

AD-18
Ct No.09
11.12.2023
TN

WPA No. 20568 of 2023

M/s RVD Waste Tech Private Limited and another
Vs.
The State of West Bengal and others

Mr. Kishore Datta,
Ms. Reshmi Ghosh,
Ms. Barnali Gantait

.... for the petitioners

Mr. Amal Kr. Sen,
Mr. Jaladhi Das

.... for the State

Ms. Soumi Guha Thakurta

.... for the respondent no.5

Mr. N.C. Bihani,
Mr. P.B. Bihani,
Mr. Soumya Mukherjee

.... for the WBPCB

- 1.** On the prayer of learned senior counsel for the petitioners, the learned Advocate-on-record for the petitioners is granted leave to make necessary corrections in the cause title of the writ petition insofar as the name of the petitioner no.1 is concerned.
- 2.** The petitioners raise a challenge to the allocation of a site at Malda as one of the centres for the purpose of setting up a unit by the petitioners for management and disposal of bio-medical waste.

- 3.** Learned senior counsel appearing for the petitioners submits that in terms of the concerned Rules, in particular Rule 8, the coverage area between the unit and the existing CBWTF has to be less than 75 kilometers in case of hospitals having at least 10,000 beds. In case where the medical facility has less than 10,000 beds, the coverage area increases to 150 kilometers radius. However, although the petitioners were allocated a location at Purba Bardhaman and one at Malda, insofar as Malda is concerned, the location is beyond 272 kilometers, which is much more than the outer limit of 150 kilometers as contemplated in the concerned Rules.
- 4.** Learned senior counsel also places reliance on the relevant Rule 5(b) which stipulates that one of the duties of the operator of a common bio-medical waste treatment and disposal facility is to ensure timely collection of bio-medical waste from the occupier as prescribed under the Rules. Again, under Clause 8(7), untreated human anatomical waste, animal anatomical waste, soiled waste and biotechnology waste shall not be stored beyond a period of forty-eight hours.

5. It is argued that in order to lend credibility to the said provisions, the outer limit of 150 kilometers has to be adhered to strictly which has not been done in the present case. Hence, the petitioners seek a re-allocation in place of Malda to a closer location within the outer limit of 150 kilometers.
6. Learned counsel for the State contends that the clause regarding the coverage area is not mandatory but merely a guideline. By placing reliance on the language of Clause 8, it is argued that the expression used is “suggested” coverage area. It is also pointed out that in sub-clause (a) of Clause 8, the expression “may” has been used, thereby lending a discretionary colour to the said provision.
7. Upon hearing learned counsel for the parties, it transpires that the State is justified in arguing that the outer limit of coverage area is not mandatory but merely directory. The language of the said clause shows that it is only a suggestion, using the expression “may” to prefix the distance.
8. Nothing hinges on the clauses as relied on by the petitioners insofar as the duty of the operator to ensure timely collection and disposal of the waste within forty-eight hours is concerned, since there

is not much of a difference between 150 km and 272 km insofar as the travel-time is concerned.

- 9.** As such, since there is no mandate associated to the relevant clause regarding the outer limit, the same cannot be enforced in law. Thus, there is no scope of interference in the present writ petition.
- 10.** Accordingly, WPA No. 20568 of 2023 is dismissed without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)