A CRITICAL ANALYSIS OF THE LEGAL CONTROL MECHANISM FOR SOLID WASTE MANAGEMENT

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ABSTRACT

Nowadays the world is concerned about the better ecology for tomorrow. This has started to look to the best ways in managing the various kinds of wastes and methods of its disposal. Managing the perishable waste thrown out by the households and others has unfold its importance are nevertheless posing hazardous threat to the human as well as to the floura and fauna. Solid waste is one of the major problem all over the world. Mostly, it is generated in urban areas at a very large extent. Therefore, there needs a strict legislation to control this menace. To curb this menance, world community has made efforts from Stockholm to Johansburg Declaration. In India, the National Environment Policy, 2006 while suggesting measures for controlling various forms of environmental pollution lays emphasis on the need for collection and treatment systems for recycling wastes and devising measures for environmentally safe disposal of residues. The Ministry of Environment and Forestry in the exercise of the powers conferred under Sections 3, 6 and 25 of Environment (Protection) Act, 1986 has made Solid Waste Management Rules, 2016 to regulate the management and handling of solid waste. But, these rules are not much significant for the control of solid waste in one way or others. Generally this paper will critically examine the legal control mechanism for solid waste management and in particular the Solid Waste Management Rules, 2016.

"If we care nature, it can be rich, bountiful and inexhaustible."

H. H. Dalai Lama

INTRODUCTION

An inevitable consequence of development and industrial progress is generation of waste. Among all solid wastes are the major problems througout the world. Therefore, efficient waste management is a matter of international concern and countries have set up robust regulatory solid waste management regimes for balancing the objectives of development and environment sustainability. In India, the National Environment Policy, 2006 while suggesting measures for controlling various forms of environmental pollution lays emphasis on the need for collection and treatment systems for recycling solid wastes and devising measures for environmentally safe disposal of residues. In India, waste management is governed by various sub-ordinate legislations and the Ministry of Environment, Forest and Climate Change, Government of India in conjunct with State Pollution Control Boards of different States administer the gamut of waste management regulations.

At present 62 million tonnes of solid waste is generated in the country, which is expected to go up to about 165 million tonnes by 2030. But only about 75-80% of the municipal waste gets collected and only 22-28% of this waste is processed and treated. Hence, solid waste management is a major problem across India as untreated waste disposed in the open has led to environment pollution and many other diseases. Bearing the essence in mind and the increased levels of solid waste generation as a by-product of development, the Parliament have made Solid Waste (Management and Handling) Rules in 2000 which was further amended in 2016 and named "Solid Waste Management Rules, 2016" for regulating the manner of disposal and dealing with generated solid waste are made by under the umbrella law of Environment Protection Act, 1986.

WHAT IS SOLID WASTE

The very first thing comes into one's mind that, what is solid waste? And what is the sources of solid waste? For answer this many Acts and Rules made by the Legislature and dictionary have defined the term "Solid Waste". "Solid waste" is the term used internationally to describe non-liquid waste materials arising from domestic, trade, commercial, industrial, agricultural, mining activities and from public services. Solid wastes comprise countless different materials such as dust, food wastes, packaging in the form of paper, plastic, metals or glass, discarded clothing and furnishing, garden wastes, construction wastes, hazardous and radioactive wastes,

bio-medical wastes and electronic wastes. The table 1 shown below give the details of solid waste generated and the sources of such waste.

"Solid Waste" means and includes solid or semi-solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and market waste and other non residential wastes, street sweepings, silt removed or collected from the surface drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste and e-waste, battery waste, radio-active waste generated in the area under the local authorities.

Table 1: The table summerises the classification of wastes and their sources as follows:

Types	Kind of Wastes	Source
Garbage	Food waste, slaughter houses, canning, old newspapers, plastic items, bottles, discarded papers, wood, glass, old appliances and broken toys etc.	Households, Hotels, Institutions, market places, offices, Restaurants, schools, stores and other public places.
Rubbish	Combustible wastes: paper, cardboard, textiles, boxes, plastic, rags, bedding, wood, furniture, cloth, rubber, leather and garden wastes etc. Non-combustible wastes: ferrous and other nonferrous metals, glass, ceramics, stones, dirt, masonry, chemicals, tin cans, aluminum cans, crockery etc.	Households, Hotels, Institutions, market places, offices, Restaurants, schools etc.

