

Having regard to the totality of the circumstances and this background, we stay the operation of the order dated 2nd March, 2005 till next date of hearing.

The pendency of these applications in this Court would not prevent the MoEF/State Pollution Control Boards to process the applications and decide them as per rules and regulations.

List the matter after five weeks. Meanwhile, pleadings in all the applications shall be completed.

N. Annapurna 11/3
(N. Annapurna)
COURT MASTER

V.P. Tyagi 11/31.5
(V.P. Tyagi)
Court Master

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FOR TIME BOUND ACTION

No. L-11011/7/2004-IA.II (I)
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

PARYAVARAN BHAVAN,
CGO COMPLEX,
LODHI RAOD,
NEW DELHI-110003.
DATED:2nd March, 2005

ORDER

The Hon'ble Supreme Court vide its order dated 21.02.05 in W.P. (Civil) No. 460 of 2004, Goa Foundation versus UOI (copy enclosed) has directed the Government of India to issue requisite order within a period of 10 days directing closure of defaulting units which operate in violation of environmental laws. The operative portion of this order reads as follows:-


"..... In these circumstances, we direct Government of India to issue requisite order within 10 days directing closure of defaulting units continuing to operate in violation of environmental laws. The State Governments are directed to comply the statutory directions issued by the Government of India. The respondent - Government of India is directed to file a compliance report within six weeks giving details of units may be closed as a result of this Order."

In compliance with the above order, the Central Government in exercise of its powers conferred under Section 5 of the Environment (Protection) Act, 1986, hereby directs all State Governments and Union Territory Administrations to immediately close down all defaulting units operating in violation of environmental laws. In this regard a State/UT wise list of units operating in violation of the Environment Impact Assessment Notification, 1994 compiled by the Central Government is enclosed.

The Central Government further directs that it shall be the responsibility of every State Government/UT Administration to also immediately identify all other defaulting units and ensure their closure forthwith.

All State Governments and UT Administrations shall furnish a compliance report indicating the actions taken along with the list of defaulting units closed down without fail by 18.3.05 to enable the Central Government to file the compliance report before the Hon'ble Supreme Court as directed.

By order


(R. Chandramohan)
Joint Secretary

Encl: As stated above

Copy to:-

1. The Chairman, Central Pollution Control Board, East Arjun Nagar, Delhi-110032.

With the direction to issue similar order to all State / UT Pollution Control Board / Committees for taking all necessary action for ensuring compliance of the Hon'ble Supreme Court's order dated 21.02.05.

2. For follow up and for reporting on the compliance by the States /UT's by 21.03.05.
- (i) The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office, Kendriya Sadan, 4th Floor, E&F Wings, 7th main Road, II Block, Koramangala, Bangalore-560034
 - (ii) The Chief Conservator of Forests ©, Ministry of Environment & Forests, Regional Office(Eastern Zone), A-3, Chandrashekharpur, Bhubaneswar-75102
 - (iii) The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office(WZ), Kendriya Paryavaran Bhavan, Link Road No.-3,E-5, Arera Colony, Bhopal-462016.
 - (iv) The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office(NEZ), Upland road, Latiumkharh, Shillong-793003.
 - (v) The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office(CZ), Kendriya Bhawan, CGO Complex, 5th Floor, Sector-H, Aliganj, Lucknow-226024.
 - (vi) The Chief Conservator of Forests, Ministry of Environment & Forests, Regional Office(NZ), Bays No.24-25, sector 31-A, Dakshin Marg, Chandigarh-160030.

