



Suleman and others vs. Union of India and
others a/w connected matters

CWP No. 2369 of 2018 a/w CWPIL No. 269 of 2017, CWP Nos. 1074 of 2019, 3334 of 2021, CWPIL Nos. 32, 42 & 56 of 2021, CWP No. 3511 of 2022 CWPIL No. 4 of 2022 & CWP No. 819 of 2024

08.08.2024

Present: Mr. Deven Khanna, Advocate for the petitioners in CWP No. 2369 of 2018.

Ms. Vishali Lakhanpal, Advocate vice Mr. Parav Sharma, Advocate for the petitioner in CWP No. 1074 of 2019.

Mr. Suneet Goel, Advocate as Amicus Curiae for the petitioner in CWPIL No. 263 of 2017.

Mr. K.B. Khajuria, Advocate for the petitioner in CWP No. 3511 of 2022 and for respondent No. 6/Central Pollution Control Board in CWP No. 2369 of 2018.

Mr. Saurav Rattan, Advocate for the petitioner in CWP No. 3334 of 2021.

Court on its own motion in CWPIL No. 32, 32 & 56 of 2021.

Mr. Anup Rattan, Advocate General with Ms. Sharmila Patial, Addl. A.G and Mr. J.S. Guleria, Dy. A.G for the respondents-State.

Mr. Balram Sharma, Dy. SGI for respondent-UOI and respondent No. 4-Central Pollution Control Board in CWP No. 3511 of 2022.

Mr. Pranjal Munjal, Advocate vice Mr. Janesh Gupta, Advocate for respondent No. 8 in CWP No. 2369 of 2018 and CWP No. 1074 of 2019.

Mr. Tara Singh Chauhan, Advocate for the respondent/HP Pollution Control Board in CWP No. 2369 of 2018 & CWP No. 1074 of 2019.

Mr. Abhishek, Advocate vice Ms. Garima Kuthiala, Advocate for respondent No. 10 in CWPIL No. 269 of 2017.

Mr. V.B. Vema, Advocate for respondent No. 2 in CWPIL No. 32 of 2021 for respondent No. 1 in CWPIL No. 42 of 2021 and for respondent No. 3 in CWP No. 3511 of 2022.

Mr. Sunil Mohan Goel, Advocate for respondent No. 5 in CWPIL No. 4 of 2022.

Mr. Naveen K. Bhardwaj, Advocate for MCs Kullu, Banjar and Nagar Panchayat, Bhuntar, District Kullu, H.P. in CWP No.2369/2018.

Mr. Tek Chand, Advocate for respondent-MC, Sarkaghat in CWP No.2369 of 2018.

Mr. Adarsh K. Vashisth, Advocate for M.Cs Chamba, Baddi, Nalagarh, Nagrota Bagwan, Jwalamukhi, Nurpur, Shahpur and Jawali.

Mr. Rajesh Kashyap, Advocate for MC-sundernagar.

Mr. Vivek Sharma, Advocate for MCs Shimla and Dharamshala.

Mr. Ajay Kumar Chauhan, Advocate for MC Palampur in CWP No.2369 of 2018.

Mr. Lalit K. Sharma, Advocate for respondent No.4 in CWPIL No.32 of 2021.

Mr. H.S. Rangra, Advocate for MC Mandi in CWP No.2369 of 2018.

Dr. Sujata Sirkeck, Law Officer, Department of Environment Science and Technology is present in person.

Contemnor Anurag Tiwari, Director of M/s Rekar Innovation Private Ltd. present in person with Mr.Rajeev Sharma, Advocate.

In compliance to the order passed by this Court on 2nd August, 2024, Mr. Anurag Tiwari, Director, M/s Rekar Innovaton Private Limited is present in person and has tendered his unconditional and unqualified apology. The same is accepted. However, Mr. Tiwari is directed to be careful in future so as to ensure that the orders passed by this Court are complied with in its letter and spirit.

According to Mr. Tiwari, he has supplied the information as was directed to be supplied to the Pollution Control Board vide Annexure CR-2. Learned counsel for the Pollution Control Board prays for and is granted time to verify the information so provided and file its affidavit before the next date.

On 02.08.2024, this Court had deferred the consideration of this petition as the meeting of all the stakeholders was scheduled to be held on 03.08.2024 in the office of Director Urban Development. The meeting as scheduled was duly held on 03.08.2024 and the minutes thereof reads as under:-

“In compliance to the Hon’ble HP High Court orders dated 20.06.2024 in CWP No. 2369 of 2018 a meeting of the Multi member committee constituted in compliance to directions dated 11.01.2024 was held on 03.08.2024 at 11:00 AM in the Meeting Hall of UDD under the Chairmanship of Director, Urban Development, HP. The list of the participants is at Annexure-I. Some members of the committee (Secretaries Distt Legal Services Authority) also joined the meeting through VC. The representatives of cement industries also joined through VC.

At the outset, the Chairman apprised latest directions of the Hon’ble Court and raised his concern on Solid Waste Management system in Panchayat areas and also apprised the committee about the action taken/ being taken by the UDD to implement the directions of the Hon’ble Court.

