

(2011) 03 KAR CK 0226
In the Karnataka High Court
Case No : W.P No. 8569 of 2011

Dr. (Mrs) Parvati S. Hosamani, Doctor Navajeevan Maternity and Nursing Home APPELLANT

Vs

The Karnataka State Pollution Control Board and Others RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Bio-Medical Waste (Management , Bio-Medical Handling) Rules, 1998 — Rule 3 (5), 4, 5

Citation : (2011) 03 KAR CK 0226

Hon'ble Judges : J.S. Khehar, C.J.;A.S. Bopanna, J

Bench : Division Bench

Advocate : B. Ravindra Prasad and Hemant R. Chandanagoudar, for the Appellant;

Final Decision : Dismissed

Judgement

J.S. Khehar, C.J.—Through the instant writ petition, the Petitioner has assailed the order passed on 08.02.2011 by the Karnataka State Pollution Control Board, requiring the Petitioner to close down ail hospital activities. The Managing Director, as also, the employees of the HESCOM have been directed to disconnect the power supply to the Petitioner. This direction is also to be given effect to, forthwith.

2. The issue which is the subject matter of consideration is, effective treatment of bio-medical waste, before the same could be released from the hospital, nursing home, clinic, dispensary, pathological laboratory, blood bank or the like. The term "Bio-Medical Waste" has been defined in Rule 3(5) of the Bio-Medical Waste (Management and Handling) Rules, 1998 (for short the 1998 Rules). Rule 3(5) of the aforesaid Rules is being extracted here under:

"Bio-Medical Waste" means any waste, which is generated during the diagnosis, treatment or immunisation of human beings or animals or in research activities pertaining thereto or In the production or testing of biologicals and including

categories mentioned in Schedule I.

3. The responsibilities and liabilities for management in handling of bio-medical waste have been enumerated in Rules 4 and 5 of the 1998 Rules. Rules 4 and 5 are also accordingly being extracted hereunder:

4. Duty of occupier. It shall be the duty of every occupier of an institution generating bio-medical waste which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment.

5. Treatment and disposal. (1) Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards prescribed in Schedule V. (2) Every occupier, where required, shall set up in accordance with the time-schedule in Schedule VI, requisite bio-medical waste treatment facilities like incinerator, autoclave, microwave system for the treatment of waste, or, ensure requisite treatment or waste at a common waste treatment facility or any other waste treatment facility.

4. It is conceded at the hands of the learned Counsel for the Petitioner that the Petitioner has not put in place, facilities to treat bio-medical waste, in terms of Rules 4 and 5 of the 1998 Rules.

5. During the course of hearing today, learned Counsel for the Petitioner has filed an affidavit. The aforesaid affidavit is un-verified. A perusal of the aforesaid affidavit reveals, that the Petitioner is discharging liquid waste directly to open katcha pit. It also reveals that for the disposal of solid bio-medical waste, the Petitioner has engaged the services of a nongovernmental organization, the particulars of the aforesaid non-governmental organization have not been disclosed. In sum and substance, it is the contention of the learned Counsel for the Petitioner, that he should be provided a 15 days buffer zone, so as to enable him to install adequate measures for the disposal of the biomedical waste produced from the hospital being operated by the Petitioner.

6. In view of the statutory provisions extracted herein-above, we are satisfied, that the claim raised by the Petitioner to assail the impugned order dated 08.02.2011 is wholly misconceived, inasmuch as, if the Petitioner is allowed to run the hospital without taking appropriate measures in respect of the bio-medical waste produced therein, the same would lead to devastating effects for the general public. It is, therefore, not possible for us to accept the challenge raised by the Petitioners, as against the impugned order dated 08.02.2011. For the same reasons as have been indicated herein-above, it is not possible for us to allow the Petitioner to continue the activities of the hospital, till such time as measures are put in place, for treating bio-medical waste produced at the hospital being run by the Petitioner. Even a single day's time cannot be allowed to the Petitioner as against 15 days time sought by the Petitioner.

7. For the reasons indicated herein-above, we find no merit in the instant writ petition and the same is accordingly dismissed.