

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

Execution Application No. 13/2019
IN
Original Application No. 247/2017
(With Report dated 30.09.2019)

Central Pollution Control Board

Applicant(s)

Versus

State of Andaman & Nicobar & Ors.

Respondent(s)

Date of hearing: 04.12.2019
Date of uploading: 06.12.2019

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

ORDER

1. This order may be read in continuation of order dated 22.07.2019. The issue for consideration is the implementation of Plastic Waste Management Rules, 2016 (PWM Rules) and directions issued by the CPCB 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.
2. On 12.03.2019, we noted the stand of the CPCB that States are not furnishing information and not taking steps to take preventive and regulatory measures envisaged under the PWM Rules. Though ban was imposed on the use of plastic carry

bags etc. in many States, the same was not enforced. Burning of plastic waste was continuing, apart from littering of plastic waste on railway tracks, bus stations etc.

3. Accordingly, the Tribunal directed the States/UTs to ensure compliance of the PWM Rules requiring furnishing of reports as well as taking other steps. In default, the defaulting States were to be required to pay compensation @ Rs. 1 Crore per month after 01.05.2019. CPCB was to furnish status of compliance.

4. Thereafter the matter was considered on 22.07.2019 with reference to the report of the CPCB filed on 30.05.2019 giving details of compliance of PWM Rules based on the information furnished by some of the States / UTs under the following heads:-

- a. Details of Plastic Waste Management as per Provisions 5, 6 and 9 of PWM Rules, 2016, as amended, 2018.
- b. Complete/Partial Ban on carry bags/products.
- c. Status of marking & labelling on carry bags/products.
- d. No. of violations & action taken on non-compliance of Rules.
- e. Status of submission of AR by ULBs to SPCBs/PCCs.

5. CPCB made following recommendations:-

“Recommendations:

1. *SPCBs/PCCs shall ensure that Annual Report on implementation of PWM Rules, 2016, as amended, 2018 is complete in all respect as per Form-VI and submitted timely to CPCB i.e. on 31st July each year along with Action plan.*

2. SPCBs/PCCs should direct to UDDs to ensure setting-up of collection, source segregation & disposal system for plastic waste.
3. SPCBs/PCCs shall provide the details such as quantification, characterization & disposal methods of plastic waste. The details of disposed plastic waste should be provided to CPCB.
4. SPCBs/PCCs should also ensure that no unregistered plastic manufacturing/recycling units is in operation & no unit is running in nonconforming/ residential areas. Besides, it is also to be ensured that plastic carry bags /films <50microns thickness should not be manufactured, stocked, sold and used in cities/towns.
5. SPCBs/PCCs, UDDs shall ensure to promote compostable carry bags certified by CPCB.
6. SPCBs/PCCs and Municipalities should constitute squad to check illegal manufacturing, stocking, sale of <50microns thickness plastic carry bags and uncertified compostable carry bags/products in the market.
7. SPCBs/PCCs and UDDs to ensure prohibit litter of plastic waste at historical, religious, public places and dumping of plastic waste on drains, river, banks & sea beaches is prohibited.
8. SPCBs/PCCs and UDDs to prohibit ensure open burning of plastic waste

Action Plan:

The Action Plan for plastic Waste Management Rules has been submitted by 12 States/UTs namely Chhattisgarh, Delhi, Himachal Pradesh, Kerala, Madhya Pradesh, Meghalaya, Punjab, Telangana, Tripura and Andaman & Nicobar Islands, Daman Diu & Dadra Nagar Haveli and Puducherry.”

6. The Tribunal directed as follows:-

“The concerned States/ UTs may now take further action meeting the gaps pointed out above as per the timeline laid down under the PWM Rules. The CPCB may monitor the same and furnish its further status report by 30.09.2019 by e-mail at judicial-ngt@gov.in The recovery of compensation for the delay in compliance timeline will be considered on the next date.”