Thereafter, detailed deliberation and discussions were held as under:-

- **Issues with Cement Industries:**

The issue of non-lifting of RDF from various ULBs was discussed with the representatives of cement industries and it was agreed by the representatives of all Cement Industries that the RDF will be lifted as and when communicated by the ULBs free of cost under CSR as per directions of Hon’ble High Court of H.P. and in terms of the MoU. However, they requested that ULBs may communicate to cement plant through email/whatsapp group as and when minimum 4-5 tonnes RDF (one truck load) is accumulated by the ULB to sustain the

transportation cost for cement industries. Further, it is also directed by the chairman that a schedule/SOP be chalked out by UDD in consultation with Cement Industry for lifting of RDF from the ULBs.

• **Status of Legacy Waste at Kenduwal (BBNDA):**

The legacy waste could not be cleared till the monsoon in kenduwal site. There still exists a huge pile/ mountain of legacy waste next to the petitioner house and also around the plant. A third party inspection of the site needs to be done to assess the quantity of waste lying at the site.

The CEO, BBNDA apprised that the capacity of clearance of legacy waste has been increased to around 200 TPD. However, M/s JBR have been directed to submit action plan to clear the legacy waste, which at the current rate would not be cleared till 31.12.2024. It was also requested by the CEO of BBNDA that the personal appearance of the Senior officials of M/S JBR be made compulsory at the Hon'ble court hearings so that to ensure their commitment for clearing legacy waste is taken seriously.

The following points were brought into the notice of committee by the CEO, BBNDA:

- The land transfer case of Suleman is under process with the Deputy Commissioner, Solan. A letter has been written by DC solan dated 29.07.2024 to Divisional Commissioner, Shimla where it is requested to grant permission to transfer the proposed land to Suleman's family in exchange of land in kenduwal. The Divisional Commissioner maybe directed by the Hon'ble court to expedite the exchange of land in a time bound manner. Suleman's present land at Kenduwal is required for expanding the SWM facility and the land offered in exchange to Suleman' family is agreeable to them, hence the transfer/exchange be executed expeditiously in the interest of justice.
- BBNDA has provided wire crates along the riverside to prevent legacy waste entering the river.
- The construction of boundary wall around the plant, on the side towards Suleman's house, is under construction and will be completed shortly.
- A green buffer zone has been established towards the riverside.
- Drains have been provided along the boundary to tackle leachate.

The Status of legacy waste and Fresh waste at MSW Plant Kenduwal Baadi is as under (However it was agreed in the meeting that the numbers need to be cross verified by a third party as the mountain of legacy waste has visually grown in size)

Sr.No.	Description	Quantity in MT
1.	Total Quantity of Waste received w.e.f. 05.05.2019 to 31.06.2024	159579.30

2.	Total Routine Waste Processed up to 31.06.2024	87133.35
3.	Legacy Waste Treated up to 31.07.2024	47267.835
4.	Total waste treated (Routine +legacy)	134401.185
5.	Balance to be Treated	25178.115
6.	RDF Produced up to 31.06.2024	26316.00
7.	RDF Disposed up to 31.03.2024	9482.40
8.	Compost Produced up to 31.06.2024	16104.86
9.	Compost Disposed up to 31.06.2024	16104.86

• **Discussion on the Rural Development Department's (RDD) affidavit and update on waste management plan and policy:**

Director RD informed that the Department is proactively working on the issue of Solid Waste Management in the rural areas. The following steps have been taken by the Department:

- (i) The Department has framed a Solid Waste Management Policy and submitted it to the Learned AG's office on 03.07.2024 for further submission to the Hon'ble Court. The policy has been circulated to all the Deputy Commissioners for compliance on 09.07.2024. The policy provides for setting up of infrastructure of Segregation Shed at Gram Panchayat level and Plastic Waste Management Unit (PWMU) at Block level. It also provides for the GPs to levy user charges and involve Self Help Groups in waste management process. It provides that the O&M of the PWMU and Segregation Sheds can be met using 15th Finance Commission Funds available to Zila Parishads, Panchayat Samitis and Gram Panchayats.
- (ii) The Directorate held meetings with NGOs i.e. Healing Himalayas on 01.07.2024 and 15.07.2024 and with Waste Warriors on 11.07.2024 to elicit their support for effective implementation of solid waste management policy in the field and replicate the model in Bir and other places where such agreements have been entered into and By-laws are in place. Both NGOs have been asked to submit specific DPRs/proposals/ Draft MoUs for taking the process forward, which are awaited.
- (iii) The Directorate has also held meeting on 12.07.2024 with representatives of Ambuja Cements/ ACC for lifting plastic waste from the PWMUs. The representatives of Ambuja/ACC have been asked to submit draft MoU for the arrangement, which is awaited. The Directorate is also going to hold a meeting with Ultratech Cement for the same purpose.
- (iv) Secretary RD has held an extensive meeting with all the Deputy Commissioners, BDOs and Panchayat Secretaries through VC on 05.07.2024 and they have briefed and directed about all aspects of solid waste management policy and SBM-Grameen implementation and specifically about the orders of the Hon'ble High Court.
- (v) The Department has conducted a two-days workshop at HIPA with all the ADCs and BDOs on 29.07.2024 and 30.07.2024 where a specific session on SBM-Grameen was

organized on 29.07.2024 and the officers were briefed about the orders of the Hon'ble High Court, their duties and responsibilities under SBM-Grameen and conveyed directions to set up functional solid waste management system in all GPs and PWMUs at Block level.

