

ITEM NO.10

COURT NO.2

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: PETCOKE

(1) IA NO. 150626/2022 (APPLN. FOR MODIFICATION B/O CARBON RESOURCES PVT. LTD.)

(2) IA NO. 114340/2022 (APPLN. FOR DIRECTION ON B/O HIMADARI SPECIALITY CHEMICALS LTD.)

(3) IA NO. 40807/2022 (APPLN. FOR PERMISSION B/O INDIAN STEEL ASSOCIATION)

(4) IA NO. 115613/2021 (APPLN. FOR CLARIFICATION OF ORDER DATED 09.10.2018 ON BEHALF OF RAIN CII CARBON (VIZAG) LIMITED)

(5) IA NO. 16635/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF RAIN CII CARBON (VIZAG) LIMITED)

(6) IA NO. 41879/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF SANVIRA INDUSTRIES LTD.)

AND

LETTER DT. 30.01.2023 RECEIVED FROM GOVT. OF NCT OF DELHI, TRANSPORT DEPARTMENT, PLANNING BRANCH

IA. Nos.113258/2020, 113260/2020, 134602/2020 - IMPLEADMENT, DIRECTIONS AND PERMISSION TO PLACE ON RECORD ADDL. DOCUMENTS ON BEHALF OF TALWANDI SABO POWER LTD.

WP(CIVIL) NO. 363/2021

(I.A. NOS. 41178/2021-STAY APPLICATION, IA NO. 16221/2022-APPROPRIATE DIRECTIONS AND IA NO. 72347/2022-CLARIFICATION/DIRECTIONS)

AND

W.P.(CIVIL) NO. 838/2021

(IA NO. 91043/2021-STAY APPLICATION, IA NO. 16226/2022-APPROPRIATE DIRECTIONS AND IA NO. 66095/2022-CLARIFICATION/DIRECTIONS)

ONLY" IN W.P.(C) NO. 13029/1985 ARE LISTED.

"ONLY" NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:

MR. HARISH N. SALVE, SR. ADVOCATE (A.C.)
 MS. APARAJITA SINGH, SR. ADVOCATE (A.C.)
 MR. A.D.N. RAO, SR. ADVOCATE (A.C.)
 MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)
 PETITIONER-IN-PERSON
 MR. G.S. MAKKER,
 MR. AMRISH KUMAR,
 MR. SANJAY KR. VISEN,
 MR. KAMLENDRA MISHRA,
 MR. AJAY PAL,
 MR. SANDEEP KR. JHA,
 MR. JYOTI MENDIRATTA,
 MR. E.C. AGRAWALA,
 MR. RAJ BAHADUR YADAV
 MR. VIVEK SINGH,
 MS. MALVIKA KAPILA,
 MR. VIKAS MEHTA, ADVOCATES)

Date : 24-03-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
 HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

Ms. Aparajita Singh, Sr. Adv. (AC)
 Mr. A.D.N. Rao, Sr. Adv. (AC)
 Mr. Siddharth Chowdhury, Adv. (AC)
 Mr. H.N. Salve, Sr. Adv. (AC) (NP)

For Petitioner(s) Petitioner-in Person

Applicant-in-person

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.
 Mr. S Wasim A Qadri, Sr. Adv.
 Mr. Gurmeet Singh Makker, AOR
 Ms. Suhasini Sen, Adv.
 Mr. Rajesh Kumar Singh, Adv.
 Mr. S.S. Rebello, Adv.
 Mr. Subhranshu Padhi, Adv.
 Ms. Archana Pathak Dave, Adv.
 Ms. Ruchi Kolhi, Adv.
 Dr. Arun Kumar Yadav, Adv.
 Ms. Shagun Thakur, Adv.

Ms. Aishwarya Bhati, A.S.G.
 Ms. Suhashini Sen, Adv.
 Mr. Rajesh Kumar Singh, Adv.
 Mr. Subhranshu Padhi, Adv.

Mrs. Archana Pathak Dave, Adv.
Mr. Amrish Kumar, AOR

Mrs. Aishwarya Bhati, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mrs. Archana Pathak Dave, Adv.
Mrs. Alka Agarwal, Adv.
Ms. Baby Devi Bonia, Adv.
Mr. Anirudh Bhat, Adv.

Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. B.K.satiya, A.A.G.
Mr. Rahul Khurana, Adv.
Mr. Himanshu Satiya, Adv.
Mr. Sanjay Kr. Visen, AOR

Mr. S.R.singh, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Ms. Priya Gaur, Adv.
Mr. Kamendra Mishra, AOR

Mr. Ajay Pal, AOR
Mr. Mayank Dahiya, Adv.
Ms. Sugandh Rathor, Adv.
Ms. Priyanka C., Adv.
Ms. Bhupinder, Adv.

Dr. Manish Singhvi, Sr. Adv.
Mr. Sandeep Kumar Jha, AOR
Mr. Ashok Basoya, Adv.
Mr. Arpit Prakash, Adv.
Mr. Sandeep Kr. Jha, AOR

Ms. Juoti Mendiratta, AOR

Dr. A.M. Singhvi, Sr. adv.
Mr. Mahesh Agarwal, Adv.
Ms. Poonbam engupta, Adv.
Mr. M.S. Ananth, Adv.
Mr. Arshit Anand, Adv.
Mr. Saunak Rajguru, Adv.
Mr. Rohan Talwar, Adv.
Mr. Abhinabh Garg, Adv.
Ms. Sakshi Kapoor, Adv.
Mr. E.C. Agrawala, AOR

Mr. P. Chidambaram, Sr. Adv.
Mr. C.S. Vaidyanathan, Sr. adv.
Mr. mahesh Agarwal, Adv.
Mr. Poonam Sengupta, Adv.
Mr. Arshit Anand, Adv.
Mr. Saunak Rajguru, Adv.

