be, prior to the commencement of production;</i></p> <p><i>(2)Every producer or brand-owner shall, for the purpose of registration or for renewal of registration, make an application in Form-I to</i></p> <ul style="list-style-type: none"> <i>i "The concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating one or two States or Union Territories"; or</i> <i>ii "The Central Pollution Control Board, if operating in more than two States or Union Territories".</i> |
| <u>13(3)</u> | <i>Every person recycling or processing waste or proposing to recycle or process plastic waste shall make an application to the State Pollution Control Board or the Pollution Control Committee, for grant of registration or renewal of registration for the recycling unit, in Form II.</i> |
| <u>13(4)</u> | <i>Every manufacturer engaged in manufacturer of plastic to be used as raw material by the producer shall make an application to the State Pollution Control Board or the Pollution Control Committee of the Union territory concerned, for the grant of registration or for the renewal of registration, in Form III.</i> |
| <u>14(1)</u> | <i>Retailers or street vendors shall not sell or provide commodities to consumer in carry bags or plastic sheet or multi-layered packaging, which are not manufactured and labelled or marked, as per prescribed under these rules</i> |

Assessment of Environmental Compensation to be levied for violation of the remaining sections of the PWM Rules shall be done on case to case basis

3.0 Approach for Assessment of Environment compensation

Assessment of Environment compensation for violation of provision of PWM Rules is based on the following considerations:

- (a) **Assessment of Cost of Plastic waste management:** Assessment of cost incurred in plastic waste management has been made based on the inputs provided by various local bodies. The cost incurred on management of plastic waste management shall essentially be divided into the following components:*

- i. **Collection & Transportation of Plastic waste:** Average cost incurred for collection and transportation of solid waste is Rs.2000/- per ton of waste
- ii. **Setting up of Material Recovery Facility (MRF) :** Average cost of setting up of Material Recovery of 100 TPD plastic is Rs. 7 crore. Accordingly, corresponding cost for setting up of 1 TPD plant is Rs.7 lakh. Considering 15 years life of the plant — cost incurred for setting up of MRF Rs.150/- per ton of plastic waste
- iii. **Setting up of RDF facility :** Average cost of setting up of Refused Derived Fuel of 100 TPD capacity is Rs. 12.5 crore. Accordingly, corresponding cost for setting up of 1 TPD plant is Rs.12.5 lakh.

Considering 15 years life of the plant — cost incurred for setting up of RDF for is Rs.270/- per ton of plastic waste
- iv. **O&M Cost of RDF facility:** Operational cost of RDF is Rs. 1200/- per Ton and Transportation cost is Rs. 300/- per ton of plastic waste

Based on the above assessment cost incurred on management of one ton of plastic waste is approximately Rs.4000/- per ton. As per PWM Rules entrusts the responsibility of development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste on the Local bodies as well as the Producers/Brandowners, the cost to be incurred on PWM shall be distributed equally (i.e. Rs.2000/- per ton of plastic waste on Local bodies & Rs.2000/- per ton of plastic waste on Producers) for the purpose of assessment of Environmental Compensation To act as deterrent, EC of 2.5 times the above amount i.e Rs.5000/- per ton of plastic waste shall be levied on the Local Bodies and the Producers/Brandowners.

(b) EC Imposed by states

*All SPCBs/PCCs, vide email dated October 04, 2020, were requested to provide information related to action taken including penalties imposed, environmental compensation levied and other coercive action taken against violators (industries, waste generators, municipal corporations, etc.) of PWM Rules 2016. Four states/UT had responded to CPCB's action and the overview of penal action taken for violation of PWM Rules is given in **Table 2***

- (c) Section 15 (1) , EPA 1986:** *Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for*

every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

- (d) **Section 5, EPA 1986: POWER TO GIVE DIRECTIONS.-** Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions
Explanation--For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-- (a) the closure, prohibition or regulation of any industry, operation or process; or (b) stoppage or regulation of the supply of electricity or water or any other service

