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F.No.B-29016 (SC)/1/16/HWMD/

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November 29, 2016

To

The Chairman
Uttar Pradesh Pollution Control Board
IIIrd floor, PICUP Bhawan
Vibhuti Khand, Gomti Nagar
Lucknow – 226 020, Uttar Pradesh.

DIRECTIONS UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, IN CASE OF VIOLATIONS OF PROVISIONS OF HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDARY MOVEMENT) RULES, 2016

WHEREAS, the Central Government has notified the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein referred to as HOWM Rules), under the Environment (Protection) Act, 1986, in supersession of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008, for safe and environmentally sound management hazardous and other wastes;

WHEREAS, as per Rule 6 of the HOWM Rules, the occupier engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of hazardous and other waste shall obtain authorisation from State Pollution Control Board/Pollution Control Committee (herein referred to as SPCB/PCC);

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 4(3) of the HOWM Rules, the hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorized actual user or shall be disposed of in an authorized disposal facility;

WHEREAS, as per Rule 8 of the HOWM Rules, hazardous and other wastes shall not be stored for a period exceeding ninety days;

WHEREAS, as per Rule 9 of the HOWM Rules, utilisation of hazardous and other wastes shall be carried in accordance with the provisions laid down under the said Rules;

WHEREAS, as per Rule 17 of the HOWM Rules, the occupier handling hazardous or other wastes shall ensure that hazardous and other wastes are packaged and labeled as per Form 8 of the HOWM Rules;

WHEREAS, as per Rule 19 of the HOWM Rules, the sender of the waste are required to maintain manifest system (movement document) for sending the hazardous waste and other wastes for disposal to disposal facility or actual user or recyclers/utilisers;

WHEREAS, as per Rule 20 of the HOWM Rules, the occupier handling hazardous or other waste shall maintain records in Form 3 and also submit annual returns to SPCB/PCC in Form 4;

WHEREAS, as per Rule 23 (1) of the HOWM Rules, the occupier, importer or exporter and operator of the disposal facility shall be liable for all damages caused to the environment or third party due to improper handling and management of the hazardous and other waste;

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WHEREAS, as per Rule 23 (2) of the HOWM Rules, the occupier and the operator of the disposal facility shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by SPCB with the prior approval of the Central Pollution Control Board;

WHEREAS, Central Pollution Control Board has prepared and published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" and the same was forwarded to all SPCBs/PCCs vide letter no. B-29016(SC)/1/HWMD/8995-9034 dated 08/3/2016 to ensure implementation of provisions of the said guidelines;

WHEREAS, the Hon'ble National Green Tribunal, Principal Bench, Delhi in the matter of Application No. 32 of 2012: Rajiv Narayan & Ors Vs. Union of India & Ors, passed orders dated 07/10/2016 to carry out surprise inspection of polluting in Ghaziabad/Sahibabad by joint inspection team of Central Pollution Control Board (CPCB), Uttar Pradesh Pollution Control Board (UP PCB) along with representative from Ministry of Environment, Forest & Climate Change (MoEF&CC);

WHEREAS, in compliance to the said orders of the Hon'ble Tribunal, the joint inspection team of officials representing CPCB, UP PCB and MoEF&CC carried out inspection of 14 industries located in Sahibabad and Ghaziabad (UP) during 07th-11th November, 2016 (list of the industries visited is given at Annexure-I) and filed report to the Hon'ble Tribunal. A copy of the affidavit along with inspection reports is enclosed for ready reference;

WHEREAS, the afore said joint inspection report reveals that :

