

W.P. (C) 657/1995

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ITEM NO.3

COURT NO.2

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A. NOS.23, 40, 42, 43, 55, 56 & 57 IN
WRIT PETITION (C) NO.657 OF 1995

RESEARCH FOUNDN. FOR SCIENCE

Petitioner(s)

VERSUS

U O I & ANR.

Respondent(s)

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

WITH CONMT. PET.(C) NO.155 of 2005

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

SLP(C) NO.16175 of 1997

(With appln.(s) for ex-parte stay and impleading party)

Civil Appeal NO.7660 of 1997

(With office report)

Date: 03/05/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Sanjay Parikh, AOR
 Ms. Mamta Saxena, Adv.
 Mr. A.N. Singh, Adv.
 Ms. Bushra Praveena, Adv.

In SLP 16175/1997 Ms. B. Vijayalakshmi Menon, AOR

In CA 7660/1997 Mr. P. Parmeswaran, AOR

In CP 155/2005 BY POST

For Respondent(s) Mr. P.P. Malhotra, A.S.G.
UOI Mr. Ashok Bhan, Sr. Adv.

Ms. Sadhana Sandhu, Adv.
Mr. B. Krishna Prasad, AOR

Mr. Anil Kumar Jha, AOR

Mr. Manik Karanjawala, AOR

Mr. K.B. Rohtagi, AOR

Mr. Ashok Mathur, AOR

Mr. Shakil Ahmed Syed, AOR

For UPPCB Mr. Pradeep Misra, AOR
 Mr. Suraj Singh, Adv.

Mr. Gopal Singh, AOR

For State of Mr. Khwairakpam Nobin Singh, AOR
Manipur Mr. Sapan Biswajit Meitei, Adv.
 Mr. Techii Poto, Adv.

For State of Mr. Anil Shrivastav, AOR
Arunachal Pradesh Mr. Rituraj Biswas, Adv.

Mr. Amit Kumar, AOR

Mr. Rakesh K. Sharma, AOR

Mr. Radha Shyam Jena, AOR

Mrs. Urmila Sirur, AOR

Ms. Sushma Suri, AOR

Mrs. Anil Katiyar, AOR

For State of UP Mr. Kamendra Mishra, AOR
 Mr. Upendra Mishra, Adv.

M/s. Sinha & Das

Mr. Sanjay R. Hegde, AOR

For State of Assam Ms. Vartika Sahay Walia, Adv.
 for M/s. Corporate Law Group

Mr. Aruneshwar Gupta, AOR

Mr. Janaranjan Das, AOR

Mr. Ejaj Maqbool, AOR

Ms. Bina Gupta, AOR

Ms. S. Janani, AOR

Mr. Ajay Sharma, AOR

Mr. Atishi Dipankar, AOR

Mr. Nikhil Nayyar, AOR

Mr. P.S. Sudheer, AOR

For DPCC Mr. D.N. Goburdhan, AOR
Mr. Prabal Bagchi, Adv.

Mr. Mukesh Verma, Adv.
Mr. Yash Pal Dhingra, AOR

For Defaulter Nos. 3 to 7 Mrs. Jayashree Wad, Adv.
Mr. Ashish Wad, Adv.
Ms. Tamali Wad, Adv.
Ms. Kanika, Adv.
for M/s. J.S. Wad & Co.

Mr. Gaurav Agrawal, AOR

Ms. Binu Tamta, AOR

Mr. Ashwani Bhardwaj, AOR

Mr. E.C. Agrawal, AOR

Mr. R. Satish, AOR

Mr. Jay Savla, AOR

Mr. A. Raghunath, AOR

Mr. Ravindra Kumar, AOR

For R-7 Mr. Mohan Prasaran, A.S.G.
Mr. Sunil Roy, Adv.
Ms. Sunita Sharma, Adv.

Ms. Asha G. Nair, Adv.
Ms. Kiran Bhardwaj, Adv.

