

(2003) 09 KL CK 0061
In the High Court Of Kerala
Case No : O.P. No. 12877/96

Environment Monitoring Forum and Another	APPELLANT
Vs	
Union of India (UOI) and Others	RESPONDENT

Date of Decision : 19-09-2003

Acts Referred:

Environment (Protection) Act, 1986 — Section 25, 6, 8

Citation : (2003) 09 KL CK 0061

Hon'ble Judges : M. Ramachandran, J

Bench : Single Bench

Advocate : K. Faju Babu and M.U. Vijayalakshmi, for the Appellant; P.S. Sreedharan Pillai, S.C.G.S.C. for Respondent No. 1, P. Nandakumar, Govt. Pleader for Respondent No. 2, N.N. Sugunapalan and Babu Joseph Kuruvatha Zham, for the Respondent

Judgement

M. Ramachandran, J.—The Original Petition had been filed, in public interest, complaining about the inadequacy of methods which are used in disposal of wastes including its proper management. Petitioners are especially concerned about the portion problems of the biomedical wastes and the hospital wastes emanating from the hospitals in the city area, belonging to the private as well as Government sector.

2. Notice had been issued to the Government as also the Corporation. In the report filed on Behalf of the third Respondent-Pollution Control Board, it has been indicated that steps are invoked for enforcement of the directions, but reading the above leads to the conclusion nothing effective has been brought about, compared to the magnitude of the problem.

3. Sri Jaju Babu, Counsel appearing for the Petitioners submits that biomedical wastes are to be appropriately treated and incinerators are necessarily to be installed in respect of hospitals. Such wastes necessarily are to be segregated. Reference was made to the Biomedical Wastes (Management and Control) rules, 1995. In respect of the solid waste management, it is submitted that time has

been granted by the statute for compliance, and the deadline is fast approaching. As submitted by the Counsel, procrastination may lead to a break down, and imaginative and result oriented steps are the need of the hour.

4. It is also seen that the Central Government has, by S.O. 630(E), dated 20th July, 1998 brought about Biomedical Waste (Management and Handling) rules, 1998, in exercise of powers conferred by Sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (Act 29 of 1986). This was not there at the timing of filing the Original Petition. These necessarily also have to be looked into. It is the duty of the occupier of an institution generating biomedical waste (which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank etc.) to take all steps to ensure that such waste is handled without any adverse effect to human health and environment. In compliance with the standards prescribed by Schedule V of the rules, such waste are to be disposed of in accordance with Schedule I. Waste had been categorised and treatment and disposal thereof have been specifically expected to be carried out in the manner prescribed. Human anatomical waste are to be disposed of by incineration or deep burial (below five meters). This is the case with reference to animal waste as well. Microbiology and biotechnology waste are to be disposed of by local autoclaving or microwaving or by incineration. Waste sharps like needles, syringes, scalpels, blades, glass etc., are to be disinfected and shredded or mutilated. Discarded medicines, solid waste and liquid waste also are to be appropriately treated as prescribed by the Schedule. A time schedule also has been prescribed, as could be seen from Schedule VI, and in respect of hospitals and nursing homes in towns with a population of 30 lakhs and above, the process was to be completed by 31st of December, 1999. In respect of other institutions, the deadline varies from 31st of December, 1999 to 31st of December, 2002. Thus, the time fixed for compliance of the rules is over.

5. The rules also prescribe that biomedical waste shall not be mixed with other wastes, and they are to be segregated into containers or bags at the point of generation. Transportation of such untreated waste shall be only in such vehicles as may be authorised by the competent authority and they are not to be kept stored beyond a period of 48 hours. There is also prescription for formation of an authority and the State has to nominate members constituting it, as implementing organ. Every occupier, referred to earlier, who is responsible for generating or collecting biomedical waste in any manner, are to make an application to the authority for grant of such authorisation for dealing with them. The rules also refer to formation of advisory committees.

6. In fact the rules show the anxiety of the Government to see that such waste are appropriately dealt with and disposed of without causing inconvenience or health hazard for the general public and environment. There is lethargy in enforcement of the statutory provisions, as the facts would definitely indicate. In view of the stand taken by the Respondents, that they will step up the efforts

and enforcement measures and since individual hospitals have not been impleaded as parties to there proceedings, I do not think that apart from such general directions, specific orders for enforcement or compliance cannot be issued.

7. The Government, the Corporation and the Pollution Control Board should see to it that the provisions of Act and rules for the management and disposal of waste of whatever origin or nature will be efficiently carried out, in letter and spirit. Follow up action requires to be monitored. The Petitioners would be free to take up the issues if there is no appropriate follow lip action in future.

The Original Petition is disposed of with the above observation. Copies of this judgment are to be forwarded to the Government, Directorate of Health Services and the Cochin Corporation expeditiously.