

ITEM NO.1

COURT NO.2

SECTION PIL

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

I.A.NOS.1,6-9,14-15, 18-19, 21, 23-26, 29, 31-33, 35-40, 42-52 & 54-57 IN W.P.(CIVIL)NO.657 OF 1995

RESEARCH FOUNDN. FOR SCIENCE

Petitioner(s)

VERSUS

U O I & ANR.

Respondent(s)

( for directions and exemption from filing O.T.and impleadment and clarification and intervention and placing additional documents on record and further directions and permission to file addl.documents and condonation of delay and extension of time and interim relief and stay and office report)

WITH

SLP(C) NO.16175 of 1997

(With appln.(s) for ex-parte stay )

( for final disposal )

Civil Appeal NO.7660 of 1997

(With office report)

( for final disposal )

CONMT. PET.(C) NO.155 of 2005 in W.P.(C)No.657/1995

(With appln.(s) for directions and office report)

( for final disposal )

Civil Appeal NOS.8300-8301 of 2004

(With appln.(s) for impleading party)

( for final disposal )

Date: 29/02/2012

These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. Sanjay Parikh, AOR  
Ms. Mamta Saxena, Adv.  
Mr. A.N. Singh, Adv.  
Mr. Pranav Raina, Adv.

I.A.1,etc.in WP(C)657/95

In SLP 16175/1997

Ms. B. Vijayalakshmi Menon, AOR

In CA 7660/1997

Mr. P. Parmeswaran, AOR

In CP 155/2005

BY POST

In CA 8300-8301/04

Mr. E.C. Agrawala, AOR  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agrawala, Adv.

For official  
liquidator

Mr. Manish K.Bishnoi, Adv.

For Respondent(s) Mr. P.P. Malhotra, A.S.G.

Mr. Ashok Bhan, Sr. Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. B. Krishna Prasad, AOR

UOI  
Mr. Ashok Bhan, Sr. Adv.  
Ms. Sadhana Sandhu, Adv.  
Ms. Asha G.Nair, Adv.  
Mr. Ashwani Garg, Adv.  
Mr. B. Krishna Prasad, AOR

in IAs  
UOI  
Ms. Savitri Pandey, Adv.  
Mr. Kishan Kumar, Adv.  
Mr. Mukesh Verma, Adv.  
Mr. B. Krishna Prasad, AOR

Mr. Anil Kumar Jha, AOR  
Mr. Manik Karanjawala, AOR  
Mr. K.B. Rohtagi, AOR

St. of Gujarat  
Ms. Hemantika Wahi, AOR  
Ms. Jesal, Adv.  
Mr. Ashok Mathur, AOR  
Mr. Shakil Ahmed Syed, AOR  
Ms. Savitri Pandey, Adv.  
Mr. Pradeep Misra, AOR  
Mr. Gopal Singh, AOR  
Mr. Manish Kumar, Adv.  
Mr. Chandan Kumar, Adv.

I.A.1, etc. in WP(C)657/95

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Mr. Gopal Singh, Adv.  
Mr. Rituraj Biswas, Adv.

In IAs.  
St. of Assam  
Mr. Riku Sarma, Adv.  
Mr. Navnit Kumar, Adv.  
for M/s. Corporate Law Group, Advs.

St. of Manipur  
Mr. Khwairakpam Nobin Singh, AOR  
Mr. Sapan Biswajit Meitei, Adv.  
Mr. Techni Poto, Adv.

for State of  
Arunachal Pradesh  
Mr. Anil Shrivastav, AOR  
Mr. Rituraj Biswas, Adv.

