

Laws on Plastic Pollution



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Mankind has always been inventing things that impact life on earth. One such invention is the invention of 'Plastic'. Plastic has come a long way from its earlier form of celluloid, bakelite to the creation of Styrofoam and vinyl. While this 'pilable and easily shaped'¹ material has many valuable uses, it is its disposal that poses a major threat and causes severe social and environmental impact, perhaps for centuries which cannot be easily ignored.

The plastic bags and plastic water bottles (PET) in particular are biggest contributors of plastic waste. It has been estimated that 8.3 billion tonnes of plastic have been produced since the early 1950s and about 60% of that plastic has ended up in either a landfill or the natural environment.² In the year 2018-19, the estimated plastic waste generation in India was around 34 lakh tonnes/per annum³. In order to curb this disaster, several Governments have woken up and are fighting to contain and reduce the use of disposable plastic. India is no exception to it.

PLASTIC WASTE MANAGEMENT

The Government of India is empowered under The Environment (Protection) Act, 1986 to regulate and issue notification from time to time, to protect and improve environment.⁴ The Act provides for comprehensive definition of 'environment' which includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

To address the issue of disposal of plastic waste for the first time, *Plastic Waste (Management and Handling) Rules, 2011* was notified. The Municipal authority was made responsible for operating and coordinating the waste management and perform safe collection, segregation and disposal without causing damage to the environment.

In 2016, with a view to amend time to time and regulate the framework of plastic management in the country, *The Plastic Waste Management Rules, 2016* was notified suppressing the earlier Plastic Waste (Management and Handling) Rules, 2011. The rule was made on the policy approach 'Extended producer responsibility (EPR)' under which all the makers of plastic are made responsible for the plastic waste generated by them. It aimed at minimizing the plastic waste, segregation of plastic at source, recycling, training of waste pickers, recyclers, waste collectors. The salient features of this rule are

¹ <https://www.sciencehistory.org/the-history-and-future-of-plastics>

² <https://www.unenvironment.org/interactive/beat-plastic-pollution/>

³ https://cpcb.nic.in/uploads/plasticwaste/Annual_Report_2018-19_PWM.pdf

⁴ Section 3 of The Environment (Protection) Act, 1986

- a. The minimum thickness of plastic carry bags has been increased from 40 microns to 50 microns.
- b. Extending the responsibility of operation and management from municipal authority to Gram panchayat (rural areas);
- c. Emphasis on minimising and segregating the waste at source⁵ by the waste generators and handing over to authorised agency or registered waste pickers or registered recyclers.
- d. All waste generators are required to pay user fee or charge for waste collection or operation of facility.
- e. Producers, importers and brand owners are required to register with concerned State Pollution Control Board or the Pollution Control Committees to manufacture or use any plastic multi-layered packaging for packaging of commodities. They are also required to work out modalities for waste collection system in consultation with local authority / State Urban Development Department within six months.
- f. Brought event organisers responsible for littered plastic waste generated in public events.
- g. Manufacturer and use of non- recyclable multi-layered plastic are to be phased out in Two years time.

Through the introduction of EPR to make the polluters' pay, the implementation of these rules focused on giving thrust on minimisation of plastic waste. However, it brought ambiguity with it - whether the companies with multiple state presence should register with multiple State Pollution control board or whether the producer of plastic packaging or the brand owner who finally sells the product would be responsible for plastic waste. These issues provided room for very minimal compliance and implementation.

In the year 2018, Ministry of Environment and Forest & Climate Change notified *Plastic Waste Management (Amendment) Rules, 2018*. The major amendments to the Rules are

- a. the registration of Producer or brand owner operating in two or more States or Union territories to make application with the Central Pollution Control Board and
- b. the registration of Producer or brand owner operating in One or two States or Union territories to make application with the concerned State Pollution Control Board or Pollution Control Committee of the Union territory.
- c. The amendment did away with explicit pricing of carry bags under Rule 15.
- d. substitution of "non-recyclable multi-layered plastic if any" to "multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use".

⁵ In accordance with the Solid Waste Management Rules, 2000

The amendment to the Rules did not pave way for effective implementation of EPR guidelines to the fullest. Earlier the Central Pollution Control Board recognised and facilitated '*Producer Responsibility Organisations (PRO)*', who were considered experts at waste management to help and undertake compliance of EPR on behalf of brands. Subsequently, in May 2019, a notice for withdrawal of PROs was issued by the Central Pollution Control Board deciding to discontinue the scheme for recognition of PROs, as it is of the view that adequate awareness of fundamental principles of EPR has been created and that the Producers and Stakeholders can plan their EPR implementation by engaging the concerned agencies at their discretion⁶. The substitution of non-recyclable multi-layered plastic with multi-layered plastic with no alternate use could give scope for the Producers to claim their multi-layered plastic can have alternate use⁷ and in turn phasing out production of such plastic has slowed down.

Majority of the plastic industry is in the Informal sector in India. Many States in India have enforced complete ban on sale, use and manufacture of single use plastic. The Central Government is also intending to completely ban the single use plastic by 2020. With no definition provided for 'Single use plastic' so far, the implementation of ban by many States which are not uniform, have left the informal sector the most affected. Plastic pollution is indeed a menace and its ill effects threaten every life forms on earth. Effective implementation of EPR and hands on training and knowledge on segregation at source and management would help combat this mammoth of a problem.

⁶ https://cpcb.nic.in/uploads/plasticwaste/Notice_PRO_Withdrawal.pdf

⁷ <https://www.downtoearth.org.in/news/waste/centre-amends-plastic-waste-rules-2016-but-still-60084>