Director, Rural Development further submitted that the subject of sanitation has been delegated to the GPs under the Constitution of India and there are 3615 GPs in the State. The Directorate is the funding agency under SBM-Grameen but the implementation is done by the Deputy Commissioners in the District, who are allocated funds for sanitation activities as per their demand. Therefore, the Deputy Commissioners should be involved for monitoring the implementation of the Hon'ble Court's orders in the field. He specifically brought three issues to attention:

- (i) In several places, the land for setting up MRF is provided in rural areas for the urban local bodies but the urban local bodies do not take the waste collected by the Gram Panchayats in those areas. Since more than 66% area of the State is forest land, it is not possible to create multiple MRFs for urban and rural areas. In such cases, the RD Department will provide the funding of Rs. 16 lacs per PWMU for the same location and the urban local bodies should enter into arrangements for sharing of the MRFs. Director, UDD stated that department has no objection to accept the waste of concerned Gram Panchayat wherein MRF has been setup subject to the availability of space in the MRF. However, the Deputy Commissioners may work out such arrangement with concerned ULBs and Gram Panchayat concerned.
- (ii) In Forest areas, Forest Department objects to setting up of entry barriers and collection of sanitation fee from tourists by the Gram Panchayats. Therefore, a clear policy is required whether in forest areas the Forest Department will collect such user charges and render sanitation services or allow the Gram Panchayats to do so. In this regard, it was decided that Director, RD and Forest department shall convene a meeting and examine the matter regarding the Sanitation fee. Further, in case of entry tax at Atal Tunnel, the matter shall be examined by the Rural Development department and will apprise the status in the next meeting.
- (iii) There is a major problem of forest land in most Districts of Himachal like Kullu, Mandi, Chamba, Kinnaur, Shimla, Lahaul & Spiti which cannot be used for setting up sanitation related infrastructure without getting permission under FCA from the Forest Department. The process of FCA approval is long and complicated and takes inordinate time. The sanitation related infrastructure is not covered under Section 3(2) of the FRA also. There is a need to resolve this issue urgently for speedy execution of works.
- (iv) It was also decided that the Director of RD will organize and conduct training programs with local

authorities (Panchayat, Block Coordinator, SBM) initially in Kullu, Lahaul Spiti, and Kinnaur. Advocate Deven Khanna, and the two NGOs, will conduct training and Information, Education, and Communication (IEC) activities with these local authorities. They will inform them about the Hon'ble court's orders and the laws pertaining to solid waste management. Additionally, the details and requirements of Material Recovery Facility (MRF) facilities, the collection mechanism, and the roles of different stakeholders will be discussed in detail. Any bottlenecks in implementing the court's orders or the solid waste management laws will be investigated and reported to the Hon'ble Court. The Rural Development Department (RDD) will organize these meetings and IEC activities, and the respective participants will finalize the dates before the next meeting.

- **Plastic Buyback Policy**

It was apprised by Law officer, DEST that buyback Policy is 100% functional and it is monitored and reviewed by the Chief Secretary, to the GoHP, regularly. On 24.05.2024, 7th meeting of the State Steering Committee was held under the Chairmanship of the Chief Secretary to the Govt. of H.P wherein the detailed deliberations were made on the various key issues which were directed by the Hon'ble High Court for compliance. Further, a meeting was held on 24th July, 2024 under the chairmanship of Director, DEST&CC with regard to the issue of collection of plastic waste and payment thereof to the depositors under Buy -back policy and it was decided to carry out pilot activities in M.C Shimla as under:

- i) DEST&CC shall develop information pamphlets on single use plastic under Buyback Policy for plastic education.
- ii) Training workshop shall be organised for MC Supervisors of all 34 wards including rag pickers on 07th August, 2024 at 2:00 P.M. by DEST and MC Shimla. Advocate Deven Khanna will be present at the workshop to ensure that the stakeholders of the policy are connected with the MC and the information about the buy back Depots and spot payment of money at the time of buy back is clearly communicated to the citizens , specially the rag pickers. It was also decided that the policy be given wide publicity in the local news paper and location of buy back depots is made known to the public.
- i) A fund of Rs. 2.00 lakhs will be provided to MC Shimla to carry out pilot activities out of the revolving fund created under the Policy.
- ii) DEST&CC shall provide plastic waste shredder to install at SWM plant, Bharyal, Shimla.
- iii) Flyers/pamphlets have been prepared to provide information about the Plastic Buyback Policy, which shall be published and circulated amongst the stakeholders and general public for effectiveness in the implementation of the Policy.

Further, with respect to Flex banners, it was apprised that draft rules have been framed by DEST and will be placed in the next meeting.

- **Communication with the Deputy Director of the Industries Department, Mr. Anil Kumar:**

Ld. Advocate Deven Khanna informed the representatives of the Industries Department that the State Pollution Control Board had communicated with them, requesting a list of companies using single-use or non-biodegradable plastic in their packaging. The Industries Department responded, stating that the list was already available with the board. However, the Hon'ble court found this response unsatisfactory. Currently, the State Pollution Control Board has details of only 230 companies. They have emphasized that many more companies need to be identified by the Industries Department to fulfill the Extended Producers Responsibility (EPR) requirements under the Plastic Waste Management Rules. The Deputy Director of Industries was informed of this issue and requested to provide this crucial information promptly. Mr. Anil Kumar assured that the necessary information would be provided before the next date of hearing.