7. Status report filed by CPCB on 30.09.2019 is that letter was sent to all the SPCBs/PCCS seeking information about the status of implementation of action plans for PWM Rules, addressing the gaps pointed out and also seeking details of recyclers of such waste. 23 States/UTs have provided their action plans which are incomplete and need to be upgraded in terms of quantification. Remaining 12 States/ UTs namely Bihar, Gujarat, Haryana, J&K, Jharkhand, Karnataka, Lakshadweep, Mizoram, Rajasthan, Sikkim, Uttar Pradesh and West Bengal have not furnished information. Gap analysis has been mentioned in terms of lack of information required. The report further states:-

“4. All 35 States/UTs have submitted the Annual Reports for the year 2018-19 on implementation of PWM Rules, 2018. Information provided by these States/UTs has been compiled by CPCB and State/UT wise compilation of Annual Report as per Form-VI of PWM Rules, 2018 is placed at Annexure -III. It may be noted that complete information as per form-VI has not been submitted by most of the SPCBs/PCCs.

4.1 Estimated plastic waste generation during the year 2018-19 is 33,60,043 Tons/Annum.

4.2 Implementation of thickness >50microns carry bags as per provisions 4(c & d, Thickness criteria Condition) of PWM Rules, 2016, as amended, 2018.

22 States/UTs namely Andaman and Nicobar Islands, Assam, Bihar, Chandigarh, Chhattisgarh, Daman Diu and Dadra Nagar Haveli, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Lakshadweep, Madhya Pradesh, Maharashtra, Nagaland, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand & Uttar Pradesh have imposed complete ban on carry bags. Besides, 9 States/UTs namely: Andhra Pradesh, Goa, Gujarat, Jammu & Kashmir, Kerala, Manipur, Meghalaya, Odisha & Telangana have complied with thickness criteria . Further, 4 States/UTs namely Arunachal Pradesh, Delhi, Mizoram & West Bengal have not provided the information in this matter.

4.3 Details of Plastic Waste Management as per Provisions 5, 6 & 9 of PWM Rules, 2016, as amended, 2018:

a. 8 States/UTs namely; Arunachal Pradesh, Bihar, Daman Diu & Dadra Nagar Haveli, Jammu &

Kashmir, Kerala, Maharashtra, Manipur & Sikkim have not submitted the details in this matter.

b. 14 States/UTs namely: Andhra Pradesh, Assam, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Puducherry, Tamil Nadu, Telangana & Uttar Pradesh are sending plastic waste to cement plants for co-processing.

c. 15 States/UTs namely: Andaman & Nicobar Islands, Andhra Pradesh, Assam, Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Meghalaya, Mizoram, Nagaland, Puducherry, Tamil Nadu, Telangana, Uttar Pradesh & West Bengal are using plastic waste for polymer bitumen road construction.

d. 16 States/UTs namely: Andaman & Nicobar Islands, Andhra Pradesh, Chhattisgarh, Goa, Jharkhand, Karnataka, Lakshadweep, Madhya Pradesh, Nagaland, Punjab, Tamil Nadu, Telangana, Uttarakhand and Uttar Pradesh have recycled the plastic waste.

e. 2 States/UTs namely: Himachal Pradesh & Delhi have sent the plastic waste to Waste to Energy plants.

f. Uttar Pradesh is utilizing the plastic waste in waste to oil plant. Further, Chandigarh, Goa and Madhya Pradesh are using the plastic waste as RDF.

4.4. Complete/Partial Ban on carry bags:

22 States/UTs namely Andaman and Nicobar Islands, Assam, Bihar, Chandigarh, Chhattisgarh, Daman Diu and Dadra Nagar Haveli, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Lakshadweep, Madhya Pradesh, Maharashtra, Nagaland, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand & Uttar Pradesh have imposed complete ban on carry bags. Besides, 7 States namely Arunachal Pradesh, Andhra Pradesh, Gujarat, Kerala, Mizoram, Odisha and

West Bengal have imposed the partial ban on plastic carry bags at religious/historical places. Further, 5 States/UTs namely Goa, Jammu & Kashmir, Manipur, Meghalaya & Telangana have not imposed any ban on plastic carry bags except meeting thickness criteria. Further, Delhi has not provided the information in this regard.

4.5 No. of registered Manufacturing/Recycling Units:
There are 4773 (4294 —Plastic Mfg., 7-Compostable Mfg., 287-MLP Mfg. & 185-Recycling) Registered units in 30 States/UTs and there are no plastic manufacturing units in Andaman and Nicobar Islands, Arunachal Pradesh, Bihar, Lakshadweep & Sikkim.

