

**(2009) 12 GAU CK 0041**

**In the Gauhati High Court**

**Case No :** Writ Petition (C) No's. 1153 of 2005 and 644 of 2006

Moirangthem Dhaneshor Singh and Others

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

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**Date of Decision :** 07-12-2009

**Acts Referred:**

Air (Prevention and Control of Pollution) Act, 1981 — Section 2, 21, 21(2), 21(5), 22  
Constitution of India, 1950 — Article 21, 226  
Environment (Protection) Act, 1986 — Section 15, 3, 8, 9  
Factories Act, 1948 — Section 105, 2, 41A, 41B, 41C

**Citation :** (2010) 4 GLR 422

**Hon'ble Judges :** T. Nandakumar Singh, J

**Bench :** Single Bench

**Advocate :** M. Hemchandra, for the Appellant; N. Ibotombi Singh, Yangyai and L. Jayanta Singh, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

T. Nandakumar Singh, J.—These two writ petitions, involving the common issue and the same question of fact, filed by the same petitioners against the same respondents, are taken up for disposal by a common judgment and order.

2. Heard Mr. M. Hemchandra, Learned Counsel appearing for the petitioners. Also heard Mr. N. Ibotombi Singh, Learned Counsel appearing for the respondent No. 5 in WP(C) No. 1153 of 2005 and respondent No. 4 in WP(C) No. 644 of 2006 as well as Mr. Yangyai, Learned State Counsel appearing for the respondent Nos. 1 to 3 and Mr. L. Jayanta Singh, Learned Counsel appearing for the respondent No. 4 in WP(C) No. 1153 of 2005 and respondent No. 2 in WP(C) No. 644 of 2006.

3. The reliefs sought for in the WP(C) No. 1153 of 2005 are for a direction/issuing a writ of mandamus/issuing appropriate writ for closing or ceasing or banning "M/s. Shitova Tyre Retreading Centre" set up and run by the pro forma respondent No. 5, Shri Ningombam Dwijamani Singh, for violation of the provisions of (i) The Factories Act, 1948 and the rules framed thereunder, (ii) The

Air (Prevention and Control of Pollution) Act, 1981 and the rules framed thereunder and also (iii) the Environment (Protection) Act, 1986 and the rules framed thereunder and those of the WP(C) No. 644 of 2006 are for quashing and setting aside the impugned inspection report dated 9.1.2006 in respect of the M/s. Shitova Tyre Retreading Centre and also the impugned consent order dated 13.1.2006, issued by the Member-Secretary, Manipur Pollution Control Board u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981 for a period ending with 12th day of January 2007. Since the facts leading to the filing of the two writ petitions, i.e., WP(C) No. 1153 of 2005 and WP(C) No. 644 of 2006 are similar, WP(C) No. 644 of 2006 is referred to for factual matrix in this judgment.

#### 4. Factual backgrounds of WP(C) No. 644 of 2006:

The petitioners are the residents of the homesteads abutting to M/s. Shitova Tyre Retreading Centre and also the other homesteads just nearby the M/s. Shitova Tyre Retreading Centre. The said industry/M/s. Shitova Tyre Retreading Centre was set up right in the middle of the locality of the petitioners. While operating the industry M/s. Shitova Tyre Retreading Centre, smoke arising from the burning of waste materials comprising mostly of synthetic rubber is polluting the air in the locality of the petitioners and loud noise is also coming from the said industry M/s. Shitova Tyre Retreading Centre while operating it. The noise and smoke arising from the said Industry/Retreading Centre are not only polluting the area around the said Industry/Retreading Centre and thereby endangering the lives and well-being of the petitioners as well as the other people living in the vicinity of the said Industry/Retreading Centre, but also affects the physical well being of the infants and young ones. Breathing of the said polluted air, as a result of the operation of the said industry M/s. Shitova Tyre Retreading Centre, is hazardous to the petitioners and the persons residing in the vicinity of the said industry/Retreading Centre.