- **Training at HIPA**

It was apprised by UDD that training at HIPA has been scheduled in two slots for 50- 50 participants w.e.f. 5th to 9th August 2024 and 19th to 23rd August, 2024 keeping in view the conference hall availability. The M.Corp. Shimla and Solan shall attend the first batch and M. Corp. -Mandi, Dharamshala and Palampur shall attend the second batch. Sh. Deven Khanna, Ld. Advocate for petitioner stated that the training shall be restricted to 3 days per batch, making it 6 days in total and he will apprise the same to the Hon'ble Court. Accordingly, 1st Batch has been scheduled from 5th to 7th August 2024 and 2nd Batch from 20th to 22nd August 2024.

- **Formation of a Special Task Force (STF)**

The Special Task Force has been notified by the Govt. vide notification No. UD-E(3)-115/2018-I dated 03.07.2024 comprising of members from MC, TDC, Forest department, NGOs and other stakeholders which will focus on cleaning hillsides, streams and other hotspots. The copy of the notification is enclosed as Annexure-II.

- **Sustainable Trekking Routes**

It has been decided that Rural Development Department will inform Deputy Commissioners to implement the Hon'ble Court order dated 18.07.2024 regarding trekking routes i.e. Kheerganga, Hamta, Bijali Mahadev, Sar Pass, Beas Kund, Shrikhand Mahadev, Manimahesh Yatra.

- **Status of Land Cases regarding SWM facility**

It was observed by the committee that Forest cases are taking longer time as various observation are being raised time and again by the forest department. Hence, it was suggested by representative of forest department that Deputy Commissioners concerned may convene a joint meeting with DFO and ULB concerned before uploading the land transfer case on portal so that observations are resolved in one go. The Forest Department was requested to issue directions to the DFOs and was also requested to expedite the land cases which have already been uploaded on portal.(copy attached at Annexure-III).

• **Amendment in MC Act**

It was apprised by Director, UD that proposal has been prepared and is under process at the Govt. level. The proposed draft of the amendments maybe provided in the next meeting.

• **Status on Deposit Refund System**

The update on deposit refund system to be provided by DEST in the next meeting.

• **Developing MC Shimla as Model Town**

Corporation Health Officer, M. Corp. Shimla apprised that all the hotspots and Nallahs have been cleared and there are some places which are yet to be cleaned. The penalty signboards have been prepared and installation of the same will be started from 05.08.2024. Sh. Deven Khanna, *Ld. Advocate* stated that the claim of MC Shimla regarding cleaning of Nallahs, hotspots & removal of hoardings/flex banners do not seem to be realistic. After discussion it was decided that Commissioner MC Shimla will submit action taken report on the action plan to Sh. Deven Khanna so as to present before the Hon'ble Court in next date of hearing i.e. 08.08.2024. Further, He will make a detailed presentation on status of action plan including above points in next meeting of Committee."

Having perused the minutes of the meeting, we

deem it appropriate to issue the following directions:-

- i) The Divisional Commissioner, Shimla is directed to expedite the decision regarding the land transfer case of petitioner Suleman and in case there is no impediment, then, communicate the decision so taken by the next date of hearing.
- ii) The Director of Rural Development is directed to organize and induct training programme with local authorities (Panchayat, Block Co-ordinator, SBM) initially in Kullu, Lahaul Spiti and Kinnaur. Mr. Deven Khanna, Advocate along-with NGOs, will conduct training and information, Education and Communication (IEC) activities with these local authorities.

They will inform them about the orders passed by this Court from time to time and laws pertaining to Solid Waste Management. Additionally, the details and requirement of Material Recovery Facility (MRF) facilities, the collection mechanism and the roles of the different stakeholders. They will also apprise in detail to the stakeholders and the local authorities about their roles. It is made clear that in case there is any impediment or bottlenecks in implementation of orders of the Court or with regard to implementation of solid waste management laws, the same shall be reported to the authorities as well as to the Court.

- iii) The Rural Development Department will organize these meetings with IEC activities and the respective participants will finalize the dates before the next meeting.
- iv) The Director of Industries shall supply the State Pollution Control Board with the complete list of companies using single use or non-biodegradable plastic in the packaging, in addition to the companies, which are already with the State Pollution Control Board.

We have no doubt in our mind that there are many more companies need to be identified by the Industries Department to fulfill the Extended Producers Responsibility (EPR) requirements under the Plastic Waste Management Rules. Such information be supplied before the next date of hearing and instructions to this effect, be imparted to this Court.

The Central Pollution Control Board as also the State Pollution Control Board are directed to comply with paras 3 to 5 of order passed by this Court on 23.03.2024, which read as under:-

“3. In addition to the above, we find that the brandowners, who are operational in more than two States, are registered by CPCB on the centralized portal. During the registration and after obtaining

registration, these brandowners are required to submit sales detail of the commodity packed in plastic packing. The data of sales submitted is based on the GST invoice and the portal is linked with the GST portal. However, we find that there is no bifurcation with respect to quantification of plastic packaging reaching to a specific State.

