

Item Nos. 23 & 24

Court No. 1

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

Execution Application No. 04/2024
In
Original Application No. 512/2018

WITH

M.A. No. 09/2024
In
Original Application No. 512/2018

Shailesh Singh S/o Mr. Babu Singh Applicant

Versus

State of UP & Ors. Respondent(s)

Bharat Banavalikar: Applicant in EA

Date of hearing: 02.09.2024

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Md. Imran Ahmad & Mr. Aishik Chakraborty, Advs. for Applicant in E.A
04/2024

Respondent: Mr. Raj Kumar, Adv. for CPCB (Through VC)
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)
Mr. Mukesh Verma, Adv. for UKPCB & MPCB
Mr. Rahul Khurana, Adv. for the State of Haryana & HSPCB
Ms. Richa Kapoor & Ms. Atika Singh, Advs. for Punjab PCB
Mr. Jogy Scaria & Ms. Beena Victor, Advs. for KSPCB
Mr. Nishe Rajan Shonker, Adv. for the State of Kerala
Mr. Sameer Abhyankar & Mr. Kushagra Aman, Advs. for Sikkim SPCB
Mr. Abhimanyu Garg, Adv. for Puducherry PCC (Through VC)
Mr. Avijit Roy, Adv. for Assam PCB (Through VC)
Mr. Manish Salkar, Adv. for Goa SPCB (Through VC)
Mr. Arnab Ray, Tripura SPCB (Through VC)
Mr. TVS Raghavendra Sreyas & Mr. Siddharth Vasudev, Advs. for APPCB (Through VC)
Mr. Balendu Shekhar & Ms. Tanisha Samanta, Advs. for DPCC (Through VC)
Mr. Raghav Sharma, Adv. for MP PCB (Through VC)
Mr. Gigi. C. George, Adv. for A&N Islands (Through VC)
Mr. Nishant Awana, Adv. for RSPCB (Through VC)
Mr. Abhimanyu Singh, Adv. for Bihar SPCB (Through VC)
Mr. Ghansham Singh, Member Secretary, J&K PCC (Through VC)
Mr. B.M. Sharma, Member Secretary, LPCC (Through VC)

ORDER

1. In this Execution Application, the Tribunal is considering the compliance of the directions contained in the order dated 15.01.2021 in the Original Application No. 512/2018.

2. In the Original Application, the Tribunal had examined the issue concerning action against unscientific disposal of E-waste resulting in contamination of groundwater and soil acidification.

3. Vide order dated 15.01.2021, Original Application was disposed of with following directions:-

“26. We direct that further steps be now taken for scientific enforcement of EWMR in the light of the reports of the CPCB and the Oversight Committee for the State of UP. The major areas to be focused are:

- enforcement of EWM Rules,*
- implementation of authorization regime,*
- implementation of EPR regime,*
- bridging the gap between collection target and collection,*
- enhancing the installed dismantled capacity to match the e-waste generation,*
- implementation of environmental compensation regime,*
- constant Vigilance and monitoring,*
- creation of awareness amongst masses and collectors/handlers/dismantlers/recyclers.”*

4. The allegation in this EA is that the aforesaid directions have not been complied with. Under the direction of the Tribunal, the response by the States/Union Territories has been filed. The CPCB has filed the report compiling the information received from States/Union Territories.

5. The report dated 30.08.2024 filed by the CPCB in the tabulated form mentions the action taken by each of the States/Union Territories in respect of the direction of the Tribunal. The said tabulated information reveals that many of the States/Union Territories have not carried out the directions of the Tribunal fully and there are lapses on their part in

compliance. The report of the CPCB summarizes the extent of compliance/non-compliance as under:-

“Out of 36 SPCBs/PCCs, 25 SPCBs/PCCs have carried out inventory exercises w.r.t. twenty-one (21) notified electrical and electronic equipment (EEE) under E-waste (Management) Rules 2016. Six (6) SPCBs/PCCs have initiated the inventory exercise and five (05) SPCBs/PCCs namely, Goa, Jharkhand, Manipur, Uttar Pradesh and Uttarakhand not yet started the inventory exercise. However, with coming into force of E-Waste (Management) Rules 2022 from 01.04.2023, the number of notified EEE has increased from twenty one (21) to one hundred and six (106) EEEs. All SPCBs/PCCs are now required to carry out their inventory w.r.t. one hundred and six (106) EEEs items”