Ms. Sakshi Kapoor, Adv.
Mr. Shashwat Singh, Adv.
Mr. E.C. Agrawala, AOR

Mr. Vivek Singh, AOR

Ms. Malvika Kapila, AOR
Ms. Tanwangi Shukla, Adv.

Mr. Hazefa Ahmadi, Sr. Adv.
Mr. Vikas Mehta, AOR
Mr. Bhaskar Nayak, Adv.
Mr. Amit Kumar Nag, Adv.
Ms. Astha Sharma, Adv.
Mr. Srisatya Mohanty, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Vikas Mehta, AOR

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

IN RE: PETCOKE

(1) IA NO. 150626/2022 (APPLN. FOR MODIFICATION B/O
CARBON RESOURCES PVT. LTD.)

(2) IA NO. 114340/2022 (APPLN. FOR DIRECTION ON B/O
HIMADARI SPECIALITY CHEMICALS LTD.)

These applications have been filed by Carbon Resources Pvt. Ltd. And Himadari Specialty Chemicals Ltd. respectively seeking import of Needle Petcoke (NPC) as a raw material. A report in this behalf has been submitted by the Commission for Air Quality Management (CAQM) in the NCR and adjoining areas where it has been opined that the needle petcoke is not manufactured in any refinery in India and thus as of now the Country is dependent on import of NPC.

In view thereof, based on the aforesaid report, the learned Amicus Curiae submits that the permission can be granted but subject to the terms and conditions set out in the said report dated 20.01.2023.

At the request of the applicant(s) it is clarified that in view of the orders made in the past, Director General of Foreign Trade may be called upon to pass necessary orders in consultation with the Ministry of Environment, Forest and climate Change (MoEF).

Applications stand disposed of.

IA NO. 40807/2022 (APPLN. FOR PERMISSION B/O INDIAN STEEL ASSOCIATION)

In the present case, we are concerned with requirement of import of low sulphur petcoke intended to be used with cooking coal. It is stated that the said sulphur petcoke is not domestically available and thus would have to be imported. The report in this behalf has been submitted by the CAQM in the NCR and adjoining areas, dated 20.01.2023 opining so. The import has been permitted, subject to the terms and conditions specified in (ix) of the report at pages 3 and 4, which are reproduced as under :

“(ix) In view of above, the Sub-committee recommends the import of low sulphur pet coke subject to the following conditions:

a) Use of low sulphur pet coke may be permitted in the integrated steel plants for blending with the coking coal in recovery type coke ovens equipped with desulphurisation plant.

b) Use of pet coke shall be limited to 10% of its feedstock to the coke oven with pet coke sulphur content not exceeding 3%.

c) Continuous analysers for measurement of sulphur dioxide shall be installed in the stacks of processes where waste/process gases (coke oven gas and blast furnace gas) are used.

d) Regulation and monitoring of such imports will be as per the guidelines of the MoEF&CC vide its O.M. No. Q-18011/54/2018-CPA dated 10.09.2018.

e) Import of low sulphur pet coke shall be used for the declared manufacturing process and not for any other purpose including use as a fuel or for trade.

f) The availability of domestic low sulphur pet coke with sulphur content not exceeding 3% may be assessed by the Ministry of Commerce and Industry in consultation with the MoPNG from time to time for taking necessary decision to priorities domestically available low sulphur pet coke, if any."

In view of the aforesaid, we permit the import of the petcoke on the aforesaid terms and conditions.

At the request of the applicant(s) it is clarified that in view of the orders made in the

past, Director General of Foreign Trade may be called upon to pass necessary orders in consultation with the Ministry of Environment, Forest and climate Change (MoEF).

The application stands disposed of.

IA. Nos.113258/2020, 113260/2020, 134602/2020 -
IMPLEADMENT, DIRECTIONS AND PERMISSION TO PLACE ON
RECORD ADDL. DOCUMENTS ON BEHALF OF TALWANDI SABO
POWER LTD.

Taken on Board.

Learned counsel for the applicant(s) submits that IA No. 113260/2020, application for directions filed on behalf of Talwandi Sabo Power Ltd. has become infructuous and she has instructions to withdrawn the same.

The application is dismissed as withdrawn.

In view of the above, IA. Nos. 113258/2020 for impleadment and IA No. 134602/2020 application for permission to place on record addl. documents are also dismissed as withdrawn.

WP(CIVIL) NO. 363/2021
(I.A. NOS. 41178/2021-STAY APPLICATION, IA NO.
16221/2022- APPROPRIATE DIRECTIONS AND IA NO.
72347/2022- CLARIFICATION/DIRECTIONS)

AND

W.P.(CIVIL) NO. 838/2021
(IA NO. 91043/2021-STAY APPLICATION, IA NO.
16226/2022-APPROPRIATE DIRECTIONS AND IA NO.
66095/2022-CLARIFICATION/DIRECTIONS)

Taken on Board.

Learned counsel for the petitioner(s) prays that these petitions and applications may be detagged as there is no commonality with the matter in issue to which learned Amicus Curiae agrees.

These matters are, thus, directed to be detagged from the present matter.

IA NO. 115613/2021, IA NO. 163350/2021 IN IA NO. 115613/2021 AND IA NO. 21522/2022 IN IA NO. 115613/2021 AND IA NO. 16635/2022, APPLICATIONS FILED ON BEHALF OF RAIN CII CARBON (VIZAG) LTD.

Heard Mr. P. Chidambaram, learned senior counsel in part for about fifty minutes.

List for further arguments on 13.04.2023.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)