4. Further, the EPR certificates to be purchased by PIBOs from PWPs is a geo neutral concept. The PIBO operational in State of Maharashtra can purchase the EPR certificate from PWP in West Bengal. The State Board has raised the issue regarding quantification of the plastic packaging being introduced by various PIBOs in the State of Himachal Pradesh, however, the same has been denied as the EPR mandate is geo-neutral.

5. In such circumstances, we proceed to pass the following direction:

The **CPCB** is directed to ensure that brand-owners submit the details of the plastic packaging sold in the State of Himachal Pradesh so that the EPR fulfillment of those brand-owners can be ensured within the State of H.P.”

Rule 4 of the Municipal Solid Waste Management Rule, 2016 lays down the duties of waste generators and reads as under:-

“4. Duties of waste generators.- (1) Every waste generator shall, -

- (a) segregate and store the waste generated by them in three separate streams namely bio-degradable, non bio-degradable and domestic hazardous wastes in suitable bins and handover segregated wastes to authorised waste pickers or waste collectors as per the direction or notification by the local authorities from time to time;
- (b) wrap securely the used sanitary waste like diapers, sanitary pads etc., in the pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material as instructed by the local authorities and shall place the same in the bin meant for dry waste or non- bio-degradable waste;
- (c) store separately construction and demolition waste, as and when generated, in his own premises and shall dispose off as per the Construction and Demolition Waste Management Rules, 2016; and
- (d) store horticulture waste and garden waste generated from his premises separately in his own premises

and dispose of as per the directions of the local body from time to time.

(2) No waste generator shall throw, burn or bury the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.

(3) All waste generators shall pay such user fee for solid waste management, as specified in the bye-laws of the local bodies.

(4) No person shall organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the local body, at least three working days in advance and such person or the organiser of such event shall ensure segregation of waste at source and handing over of segregated waste to waste collector or agency as specified by the local body.

(5) Every street vendor shall keep suitable containers for storage of waste generated during the course of his activity such as food waste, disposable plates, cups, cans, wrappers, coconut shells, leftover food, vegetables, fruits, etc., and shall deposit such waste at waste storage depot or container or vehicle as notified by the local body.

(6) All resident welfare and market associations shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(7) All gated communities and institutions with more than 5,000 sqm area shall, within one year from the date of notification of these rules and in partnership with the local body, ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed,

treated and disposed off through composting or bi-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.”

Rule 5 provides for the duties of Ministry of Environment, Forest and Climate Change (MOEF & CC). It is required to implement the Solid Waste Management Rules, 2016 and constitute a Committee for the same and it has the discretion to co-opt other experts, if needed. Under Rule 5, the Committee shall meet at least once in a year to monitor and review the implementation of these Rules. The Solid Waste Management Rules also casts a duty at the State Level on the Secretary incharge of Urban Development Department as well as the Secretary Incharge of village Panchayat or Rural Development Department in the State.

Rule 11 lays down the duties of the Secretary Incharge, Urban Development in the State and the same are also made applicable by Rule 13 to the Secretary Incharge of village Panchayats or Rural Development Department in the State, which mentions the duties to be the same as specified under Rule 11.

Rule 11 reads as under:

11. Duties of the Secretary-in-charge, Urban Development in the States and Union territories. - (1)

The Secretary, Urban Development Department in the State or Union territory through the Commissioner or Director of Municipal Administration or Director of local bodies shall, -

- (a) 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 management consistent with these rules,

national policy on solid waste management and national urban sanitation policy of the Ministry of Housing and Urban Affairs, in a period not later than one year from the date of notification of these rules;

- (b) 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;
- (c) state policies and strategies should acknowledge the primary role played by the informal sector of waste pickers, waste collectors and recycling industry in reducing waste and provide broad guidelines regarding integration of waste picker or informal waste collectors in the waste management system.
- (d) ensure implementation of provisions of these rules by all local authorities;
- (e) direct the town planning department of the State to ensure that master plan of every city in the State or Union territory provisions for setting up of solid waste processing and disposal facilities except for the cities who are members of common waste processing facility or regional sanitary landfill for a group of cities; and
- (f) ensure identification and allocation of suitable land to the local bodies within one year for setting up of processing and disposal facilities for solid wastes and incorporate them in the master plans (land use plan) of the State or as the case may be, cities through metropolitan and district planning committees or town and country planning department;
- (g) direct the town planning department of the State and local bodies to ensure that a separate space for segregation, storage, decentralised processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential complex exceeding 200 dwelling or having a plot area exceeding 5,000 square meters;
- (h) direct the developers of Special Economic Zone, Industrial Estate, Industrial Park to earmark at least five percent of the total area of the plot or minimum five plots or sheds for recovery and recycling facility.
- (i) facilitate establishment of common regional sanitary land fill for a group of cities and towns falling within a distance of 50 km (or more) from the regional facility on a cost sharing basis and ensure professional management of such sanitary landfills;

- (j) arrange for capacity building of local bodies in managing solid waste, segregation and transportation or processing of such waste at source;
- (k) notify buffer zone for the solid waste processing and disposal facilities of more than five tons per day in consultation with the State Pollution Control Board; and
- (l) start a scheme on registration of waste pickers and waste dealers.

