

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

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 657 OF 1995

RESEARCH FOUNDN. FOR SCIENCE

Petitioner(s)

VERSUS

U O I & ANR.

Respondent(s)

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

WITH S.L.P.(C) NO. 16175 of 1997 - (With appln.(s) for ex-Parte stay and impleading party)

Civil Appeal NO. 7660 of 1997 - (With office report)

Date: 18/07/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

in WP(C)657

Mr. Sanjay Parikh, Adv.

in SLP(C)16175

Ms. B. Vijayalakshmi Menon, Adv.

in CA 7660

Mr. P. Parmeswaran, Adv.

For Respondent(s)

For JN Port Trust

Mr. R. Mohan, ASG

Mr. Ajay Sharma, Adv.

For Bombay Port

Mr. G.E. Vahanvati, SG

Trust

Mr. Buddy A. Ranganadhan, Adv.

for M/s. J.B.D. & Co., Advs.

For Min. of Env.

Mrs. Anil Katiyar, Adv.

For Customs

Mr. A. Subba Rao, Adv.

Ms. Sushma Suri, Adv.

For DPCC & DSIDC

Mr. D.N. Goburdhan, Adv.

Ms. Pinky Anand, Adv.

Ms. Geeta Luthra, Adv.

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For CPCB

Mr. Vijay Panjwani, Adv.

For Maharashtra

Mr. Mukesh Verma, Adv.

Poll.Con.Board

Mr. Manish Shanker, Adv.

Mr. Yash Pal Dhingra, Adv.

For MP Poll.

Ms. Yogmaya Agnihotri, Adv.

Control Board

Mr. Rohit K. Singh, Adv.

Mr. D.K. Sinha, Adv.

For Orissa PCB

Mr. Janaranjan Das, Adv.

Mr. Swetaketu Mishra, Adv.

For Pondicherry Poll.

Mr. V.G. Pragasam, Adv.

Control Committee

For WBPCB

Mr. R. Mohan, ASG

Mr. V.G. Pragasam, Adv.

For State of

Mr. Anil Shrivastava, Adv.

Arunachal Pradesh

Mr. Saurabh Shrivastava, Adv.

Ms. Bano Shree, Adv.

For State of Assam

Ms. Krishna Sarma, Adv.

Mr. V.K. Sidharthan, Adv.

Ms. Amrita Bhattacharya, Adv.

for M/s. Corporate Law Group, Adv.

For State of Bihar

Mr. Kumar Rajesh Singh, Adv.

for Mr. B.B. Singh, Adv.

For State of Goa

Ms. A. Subhashini, Adv.

For State of Gujarat

Ms. Hemantika Wahi, Adv.

& Mizoram

Ms. Sadhna Sandhu, Adv.

For State of Haryana

Mr. Ajay Siwach, Adv.

Mr. Kapil Dev Singh, Adv.

Mr. Pradeep Dahiya, Adv.

Mr. T.V. George, Adv.

For State of

Mr. S.S. Shinde, Adv.

Maharashtra

for Mr. V.N. Raghupathy, Adv.

For State of Manipur

Mr. KH. Nobin Singh, Adv.

For State of

Mr. Ranjan Mukherjee, Adv.

Meghalaya

For State of Nagaland

Mr. U. Hazarika, Adv.

Mr. Satya Mitra, Adv.

Ms. Sumita Hazarika, Adv.

For State of

Mr. Aruneshwar Gupta, Addl. Adv. Gen.

Rajasthan

Mr. Naveen Kumar Singh, Adv.

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For State of Sikkim

Mr. A. Mariarputham, Adv.

Ms. Aruna Mathur, Adv.

for M/s. Arputham, Aruna & Co., Advs.

For State of TN

Mr. R. Ayyam Perumal, Adv.

Mr. S. Vallinayagam, Adv.

Mr. Sewa Ram, Adv.

For State of UP

Ms. Savitri Pandey, Adv.

Mr. Kamlendra Mishra, Adv.

Mr. Rajeev Kumar Dubey, Adv.

For State of Tripura

Mr. Gopal Singh, Adv.

Mr. Rituraj Biswas, Adv.

Mr. Mukul Rohtagi, Sr.Adv.

Ms. Jayashri Wad, Adv.

Mr. Ashish Wad, Adv.

Mr. Neeraj Kumar, Adv.

Mr. Priyank, Adv.

for M/s. J.S. Wad & Co., Advs.

For M/s. Versatile

Mr. Chandrakanta Nayak, Adv.

Export

for Mr. Atishi Dipankar, Adv.

For M/s. Shivpriya

Mr. Ranjit Kumar, Sr.Adv.

Overseas

Mr. Lalit Bhasin, Adv.

Ms. Nina Gupta, Adv.

Ms. Shanta Chhadha, Adv.

Ms. Shina Lakshmi, Adv.

Ms. Neelam Singh, Adv.

Ms. Meha Kiran, Adv.

Ms. Bina Gupta, Adv.

For M/s. Royal Impex

Ms. Sushila Rani, Adv.

Ms. Reena Sinha, Adv.

Mr. Nikhil Nayyar, Adv.

For M/s. Indochem

Mr. Krishnan Venugopal, Adv.

India

Mr. Anshu Mahajar, Adv.

Ms. Bina Gupta, Adv.

