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The Biomedical Waste (Management and Handling) Rules, 1998: An Analysis in the Light of the Legal Framework

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ABSTRACT

Bio Medical Waste (Management and Handling) Rules was enacted in July 1998. As per the rules it is the duty of every 'occupier' i.e. referred to the person having control over the institution or its respective premises to take appropriate steps thereby ensuring the generated waste is handled without causing adverse consequences to human health or their environment. It refers to any waste that is generated during the process of initial diagnosis, treatment or immunization of human beings or animals or in research-based activities relating thereto or in the overall production or testing of biologicals and includes categories stated clearly in Schedule 1. Furthermore the biomedical waste management policy that is followed at AIIMS is based on Biological Waste Management Rules 2016, notified by the Ministry of Environment, Forest and Climatic Changes, the Government of India as per the official gazette notification dated as 28th March 2016. However, prior to the notification, AIIMS had been following the Bio-medical Waste (Management & Handling) Rules issued in 1998 was notified by the same ministry. In the present scenario, the biomedical waste management at AIIMS has been subcontracted to the common biomedical waste management facility, M/S Biotic Waste Solutions Pvt. Ltd.

I. INTRODUCTION

The wastes generated in the site of hospitals were disposed of in the garbage dumps maintained within its premises or municipal bins that concern the general problems of the public. Major operating cities like Bombay and Delhi had been facing an analogous situation and despite keeping big dues put forward by hospital authorities that they had been taking ample care, the real situation was that wastes produced by hospitals were greatly mishandled. To protect this, the Central Government issued the above rules that took into consideration of both individuals and institutions that help create, assemble, obtain, stockpile, transference, indulgence, arrange or handle such wastes. The initial rule should be substituted by the new rule whose draft has

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been alerted and is in anticipation of its approval.

Furthermore, Rule 3(5) states 'Bio-medical waste' that signifies wastes caused in the initial process of diagnosis, treatment, or immunization of humans, animals, or research processes applied to categories aforementioned in Schedule 1 wherein it is the initial responsibility of every occupier to ensure every institution engendering bio-medical waste to enact the required steps such the generated wastes are handled without affecting the environment negatively and consists of different infirmaries, nursing centers, clinics, dispensaries, animal husbandry, laboratories dealing with pathogens, blood banks, etc. The untreated waste should not be kept beyond 48 hours.

The above Rule also makes available that every occupier wherein required is expected to initiate the necessary waste treatment conveniences such as incinerator, autoclave, microwave systems dealing with waste treatment facilities, and other related treatments. The above Rule further recommends that any prescribed authority has to be shaped by the government that would help implement the said rules which would eventually authorize the occupiers to manage the bio-medical wastes and such prescribed authorities would operate under control of the State Government or the Government of the Union Territories. An Advisory Committee would be constituted and would consist of specialized individuals taking care of medicinal and management purposes, animal care and veterinary sciences, management of the environment, administration at the municipal level, other departments and organizations that consist of non-governmental organizations wherein representatives of the State Pollution Board/ Pollution Control Committee play a crucial role in the overall working. Furthermore, on the advice of the Committee, the State Government and the Union Territories as the case might be and the prescribed authority relating to various implementations formulated by the Rules.²

What is Biomedical Waste?: Such wastes are generated by any product related to healthcare works in the respective doctor's surgeries, dentists, hospitals, and laboratories and can include any material that comes into contact relating to the body's diagnosis, research, drug administration, and other related treatments. It might be either infectious or potentially infectious and is often contaminated with bodily fluids. However, the term could thereby refer to general wastes that usually arise from medical practices and definite waste streams particularly found in the medical industries.

² Dr. Sukanta K. Nanda, *Environmental Law* 240-41 (4th ed. 2015).

II. MAJOR SOURCES OF BIOMEDICAL WASTES

Some of the major sources concerning healthcare wastes are as follows:-

- ❖ Different hospitals and facilities offering health maintenance
- ❖ Laboratories and centers involving research
- ❖ Memorials and autopsy centers
- ❖ Researches conducted on animals and research laboratories that engage in testing procedures
- ❖ Blood banks and services taking care of the collection
- ❖ Nursing homes that take care of the elderly.³

Scope and Application: The enacted Rules help regulate the codified procedure that comprises of licensing and reporting systems wherein wastes thus generated by infirmaries, surgeries, blood banks, and other institutions. The above Rules spread on those persons who help produce, gather, obtain, stock, conveyance, indulgence, arrange or handle bio-medical wastes.

Definitions: Rule 3 specifies the relevant definitions which are listed as follows:

Schedule 1 mentions the basic ten categories dealing with bio-medical waste that consists of i) Both Human and Anatomical Wastes ii) Animal Wastes iii) Microbiology and Biotechnology Wastes iv) Waste Sharps v) Medications and Cytotoxic Drugs that are usually discarded vi) Soiled Wastes vii) Solidified Wastes viii) Liquidities Wastes ix) Incineration Ash x) Chemical Wastes.

“Biologicals” refers to those arrangements made using organisms or micro-organisms or the creation of absorption and organic responses that help in the process of diagnosis, immunization, or treatments relating to humans, animals, or activities relating to research.

“Bio-medical waste treatment facility” refers to those facilities in which handling, clearance of bio-medical waste, or procedure conducting as well as discarding both approved and agreed in the appellation of the institution and/or its grounds.

“Occupier” that exists concerning an institution creating such wastes that consist of a specialized infirmary, treatment home, hospitals, veterinary surgeon, animal husbandry, laboratories dealing with pathological elements, blood banks by relative names relating to an individual who exerts regulation of the institution and its premises.