5. The Tyre Retreading Centre/Industry is included in the list of the Industry involving hazardous process as provided in the first Schedule to the Factories Act, 1948. For establishing/running of that industry licence is required from the competent authority of the Government of Manipur under Sections 6 and 85 of the Factories Act, 1948 and the rules framed thereunder read with Manipur Government Gazette Notification No. 41 dated 31.1.1996. It is also alleged that the Chief Inspector of Factories and Boilers-cum-Director of Commerce and Industries, Manipur granted the permit/licence for establishment of the M/s. Shitova Tyre Retreading Centre valid up to 27.4.2007 vide order dated 28.4.2006 without following the due procedure as provided in the Factories Act, 1948 and the rules framed thereunder, the Air (Prevention and Control of Pollution) Act, 1981 and the rules framed thereunder and also the Environment (Protection) Act, 1986 and the rules framed thereunder.

6. In the course of hearing of the present writ petitions on 22.7.2009, when this Court put a pointed question to Mr. N. Ibotombi, Learned Counsel appearing for the pro forma respondent No. 4 of the WP(C) No. 644 of 2006 as to whether the

Chief Inspector of Factories and Boilers-cum-Director of Commerce and Industries, Manipur issued new permit/ licence after expiry of the term of the earlier permit/licence issued vide order dated 28.4.2006, he replied that he has no instruction or information from the respondent No. 4 of the WP(C) No. 644 of 2006 regarding the issuance of new permit/licence after the expiry of the term of the earlier licence/permit on 27.4.2007 by the competent authority. Hearing of this case continued on 16.11.2009 and on that day also Mr. N. Ibotombi, Learned Counsel could not give any information that the pro forma respondent No. 4, Shri Nongombam Dwijamani Singh, had obtained the new licence/permit or/order extending the earlier licence/permit, validity of which was already expired on 27.4.2007. Such being the situation, this Court has no hesitation to come to the finding that the respondent No. 4, Shri Nongombam Dwijamani Singh, is running the said industry, i.e., M/s. Shitova Tyre Retreading Centre without even having mandatory licence for running it as provided in the Factories Act, 1948 and the rules framed thereunder and also Manipur Gazette Notification No. 41 dated 31.1.1996.

7. The respondent No. 4, Shri Nongombam Dwijamani Singh, filed the affidavit-in-opposition wherein nothing has been mentioned as to compliance of the mandatory requirement as provided in the Air (Prevention and Control of Pollution) Act, 1981 and the rules framed thereunder and also (iii) the Environment (Protection) Act, 1986 and the rules framed thereunder by the respondent No. 4 in running the said industry. As M/s. Shitova Tyre Retreading Centre is included in the list of the industries involving hazardous processes as provided in the first Schedule of the Factories Act, 1948, it is mandatory on the part of the respondent No. 4, Shri Ningombam Dwijamani Singh, to obtain necessary licence and also to fulfill the requirement for running hazardous processes as provided in Chapter IV-A of the Factories Act, 1948 which consists of (i) Section 41A, 41B, 41C, 41D, 41E, 41F, 41G and 41H. The meaning of "Occupier" of a factory is defined in Section 2(n) of the Factories Act, 1948; it means the person who has ultimate control over the affairs of the factory. As such the pro forma respondent No. 4, Shri Ningombam Dwijamani Singh, is the occupier of the said M/s. Shitova Tyre Retreading Centre. Some of the requirement for running the hazardous processes, i.e., for running the M/s. Shitova Tyre Retreading Centre which have been included in the list of Industries involving hazardous processes are mentioned in Sections 41B and 41B of the Factories Act, 1948. Sections 41B and 41B of the Factories Act, 1948 read as follows:

41B. Compulsory disclosure of information by the occupier, - (1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority within whose jurisdiction the factory is situated and the general

public in the vicinity.

(2) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector and the local authority and, thereafter, at such intervals as may be prescribed, inform the Chief Inspector and the local authority of any change made in the said policy.

(3) The information furnished under Sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector, draw up an on site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of, the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall, -

(a) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1987 (20 of 1987), within a period of thirty days of such commencement; and

(b) if such factory proposes to engage in a hazardous process at anytime after such commencement, within a period of thirty days before the commencement of such process,

Inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

(6) Where any occupier of a factory contravenes the provisions of Sub-section. (5), the licence issued u/s 6 to such factory shall, notwithstanding any penalty to which the occupier or factory shall be subjected to under the provisions of this Act, be liable for cancellation.

(7) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector, lay down measure for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed among the workers and the general public living in the vicinity.

41C. Specific responsibility of the occupier in relation to hazardous process. Every occupier of a factory involving any hazardous process shall -

(a) Maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled

or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed.

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(c) provide for medical examination of every worker -

(i) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(ii) while continuing in such job, and after he had ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.

