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BIHAR PLASTIC BAN NOTIFICATION 2018

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Introduction:

The state of Bihar, after Odisha, now becomes the state to have imposed a complete ban on the use of plastic. The Bihar State Government, in exercise of the powers delegated under Notification No- S.O. 152(E) dated 10 February 1988 issued under Section 5 of the Environment (Protection) Act, 1986 (Act) and under Section 23 of the Act, *vide* Notification No. Parya Van-25/2018.../E.F., Patna-15 (Notification) imposed a complete ban on the manufacture, import, storage, distribution, transportation, sale and use of plastic carry bags (irrespective of their size and thickness), in the urban areas of the state.

Directions:

The State Government directed that no person (including a shopkeeper, vendor, wholesaler, retailer, trader, hawker, *feriwala* or *sabjiwala*) shall manufacture, import, store, distribute, transport, sell or use any kind of plastic carry bags (irrespective of their size and thickness) in the jurisdiction of all Municipal Corporations, Municipal Councils and Nagar Panchayats in the State of Bihar. Furthermore, no such person shall sell or store or distribute or use any kind of plastic carry bags for storing or dispensing of any eatable or non-eatable goods / materials.

Explanation:

The Notification assigns the same meaning to the term "plastic carry bags" as defined in the Plastic Waste Management Rules, 2016, issued by Ministry of Environment, Forest and Climate Change, Government of India.

Exceptions:

The Notification stipulates the following exceptions to its application:

- The use of plastic carry bags (above 50 microns thickness) only for the purpose of collection or storage of bio-medical waste for its disposal as specified under the Bio-Medical Waste Management Rules, 2016;
- The plastic containers used for packaging of food materials, milk and milk products;
- The plastic containers used for raising plants in the nurseries.

Monitoring and Implementation:

The Chairman, Bihar State Pollution Control Board and the Principal Secretary, Urban Development and Housing Department, Government of Bihar shall ensure monitoring

and implementation of the aforesaid directions. The authorized officers under Section 19 of the Act shall file complaint in case of violation of these directions.

Enforcement and Penalty:

The said ban is enforced in the jurisdiction of all the Municipal Corporations, Municipal Councils and Nagar Panchayats in the State after 60 days from the date of publication of the Notification in the Official Gazette. All persons (including manufacturers, wholesalers, retailers, traders, shopkeepers, vendors, hawkers, *feriwalas* and *sabjiwalas*) are required to dispose of their stock of plastic carry bags within the 60 days period.

The contravention of any of the directions shall attract penal provisions of Section 15 of the Act and is punishable with imprisonment for a term which may extend to 5 years or with fine which may extend to INR 1 lakh or with both. Violation of any directions stated above may result in seizure and imposition of fine as prescribed under the bye-laws made under Sections 421 and 422 of the Bihar Municipal Act, 2007.

Comments

The Notification imposes a complete ban on the manufacture, import, storage, distribution, transportation, sale and use of plastic carry bags irrespective of their size and thickness except for the narrow exception provided for, *inter alia*, the plastic bags (above 50 microns thickness) used for collection or storage of bio-medical waste for its disposal. Similar exemption is provided under the Maharashtra Plastic Ban Notification released in March 2018 along with its subsequent amendment notifications, however, it widely covers plastic bags or plastic used for packaging of medicines, medical equipment and medical products.

The Notification has a distinctive attribute as opposed to the notifications / orders released by other states. It provides for a ban on plastic carry bags for storing or dispensing of any eatable or non-eatable goods, however, only plastic containers are allowed for packaging of food materials. Maharashtra Plastic Ban Notification also implies the same where single use plastic items are prohibited. Similarly, Tamil Nadu bans "one time use and throwaway plastic" which primarily includes plastic bags and sheets used for food wrapping, plastic plates, plastic coated tea cups, plastic tumbler, water packets, etc. However, the same would be effective from 1 January 2019. Lastly, it is to be noted that the Bihar Notification stipulates the penal provisions under Section 15 of the Act which is a Central Act while Maharashtra Notification draws its penalty from Maharashtra Non-Biodegradable Garbage (Control) Act, 2006 which is a State specific Act. The fines imposed under the Bihar Notification are way higher to the extent of INR 1 lakh or an imprisonment for a term which may extend to 5 years or with both. Additionally, violation of any direction stated hereinabove might result in seizure and imposition of fine under the bye-laws made under Sections 421 and 422 of the Bihar Municipal Act, 2007. The penalties as prescribed by the Bihar Notification appear rather steep and stringent and may have greater impact than the plastic ban notifications of other states.

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