4.6 No. of unregistered plastic manufacturing/recycling units:
There are 1080 unregistered plastic manufacturing/recycling units running in 12 States/UTs, namely; Assam, Bihar, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Puducherry, Punjab, Tamil Nadu & Uttar Pradesh. Further, Chhattisgarh, Daman Diu and Dadra Nagar Haveli, Delhi PCC, Himachal Pradesh, Uttarakhand & West Bengal have not provided the details in this matter.

4.7 Status of marking & labelling on carry bags/Multilayered packaging:
As per provision '11' marking & labelling of PWM Rules, 2018, 23 States/UTs namely Andhra Pradesh, Assam, Bihar, Chhattisgarh, Daman Diu Dadra and Nagar Haveli, Gujarat, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Puducherry, Punjab, Rajasthan, Tamil Nadu. Telangana, Uttar Pradesh & West Bengal have complied with Rule . There are no plastic carry bag manufacturing units in 6 States/UTs namely: Andaman & Nicobar Islands, Arunachal Pradesh, Chandigarh, Haryana, Lakshadweep & Mizoram. Besides, 5 States/UTs namely Delhi, Goa, Odisha, Sikkim & Uttarakhand which have not provided the information in this regard. Further, Marking & Labelling is not started yet in Tripura.

4.8 No. of violations & action taken on non-compliance of Rules:
As per provision '12' "the prescribed Authorities for implementation of Rules" of PWM Rules, 2018, 21 States/UTs namely Andhra Pradesh, Bihar,

Chandigarh, Chhattisgarh, Daman Diu Dadra & Nagar Haveli (DDDNH), Delhi, Goa, Gujarat, Haryana, Jammu & Kashmir, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Puducherry, Tamil Nadu, Telangana, Tripura, Uttarakhand & Uttar Pradesh. have imposed fine, issued notices, closure directions to the defaulters & seized the material in their respective State/UT. Besides, there are no violations in 9 States/UTs namely Andaman and Nicobar Islands, Arunachal Pradesh, Assam, Kerala, Lakshadweep, Mizoram, Nagaland, Rajasthan and West Bengal. Further, 5 States/UTs namely Himachal Pradesh, Manipur, Meghalaya, Odisha, & Sikkim have not submitted the information in this regard.

4.9 Status of submission of Annual report(AR) by ULBs to SPCBs/PCCs:

Except following 6 States/UTs given in the table, all other States/UTs have submitted information provided by all ULBs.

S. No.	Name of the States /UTs	Submission of AR by ULBs to SPCBs/PCCS		
		Total no. of ULBs	No. of ULBs submitted	No. ULBs not submitted
1.	Assam	101	66	35
2.	Gujarat	162	161	1
3.	Madhya Pradesh	378	274	104
4.	Maharashtra	384	366	18
5.	Manipur	Not provided		
6.	Puducherry	10	5	5

5. Recommendations:

1. States/UTs should frame a time targeted action plan covering the action points related to plastic waste segregation, collection and recycling/reuse of plastic waste. The current status, desirable level of compliance in terms of statutes, gap between the current status & desired level and proposal of attending the gap with timeline as per the enclosed format (Annexure- IV) be provided to CPCB.

2. Quarterly report of the implementation status of the Action Plan should be submitted by States/UT.

3. SPCBs/PCCs should direct to UDDs to ensure setting-up of collection, source-segregation & disposal system for plastic waste.

4. SPCBs/PCCs should also ensure that no unregistered plastic manufacturing/recycling units is in operation & no unit is running in non-conforming/residential areas. Besides, it is also to be ensured that plastic carry bags/films <50microns thickness should not be manufactured, stocked, sold and used in cities/towns.

5. SPCBs/PCCs, UDDs shall ensure to promote compostable carry bags certified by CPCB.

6. SPCBs/PCCs and Municipalities should constitute squad to check illegal manufacturing, stocking, sale of <50microns thickness plastic carry bags and uncertified compostable carry bags/products in the market.

7. SPCBs/PCCs and UDDs to prohibit litter and open burning of plastic waste at historical, religious, public places and dumping of plastic waste on drains, river, banks and seas beaches is prohibited.”

