

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR
&
THE HONOURABLE MR. JUSTICE S.MANU

Tuesday, the 10th day of December 2024 / 19th Agrahayana, 1946
WP(C) NO. 16253 OF 2023(S)

PETITIONER:

SUDHAKARAN.K.V, AGED 63 YEARS, SON OF VELAYUDHAN,
NOW RESIDING AT KUNNATHU VALAPPIL HOUSE,
KOLATHUPRAMBIL, OTHUKKUNGAL, MALAPPURAM - 676 528.

RESPONDENTS:

1. CENTRAL POLLUTION CONTROL BOARD, REPRESENTED BY THE DIVISIONAL HEAD, COMPOSTABLE DIVISION, PARIVESH BHAVAN, EAST ARJUN NAGAR, DELHI - 110 032.
2. THE KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS MEMBER SECRETARY, PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
3. STATE OF KERALA, REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY, ENVIRONMENTAL DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
4. SPROUT PRIVATE LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR SANTHOSH PHILIP, PARAMBATTE HOUSE, KAITHPURAM.P.O. MANDAPAM, SREEKANDAPURAM, KANNUR - 670 631.

ADDITIONAL R5 IMPEADED

5. K.PRABHAKARAN, AGED 72 YEARS, S/O. KUMARAN,
RESIDING IN SWASRAYA MANDIR, MATTANCHERRY, KOCHI- 682 002,
SECRETARY, SWASRAYA, MATTANCHERRY, KOCHI- 682 002
ADDL. R5 IS IMPEADED AS PER ORDER DATED 09/07/2024
IN I.A 1/2023 IN WP(C).

Writ Petition (Civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an interim order directing the respondent 2nd and 3rd respondents to take strict and stringent action against the producers and manufacturers of cups, plates, cover and other products who do not have the requisite registration from the Central Pollution Control Board as contemplated under Rule 13 of the Plastic Waste Management Rules, 2016 pending the disposal of the above Writ Petition.

P.T.0

This petition coming again on for orders upon perusing the petition and the affidavit filed in support of WP(C), this Court's orders dated 24/05/2023, 22/10/2024 & 15/11/2024 and upon hearing the arguments of SRI. P.B.SAHASRANAMAN (SR.) along with M/S. T.S.HARIKUMAR & SANAND RAMAKRISHNAN, Advocates for the petitioner, M/S. RAAJESH S.SUBRAHMANIAN & M.AJAY, Advocates for R1, SRI.T.NAVEEN, STANDING COUNSEL for R2, SRI. V.TEKCHAND, SENIOR GOVERNMENT PLEADER for R3, M/S. ABHIJIT, PRAVEEN.H, K.S.SMITHA, AMAL DEV D & T.T.SHANIBA, Advocates for R4 and of SRI. G.HARIHARAN, Advocate for Addl. R5, the court passed the following:

P.T.0



NITIN JAMDAR, C. J. & S. MANU, J.

W. P. (C) No. 16253 of 2023

Dated this the 10th day of December, 2024

ORDER

Nitin Jamdar, C. J.

Heard Mr. P. B. Sahasranaman, learned counsel for the Petitioner, Mr. M. Ajay, learned counsel for the Central Pollution Control Board, Mr. T. Naveen, learned counsel for the Kerala State Pollution Control Board, Mr. Abhijit, learned counsel representing Mr. Praveen H., learned counsel for Respondent No. 4 and Mr. V. Tekchand, learned Senior Government Pleader appearing for the State.

2. Respondent No. 1 is the Central Pollution Control Board, Respondent No. 2 is the Kerala State Pollution Control Board, Respondent No. 3 is the Additional Chief Secretary, Environmental Department of the State, Respondent No. 4 is a private manufacturer, and Respondent No. 5 is a private party joined as additional Respondent.

3. When the petition came up on board on 24 May 2023, notice was issued to Respondent No. 4, and as a first measure, the Court directed Respondent No. 2 to depute the Regional Officer / Environmental Engineer to inspect the premises of Respondent No. 4. Thereafter, on 22 October 2024 and 15 November 2024, further orders were passed.

