

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

(WESTERN ZONE), PUNE

ORIGINAL APPLICATION NO. 56 OF 2018

IN THE MATTER OF:

Nikhil Vidyadhar Joglekar & Ors.

...Applicants

VERSUS

MoEFCC & Ors.

...Respondents

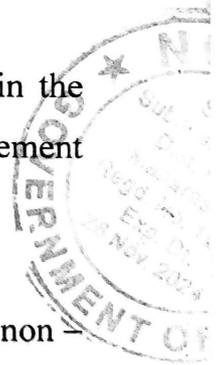


REJOINDER ON BEHALF OF THE APPLICANTS

On behalf of the Applicants above – named, it is submitted as under:-

1. That the Applicants have perused through the Reply Affidavits filed by the Respondent Nos. 1, 2, 6, 10, 11 and 13.
2. That the Applicants are reserving their Right to file a detailed Reply as and when necessary. The Applicants deny all those contentions, averments, statements and allegations made in the Replies that are contrary to and inconsistent with whatever stated hereinafter.

3. That the present Application pertains to the proper disposal of condoms. The Applicant has prayed for pouches to be provided by the manufacturers of condoms for disposal in an appropriate manner.
4. That the Respondents have made bizarre submissions that are completely irrelevant to the issue at hand.
5. The Respondents are only trying to dispense away with their responsibilities as it will add to their cost of manufacturing. However, in the interest of the public and environment at hand, it is the Applicants' humble submission that disposal pouches ought to be provided by the Respondent manufacturers of condoms for the disposal of the same.
6. The Respondents are required to provide pouches as it is also the law of the land. Hereunder, it is important to note that condoms fall within the ambit of 'sanitary waste' under Section 3(41) of the Solid Waste Management Rules, 2016.
7. In addition to the aforementioned, 'sanitary waste' *per se* falls within the ambit of 'solid waste' under Section 3(46) of the Solid Waste Management Rules, 2016.
8. The submissions made by the Respondent Nos. 10 and 11 concerning non-application of the Solid Waste Management Rules, 2016 does not hold water as despite the 'Application' provision being seemingly narrow by a prima facie read, it is in fact addressing all bodies responsible in the chain of solid waste generation starting from the manufacturers themselves. In addition, it is



very important to note that the Rules *in toto* address bodies of all kinds, including but not limited to manufacturers under Rule 17.

9. Additionally, Rights and Duties are corresponding in nature which is why with the Right to manufacture products of this kind, there are corresponding Duties that must be fulfilled by the manufacturers. Reliance may be placed on Rule 4(1)(b) which states as follows:

“Every waste generator shall –

(b) wrap securely the used sanitary waste like diapers, sanitary pads etc. in pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material as I instructed by the local authorities and shall place the same in the bin meant for dry waste or non – biodegradable waste;”

10. It is the Respondent Nos. 10 and 11's submission that Drugs and Cosmetics Act, 1940 is applicable in the present case and not the 2016 Rules. However, the Respondents are not right about the same as the Drugs and Cosmetics Act, 1940 refers to the quality standards required to be maintained as opposed to waste disposal system.

11. It is further submitted that all condoms are non – biodegradable in nature. In addition, the people who carry out waste disposal activities are exposed to harmful pollutants when the condoms are not disposed off properly. Since the product is harmful for the environment and the people who dispose off the same, it is necessary to be considered separately in tune with the segregation of other sanitary products.

12. It is submitted that Rule 4(1)(b) mentions that sanitary pads and diapers should be disposed off in pouches. However, the same does not specifically mention condoms and hence, the Applicants have filed the present Application.

Place: Pune

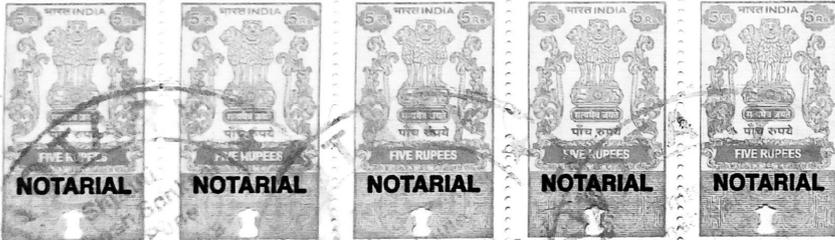
Date: 09/06/2023

Applicants

Vaishnav

S. Awale

Advocate for the Applicants



BEFORE ME

[Signature]
Shrutu Subhash Sankpal
ADVOCATE & NOTARY
GOVERNMENT OF INDIA

Noted & Registered
at Serial No. 793/2023
Date, 10 JUN 2023