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June 12, 2018

To

The Chairman
Bihar State Pollution Control Board
Parivesh Bhawan, Plot No. NS-B/2
Patliputra Industrial Area,
Patliputra, Patna (Bihar)-800023

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 Bihar Pollution Control Board, about 7629 metric tons of hazardous wastes is being generated by about 121 industries in the Bihar;

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 Bihar. Such waste generating industries in Bihar may have been permitted by Bihar 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;

Contd-2/---

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;
- (a) 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;
 - (b) not maintaining manifest document in Form 10 for movement of all the hazardous waste in compliance with Rule 19 of the HOWM Rules;
 - (c) not submitting annual report timely to Pollution Control Board Assam in compliance with Rule 20(2) of the HOWM Rules;
 - (d) have not installed display board outside the factory gate displaying details of hazardous wastes being handled by the unit.

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, the following directions are issued as under;

- (i) close all defaulting units by verifying hazardous waste storage vis-à-vis their generation as per raw material consumption/production data. In case SPCB/PCC is unable to carry out such verification, the same may be carried out by engaging some other agencies;
- (ii) The closed defaulting units shall not be allowed to operate unless:
 - (a) SPCB/PCC levies and collects financial penalty for various violations of the HOWM Rules, observed in units by enforcing Rule 23(2) of the HOWM Rules, in accordance with "*Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Wastes and Penalty*" published by CPCB.
 - (b) proper storage of the incinerable hazardous waste is done 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;
 - (c) enforcement of maintaining daily records and manifest document, timely and regularly submission of annual reports by the hazardous waste generating units, etc. as required under the HOWM Rules, are ensured;
 - (d) proper hazardous waste storage area with adequate capacity within premises of hazardous waste generating units are installed, and;
 - (e) display board outside the factory gate displaying details about hazardous wastes is installed;

Contd-4/---



- (iii) assess implementation mechanism of HOWM Rules, being followed within SPCB/PCC and take necessary action with the objective of ensuring that hazardous waste management in the states is in compliance with provisions laid down under the said Rules;
- (iv) conduct workshops for hazardous waste generating units so as to sensitize them about obligations/requirements under the HOWM Rules. Awareness campaign may also be done through newspaper notices;
- (v) explore utilization of incinerable and landfillable hazardous wastes in Cement Plant or other utilization in a time targeted manner following the hierarchy of waste management or sharing common TSDFs of other States/UTs, and;
- (vi) co-ordinate with the State Government / UT Administration for setting up of common HW TSDFs or sharing common TSDFs of other States/UTs for disposal of non-recyclable and non-utilizable hazardous waste generated within the State/UT.


Receipt of these directions be acknowledged immediately and action taken report in this regard be submitted within 30 days from the date of issuance of this direction.

(S.P. Singh Parihar)
Chairman

Copy to:

- 1) 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.*
- 2) The Principal Secretary, Environment and Forest Department, Sucheta Bhawan, Government of Bihar, Patna - 800015 - *For kind information and necessary action, please.*
- 3) The Regional Director, Central Pollution Control Board, Southern Conclave, Block 502, 5th & 6th Floors, 1582 Rajdanga Main Road Kolkata - 700 107 (W. B.) - *For necessary follow-up with SPCBs/PCCs under their respective jurisdiction, please.*

✓4) I/c IT Division, CPCB, Delhi


(A.Sudhakar)
Member Secretary