Any person running any factory in contravention of any provisions of the Factories Act, 1948 shall be guilty of an offence punishable for imprisonment for a term which may extend to two years or with fine which may extend to rupees one lakh or both. The concerned authority has a duty to initiate proceeding to mitigate the result of the hazardous process in running the M/s. Shitova Tyre Retreading Centre.

8. The decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972, in which India participated, to take appropriate steps for the preservation of the natural resource of the earth which, among other things, include the preservation of the quality of the air and control of air pollution. With the increasing industrialization and the tendency of the majority of industries to congregate in areas which are already heavily industrialized, the problem of air pollution has begun to be felt in the country. The problem is more acute in those heavily industrialized areas which are also densely populated. The objects and reasons for enacting the Air (Prevention and Control and pollution) Act, 1981 are to implement, the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972 in which India participated.

9. The terms "air pollutant" is defined in Section 2(a) of the Air (Prevention and Control and pollution) Act, 1981 ("the Act 1981") and it means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment and the terms "industrial plant" u/s 2(k) of the Act 1981 means any plant used for any industrial or trade purposes and emitting any air pollutant into atmosphere. u/s 21 of the Act 1981, subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area. At the same time, even if, every person to whom consent has been

granted by the State Board, shall comply with the conditions mentioned in Sub-section (5) of Section 21 of the Act 1981. For easy reference Sub-sections (2) and (5) of Section 21 of the Act 1981 are quoted hereunder:

Sub-section:

(2) An application for consent of the State Board under Sub-section (1) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed:

Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant, such person shall make the application under this Sub-section within such period (being not less than three months from the date of such declaration) as may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused.

Sub-section:

(5) Every person to whom consent has been granted by the State Board under Sub-section (4), shall comply with the following conditions, namely:

(i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;

(ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board.

(iii) the control equipment referred to in Clause (i), or Clause (ii) shall be kept at all times in good running condition;

(iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-created in such premises; (v) such other conditions as the State Board may specify in this behalf; and (vi) the conditions referred to in Clause (i) (ii) and (iv) shall be complied with within such period as the State Board may specify in this behalf:

10. Whoever fails to comply with the provisions of Section 21 or Section 22 or directions issued u/s 31A of the Act 1901, shall be punishable with imprisonment for a term which shall not be less than one year and six months which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure. Section 37 of the Act 1981 reads as follows:

37. Failure to comply with the provisions of Section 21 or Section 22 or with the directions issued u/s 31A. - (1) Whoever fails to comply with the provisions of

Section 21 or Section 22 or directions issued u/s 31A of the Act 1981, shall in respect of each such failure, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure

(2) If the failure referred to in Sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

11. u/s 43 of the Act 1981 cognizance can be taken for the said offence by a Chief Judicial Magistrate or by a Judicial Magistrate on a complaint made by (a) a Board or any officer authorized in this behalf by it; or (b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make complaint to the Board or officer authorized as aforesaid. Therefore, the complaint could be filed by the petitioners for the alleged offence u/s 37 of the Act 1981 against the respondent No. 4, Shri Ningombam Dwijamani Singh, in the court of the Chief Judicial Magistrate or Judicial Magistrate first class after giving notice of not less than 60 days in the manner prescribed of the alleged offence and of their intention to make a complaint to the Board or officer authorized as aforesaid. At the same time, the Manipur Pollution Control Board or the officer authorized is duty bound to file a complaint for the alleged offence against the respondent No. 4, Shri Ningombam Dwijamani Singh, if the mandatory procedure and the requirement as provided in the Act 1981 are not fulfilled in operating M/s. Shitova Tyre Retreading Centre. As stated above, the respondent No. 4, Shri Ningombam Dwijamani Singh, in his affidavit-in-opposition it is not, mentioned that the mandatory requirement as provided in the Act, 1981 are strictly complied with in operating M/s. Shitova Tyre Retreading Centre.

