

1 **HIGH COURT OF MADHYA PRADESH :**
BENCH AT INDORE
WP No.15254/2021
LANXESS India Private Limited Vs. MP Pollution Control Board
& Anr.

Indore: Dated:-17/08/2021:-

Shri Manish Nair, learned counsel for the petitioner.

Shri Aniket Naik, learned counsel for the respondents.

Heard on admission.

This matter was argued by Shri Nair on admission for more than 30 minutes. During the course of arguments, he narrated the facts in *extenso*. He handed over a compilation of judgments containing seven judgments/orders.

At the end, he informed the Court that the petitioner has already filed an appeal before the Supreme Court against the order of National Green Tribunal which became reason for passing the impugned order dated 2nd August 2021 (Annexure P/1) by Pollution Control Board. Shri Nair submits that petitioner seeks to withdraw this WP to press his appeal filed before the Supreme Court, but till such time the said matter is taken up by Apex Court, the petitioner may be protected by holding that respondents shall not take any coercive action against the petitioner till matter is taken up by Supreme Court and prayer for interim relief is considered.

The prayer is opposed by Shri Aniket Naik, learned counsel for the respondents.

We may record with pains that in all fairness, the petitioner should have informed the Court at the threshold that he has filed such proceeding before the Apex Court and seeks to withdraw this petition. Petitioner wasted precious time of the Court by arguing the matter on merits. He cited various judgments/orders and after wasting considerable long time, he informed the Court about filing of appeal before the Supreme Court yesterday. We deprecate this practice. At present, Indore Bench is working with almost 50% strength of Judges. Every single minute is precious. Thus, while permitting the

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withdrawal of this petition with the liberty prayed for, we deem it proper to impose cost on the petitioner for his conduct of wasting precious time. We quantify the cost as **Rs.50,000/-** which shall be deposited before High Court Legal Aid Committee within 30 days from today, failing which, the said Committee shall apprise the Court about non-compliance.

So far prayer for interim protection till such time Apex Court considers the interim prayer is concerned, suffice it to say that in the light of judgment of Supreme Court in *(2010) 9 SCC 437 (Kalabharati Advertising vs. Hemant Vimalnath Narichania & Ors.)*, the said prayer cannot be accepted. The relevant para reads as under:-

“22. It is a settled legal proposition that the forum of the writ court cannot be used for the purpose of giving interim relief as the only and the final relief to any litigant. If the Court comes to the conclusion that the matter requires adjudication by some other appropriate forum and relegates the said party to that forum, it should not grant any interim relief in favour of such a litigant for an interregnum period till the said party approaches the alternative forum and obtains interim relief. (vide: State of Orissa vs. Madan Gopal Rungta, AIR 1952 SC 12; Amarsarjit Singh vs. State of Punjab, AIR 1962 SC 1305; State of Orissa vs. Ram Chandra Dev, AIR 1964 SC 685; State of Bihar vs. Rambalak Singh “Balak” & Ors., AIR 1966 SC 1441; and Premier Automobiles Ltd. vs. Kamlakar Shantaram Wadke & Ors., AIR 1975 SC 2238).”

Resultantly, the petition is dismissed as withdrawn with the liberty prayed for. The aforesaid cost be deposited within 30 days.

CC as per rules.

(SUJOY PAUL)
JUDGE

(ANIL VERMA)
JUDGE