The District Magistrate or District Collector or Deputy Commissioner in the District is obliged to perform the duties under Rule 12 to facilitate setting up of SWM facilities intandem the local authorities and review performance of local bodies.

Rule 12 reads as under:

12. Duties of District Magistrate or District Collector or Deputy Commissioner. - The District Magistrate or District Collector or as the case may be, the Deputy Commissioner shall, -

- (a) facilitate identification and allocation of suitable land as per clause (f) of rules 11 for setting up solid waste processing and disposal facilities to local authorities in his district in close coordination with the Secretary-in-charge of State Urban Development Department within one year from the date of notification of these rules;
- (b) review the performance of local bodies, at least once in a quarter on waste segregation, processing, treatment and disposal and take corrective measures in consultation with the Commissioner or Director of Municipal Administration or Director of local bodies and secretary-incharge of the State Urban Development.

In terms of Rule 15, duties have been cast upon the local authorities, village and panchayats to establish centres for proper and safe disposal of storage of waste and its transportation etc.

Rule 15 reads as under:

“15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations. - The local authorities and Panchayats shall,-

- (a) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;
- (b) arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;
- (c) establish a system to recognise organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;
- (d) facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;
- (e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;
- (f) prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;
- (g) direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, fruit peel, wrappers, etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body;
- (h) setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities; Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed 1 [blue] and those for storage of other wastes shall be printed black;

- (i) establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres;
- (j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;
- (k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;
- (l) provide training on solid waste management to waste-pickers and waste collectors;
- (m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;
- (n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;
- (o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;
- (p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;
- (q) transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on-site processing of such waste;
- (r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;
- (s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste Management Rules, 2016;

- (t) involve communities in waste management and promotion of home composting, biogas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;
- (u) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.
- (v) facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Housing and Urban Affairs from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised 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;
- (w) undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;
- (w) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;
- (x) make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;

- (y) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;
- (za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;
- (zb) the annual report shall then be sent to the Secretary-in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;
- (zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;
- (zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;
- (ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and
- (zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and
- (zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -
 - (i) not to litter;
 - (ii) minimise generation of waste;
 - (iii) reuse the waste to the extent possible;
 - (iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;
 - (v) practice home composting, vermi-composting, bio-gas generation or community level composting;
 - (vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the

- same in the bin meant for non-biodegradable waste;
 - (vii) storage of segregated waste at source in different bins;
 - (viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and
 - (ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for sustainability of solid waste management.
- zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;
- (zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and nonreactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;
- (zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to biomine or bio-remediate the sites;
- (zk) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.
- [(zl) collect and transport bio-degradable, non-bio-degradable and domestic hazardous waste from households including slums and informal settlements, commercial, institutional and other nonresidential premises, multi-storey buildings, large commercial complexes, malls, housing complexes and the like in compartmentalised and covered vehicle to the respective processing facility].

The Central Pollution Control Board and State Pollution Control Board have also been directed to perform the stated duties and functions under Rules 14 and 16 of SWM Rules, 2016.

These primarily relates to enforcement of Rules, monitoring of the environmental standards, there

compliance, co-ordination between Central and State Boards and issuance of requisite guidelines.

Rule 16 which lays down the duty on State Pollution Control Board or Pollution Control Committee reads as under:-

16. Duties of State Pollution Control Board or Pollution Control Committee. - (1) The State Pollution Control Board or Pollution Control Committee shall, -

- (a) enforce these rules in their State through local bodies in their respective jurisdiction and review implementation of these rules at least twice a year in close coordination with concerned Directorate of Municipal Administration or Secretary-in-charge of State Urban Development Department;
- (b) monitor environmental standards and adherence to conditions as specified under the Schedule I and Schedule II for waste processing and disposal sites;
- (c) examine the proposal for authorisation and make such inquiries as deemed fit, after the receipt of the application for the same in Form I from the local body or any other agency authorised by the local body;
- (d) while examining the proposal for authorisation, the requirement of consents under respective enactments and views of other agencies like the State Urban Development Department, the Town and Country Planning Department, District Planning Committee or Metropolitan Area Planning Committee, as may be applicable, Airport or Airbase Authority, the Ground Water Board, Railways, power distribution companies, highway department and other relevant agencies shall be taken into consideration and they shall be given four weeks time to give their views, if any;
- (e) issue authorisation within a period of sixty days in Form II to the local body or an operator of a facility or any other agency authorised by local body stipulating compliance criteria and environmental standards as specified in Schedules I and II including other conditions, as may be necessary;
- (f) synchronise the validity of said authorisation with the validity of the consents;
- (g) suspend or cancel the authorization issued under clause (a) any time, if the local body or operator of the facility fails to operate the facility as per the conditions stipulated: provided that no such authorization shall be suspended or cancelled without giving notice to the local body or operator, as the case may be; and

