

ITEM NO.1

COURT NO.10

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.Nos.4-6, 7-9, 13-15, 16-18 & 19-21 In Petition(s) for Special Leave to Appeal (Civil) No(s).19467-19469/2007

(From the judgment and order dated 29.08.2007 passed in three writ petitions bearing No.DB(Civil) Writ Petition No.1966 of 2003, DB(Civil) Letter Petition No.3708 of 2003 PIL, DB(Civil) Letter Petition No.7590 of 2002 PIL of the HIGH COURT OF JUDICATURE FOR RAJASTHAN, JAIPUR BENCH)

MIRAJ PRODUCTS PVT. LTD. Petitioner(s)
VERSUS
INDIAN ASTHAMA CARE SOCIETY & ORS. Respondent(s)

(With appln.(s) for modification and direction and stay and modification/vacation and office report)

Date: 17/02/2011 These IAs were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. L. Nageshwar Rao, Sr. Advocate
Mr. K.C. Dua, Adv.
Mr. Tarun Dua, Adv.
Mr. Gopal Singh Chauhan, Adv.

For Union of India Mr. Gopal Subramaniam, SG
Mr. P.V. Yogeswaran, Adv.
Mr. Sreekant N. Terdal, Adv.

For Respondent(s) /
Applicant

For RR No.16 Mr. Ram Jethmalani, Sr. Adv.
Mr. Pravin H. Parekh, Sr. Adv.
Mr. Sameer Parekh, Adv.
Ms. Lata Krishnamurthy, Adv.
Mr. Lalit Chauhan, Adv.
Ms. Rukhmini Bobde, Adv.

I.A.Nos.4-6/2011 in Mr. Ranjeet Kumar, Sr. Adv.
SLP(C) Nos.19467-69/
2007 & For RR No. Ms. Indu Malhotra, Sr. Adv.
11 Mr. Narhari Singh, Adv.
Mr. Nalin Talwar, Adv.
Mr. Subramaniam Prasad, Adv.
Mr. Vikas Mehta, Adv.

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Mr. Vivek Kohli, Adv.

I.A.Nos.7-9/2011 in Mr. A.K. Ganguly, Sr. Adv.
SLP(C) Nos.19467-69/ Mr. Subramaniam Prasad, Adv.

2007 Mr.Vivek Kohli, Adv.
Mr.Yash Mishra, Adv.

I.A.Nos.13-15/11 in Mr.L.Nageshwar Rao, Sr.Adv.
SLP(C)Nos.19467-69/ Mr.Subramanium Prasad, Adv.
2007 Mr.Vivek Kohli, Adv.
Mr.Yash Mishra, Adv.

I.A.Nos.16-18/11 in Dr.Abhishek M.Singhvi, Sr.Adv.
SLP(C)Nos.19467-69/ Mr.Sanjay K.Pathak, Adv.
2007 Mr.Amit, Adv.

For RR No.4 Mr.Narottam Vyas, Adv.
Mr. B.D. Sharma,Adv.

For State of Raj. Ms.Archana Pathak Dave, Adv.

UPON hearing counsel the Court made the following

O R D E R

These petitions are directed against order dated 29.8.2007 passed by the Division Bench of the Rajasthan High Court in a batch of cases whereby certain directions were given in the matter of packaging of gutkha, tobacco and pan masala and levy of fine.

On 7.12.2010, this Court had passed the following order

"Heard learned counsel for the parties and perused the record including the affidavit of Dr. Manoranjan Hota, Director, Ministry of Environments and Forests, Government of India and documents annexed with it.

Interim order dated 7.9.2007 and other similar orders passed by this Court are vacated and the following directions are given:

- 1) The learned Solicitor General should instruct the concerned Ministries to approach National Institute of Public Health to undertake a comprehensive analysis and study of the contents of gutkha, tobacco, pan masala and similar articles manufactured in the country and harmful effects of consumption of such articles. The learned Solicitor General says that a report based on such study will be made available within eight weeks.
- 2) The Plastics (Manufacture, Usage and Waste Management) Rules, 2009 be finalised, notified and enforced within a period of eight weeks from today.
- 3) The direction contained in the impugned order of the High Court for imposition of fine shall remain stayed.
- 4) Respondent Nos.3 to 15 and other manufacturers of gutkha, tobacco, pan masala are restrained from using plastic material in the sachets of gutkha, tobacco and pan

masala. This direction shall come into force with effect from 1st March, 2011."

Learned Solicitor General produced the report prepared in terms of para 1 of the directions contained in order dated 7.12.2010. He also submitted that the Plastic Waste (Management and Handling) Rules, 2011 which were published in the Gazette of India Extraordinary 4.2.2011) including clause 5(d) will, keeping in view of para 2 of the directions given by the Court, be enforced with effect from 1.3.2011.

Shri Ram Jethmalani, Senior Counsel appearing for the applicant (respondent No. 16) in Interlocutory Application Nos. 19-21 of 2011 urged that implementation of para 4 of the directions given by the Court may be postponed till the prayer for stay of Rule 5(d) of the Rules notified on 4.2.2011 is considered.

Dr. Abhishek Manu Singhvi, learned counsel appearing for the applicant in Interlocutory Application Nos. 16-18 of 2011 made similar request.

We have considered the submissions of Shri Ram Jethmalani and Dr. Abhishek Manu Singhvi but do not find any justification to modify order dated 7.12.2010. Consequently, the prayer for extending the date specified in para 4 of the directions contained in that order is rejected.

The learned Solicitor General should instruct his colleague to supply copies of the report produced by him to all the learned counsel appearing for the parties, who may file affidavits within three weeks.

I.A.Nos.19-21 of 2011 in SLP(C)Nos.19467-19469 of 2007

In this application, the applicant (respondent No. 16) has prayed for issue of a direction to the Ministry of Environments and Forests to identify and suggest alternative forms of safe and viable packaging for gutkha, tobacco and pan masala and grant liberty to the applicant and other similar situated persons to adopt appropriate legal proceedings to challenge the validity and legality of notification dated 4.2.2011 issued by the Ministry of Environments and Forests, Government of India.

Notice of the IAs be issued to the respondents.

The counsel assisting the learned Solicitor General accepts notice on behalf of the Union of India. The counsel assisting Shri Ranjeet Kumar, Shri A.K.Ganguly and Shri L.Nageshwar Rao accepts notice on behalf of respondent Nos.11, 13 and the petitioner in the

special leave petitions respectively.
Three weeks' time is allowed for the purpose of filing reply.
Further affidavit, if any, be filed within 10 days.

List the case on 13.04.2011. In view of the above, the date already fixed for hearing i.e. 9.3.2011 shall stand postpone to 13.4.2011.

I.A.Nos.4-6 of 2011 in SLP(C)Nos.19467-19469 of 2007 Shri Ranjeet Kumar, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.7-9 of 2011 in SLP(C)Nos.19467-19469 of 2007 Shri A.K.Ganguly, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications.

The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.13-15 of 2011 in SLP(C)Nos.19467-19469 of 2007 Shri L.Nageshwar Rao, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications. The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

I.A.Nos.16-18 of 2011 in SLP(C)Nos.19467-19469 of 2007 Dr.Abhishek M.Singhvi, learned senior counsel appearing for the applicant says that his client may be permitted to withdraw the interlocutory applications. The request of the learned counsel is accepted and the applications are dismissed as withdrawn.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master