TABLE 2: Overview of penal action taken for violation of PWM Rules in States/UTs

| States | Sl. No | Details of Violation | Action taken |
|-------------------|---------------|--|-------------------------------|
| <i>Punjab</i> | <i>1</i> | <i>Registration not obtained</i> | <i>Show-cause notice</i> |
| | <i>2</i> | <i>Action Plan under EPR not submitted</i> | <i>Show-cause notice</i> |
| | <i>3</i> | <i>Plastic carry bags</i> | <i>Imposition of fines</i> |
| <i>Puducherry</i> | <i>1</i> | <i>Plastic carry bags <50 microns</i> | <i>Closure</i> |
| | <i>2</i> | <i>Recycling of plastic in non-conforming area.</i> | <i>Closure direction</i> |
| | <i>3</i> | <i>For violation of Bye-laws</i> | <i>Penalty as per byelaws</i> |
| | <i>4</i> | <i>Storage and Selling of banned plastic carry bags</i> | <i>Penalty & Seizure</i> |
| <i>Delhi</i> | <i>1</i> | <i>Plastic carry bags/ Sheets <50 microns</i> | <i>Rs.50,000/ - per unit</i> |
| | <i>2</i> | <i>Burning plastic waste</i> | <i>Rs.50,000/ - per unit</i> |
| <i>A&N</i> | <i>1</i> | <i>Plastic carry bags & SUPs</i> | <i>Penalty & Seizure</i> |
| | <i>2</i> | <i>Import of single use plastic and plastic carry bags</i> | <i>do</i> |

4.0 Action to be Taken for Non- Compliance of PWM Rules

(a) EC Assessment & Penal Action

Details of Environmental Compensation to be levied and the penal action to be taken for non-compliance of PWM Rules, along with the nature of violation and the violator (concerned person/organization), is given in **TABLE 3**

| TABLE 3: DETAILS OF EC TO BE LEVIED & PENAL ACTION TO BE TAKEN FOR NON-COMPLIANCE OF PROVISION OF PWM RULES | | | | |
|--|--|-----------------|---|--|
| Rule | Provisions | Violator | Violation | Environmental compensation |
| 4 (c) | Carry bag made of virgin or recycled plastic, shall not be less than fifty microns in thickness; | Producer | Manufacturing bags not meeting specifications | (i) Seizure of manufactured products & Closure of Unit (ii) EC to be levied @ Rs.5000/- per ton of plastic bags manufactured from the date of inception of the unit or date of notification of PWM Rules (March 18, 2016) whichever is later <u>(EC to be levied @ Rs. 10000/- per ton for 2nd violation and @ Rs. 20000/- per ton for 3rd violation)</u> (iii) Penalty as per Section 15(1) of EPA 1986 |

| | | | | |
|-------------|--|--------------|---|---|
| 4 (d) | Plastic sheet or like, which is not an integral part of multi-layered packaging and cover made of plastic sheet used for packaging, | Producer | Manufacturing sheets not meeting specifications | <p>(i) Seizure of manufactured products & closure of Unit</p> <p>(ii) EC to be levied @ Rs.5000/- per ton of plastic used in packaging of tobacco products from the date of inception of the unit or date of notification of PWM Rules (March 18, 2016) whichever is later</p> <p>(EC to be levied @ Rs.10000/-per ton for 2nd violation and @ Rs.20000/- per ton for 3rd violation)</p> <p>(iii) Penalty as per Section 15(1) of the EPA, 1986</p> |
| 4(f) & 4(i) | <p>(f) Sachets using plastic material shall not be used for storing, packing or selling gutkha, tobacco and pan masala;</p> <p>(i) Plastic material, in any form including Vinyl Acetate-Maleic Acid-Vinyl Chloride Copolymer, shall not be used in any package for packaging gutkha, pan masala and tobacco in all forms.</p> | Producer | Using plastic material for packaging | <p>(i) Seizure of manufactured products & Closure of Unit</p> <p>(ii) EC to be levied @ Rs.5000/- per ton of plastic bags manufactured from the date of inception of the unit or date of notification of PWM Rules (March 18, 2016) whichever is later</p> <p>(iii) Penalty as per Section 15(1) of EPA 1986 (EC to be levied @ Rs. 10000/- per ton for 2nd violation and @ Rs. 20000/- per ton for 3rd violation)</p> |
| 4(h) | Carry bags made from compostable plastics shall conform to the Indian Standard: IS 17088:2008 titled as specifications for compostable plastics as amended from time to time. The manufacturers or seller of compostable plastic carry bags shall obtain a certificate from the Central Pollution Control Board before marketing or selling; | Manufacturer | Not complying with conditions specified in Certificate issued by CPCB | <p>(i) Cancellation of CPCB Certificate (in case the violation is found w.r.t. raw material used/product manufactured, EC to be levied as per violation of Rule 13(2). Penalty for non-compliance of remaining condition shall be taken in accordance with relevant section of the PWM Rules)</p> <p>(ii) Penalty as per Section 15(1) of the EPA, 1986</p> |