- (h) on receipt of application for renewal, renew the authorisation for next five years, after examining every application on merit and subject to the condition that the operator of the facility has fulfilled all the provisions of the rules, standards or conditions specified in the authorisation, consents or environment clearance.
- (2) The State Pollution Control Board or Pollution Control Committee shall, after giving reasonable opportunity of being heard to the applicant and for reasons thereof to be recorded in writing, refuse to grant or renew an authorisation.
- (3) In case of new technologies, where no standards have been prescribed by the Central Pollution Control Board, State Pollution Control Board or Pollution Control Committee, as the case may be, shall approach Central Pollution Control Board for getting standards specified.
- (4) The State Pollution Control Board or the Pollution Control Committee, as the case may be, shall monitor the compliance of the standards as prescribed or laid down and treatment technology as approved and the conditions stipulated in the authorisation and the standards specified in Schedules I and II under these rules as and when deemed appropriate but not less than once in a year.
- (5) The State Pollution Control Board or the Pollution Control Committee may give directions to local bodies for safe handling and disposal of domestic hazardous waste deposited by the waste generators at hazardous waste deposition facilities.
- (6) The State Pollution Control Board or the Pollution Control Committee shall regulate Inter-State movement of waste.”

Duties have also been imposed upon manufacturers or brand owners of disposable products and sanitary napkins and diapers under Rule 17, which reads as under:-

17. Duty of manufacturers or brand owners of disposable products and sanitary napkins and diapers. -

- (1) All manufacturers of disposable products such as tin, glass, plastics packaging, etc., or brand owners who introduce such products in the market shall provide necessary financial assistance to local authorities for establishment of waste management system.
- (2) All such brand owners who sell or market their products in such packaging material which are non-biodegradable shall

put in place a system to collect back the packaging waste generated due to their production.

(3) Manufacturers or brand owners or marketing companies of sanitary napkins and diapers shall explore the possibility of using all recyclable materials in their products or they shall provide a pouch or wrapper for disposal of each napkin or diapers along with the packet of their sanitary products.

(4) All such manufacturers, brand owners or marketing companies shall educate the masses for wrapping and disposal of their products.

Rule 19 which lays down the criteria for duties regarding setting up solid waste processing and treatment facility reads as under:-

19. Criteria for Duties regarding setting-up solid waste processing and treatment facility. - (1) The department in-charge of the allocation of land assignment shall be responsible for providing suitable land for setting up of the solid waste processing and treatment facilities and notify such sites by the State Government or Union territory Administration.

(2) The operator of the facility shall design and set up the facility as per the technical guidelines issued by the Central Pollution Control Board in this regard from time to time and the manual on solid waste management prepared by the Ministry of Housing and Urban Affairs.

(3) The operator of the facility shall obtain necessary approvals from the State Pollution Control Board or Pollution Control Committee.

(4) The State Pollution Control Board or Pollution Control Committee shall monitor the environment standards of the operation of the solid waste processing and treatment facilities.

(5) The operator of the facility shall be responsible for the safe and environmentally sound operations of the solid waste processing and or treatment facilities as per the guidelines issued by the Central Pollution Control Board from time to time and the Manual on Municipal Solid Waste Management published by the Ministry of Housing and Urban Affairs and updated from time to time.

(6) The operator of the solid waste processing and treatment facility shall submit annual report in Form III each year by 30th April to the State Pollution Control Board or Pollution Committee and concerned local body.”

Rule 20 provides the criteria and actions to be taken for solid waste management in hilly areas, which reads as under:-

20. Criteria and actions to be taken for solid waste management in hilly areas. - In the hilly areas, the duties and responsibilities of the local authorities shall be the same as mentioned in rule 15 with additional clauses as under:

(a) Construction of landfill on the hill shall be avoided. A transfer station at a suitable enclosed location shall be setup to collect residual waste from the processing facility and inert waste. A suitable land shall be identified in the plain areas down the hill within 25 kilometers for setting up sanitary landfill. The residual waste from the transfer station shall be disposed of at this sanitary landfill.

(b) In case of non-availability of such land, efforts shall be made to set up regional sanitary landfill for the inert and residual waste.

(c) Local body shall frame Bye-laws and prohibit citizen from littering wastes on the streets and give strict direction to the tourists not to dispose any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, any other plastic or paper waste on the streets or down the hills and instead direct to deposit such waste in the litter bins that shall be placed by the local body at all tourist destinations.

(d) Local body shall arrange to convey the provisions of solid waste management under the bye-laws to all tourists visiting the hilly areas at the entry point in the town as well as through the hotels, guest houses or like where they stay and by putting suitable hoardings at tourist destinations.

(e) Local body may levy solid waste management charge from the tourist at the entry point to make the solid waste management services sustainable.

(f) The department in-charge of the allocation of land assignment shall identify and allot suitable space on the hills for setting up decentralised waste processing facilities. Local body shall set up such facilities. Step garden system may be adopted for optimum utilisation of hill space.”

Rule 24 provides for submission of annual report while Rule 25 provides for reporting of accident. Schedule I deals with specifications for sanitary landfills, while Schedule II deals with standards of processing and treatment of solid waste.

Rule 22 provides for time frame for implementation. The authorities are required to create the necessary infrastructure or perform directly or through engaging agencies, the activities specified in the Rules within the time mentioned therein.

Thus, it would be noticed that MSW Rule, 2000 along-with SWM, 2016 contain elaborate time bound action plan and also details of various technologies and procedure for segregation, collection, transport, treatment and disposal of the solid waste, yet the towns and villages of this State have failed to achieve the benchmarks and the objectives of the MSW Rules.