12. Every citizen of India has fundamental the right to live under Article 21 of the Constitution of India and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Article 226 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life. Right to livelihood is also integral facet of the right to life. The Legislature feels that although there are existing laws dealing directly or indirectly with several environmental matters, it is necessary to have a general legislation of pollution and accordingly, enacted "the Environment (Protection) Act, 1986". The statement of object and reason for enacting the Environment (Protection) Act, 1986 are that-(1) Concern over the state of environment has grown, the world since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity excessive concentration of harmful chemicals in the ambient

atmosphere and in food chains, growing risks of environmental accidents and threats to life support systems. The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident. (2) Although there are existing laws dealing directly or indirectly with several environmental matters, it is necessary to have a general legislation of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build up of hazardous substances, especially new chemicals, in the environment are weak. Because of a multiplicity of regulatory agencies there is need for an authority which can assume the lead role for studying, planning and implementing long term requirements of environmental safety and to give direction to, and co-ordinate a system of speedy and adequate response to emergency situations threatening the environment. (3) In view of what has been stated above there is urgent need for the enactment of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutions and handling of hazardous substances, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health. After enactment of the Act, the Government of India issued the list of projects requiring environmental clearance from the State Government vide S.O.180(E) dated 24th February, 1992 published in the Gazette of India, Extraordinary Part-II, Section 3(ii) dated 4th March, 1992, i.e., Schedule (ii) to the Environment (Protection) Act, 1986. For easy reference, the relevant portion of the Schedule (ii) corrected vide the above Notification dated 24.2.1992 is quoted hereunder:

## SCHEDULE II

List of projects requiring environmental clearance from the State Government  
(Subject to the provisions of para 2 of the notification)

\*\*\* \*\* 18. Retreading of all types of tyres.

\*\*\* \*\* 1. S.O. 180(E) dated 24th February, 1992 published in the Gazette of India, Extraordinary Part-II, Section 3(ii) dated 4th March, 1992.

13. Since M/s. Shitova Tyre Retreading Centre is the type of the project requiring environmental clearance from the State Government, the respondent No. 4, Shri Ningombam Dwijamani Singh, is duty bound to comply with the procedure



requiring for running that industry/ Trading Centre as provided in Section 8 and 9 of the Environment (Protection) Act, 1986. Sections 8 and 9 of the Environment (Protection) Act, 1986 are noted hereunder:

8. Persons handling hazardous substances to comply with procedural safeguards - No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.

9. Furnishing of information to authorities and agencies in certain cases -(1) Where the discharge of any environment pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith -

(a) Intimate the fact of such occurrence or apprehension of such occurrence; and

(b) Be bound, if called upon, to render all assistance

to such authorities or agencies as may be prescribed.

(2) On receipt of information with respect to the fact or apprehension of any occurrence of the nature referred to in Sub-section (1), whether through intimation under that Sub-section or otherwise, the authorities or agencies referred to in Sub-section (1) shall, as early as practicable, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution.

(3) The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in Sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

Penalty for the contravention of provisions of the Act, i.e., Environment (Protection) Act, 1986 are prescribed in Section 15 of the Act under which whoever fails to comply with or contravenes any of the provisions of the Act or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh or with both.

14. The Constitution Bench of the Apex Court in *Hukam Chand Shyam Lal Vs. Union of India (UOI) and Others*, held that it is well settled that where a power is required to be exercised by a certain authority in a certain way, it should be exercised in that manner or not at all and all other modes of performance are necessarily forbidden. It is all the more necessary to observe that rule where

power is of a drastic nature and its exercise in a mode other than the one provided will be violative of the fundamental principles of natural justice.

15. The Constitution Bench of the Apex Court in *S.G. Jaisinghani Vs. Union of India (UOI) and Others*, held that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities must be continued within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law.

16. The Apex Court is of the similar view in *Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others*, that the statutory interdict of use and enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof.

17. Today society's interaction with nature is so extensive that the environmental question has assumed proportions affecting all humanity. Industrialization, urbanization, explosion of population, over exploitation of resources, depletion of traditional sources of energy and raw materials the disruption of natural ecological balances, the destruction of a multitude of animal and plant species for economic reasons and sometimes for no good reason at all are factors which have contributed to environmental deterioration. While the scientific and technological progress of man has invested him with immense power over nature, it has also resulted in the unthinking use of the power, encroaching endlessly on nature. If man is able to transform deserts into oases, he is also leaving behind deserts in the place of oases. In the last century, a great German materialist philosopher warned mankind; "Let us not, however, flatter ourselves over much on account of our human victories over nature. For each such victory nature takes its revenge on us. Each victory, It is true, in the first place brings about the results we expected, but in the second and third places it has quite different. Unforeseen effects which only too often cancel the first," Ecologists are of the opinion that the most important ecological and social problem is the wide spread disappearance all over the world of certain species of living organisms. Biologists forecast the extinction of animal and plant species on a scale that is incomparably greater than their extinction over the course of millions of years. It is said that over half the species which became extinct over the last 2,000 years did so after 1900. The International Association for the Protection of Nature and Natural Resources calculates that now, on average, one species or sub-species is lost every year. It is said that approximately 1,000 bird

and animal species are facing extinction at present. So it is that the environmental question has become urgent and it has to be properly understood and squarely met by man. Nature and history, it has been said, are two component parts of the environment in which we live, move and prove ourselves. (Ref. Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others,

