

\206U
ITEM NO.2

COURT NO.1

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.23, 40, 42, 43, 55-57 & 63-67
IN
W.P.(C) NO.657 OF 1995

RESEARCH FOUNDN. FOR SCIENCE

Petitioner(s)

VERSUS

U O I & ANR.

Respondent(s)

(With appln(s) for directions, clarification, impleadment, exemption from filing O.T. and office report)

WITH S.L.P.(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)

Date: 22/01/2013 These Petitions were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. Sanjay Parikh, AOR
Ms. Mamta Saxena, Adv.
Mr. A.N. Singh, Adv.
Ms. Bushra Parveen, Adv.

SLP 16175/97 Ms. B. Vijayalakshmi Menon, AOR

CA 7660/97 Mr. P. Parmeswaran, AOR

Crlmp No. 155/05 By Post

For Respondent(s) Mr. P.P. Malhotra, ASG
Mr. Shalinder Saini, Adv.
Mr. S.N. Terdal, Adv.
Ms. Sukhbeer Kaur Bajwa, Adv.
Mr. A.K. Sharma, AOR

Mr. Satyabarat Panda, Adv.
Ms. Hemantika Wahi, AOR
Mr. S. Panda, Adv.

For Official Mr. Manish Kr. Bishnoi, AOR
Liquidator

Ms. Meenakshi Vij, AOR

Ms. Karuna Nundy, Adv.
Ms. Aparna Bhat, AOR

Ms. Anitha Shenoy, AOR

Mr. R.K. Khanna, ASG
Ms. Sunita Sharma, Adv.

Ms. Asha G. Nair, Adv.
Mr. R.K. Rathore, Adv.
Mr. D.S. Mahra, AOR

For Customs
Department

Mr. Arijit Prasad, Adv.
Mr. T.A. Khan, Adv.
Mr. B.K. Prasad, AOR

Mrs. Jayashree Wad, Adv.
Mr. Ashish Wad, Adv.
Mrs. Tamali Wad, Adv.
Mr. Mayank Kshir Sagar, Adv.
Mr. Aditya Gupta, Adv.
for M/s. J.S. Wad & Co.

Mr. C. Mukund, Adv.
Mr. Ashok Jain, Adv.
Mr. Pankaj Jain, Adv.
Mr. Bijoy Kr. Jain, AOR

For OSPCB

Mr. A.K. Panda, Sr. Adv.
Mr. Rutwik Panda, AOR

Mr. P.S. Sudheer, AOR

Mr. A. Ragunath, AOR

For State of MP Ms. Vibha Dutta Makhija, AOR
Ms. Archi Agnihotri, Adv.

For CPCB

Mr. Vijay Panjwani, AOR

For SCMC
For IITR

Mr. Raj Panjwani, Sr. Adv.
Mr. Praveen Swarup, Adv.

CA 7660/97

Mr. K.K. Gupta, AOR

CA 7660/97

Mr. Pramod Dayal, AOR

CA 7660/97

Mr. Sushil Kumar Jain, AOR

CP 155/05

Mr. M.J. Paul, AOR

CP 155/05

Mr. Sudarsh Menon, AOR

Mr. A. Raghunath, AOR

For Sikkim

Mr. A. Mariarputham, AG, Sikkim
Mrs. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.
Ms. Movita, Adv.
for M/s. Arputham Aruna & Co.

For T.N.

Mr. B. Balaji, Adv.
Mr. R. Rakesh Sharma, Adv.

For Jharkhand

Mr. Gopal Prasad, Adv.

For Haryana

Mr. Manjit Singh, AAG, Haryana
Mr. Tarjit Singh Chikkara, Adv.
Mr. Kamal Mohan Gupta, AOR

For Puducherry

Mr. V.G. Pragasam, Adv.
Mr. S.J. Aristotle, Adv.
Mr. Praburama subramanian, Adv.