4. Rule 13 of the Plastic Waste Management Rules, 2016 (Rules of 2016) provides for the registration of producers, recyclers and manufacturers carrying out the business of carry bags or recycled plastic bags or multilayered packaging. If they are sold without complying with the Rules of 2016, action is warranted against such manufacturers, retailers, and vendors. In this Public Interest Litigation, the Petitioner has raised an issue regarding the failure of the Respondent Authorities to take action against the manufacturers and others who are carrying out business without registration under the Rules of 2016.

5. Petitioner has given an example of Respondent No. 4 as one such violator. On an earlier occasion, learned counsel for Respondent No. 4 had submitted that Respondent No. 4 is manufacturing paper cups which are 100% biodegradable, compostable and recyclable, and the Central Pollution Control Board has approved it. According to the Petitioner, in the list of approved manufacturers published by the Kerala State Pollution Control Board, the name of Respondent No. 4 does not appear. This aspect will have to be made clear by the Kerala State Pollution Control Board. However, we propose to issue certain interim directions on the larger issue.

6. On 4 February 2011, the Government of India issued Plastic Waste (Management and Handling) Rules, 2011, under the Environment Protection Act, 1986 (the Act of 1986). These Rules provided a regulatory framework for managing plastic waste generated in the country. A need was felt to implement these Rules more effectively and to give thrust on plastic waste minimisation, source

segregation, and recycling, involving waste pickers, recyclers and waste processors in the collection of plastic waste fraction either from households or any other source of its generation or intermediate material recovery facility and adopt polluter's pay principle for the sustainability of the waste management system; the Central Government reviewed the existing Rules. Thereafter, in the exercise of the powers conferred by Sections 6, 8 and 25 of the Act of 1986, the draft rules, namely, the Plastic Waste Management Rules, 2015, were published by the Government of India and after receiving suggestions in the exercise of powers under Sections 3, 6 and 25 of the Act of 1986, the Rules of 2016 were brought into force on 18 March 2016. These Rules have undergone amendment from time to time, the last being 14 March 2024. These Rules apply to every waste generator, local body, Grama Panchayat, manufacturer, importer and producer.

7. Rule 3(o) defines plastic to mean a material which contains as an essential ingredient a high polymer such as polyethylene terephthalate, high-density polyethylene, Vinyl, low-density polyethylene, polypropylene, polystyrene resins, multi-materials like acrylonitrile butadiene styrene, polyphenylene oxide, polycarbonate, Polybutylene terephthalate. Plastic packaging is defined under Rule 3(oa) to mean material made by using plastics for protecting, preserving, storing, and transporting products in various ways. Carry bags, which are defined under Section 3 to mean bags covered under Category II of plastic packaging – Clause (5.1) (II), given in Schedule – II made from plastic material or compostable plastic or biodegradable plastic, used to carry or dispensing commodities, which have a self-carrying feature but do not

include bags that constitute or form an integral part of the packaging in which goods are sealed before use. Multilayered packaging under Section 3(n) is defined to mean any material used or to be used for packaging and having at least one layer of plastic as the main ingredient in combination with one or more layers of materials such as paper, paper board, polymeric materials, or aluminium foil, either in the form of a laminate or co-extruded structure. Rule 4 of the Rules of 2016 stipulates that the manufacture, import, stocking, distribution, sale and use of carry bags, plastic sheets or like, or cover made of plastic sheets and plastic packaging shall be subjected to certain conditions stipulated therein. Rule 5 deals with plastic waste management by the local bodies in their respective jurisdiction. The reference to the local body is by way of amendment on 30 October 2023. The responsibility of the local body is under Rule 6. The local body is also envisaged with the responsibility of ensuring that the provisions of the Rules as amended are adhered to. This stipulation is inserted by amendment dated 12 August 2021. Rule 6 of the Rules of 2016 reads thus:-

“6. Responsibility of local body.-(1) Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies.

(1A) Every manufacturer, producer, importer, brand owner, manufacturer of commodities made from compostable plastics or biodegradable plastics may engage with local body on voluntary basis, as per mutually agreed terms and conditions entered into by them and the local body.

