

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 39 OF 2024**

IN THE MATTER OF:

JONATT JOSE

...APPLICANT

VERSUS

THE SECRETARY MoEF&CC & ORS.

...RESPONDENTS

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Sai Tej

Counsel for Respondent-1

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**AFFIDAVIT ON BEHALF OF RESPONDENT No. 1- MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE.**

I, Dr. Murali Krishna, aged about 42 years, presently working as Scientist "E" in the Ministry of Environment Forest and Climate Change, Regional Office having office at Bengaluru do hereby solemnly affirm and state as hereunder:

1. That, I am well acquainted with the facts and circumstances of the case and competent to swear this affidavit on behalf of MoEF&CC being the Respondent in the present Application.

Dr. Murali Krishna
Dr. Murali Krishna Chinnappa
Scientist "E" / Additional Director (S)
Ministry of Environment, Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, Koramangala
Bengaluru - 560034

2. That the Answering Respondent is engaged in, *inter alia*, policy formulation for abatement, control, and prevention of pollution and prescribing environmental standards to be implemented through the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs).

Besides, the concerned State Pollution Control Boards/Pollution Control Committees are empowered to take all such measures as are deemed necessary or expedient for the purpose of protection and improving the quality of the environment as well as prevention, control, and abatement of environmental pollution.

3. That it is submitted that the Hon'ble Supreme Court vide its Order dated 26.07.2018 in Writ Petition No. 13029 of 1985 titled as M.C. Mehta vs Union of India, prohibited the use of imported Pet Coke for all industries except for cement, lime, calcium carbide and gasification industries, in compliance with WTO norms and also permitted the use of imported Pet Coke as feedstock or in the manufacturing process.

Dr. Murali Krishna Chimata
Dr. Murali Krishna Chimata
Scientist "E" / Additional Director (S)
Ministry of Environment, Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, Koramangala
Bengaluru - 560034

A copy of the Order dated 26.07.2018 passed by the Hon'ble Supreme Court in W.P. (C) No. 13029 of 1985 is annexed herewith as **ANNEXURE R-1**.

4. That the Answering Respondent Ministry vide its Office Memorandum dated 10.09.2018 laid down the Guidelines for Regulation and Monitoring of Imported pet coke in India *inter-alia* on the fulfilment of certain conditions.

A Copy of the Office Memorandum dated 10.09.2018 issued by the Answering Respondent Ministry is annexed herewith as **ANNEXURE R-2**.

5. In view of the above submissions, this Hon'ble Court may pass such order(s) as deemed fit and proper in the facts and circumstances of the case.

Dr. Murali Krishna Chimata

DEPONENT

Dr. Murali Krishna Chimata
Scientist "E" / Additional Director (S)
Ministry of Environment, Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, Koramangala
Bengaluru - 560034

VERIFICATION:

Verified at Bengaluru on the 12th day of July 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been suppressed or concealed therein.

ch. Murali Krishna

DEPONENT

Dr. Murali Krishna Chimata
Scientist "E" / Additional Director (S)
Ministry of Environment, Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, Koramangala
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Dr. Murali Krishna

Dr. Murali Krishna Chimata
Scientist "E" / Additional Director (S)
Ministry of Environment, Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, Koramangala
Bengaluru - 560034

ITEM NO.16

COURT NO.3

SECTION PIL-W

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.
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Delhi Mr. D.N. Goburdhun, Adv.
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Ms. Ruchi Kohli, Advocate

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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

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

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Respondent(s)

IA NOS. 15338 AND 15739/2018

(APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O ALUMINIUM ASSOCIATION OF INDIA) ALONGWITH REPORT NO. 82 SUBMITTED BY EPCA)

IA NOS. 100194 AND 102169/2018 (APPLNS. FOR INTERVENTION AND PERMISSION/DIRECTIONS ON BEHALF OF INDIAN STEEL ASSOCIATION)

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]

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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

IA NOS. 15338 AND 15739/2018 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON B/O ALUMINIUM ASSOCIATION OF INDIA) ALONGWITH REPORT NO. 82 SUBMITTED BY EPCA and IA NOS. 100194 AND 102169/2018 (APPLNS. FOR INTERVENTION AND PERMISSION/DIRECTIONS ON BEHALF OF INDIAN STEEL ASSOCIATION)

The decision on the use of imported pet coke in the steel industry and aluminium industry is still under consideration. We are informed by the learned ASG that studies will have to be conducted and BIS standards will have to be fixed in the case of aluminium industry.

