

GOVERNMENT OF HARYANA  
DEPARTMENT OF ENVIRONMENT

**ORDER**

[under clause 16: of the MoEF&CC, Notification dated 28<sup>th</sup> March, 2016 bearing No. G.S.R. 343(E)]

No: 16/17/2016-3EW

Dated: Chandigarh the 18/7/16

**Sub: Appeal preferred under section 16(1) of the Bio-Medical Waste Management Rules, 2016 – Regulating the Bio-Medical Waste Management in the State of Haryana.**

Briefly stated, at various point in time in past, authorization to establish and operate Common Bio-Medical Waste Treatment Facility (CBMWTF) was accorded by the prescribed authority in the State of Haryana for collection, reception, storage, transport, treatment, disposal or any other form of handling of Bio-Medical Waste. At present, there are 11 such authorized CBMWTF operators (hereinafter referred to as 'existing Operators').

2. In the meanwhile, the Central Government published the Bio-Medical Waste Management Rules, 2016 on 28<sup>th</sup> March, 2016 (hereinafter referred to as 'the Rule'). The Rules, apart from making many other provisions, also imposed some additional duties on the Operators by way of either up-grading the existing provisions or introducing some new compliances. For doing so, however, the Rules also prescribed a timeframe. Further, the Rules also prescribed the procedure for authorization to the Operator by the prescribed authority for grant (or denial thereof), refusal to renew, cancellation or suspension of authorization.

3. The Haryana State Pollution Control Board (hereinafter referred to as 'the Board') apparently failed to notify to the Operators, clearly laying down the timeframe, such of the specific counts which were either to be up-graded or introduced afresh. Further, the Board also apparently failed to lay down the policy within which fresh proposal of new authorization would either be entertained or granted.

4. Aggrieved by this, the existing Operators felt that there existed a cause for them to prefer an appeal under section 16(1) of the Rules on following counts:

- i. By giving information and analyzing them while making a comparison with the neighboring State of Punjab, the appellant has tried to demonstrate that the capacity already created in the State of Haryana is much in excess to the requirement to treat the waste being presently generated in Haryana. Thereafter, the appellant has made a case for freezing further grant of authorization in the State of Haryana, as any such grant would make the operations of existing Operators absolutely and utterly unviable economically;
- ii. As the up-gradations warranted by the Rules would require some additional investment to be made and would require some time as well, the existing CBMWTF should be given 2 years of time to up-grade the facilities and during the said interval of 2 years, no new CBMWTF should be granted the authorization by the Board (being the prescribed authority in terms of the Rules).

5. The appellants were given an opportunity of being heard at 11.30 am on 15<sup>th</sup> July by the undersigned. During the course of hearing, they, by and large, reiterated forcefully the averments made in the written memo of Appeal submitted for consideration. They also submitted two documents, namely: (i) A letter (No. B-31011(BMW)/30/93/2013/HWMD

/14081 dated 25.3.2013 written by the Member Secretary of Central Pollution Control Board (CPCB) to the Member Secretary, Chandigarh Pollution Control Committee (CPCC); and (ii) an excerpt from the 'Final and Updated Annual Report – 2013 as on 26.3.2015' of the 'Central Pollution Control Board' dealing with the subject of handling and management of 'Bio-Medical Waste'.

6. The averments so advanced by way of memo of appeal and the submissions made during the personal hearing, while arguing for seeking a decision that no more CBWTF should be permitted to be commissioned in the State of Haryana, are summarized below in brief:

- i. The Central Pollution Control Board (CPCB) has notified guidelines for setting up BMW (Bio-Medical Waste) Facilities – a category to which the CBMWTFs belong, which should ordinarily be taken as guiding principles in this regard, unless there exist compelling reasons or specific circumstances warranting different yardsticks to be adopted. The relevant provision laying down the norms for the optimal number of such facilities is included in para 'D' thereof, which reads as under:

D. COVERAGE AREA OF CBWTF

In any area, only one CBWTF may be allowed to cater up to 10,000 beds at the approved rate by the prescribed authority. A CBWTF shall not be allowed to cater healthcare units situated beyond a radius of 150 km.

However, in an area where 10,000 beds are not available within a radius of 150 km, another CBWTF may be allowed to cater the healthcare units situated outside the said 150 km.