6. The report discloses following deficiencies which CPCB should take necessary action:-

1. SPCBs (16) which have carried out inspections but not shared compliance status, should also give the formats/copies of consents/ authorization granted and compliance with the standards prescribed.
2. With regard to the invetorization 106 EEEs, time frame should be elaborated which should not be in contravention of Rules 2022 and 2016.
3. CPCB need to monitor operation of unauthorized E-Waste processor on Delhi UP Border in particular.
4. The next report should also indicate the ‘hotspot’ reported by each State and the actions taken by the SPCBs.
5. CPCB in coordination with SPCBs should undertake gap analysis and lay down time bound plan to ensure proper management of E-Waste in accordance with Rules.

7. There are lapses on the part of the SPCBs/PCCs in carrying out the inventory exercise in respect of the notified electrical/electronic equipments. The SPCBs/PCCs have not shared the compliance

status/inspection report. There is a lapse in convening IEC events by some of the States/PCBs. On various issues, there is either partial compliance or non-compliance. The recommendations of the CPCB in the report is as under:-

“Recommendations

1. *All the SPCBs/PCCs, who have carried out inventorisation of E-Waste generation, to revise the same with respect to one hundred and six (106) notified EEE items under the E-Waste (Management) Rules, 2022. The new inventory exercise will bring forward the actual scenario of e-waste generation and will help in developing E-Waste Management infrastructure.*
2. *In the states/UTs, where dismantling / recycling units are not existing, the SPCBs/PCCs are required to engage with entrepreneur and encourage & facilitate them for setting up of recycling units in their State / UT for environmentally sound recycling of E-Waste or ensure collection, transportation of E-Waste to recycling facilities located in nearby states for the environmentally sound management of such collected E-Waste thereby preventing its leakage to informal sector.*
3. *All the SPCBs/PCCs to come up with a firm IEC Plan in line with E-Waste (Management) Rules, 2022. Also SPCBs /PCCs to share their quarterly IEC execution details in the quarterly progress reports through E-Waste EPR Portal.*
4. *All the SPCBs/PCCs to continue vigil on identification of the hotspots, coordinate with the District Administration, locating dismantlers and recyclers in the conforming areas and provided with proper infrastructure facilities and submission its compliance in the quarterly progress reports through E-Waste EPR Portal.*
5. *All the SPCBs/PCCs while issuing authorization to E-Waste recyclers under Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016 have to ensure that E-Waste recyclers have taken membership of TSDF facility.”*

8. In the meanwhile, the E-Waste (Management) Rules, 2022 have come into force w.e.f. 01.04.2023. Rule 4 provides for the Registration of entities on the portal. Rule 5 to 10 provides for responsibilities of the manufactures, producers, refurbisher, bulk consumer, recyclers and State Government and Union Territories respectively. Rule 11 deals with the procedure for storage of E-waste and Rule 12 provides for Management of solar photo-voltaic modules or panels or cells. Rule 22 requires the CPCB to frame guidelines for imposition and collection of environmental compensation for violation of the Rules and Guidelines issued thereunder. Rule 23 provides for prosecution. Schedule I of the Rules contain the list of categories of electrical and electronic equipments including their components, consumables, parts and spares covered under the Rules. Schedule – III provides for E-waste recycling targets (waste year wise from 2023-24 to 2028-29 onwards). Schedule – V, contains the list of Authorities and corresponding duties. In terms of Schedule – V CPCB has the responsibility to take action against the violations of the Rules, conduct random checks for ascertaining compliance with E-waste Rules, conduct training and awareness programmes, enforce provisions regarding reduction in use of the hazardous substances in the manufacture of electrical and electronic equipments etc. The responsibilities of CPCB, SPCBs, Local Bodies etc. are defined in Schedule – V which reads as under:-

“SCHEDULE - V

[See rule (17)]

LIST OF AUTHORITIES AND COPRRERSPONDING DUTIES

Sl. No.	AUTHORITY	COPRRERSPONDING DUTIES
1.	Central Pollution Control Board	(1) Operation and maintenance of Extended Producer Responsibility Portal and monitoring of Extended Producer Responsibility