The entire exercise may take about eight weeks. We accordingly grant time till 1st October, 2018 for a decision to be taken in the matter.

List the applications on 09th October, 2018.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER

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)

IA NOS. 31988/2018

(APPLN. FOR DIRECTIONS ON B/O PAPER MANUFACTURING ASSOCIATION)

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]

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 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

IA NOS. 31988/2018

(APPLN. FOR DIRECTIONS ON B/O PAPER MANUFACTURING ASSOCIATION)

Before we take up the application for consideration, 38 members of the Paper Manufacturing Association as mentioned on page 95 of the application should file an affidavit indicating the steps they have taken.

(MEENAKSHI KOHLI)
 COURT MASTER

(KAILASH CHANDER)
 COURT MASTER

**No. Q-18011/54/2018-CPA
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE
(CP Division)**

2nd Floor, Vayu Wing, IPB, Jorbagh Road
New Delhi-110003

Dated: September 10, 2018

OFFICE MEMORANDUM

Subject: W.P.(C) No. 13029 of 1985 in the matter of M.C. Mehta Vs. Union of India & Ors. before the Hon'ble Supreme Court of India -regarding.

GUIDELINES FOR REGULATION AND MONITORING OF IMPORTED PETCOKE IN INDIA

In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby issues the following Guidelines for Regulation and Monitoring of Imported Petcoke in India, namely: -

1. Guidelines for Regulation and Monitoring of Imported Petcoke in India: -

As per notification of Director General of Foreign Trade (DGFT) dated 17.8.2018, Import of Petcoke for use as fuel is prohibited. However, import of Petcoke is allowed for the following industries namely, cement, lime kiln, calcium carbide and gasification for use as feedstock or in the manufacturing process only on actual user basis as per the conditions stipulated below:

- (1) Petcoke importing industries namely, cement, lime kiln, calcium carbide and gasification shall obtain the consent of and registration with the concerned State Pollution Control Boards (SPCB)/ Pollution Control Committees (PCC).
- (2) Consent issued by the concerned SPCB/ PCC shall clearly specify the quantity permitted for import and its use on a per month and per annum basis.
- (3) Only registered industrial units with valid consent from SPCBs/PCCs as per clause (1) shall be permitted to directly import pet coke and consignment shall be in the name of user industrial units for their own use only.
- (4) Import of pet coke for the purpose of trading shall not be permitted.
- (5) Authorised importers of Petcoke shall furnish opening and closing stock of imported Petcoke to the concerned SPCB/ PCC on a quarterly basis.

- (6) The SPCBs/ PCCs shall develop an electronic record system for uploading of consents, registration and record of use of imported Petcoke by industrial units, as mentioned above and the said Boards/ Committees shall share this data with the Central Pollution Control Board on a quarterly basis. This data shall be published on the Central Pollution Control Board website on receipt from the SPCB/ PCC.

These Guidelines shall come into force from the date of publication of Office Memorandum by Ministry of Environment, Forest and Climate Change.

2. This issues with the approval of Competent Authority.

ch. Murali Krishna
(Dr. Murali Krishna)
 Scientist 'D'/ Joint Director
 E-mail: cm.krishna@gov.in
 Tel: 011-24695414

To

- (1) **Chairman**
 Central Pollution Control Board
 Parivesh Bhawan, East Arjun Nagar
 Delhi-110032
- (2) **Member Secretary**
 Central Pollution Control Board
 Parivesh Bhawan, East Arjun Nagar
 Delhi-110032

-for circulating to SPCBs/PCCs.

CC

DS (IT)- for uploading the Guidelines at the Website of Ministry of Environment, Forest and Climate Change.