

ITEM NO.4

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: PETCOKE(1) IA NO. 115613/2021 (APPLN. FOR CLARIFICATION OF ORDER DATED 09.10.2018 ON BEHALF OF RAIN CII CARBON (VIZAG) LIMITED)

(2) IA NO. 31988/2018 (APPLN. FOR DIRECTIONS ON B/O PAPER MANUFACTURING ASSOCIATION)

(3) IA NO. 184370/2023 (APPLN. FOR MODIFICATION ON B/O ALUMINIUM ASSN. OF INDIA)

(3 A) IA D. NO. 205976/2023 IN IA NO. 184370/2023 (APPLN. FOR IMPLEADMENT ON B/O RAIN CII CARBON (VIZAG) LIMITED)

(4) IA NOS. 49035 AND 49036/2021 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF RAIN CII CARBON (VIZAG) LTD.)

(5) IA NOS. 113743, 113750/2019 AND IA D. NO. 6402/2021 (APPLNS. FOR IMPLEADMENT, DIRECTIONS AND SEEKING URGENT LISTING OF IA NOS. 113743, 113750/2019 ON B/O M/S BHARAT ALUMINIUM COMPANY LTD.)

(6) IA NOS. 141194 AND 141196/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O GUWAHATI CARBONS LTD.)

(7) IA NOS. 141725 AND 141728/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O NEO CARBONS PVT. LTD.)

(8) IA NOS. 141204 AND 141252/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O BRAHMAPUTRA CARBON LTD.)

(9) IA NOS. 129627, 129630 AND 138251/2023 (APPLNS. FOR PERMISSION, CLARIFICATION AND SEEKING PERMISSION TO BRING ON RECORD ADDL. DOCUMENT ON B/O CARBON RESOURCES PVT. LTD.)

(10) IA NOS. 142394 AND 142395/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O DIGBOI CARBON PVT. LTD.)

(11) IA NOS. 176700 AND 176702/2023 (APPLNS. FOR INTERVENTION AND DIRECTION ON B/O UPPER ASSAM PETROCOKE PVT. LTD.)

(12) IA NOS. 177061 AND 177063/2023 (APPLNS. FOR INTERVENTION AND DIRECTION ON B/O NEW AGE PETCOKE PVT. LTD.)

(13) IA NOS. 177684 AND 177685/2023 (APPLNS. FOR INTERVENTION AND DIRECTION ON B/O AMRITESH INDUSTRIES PVT. LTD.)

(14) IA NO. 16635/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF RAIN CII CARBON (VIZAG) LIMITED)

(15) IA NO. 41879/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF SANVIRA INDUSTRIES LTD.)

(16) IA NO. 176291/2023 (APPLN. FOR DIRECTION ON B/O PETRO CARBON AND CHEMICALS PVT. LTD.) ONLY" IN W.P.(C) NO. 13029/1985

"ONLY" NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:(A.C.)MS. APARAJITA SINGH, SR. ADVOCATE (A.C.). MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)PETITIONER-IN-PERSON

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Date : 10-10-2023 These applications were called on for hearing

today.

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

(3) IA NO. 184370/2023(APPLN. FOR MODIFICATION ON B/O ALUMINIUM ASSN. OF INDIA)(3A) IA D. NO. 205976/2023 IN IA NO. 184370/2023 (APPLN. FOR IMPLEADMENT ON B/O RAIN CII CARBON (VIZAG) LIMITED)

(4) IA NOS. 49035 AND 49036/2021(APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF RAIN CII CARBON (VIZAG) LTD.)

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(6) IA NOS. 141194 AND 141196/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O GUWAHATI CARBONS LTD.)

(7) IA NOS. 141725 AND 141728/2023 (APPLNS. FOR INTERVENTION AND CLARIFICATION ON B/O NEO CARBONS PVT. LTD.)

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(15) IA NO. 41879/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF SANVIRA INDUSTRIES LTD.)

(16) IA NO. 176291/2023 (APPLN. FOR DIRECTION ON B/O PETRO CARBON AND CHEMICALS PVT. LTD.)

We have heard learned counsel for parties for some time.

Learned Amicus has given a way forward, more so, as it is practically very difficult for this Court to monitor and see the quotas for different industries and periodically this Court is being approached by applications in view of the earlier orders passed. The ground reality is also stated to have changed from the time action was taken in pursuance to Report No.91. The suggestion, thus, is that the Commission for Air Quality Management should look into the matter afresh keeping in mind the availability of Pet Coke in the country and the requirement for import of Pet Coke which would depend, thereafter.

There is also a change which has occurred on account of different industries' requirement of Pet

Coke. An example of this is the Aluminum industry. Thus, a holistic view would have to be taken as to the distribution of the Pet Coke available in the country and the Pet Coke required to be imported and how both of them should be distributed *inter se* the industries.

The aforesaid course of action is acceptable to all the learned counsel here and the only aspect urged is an anxiety about the time period required for it because a lot of industries are closed.

We, thus, delegate all these issues to the Commission for Air Quality Management (CAQM) and, if one may observe, this is their job.

This is more so, as the origination of regulation by this Court arose from the fact that Pet Coke is highly polluting, especially when used as a fuel and in unregulated industries.

There is also another aspect arising from the allocation of six calciners which are near the ports. It is the say of 6 of the parties before us that they alone are entitled to it, while another set of parties states that right up to 2023, 1 million tonne was being distributed amongst the six persons and remaining 0.4 million was being distributed to the rest. It is the say that now 0.4 million is not being distributed on account of some orders passed in the

year 2023.

Be that as it may, it is appropriate that the CAQM bestows consideration even on this aspect and wherever any interim directions are required, the Commission itself can pass those directions, uninfluenced by other orders which may be passed by any other Court.

Needless to say that all concerned parties will be heard in this process and insofar as the interim directions are concerned, an earlier consideration will be bestowed.

Learned counsel for the Ministry of Environment, Forest and Climate Change requests for three months to complete the task. However, insofar as the interim directions are concerned, the Commission may take an action between 4-6 weeks.

The aforesaid would take care of the various applications before us *qua* the issue of import and enhancement of import quota and thus, these applications stand disposed of in terms of the aforesaid order.

The applications for impleadment and intervention are also disposed of.

(1) IA NO. 115613/2021 (APPLN. FOR CLARIFICATION OF ORDER DATED 09.10.2018 ON BEHALF OF RAIN CII CARBON (VIZAG) LIMITED)

Learned counsel for the applicant submits that

in view of the other aspects being delegated to the Commission, the facts of the present case be also examined by the Commission itself.

This request is accepted and thus, the reliefs in this application are also delegated for consideration before the Commission.

The application stands disposed of.

(2) IA NO. 31988/2018 (APPLN. FOR DIRECTIONS ON B/O PAPER MANUFACTURING ASSOCIATION)

The application is opposed by the Amicus who says that there is a notification banning use of Pet Coke as fuel which the Paper Manufacturing Association of India seeks to use.

None appears for the applicant.

Possibly with the passage of time, this application has worked itself out.

The application is accordingly, dismissed.

IN RE: CROP BURNING

Learned Amicus flags a serious problem of air pollution with winters approaching. It is aggravated by crop burning. She submits that all these issues are actually before the Commission for Air Quality Management.

We call upon the Commission to submit urgently a report as to the steps being taken for control of air pollution in and around the Capital.

List for this limited purpose on 31.10.2023.

**(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS**

**(POONAM VAID)
COURT MASTER (NSH)**