Mr. Amit Kumar, AOR  
Mr. Rakesh K. Sharma, AOR  
Mr. Radha Shyam Jena, AOR  
Mrs. Urmila Sirur, AOR  
Ms. Sushma Suri, AOR  
Mrs. Anil Katiyar, AOR

for State of UP  
In WP.  
Mr. Rajeev K. Dubey, Adv.  
Mr. Kamalendra Mishra, AOR

M/s. Sinha & Das

Mr. Sanjay R. Hegde, AOR  
Mr. Aruneshwar Gupta, AOR  
Mr. Ejaj Maqbool, AOR  
Ms. Bina Gupta, AOR  
Ms. S. Janani, AOR  
Mr. Ajay Sharma, AOR  
Mr. Atishi Dipankar, AOR  
Mr. Dilip Kumar Sharma, Adv.  
Mr. Nikhil Nayyar, AOR

in IA14-15

I.A.1, etc. in WP(C)657/95

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Mr. P.S. Sudheer, AOR  
Mr. D.N. Goburdhan, AOR  
Mr. Abhishek Agarwal, Adv.  
Mr. Shiv Kant Arora, Adv.  
Ms. Kartika Sharma, Adv.  
Mr. Mukesh Verma, Adv.  
Mr. Aftab Alam, Adv.  
Mr. Yash Pal Dhingra, AOR  
M/s. J.S. Wad & Co.  
Mr. Gaurav Agrawal, AOR  
Ms. Binu Tamta, AOR  
Mr. Ashwani Bhardwaj, AOR  
Mr. E.C. Agrawal, AOR  
Mr. R. Satish, AOR  
Mr. Jay Savla, AOR  
Mr. A. Raghunath, AOR  
Mr. Ravindra Kumar, AOR  
Mr. Mohan Parasaran, A.S.G.  
Mr. D.L. Chidanand, Adv.  
Ms. Kiran Bhardwaj, Adv.  
Mr. A.Dev Kumar, Adv.  
Ms. Asha G.Nair, Adv.  
Mr. D.S. Mahra, AOR

UOI

Mr. Pragyan Pradip Sharma, Adv.  
Mr. Rupesh Gupta, Adv.  
Ms. Mandakini Sharma, Adv.  
Mr. Siddhartha Lodha, Adv.  
Mr. P.V. Yogeswaran, AOR  
Mr. S.Muthukrishnan, Adv.  
Mr. V.N. Raghupathy, AOR  
Ms. Sumita Hazarika, AOR

	Mr. D.N. Mishra, AOR
	Ms. Vibha Datta Makhija, AOR
For Govt. of Puducherry	Mr. V.G. Pragasam, Adv.(N.P.)
State of Haryana	Mr. Manjit Singh, AAG. Mr. Tarjit Singh, Adv. Mr Kamal Mohan Gupta, Adv.
	Mr. K.K. Gupta, AOR
	Mr. Pramod Dayal, AOR
	Mr. Sushil Kumar Jain, AOR
	Mr. B.V. Balaram Das, AOR
For CPCB	Mr. Vijay Panjwani, Adv.
For State of Nagaland	Ms. K.Enatoli Sema, Adv. Mr. Nimshim Vashum, Adv.
For State of Maharashtra	Ms. Asha G. Nair, Adv.
For State of Rajasthan	Dr. Manish Singhvi, AAG Mr. Ashutosh Kumar Singh, Adv. Mr. Irshad Ahmad, Adv.
In CP 155/2005	Mr. M.J. Paul, AOR
	Mr. Sudarsh Menon, AOR
In CA 7660/1997	Mr. V. Shekhar, Sr. Adv. Mr. T.A. Khan, Adv. Mr. Arvind Kumar Sharma, Adv.
For Orissa SPCBoard	Mr. A.K. Panda, Sr. Adv. Mr. S. Mukherjee, Adv.
In CA 8300-8301/04	Mrs. Nandini Gore, AOR
	Ms. Aparna Bhat, AOR
In CA 8300-8301/04 I.A.1,etc.in WP(C)657/95	Mr. Colin Gonsalves, Sr. Adv.

	Ms. Amiy Shukla, Adv. Ms. Jyoti Mendiratta, AOR
in CA 8300-8301 Of 2004	Mr. R.K. Gupta, Adv. Mr. S.K. Gupta, Adv. Mr. M.K. Singh, Adv. Mr. Shekhar Kumar, AOR
For State of Meghalaya	Mr. Ranjan Mukherjee, Adv.(N.P)
for State of Sikkim	Mrs. Aruna Mathur, Adv. Mr. Yusuf Khan, Adv.

