

ITEM NO.1

COURT NO.10

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A.Nos.4-6, 7-9, 13-15, 16-18 & 19-21 In Petition(s) for Special Leave to Appeal (Civil) No(s).19467-19469/2007

(From the judgment and order dated 29.08.2007 passed in three writ petitions bearing No.DB(Civil) Writ Petition No.1966 of 2003, DB(Civil) Letter Petition No.3708 of 2003 PIL, DB(Civil) Letter Petition No.7590 of 2002 PIL of the HIGH COURT OF JUDICATURE FOR RAJASTHAN, JAIPUR BENCH)

MIRAJ PRODUCTS PVT. LTD. Petitioner(s)
VERSUS
INDIAN ASTHAMA CARE SOCIETY & ORS. Respondent(s)

(With appln.(s) for modification and direction and stay and modification/vacation and office report)

Date: 17/02/2011 These IAs were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. L. Nageshwar Rao, Sr. Advocate
Mr. K.C. Dua, Adv.
Mr. Tarun Dua, Adv.
Mr. Gopal Singh Chauhan, Adv.

For Union of India Mr. Gopal Subramaniam, SG
Mr. P.V. Yogeswaran, Adv.
Mr. Sreekant N. Terdal, Adv.

For Respondent(s)/
Applicant

For RR No.16 Mr. Ram Jethmalani, Sr. Adv.
Mr. Pravin H. Parekh, Sr. Adv.
Mr. Sameer Parekh, Adv.
Ms. Lata Krishnamurthy, Adv.
Mr. Lalit Chauhan, Adv.
Ms. Rukhmini Bobde, Adv.

I.A.Nos.4-6/2011 in Mr. Ranjeet Kumar, Sr. Adv.
SLP(C)Nos.19467-69/
2007 & For RR No. Ms. Indu Malhotra, Sr. Adv.
11 Mr. Narhari Singh, Adv.
Mr. Nalin Talwar, Adv.
Mr. Subramaniam Prasad, Adv.
Mr. Vikas Mehta, Adv.

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Mr. Vivek Kohli, Adv.

I.A.Nos.7-9/2011 in Mr. A.K. Ganguly, Sr. Adv.
SLP(C)Nos.19467-69/
2007 Mr. Subramaniam Prasad, Adv.
Mr. Vivek Kohli, Adv.
Mr. Yash Mishra, Adv.

I.A.Nos.13-15/11 in Mr. L. Nageshwar Rao, Sr. Adv.
SLP(C)Nos.19467-69/
2007 Mr. Subramaniam Prasad, Adv.
Mr. Vivek Kohli, Adv.
Mr. Yash Mishra, Adv.

I.A.Nos.16-18/11 in Dr. Abhishek M. Singhvi, Sr. Adv.

SLP(C)Nos.19467-69/
2007 Mr.Sanjay K.Pathak, Adv.
Mr.Amit, Adv.

For RR No.4 Mr.Narottam Vyas, Adv.
Mr. B.D. Sharma,Adv.

For State of Raj. Ms.Archana Pathak Dave, Adv.

UPON hearing counsel the Court made the following
O R D E R

These petitions are directed against order dated 29.8.2007
passed by the Division Bench of the Rajasthan High Court in a
batch of cases whereby certain directions were given in the matter
of packaging of gutkha, tobacco and pan masala and levy of fine.

On 7.12.2010, this Court had passed the following order

"Heard learned counsel for the parties and
perused the record including the affidavit of Dr.
Manoranjan Hota, Director, Ministry of
Environments and Forests, Government of India and
documents annexed with it.

Interim order dated 7.9.2007 and other
similar orders passed by this Court are vacated
and the following directions are given:

- 1) The learned Solicitor General should
instruct the concerned Ministries to
approach National Institute of Public Health
to undertake a comprehensive analysis and
study of the contents of gutkha, tobacco,
pan masala and similar articles manufactured
in the country and harmful effects of
consumption of such articles. The learned

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Solicitor General says that a report based
on such study will be made available within
eight weeks.

- 2) The Plastics (Manufacture, Usage and Waste
Management) Rules, 2009 be finalised,
notified and enforced within a period of
eight weeks from today.
- 3) The direction contained in the impugned
order of the High Court for imposition of
fine shall remain stayed.
- 4) Respondent Nos.3 to 15 and other
manufacturers of gutkha, tobacco, pan masala
are restrained from using plastic material
in the sachets of gutkha, tobacco and pan
masala. This direction shall come into force
with effect from 1st March, 2011."

Learned Solicitor General produced the report prepared in

terms of para 1 of the directions contained in order d
ated

07.12.2010. He also submitted that the Plastic Waste (Management
and Handling) Rules, 2011 which were published in the Gazette of
India (Extraordinary 4.2.2011) including clause 5(d) will, keeping

in view of para 2 of the directions given by the Court,
be

enforced with effect from 1.3.2011.

Shri Ram Jethmalani, Senior Counsel appearing for
the applicant (respondent No. 16) in Interlocutory Application Nos.

19-21 of 2011 urged that implementation of para 4 of
the

directions given by the Court may be postponed till the prayer for
stay of Rule 5(d) of the Rules notified on 4.2.2011 is considered.

Dr. Abhishek Manu Singhvi, learned counsel appearing for the
applicant in Interlocutory Application Nos. 16-18 of 2011 made
similar request.

We have considered the submissions of Shri Ram Jethmalani and
Dr. Abhishek Manu Singhvi but do not find any justification to
modify order dated 7.12.2010. Consequently, the prayer
for

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extending the date specified in para 4 of the directions contained
in that order is rejected.

The learned Solicitor General should instruct his colleague
to supply copies of the report produced by him to all the learned
counsel appearing for the parties, who may file affidavits within
three weeks.

I.A.Nos.19-21 of 2011 in SLP(C)Nos.19467-19469 of 2007

In this application, the applicant (respondent No. 16) has
prayed for issue of a direction to the Ministry of Environments
and Forests to identify and suggest alternative forms of safe and
viable packaging for gutkha, tobacco and pan masala and grant
liberty to the applicant and other similar situated persons to
adopt appropriate legal proceedings to challenge the validity and
legality of notification dated 4.2.2011 issued by the Ministry of
Environments and Forests, Government of India.

Notice of the IAs be issued to the respondents.

The counsel assisting the learned Solicitor General accepts
notice on behalf of the Union of India. The counsel assisting Shri
Ranjeet Kumar, Shri A.K.Ganguly and Shri L.Nageshwar Rao accepts

notice on behalf of respondent Nos.11, 13 and the petitioner in the special leave petitions respectively.

Three weeks' time is allowed for the purpose of filing reply.

Further affidavit, if any, be filed within 10 days.

List the case on 13.04.2011.

In view of the above, the date already fixed for hearing i.e. 9.3.2011 shall stand postpone to 13.4.2011.

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I.A.Nos.4-6 of 2011 in SLP(C)Nos.19467-19469 of 2007

Shri Ranjeet Kumar, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.7-9 of 2011 in SLP(C)Nos.19467-19469 of 2007

Shri A.K.Ganguly, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.13-15 of 2011 in SLP(C)Nos.19467-19469 of 2007

Shri L.Nageshwar Rao, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.16-18 of 2011 in SLP(C)Nos.19467-19469 of 2007

Dr.Abhishek M.Singhvi, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master