| | | | | |
|----------------------------|--|---|---|--|
| 6(1) & 7 | Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or products. | Municipal Commissioner, Village Panchayat | Adequate facilities for Plastic Waste Management (PWM) not provided | (i) EC to be levied @ Rs.5000/- per ton of plastic. EC to be levied for shortfall in the PW qty. for which PWM facilities have not been provided w.e.f. March 18, 2016-date of notification of these Rules. (EC to be levied @ Rs. 10000/- per ton for 2 nd violation and @ Rs. 20000/- per ton for 3 rd violation) (ii) Penalty as per Section 15(1) of the EPA, 1986 |
| 6(2) (g) & 7(c) | Ensuring that open burning of plastic waste does not take place | Person responsible for plastic burning industries | Burning plastic | (i) Fine per incident of burning: Rs. 5000/- (ii) Fine per incident of bulk burning Rs. 25000/- Above is minimum EC to be levied for the said violation by the Local body. Local already imposing fine to continue doing so; if the fines are more than the minimum specified fines as per details given above. (iii) Penalty as per Section 15(1) of the EPA, 1986 |
| 8(1)(a) | The waste generator shall take steps to minimize generation of plastic waste and segregate plastic waste at source | Waste generator | Waste not segregated | (i) Waste generator: Spot fine- Rs. 500/- (I violation); Rs. 1000/-(II violation); Rs. 2,000/- (III violation and thereafter). (ii) Institutional Waste Generator: Spot fine- Rs. 5,000/- (I violation); Rs. 10,000/-(II violation); Rs. 20,000/- (III violation and thereafter). Above is minimum EC to be levied for the said violation by the Local body. Local already imposing fine to continue doing so; if the fines are more than the minimum specified fines as per details given above. (iii) Penalty as per Section 15(1) of the EPA, 1986 |

| | | | | |
|----------------|--|------------------------|---------------------------|---|
| 8(1)(b) | The waste generator shall not litter the plastic waste | Waste generator | Waste littered | <p>(i) Waste generator: Spot fine- Rs. 500/- (I violation); Rs. 1000/-(II violation); Rs. 2,000/- (III violation and thereafter).</p> <p>(ii) Institutional Waste Generator Spot fine Rs. 5000/- (I violation); Rs. 10,000/- (II violation); Rs. 20,000/- (Third violation & thereafter) Above is minimum EC to be levied for the said violation by the Local body. Local already imposing fine to continue doing so. If the fines are more than the minimum specified fines as per details given below</p> <p>(iii) Action as per Section 15(1) of EP Act for violation thereafter</p> |
| 13(2) | <p>Every producer or brand-owner shall, for the purpose of registration or for renewal of registration, make an application in Form-I to</p> <p>i. "The concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating one or two States or Union Territories"; or</p> <p>ii. "The Central Pollution Control Board, if operating in more than two States or Union Territories."</p> | Producer & Brand Owner | Registration not obtained | <p>(i) Closure of operations of the brand owner</p> <p>(ii) EC to be levied @ Rs. 5000/- per ton of plastic waste introduced by the producer or the brand owner from the date of inception of the unit or date of notification of PWM Rules (March 18, 2016) whichever is later (EC to be levied @ 10000/- per ton for 2nd violation and @ Rs. 20000/- per ton for 3rd violation)</p> <p>(iii) Penalty as per Section 15(1) of EPA 1986</p> |