Ashes	Residues of the combustion of solid fuels for heating and cooking or incineration of solid waste by municipal.	Households, Hotels, Restaurants, schools etc.
Large waste	Dirt, pipes, lumber, masonry, bricks, plaster, roofing, broken, wood, steel, ceramics, stones, rocks, pebbles, shingles, plumbing, concrete, wire and insulating materials etc.	Construction and demolition rubble.
Special wastes	Street sweepings, roadside litter, litter from municipal litter containers, catch-basin debris, dead animals, and abandoned vehicles.	Households, streets, gerdens etc.
Industrial wastes	Sand, paint, chemical, metal scraps, shavings, etc.	Factories, power Plants and industries etc.
Agricultural waste	Farm waste, crop residues, cattle dung and excreta, dropped fruits and vegetable wastes.	Livestock, farms, horticulture, market gardens and seedling nurseries.
Hazardous waste	paints, chemicals, tires, batteries, light bulbs, electrical appliances, fluorescent lamps, aerosol spray cans, and fertilizers.	Households, hospitals, institutions, stores, industry etc.
Sewage wastes	Screening, settled solids, sludge etc.	Sewage treatment plants and septic tanks.

In the ancient time people are only limited upto collection of food. At that time they are not thinking about houses, cloths or other things, they wounder from one place to others in search of food. Thus, solid wastes produced by them were very small. With the changes in living behaviour of human being, they developed new technologies for receiving there basic needs. This also lead to produce solid wastes in one way or other. But with the industrial revolution, many urban areas were established and the population density increases in urban areas which results new sources of wastes such as shops, institutions and factories. Many changes have taken place during this period, the character of the solid wastes has altered in line with rising living standrads. With the increasing use of science and technology in the name of development lead great havoc to life on earth. Unbridled use of science and technology has given birth to many problems including the problem of eco-imbalances and environmental degradation. With the advancement of science and technology, this problem has assumed threatening dimension.

Many International Conventions have been held since 20th Century on the issues and for protection of environment due to hazardous wastes in the world. First Convention of its kind is Basel Convention on Control of Transboundary Movement of Hazardous waste and their disposal. Then, Rotterdam Convention on Prior Informed Consent Procedure for certain Chemicals and Pesticides in International trade; Stockholm Convention on Persistent Organic Pollutants and the Minamata Convention on Mercury; Montreal Protocol and Kigali agreement on emission of hydrofluorocarbons etc. have been held time-to-time.

IMPACT OF SOLID WASTE ON HUMAN AND ENVIRONMENT

The improper handling of wastes and also dumping in open may make the place ugly. It may also cause many health related problems. Unattended piles of waste attract flies, mosquitoes and other insects and rodents, which transmit diseases to human beings. The common diseases caused by poor solid waste disposal methods are Cholera, Hepatitis, Dysentery, Typhoid, Malaria, Yellow Fever, Dengue, Tuberculosis and many more. Health problems are more severe in urban areas as compared to rural areas due to poor solid waste management methods. Burning of domestic wastes viz. Cans, plastics, radioactive materials and batteries produce furans, dioxins and polychlorinated biphenyls that are harmful to human beings.

Industrial solid wastes release toxic metals and hazardous materials which affect soil characteristics and productivity of soils when they are dumped on the soil and also contaminate the groundwater.

SOLID WASTE MANAGEMENT RULES, 2016

The very first step to curb the problem of solid waste was taken by The Ministry of Environment and Forestry in 2000. It made Municipal Solid Wastes (Management and Handling) Rules, 2000 in the exercise of the powers conferred under Sections 3, 6 and 25, Environment (Protection) Act, 1986 to regulate the management and handling of municipal solid wastes. But these rules have not much significance and have some loopholes under this. So, there must be need to amend these rules and accordingly it was amended in 2016 known as Solid Waste Management Rules, 2016. These rules will replace the Municipal Solid Waste (Management and Handling) Rules, 2000, which have been in place for the past 16 years.