8. Gap analysis given in Table – I is as follows:-

Sl. No.	Item	Remarks	Quantity
1	What is the quantity of plastic waste generated, (Annual Report form VI pt.2,6) (TPA)	Information provided by 23 states (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Daman and D&NH, Goa, Maharashtra, Manipur, Nagaland, Odisha, Punjab, Tamil Nadu, Uttarakhand, Kerala, Meghalaya, Andaman and Nicobar, Tripura, Telangana, M.P., Puducherry, Delhi, Himanchal	1841714.7

		Pradesh)	
2	Number of registered plastic manufacturing units	Information provided by 23 states (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Daman and D&NH, Goa, Maharashtra, Manipur, Nagaland, Odisha, Punjab, Tamil Nadu, Uttarakhand, Kerala. Meghalaya, Andaman and Nicobar, Tripura, Telangana, M.P., Puducherry, Delhi, Himanchal Pradesh)	2797
3	Capacity of registered plastic manufacturing units (TPA)	None of the states have provided information on the matter	NA
4	Total number of ULBs	Information provided by 21 states/UTs (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Daman and Dadra & Nagar Haveli, Goa, Maharashtra, Nagaland, Odisha, Punjab, Tamil Nadu, Uttarakhand, Kerala, Meghalaya, Andaman and Nicobar,	2008

		Tripura, Telangana, M.P., Puducherry, Delhi, Himanchal Pradesh)	
4 (a)	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)	<u>Information provided by 9 states</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Maharashtra ,Tamil Nadu, Kerala & M.P.)	800
4(b)	Number of ULBs having facilities for Collection of Segregated waste	<u>Information provided by 8 states :-</u> (Andhra Pradesh, Arunachal Pradesh, Chandigarh, Chhattisgarh, Goa, Maharashtra, Kerala &M.P.	678
4(c)	Number of ULBs having Material Recovery facility	<u>Information provided by 5 states</u> (Arunachal Pradesh, Chandigarh, Chhattisgarh, Maharashtra, M.P.)	356
5	Total number of Gram Panchayat (GPs)	<u>Information provided by 7 states</u> (Chandigarh, Goa, Tamil Nadu, Nagaland, Uttarakhand, Kerala and Andaman &Nicobar)	9135

5(a)	Number of GPs which have set-up of plastic waste management system as per Rule 7?	<u>information provided by 2 states</u> (Chandigarh, Goa)	6
5(b)	Number of GPs having facilities for Collection of Segregated waste	<u>None of the states have provided</u> information on this matter	NA
5(c)	Number of GPs having Material Recovery facility	<u>2 states have provided information</u> (Chandigarh, Goa)	Actual number not specified
6	No. of registered Producers/brand owners/ importers as per Rules 9 & 13 of PWM Rules?	Only Andhra Pradesh have provided information	80
6(a)	Number of Producers/brand owners/ importers which have engaged with ULBs for	<u>2 states have provided information</u> Maharashtra and Assam	Number not specified
7	Number of ULBs which have set up system for plastic waste management with assistance of producers been set-up? Rule(6(3))?	<u>2 states have provided information</u> Maharashtra and Assam	Number not specified
8	Number of registered plastic waste recyclers	<u>information provided by 20 states</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Daman and Dadra & Nagar Haveli, Goa, Maharashtra, Manipur, Nagaland, Punjab,	808

		Tamil Nadu Kerala, Meghalaya, Andaman and Nicobar, Tripura, Telangana, M.P., Puducherry, Himanchal Pradesh)	
8(a)	Capacity of recyclers (TPA)	<u>Information provided by 9 states</u> (Arunachal Pradesh, Chandigarh, Chhattisgarh, Daman and Dadra & Nagar Haveli, Goa, Maharashtra, Meghalaya ,Kerala & M.P.)	681492
9	Status of Utilization of plastic waste (Annual Report form VI pt.4)	<u>Information provided by 21 states</u> (Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Daman and Dadra & Nagar Haveli, Goa, Maharashtra, Nagaland, Odisha, Punjab, Tamil Nadu, Uttarakhand, Kerala Andaman and Nicobar, Tripura, Telangana, M.P., Puducherry, Delhi, Himanchal Pradesh)	NA
10	Quantity of plastic Waste utilized in recycling (TPD)	<u>Information provided by 3 states</u> (Goa Maharashtra Tamil Nadu)	Goa-6057.62 Tons, Maharashtra - 617TPD , Tamil Nadu-46720 Tonnes per year is proposed to dispose)