For M/s. Arputham Associates & Co., Advs.

Ms. Anitha Shenoy, AOR.

Mr. Mohanprasad Meharia, AOR.

Mr. Dharam Bir Raj Vohra, AOR.

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

I.A.6 of 1997 in WP(C)No.657 of 1995

1. This application was filed on behalf of  
M/s.Travancore Titanium Products (TTP) Ltd.on  
21st August, 1997 (by Ms.Malini Poduval, Advocate),  
for impleadment.

2. Since the main matter has already been  
heard out, and the application has been pending  
for so long, the same is dismissed as having  
become infructuous.

I.A.No.7 of 1997 and I.A.8 of 1997

3. Similarly, I.A. Nos.7/97 and 8/97 were  
filed on behalf of the Rajasthan Pollution

I.A.1, etc. in WP(C)657/95

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Control Board on 29th August, 1997 (by Mr.K.B.  
Rohatgi, advocate, for the applicant-Board), for  
appropriate directions and exemption from filing  
official translation, respectively.

4. There will be a similar order as passed  
in I.A.6/97, as far as these I.As. are  
concerned.

I.A.No.9 of 1997

5. This application was filed on behalf of  
petitioner on 1st December, 1997 (by Mr.Sanjay  
Parikh, AOR), for directions.

6. There will be a similar order as passed  
in I.A.6/97, as far as this I.A. is concerned.

I.A.No.15 OF 2004

7. This application was filed on behalf of

petitioner on 22nd September, 2004, (by Mr.Pramod Swarup(then AOR,now learned sr.adv.), for impleadment and directions.

8. There will be a similar order as passed above in I.A.6/97,etc. as far as this I.A. is concerned.

I.A.No.18 of 2005

I.A.1,etc.in WP(C)657/95 9. This application filed on behalf of the

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Govt.of NCT of Delhi, through the Department of Environment, Delhi Secretariat, New Delhi, on 21st February, 2005, for directions(by Mr.D.N.Goburdhun, advocate) is not pressed. Accordingly, the same is dismissed as not pressed.

I.A.No.19 of 2005

10. This application was filed on behalf of M/s. Ludhiana Refineries, applicant/Noticee No.8, on 20th May, 2005,(by Ms. S.Janani, advocate)for clarification/direction.

11. There will be a similar order as passed above in I.A.6/97,etc. as far as this I.A. is concerned.

12. I.A.24 of 2006 (for impleadment and directions, by Laghu Udyog Bharati)

13. I.A.25 of 2006 (for impleadment/modification/directions, by M/s.Sosiya Shipbreakers Association)

14. I.A.26 of 2006 in I.A.25/2006 (for placing addl.documents on record, by M/s.Sosiya Shipbreakers Association)

I.A.1,etc.in WP(C)657/95

15. I.A. 29 of 2006( for directions by Gopal Krishna)

16. I.A. 32 of 2006 (for directions, by Gopal Krishna)

17. I.A. 31 of of 2006 (for grant of extension of time on behalf of the Union Ministry of Environment & Forests)

18. I.A. 33 of 2006(for further directions by Technical Committee on Shipbreaking)

19. I.A. 37 of 2007 (for condonation of delay, by petitioner Mr.Sanjay Parikh,adv.)

20. I.A. 38 of 2007(for extension of time on behalf of the Union Ministry of Environment & Forests)

21. I.A. 44 of 2007(for permission to file impleadment, by Kishore R.Shah)

22. I.A. 50 of 2007 in I.A.No.45/07 (for directions, by Gram Vikas Sangharsh Samiti)

23. I.A. 54 (for extension of time)

24. There will be similar orders as passed above in I.A.6/97,etc. as far as the above I.As. are concerned.

I.A.No.23 of 2005

25. This I.A. has been filed on 6th December, I.A.1,etc.in WP(C)657/95

2005, on behalf of M/s.Shiv Priya Overseas(P)Ltd.(respondent No.10), for directions(by Ms. Bina Gupta, Adv.) for notice to issue to the Provisional Official Liquidator of the applicant company, regarding the amounts directed to be paid towards the costs for incineration of the waste oil, which had been imported by the company.