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

The issues relating to I.A. No.63 of 2013, and the payment of incineration charges by M/s. Shiv Priya Overseas (P) Ltd., are adjourned for four weeks to enable the learned Additional Solicitor General, Mr. P.P. Malhotra, to file his response to the said Interlocutory Application.

The matter relating to Bhopal and the supply of potable drinking water and other issues, is taken up for consideration.

This matter had been adjourned till today to consider the follow-up action, which was directed to be taken in terms of our last order dated 6th November, 2012. In the said order itself, we had identified three issues which were to be taken up for consideration today. The first issue was with regard to the request made on behalf of the Indian Institute of Toxicology Research (IITR), Lucknow, that some more time was required for the purpose of filing a final report, since drilling work could not be completed. A Report has now been submitted by the said Institute, which is on record.

The second issue was with regard to the supply of potable drinking water by the Municipality to the inhabitants of the twenty-three identified areas, where the ground-water was alleged to have been contaminated on account of the activities in and around the Union Carbide Factory premises. As far as the said issue is concerned, Ms. Vibha Datta Makhija, learned counsel appearing for the Bhopal Municipal Corporation, submitted that a major part of the inhabitants of the said areas had already been supplied with the water connections and that some are still left on account of certain technical difficulties. At the same time, she also indicated that the number of persons claiming to be beneficiaries of the orders passed by this Court with regard to the supply of drinking water in these areas, have increased and that, as a result, the Municipality was not in a position to complete the process of providing separate water connections to all the other inhabitants. She prayed for a survey to be conducted by the Committee, which we had appointed, to identify the exact number of persons who would be entitled to the water connections within these areas. She also submitted that an over-head water tank is under construction and that within six months, some of the areas which are yet to be supplied with potable drinking water, would be supplied from the said tank, upon completion.

In this regard, Ms. Karuna Nundy, learned counsel appearing for the Bhopal Group for Information and Action, submitted that it would be necessary to identify the persons, who are entitled to the benefits of these orders and that the submission made by Ms. Makhija for a survey to be conducted, is also quite justified.

An additional issue, which was raised by Ms. Nundy and which is a matter which has been left over from the earlier orders, is with regard to the contamination of the potable water being supplied through pipe lines which are in close proximity of the drainage and sewerage lines. We had on the last occasion directed the Municipality to consider shifting those drinking water pipe lines away from the sewerage and drainage lines, so that the water remained uncontaminated. The same has to be done and must be taken up by the Municipal authorities.

The third issue is with regard to the non-payment of the incineration charges of waste oil by M/s. Shiv Priya Overseas (P) Ltd., referred to herein-above, and others as well. On the prayer made on behalf of M/s. Shiv Priya Overseas (P) Ltd., the said matter

is adjourned for a period of four weeks. In the meantime, all the parties will be at liberty to file their responses, if so advised, to the Report submitted by the Indian Institute of Toxicology Research.

It may also be recorded that the Committee appointed by this Court has, through the Member Secretary of the M.P. State Legal Services Authority, filed a Report of the progress of the work undertaken by the Bhopal Municipal Corporation, for providing potable drinking water to the gas affected areas, identified so far. Let copies of the same be kept on record. Ms. Makhija, undertakes to supply copies of the same to the appearing parties within a week from date.

Let this matter be listed for further consideration on 28th February, 2013, at 3.00 p.m. We make it clear that the Committee, while identifying the beneficiaries of these orders, shall take 31st January, 2013, as the cut-off date for applicants to come forward and make their claims, if any, before the Committee.

Let this order be made known to the people of the locality in question by the M.P. State Legal Services Authority, if necessary, through their para legal workers. Such publicity should be given to these orders within 27th January, 2013. Let copies of this order be made available to the learned Advocates for the respective parties.

Leave is given to Ms. Jayashree Wad, learned counsel appearing for some of the Companies, who were said to have defaulted in payment of their incineration charges, will be at liberty to file an affidavit in support of her submissions that these amounts have already been paid by her clients.

|(Chetan Kumar)
|Court Master

|(Juginder Kaur)
|Assistant Registrar

|