10(a)	Quantity of plastic waste utilized in recycling Road Construction	<u>Information provided by 7 states</u> (Tamil Nadu, Odisha, Maharashtra, Chhattisgarh, Kerala, Andaman, Telangana)	Tamil Nadu-4015TPA is proposed, Odisha 4.6MT is being used , Chhattisgarh-under process, Kerla-574T is used, Andaman and Nicobar -1 tonnes is used, Telangan-6.34MT is used
10(b)	Quantity of waste Co-processed in Plastic Waste in Cement kilns	<u>Information provided by 7 states</u> (Chhattisgarh Goa Maharashtra Odisha Tamil Nadu, Telangana and M.P.)	Goa-19,249.46T baled RDF sent for Co-processing in cement Kilns, Maharashtra: 8420 tonnes, Odish-21.82MT, Tamil nadu-250TPD is proposed, Telangana-4.5TPD is used ,M.P.-300 tonnes
10(c)	Quantity of waste utilized in production of RDF	<u>Information provided by Goa only</u>	detail regarding quantity not provided
10(d)	Quantity of plastic waste used in production of Waste to oil	<u>information provided by 2 states</u> Odisha and Maharashtra only	Odisha, Maharashtra-657 tonnes
10(e)	Quantity of plastic waste used in other purpose (please specify)	<u>Information provided by</u> Tamil Nadu only	250 TPD is propose to dispose

11	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 two years.	<u>Information provided by 13 states</u> (Arunachal Pradesh, Chandigarh, Chhattisgarh, Daman and Dadra & Nagar Haveli, Uttarakhand, Meghalaya, Andaman and Nicobar, Tripura, Telangana, M.P., Puducherry, Delhi, Himanchal Pradesh.)	Detail regarding quantity not specified
12	No. of Registered Compostable plastic unit	<u>Information provided by 5 states</u> (Maharashtra, Nagaland, Odisha, Punjab, Tamil Nadu)	2
12(a)	Total Capacity of registered Compostable plastic unit	None of the states have provided information about it. However, CPCB has issued certificates to 44 registered units engaged in manufacturing of compostable carry bags/products.	114962 As Certificate issued by CPCB under PWM Rule 4(h)

9. The above gap analysis appears to be in terms of the information available and information required. The recommendations are for framing of time targeted action plans and giving of information in the prescribed format to CPCB apart from giving implementation status quarterly. Further recommendations are for setting up collection, source segregation and disposal system and checking unregistered

plastic manufacturing, recycling, prohibiting handling of plastic less than 50 microns thickness, promoting compostable carry bags and prohibiting litter and open burning of plastic waste. These recommendations are already part of Rules of which strict compliance need to be ensured.

10. We may also deal with the issue of implementation of Extended Producers Responsibility (EPR) under the PWM Rules in the light of the order dated 17.09.2019 in O.A. No. 376/2018, *Jitender Yadav v. Union India & Ors.* wherein it was observed:-

“1 to 6 xxx

xxx

xxx

7. On 12.09.2018, this Tribunal directed the Ministry of Environment, Forest & Climate Change (MoEF&CC) to take steps to implement the Extended Producer's Responsibility (EPR) in accordance with Plastic Waste Management Rules, 2016, (PWM Rules) as amended in 2018.

8. On 16.05.2019, noticing the failure on the part of the MoEF&CC in furnishing any information about compliance of the said direction, the Tribunal sought an explanation and directed that on the default, the concerned Joint Secretary, MoEF&CC may remain present in person.

9. On this aspect, written submissions have been filed by the MoEF&CC to the effect that a Committee has been constituted on the subject which held several meetings. Last such meeting was held on 31.05.2019. The Ministry was in the process of preparing final draft guideline document on National Framework on EPR to be placed in public domain for receiving further comments. The minutes of the meeting do not indicate any tangible action beyond recording suggestions. The minutes of the meeting also show that except a Joint Secretary, all other participants representing Government are of junior level.

10. The PWM Rules elaborately lay down the norms and the responsibilities. Rule 9 requires the producers to workout the modalities for the waste collection system based on EPR and also by involving State Urban Development Departments. Primary responsibility is of the producers who introduce such products in the market. The minutes of the meeting merely shows shifting of responsibility instead of adhering to the mandate of the PWM Rules. The PWM Rules have a provision for State

Level Monitoring Committees for effective monitoring of the implementation of the PWM Rules.

