

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

Writ Petition(s) (Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(1) REPORT NO. 79, 80 AND 87 SUBMITTED BY EPCA

Date : 26-07-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
 HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Harish N. Salve, Sr. Advocate (A.C.) [NP]

 Ms. Aparajita Singh, Advocate (A.C.)

 Mr. A.D.N. Rao, Advocate (A.C.)

 Mr. Siddhartha Chowdhury, Advocate (A.C.)

 Petitioner-In-Person

For Respondent(s) Mr. A.N.S. Nadkarni, ASG
 Mr. S. Wasim A. Qadri, Adv.
 Mr. D.L. Chidanand, Adv.
 Mr. Ritesh Kumar, Adv.
 Mr. Devasis Bharuka, Adv.
 Ms. Subhasni Sen, Adv.
 Mr. Amit Sharma, Adv.
 Mr. Rajesh Kumar Singh, Adv.
 Mr. Raj Bahadur, Adv.
 Mr. G.S. Makker, Advocate.
Delhi Mr. D.N. Goburdhun, Adv.
 Ms. Pallavi Chopra, Adv.

Haryana Mr. Anil Grover, AAG
 Mr. Shivam Kumar, Adv.
 Mr. Satish Kumar, Adv.
 Mr. Sanjay Kr. Visen, Advocate
 Dr. Monika Gusain, Adv.

Ms. Manpreet Kaur Bhalla, Adv.

Mrs. Rachana Gupta, Advocate
Mr. Jitendra Kumar Tripathi, Adv.

Rajasthan

Mr. S.S. Shamsbery, AAG
Mr. Amit Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Ankit Raj, Adv.
Ms. Nidhi Jaiswal, Adv.
Ms. Indira Bhakar, Adv.
Ms. Ruchi Kohli, Advocate

Ms. Snidha Mehra, Adv.
Mr. B.V. Balramdas, Advocate.

Mr. Yash Pal Dhingra, Advocate

Aluminium

Mr. Jayant Bhushan, Sr. Adv.
Mr. Ajay Bhargava, Adv.
Ms. Vanita Bhargava, Adv.
Ms. Shweta Kabra, Adv.
For M/S Khaitan And Co., Advocates

Steel

Mr. Shyam Divan, Sr. Adv.
Mr. Sanjeev K. Kapoor, Adv.
Mr. Nawneet Vibhaw, Adv.
Mr. Gaurav Juneja, Adv.
For M/S Khaitan And Co., Advocates

M/S S. Narain And Co., Advocates

UPON hearing the counsel the Court made the following

O R D E R

REPORT NO. 79, 80 AND 87 SUBMITTED BY EPCA

On 10.05.2018, we had passed the following order with regard to ban on import of pet coke:

Ban on import of Pet Coke

The learned ASG assures us that the exercise of receiving inputs from Ministry of Petroleum and Natural Gas and DGFT with regard to ban on import of pet coke and the State Governments is under way and will be completed within six weeks.

We expect and direct that a decision will be taken in this regard on or before 30th June, 2018 failing which we may have to deal with the matter.

The targeted date of 30th June, 2018 is over.

Notwithstanding that the targeted date was over, we passed an order on 16.07.2018 to the following effect:

Ban on import of pet coke

Learned Additional Solicitor General stated before us that the Report of the Technical Expert Committee to evaluate the pollution load of pet coke versus possible alternatives is ready. A copy of it has been handed over to learned amicus curiae.

Learned Additional Solicitor General says that the matter will be discussed by the officers of the Ministry of Environment, Forest and Climate Change with EPCA during the course of this week and final decision taken and communicated to this Court next week.

List the matter for this purpose on 26th July, 2018.

Today, the learned ASG has placed before us an affidavit of the Ministry of Environment, Forest and Climate Change in compliance of order dated 16.07.2018.

On a reading of the affidavit, it is clear that a meeting was held by the Ministry of Environment, Forest and Climate Change along with officers of the Ministry of Petroleum and Natural Gas and EPCA and discussions were also held with the Directorate General of Foreign Trade.

In the Minutes of the meeting dated 18.07.2018, it is recorded in paras 1.10 and 1.11 as follows:

1.10 EPCA stated that based on extensive discussion between MoEFCC, MoPNG and DGFT, a regime for regulating import of pet coke had been suggested by DGFT, which is also compliant with WTO norms. EPCA stressed that this regulatory framework should be immediately implemented

and import of pet coke should be permitted only in those industries where pet coke is used as a feedstock or in the manufacturing process and not as a fuel. These industries, which have been permitted to use pet coke in NCR states and accepted by the Hon'ble Supreme Court are the following : cement, lime kiln, calcium carbide and gasification. Import should be allowed only for these industries in the country, which will make the regime compatible with WTO requirements. EPCA also said that it would prefer an arrangement, which prioritises the use of domestic pet coke as against imported pet coke.

1.11 The Ministry officials responded to this by stating that the views of EPCA in the matter have been noted and that a suitable decision would be taken in the Ministry.

From a reading of the above decisions, it is quite clear that a consensus decision has been taken that the use of imported pet coke all over the country may be permitted only in the following industries : cement, lime kiln, calcium carbide and gasification. It is stated that this would be in compliance with the WTO norms and these industries may be permitted to import pet coke for use as a feedstock or in the manufacturing process and not as a fuel.

EPCA has also stated that it will prefer an arrangement, which prioritizes the use of domestic pet coke as against imported pet coke.

The learned ASG says that a suitable decision is required to be taken by the Ministry. The Ministry concerned has not been mentioned. We take it that the Ministry concerned is relatable only to EPCA preferring an arrangement of prioritizing the use of domestic pet coke as against imported pet coke. The preference of EPCA deserves serious consideration.

Since the decision to permit limited import of pet coke has

been taken by consensus by all the authorities mentioned above and since the time already fixed by us expired on 30.06.2018, we direct that the decision taken in para 1.10 in terms of the Minutes dated 18.07.2018 be notified and implemented with immediate effect.

Report Nos. 79 stands disposed of.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER