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To

The Secretary
Department of Ecology,
Environment & Remote sensing,
SDA Colony Bemina,
Srinagar, Kashmir-190018

DIRECTIONS UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, IN CASE OF NOT SETTING UP OF COMMON HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITY IN THE STATE/UNION TERRITORY

WHEREAS, the Central Government has notified the Hazardous Waste (Management and Handling) Rules, 1989, and amendments, thereof under the Environment (Protection) Act, 1986, for proper management and handling of hazardous wastes. Now, these Rules are recently amended as Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein referred to as HOWM Rules);

WHEREAS, as per the inventory report of hazardous wastes for 2016-17 submitted by Jammu & Kashmir Pollution Control Board, about 1043.21 metric tons of hazardous wastes is being generated by about 213 industries in Jammu & Kashmir;

WHEREAS, as per Rule 4 (1) of the HOWM Rules, for the management of hazardous and other wastes, an occupier shall follow the following steps, namely (a) prevention, (b) minimization, (c) reuse, (d) recycling, (e) recover, utilization including co-processing, (f) safe disposal;

WHEREAS, as per Rule 4 (2) of the HOWM Rules, the occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes;

WHEREAS, as per Rule 6 of the HOWM Rules, grant of authorisation and renewal of authorisation is the responsibility of State Pollution Control Board/Pollution Control Committee (herein referred to as SPCB/PCC) for handling, generation, collection, storage, packaging, transportation, treatment, processing, use, destruction, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of hazardous and other wastes;

WHEREAS, as per Rule 16 (3) of the HOWM Rules, the SPCB shall monitor the setting up and operation of the Common or captive Treatment, Storage and Disposal Facility (herein referred to as TSDF) regularly;

WHEREAS, as per Rule 21 and Schedule VII of HOWM Rules, the monitoring of compliance of various provisions and conditions of authorisation and taking action against violations of HOWM Rules are among various duties of the concerned SPCB/PCC of the States/UTs;

WHEREAS, there is no common TSDF for non-recyclable/non-utilizable hazardous waste in Jammu & Kashmir. Such waste generating industries in Jammu & Kashmir may have been permitted by Jammu & Kashmir Pollution Control Board to store their hazardous wastes indefinitely within their premises;

WHEREAS, the storage of non-recyclable/non-utilizable hazardous waste for an indefinite period may result into handling large volume of hazardous waste over the years, which may pose threat to human health and environment;

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WHEREAS, decisions were taken in 52nd Conference of Chairpersons and Member Secretaries of SPCBs & PCCs held at Mumbai during January 05-06, 2006 regarding strategy for disposal of incinerable and landfillable hazardous wastes, that:

- (i) All States /UTs should ensure setting up of Common Facilities for land filling of Hazardous Wastes, latest by June 2006;
- (ii) States/UTs which propose to utilize Common landfill facilities set up/ being set up in neighboring States, should finalize formal agreements by above date;
- (iii) States/UTs generating incinerable wastes exceeding 5000 TPA should ensure setting up of Common Facility for incineration by December 2006;
- (iv) States/UTs proposing to utilize Common Incineration facilities available in neighboring States should finalize formal agreements by December 2006;

WHEREAS, the Supreme Court Monitoring Committee, appointed by the Hon'ble Supreme Court vide its orders dated 14/10/2003 in the matter of Writ Petition (Civil) No. 657 of 1995; Research Foundation for Science, Technology and National Resource Policy Versus Union of India & Others, has submitted its report to the Hon'ble Supreme Court in November 2006. The committee in its report has also recommended that as the development of TSDFs and Incinerators for proper Treatment and Disposal of Hazardous Wastes are at various stages of development in different States/UTs and the process involves many steps, extension of time until 31 December 2007 may be considered for completion of the facilities by all the hazardous waste generating States;

WHEREAS, as per Rule 16 (1) of the HOWM Rules, the State Government, the occupier, the operator of common Disposal Facility or any association of occupiers shall individually or jointly or severally be responsible for identification of sites for establishing a common facility for treatment, storage and disposal of the hazardous in the State;

WHEREAS, 25 hazardous waste generating units were inspected jointly by CPCB and SPCB officials in 5 States / UT namely Assam, Chhattisgarh, Jammu & Kashmir, Goa and Puducherry during February – April, 2018. The said inspections reveal that:

- i. Entire hazardous waste generated since commissioning of the units were not found to be stored within the premises. Therefore, the hazardous wastes generated are intermittently or regularly being disposed indiscriminately or to unauthorized persons in violation of conditions stipulated under authorization granted by the concerned SPCB/PCC and provisions of the HOWM Rules;
- ii. The hazardous waste, whatsoever found stored, was not properly labelled, packaged and stored in isolated hazardous waste storage area in accordance with provisions under Rule 17 of the said HOWM Rules;
- iii. Not all categories of hazardous wastes generated in the processes have been brought under the ambit of authorization issued by concerned SPCB/PCC under the HOWM Rules. Few units were found operating without having valid authorization from the concerned SPCB/PCC;
- iv. None of the units have stored incinerable hazardous wastes in storage area having automatic water sprinkling arrangements, fire alarming systems, flame arresters, smoke /heat detectors, fire extinguishers, etc. as per the provisions stipulated under '*Guidelines for storage of incinerable hazardous wastes by the operators of Common Hazardous Waste Treatment, Storage and Disposal Facilities and Captive HW incinerators*', published by CPCB;



- v. Majority of the inspected hazardous waste generating units are;
- not maintaining daily records for maintaining generation, storage, etc. of hazardous wastes in Form 3 in compliance with Rule 20(1) of the HOWM Rules;
 - not maintaining manifest document in Form 10 for movement of all the hazardous waste in compliance with Rule 19 of the HOWM Rules;
 - not submitting annual report timely to Pollution Control Board, in compliance with Rule 20(2) of the HOWM Rules;
 - have not installed display board outside the factory gate displaying details of hazardous wastes being handled by the unit.

Inspection reports of the same pertaining to Jammu & Kashmir is enclosed for ready reference.

WHEREAS, the Central Government vide Notification No. S.O 730(E) dated 10th July, 2002, has delegated the powers under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, CPCB, to issue directions to any industry or any local or any other authority for the violation of the standards and rules relating to hazardous waste, bio-medical waste, hazardous chemicals, industrial solid waste, municipal solid waste including plastic waste notified under the Environment (Protection) Act, 1986 and amendments thereof; and

NOW, THEREFORE, in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, following directions are issued as under;

- To submit time bound action plan for setting up common TSDF for disposal of non-recyclable / non-utilizable hazardous waste generated within the State/UT or making sharing arrangement with authorized common facility of other State/UT;
- In case the said action plan is not submitted by 15/07/2018 or the same is not found appropriate, CPCB would be constrained to direct SPCBs/PCCs to stop issuing new authorization or renewal of authorization under the HOWM Rules, with immediate effect.


Receipt of these directions be acknowledged.

(S.P. Singh Parihar)
Chairman

Copy to:

- The Joint Secretary, HSM Division, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi -110 003.- *For kind information, please.*
- The Chairman, Jammu & Kashmir Pollution Control Board, Shiekh-ul-Campus, behind Govt. Silk Factory, Raj Bagh, Srinagar(J&K) – *For kind information and necessary co-ordination with the respective State Government /UT Administration, please.*
- The Regional Director, Central Pollution Control Board Ground Floor, PICUP Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow - 226 010 - *For necessary follow-up with State Government / UT Administration under their respective jurisdiction, please.*

4) I/c IT Division, CPCB, Delhi .


(A.Sudhakar)
Member Secretary