11. Hazardous impact of unscientific handling of plastic waste is well acknowledged.¹ The minutes of the meeting and the submissions filed on behalf of the MoEF&CC are not consistent with the mandate of the PWM Rules which require immediate enforcement of liability by effective mechanism instead of deferring the subject. One of the means to implement EPR is to require stamping of non-degradable product with the information as to how after use such product is to be handled.

12. This Tribunal is also considering the matter of implementation of PWM Rules based on an application filed by the CPCB itself, complaining that the States are not furnishing the requisite information and not taking preventing and regulatory steps as per the PWM Rules.² The matter was last reviewed on 22.07.2019 and directions were issued requiring the States/UTs to take further action to meet the gaps pointed out by the CPCB within the laid down timelines failing which compensation may be required to be paid by the defaulting States/UTs.

13. Further, vide order dated 16.01.2019 in O.A. No. 606/2018, the Tribunal directed the Chief Secretaries of all the States/UTs to appear in person before the Tribunal with their respective reports on the subject of compliance of the Solid Waste Management Rules along with other subjects including PWM Rules. The Chief Secretaries have accordingly appeared and given their reports but since the reports were not found to be adequate, time was given for taking further action and furnish further reports.

14. It will be appropriate that the Chief Secretaries look into the issue of compliance of PWM Rules as per mandate of law and the MoEF&CC also concludes the long pending issue of framing National Framework on EPR within two months instead of adopting long winded procedure which has been going on for more than two years, inspite of the enactment of the Rules more than three years ago. The

¹ "Fact Sheet on Plastic Waste in India, 2018", TERI- Plastic contributes to 8% of the total solid waste, with Delhi producing the maximum quantity followed by Kolkata and Ahmedabad. Significant amount of toxic heavy metals like copper, zinc, lead and cadmium recovered from plastic wastes from sea shores have an adverse effect on the coastal ecosystems. Lead and Cadmium pigments, commonly used in most of the plastics as additives are hazardous in nature and are known to leach out. "Impacts of Marine Debris: Entanglement of Marine Life in Marine Debris Including a Comprehensive List of Species with Entanglement and Ingestion Records", David W. Laist - Plastic debris affects at least 267 species worldwide, including 86% of all sea turtle species, 44% of all seabird species, and 43% of all marine mammal species.
<https://www.indiaspend.com/india-is-generating-much-more-plastic-waste-than-it-reports-heres-why/>- CPCB data on plastic waste generation from a 2015 study showed that, in 2010-12, India generated 25,940 tonnes plastic per day. This would amount to 9.5 million tonnes per year. In 2016-17 too, CPCB received figures from only 25 regional pollution boards. The total plastic waste generation figure for that year was estimated at 1.6 million tonnes, or 160,000 truckfulls. India's annual plastic consumption is expected to cross 20 million tonnes in 2020.

² Execution Application No. 13/2019 in O.A. No. 247/2017, Central Pollution Control Board vs. State of Andaman & Nicobar & Ors.

concerned Joint Secretary, MoEF&CC may remain present in person, to assist the Tribunal in Execution Application No. 13/2019 in O.A. No. 247/2017, Central Pollution Control Board vs. State of Andaman & Nicobar & Ors. on 04.12.2019.

15. The MoEF&CC may ensure that meeting takes place with the involvement of senior officers who are competent to take decision and for this purpose CPCB must be also involved. The compliance report of the MoEF&CC may be filed latest by 30.11.2019. The Central Pollution Control Board (CPCB) may lay down a compensation regime and scale on 'Polluter Pays' principle by appointing such Expert Committee as may be found necessary and furnish its report before the next date. The scheduled date of 16.10.2019 in Execution Application No. 13/2019 will now stand deferred to 04.12.2019.”

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 <50microns 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.

A copy of this order be sent by e-mail to MoEF&CC, CPCB, Chief Secretaries/Advisors of all the States/UTs. and SPCBs/PCCs.

List for further consideration on 29.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

December 06, 2019
Execution Application No. 13/2019
IN
Original Application No. 247/2017
A