| | | | | |
|---------------|---|--------------|--|---|
| | | | Non-compliance of conditions stipulated in the Registration not meeting set PWM target as per the Registration certificate | <ul style="list-style-type: none"> (i) Cancellation of Registration (ii) EC to be levied @ Rs. 5000/- per ton of PW introduced by the producer or the brand owner for which EPR liability has not been fulfilled for the period under consideration (EC to be levied @ Rs. 10000/- per ton for 2nd violation and @ Rs. 20000/- per ton for 3rd violation). |
| 13(3) | Every person recycling or processing waste or proposing to recycle or process plastic waste shall make an application to the State Pollution Control Board or the Pollution Control Committee, for grant of registration or renewal of registration for the recycling unit, in Form II. | Recycler | Unit operating without Registration | <ul style="list-style-type: none"> (i) Closure of unit (ii) Penalty as per Section 15 (1) of the EPA 1986 |
| 13(4) & 4 (e) | 13(4) Every manufacturer engaged in manufacturer of plastic to be used as raw material by the producer shall make an application to the State Pollution Control Board or the Pollution Control Committee of the Union territory concerned, for the grant of registration or for the renewal of registration, in Form III. | Manufacturer | Unit operating without Registration | <ul style="list-style-type: none"> (i) Closure of the unit (ii) <u>EC to be levied @ Rs. 2500/- per ton of plastic raw material manufactured from the date of inception of the unit or date of notification of PWM Rules (March 18,2016) whichever is later (EC to be levied @ Rs. 5000/- per ton for 2nd violation and @ Rs. 10000/- per ton for 3rd violation & violation thereafter.</u> (iii) Penalty as per Section 15 (1) of EPA, 1986 |

| | | | | |
|--------|--|------------------------|---|---|
| | <u>4(e) The manufacturer shall not sell or provide or arrange plastic to be used as raw material to a produce, not having valid registration from the concerned State Pollution Control Boards or Pollution Control Committee:</u> | Manufacturer | Raw material sold to producers not having registration from SPCB | (i) <u>EC to be levied @ Rs. 2500/- per ton of plastic raw material sold to unregistered producers from the date of notification of PWM Rules (March 18,2016) whichever is later</u> (EC to be levied @ Rs. 5000/- per ton for 2 nd violation and @ Rs. 10000/- per ton for 3 rd violation & Closure of unit thereafter) |
| 14 (1) | Retailers or street vendors shall not sell or provide commodities to consumer in carry bags or plastic sheet or multi-layered packaging, which are not manufactured and labeled or marked, as per prescribed under these rules. | Retailer/Street vendor | Selling products in plastics bags which are not complying with provisions of PWM Rules. | (i) <u>Retailer: Seizure of plastic bags/sheets, Fine Rs. 2000/- (I violation); Rs. 5000/- (II violation); Rs. 10,000/- (Third incident & seizure of trade documents thereafter).</u> (ii) <u>Street vendor : Seizure of plastic bags/sheets; Fine Rs. 200/- (I violation); Rs. 500/- (II violation); Rs. 10,00/- (Third incident & seizure of trade documents for violation thereafter).</u> Above is minimum EC to be levied for the said violation by the local body. Local already imposing fine to continue doing so; if the fines are more than the minimum specified fines as per details given above- (iii) Penalty as per Section 15(1) of EPA 1986 |

(b) Minimum & Maximum Amount of EC to be levied

The minimum and maximum value of EC to be levied for violation of specific provisions of Rules (Refer Table 3 above) is given in Table 4. The above values have been assessed based on the estimated range of plastic waste and the minimum (10-25% for the different category of violators) & maximum estimated percentage violation (100% for all categories).

| TABLE 4: Minimum & Maximum EC for violation of PWM Rules | | | | | |
|---|-------------------------------------|---------------------------|---------------------------|---|--|
| Rule | Violator | Min Population. | Max. population | Min EC value (Rs. Per Annum) | Max. EC value (Rs. Per Annum) |
| Rule 6(1) & 7 | Village Panchayat | 1000 (avg.) | - | 5,000 | 50,000 |
| | Cities & towns | 5000 | 99999 | 50,000 | 2 crore |
| | Cities & towns | 100000 | 999999 | 5 lakh | 10 crore |
| | Cities & towns | >1000000 | - | 50 lakh | 100 crore |
| Rule | Violator | Min capacity (TPA) | Max capacity (TPA) | Min EC value (Rs. Per Annum) (At first time violation) | Max. EC value (Rs. Per Annum) (At third time violation) |
| 4 (c), 4 (d), 4(f), 4(i) , 13 (2) | Producers & brand owners | 50 | 1 00000 | 50,000 | 100 crore |
| 13 (4) & 4(e) | Manufacturers | 60000 | 4500000 | 2 crores | 500 crore |

5. EC Charges for Delay in EC deposition

The Environmental Compensation Charges and Financial Penalty shall be deposited by the violating facility within the stipulated time period specified under directions issued by CPCB/SPCB/PCC. In case, such facility does not submit the same within the stipulated time frame the amount will be exponentially increased as per details given in **Table 5**