(2) The local body shall be responsible for setting up,

operationalisation and co- ordination of the waste management system and for performing the associated functions, namely:-

- (a) Ensuring segregation, collection, storage, transportation, processing and disposal of plastic waste;*
- (aa) ensuring that the provisions of these rules, as amended, are adhered to;*
- (b) ensuring that no damage is caused to the environment during this process;*
- (c) ensuring channelisation of recyclable plastic waste fraction to recyclers;*
- (d) ensuring processing and disposal on non-recyclable fraction of plastic waste in accordance with the guidelines issued by the Central Pollution Control Board;*
- (e) creating awareness among all stakeholders about their responsibilities;*
- (f) engaging civil societies or groups working with waste pickers; and*
- (g) ensuring that open burning of plastic waste does not take place.*

(3) The local body for setting up of system for plastic waste management shall seek assistance of producers and such system shall be set up within one year from the date of final publication of these rules in the Official Gazette of India.

(4) The local body to frame bye-laws incorporating the provisions of these rules.

(5) The local body shall undertake assessment of plastic waste generated, including plastic waste existing in dump sites, by the 30 June of every year and also estimate the quantity of plastic waste to be generated in following five year period.

(6) The local body shall assess the plastic waste management infrastructure available for collection, segregation and processing and send a report to the State Pollution Control Board or Pollution Control Committee concerned by 30 June of each year.

(7) The local body shall take necessary measures to prevent stocking, distribution, sale and usage of prohibited single use plastic items in their jurisdiction.

(8) The local body shall include in the annual report the following details on plastic waste management, namely:

(i) plastic waste generated, including plastic waste existing in dump sites, in a year;

(ii) plastic waste management infrastructure available for collection, segregation, processing;

(iii) projection of plastic waste to be generated;

(iv) status on framing and implementation on bylaws;

(v) actions taken action to prevent stocking, distribution, sale and usage of prohibited Single Use Plastic items.”

8. Under Rule 7, it is the responsibility of the Grama Panchayat or Panchayat at the District level, either on its own or by engaging an agency, to set up, operationalise or coordinate waste management in the rural area. Similarly, responsibility is placed on producers, importers, brand owners and waste generators for plastic waste management. Rule 10 has set up protocols for compostable and biodegradable plastic materials. As far as plastic packaging is concerned, which is the subject matter of this PIL, it deals with marking or labelling under Rule 11, which reads thus:-

“11. Marking or labelling. (1) Each plastic packaging

shall contain the following information, printed in English, namely:-

(a) name and registration certificate number for producer or importer or brand owner generated through a centralised online portal specified in Schedule II for plastic packaging, in case of, rigid plastic packaging with effect from 1 July, 2024, multilayer flexible plastic packaging having more than one layer with different types of plastics, including plastic sachet or pouches, and multilayered plastic packaging;

(b) name and registration certificate number for producer or importer or brand owner generated through centralised online portal specified in Schedule II for plastic packaging and thickness in case of flexible plastic packaging of single layer including plastic sachet or pouches (if single layer), plastic sheets or like and covers made of plastic sheet, carry bags;

(c) name and registration certificate number for producer or importer or brand owner generated through centralised online portal specified in Schedule II for plastic packaging with effect from 1 January, 2025 and number of certificate issued under clause (h) of sub-rule (4) in case of plastic sheet or like used for packaging and plastic packaging as well as carry bags commodities made of compostable plastic, as applicable;

(d) name and certificate number issued under clause (h) of sub-rule 4 in case of plastic sheet or like used for packaging and plastic packaging as well as carry bags and commodities made of biodegradable plastic;

Provided that the provisions of this sub-rule shall not apply to plastic packaging covered under rule 26 of the Legal Metrology Packaged Commodities Rules, 2011, and in respect of plastic packaging cases where it is technically not feasible to print the requisite information, as per specifications given in the Guidelines for use of Standard Mark and labelling requirements under BIS Compulsory

Registration Scheme for Electronic and IT Products;

Provided further that the plastic packaging under the first proviso shall be approved by the Central Pollution Control Board:

Provided also that the relevant information in respect of plastic packaging under the first and second proviso shall be printed on the packaging that holds together individual units of goods or the individual units of packaging

(2) Each recycled plastic packaging or commodity shall bear a label-recycled having [-----specify percentage] of recycled plastic and a mark as shown below and shall conform to the Indian Standard: IS 14534: 2023 titled as-Plastics Recovery and Recycling of Plastics Waste - Guidelines, as amended from time to time.

