

Item No. 07

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 29/2020

Avani Mishra

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 08.01.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Ms. Avani Mishra, Applicant in person
Respondent(s): Ms. Pusshp Gupta, Advocate for MoEF&CC
Mr. Balendu Shekhar, Advocate for CPCB

ORDER

1. Grievance in this application is against unchecked use of plastic pens having adverse impact on the environment. It is submitted that 91 per cent of the plastic waste so generated is not recycled. 1600 to 2400 million pieces are brought to the market every year. The extended producers' liability is not being duly enforced. The applicant has suggested that policy of 'buy back' be introduced.

2. The matter was earlier considered on 25.02.2020 and it was directed:

"Since a connected matter dealing with the enforcement of 'extended producers liability' in respect of plastic is being separately considered by this Tribunal in Execution Application No. 13/2019 in Original Application No. 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors., fixed for hearing on 29.04.2020, the present matter can be considered on the same date. To enable such consideration, we require a response on the subject from the MoEF&CC and the CPCB before the next date by email at judicial-ngt@gov.in.

A copy of this order be sent to the MoEF&CC and the CPCB by email for compliance."

3. The matter was last considered on 10.09.2020 in the light of report of the CPCB dated 11.06.2020 as follows:-

“1&2...xxx.....xxx.....xxx

3. The CPCB has filed a report on 11.06.2020 inter-alia stating as follows:

“The items covered under EPR in PWM Rules, 2018 are multi-layered plastic sachet or pouches or packaging, thus, items such as plastic pens and other plastic products have not been covered under Extended Producers Liabilities.

2.2. National Framework for Extended Producers Responsibility (EPR):

National Framework for EPR under PWM Rules, 2018 is under consideration at MoEF&CC. CPCB has communicated to MoEF&CC to clearly enumerate the items to be covered under EPR.”

4. Thereafter, an affidavit has been filed on 09.09.2020 on behalf of the MoEF&CC, referring to the Recycled Plastic Manufacture and Usage Rules, 1999 and Plastic Waste Management Rules, 2016. It is further mentioned that three different models have been suggested for the Producers, Importers and Brand Owners to implement the EPR mechanism.

5. Since as noted in EA 13/2019 in OA 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors., listed today, the issue still does not appear to have been finalized, further action taken report in this matter may be furnished before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”

4. The applicant in person submits that 27 lakh pens are produced per day and it is not possible for the Local Bodies to collect and treat the waste as contemplated under the rules. The cost of refill is high which encourages purchase of fresh pens and consumerism instead of going for refills to avoid waste. The waste is at times burnt causing pollution. There is, thus, policy gap as pens do not find specific mention in the policies on waste management.

5. The matter has also been dealt with by a separate order passed today in E.A. 13/2019 in OA 247/2017, Central Pollution Control Board v.

State of Andaman & Nicobar & Ors. Thereby, directions have been issued to finalize the EPR regime by the MoEF&CC and to the CPCB to coordinate with the State PCBs and State Level Monitoring Committees, who in turn have to coordinate with the Local Bodies, Gram Panchayats, Waste Generators, Producers, Importers, Brand Owners Recyclers, Manufactures, Retailers and Street Vendors. Even though pen is not specifically mentioned under the rules, the same is certainly covered by definition of 'plastic' under Rule 3 (o) of the Plastic Waste Management Rule, 2016. Thus, pen is also covered by the statutory framework.

Accordingly, this application will also stand disposed of in terms of the directions already issued in *E.A. 13/2019 in OA 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors.*

A copy of this order be forwarded to the MoEF&CC and the CPCB by email for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 08, 2021
O.A. No. 29/2020
A