		<i>compliance.</i> (2) <i>Coordination with State Pollution Control Boards</i> (3) <i>Prepare and issue guidelines and Standard Operating procedures for collection, storage, transportation, segregation, refurbishment, dismantling, recycling and disposal of e-waste under these rules from time to time, and also issue necessary Forms/ Returns for implementation of these rules.</i> (4) <i>Conduct random check for ascertaining compliance of the e-waste rules and may take help of Customs/State Government or any other agency (ies).</i> (5) <i>Documentation, compilation of data on e-waste and uploading on websites of Central Pollution Control Board.</i> (6) <i>Actions against violation of these rules.</i> (7) <i>Conducting training programmes to develop capacity including State Pollution Control Boards and Urban Local Bodies officials.</i> (8) <i>Conducting awareness programmes on e-waste management, RE/CE label, legislation to make consumers responsible towards product usage and safe disposal.</i> (9) <i>Integrate all stakeholders with the centralized digital system.</i> (10) <i>Submit Annual Report to the Ministry.</i> (11) <i>Enforcement of provisions regarding reduction in use of hazardous substances in manufacture of electrical and electronic equipment.</i> (12) <i>Interaction with IT industry for reducing hazardous substances.</i> (13) <i>Set and revise targets for compliance to the reduction in use of hazardous substance in manufacture of electrical and electronic equipment from time to time.</i> (14) <i>Ensure RoHS compliance and its certifications through a recognized lab and its mandatory checks.</i> (15) <i>Any other function delegated by the Ministry under these rules from time to time.</i>
2.	State Pollution Control Boards	(1) <i>Inventorisation of e-waste.</i> (2) <i>Monitoring and compliance of Extended</i>

	or Pollution Control Committees of Union territories	<i>Producer Responsibility as directed by Central Pollution Control Board.</i> (3) <i>Conduct random inspection of recycler and refurbisher and monitoring recycling capacity utilization.</i> (4) <i>Implementation of programmes to encourage environmentally sound recycling.</i> (5) <i>Any other function delegated by the Ministry/ Central Pollution Control Board under these rules.</i>
3.	<i>Responsibilities of Local Bodies (Urban and Rural).</i>	(1) <i>To ensure that e-waste if found to be mixed with Municipal Solid Waste is properly segregated, collected and is channelised to registered recycler or refurbisher.</i> (2) <i>To ensure that e-waste pertaining to orphan products is collected and channelized to registered recycler or refurbisher.</i> (3) <i>To facilitate setting up e-waste collection, segregation and disposal systems.</i> (4) <i>Conducting training sessions to develop capacities of the urban and rural local bodies</i>
4.	<i>Responsibilities of Port authority under Indian Ports Act, 1908 (15 of 1908) and Customs Authority under the Customs Act, 1962 (52 of 1962).</i>	(1) <i>Verify the import or export with respect to Extended Producer Responsibility under these rules.</i> (2) <i>Verify the import or export with respect to Extended Producer Responsibility under these rules.</i> (3) <i>Take action against importer for violations under the Indian Ports Act, 1908 or the Customs Act, 1962.</i>
5.	<i>Responsibilities of Bureau of Indian Standards/ Ministry of Electronics and Information Technology</i>	<i>To issue standards for refurbished products. Bureau of Indian Standards/ Ministry of Electronics and Information Technology shall also develop guidelines for refurbishers with respect to Compulsory Registration Scheme.</i>

9. We find that though in the report, the CPCB has mentioned about the non-compliance/partial non-compliance by some of the States/Union Territories but the report does not reflect any action which is taken by the CPCB for that non-compliance. The report also does not reflect the extent

of the target which has been achieved for the year 2023-2024 in terms of Schedule – III of the Rules of 2022.

10. The CPCB also required to disclose the compliance of the E-waste Rules by the States in reference to the management of solar photo-voltaic modules or panels or cells etc. It also needs to provide detail relating to the generation of E-waste, its treatment, the treatment facility and the gap.

11. Let the fresh report be filed by the CPCB keeping in view the observations made above within six weeks.

12. List on 12.12.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

September 2, 2024
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