Note: PET-Polyethylene terephthalate, HDPE-High density polyethylene, V-Vinyl (PVC), LDPE-Low density polyethylene, PP-Polypropylene, PS-Polystyrene and Other means all other resins and multi-materials like ABS (Acrylonitrile butadiene styrene), PPO (Polyphenylene oxide), PC (Polycarbonate), PBT (Polybutylene terephthalate) etc.

(3) Each plastic packaging or commodity made from compostable plastics shall bear a label-compostable only under industrial composting and shall conform to the Indian Standard: IS/ISO 17088:2021 titled as Specifications for Compostable Plastics.

(4) Each plastic packaging or commodity made from biodegradable plastic shall bear the label-Biodegradable in [--- specify number of days] only in the [--- specify recipient environment such as soil, landfill, water etc.]”

9. Rule 11, therefore, mandates the details regarding the name and registration certificate, which shall be contained in each plastic packaging in English so that this registration and certificate, which is

made mandatory to be affixed on every plastic packaging. Registration has to be obtained under Rule 13. Rule 13 has undergone amendments on 6 July 2022, 30 October 2023 and 14 March 2024. Rule 14 has placed responsibility on retailers and street vendors not to sell or provide commodities to consumers in carry bags, plastic sheets or multilayered packaging. Rule 17 provides for annual reports.

10. The main grievance of the Petitioner is that the manufacturing of plastic products, which require registration under Rule 13, is rampantly going on without there being any registration. The Petitioner contends that Rule 10 of the Rules determines the protocol for compostable plastic materials. Determining the degradability and disintegration of plastic material shall be as per the protocols of the Indian Standards listed in Schedule I. The said Schedule refers to the standards prescribed by the Bureau of Indian Standards. The Bureau of Indian Standards has prescribed standards, IS.17072- 2019. The standards prescribe requirements, sampling methods and tests for the material commercially known as "non-plastic, biodegradable polymer-based paper coating chemicals" intended to be used as paper waterproof and oil resistance coating chemicals.

11. Respondent No. 1 issued a revised Standards Operating Procedure (SOP) for determining products that have the standards IS 17899 T:2022. It excludes conventional petro-based plastics. Though Respondent No. 1 banned Single Use Products (SUP), claiming to be biodegradable/oxo-biodegradable products, they are being sold in the market. The Rules to obtain certification/registration from the Central

Pollution Control Board for compostable carry bags, paper cups, and other products have to pass the test prescribed under I.S.17088. ISO 17088:2012 is the international standard that specifies requirements and test methods for the biodegradation and disintegration of plastics under composting conditions. The standard sets out specific requirements for compostable plastics, including their chemical composition, biodegradability, disintegration, and ecotoxicity, to ensure they can be safely and effectively composted without harming the environment. Petitioner further contends that the Respondent State is issuing orders granting permission to entities like Respondent No. 4 which are in contravention of the Regulations of 2016.

12. A Report was filed on 16 June 2023 by the Environmental Engineer of the Kerala State Pollution Control; however, it dealt primarily with the unit of Respondent No. 4. there was no detailed affidavit on the larger issue. Respondent No. 4 filed an affidavit on 19 June 2023 denying the allegations made. Thereafter, the pleadings were primarily concerning Respondent No. 4. By the order dated 22 October 2024, the Respondent Board was directed to place a stand on record on the larger issue raised in this petition. An affidavit has been filed by the Chairperson of the Kerala State Pollution Control Board as to how it proposes to take measures on the subject matter. In the affidavit, the Pollution Control Board has placed a Government Order dated 21 March 2023 on record. The Government Order is issued by the Additional Chief Secretary of the Local Self Government Department. This order was issued to constitute a special enforcement mechanism to identify violations related to waste management and take legal action.