Mr. D.S. Mahra, AOR

For Ministry of Shipping Mr. T.S. Doabial, Sr. Adv.
 Ms. Kiran Bhardwaj, Adv.
 Mr. D.S. Mahra, AOR

Mr. E.C. Agrawala, AOR

Mr. Pragyan P. Sharma, Adv.
Mr. Rupesh Gupta, Adv.
Ms. Mandakini Sharma, Adv.
Mr. P.V. Yogeswaran, AOR
Mr. S. Muthu Krishnan, Adv.
Mr. Gautam Dhamija, Adv.

Mr. V.N. Raghupathy, AOR

Ms. Sumita Hazarika, AOR

Mr. D.N. Mishra, AOR

For State of MP Ms. Vibha Datta Makhija, AOR

For Govt. of Puducherry Mr. V.G. Pragasam, Adv.
 Mr. S.J. Aristotle, Adv.
 Mr. Praburamasubramanian, Adv.

State of Haryana Mr. Kamal Mohan Gupta, AOR

Mr. Pramod Dayal, AOR

Mr. Sushil Kumar Jain, AOR

Mr. B.V. Balaram Das, AOR

For State of Maharashtra Ms. Asha G. Nair, AOR

For State of Rajasthan Dr. Manish Singhvi, AAG
 Mr. Abhinav Ramkrishna, Adv.
 Mr. Milind Kumar, Adv.

Ms. B. Sunita Rao, Adv.

In CP 155/2005 Mr. M.J. Paul, AOR

Mr. Sudarsh Menon, AOR

For Orissa SPCB Mr. A.K. Panda, Sr. Adv.

Mr. Satyabrata Panda, Adv.
Mr. Rutwik Panda, AOR

In CA 8300-8301/04 Mrs. Nandini Gore, AOR

For State of Gujarat Ms. Hemantika Wahi, AOR
Ms. Jesal, Adv.
Ms. Rojalin Pradhan, Adv.

For Bhopal Group Ms. Karuna Nandy, Adv.
for Information & Ms. Aparna Bhat, AOR
Action

Mr. Shekhar Kumar, AOR

For SCMC Mr. Raj Panjwani, Sr. Adv.

For CPCB Mr. Vijay Panjwani, Adv.

For Dinesh Chandra Mr. Ranjit Kumar, Sr. Adv.
Applicant in IA 23 Mr. C. Mukund, Adv.
Mr. Ashok Kumar Jain, Adv.
Mr. Pankaj Jain, Adv.
Mr. P.V. Saravana Raja, Adv.
Mr. Bijoy Kumar Jain, AOR

For R-8/ Ludhiana Mr. Chirag Jamwal, Adv.
Refineries

For Official Mr. Manish Bishnoi, Adv.
Liquidator

For M/o Customs & Mr. Arijit Prasad, Adv.
Excise Mr. T.A. Khan, Adv.
Mr. Arvind Kumar Sharma, Adv.

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

In response to the prayers made in I.A. No.43 of 2007, filed by one Mr. Kishore R. Shah, a Member of the Citizen Council, Chala Vapi, we had directed the States of Madhya Pradesh and Gujarat to file affidavits with regard to

the supply of fresh drinking water to the affected areas. As far as the State of Gujarat is concerned, Ms. Hemantika Wahi, learned senior Standing Counsel for the State of Gujarat, has filed an affidavit and has also indicated that steps have already been taken to supply fresh drinking water in the areas, in and around Wapi and Ankleshwar. Mr. Sanjay Parikh, learned counsel appearing for the petitioners, may seek instructions in regard to the statements made in the said affidavit and report back to us.

As far as Bhopal is concerned, an affidavit has been filed on behalf of the State, affirmed by the City Engineer of the Municipal Corporation of Bhopal, stating that steps have been taken in the fourteen localities, indicated by the applicant and the Bhopal Group for Information and Action, for supplying drinking water by overground pipelines to the inhabitants of the said fourteen localities. Ms. Vibha Datta Makhija, learned counsel appearing for the State of Madhya Pradesh, has submitted that while the main pipelines have been laid, a decision has also been taken by the Municipality to provide each individual household with a separate tap connection and that steps are being taken in that regard. Ms. Makhija has also submitted that the matter is in the process of execution and will take some time to complete.