- (i). 12 of the 14 industries inspected were found to be sending only those categories of hazardous wastes for which authorization has been obtained from UP PCB under the Hazardous & Other Wastes (Management & Transboundary Movement) Rules, 2016 (hereinafter referred as HOWM Rules 2016) notified under the Environment (Protection) Act, 1986;
- (ii). All industries were found to be generating more categories of hazardous wastes than the authorized categories such as Empty Barrels/containers/Liners contaminated with hazardous chemicals/wastes; contaminated cotton rags; Used or spent oil and process specific hazardous wastes;
- (iii). The generation of such unauthorized hazardous wastes though may be less in quantity in an industry but when generated in large number of industries, it may be a significant quantity when taken collectively. Such unauthorized categories of hazardous wastes may have been disposed in open areas outside the industry premise or utilized in un-scientific manner posing environmental impacts besides health risks to waste handlers;
- (iv). Most of the industries are not maintaining daily record with regard to generation and management of hazardous wastes being generated as required under Rule 20(1) of the HOWM Rules 2016. Thus, quantification of hazardous wastes generation may not be ascertained;
- (v). Two of the units ~~do~~ not have authorization with regard to handling, generation, storage, disposal etc. as required under Rule 6 of the Hazardous & Other Wastes (Management & Transboundary Movement) Rules, 2008 and 2016 (HOWM Rules 2016);
- (vi). 03 industries possess expired authorization from UPPCB though have membership of common TSDF (either M/s Uttar Pradesh Waste Management Project (A Division of M/s Ramky Enviro Engineers Ltd.) Kanpur, or M/s Bharat Oil & Waste Management Ltd., Kanpur Dehat);
- (vii). Manifest system as required under Rule 19 of the HOWM Rules 2016 was found to be maintained by the industries for only those hazardous wastes being sent for disposal to common TSDF operators. However, the same is not maintained for other hazardous wastes being transported and disposed by them;

- (viii). Except few, industries are not submitting annual return to UP PCB with regard to generation and management of hazardous wastes in Form 4 as required under Rule 20(2) of the HOWM Rules 2016;
- (ix). Industries are not labelling the packaged hazardous wastes with the requisite information in Form 8 as prescribed under Rule 17 of the of the HOWM Rules 2016, and;
- (x). In some of the industries, hazardous wastes are not being stored under a dedicated covered storage area.

WHEREAS, the Central Government vide Notifications No. S.O. 157(E) of February 27, 1996 and S.O. 730 (E) dated July 10, 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, 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, directions are hereby issued to ensure that:

- (a) Units generating hazardous wastes and not possessing authorisation shall be closed till they obtain authorisations and make arrangement for handling/disposal/recycling/utilization of hazardous wastes in accordance with provisions of the HOWM Rules;
- (b) all hazardous waste generating units in UP States including the aforesaid 14 units inspected in Ghaziabad shall re-inventorise their hazardous wastes being generated and obtain modified authorisations accordingly. Further, the following shall also be enforced immediately:
 - (i) All units shall maintain daily records with regard to generation and management of hazardous wastes being generated as required under Rule 20(1) of the HOWM Rules 2016.
 - (ii) Units, not having their captive hazardous waste disposal facility, shall possess membership with common TSDFs and send their hazardous wastes regularly for disposal by not storing beyond a period of ninety days in accordance with Rule 8 of the HOWM Rules;
 - (iii) Units shall not send their wastes for recycling or utilization to the parties who are not authorised for recycling/utilization for the same.
 - (iv) All units shall maintain manifest system for all types of hazardous waste as required under Rule 19 of the HOWM Rules 2016;
 - (v) All units shall submit annual return to UP PCB with regard to generation and management of hazardous wastes in Form 4 as required under Rule 20(2) of the HOWM Rules 2016;
 - (vi) All units shall label the packaged hazardous wastes with the requisite information in Form 8 as prescribed under Rule 17 of the of the HOWM Rules 2016; and
 - (vii) All units shall store their hazardous wastes in their premises under a dedicated covered storage area.
 - (viii) SPCB shall provide the list of Hazardous Waste generating industries.
- (c) financial penalties are levied on non-complying units in Uttar Pradesh in compliance with provisions stipulated under Rule 23(2) of the HOWM Rules and in accordance with CPCB's published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty".

The action taken report (ATR) shall be submitted to the Central Pollution Control Board within 15 days from the date of issue of these directions.

(S. P. Singh Parihar)
Chairman

Encl.: As above

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 Incharge (Zonal Office-North) , Central Pollution Control Board, Ground Floor, PICUP Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow - 226 010 – **for follow up and ensure compliance of the said directions, please**
- 3) MS, CPCB, Delhi.
- 4) /c IT Division, CPCB, Delhi .



(A. B. Akolkar)