Under these guidelines, a squad was prepared to monitor the waste management in the State. The composition is as under:-

- a. District Enforcement squad consists of District Joint Director, LSGD-Chairman*
- b. District Suchitwa Mission Coordinator: Nodal Officer*
- c. An officer not below the rank of Senior Superintendent from internal vigilance Wing*
- d. District Suchitwa Mission Enforcement Officer*
- e. An Officer nominated by the Joint Director*
- f. Police Officer from the Police Station concerned, as requested by the Joint Director*
- g. A technical Officer- from PCB, as requested by the Joint Director*

13. The Kerala State Pollution Control Board, in its affidavit, has stated that registration of establishment under the Rules of 2016 plays a significant role in effecting regulation and implementation of the Rules. The stated mechanism provided in the Government Order will ensure that producers do not engage in banned activities. As regards the plan of action, the Kerala State Pollution Control Board has stated the following:-

- a) LSGI concerned shall provide a list of manufacturers and suppliers of banned SUP items including the plastic-coated SUP items and compostable commodities units in their jurisdiction to the respective District Office of the Board.*
- b) The list shall also be provided to the Enforcement Squad operating in the respective jurisdiction.*

c) Upon verification and intimation made by the Board, the Enforcement Squad shall conduct exhaustive inspection drives at regular intervals in the area to identify manufacturers and suppliers of banned SUP items including the plastic-coated SUP items and compostable commodities.

d) The Enforcement Squad shall ensure that suppliers or stockists or dealers and other entities engaged in the industries supply chain do not supply plastic raw material to producers engaged in production of banned SUP items and compostable/biodegradable commodities, without the certification of the Central Pollution Control Board (CPCB).

e) The Enforcement Squad shall conduct District-wise identification of major commercial establishment (Malls/ Market place/Shopping Centres/Cinema Houses/Tourist Locations/Schools/Colleges/Office Complexes/Hospitals and other institutions) and Stockists/Retailers/Sellers/Importers of banned SUP items/Street Vendors/Vegetable and Fruit Markets/Malls and other similar entities which are dealing in bulk in the aforementioned single use plastic items and compostable/biodegradable commodities not certified by CPCB.

f) The Enforcement Squad shall conduct Inspection at Producer, Manufacturer, Importer, Brand owner (PIMBO), engaged in plastic packaging including compostable carry bags and sheets to ensure that units are registered on the Centralised EPR Portal.

g) The Enforcement Squad shall conduct Regular Inspection of entities to ensure that only entities having authorised certificates from CPCB are involved in the selling of compostable plastics.

h) The Board will conduct regular interactive sessions, including convening meetings and organising workshops with stakeholders (PIMBOs, PWPs- Plastic Waste Processors, Industry Associations, etc.).

i) The Board will initiate action, including levying of Environmental compensation as per the guidelines issued by the CPCB namely Guidelines for Assessment of Environment Compensation to be levied for Violation of Plastic Waste Management Rules, 2016 or withdrawal of consent, EPR registration and closure of unit related to manufacture of the SUP banned products, if any violations are reported by the Enforcement squad.

14. Therefore, it is clear that Rule 11, which mandates certain information to be printed in English on every plastic packaging, has to include the details of registration. This registration is contemplated under Rule 13. For registration, the registering authority has to examine whether all the necessary parameters have been met and whether manufacturing such products is not hazardous to human health and the environment. Therefore, any product sold without registration under Rule 13 would be illegal, and there is no debate on this issue. Furthermore, Rule 14 prohibits even retailers and street vendors from selling or providing commodities to the consumer in carry bags and multilayered packaging, which are not manufactured, labelled, or marked as prescribed under the Rules. Retailers and street vendors breaching Rule 14 are liable to pay fines. While these stipulations remain on the statute, the issue is ground-level implementation.

15. Learned counsel for the Kerala State Pollution Control Board has pointed out the establishment of the squad under the Government Order dated 21 March 2023. Learned Senior Government Pleader and the learned counsel for the State Pollution Control Board state that squads have been constituted, currently, 23 in operation in the State for

the broader issues regarding waste disposal. This squad can also examine the issues raised in this petition however, necessary directions will have to be given by the Additional Chief Secretary to instruct the squads to bring to the notice of the Pollution Control Board the breach of the Rules of 2016. The Pollution Control Board has given one of its suggestions for the effective implementation of Rule 2016, which is that enforcement squads can also conduct district-wise identification.