Thus, it is high time that the State Government and the local authorities and other instrumentalities of the State rigorously impose the provisions of SWM and MSW Rules.

We may notice that in this context as regards Shimla, more MRF facilities need to be created as it appears that the plant at Baryal has become unmanageable.

The Urban Development Department may file its policy for creating MRF's and also the status of funding it has for the purpose of implementing the SWM Rules, 2016.

From the minutes of the meeting, we find that a Special Task Force as was desired by this Court has been notified by the Government vide Notification dated

03.07.2024 comprising members from MC, TDS, Forest Department, NGOs and other stakeholders which will focus on cleaning hillsides, streams and other hot spots. Therefore, let this Special Task Force work intendum with the MC Shimla to ensure and focus on cleaning hill side and other hot spots.

The Mission Director (SBM-G)-cum-Director Rural Development, Himachal Pradesh has placed on record instructions dated 7th August, 2024 which go to indicate that the Department has issued necessary directions to the Deputy Commissioners of Chamba, Kullu, Kangra, Shimla, Lahaul Spiti to bring the provisions of the Solid Waste Management Rules, 2016 to the notice of the respective local bodies and urge them to levy charges at the mentioned locations through a transparent system and set up a sustainable system of waste management at these locations by involving all the stakeholders.

We are informed at the Bar and otherwise take judicial notice of this fact that apart-from the aforesaid areas, there is far greater foot fall in places of religious importance, what we normally call as Mata Chintpurni, Mata Jawalaji, Mata Chamunda, Mata Brijeshwari, Baba Balak Nath Ji, Mata Baglamukhi and Gurudwara Manikaran Sahib, which are places of bulk generators of solid waste. Therefore, it is all the more necessary that compliance of this solid waste management Rules is

insisted upon in these places. As a pilot project, it could commence with Mata Chintpurni temple at Una, Mata Naina Devi Ji temple at Bilaspur and Gurudwara Manikaran Sahib in District Kullu.

On 18.07.2024, this Court passed the following directions in Part III:-

PART-III

Having gone through the status report regarding SWM facilities submitted by the various Deputy Commissioners, we are of the considered view that the following directions needs to be passed:-

1. **Chopal:-** MOEF&CC - Respondent No. 7 is directed to expedite the decision in the case(s) pending before it.
2. **Rohru:** The DFO, Rohru alongwith respondent No. 7 is directed to expedite the decision in the case(s) pending before it and report compliance on the next date of hearing.
3. **Theog:** The Nodal Officer , Forest alongwith respondent No. 7 is directed to expedite the decision in the case(s) pending before it and report compliance on the next date of hearing.
4. **Nerwa:** The DFO, Chopal alongwith respondent No. 7 is directed to expedite the decision in the case(s) pending before it and report compliance on the next date of hearing.
5. **Chirgaon:** The SDM, Rohru is directed to sent the proposal to the concern authorities and in case the forest clearance is required then to ensure that the same is uploaded on the portal by the next date of hearing.
6. **Bhunter:** The SDM, Kullu is directed to expedite the decision in the case(s) pending before it and report compliance on the next date of hearing.
7. **Banjar:** The SDM is directed to finalise/take decision on the case submitted to him.
8. **Nirmand:** The ULB is directed to expedite the decision.
9. **Bilaspur:** The ULB is directed to expedite the decision.

10. **Ghumarwin:** *The ULB is directed to expedite the decision.*

11. **Shahpur:-** *The ULB is directed to expedite the decision.*

12. **Kandaghat:** *The Deputy Commissioner, Solan is directed to transfer the land notified to set up the SWM plant to the ULB by the next date of hearing.*

13. **Chamba:** *Nodal Officer is directed to expedite the case transfer to it."*

But, from the minutes of the meeting, we find that directions as passed by this Court have not been complied with by the respective parties. We may clarify that in the aforesaid order, there is reference of respondent No.7 and going by the memo of parties, it is the Regional office, Ministry of Environment and Forest Conservation, Government of India. In majority of the cases, it is this Department, which is required to report compliance along-with concerned DFOs/SDM/ULB and this authority, which is required to comply with the orders. Now, it seems that there is no ambiguity with regard to respondent No.7, we hope and trust that necessary compliance would be carried out by the concerned respondents by the next date of hearing, on which date, fresh status report shall be filed by each one of such respondent.

Lastly, we feel that the objective of Solid Management Rules cannot be achieved in case there is no adequate representation on behalf of the Central Pollution Control Board and Ministry of Environment Forest Climate Change (MOEF). Therefore, henceforth,

responsible Officers from both these Departments i.e. CPC and MOEF are directed to attend the meeting(s) held by the Director Urban Development physically or virtually.

We place on record our appreciation for the efforts made by Dr. Sujata Sirkeck, Law Officer, Department of Environment Science and Technology, displaying extensive coverage by way of advertisement and issuing pamphlets in the newspapers, whereby the Government has decided to purchase the plastic waste at Rs.75.00/- as against Rs.7.00/- per kg. as was otherwise being offered to the Rag Pickers etc.

List on 29th August, 2024.

(Tarlok Singh Chauhan)
Judge

August 08, 2024
(naveen)

(Sushil Kukreja)
Judge