Table 5: EC Charges and Financial Penalty w.r.t. delay in EC deposition

| SI. No. | Amount Deposition time period | Environmental Compensation and Financial Penalty Amount |
|----------------|---|---|
| 1. | <u>Within one month from the stipulated time period as directed by CPCB/SPCB/PCC</u> | <i>Original amount with interest @ 12% per annum for number of days delayed after the stipulated date of amount deposition</i> |
| 2. | <u>After one month but within 03 months after the stipulated time period as directed by CPCB/SPCB/PCC</u> | <i>Original amount with interest @ 24% per annum for number of days delayed after one month of the stipulated date of amount deposition</i> |
| 3. | <u>After 03 months</u> | <p>a) <u>Closure of unit/facility</u> b) <u>Seizure of trade documents</u> c) <u>Action as per Section 15 (1) of EPA</u></p> <p><u>Action, as applicable, to be taken by Local bodies for Clause 8(1)(a), 8(1)(b) and 14(1) and for the remaining clauses action has to be taken by the concerned SPCB/ PCC/ CPCB</u></p> |

14. The report of the MoEF&CC deals with the EPR. It mentions that Committee was constituted on 05.10.2017 to evaluate mechanism for implementation of EPR and it has held several meetings. A draft guideline document was prepared and uploaded on the website on 23.06.2020 seeking comments and inputs with following salient features.

- “1. The producer/importer/brand owner may adopt any one of the model depending on the quantum of plastic being produced.
2. The EPR shall be Brand neutral and Geography neutral.
3. Data secrecy shall be maintained through the portal.
4. While adopting any one of the model or both the models at the same time, the producers/importers and brand owners need to register themselves at the national registry.
5. The online portal shall be flexible enough to account for adoption of any or all models at the same time.
6. The settlement of EPR credit shall be done through online portal.

7. *The share of EPR obligation by producer/importer/brand owner shall be clarified through this mechanism.*

8. *Penalties shall be imposed on the Producer/Importer/Brand Owner for the portion of waste not collected against the targeted collection. This fees shall be used for creating infrastructure for plastic waste management.”*

15. The document proposes three models for the procedures/importers/brand owners for selection of mechanism under which they want to implement the EPR as follows:-

Model 1 – Fee based model

Model 2 – PRO based model

Model 3 – Plastic Credit Model

Details of the above models have already been given in the order of the Tribunal dated 6.12.2019 quoted in para 7 above.

16. It is further stated that the Ministry received 160 comments which are being compiled and reviewed with a view to finalize the EPR framework.

17. We may also note the reports dated 07.10.2020 and 02.01.2021 of the Oversight Committee, constituted by the Tribunal, for oversight of environmental issues in the State of UP, headed by Justice S.V.S. Rathore, a former Judge of the Allahabad High Court. It will be suffice to refer to the later report. The report mentions the meetings held with the administrative authorities, including the Urban Development Department and the State PCB. The status of compliance has been given showing the steps which still need to be taken. The recommendations are as follows:-

“VII. RECOMMENDATIONS

In view of the above, we recommend as follows:

1. *With regard to the compliance of order of Hon'ble Tribunal in O.A. No. 376/2018 in RE: Jitendra Yadav vs. Union India & Ors., the Extended Producer Responsibility has neither been*

implemented nor finalized yet. The MoEF&CC may be directed to finalize the EPR framework without further delay.

2. *With regard to the compliance of order of Hon'ble Tribunal in O.A. No. 376/2018 in RE: Jitendra Yadav vs. Union India & Ors., Environmental Compensation regime has not been finalized yet. CPCB may be directed to finalize the regime for improper Plastic Waste Management without further delay.*
3. *The SPCB may be directed to follow strict regulations and keep a regular check on the enforcement status for the promotion of compostable carry bags, setting-up of collection, source segregation and disposal system for plastic waste, and unregistered plastic manufacturing/ recycling units which are in operation.*
4. *Although CPCB has authorized four industries in the State of UP to manufacture the compostable carry bags and the industries are labelling the compostable carry bags as per Rule 11 (2). The State PCB may be directed to have regular checks on the enforcement status of the Rule.*
5. *An important aspect in promotion of compostable carry bags is their degree of degradability and disintegration. The SPCB may be directed to follow the protocols as per the Indian Standards listed in Schedule-I to determine such properties of plastic materials used in production of compostable carry bags.*
6. *The SPCB may be directed to ensure that no unit shall manufacture carry bags or recycle plastic bags or multi-layered packaging unless the person has obtained a registration prior to the commencement of production. Further, the SPCB may also be directed to ensure not to issue or renew registration to plastic waste recycling or processing units unless the unit possesses a valid consent under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) along with a certificate of registration issued by the District Industries Centre or any other Government agency authorised in this regard.*
7. *The Local Bodies may be directed to ensure proper development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.*

Further, the Local Bodies may also be directed to frame bye-laws incorporating the provision of Plastic Waste Management Rules, 2016.

