

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. 23,40,42,43,55,56 & 57 IN W.P.(C)NO.657/1995

RESEARCH FOUNDN. FOR SCIENCE TECHNOLOGY & NATIONAL
RESOURCE POLICY Petitioner(s)

VERSUS

U O I & ANR. Respondent(s)
(for directions and clarification and office report)

WITH
I.A.NOs.60, 63, 64 and 65 (appln.(s)for exemption from filing official
translations, directions/clarification, impleadment and directions)

WITH
SLP(C)No.16175 of 1997
(with appln.(s) for ex-parte stay)
(for final disposal)

C.A.No.7660 of 1997
(with office report)
(for final disposal)

WITH
Conmt.Pet.(C)No.155/2005 in W.P.(C)No.657/1995
(with appln.(s) for directions and office report)
(for final disposal)

Date: 25/09/2012 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. Bushra Parveen, Adv.
Mr. A.N. Singh, Adv.

For Bhopal Group Ms. Karuna Nundy, Adv.
for Information Ms. Aparna Bhat, AOR
and Action Mr. Abvi Singh, Adv.

in CA 7660/97 Mr. P. Parmeswaran, AOR

in SLP(C)16175/97 Ms. B. Vijayalakshmi Menon, AOR

Conmt.Pet.155/05 By Post

For Respondent(s) Ms. Vibha Datta Makhija , AOR

C.P.C.B. Mr. Vijay Panjwani, AOR

I.I.T.R. Mr. Praveen Swarup, AOR.

Ms. Hemantika Wahi ,AOR

Ludhiana Ref. Ms. Meenakshi Vij, AOR

Mr. Aruneshwar Gupta, AOR

Mr. Gopal Singh ,AOR

UOI	Mr. B. Krishna Prasad ,AOR
IA 23	Mr. Bijoy Kr. Jain, AOR.
IA 40,64&65	Ms Anitha Shenoy, AOR
IA 42 in IA34	Mr. A.Raghunath, AOR
IA 43	Mr. Amit Kumar, AOR
IA 55 to 57	Mr. P.S. Sudheer, AOR
IA 60	Ms Aparna Bhat, AOR.
Defaulter No.5	Mrs. Jayshree Wad, Adv. for M/s.J.S. Wad, Adv.
for Off.Liq.	Mr. Manish Kr.Bishnoi, AOR.
For Dept. of Customs	Mr. Arijit Prasad, Adv. Mr. Farrukh Rasheed, Adv. Mr. T.A. Khan, Adv. Mr. Arvind K. Sharma, Adv. Mr. T.S. Doabia, Sr. Adv. Mr. D.S. Mahra, Adv. Ms. K.Enatoli Sema, Adv. Mr. Amit Kr.Singh, Adv. Mr. K.K. Gupta, AOR Mr. Pramod Dayal, AOR Mr. Sushil Kumar Jain, AOR Mr. M.J. Paul, AOR. Mr. Sudarh Menon, AOR Mr. E.C. Agrawala ,AOR Mr. Ejaz Maqbool ,AOR Mr. K.B. Rohtagi ,AOR Mr. Pradeep Misra ,AOR Mr. R. Sathish ,AOR Ms. Sushma Suri,AOR
For Sec. Environment, St. of Goa	Mr. Bhavanishankar V. Gadnis, Adv. Mr. A.Raghunath, AOR.

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

1. Copies of the third Interim Report submitted by the CSIR to the Central Pollution Control Board, Delhi, have been filed in Court today. The other two Reports have been filed earlier. Let the third Interim Report, be taken on record.
2. From the Interim Reports, as filed, it appears that although certain samples of the soil and ground-water had been taken from the site of the factory, drilling work could not be undertaken on account of the soil condition as it exists today on account of the monsoons. It has been submitted that the right time for doing such drilling is in the month

of October, which the parties all agree to.

3. Having regard to the above, let this matter stand over till 6th November, 2012, The Institute is directed to take the samples, which are required of the soil and ground water in the month of October, as suggested, from the same locations and other locations as may be considered necessary. The earlier order regarding the participation of the Bhopal Group for Information and Action, will continue to remain operative. Let I.As 23 and 63, be also taken up for consideration on the next date.

4. The earlier Reports filed may also be considered by the Institute while preparing its final Report. Copies of the Report to be submitted by the Institute, are to be made available to the learned advocates of the respective parties, by 30th October, 2012.

5. In addition to the above, in regard to the part of the earlier orders wherein the State of Madhya Pradesh had undertaken to provide separate water connections to the houses of the residents of the 18 colonies which have been identified, it has been submitted by Ms. Makhija, appearing for the State and the Municipality, that six thousand connections had already been given. She, however, submitted that the Municipality is facing the problem of non-payment of the bills raised by the Municipality for such supply. This is a problem which needs to be addressed immediately, since the supply of potable drinking water cannot be made a financial burden on the Municipality. Accordingly, the beneficiaries of the individual water connections made available by the Municipality, will have to pay the charges for such water supply. However, the State may consider the possibility of subsidising the costs in order to enable the beneficiaries to obtain such supply of water at a subsidised rate. Since the supply of water is to remain uninterrupted, subject to payment of the bills, an early decision is required to be taken by the State Government in this regard. The State Government shall take a decision in the matter within a month from date.

6. The other issue involved is with regard to non-payment of incineration charges of the waste oil, which had been imported by some of the respondents.

7. In our order of 29th February, 2012, we had identified the defaulters, whose names had been set out in paragraph 28 of the order. Along with the said 9 defaulters, default has also been committed by M/s. Shiv Priya Overseas (P)Ltd., where the situation is a little different, since the company has gone into liquidation and its assets are now under the management of the Official Liquidator. As far as the 9 defaulters named in paragraph 28 of the order are concerned, M/s.Hindustan Trading Corpn., Central Steel & General Industries, Jairaj Ispat Ltd. and Sri Sainath Enterprises, filed their responses objecting to the amount assessed by the Customs authorities towards payment of incineration charges of the said waste oil. The Customs authorities had replied to such objections and have indicated that their assessment was based on the actual quantities of the waste, which were required to be incinerated and the assessment made by them was quite correct.

8. As far as M/s.Ludiana Refineries Industry is concerned, it has been submitted by Ms. Meenakshi Vij, learned advocate, that major part of the payment has already been paid and that the company is ready and willing to pay the balance amount, if not already paid. Accordingly, in the event the difference has not been paid, M/s.Ludiana Refineries Industry, is given a month's time to deposit the same.

9. As far as M/s.Indochem Industries, M/s. Valley International, M/s. Shalimar Chemicals Inds. Pvt. Ltd. and M/s. Pioneer Petrochem, are concerned, neither are they represented in Court today, nor is there any material on record to show that they had paid the amounts to the custom authorities for the purpose of incineration of the waste oil imported by them. The said companies are given time till 31st October, 2012, to pay the amounts due, if not already paid.

10. Let this matter stand over till 6th November, 2012, when a Report is to be submitted by the Customs authorities, as to whether the payments have been made. In the event payments are not made within the said period, the Directors of each of the above-named companies, shall be present in Court on 6th November, 2012, at 10.30 a.m.

11. Let copies of this order be made available to the appearing parties for communication to the said companies.

12. The Registry is also directed to ensure that such service is

completed before the next date.

|(Sheetal Dhingra)
|COURT MASTER

| |(Juginder Kaur)
| |Assistant Registrar

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