

ITEM NO.6

COURT NO.3

SECTION XV

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

Petition(s) for Special Leave to Appeal (Civil) No(s).16308/2007

(From the judgement and order(s) dated 29/08/2007 in CWP No.1966/200 of The HIGH COURT OF RAJASTHAN AT JAIPUR)

ANKUR GUTKHA

Petitioner(s)

VERSUS

INDIAN ASTHAMA CARE SOCIETY & ORS.

Respondent(s)

(With appln.(s) for directions and interim directions and intervention and impleadment and urging addl.grounds and with prayer for interim relief and office report)

With

SLP(C)No.16314/2007

(With appln.(s) for exemption from filing c/c of the impugned judgment and with prayer for interim relief and office report)

SLP(C)No.16317/2007

(With appln.(s) for exemption from filing c/c of the impugned judgment and with prayer for interim relief and office report)

SLP(C)No.19467-19469/2007

(With appln.(s) for directions and clarification and impleadment and directions and exemption from filing O.T. and permission to file affidavit and clarification/direction and seeking permission to raise additional grounds and with prayer for interim relief and office report)

W.P.(C)No.131/2011

(With office report)

W.P.(C)No.141/2011

(With office report)

Conmt.Pet.(C)No.236/2011 In SLP(C) No.16308/2007

(With office report)

Conmt.Pet.(C)No.237/2011 In SLP(C) No.16308/2007

(With appln.(s) for clarification and directions)

W.P.(C)No.289/2011

(With office report)

Conmt.Pet.(C)No.288/2011 In SLP(C) No.16308/2007

Conmt.Pet.(C)No.348/2011 In SLP(C) No.19467-19469/2007

Conmt.Pet.(C)No.356/2011 In SLP(C) No.16308/2007

W.P.(C)No.344/2011

W.P.(C)No.69/2011

(With appln.(s) for directions and impleadment and office report)

Contempt Petition © No.37/2012 in SLP 16308/2007

W.P.(C) No.182/2011

(With office report)

W.P.(C) No.354/2011

(With appln.(s) for interim relief and office report)

W.P.(C) No. 304 of 2011

(with appln(s) for amendment of the petition and office report)

Date: 03/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)

Mr.Ranjit Kumar, Sr.Adv.
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Ms. Aparna Jha, A.O.R.

Mr. Jay Kishore Singh, A.O.R.

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Mr. Shiv Prakash Pandey, A.O.R.

Mr. D.N.Goburdhan, Adv.
Mr.Ayush Chandra, Adv.

For Respondent (s) / Applicants

Mr. Mohan Jain, ASG
 Mr. Prabhat Kumar, Adv.
 Mr. D.K. Thakur, Adv.
 Mr. A. Deb Kumar, Adv.
 Ms. Manmeet Kaur, Adv.
 Ms. Sakshi Banga, Adv.
 Mr. R.K. Rathore, Adv.
 Mr. Shreekant N. Terdal, Adv.

Ms. Indira Jaisingh, ASG
 Mr. Aman Ahluwalia, Adv.
 Ms. Sunita Sharma, Adv.
 Ms. Supriya Jain, Adv.
 Ms. Sushma Suri, Adv.

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 Mr. Farooque Raza, Adv.
 Mr. Abhigya, Adv.
 Mr. Jatin Rajput, Adv.
 Mr. Nitin Thakur, Adv.

For State of Karnataka

Mr. K.N. Bhat, Sr. Adv.
 Mr. V.N. Raghupathy, Adv.

Mr. V.A. Mohta, Sr. Adv.

For RR No.16

Mr. Pravin Parekh, Sr. Adv.
 Mr. Sameer Parekh, Adv.
 Mr. Lalit Chauhan, Adv.
 Mrs. Rukhmini Bobde, Adv.
 Mr. Shashank Kumar, Adv.

Mr. Manjit Singh, AAG
 Mr. Kamal Mohan Gupta, Adv.

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Mr. Vikramjit Banerjee, Adv.
 Mr. P.S. Sudheer, Adv.
 Mr. Rishi Maheshwari, Adv.
 Mr. Abu John Mathew, Adv.

Mr. S. Udaya Kumar Sagar, Adv.
 Ms. Bina Madhavan, Adv.
 Ms. Anindita Pujari, Adv.
 Ms. Praseena E. Joseph, Adv.

Mr. T. Srinivasa Murthy, Adv.

Ms.Mukti Choudhary, Adv.

Mr.Vikas Mehta, Adv.

Mr.Nalin Talwar, Adv.

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Ms.Meera Mathur, A.O.R.

Mr.Abhay Kumar, A.O.R.

Ms.Mridula Ray Bhardwaj, A.O.R.

Mr.Dheeraj Nair, Adv.

Ms.Pragya Chauhan, Adv.

Mr.Rameshwar Prasad Goyal, A.O.R.

Mr.B.Krishna Prasad, A.O.R.

