

ITEM NO.5

COURT NO.10

SECTION XII

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

Petition(s) for Special Leave to Appeal (Civil) No(s).28116-28123/2010

(From the judgement and order dated 28/09/2010 in WP No.15501/1996,
WP No.15502/1996, WP No.15503/2006, WP No.5769/1997,
WP No.16861/1998, WMP No.8044/1999, WMP No.8045/1999 and WMP
No.8046/1999 in WP No. 15501/1996, WP No.15502/1996 and WP
No.15503/2006 of The HIGH COURT OF MADRAS)

STERLITE INDUSTRIES (I) LTD. ETC. ETC.

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. ETC. ETC.

Respondent(s)

(With appln(s) for modification of Court's Order and permission to
place addl. documents on record and with prayer for interim relief and
office report)

Date: 17/01/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. C.A. Sundram, Sr. Adv.
Mr. Rishi Agrawalla, Adv.
Mr. Raghunathan, Adv.
Ms. Rohini Musa, Adv.
Ms. Radhika Gautam, Adv.
Mr. E.C. Agrawala, Adv.

For Respondent(s) Mr. V. Gopalswamy @ Vaiko, in-Person
Mr. J.B. Ravi, Adv.
Mr. Devadoss, Adv.

Mr. V. Prakash, Adv.
Mr. Shivaji M. Jadhav, Adv

Mr. M.A.Chinnasamy ,Adv

S.L.P. (Civil) Nos. 28116-28123/2010

Mr. Subramonium Prasad ,Adv

Mr. Abhay Kumar ,Adv.

Mr. S. Beno Bencigar, Adv.
Mr. P. Soma Sundaram ,Adv

Mr. Gurukrishna Kumar, A.A.G.
Mr. M. Yogesh Kanna ,Adv

Mr. P.P. Malhotra, A.S.G.
Ms. Vimla Sinha, Adv.

Mr. B.K. Prasad, Adv.

Mr. Vijay Panjwani, Adv.

Ms. Madhur Panjwani, Adv.

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

We have heard Mr. C.A. Sundram, learned senior counsel for the petitioner, Mr. V. Gopalswamy @ Vaiko, respondent-in-person, Mr. Vijay Panjwani, learned counsel for the Central Pollution Control Board, Mr. V. Prakash, learned counsel for National Trust for Clean Environment and Mr. Gurukrishna Kumar, Addl. Adv. Gen. for Tamil Nadu Pollution Control Board.

In the course of the arguments, it transpired that the consent given by the Tamil Nadu Pollution Control Board (for short, 'Board') to the petitioner had expired on December 31, 2009. Though the petitioner had made an application for renewal (consent) for the year 2010-11 well S.L.P. (Civil) Nos. 28116-28123/2010

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in time, no formal order came to be passed by the Board in view of the pendency of the Writ Petition before the Madras High Court. For the last two years the petitioner has been carrying on its activities and production of copper without formal consent by the Board. We are informed that the petitioner also made an application on January 31, 2011 for consent of the Board for the year 2011-12, but no formal order has been passed by the Board on that renewal application as well.

We are of the view that the petitioner should make a fresh application for consent of the Board within fifteen days from today. The Board shall then make an enquiry as contemplated under Section 25(3) of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21(3) of the Air (Prevention and Control of Pollution) Act, 1981 and take decision in the matter within one month of the receipt of

the application. Before taking final decision, the Board shall also have due regard to the report submitted by the National Environmental Engineering Research Institute (NEERI) in the month of May, 2011.

It appears from the record that during inspection conducted on December 26, 2011, the Board, inter alia, observed that the petitioner has not made any physical progress of providing permanent water sprinklers at the S.L.P. (Civil) Nos. 28116-28123/2010

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gypsum pond area and rock phosphate area which was to be completed by December 31, 2011.

Mr. C.A. Sundram, learned senior counsel for the petitioner, submits that the above deficiency as pointed out by the Board could not be made up in time due to rains and that now civil work has started and by January, 2012, permanent water sprinklers at the gypsum pond area and rock phosphate area shall be in place. We accept the statement of Mr. C.A. Sundram.

We find from the proceedings of the Board dated October 24, 2011 that the Board has issued certain directions to the petitioner and fixed a time schedule for completion of various processes. The petitioner has to maintain the time schedule as directed by the Board. I

there is any delay in any of the processes, liberty is granted to the petitioner to apply to the Board for extension of time. In that event, the Board shall consider the progress undertaken by the petitioner and pass appropriate direction to the petitioner.

Mr. C.A. Sundram, learned senior counsel for the petitioner, informed us that the petitioner has complied

with the directions issued by the Board in respect of green belt area and health status.

The Board shall now examine the status report given S.L.P. (Civil) Nos. 28116-28123/2010

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by the petitioner and check and verify whether deficiencies have been made up by the petitioner or not.

List the matter on March 28, 2012.

In the meanwhile, the interim order passed by this Court on October 1, 2010 shall remain operative.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master