³ Biomedical Waste Management; Treatment & Disposal, Ubong Edet, HSEWatch (February 5 2021), <https://hsewatch.com/biomedical-waste-management>.

“Operator of a bio-medical waste facility” refers to an individual who owns, controls, and operates a facility related to the collection, response, packing, conveyance, handling, clearance, and other forms that deal with the handling of such wastes.

Duty of the Occupier- The occupier working in an institution takes care of bio-medical wastes to ensure relevant measures such that the waste is handled with care without causing any negative impact in the light of human wellbeing and their milieu.

APPROPRIATE TREATMENT AND DISPOSAL OF BIO-MEDICAL WASTES

The wastes produced should be handled with care after proper treatment and disposal. Schedule 1 specifies various methods of treatment of wastes and standards that had been listed in Schedule V of the Rules. Schedule 1 enlists various methods that help in the disposal of bio-medical wastes as per nature which are i) incineration ii) deep burial iii) local autoclaving iv) micro-waving v) mutilation vi) landfill disposals vii) disinfection viii) chemical treatments conferring to the nature of related categories on condition of the schedule.

PROPER SEGREGATION, PACKING, TRANSPORTATION, AND STORAGE OF BIO-MEDICAL WASTES

Rule 6 makes available that bio-medical wastes are not to be incorporated with other wastes and segregated to the exact point of generating prior packing, transport, handling, and throwing away. Furthermore, the containers should be accordingly labeled to the rules specified in Schedule III. Once the container is transferred from its initial grounds it is expected to carry required information for the transference of bio-medical wastes as enlisted in Schedule IV. Whereas the waste that goes untreated should be transferred only in those vehicles approved by its competent authority. untreated wastes should not be stored beyond 48 hours. Moreover, if the wastes are stored beyond the prescribed time limit it should be ensured that permission should be taken from the authorized person, and measures that safeguard the wastes should not cause adverse consequences on human development and the natural setting that surrounds them. The Municipalities are handed the responsibility to pick up transport segregated non-bio-medical wastes that are accumulated in hospitals and nursing homes accordingly treated bio-medical wastes that are usually disposed at the dumpsites.

ADVISORY COMMITTEE

Rule 10 expects every occupier/ operator that helps maintain and submit its official report in front of the Prescribed Authority latest by 31st January every year. The report should include all pertinent material in terms of groupings and extents related to bio-medical wastes looked

after in the scheduled time. The Authority would then forward the information addressing the Central Pollution Control Board by 31st March.

MAINTENANCE OF RECORDS

Taken care of by authorized individuals who look after production, collection, reception, packing, transportation, handling, removal, and other forms of managing such wastes being accumulated following the rules and guidelines issued thereafter.

REPORTING OF ACCIDENTS

Whenever an accident takes place in an institution or facility or respective sites wherein bio-medical wastes are handled or during the process of their transportation, the person authorized would thereby report the accident to the Prescribed Authority.

APPEAL

Specifically, Rule 13(1) mandates the save on condition which is stated in sub-rule (2) wherein an individual is aggrieved by the Prescribed Authority's order that eventually favors an appeal within thirty days. The given order is expected to be communicated to him within the expected time that the Government would find appropriate and necessary. Hence, the authority would then initiate the appeal after the expiry of the time, in exceptional cases in which the appellant is forbidden by adequate causes that might surface from a substantial appeal taking place in prearranged times.⁴

COMMON DISPOSAL/ INCINERATION SITES

Rule 14 was inserted in the year 2000, states that municipal corporations, boards, or urban local bodies are accountable provided that suitable disposal/ incineration sites operating under its jurisdiction. The areas functioning outside the jurisdiction of Municipal bodies have the responsibility of occupiers generating wastes' operators of bio-medical treatment facilities that would help allocate suitable sites, individuals, or an association that complies with the provisions stated by the Rules.

III. POLLUTION WATCHDOG HAS RELEASED PROPER GUIDELINES TO HANDLE COVID-19 BIOMEDICAL WASTES

The Central Pollution Control Board (CPCB) had an unrestricted guiding principle that ensures proper management, treatment, and safe removal of bio-medical waste that is mostly generated in the ongoing process of identification, treatment, and confinement of patients either

⁴ P.S.JASWAL & NISHTHA JASWAL, *Environmental Law*, 430-31 (3rd ed. 2011).

confirmed or suspended to have come in contact with the virus. The SARS-Co-V-2 has been solemnly accountable behind the occurrence of the pandemic-like situation that has quickly spread across 190 countries whereas the remaining 334,000 cases have already been confirmed and were reported at the global sphere on 24th March 2020 following WHO's proposed guidelines. The above scenario was foremost reported in China with 14,625 people have lost their lives owing to the novel coronavirus. Besides, 20,864 samples were collected from 19,974 individuals who had been tested for the deadly virus on the same date. For isolation purposes for patients dealing with covid symptoms the guidelines ensure rules concerning biomedical wastes addressed as a precaution, double-layered bags that generate waste accumulation. Likewise, the CPCB recommended steps concerning the collection of samples and laboratories for patients suspended with symptoms. Even if waste is accumulated in small amounts they would still be required to abide by stricter steps that initiate safe management and suitable waste disposal.⁵

⁵ Pollution watchdog releases guidelines to handle COVID-19 biomedical waste, Mayank Aggarwal, MONGABAY (March 24 2020) <https://india.mongabay.com/2020/03/pollution-watchdog-releases-guidelines-to-handle-covid-19-biomedical-waste/>.