By order


(R. Chandramohan)

Joint Secretary
Ministry of Environment & Forests
No. L-11011/7/2004-I.A.II (I)

2nd March, 05

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(Civil) No.460/2004

GOA FOUNDATION

Petitioner (s)

VERSUS

UNION OF INDIA

Respondent (s)

(With Appln(s). for stay and c/delay in filing affidavit
(With Office Report)

Date : 21/02/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE P.P. NAOLEKARFor Petitioner (s) Mr.Raj Panjwani,Adv.,
Ms. Purnima Bhat,Adv.For Respondent (s) Mr.A. Sharan,ASG
Mrs Anil Katiyar,Adv.UPON hearing counsel the Court made the following
O R D E R

Pursuant to the Order dated 17.12.2004 an affidavit of R. Chandramohan, Joint Secretary, Ministry of Environment and Forests, Government of India, has been filed though belatedly on 10.2.2005. The affidavit though purports to be in compliance with the Order dated 17.12.2004, but in letter and spirit it is far from complying that order. It is more in the nature of completing the formality. The queries raised in the said Order have still not been answered fully. Alongwith the affidavit only copies of some of the letters i.e. Dated 13.1.2005, 4.2.2005 and 7.2.2005 have been annexed. The Government of India is not powerless to ensure compliance with the environmental laws in particular Environment Protection

Act, 1986. In these circumstances, we direct Government of India to issue requisite order within a period of 10 days directing closure of defaulting units continuing to operate in violation of environmental laws. The State Governments are directed to comply the statutory directions issued by the Government of India. The respondent-Government of India is directed to file a compliance report within six weeks giving details of units may be closed as a result of this Order.

List after six weeks.

Vijay Kumar Sharma
22 2
2005

(Vijay Kumar Sharma)
AR cum PS to Hon. Judge

V.P. Tyagi
22/2/05

(V.P. Tyagi)
Court Master

22/2

NO.L-110117/2004-I.A.II (1)
MINISTRY OF ENVIRONMENT AND FORESTS
I.A.DIVISION

PARYAVARAN BHAWAN
CGO COMP-LEX, LODHI ROAD
NEW DELHI
DATED: 15th March 2005

ORDER


Whereas the Central Government, pursuant to the order of Hon'ble Supreme Court dated 21.02.05 in W.P. (Civil) No .460 of 2004, Goa Foundation versus UOI and in exercise of its powers conferred under Section 5 of the Environment (Protection) Act, 1986, had directed all State Governments and Union Territory Administrations, vide order of even number dated 2nd March, 2005, to close down all defaulting units operating in violation of environmental laws, and

Whereas the Hon'ble Supreme Court after hearing the above matter further on 11th March, 2005 has stayed the operation of the aforesaid order of the Central Government of even number dated 2nd March, 2005 till next date of hearing in the matter to be listed after five weeks,

Now, therefore in pursuant to the above order of the Hon' Supreme Court dated 11th March, 2005, the Central Government directs all the State Governments /Union Territory Administrations / Pollution Control Boards /Committees **not to close down any defaulting unit till the next date of hearing** in the Apex Court in W.P. (Civil) No .460 of 2004, Goa Foundation versus UOI.

All State Governments and UT Administrations shall however furnish without fail by 18th March, 05 to the Central Government the list of defaulting units already closed down, for apprising the position to the Hon'ble Supreme Court on the next date of hearing.

By order


(R.Chandramohan)
Joint Secretary

To, (ALL STATE CHIEF SECRETARIES /ADMINSTRATORS, UT)
(ALL STATE /UT POLLUTION CONTROL BOARDS /COMMITTEES)

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

I.A.NOS.3-13 IN WRIT PETITION (Civil) NO. 460 OF 2004

GOA FOUNDATION

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(For impleadment and directions and intervention and directions)

Date: 11/03/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s) Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat, Adv.

For Applicants in
in IA No.3: Mr. K. Parasaran, Sr. Adv.
Mr. K. Swami, Adv.
Mrs. Prabha Swami, Adv.

in IAs.4 & 13: Mr. P.S. Mishra, Sr. Adv.
Mr. D. Srinivas Prasad, Adv.
Mr. S. Chandra Shekhar, Adv.

in IAs 5 & 6: Dr. A.M. Singhvi, Sr. Adv.
Mr. Sunil Dogra, Adv.
for M/s. Lawyer's Knit & Co., Adv.

in IA 7: Mr. Altaf Ahmed, Sr. Adv.
Mr. B. Parthasarathy, Adv.
Mr. Attar Singh, Adv.
Mr. John C. Roce, Adv.

