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ITEM NO.1

COURT NO.10

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, 55, 56, 57 & 63, 64, 65, 66, 67, 68 & 69
IN WRIT PETITION [C] NO. 657/1995

RESEARCH FOUNDN. FOR SCIENCE TECHNOLOGY &
NATIONAL RESOURCE POLICY

Petitioner(s)

VERSUS

U O I & ANR.

Respondent(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]

Contempt Petition (C) No.155/2005 in WP(C) No.657/1995
(With appln.(s) for directions and office report)
[For Final Disposal]

Date:13/02/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)

In WP 657/1995:

Mr. Sanjay Parikh,Adv.
Ms. Mamta Saxena,Adv.
Ms. Bushra Parveen,Adv.
Ms. N. Vidya,Adv.
Mr. A.N. Singh,Adv.

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

In CA 7660/1997:

Mr. P. Parmeswaran,Adv.

In SLP 16175/1997:

Ms. B. Vijayalakshmi Menon,Adv.

For Respondent(s)

Ms. Hemantika Wahi,Adv.
Mr. S. Deshpande,Adv.

For O. Liquidator

Mr. Manish Kumar Bishnoi,Adv.
Ms. Meenakshi Vij,Adv.
Ms. Karuna Nundy,Adv.

Ms. Aparna Bhat, Adv.

Mr. Sudarshan Menon, Adv.

Ms. Anitha Shenoy, Adv.

Mr. Anil Shrivastav, Adv.

Mr. Rituraj Biswas, Adv.

Mr. C.D. Singh, Adv.

For Union of India: Mr. Rakesh Kr. Khanna, ASG

Mr. S.P. Singh, Sr. Adv.

Ms. S.K. Bajwa, Adv.

Ms. Asha G. Nair, Adv.

Ms. Kiran Bhardwaj, Adv.

Ms. Sunita Sharma, Adv.

Mr. Mohit Nagar, Adv.

Mr. Arijit Prasad, Adv.

Mr. Shashant Bajapai, Adv.

Mr. D.S. Mahra, Adv.

For MoEF: Mr. S.P. Singh, Sr., Adv.

Ms. Kiran Bhardwaj, Adv.

Mr. S.N. Terdal, Adv.

Mr. Shailender Saini, Adv.

Ms. Shashank Bajwa, Adv.

Mr. Manish K. Bishnoi, Adv.

Dr. Manish Singhvi, AAG

Mr. Amit Lubhaya, Adv.

Mr. Irshad Ahmad, Adv.

For UPPCB Mr. Pradeep Misra, Adv.

Mr. Suraj Singh, Adv.

For Deptt. of Customs: Mr. Arijit Prasad, Adv.

Mr. T.A. Khan, Adv.

Mr. B.K. Prasad, Adv.

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

Mr. Mukesh Verma, Adv.

Mr. Pawan Kumar Shukla, Adv.

Mr. Yash Pal Dhingra, Adv.

For Director: Mr. C. Mukund, Adv.

Mr. Ashok K. Jain, Adv.

Mr. Pankaj Jain, Adv.

Mr. Bijoy Kumar Jain, Adv.

For Nagaland Mrs. K. Enatoli Sema, Adv.

Mr. Amit Kumar Singh, Adv.

For Odisha PCB: Mr. Satyabrata Panda, Adv.

Mr. Rutwik Panda, Adv.

Mr. Sunil Fernandes, Adv.

Mr. Raghav Chadha, Adv.

Mr. P.S. Sudheer, Adv.

Mr. A. Raghunath, Adv.

Ms. Aruna Mathur, Adv.

For Director, Sc. Tech.

and Environment Mr. Bhavanishankar V. Gadnis, Adv.

For CPCB: Mr. Vijay Panjwani, Adv.

 Ms. Syed Tabinda, Adv.
 Mr. Praveen Swarup, Adv.
 Mr. Viraj Gupta, Adv.

 Mr. A.K. Sharma, Adv.

 Mr. V.G. Pragasam, Adv.
 Mr. S.J. Aristotle, Adv.
 Mr. Prabu Ramasubramanian, Adv.

 Mr. K.K. Gupta, Adv.