18. The protection and improvement of the human environment is a major issue which affects the well being of peoples and economic development throughout the world, it is the urgent desire of the peoples of the whole world and the duty of all Governments. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and National Governments will bear the grandest burden for large scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive cooperation among nations and action by international organizations in the common interest. The Conference calls upon the Governments and peoples to exert common efforts for the preservation and improvement of the human environment, for the benefit of all the people and for their posterity.

The proclamation also contained certain common convictions of the participant nations and made certain recommendations on development and environment. The common convictions stated include the conviction that the discharge of toxic substances or of other substances and the release of heat in such quantities or concentrations as to exceed the capacity of environment to render them harmless must be halted in order to ensure that serious or irreversible damage is not inflicted upon eco systems, that States shall take all possible steps to prevent pollution of the seas so that hazards to human health, harm to living resources and marine life, damage to the amenities or interference with other legitimate uses of seas is avoided, that the environmental policies would enhance and not adversely affect the present and future development potential of development countries, that science and technology as part of their contributions to economic and social development must be applied with identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind, that States have the responsibility to ensure that activities of exploitation of their own resources within their jurisdiction are controlled and do not cause damage to the environment of other States or areas beyond the limit of national jurisdiction, that it will be essential in all cases to consider the systems of values prevailing in each country and the extent of the applicability of standards which are valid for

the most advanced countries but which may be inappropriate and of unwarranted social cost and that man and his environment must be spread the effects of nuclear weapons and ad other means of mass destruction. These are only some of the statements of principles proclaimed by the Stockholm Conference. (Ref: M.C. Mehta Vs. Union of India (UOI) and Others,

19. For the foregoing decisions and discussions made herein above, the impugned inspection report dated 9.1.2006 in respect of the M/s. Shitova Tyre Retreading Centre and also the impugned consent order dated 13.1.2006, issued by the Member-Secretary, Manipur Pollution Control Board u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981 for a period ending with 12th day of January 2007 are set aside. Accordingly, this Court has no alternative except to direct the respondent Nos. 1, 2 and 3 of WP(C) No. 644 of 2006 and the respondent Nos. 1, 2, 3 and 4 of WP(C) No. 1153 of 2005 to take immediate steps for stopping or/ceasing the operation of M/s. Shitova Tyre Retreading Centre; and ordered accordingly.

20. The respondents are further directed to take prompt steps for filing the complaint as contemplated in Section 105 of the Factories Act, 1948 for the offence punishable u/s 92 of the Factories Act, 1948, the complaint for the offence u/s 15 of the Environment (Protection) Act, 1986 and also the complaint u/s 43 of the Air (Prevention and Control of Pollution) Act, 1981 for the offence u/s 37 of the Air (Prevention and Control of Pollution) Act, 1981 against the pro forma respondent No. 4, Shri Ningombam Dwijamani Singh, who, for the reasons discussed above, is operating M/s. Shitova Tyre Retreading Centre in contravention of the provisions of the Factories Act, 1948 and the rules framed thereunder, the Air (Prevention and Control of Pollution) Act, 1981 and rules framed thereunder and also the Environment(Protection) Act, 1986 and rules framed thereunder.

21. The Principal Secretary/Secretary(Industry), Government of Manipur, the Member-Secretary, Manipur Pollution Control Board in their turn are to see whether the steps indicated above have been taken by the authority concerned in compliance of the direction of this Court.

22. The Registry is directed to furnish a copy of this judgment and order to the Principal Secretary/Secretary (Industry), Government of Manipur, the Member Secretary, Manipur Pollution Control Board, the District Magistrate/Deputy Commissioner, Imphal West District and the Superintendent of Police, Imphal West District for information and necessary action.

23. The two writ petitions are allowed to the extent indicated above. No costs.