8. *Every Gram Panchayat may be directed to set up, operationalize and co-ordinate for waste management in rural area under their control either on its own or by engaging an*

agency. Further the Gram Panchayat may also be directed to perform functions such as ensuring segregation, collection, storage, transportation, plastic waste and channelization of recyclable plastic waste fraction to recyclers having valid registration, creating awareness among all stakeholders about their responsibilities, and ensuring that open burning of plastic waste does not take place.

9. The Waste Generator may be directed to take steps to minimize generation of plastic waste and segregate plastic waste at source in accordance with the Solid Waste Management Rules.
10. CPCB may also be directed to conduct regular meeting with SPCBs to monitor implementation status and compliance with PWM Rules, 2016.
- 11. To ensure proper plastic waste management, industries may be directed to explore the possibilities of use of such wastes in construction of roads. Further industries may also be directed to collaborate with different research institutes to explore such alternatives.**
- 12. The use of plastic bottles in construction of houses and bricks is being exploited in Uganda. Such approaches not only reuse plastic but also saves the environment. Similar researches may also be promoted in India.**
- 13. The studies such as "Plastic Footprinting" and "Life Cycle Assessment" may also be promoted in India. Such studies provide a clear picture of the impact of and opportunities related to plastic usage and evaluation of the inputs, outputs and potential environmental impact of a product system throughout its lifecycle. The producers/industries may be directed to undertake such approaches in future.**
- 14. The schemes such as "Deposit refund scheme" or "Buyback depository mechanism" may be promoted in which customers will get back a deposit paid to a retailer on handling PET bottles or milk pouches back to the store.**
- 15. The technique of conversion of plastic waste into variety of fuels such as petrol, kerosene and diesel based on Boston model may be explored and promoted in India.**
- 16. The technique of "Plasma Pyrolysis" may be undertaken to dispose all sorts of plastic waste. The industries may be directed to install such pyrolyzers for plastic waste management.**

- 17. Researches may be promoted to develop an eco-friendly plastic waste management approach i.e. Bioremediation using either plastic degrading bacteria or enzyme extracted from bacteria based on the model adopted by researchers in Germany.**
- 18. Manufacture of non-recyclable single-use polyethylene bags should be banned or research should be initiated to develop biodegradable bags.**
- 19. Educational institutions must be encouraged to take up waste management in their curriculum and create student projects for waste recycling.”**

18. We have given due consideration to the issue. Regretfully, steps taken by the MoEF for finalizing EPR regime are too slow. We note that the PWM Rules were framed in the year 2016 in place of 2011 Rules. There is no justification for long delay in finalisation of EPR models even after more than four years of the publication of the Rules. The same may now be finalised at the earliest, preferably within three months from today.

19. The State level authorities also need to take necessary effective steps for enforcement, including coercive measures. EC and penal action regime proposed by the CPCB may be duly implemented by the CPCB, State PCBs/PCCs, State Level Monitoring Committees and all other concerned authorities. District Environment Committees constituted in pursuance of order of this Tribunal dated 15.07.2019 in OA 710/2017, *Shailesh Singh vs. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.* may also monitor compliance of PWM Rules and give their respective reports to the State Level Committees. The CPCB may continue to coordinate with the State Level Monitoring Committees, the State PCBs/PCCs or any other authorities with reference to the steps taken by the State Level Monitoring Committees in coordinating with the concerned Local Bodies, Gram Panchayats, Waste Generators,

Producers, Importers, Brand Owners, Recyclers, Manufactures, Retailers and Street Vendors in accordance with the rules. Whenever, necessary CPCB may issue further directions from time to time in the light of experiences gained considering different suggestions and viewpoints, including the suggestions of the Oversight Committee for State of UP, quoted above.

A copy of this order be forwarded to the CPCB and MoEF&CC by e-mail for compliance.

The application is disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 08, 2021
E.A. No. 13/2019 in O.A. No. 247/2017
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