Ms. Karuna Nundy, learned counsel appearing for Bhopal Group for Information and Action, submits that the said Non-Governmental Organization has been working with the municipal authorities, not only in identifying the areas, but also in trying to expedite the work of laying down the pipelines for supply of fresh drinking water. She also

submits that though the work is being undertaken, it is progressing at a very slow pace.

Ms. Nundy has also pointed out certain discrepancies indicated in the Chart, which has been made Annexure A-2 to the affidavit filed on behalf of the NGO.

Since, admittedly, steps are being taken to provide the fourteen identified areas and the four additional areas, which have been subsequently identified, with fresh drinking water through pipelines, the only order that we are inclined to pass today is for expedition of the work. Although, we are informed that the Supreme Court Monitoring Committee, which had earlier been appointed, has almost become defunct, as also the local Committees appointed by it in different areas, we are of the view that there should be a Monitoring Committee to oversee the part of the work, which is now being undertaken by the Bhopal Municipality for providing fresh drinking water to the eighteen affected areas near the Plant.

Accordingly, we constitute a Committee for the aforesaid purpose, with the Executive Chairman of the Madhya Pradesh State Legal Services Authority as the Chairperson of the Committee, which will include (1) The Commissioner, Gas Relief and Rehabilitation, (2) The Commissioner, Bhopal Municipality, (3) The Executive Engineer, Bhopal Municipal Corporation, (4) The Member Secretary of the Madhya Pradesh State Pollution Control Board, (5) a member from the Bhopal Group for Information and Action, a person nominated by the Research Foundation for Science, the petitioner in the writ petition itself, and the Member Secretary of the Madhya Pradesh State Legal Services Committee.

The other Non-Governmental Organizations, who have been assisting in the process of providing fresh drinking water or other activities to provide relief for the people of the different areas, may continue to assist the Committee in the work of implementing the scheme for providing fresh drinking water to the people of the various localities indicated.

The entire exercise should be completed within three months from the date of communication of this order to the Executive Chairman of the State Legal Services Authority and the Members of the Committee and both the State Government and the Bhopal Municipal Corporation, shall ensure that the work does not suffer or is not obstructed on account of inadequate or insufficient funds.

Let copies of this order be made available to Mr. Sanjay Parikh, learned counsel for the Research Foundation for Science, who is requested to communicate the same to all the concerned authorities and each of the Members of the aforesaid Committee. The Committee, thus appointed, is to submit its report to this Court, with regard to the work undertaken in terms of this order, on 13th August, 2012, when I.A. No.43 of 2007, along with the other connected applications, are to be listed for further consideration.

Mr. Sanjay Parikh also submitted that a separate interlocutory application has been filed, which is yet to be numbered, in which it has been indicated that a foreign ship, which is alleged to be contaminated, has entered into Indian Waters, though, it has not yet been allowed to berth

in any of the ports, without taking proper steps for decontamination in the port of export. A copy has been provided to Mr. Ashok Bhan, learned senior counsel appearing for the Union of India and Mr. T.S. Doabia, learned senior counsel, who submits that he is appearing on behalf of the Ministry of Shipping, Government of India. Both, Mr. Bhan and Mr. Doabia, are requested to take instructions on the statements made in the interlocutory application and to inform this Court as to the steps being taken to prevent the ship berthing in any of the ports in India, without following the conditions indicated in the Basel Convention.

The respondents in the interlocutory application will be entitled to file their respective counter affidavits to the same, within six weeks. Rejoinder thereto, if any, may be filed within two weeks thereafter.

Let this interlocutory application, as well as the other connected interlocutory applications, be listed on 13th August, 2012, also.

The Convenience File, which had been filed on behalf of the alleged contemnors in the contempt petition filed, be tagged with I.A. No.23 of 2007.

(Chetan Kumar)
Court Master

(Juginder Kaur)
Assistant Registrar