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

Contempt Petition (C) No.237 of 2011 in SLP(C)No.16308 of 2007

In view of the affidavit filed on behalf of the non-petitioners, the notice is discharged and the contempt petition is accordingly disposed of.

At the commencement of further arguments, Shri Mohan Jain, learned Additional Solicitor General placed before the Court a note on the "Status of Plastics Waste Management" by Dr.A.B.Akolkar, Scientist-F and Dr.S.K.Nigam, Scientist-D of the Central Pollution Control Board, Delhi. The note is taken on record.

Shri V.Shekhar, learned senior counsel representing the All India Plastic Manufacturers Association pointed out that the note produced by Shri Mohan Jain is a part of the Report of the Central Pollution Control Board with the title 'Material on Plastic Waste Management'. He made available a xerox copy of the report which is taken on record.

We have gone through the Report produced by Shri V.Shekhar, para 4.0 of the report is extracted below:

Having taken note of the figures contained in the Report, we enquired from Shri Jain whether the mechanism available for disposal of the plastic waste has been effectively operated and implemented. Shri Jain gave out that the burden of disposing the plastic waste is on the municipal authorities and the Central Pollution Control Board which has made available the data about the total plastic waste cannot possibly dispose of the same.

Shri Ranjit Kumar, learned senior counsel appearing for one of the Gutkha manufactures referred to the Municipal Solid Wastes (Management and Handling) Rules, 2000 and the Plastics Waste (Management and Handling) Rules, 2011 (for short, 'the 2011 Rules') which have been enacted by the Central Government in exercise of the powers conferred upon it under Sections 3, 6 and 25 of the Environment (Protection) Act, 1986 and submitted that even though comprehensive provisions have been made in the Rules, the concerned authorities have miserably failed to take various steps for disposal of the plastic wastes. Shri Ranjit Kumar also pointed out that even the provisions for constitution of state level advisory bodies and submission of annual report by each State Pollution Control Board or Pollution Control Committees to the Central Pollution Control Board with an obligation on the latter to prepare a consolidated annual report, have been implemented only in their breach.

Keeping in view the figures mentioned in the tables reproduced at pages 16-17 of the report produced by Shri V. Shekhar, we direct the State Pollution Control Boards of all the States and

the Union Territories as also the Central Pollution Control Board to submit their respective reports showing compliance of the provisions contained in the 2000 and 2011 Rules. The Municipal Corporations of North, South and East Delhi as also the New Delhi Municipal Corporation and the Municipal Corporations of Bangalore, Chennai, Agra, Jaipur, Calcutta and Faridabad are also directed to file status reports about total compliance of the 2000 and 2011 Rules in their letter and spirit.

For the aforesaid purpose, we suo motu order impleadment of the Central Pollution Control Board through its Secretary and the Pollution Control Boards of all the States as also the Pollution Control Boards of the Union Territories through their Secretaries as parties. The Municipal Corporation of North, South and East Delhi as also the New Delhi Municipal Corporation are implemented as parties through their Commissioners. The Municipal Corporations of Bangalore, Chennai, Agra, Jaipur, Calcutta and Faridabad are also impleaded as parties through their Commissioners.

Let notice issue to the Commissioners of the aforesaid Corporations and Secretaries of the Pollution Control Boards of all the States as also the Central Pollution Control Board. They shall file their affidavits along with status reports within a period of four weeks from the date of receipt of copy of this order by fax from the Registry of this Court.

Ms. Indira Jaisingh, learned Additional Solicitor General invited the Court's attention to notifications issued by the

Government of 23 States and the Administrators of 5 Union Territories for imposing complete ban on Gutkha and Pan Masala with tobacco and/or nicotine and then stated that notwithstanding the ban, the manufactures have devised a subterfuge for selling Gutkha and Pan Masala in separate pouches and in this manner the ban is being flouted.

Ms.Indira Jaisingh also placed before the Court xerox copy of D.O.No.P.16012/12/11-Part I dated 27.08.2012 sent by the Special Secretary, Ministry of Health and Family Welfare, Government of India to the Chief Secretaries of all the States except the States of Madhya Pradesh, Kerala, Bihar, Rajasthan, Maharashtra, Haryana, Chhatisgarh and Jharkhand and submitted that the Court may call upon the remaining States and Union Territories to issue necessary notifications.

In view of the statement made by the learned Additional Solicitor General, we order issue of notice to the Chief Secretaries of the States and the Administrators of the Union Territories which have so far not issued notification in terms of 2006 Act to apprise this Court with the reasons as to why they have not taken action pursuant to letter dated 27.08.2012.

We also direct the Secretaries, Health Department of all the 23 States and 5 Union Territories to file their affidavits within four weeks on the issue of total compliance of the ban imposed on manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine.

Put up on 03.05.2013.

The Registry is directed to send copies of this order to the Chief Secretaries and the Secretaries, Health Department as also the Administrators of Union Territories, Secretaries of the Central and State Pollution Control Board. Copies be also sent to the Commissioners of 9 Municipal Corporations named hereinabove. The copies of order be sent by fax within four days from today.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master