 Mr. Pramod Dayal, Adv.

 Mr. Sushil Kumar Jain, adv.

 Mr. M.J. Paul, Adv.

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

When this matter came up before this Court on 26.11.2013, a sorry state of affairs was noted that in spite of the judgment rendered by this Court in Research Foundation for Science, Technology and Natural Resource Policy Vs. Union of India and Ors., reported in 2012 (6) SCALE 253, 170 containers referred to in paragraph 16 of the judgment were lying without incineration. We had asked on that very day Mr. S.R. Singh, learned senior appearing for the Union of India as to why this was the state of affairs. He said that he will take instructions to file an affidavit and four weeks' time as sought was granted. The order passed on 26.11.2013 stated that the affidavit must state whether there are any other containers which are hazardous and are yet to be incinerated, and if so, that should also be placed on record. Nothing as directed was done by the Government though the matter has reached more than eight weeks thereafter.

2. Now, we are informed that some 212 containers are lying with damaging contents of waste oil and various other wastes and so on. One is not very sure of the exact number of containers because different figures are given on different dates. Today we are told that testing of samples of these containers was done way back on 8.5.2007. If that is so, we fail to understand as to why no steps were taken thereafter, unless the test reports state that those containers contain nothing hazardous. This shows a complete apathy on the part of the Government as can be clearly seen from the conduct of the Government and various agencies which are involved in this matter.

3. Mr. Rakesh Khanna, learned Additional Solicitor General has thereafter collected some more information and he informs us that an affidavit will be filed on Monday i.e. 17th February, 2014 placing on record the following aspects:

(a) The number of containers of hazardous waste which are lying in the area of JNPT or in the adjoining areas of JNPT where these containers are dumped in warehouses.

(b) The test reports with dates and particulars reflecting on the contents of these containers will be placed along with an affidavit by the Central Government/Customs Department.

(c) The place where the incineration will be carried out and the agency by whom it will be done, will also be specified in this

affidavit.

4. Mr. Vikas Singh, learned senior counsel appearing for JNPT states that JNPT will furnish full information about the containers to the Chief Commissioner of Customs, Mumbai. A senior officer of the JNPT will state it on affidavit as to in whose custody and in which warehouses all these containers are lying.

5. We are informed by the learned counsel appearing for the MPCB, as well as by Mr. Sanjay Parikh, learned counsel for the petitioner that on the previous occasion, the incineration was done at Taloja near Mumbai. We are informed by the counsel for the MPCB that some 30 metric tonnes of hazardous wastes can be incinerated in a day. If the quantity of the contents of these 212 containers is 4241.138 metric tonnes as per the figures given by Mr. Khanna, it will need about 141 days and not one year as stated in the note submitted by Mr. Khanna. The affidavit must state as to when the incineration will be carried out in places nearby Mumbai, but outside thickly populated areas and within the State of Maharashtra. Mr. Panjwani, learned counsel for the CPCB has offered to give a list of such Centres to Mr. Khanna.

6. The affidavit of the Central Government/Customs Department will also state that the responsibility for making the payment for incineration will be that of the Customs Department though subsequently they will recover the expenditure from the shipping companies or whoever are the importers responsible for dumping these containers in the port area.

7. We understand that this incineration will be done under the supervision of Maharashtra State Pollution Control Board. We expect an affidavit to be filed by the Maharashtra State Pollution Control Board as to how they will go about this exercise.

8. We are really distressed at the attitude of the Central Government and all these agencies because they did destroy 133 containers after the judgment rendered earlier by this Court in Research Foundation for Science Vs. Union of India and Anr., (2005) 13 SCC 186. The said judgment also mentioned the existence of other 170 containers with which we are presently concerned. For the reasons best known to them nothing has been done by the Government about these containers all these years. Apart from the officers of the Ministry of Environment and Forests, some responsible officers of the MPCB, JNPT and Customs Department, Mumbai will also remain present on the next date of hearing.

9. These affidavits will be filed on or before 17th February, 2014 and the matter be listed on 18th February, 2014.

(A.S. BISHT)
A.R.-CUM-P.S.

(SNEH LATA SHARMA)
COURT MASTER