For M/s. Ludhiana Mr. Nidhesh Gupta, Adv.
Refineries Mr. Vinod Shukla, Adv.
 Ms. S. Janani, Adv.

For M/s. Eleven Star Mr. D.N. Mishra, Adv.

 Mr. R.K. Joshi, Adv.
 Mr. Sushil Kr. Jain, Adv.
 Mr. U.N. Goyal, Adv.

 Mr. B. Krishna Prasad, Adv.

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Mr. Ashok Mathur, Adv.

Mr. Anil Kumar Jha, Adv.

Mrs. Manik Karanjawala, Adv.

Mr. K.B. Rohtagi, Adv.

Mr. Shakil Ahmed Syed, Adv.

Mr. Pradeep Misra, Adv.

Mr. T.V. Ratnam, Adv.

Mr. Rakesh K. Sharma, Adv.

Mr. Radha Shyam Jena, Adv.

Ms. Urmila Sirur, Adv.

for M/s. Sinha & Das, Adv.

Mr. Sanjay R. Hegde, Adv.

Mr. Javed Mahmud Rao, Adv.

Ms. Vibha Datta Makhija, Adv.

Mr. Pramod Swarup, Adv.

Mr. K.K. Gupta, Adv.

Mr. Pramod Dayal, Adv.

UPON hearing counsel the Court made the following

O R D E R

Writ Petition (C) No. 657/95, SLP(C)No.16175/97 and C.A.No.7660/97 :

In regard to payment, in future the cost of incineration in terms of the order-

der dated 5.1.2005 shall be paid by Bank Draft in favour of the Commission of Customs, Jawaharlal Nehru Port Trust, Nhava Sheva.

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Today an affidavit has been filed in the Court by the Additional Director, Ministry of Environment & Forest, Paryavaran Bhawan, New Delhi regarding change of Member Secretary of the Monitoring Committee constituted by this Court vide order dated 14th October, 2003 under the Chairmanship of Dr. G. Thyagarajan and Dr. N.H. Hosabettu, the then Director (HSMD) as the Member Secretary of the Committee. It is stated in the aforesaid affidavit that Dr. N.H. Hosabettu has now been assigned new responsibilities and has been posted as Director in the Impact Assessment Division, therefore, Mr. M. Subba Rao, Additional Director HSM Division, Ministry of Environment and Forests may be permitted to act as the Member Secretary of the Monitoring Committee instead of Dr. N.H. Hosabettu.

We permit Mr. M. Subba Rao, Additional Director, HSM Division, Min-

istry of Environment and Forests to act as Member Secretary of the Monitoring Committee in place of Dr. N.H. Hosabettu.

Mr. Joseph Dominic, working as Chief Commissioner of Customs, Jawaharlal Nehru Customs House, along with his affidavit filed on 22.6.2005, placed on record the details of consignments of which the importers have not filed bills. The said details were furnished to the Monitoring Committee as per the said affidavit along with letter dated 17.2.2005. Details of all the importers collected from the custodians is as per Annexure 'B'. In the letter dated 17.2.2005 addressed

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by Commissioner of Customs (I), Jawaharlal Nehru Custom House to the Monitoring Committee, it has been inter alia stated that the goods have been mis-declared with a view to circumvent import trade control provisions. Consequently, the same had been rendered liable for confiscation under the provisions of the Act. We find that some of the imports took place as early as in the year 1992. Be that as it may, we direct immediate initiation of confiscation proceedings in accordance with law and also immediate culmination thereof.

The Chief Commissioner of Customs shall also file an affidavit explaining in detail the circumstances under which the goods in question remained unattended without initiation of any proceedings for the last so many years. As per the documents now filed, about 209 containers fall in this category. The affidavit shall also

place on record the action, if any, which is proposed to be taken in case the inaction was the result of some of the officers of the department. This affidavit shall be filed within a period of two weeks.

List the matters after two weeks.

I.A.NO.20 :

Heard Mr. Ranjit Kumar, learned Senior counsel for the applicant.

The interlocutory application is dismissed.

Contempt Petition :

Some of the parties have not been served. We direct the Chief Commissioner of Customs, Jawaharlal Nehru Custom

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House to ensure the service on all the unserved parties. For M/s. Shivapria Overseas Pvt. Ltd., New Delhi and M/s. Shalimar Chemical Industries Private Ltd., Mumbai, their respective learned counsel accept Notice. Both the parties shall file their replies within two weeks. On behalf of M/s. Shivapriya Overseas Pvt. Ltd., Mr. Ranjit Kumar, learned Senior counsel, on instructions from Mr. Dinesh Chandra, Director of the company, who is said to be present in the Court, requested that the company may be granted six months' time to make the payment on an undertaking being given to this Court for due payment during the said period. Let the said party file reply along with proper affidavit and state therein what is required to be said, including the as-

pect of time to make payment.

Learned counsel appearing on behalf of M/s. Versatile Export, Mumbai, M/s. Royal Impex, Mumbai and M/s. Indochem India, Mumbai also accept notice.

Only three parties remain to be served in the contempt petition, namely, (i) M/s. Pioneer Petrochem Products, Mumbai, (ii) M/s. Central Steel and General Industries, Jaipur and M/s. Valley International (P) Ltd., Delhi, the Chief Commissioner of Customs would ensure their service.

List the contempt petition after two weeks.

Sarita

(V.P. Tyagi)

Court Master