IAs 8&9: Mr. Soli Sorabjee, Sr. Adv.
Mr. Arun Jaitley, Sr. Adv.
Mr. Gopal Jain, Adv.
Mr. R.N. Karanjawala, Adv.
Ms. Meena Lall, Adv.
Ms. Nandini Gore, Adv.
Mr. Bharat Singh, Adv.
Ms. Kanika Agnihotri, Adv.
Ms. Manik Karanjawala, Adv.

in IAs.10 & 11: Mr. G.E. Vahanvati, S.G.
Mr. P.S. Nair, Sr. Adv.
Mr. Anip Sachthey, Adv.
Mr. E. Venkumar, Adv.
Mr. Shrinivas R. Khalap, Adv.
Mr. Devadatt Kanat, Adv.

IA 12: Mr. K.K. Venugopal, Sr.Adv.
Mr. Mukul Rohtagi, Sr.Adv.
Mr. S. Chandra Shekhar, Adv.

For Retro Drugs: Mr. K.K. Venugopal, Sr.Adv.
Mr. D.Srinivas Prasad, Adv.
Mr. S. Chandra Shekhar, Adv.

For Cirex Phar.: Mr. Mukul Rohtagi, Sr.Adv.
Mr. Vijay Hansaria, Sr.Adv.
Mr. D. Srinivas Prasad, Adv.
Mr. S. Chandra Shekhar, Adv.

For Intervenor: Mr. Ashok Desai, Sr.Adv.
Mr. Bharat Sangal, Adv.
Ms. Sangeeta Panicker, Adv.
Mr. R.R. Kumar, Adv.
Mr. Samyadip Chatterji, Adv.

For Respondent(s)
-MoEF: Mr. A. Sharan, A.S.G.
Mr. Vikas Sharma, Adv.
Mrs. Anil Katiyar, Adv.

Mr. Bhavanishnkar V. Gadnis, Adv.
Mrs. Sunita B. Rao, Adv.
Mr. Shekhar, Adv.

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

By order dated 21st February, 2005, considering the affidavit that had been filed by the Joint Secretary, Ministry of Environment and Forests, Government of India, this Court directed the Government to issue requisite order within a period of ten days directing closure of defaulting units continuing to operate in violation of environmental laws. The State Governments were also directed to comply with the statutory directions issued by the Government of India. We are told that pursuant to that order the Government of India has issued an order dated 2nd March, 2005 under Section 5 of the Environment (Protection) Act, 1986.

Now, these applications have been filed by the applicants who have been directed to close down, pursuant to the order dated 2nd March, 2005. The order dated 2nd March, 2005 directs the State Governments and Union Territory Administrations to

immediately close down all defaulting units operating in violation of environmental laws. The list of units operating in violation of notification dated 27th January, 1994, as compiled by the Central Government, has been enclosed along with the order dated 2nd March, 2005. The applicants are some of those who are mentioned in that list.

According to the applicants, their applications for grant of environment clearance under the 1994 notification are pending with the State Pollution Control Boards/MoEF. Mr. Sharan, learned Additional Solicitor General, appearing for the MoEF, states that with the Ministry of Environment and Forests only 44 completed applications are pending. At the present, however, learned A.S.G. is unable to state as to which of the applicants' applications fall in that category of 44 applications which are pending.

In view of the aforesaid, we direct the MoEF to file its response to the applications filed by the aggrieved units apprehending their closure pursuant to the order dated 2nd March, 2005. The petitioner may also file its reply to those applications. The said replies be filed within three weeks. Rejoinder affidavits may be filed within two weeks thereafter.

Meanwhile, we direct that pursuant to the order dated 2nd March, 2005, the applicants' units shall not be closed.

Submissions have been made by various learned counsel appearing for those units whose applications could not be registered, though filed, on account of paucity of time. Three such applications are by Retro Labs, Retro Drugs and Cirex Pharmaceuticals. Mr. K.K. Venugopal, learned senior counsel, submits that some applications could not even be mentioned in view of the ongoing arguments before the seven-Judge Constitution Bench.