- ii. It has been demonstrated, relying on the data sourced from the report of 'CPCB Status of CBWTF – 2013', that the number of beds in the State of Haryana, in the year 2015 would be approximately 41,150 (a 25% growth on the relevant figure in the year 2013 as included in the CPCB report that projects the number of beds in Haryana at 32,920 beds in 2013). In the neighboring State of Punjab, based on the same projections, reports and figures, it has been projected that the number of beds in 2015 stood at approximately 50,700. It has been averred that
- iii. Punjab has authorized 5 CBWTF whereas in Haryana, 11 CBWTF has already been authorized by the prescribed authority. Further, it has also been averred that the special condition/circumstances of insufficient beds found within the radius of 150 km, and justifying another CBWTF even without meeting the minimum bed requirement of 10,000 beds are not attracted in case of Haryana.
- iv. It has further been averred that as against the Total Installed Capacity of 55.6 MT per day in Haryana (with 11 CBWTF in place), the actual available waste generation in the relevant category was approximately 5.5 MT per day in 2013 and, with an assumed growth of a further 25%, would be approximately 6.9 MT per day in 2015. Thus, at present, the CBWTFs are actually running at capacities running between 10 to 15% of the installed capacity.
- v. Comparison has been made with the State of Punjab, where as against a total of 26.2 MT per day of installed capacity, the respective availability of waste as obtained following the same source and assumptions happens to be 10.9 MT per day and 13.6 MT per day

for 2013 and 2015 respectively. Thus the CBWTFs in Punjab are presently running on capacities over 50% of the installed capacity.

- vi. Attention was drawn to the letter bearing No. B-31011(BMW)/30/93/2013/HWMD/14081 dated 25.3.2013 written by the Member Secretary of CPCB to the Member Secretary, CPCC. This letter is advisory in nature and, while reiterating the norms fixed by the CPCB for fresh authorization of CBWTFs that has been discussed above, the other relevant part thereof reads as under:

‘Permitting establishment of additional CBWTF in a region where a CBWTF is already in operation be considered based on the quantum of waste generated to avoid unhealthy competition among the CBWTFs due to non-availability of adequate quantity of bio-medical waste which can lead to improper disposal, unless the operation is economical viable, and thus there is more possibility for violation of provisions of BMW Rules.

In view of the above said reasons, encouraging more CBWTFs with installed treatment capacity far beyond the waste generated in a particular locality would upset the bio-medical waste management in the State.’

----- ‘Economic viability and feasible operation of the facilities in the State need to be ensured for proper treatment and disposal of bio-medical waste.’

- vii. Attention was also drawn to the excerpts of the updated Annual Report – 2013 of the CPCB (Hazardous Waste Management Division), where in the relevant portion (‘7. Issues and Recommendations on Bio-medical Waste Management’ under S.No. 5) following have been included:

S.No.	Particulars	Issues	Recommendations
1	2	3	4
5	Improper implementation of guidelines for CBWTFs by the SPCBs/PCCs	Some of the States like Haryana, Gujarat and Karnataka are allowing more number of CBWTFs violating the location criteria and coverage area as stipulated under CBWTF guidelines due to which mushrooming of CBWTFs is taking place and leading to court matters.	Additional CBWTFs be allowed in the States/U.T.s only after examining the gap between the bio-medical waste generation & the existing treatment capacity as well as techno-economic viability and feasible operation of the CBWTFs.

By and large, based on these reasons and analysis, a case was forcefully made not to permit any new CBWTF to be commissioned in Haryana as it is not only not required at present, but rather would affect the viability of the existing Operators, some of whom are already operating un-economically, very adversely making them all absolutely unviable.

7. On the other count and in support of their plea, i.e. to permit an additional time duration of 2 years to comply with the requirements of the Rules whereby they have been directed to make improvements in the existing facilities by way of either up-grading the existing provisions or introducing some new facilities, the only argument that they had was that in want of clarity as to whether additional CBWTF would be authorized or not, they kept the up-gradations, etc, on hold as the up-gradations warranted by the Rules would require some additional investment to be made. They preferred the appeal and waited for its outcome to be known before committing to additional expenditure as, as it is their operations were not earning them good dividend, and

uncertainty in the matter of the possibility of grant of additional authorization for CBWTF made their decision making to commit additional investment more risky and tentative.

8. Arguing for the Board, Sh. Sandeep Kumar, AEE, appearing for the Board, made the following submissions on the subject and in response to the arguments preferred by the appellants:

- i. As per the assessment of the Board, the authorized health care facilities in the State of Haryana are about 2,664 (Hospitals with Beds: 2184; Hospitals without Beds: 472; Others (veterinary Hospitals/Research Organizations, etc.: 8) and the total number of beds in Haryana is approximately 40,059, which works out to be approximately 3,641 beds on an average per existing CBWTF. This figure is indeed much less than the prescribed optimal number of beds per facility as 10,000 by the CPCB.
- ii. In addition to the improvements required to be made by the existing CBWTF in terms of the Rules, they are also obliged to make further improvements as conveyed vide letter of CPCB dated 15<sup>th</sup> October, 2015 bearing No. B-31011(BMW)/30/2015/hwmd/12269.