26. From the materials on record, it appears that the import had taken place prior to the appointment of the Provisional Liquidator and all steps for destruction of the said import goods were taken prior to the appointment of the Provisional Liquidator. In fact, an undertaking was given by Mr. Dinesh Chandra, on 18th July, 2005, indicating that the outstanding amounts would be paid within a period of six months from the date of the order. We are informed by Mr. Sanjay Parekh, advocate, appearing for the petitioners and also by learned counsel appearing for the Provisional Liquidator, that apart from paying a sum of approximately ` 12 Lakhs, the balance has remained unpaid. On the other hand, this

I.A.1,etc.in WP(C)657/95

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application has now been made on behalf of Mr. Dinesh Chandra, indicating that the liability for such payment would be that of the company, which is now being represented by the Official Liquidator.

27. We are unable to accept the contention made in the said application, since the undertaking had been given by Mr. Dinesh Chandra, as a Director of the company, for the imports that had taken place prior to the appointment of the Provisional Liquidator.

Accordingly, for default in complying with the undertaking given by Mr. Chandra, he is directed to be personally present in Court on 28th March,

2012, at 10.00 A.M. to explain as to why appropriate action/ could not be taken against him for his willful default in making payments in respect of which an undertaking has been given by him. Let this I.A. be listed on

that date for further consideration.

28. It has also been pointed out by Mr. Parekh and Mr. Ashok Bhan, learned senior advocate, appearing for the Union of India,

Ministry of Environment and Forests, that apart I.A.1, etc. in WP(C) 657/95

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from M/s. Shiv Priya Overseas (P) Ltd., there are nine other similarly placed defaulters, namely:

- (i) M/s. Indochem Industries
- (ii) M/s. Valley International
- (iii) M/s. Shalimar Chemicals  
Inds. Pvt. Ltd.
- (iv) M/s. Hindustan Trading Corporation
- (v) M/s. Central Steel & General  
Industries
- (vi) M/s. Jairaj Ispat Ltd.
- (vii) M/s. Sri Sainath Enterprises
- (viii) M/s. Ludhina Refineries and
- (ix) M/s. Pioneer Petrochem

The information regarding default committed by the said companies had been provided in the affidavit filed by the Commissioner of Customs (Imports), Mumbai (Maharashtra).

29. Let directions issue to the above-mentioned defaulting companies, who are directed to be represented by their respective counsel on 28th March, 2012, at 10.00 A.M.

I.A. .... of 2011

30. An unregistered I.A. filed on behalf of Jawaharlal Nehru Port Trust, in August, 2011,

praying for leave to dispose of 13 hazardous containers in his possession in terms of the directions given by the Monitoring Committee has been listed for appropriate order.

Such

I.A.1,etc.in WP(C)657/95

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prayer is allowed. Let the said containers be disposed of in the manner indicated by the Maharashtra Pollution Control Board. I.A. is disposed of accordingly.

31. I.A.14 of 2004(for directions, on behalf of the State of Rajasthan), filed on 22nd January, 2004, I.A.21/05 (for intervention/directions, filed on 23rd August, 2005, by Madhumita Dutta, I.A.No.35 of 2007, for directions, filed by Mr.Bhagavatsinh Halubha Gohil & Ors., filed on 8th March, 2007, I.A.36 of 2006 in I.A.NO.21 of 2004, filed by Madhumita Dutta, for permission to file addl.documents, filed on 8th March, 2007, I.A.39 of 2007 (for Directions) filed by Y.Suresh (Ms. Anitha Shenoy,AOR) filed in April, 2007 and I.A.45-47 of 2007, for impleadment/direction/interim relief, filed by Gram Vikas Sangharsh Samiti, are taken up.