16. We direct the Additional Chief Secretary to examine the suggestions given by the Pollution Control Board in paragraph No. 7 of its affidavit reproduced above, empowering the enforcement squads to carry out the activities as suggested. Upon examining the same, the Additional Chief Secretary will issue necessary instructions to task the enforcement squads with the work suggested by the Pollution Control Board. Considering the amended scheme of the Rules of 2016, the Panchayats and local authorities envisage a substantial role in the Rules. The Panchayats can also assist the State Pollution Control Board and the Central Pollution Control Board concerning plastic products in breach of Rules 11 and 13. The State Pollution Control Board will accordingly have to communicate with the Additional Chief Secretary, Local Self Government Department, detailing the role of the Panchayat under the Rules of 2016 and how they would assist the Pollution Control Board in dealing with plastic products which require printed information as per Rule 11. Upon receipt of this communication from the State Pollution Control Board, the Additional Chief Secretary can issue necessary directions to all Panchayats in the State. An awareness campaign is necessary. The State Pollution Control Board has stated

that it has a web portal for receipt of complaints. However, counsel for the Central Pollution Control Board has pointed out that the Central Pollution Control Board developed an Application (App), namely SUP-CPCB.

17. Schedule II to the Rules of 2016 under Rule 9 deals with the guidelines on extended producer responsibility for plastic packaging and commodities made from compostable or biodegradable plastics. The procedure for registration has been specified therein with detailed particulars and then the obligations. The role of the Central Pollution Control Board is laid down in Clause 12, which reads thus:-

“12. Role of Central Pollution Control Board

(12.1) The Central Pollution Control Board shall register Producers, Importers & Brand-Owners who are operating in more than two states and plastic waste processors, through online portal. Central Pollution Control Board shall prescribe the standard operating procedure for registration of Producers, Importers & Brand- Owners under Plastic Waste Management Rules, 2016.

(12.2) The Central Pollution Control Board may charge fee for processing of applications for registration and an annual fee for processing of returns, as per procedure prescribed by CPCB. In case, where Producers, Importers & Brand-Owners, are operating in the jurisdiction of a State Pollution Control Board or Pollution Control Committee, the Central Pollution Control Board as per guidelines so decided, will share the application fee with the concerned State Pollution Control Board or Pollution Control Committee.

(12.3) The registration shall be done within two weeks from the submission of a complete application online by the Producers, Importers & Brand-Owners. The tenure of registration shall be as per Plastic Waste Management Rules,

2016.

(12.4) Central Pollution Control Board by itself or through a designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic audit, as deemed appropriate. Central Pollution Control Board, as required, can also verify compliance of Plastic Waste Processors through inspection and periodic audit. In case of plastic waste processors and Producers, Importers & Brand- Owners operating in a State or Union Territory, Central Pollution Control Board may, if required, direct State Pollution Control Board or Pollution Control Committee to take action.

(12.5) Central Pollution Control Board shall publish the list of Producers, Importers & Brand-Owners who have failed to meet Extended Producer Responsibility targets and obligations in the previous financial year, on an annual basis, by 30 September of the next financial year.

(12.6) The Central Pollution Control Board will establish a mechanism to ensure a regular dialogue between relevant stakeholders involved in the fulfilment of extended producer responsibility obligations for plastics under the Plastic Waste Management Rule, 2016.

(12.7) The Central Pollution Control Board shall carry out a compositional survey of collected mixed municipal waste to determine the share of plastic waste as well as different categories of plastics packaging material on a half-yearly basis.

(12.8) The Central Pollution Control Board shall carry out review of technologies related to plastic packaging and plastic waste management for techno-economic viability and feasibility specifically with respect to clause 7.6.

(12.9) The Central Government may permit filing of annual returns by Producers, Importers and Brand owners under clause 10.6 and by Plastic Waste Processors under clause 11.2 for a period not exceeding nine months for the

reasons to be recorded in writing.”

18. As regards the role of State Pollution Control Board, it is specified under Clause 13 which is as under:-

“13. Role of State Pollution Control Board or Pollution Control Committee:

(13.1) The concerned State Pollution Control Board or Pollution Control Committee shall register Producers, Importers & Brand-Owners (operating in one or two states) and plastic waste processors, through the online portal developed by Central Pollution Control Board. Provision for registration shall be made on the Extended Producer Responsibility portal. State Pollution Control Board or Pollution Control Committee by itself or through a designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic audit, as deemed appropriate, of Producers, Importers & Brand-Owners as well as plastic waste processors in their jurisdiction as per the Plastic Waste Management Rule, 2016.