SALIENT FEATURES

The Solid Waste Management Rules have several Pioneering features.

1) The jurisdiction of the rules have been extended beyond Municipal area to cover, outgrowths in urban agglomerations, census towns, notified industrial townships, areas under the control of Indian Railways, airports, airbase, Port and harbour, defense establishments, special economic zones, State and Central government organizations, places of pilgrims, religious & historical importance .
2) In new rules the source segregation of waste has been mandated to channelize the waste to wealth by recovery, reuse and recycle. Every waste generator shall segregate and store the waste generated by them into three separate stems viz. Wet, dry and hazardous waste.
3) It aims to integrate waste pickers and waste dealers in the formal system with the help of State Governments and Self Help Group.

4) The new rules have given power to the local bodies across India to decide the user fees. Municipal authorities will levy user fees for collection, disposal and processing from bulk generators.
5) It mandates all manufacturers, brand owners or marketing companies of sanitary napkin should educate the masses about wrapping and disposing of their products. Now burning of solid wastes and biomass is a crime and will be dealt with severely under the Environment Protection Act, 1986.
6) Ministry of Power shall fix tariff or charges for the power generated from the Waste to Energy plants based on solid waste and ensure compulsory purchase of power generated from such Waste to Energy plants by DISCOMs . This will make the waste to energy plants economically viable and improve the gainful utilization of waste.
7) Integration of Waste pickers/ Self Help Groups in waste management will improve the collection, segregation and recovery of reusable etc. Also, imposition of user charge and fine will improve waste collection and management and strengthen the financial position of local authority.
8) The SWM Rules 2016 provide for detailed criteria for setting-up solid waste processing and treatment facility, solid waste management in hilly areas, for waste to energy process, for Sanitary Landfills, for site selection, development of facilities at the sanitary landfills, specifications for land filling operations and closure on completion of landfilling, pollution prevention, Closure and Rehabilitation of Old Dumps etc.

CRITICISM

No doubt the Central Government have made the new Solid Waste Management Rules for the protection of environment as well as human beings, but these rules have some loopholes in its implementation. These rules are criticised on the points as:

1) The Central and State Governments have not so far taken the existing rules seriously.
2) Even where environmentally conscious citizens segregate at source, the chain of management dumps it all in landfills.

3) The Solid Waste Management Rules, 2016 explicitly stating that bye-laws incorporating the provisions of the Rules have to be framed within one year of notification, but no such laws have been framed so far.
4) Over reliance on waste-to-energy plants goes against the spirit of decentralization. They are pollution source and affect livelihood of ragpickers. It also require high voltage energy to melt the non recyclable waste.
5) No clear directions on how to integrate ragpickers into the waste management chain, incentives for them are not spelt out while punitive measures are there and also these rules have no binding force.
6) The quantum of penalty has not been specified under these rules.
7) The limitation of power of local authorities, who levy charges/fee for the collection of solid waste, has not been specified and also no upper limit has been mentioned.
8) There are not mentions about that who will provide the three kinds of dustbin for the collection of wet, dry and non-biodegradable waste at every household and other premises.

CONCLUSION

The Government have took initiave toward environment protection in general and solid waste management in particular. If wet waste is seperated from the rest and produce good compost, which could transform cities and towns into clean and green havens filled with trees, gardens, lakes and rivers. It would also salvage millions of tonnes of recyclable plastic, precious metals and other materials. To make India open Defecation Free and Clean by 2nd October, 2019, the Solid Waste Management Rules should be strictly implemented not only in urban areas but throughout the country.

Educational institutions, Non-Governmental Organisations and the mass media should be involved, to create an environmental consciousness among the people, regarding the adverse effect of solid waste on human life and society. Without this awareness and without people's participation, no programme of solid waste management will be successful.

The SWM Rules, 2016 diminish hopes in pushing for adoption of a decentralised mechanism for solid waste management. However, it would be challenging to see how segregation at source shall work on the ground. A massive awareness campaign in association with communities, NGOs,

students and other stakeholders needs to be planned to push for better implementation of these rules. The Rules need to focus on making solid waste management a people's movement by taking the issues, concerns and management of solid waste to citizens and grass-roots.

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