32. Let the prayers in the above I.As be considered in the judgment to be delivered in the main matter.

I.A.No.43 of 2007

33. This I.A.has been filed by Kishore R.Shah(for direction), claiming to be a member of the Citizen Council Chala - Vapi, in which

I.A.1,etc.in WP(C)657/95

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directions had been sought for a direction upon the State of Gujarat, to provide fresh drinking water to the residents of Vapi and Ankleshwar. It appears that by an order dated 7th May, 2004, a direction had been given in such regard and today, Ms. Hemantika Wahi, learned counsel appearing for the State of Gujarat, submits that

steps were immediately taken pursuant to the directions given. Ms. Wahi is requested to file an affidavit in this regard within a week from date. A similar affidavit may also be filed on behalf of the State of Madhya Pradesh, in relation to supply of fresh drinking water to the areas in and contiguous to the Union Carbide Plant in Bhopal. Learned advocate, Ms. Vibha Dutta Makhija, who had represented the State of M.P., shall take steps to comply with these directions.

I.A.Nos.48-49 of 2007

34. These applications have been filed on behalf of the Petroleum and Explosive Safety Organisation (formerly Department of Explosives) Ministry of Commerce and Industry, Government of India, for clarification/modification of the

I.A.1,etc.in WP(C)657/95

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order passed by this Court on 6th September, 2007. In response to the same an affidavit was filed by the Union of India, indicating that it had complied with the order dated 22nd January, 2008, and that a meeting had been held at the Ministry of Environment and Forests[MoEF] of the stakeholders on 13th March, 2008, under the Chairmanship of the Additional Secretary of the said Ministry. In the meeting, it was agreed as follows:-

- "(i)The PESCO (formerly Department of Explosives) would issue the gas-free-for-hot-work certificate in respect of the petroleum cargo vessels, Floating Production Services & Offshore (FPSO) and slop tanks at the anchoring stage prior to beaching as per the Petroleum Act, 1934 and Petroleum Rules, 2002.
- (ii)The Office of Directorate of Industrial Safety & Health, Government of Gujarat can

issue gas-free-for-hot-work certificate in respect of all other cargo vessels except the petroleum cargo vessels, FPSO and slop tanks, as per the Gujarat Factories Act, 1963, at the anchoring stage prior to beaching.

(iii) In respect of the fuel tanks of any type of vessels, the gas-free-for-hot-work certificate can be issued either by the Office of Directorate of Industrial Safety & Health or the PESO, after beaching and prior to dismantling."

I.A.1, etc. in WP(C) 657/95 35. Accordingly, the prayer made by the

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applicant appears to have been satisfied and the applications are disposed of accordingly.

I.A.52 & 53 of 2007 (for impleadment/direction, on behalf of the Ship Recycling Industries Association. (India))

36. There will be a similar order as passed in I.A.48-49 of 2007, as far as these I.As. are concerned.

I.A.No.51 of 2007

37. IA 51 which has been filed by Dr. Claude Alvares, member of the Supreme Court Monitoring Committee, praying for an injunction to restrain Union of India from finalising of a Notification on hazardous wastes dated 28th September, 2007, has been rendered infructuous on account of the publication of the Hazardous Wastes (Management, Handling & Transboundary Movement) Rules, 2008.

I.A.1 of 1995

38. I.A.1 has been filed in connection with the suo motu contempt rule, which has already been issued. The same may be taken up separately.

SLP(C)No.14936-14937 of 1998

I.A.1, etc. in WP(C) 657/95 39. On mentioning, let these Special Leave

Petitions be taken on board. It has been submitted by Mr. Agarwal that the petitioners do not wish to proceed with the Special Leave Petitions, which are, therefore, dismissed as withdrawn. However, Mr. Colin Gonsalves, learned senior counsel, appearing for some of the respondents, submits that the writ petition itself has been disposed of by the High Court with certain directions.

40. Having regard to the above, Mr. Gonsalves submits that the directions given by the High Court to file judgment may be taken into consideration at the time of passing final orders in the matter(s) pending before this Court.

(Sheetal Dhingra)  
COURT MASTER

(Juginder Kaur)  
Assistant Registrar