

29.06.2026
Court No. 12
Item No. 05
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 1957 of 2025
I.A. No : CAN 1 of 2025
CAN 2 of 2025
In
W.P.A. 20568 of 2023

M/s. RVD Waste Tech Pvt. Ltd. & Anr.
-Versus-
The State of West Bengal & Ors.

Ms. Reshmi Ghosh,
Ms. Parna Mukherjee
.....for the appellants.
Ms. Susmita Saha Dutta, AGP,
Ms. Tanusree Ghosh
....for the State.
Mr. N.C. Bihani, Sr. Adv.,
Mr. Soumya Mukherjee
....for the WBPCB
Mr. Abhrotosh Majumdar, Sr. Adv.,
Mr. Rudrajit Sarkar,
Mr. Aditya Kanodia
....for the SNG Enviro
Solutions Pvt. Ltd.

(Intervenor).

Re : CAN 1 of 2025

- 1) CAN 1 of 2025 is an application for condonation of delay in preferring the appeal. The appeal is delayed approximately 700 days.
- 2) Upon perusing the averments in paragraphs 17 to 28 of the said application, we are satisfied that the delay has been sufficiently explained.
- 3) Accordingly, CAN 1 of 2025 is allowed.
- 4) The delay is condoned.
- 5) The appeal is registered.

Re : MAT 1957 of 2025

6) The appeal is directed against an order dated December 11, 2023 passed in W.P.A. 20568 of 2023.

7) The writ petition was filed by the appellants, challenging the allocation of a site at Malda, for setting up bio-medical waste facility. The purpose of the unit was to manage and dispose of the bio-medical waste.

8) It was contended by the learned senior advocate for the appellants before His Lordship, that the Revised Guidelines for Common Bio-medical Waste Treatment and Disposal Facilities clearly indicated that the operator could not be allotted any site beyond 150 kilometers. The relevant clause relied upon by the appellants before the writ Court is quoted below.

“Coverage area of CBWTF

Suggested coverage area for development of CBWTF is as follows:

a) A CBWTF located within the respective State/UT shall be allowed to cater healthcare units situated at a radial distance of 75 KM. However, in a coverage area where 10,000 beds are not available within a radial distance of 75 KM, existing CBWTF in the locality (located within the respective State/UT) may be allowed to cater the healthcare units situated upto 150 KM radius w.r. to its location provided the bio-medical waste generated is collected, treated and disposed of within 48 hours as stipulated under the BMWM Rules.

b) In case, number of beds is exceeding > 10,000 beds in a locality (i.e. coverage area of the CBWTF under reference) and the existing treatment capacity is not adequate, in such a case, a new CBWTF may be allowed in such a locality in

compliance to various provisions notified under the Environment (Protection) Act, 1986, to cater services only to such additional bed strength of the HCFs located.

c) In case of hilly areas, considering the geography, only one CBWTF with adequate treatment capacity may be developed covering atleast two districts to cater treatment services to the HCFs located in the respective Districts. The selection and allocation of site etc. should be done as per the criteria suggested under these guidelines. The treatment charges to be prescribed by the respective SPCB/PCC in consultation with the State Advisory Committee to be constituted under the BMWM Rules by the respective State Government or UT Administration.”

9) It was submitted that the operator was located 272 kms away from Malda. His Lordship upon considering the clauses, was of the view that the guidelines only suggested the coverage area. The use of the term “may” in the fourth line of Clause 8 (a) indicated that the outer limit of 150 kilometers was not mandatory but directory. His Lordship also placed emphasis on the expression “suggested coverage area” to mean that the guidelines merely suggested what would be the coverage area of such facilities and there was no mandate that the facility will have to be close to the location of the appellants.

10) Mr. Bihani, learned senior advocate for the Pollution Control Board submits that the appeal has become infructuous. Subsequently, the earlier allocations of sites were revised and in partial modification of the assignments of the sites to those facilities, a further reallocation of the sites were made for lifting,

transport, processing, and disposal of Bio-medical waste. In the said reallocation list of sites, the name of the appellant No. 1 figured under serial nos. 8 and 10.

11) The appellants were given a site at Purba Bardhaman. The same was within the proximity of its area of operation at Purba Bardhaman. Again under Serial No. 10, the appellants were allotted sites at Malda, Dakhin Dinajpur, Uttar Dinajpur (part) and the location of the said operator was within Malda. The guideline may not have been followed earlier, with regard to the location criteria, but such objection of the appellants has been now resolved. The said location criteria of the guidelines is quoted below :-

“As far as possible, the CBWTF shall be located near to its area of operation in order to minimize the transportation distance in waste collection, thus enhancing its operational flexibility as well as for ensuring compliance to the time limit for treatment and disposal of bio-medical waste as stipulated under the BMWM Rules (i.e., within 48 hours). Also, the location of the CBWTF should be in conformity to the CRZ Norms and other provisions notified under the Environment (Protection) Act, 1986. The location shall be decided in consultation with the State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC). The location criteria for development of a CBWTF are as follows:”

12) Ms. Saha Dutta, learned AGP, adopts the submissions of Mr. Bihani.

13) At the relevant point of time, the appellants did not have any operational centre in Malda. It could have been difficult to collect the waste from Malda and treat and process the

same in its unit at Purba Bardhaman. Time for transportation could have led to delay in treatment. The Rules required treatment to be done within 48 hours from collection and as such there was a basis for the appellants being aggrieved by the allocation of the site at Malda. This grievance of the appellants has been taken care of, by the reallocation of sites by the Director of Medical Education, West Bengal.

14) The appellants operates at Malda as also at Purba Bardhaman. Thus, the sites have been allotted both at Purba Bardhaman and Malda and neighbouring districts of Malda.

15) Under such circumstances, the difficulties faced by the appellants have been taken care of and nothing further remains to be decided in the appeal. We, however, hold that the reliance placed on Clause 8 by the appellants as also the learned single Judge was not correct. Reliance ought to have been placed on clause 6 of the guidelines. Under such circumstances, the order impugned is modified to the above extent.

16) Mr. Abhrotosh Majumdar, learned senior advocate appears and submitted that SNG Envirosolution Pvt. Ltd, should be added as a party respondent, in view of the incorrect submissions which were made before the learned writ Court as also before us.

17) As we have already passed the order, by taking care of the dispute with regard to the site allocation, we are not inclined to add the said operator as a party.

18) Accordingly, the appeal and the connected application are disposed of.

19) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Smita Das De, J.)