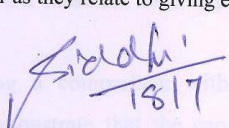
9. Arguments on the issues in question were concluded thereafter.

10. I have given a very thoughtful consideration to the issues in hand, the arguments advanced from the affected parties, the guidelines regulating the authorization of CBWTF, and all other aspects available for consideration. On such a careful consideration, I reach following conclusions:

- i. Ordinarily, the guidelines and modalities suggested by the CPCB should be respected and adhered to by the SPCBs in the matters like one in hand. The guidelines (issued in the matter of establishing and authorizing CBWTFs) and suggestion (given to the CPCC) of the CPCB seems very appropriate and reasonable as it is very holistic, taking into consideration the interest of all stakeholders including the CBWTF operators, the State and the Health Care Facilities. It aims at avoiding unhealthy competition and making the operations economically viable, lest the operator would be tempted to dispose off these wastes in an unsatisfactory manner;
- ii. The case of Haryana has been singled out particularly in the report by listing it one amongst the three defaulting States while recommending, in such like cases, 'to allow additional CBWTFs only after examining the gap between the bio-medical waste generation & the existing treatment capacity as well as techno-economic viability and feasible operation of the CBWTFs';
- iii. As has been demonstrated, the existing capacity of treatment in Haryana is far far in excess to the bio-medical waste being generated at present forcing the existing CBWTFs to operate at capacities much below the economically optimal (viable) capacity;
- iv. On the issue of affording more time to complete the up-gradations warranted by the Rules, it is to be noted that the Rules itself provides for timeframe in certain categories of up-gradations and remains silent about others, thereby implying as expeditiously as possible;
- v. On the count of making further improvements as conveyed vide letter of CPCB dated 15<sup>th</sup> October, 2015 bearing No. B-31011(BMW)/30/2015/hwmd/12269, there is no doubt that the existing CBWTFs are absolutely obliged to make these improvements expeditiously.

11. Based on these, it is, accordingly, ordered that:

- i. The HPCB, in matters of granting authorization to additional CBWTFs, shall be guided by the parameters as suggested in the guidelines issued by CPCB from time to time as a matter of policy;
  - ii. Presently, no additional CBWTF shall be issued authorization by the HPCB till the time the existing CBWTFs are operating within the 'coverage area' norms specified by the CPCB in the BMW treatment facilities guidelines (as included in para 6 above). Further, no request for issue of authorization in this regard shall be entertained and allowed by the HPCB till the time the existing CBWTFs, which would be affected by issue of such additional authorization, do not attain a capacity utilization (the ratio of 'waste available to them for handling' and their respective 'existing treatment capacity') of at the least 75%. This is being done keeping in view the maintaining of the techno-economic viability and feasible operation of the existing CBWTFs;
  - iii. On the issue of affording additional time duration for complying with the up-gradation/compliances, etc, required by the Rules and other directions, wherever the Rules and such other directions (including the items in directions as included in letter of CPCB dated 15<sup>th</sup> October, 2015 bearing No. B-31011(BMW)/30/2015/hwmd/12269) specifies the duration within which the required up-gradation, etc, must be accomplished/complied with, such time frame must be scrupulously met by the existing CBWTFs. However, wherever the Rules and such other directions (including the items in directions as included in letter of CPCB dated 15<sup>th</sup> October, 2015 bearing No. B-31011(BMW)/30/2015/hwmd/12269) do not specifically details the duration within which the required up-gradation/compliances, etc, must be accomplished/complied with, they must be completed/complied with as expeditiously as possible, but in all cases within a period of 18 months counted from the date of issue of this order;
  - iv. In the event any eventuality so arises which requires to remove any difficulty/doubt or to seek any clarification, etc, while giving effect to these order, reference may be made to the Government seeking such clarification or direction as the Government may deem fit to issue in that regard and such clarification or direction must be abided by the HPCB in so far as they relate to giving effect to the subject matter and intent of these orders.
12. Thus concludes the Order.

  
(S.N. Roy)

Administrative Secretary – cum – Principal Secretary,  
Department of Environment, State of Haryana.