

(2014) 02 SC CK 0011

In the Supreme Court Of India

Case No : I.A. Nos. 23, 40, 42, 55, 56, 57 and 63, 64, 65, 66, 67, 68 and 69 in W.P.(C) No. 657/1995 with SLP (C) No. 16175 of 1997, C.A. No. 7660 of 1997, Compt. Pet. (C) No. 155/2005 in W.P. (C) No. 657/1995

Research Foundn. for Science Technology and National
Resource Policy

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 18-02-2014

Acts Referred:

Citation : 2014 (16) SCC 586 = 2014 (3) SCALE 529

Hon'ble Judges : Kurian Joseph, J;H.L. Gokhale, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. After this matter was heard on 13.2.2014, affidavits have been filed by different officers. An Additional Affidavit has been filed by Ms. Seema Jere Bisht, Commissioner of Customs (Import). In her affidavit she has stated as to how many containers are lying in JNPT, Mumbai and adjoining areas. From her affidavit it appears that there are some 212 containers with waste oil of 3952 Metric Tonnes and other waste items which are lying in the Port area. All these items are lying there for the last over ten years and nothing has been done to remove them from that place or in any way to take necessary steps to destroy them. A break up of these containers is given in Annexure R-1 to this affidavit as follows:

As seen from above, 13 of these containers are in JNPT area. Mr. Vikas Singh, learned senior counsel appearing for the JNPT informs that 52 containers which are in the custody of another agency viz. Speedy CFS, are also within the JNPT area. Mr. Sanjay Parikh, Learned Counsel for the Petitioner has drawn our attention to the photographs of these containers taken way back in 2007 when a report was made by the then Additional Solicitor General Mr. Gopal Subramaniam. From those photographs it is clearly seen that at that point of

time itself those containers were in a damaged condition and they did not appear to be under any cover. In any case, now these containers are to be destroyed for which an appropriate agency will have to be decided. Before the work is entrusted to any agency, the containers will have to be transported to the incineration place of the agency wherever it is situated. Therefore, it is necessary that those containers must be in a transportable condition.

2. Apart from Ms. Seema Jere Bisht, Commissioner of Customs (Import), affidavits have also been filed by one Mr. Arvind Sadashiv Pradhan, who is Manager (Traffic) of JNPT and Dr. Yeshwant B. Sontakke, who is the Regional Officer of the Maharashtra Pollution Control Board at Navi Mumbai. All these three officers are present in Court. We are, therefore, of the view that these three officers must submit a report about the exact condition of these containers. Mr. Sanjay Parikh, Learned Counsel for the Petitioner pointed out that Dr. D.B. Boralkar, Former Member Secretary of the MPCB was associated with this exercise when the earlier report was obtained, and he has obtained his consent to join this work of actual inspection so as to have the association of an independent expert with this work. He states that he will contact Dr. Claude Alvares who was also associated with this exercise earlier. We would, therefore, like Ms. Seema Jere Bisht, Mr. Pradhan and Dr. Sontakke to carry out the inspection of all these warehouses along with Dr. Boralkar and Dr. Alvares, if they are ready to join, and submit a report to this Court along with the latest photographs of these containers and also mention in which conditions these containers are lying and also whether they can be transported safely from the place wherever they are presently dumped to the place of incineration. The report would also mention as to what are all the necessary steps to be taken in this behalf. We may mention that Dr. Boralkar and Dr. Alvares were the members of the earlier Supreme Court Monitoring Committee.

3. In the event, they are of the opinion that those containers are transportable, they will get in touch with the agency which has quoted its price for destruction i.e. Mumbai Waste Management Ltd., situated at Plot No. P-32, MIDC Taloja, Tal: Panvel, District Raigad, and the other at MIDC, Taluka Shirur, District Pune, whose particulars are given by Mr. Panjwani, Learned Counsel appearing for the Central Pollution Control Board. If there are any other agencies in the State in near vicinity of JNPT, they must as well find them out, and talk to them and inform the Court as to at what rate they are ready to destroy all these containers. This is as far as the affidavit of Ms. Seema Jere Bisht, Commissioner of Customs is concerned.

4. Apart from the affidavit from the Commissioner Customs, we would like Dr. Chhanda Chowdhury, Director, Ministry of Environment and Forest to file a separate affidavit to place on record as to what steps were taken or in fact, were not taken and since they have not taken any steps, why the steps were not taken and who were responsible for not taking the steps in spite of the fact that the reports concerning the analysis of these dumped materials were dated 12.3.2007

and 4.8.2008. The 2007 Report is addressed to the Maharashtra Pollution Control Board and 2008 Report is addressed to the Director, Ministry of Environment and Forest. We are really amazed to note from the material before us that hardly any steps were taken by both these authorities in spite of receiving these reports which show that those containers were containing hazardous oil. Dr. Chhanda Chowdhury will place it on record as to who were the officers of the Ministry of Environment and Forest incharge at that time and thereafter until this point of time who were expected to take action on this report. As far as the report made by MPCB is concerned, Dr. Yeshwant B. Sontakke will file an affidavit explaining as to what steps were taken after the report was received in 2007 and if not as to why steps were not taken and who are responsible for not taking the steps.

The matters are adjourned to 4th March, 2014. To be listed high on the cause list.