

(2012) 03 SC CK 0013

In the Supreme Court Of India

Case No : I.A. No's. 23, 40, 42, 43, 55, 56, 57 in Writ Petition (C) No. 657 of 1995, SLP (C) No. 16175 of 1997, C.A. No. 7660 of 1997, Conmt. Petition (C) No. 155 of 2005 in Writ Petition (C) No. 657/ 1995 and C.A. No's. 8300-8301 of 2004

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APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Companies Act, 1956 — Section 481

Citation : (2012) 4 SCALE 246

Hon'ble Judges : J. Chelameswar, J;Altamas Kabir, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. On 29th February, 2012, when several matters were listed, in I.A. No. 43 of 2007, filed by one Kishore R. Shah, we had directed Ms. Hemantika Wahi, Learned Counsel appearing for the State of Gujarat, to file an affidavit in support of the submission that steps have already been taken in the matter. We had also directed Ms. Vibha Datta Makhija, Learned Counsel appearing for the State of M.P., to file a similar affidavit as far as the supply of fresh drinking water to the areas in and contiguous to the Union Carbide Plant in Bhopal, was concerned. As has been very frankly submitted by Ms. Jesal. who is holding Ms. Hemantika Wahi's brief, the affidavit is still to be obtained from the State of Gujarat. Ms. Vibha Datt Makhija is not present in Court, but, in any event, let this matter be adjourned for three weeks to enable both Ms. Hemantika Wahi and Ms. Vibha Datt Makhija, to file their respective affidavits.

2. In the affidavit to be filed by the State of M.P., details should be provided as to what steps have been taken by the City Engineer, Nagar Nigam, Bhopal, M.P., in ensuring that uncontaminated water is available to the residents of the area in and around the Plant, and also as to the steps taken for decontamination of the

ground water in the area.

3. In IA. 43 the State of M.P. is also given three weeks time to file its affidavit in terms of the earlier directions contained in the order dated 29th February, 2012.

4. The Central Pollution Control Board, which has been added as party to these proceedings, and is represented in Court today, shall also file a report with regard to the removal of contamination of the ground water in the area where the Union Carbide factory/plant is situated.

5. Mr. Dinesh Chandra, an ex-director of M/s. Shiv Priya Overseas Pvt. Ltd., which has since been dissolved u/s 481 of the Companies Act, 1956, is present in Court pursuant to the directions given in our order of 29th February, 2012. An affidavit has been filed on his behalf trying to explain the reasons for non-payment by the company of the amounts to be paid to the Customs Department with regard to incineration charges.

6. His personal appearance is dispensed with until further orders.

7. Since a question has arisen as to who would be liable to make such payment in view of the fact that the company has been wound up, Mr. Parekh seeks some time to examine the matter and to consider as to who, in the changed circumstances is required to make payment of the said dues. It is unfortunate that the Customs Department, despite being one of the parties to these proceedings, is not represented when the matter is taken up.

8. Let it be recorded that Mr. Arijit Prasad, learned advocate, is appearing for the Customs Department in C.A. No. 7660 of 1997, which is also on board today.

9. In the meantime, Ms. Wad, appearing for some of the Respondents, who have also been directed to pay the incineration charges in respect of their respective consignment(s), shall file the respective affidavits of the said Respondents within the said period.

10. M/s. Indochem Industries, M/s. Valley International, M/s. Pioneer Petrochem, etc., who are not represented, shall also file their respective affidavits, within the said period. Let all these matters be adjourned for a period of three weeks (18th April, 2012).