(13.2) The State Pollution Control Board or Pollution Control Committee shall bring out a list of entities (Exception Report) who have not fulfilled their Extended Producer Responsibility responsibilities on annual basis and publish the same on their website. The State Pollution Control Board or Pollution Control Committee shall submit the Annual Reports submitted by Producers, Importers & Brand-Owners and plastic waste processors in their jurisdiction to Central Pollution Control Board and upload the same on the online Extended Producer Responsibility portal.

(13.3) State Pollution Control Board or Pollution Control Committee will establish a mechanism to ensure a regular dialogue between relevant stakeholders involved in the fulfilment of extended producer responsibility obligations under the Plastic Waste Management Rule, 2016.

(13.4) State Pollution Control Board or Pollution Control Committee shall carry out a compositional survey of collected mixed municipal waste to determine the share of plastic waste as well as different categories of plastics packaging material on a half-yearly basis.”

19. As can be seen, The State Pollution Control Board also has to establish a mechanism to ensure regular dialogue between the stakeholders involved in performing obligations under the Rules of 2016. Learned counsel for the Central Pollution Control Board states that it has become easier for any residents of the locality to upload the photograph onto the App and submit a complaint. Learned counsel for the Central Pollution Control Board states that the App developed by the Central Pollution Control Board provides for lodging complaints. It also monitors the status of the grievances. Learned counsel has also submitted that the App is user-friendly and has a visual representation of the issues that are being reported. Learned Senior Government Pleader states that such an App is also developed by the Traffic Police Authorities in the State. There is no reason why the State Pollution Control Board did not develop a similar app under the same lines as the Central Pollution Control Board.

20. Plastic products referred to under Rule 11 cannot be manufactured by a person not registered under Rule 13. That is why Rule 14 has mandated retailers and vendors not to use products that do not contain information as provided under Rule 11. While the obligation under this Rule exists, it is necessary that the Pollution Control Board as obligated under the Rules of 2016 to carry out

sensitisation and also issue communications to the local authorities and Panchayats regarding the implication of Rule 14 of the Rules of 2016.

21. In short, while the statutory framework exists, the issue is of implementation. The State Pollution Control Board has shown it elaborately to tackle this issue comprehensively, citing the lack of manpower. The Rules of 2016 place responsibility on the Panchayat and local authorities concerning various aspects of the Rules. The State has already established an enforcement squad for waste management. As suggested by the State Pollution Control Board, the State should consider that this task can also be entrusted to the State Pollution Control Board as to the enforcement squads. The citizens and non-governmental organisations can be involved by making it easier to report non-compliance with Rules 11 and 13 by the State Pollution Control Board by developing an app as done by the Central Pollution Control Board. Sensitisation drives will have to be undertaken, and necessary instructions will have to be issued to the Panchayats.

22. Taking an overall view of the matter, we issue the following interim directions:-

(i) The Additional Chief Secretary, Local Self Government Department, will examine the suggestions of the State Pollution Control Board in paragraph 7 of its counter affidavit dated 5 December 2024 reproduced above and issue necessary directions to the enforcement squads established under Government Order dated 21 March 2023 within three weeks from today.

(ii) The State Pollution Control Board will prepare a report after examining the role of the local authorities and Panchayats under the

Rules of 2016 in respect of the subject matter and submit the same to the Additional Chief Secretary to issue necessary directions to the Panchayats and local bodies in the State, within three weeks.

(iii) The State Pollution Control Board and the State of Kerala will consider developing an App similar to the one developed by the Central Pollution Control Board SUP-CPCB (App for single-use plastics) for lodging public grievances to control the issue of unauthorised and illegal distribution of plastic products, the subject matter of this petition.

(iv) The State Pollution Control Board will formulate a one-year plan to sensitise retailers and vendors by giving wide publicity to the requirements of Rules 11 and 13 and the consequences of Rule 14.

(v) The State Pollution Control Board shall also address communications to the Additional Chief Secretary within three weeks from today and implement the same phase-wise. The compliance of these directions be placed on record before the next date of hearing.

23. Post on 21 January 2025.

Sd/-
NITIN JAMDAR
CHIEF JUSTICE

Sd/-
S. MANU
JUDGE

Eb