

ITEM NO.1

COURT NO.4

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)

IN RE: STATUS OF FUNDS

Date : 10-04-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Adv.(A.C.)(NP)

Ms. Aparajita Singh, Adv. (A.C.)

Mr. A.D.N. Rao, Adv. (A.C.)

Mr. Sudipto Sircar, Adv.

Ms. Tulika Chikker, Adv.

Mr. Siddhartha Chowdhury, Adv. (A.C.)(NP)

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Atma Ram N.S. Nadkarni, ASG
 Mr. S. Wasim A. Qadri, Adv.
 Mr. D.L. Chidanand, Adv.
 Mr. Ritesh Kumar, Adv.
 Mr. Amit Sharma, Adv.
 Mr. Zaid Ali, Adv.
 Mr. Arun Kumar Yadav, Adv.
 Mr. Amrish Kumar Sharma, Adv.
 Mr. A.K. Sharma, Adv.
 Ms. Snidha Mehra, Adv.
 Ms. Tanish Samanta, Adv.
 Mr. G.S. Makker, Advocate
 Mr. B.V. Balramdas, Advocate

Mr. Vijay Panjwani, Advocate

Mr. Anil Grover, AAG
Mr. Noopur Singhal, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kr. Visen, Advocate

Ms. Garima Prasad, Adv.
Mr. Upendra Mishra, Adv.
Mr. Jitendra Kumar Tripathi, Adv.
Mr. Arijit Prasad, Adv.
Mr. Abhishek, Advocate

Mr. S.S. Shamsbery, AAG
Mr. Amit Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Ankit Raj, Adv.
Ms. Indira Bhakar, Adv.
Ms. Ruchi Kohli, Advocate

Mr. Ranjan Mukherjee, Advocate
Mr. S. Bhowmick, Adv.

Ms. Shibashish Misra, Advocate

Mr. D.N. Goburdhun, Adv.

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

IN RE: STATUS OF FUNDS

Odisha

We have gone through the affidavit filed by Mr. Aditya Prasad Padhi, Chief Secretary to Government of Odisha dated 16th February, 2018.

We have also gone through the annexures to the affidavit and find that a lot of amount is being used for purposes that have nothing to do with the benefit of the people, for example, construction of roads, renovation of colleges, etc. These works are a part of the job of the State Government and the money collected which was expected to be used for the benefit of the people cannot

be used for these purposes.

Learned counsel for the State of Odisha says that he would like to take further instructions and file an affidavit within three weeks.

Liberty is granted to the State of Odisha to file an affidavit within three weeks.

The Chief Secretary of the State of Odisha should be present in Court on the next date of hearing to assist us in the matter.

Meghalaya

We have gone through the affidavit of Mr. Aldous Mawlong, Secretary in the Department of Forests and Environment, Government of Meghalaya.

The affidavit has been very casually drafted without giving any particulars of utilization of funds. To make the matter worse, only bank statements have been placed which is an indication that the amount has been kept in a Bank and is earning interest and is not being utilized for benefit of people of Meghalaya.

Learned counsel for the State of Meghalaya says that he would like to file better affidavit within four weeks.

Liberty is granted to the State of Meghalaya to file an affidavit within four weeks.

The Chief Secretary of the State of Meghalaya should be present in Court on the next date of hearing to assist us in the matter.

Union of India

On a rough estimate given by learned *amicus curiae*, it appears that there is an amount of up to Rs.1,00,000 crores that is lying with the Government of India and the States and Union Territories under various Heads consequent to orders passed by this Court from time to time.

The Secretary in the Ministry of Environment, Forests and Climate Change, Government of India is directed to make a compilation of all the funds and the amount lying in each of those funds as on 31st March, 2018.

The Secretary in the Ministry of Environment, Forests and Climate Change is further directed to give us some indication on how the amount of up to Rs.1,00,000 crores is intended to be utilized and areas where it should not be utilized.

Considering the huge amount involved, we expect the Secretary in the Ministry of Environment, Forests and Climate Change to take up the matter very seriously and with due sincerity.

On the request of learned Additional Solicitor General, list the matter on 9th May, 2018.

NCT of Delhi

We have been informed by learned *amicus curiae* that an amount of Rs.1301.36 crores approximately is lying with the Delhi Government as on 26.03.2018 under the heading of Environment Compensation Charge (ECC) and an

amount of Rs.70.5 crores is lying with the Central Pollution Control Board (CPCB) as on 09.04.2018 under the heading of Environment Protection Charge (EPC).

We have requested Mr. D.N. Goburdhun, learned counsel who is present in Court to ascertain what plans the Delhi Government have for utilization of this amount.

Learned Additional Solicitor General should also ascertain what plans the Union of India have for utilization of the amount lying with CPCB.

List the matter on 9th May, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

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IN RE: REPORT NOS. 79 AND 80 SUBMITTED BY EPCA

Date : 10-04-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

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Mr. Ranjan Mukherjee, Advocate
Mr. S. Bhowmick, Adv.

Ms. Shibashish Misra, Advocate

Mr. D.N. Goburdhun, Adv.

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

IN RE: REPORT NO. 79 (STATUS REPORT ON THE COMPLIANCE OF
ORDERS OF THIS COURT ON EPCA REPORT NOS.72 AND 76 ON BAN
ON SALE AND USE OF FURNACE OIL AND PET COKE IN NCR)

Learned Additional Solicitor General has drawn our
attention to the order dated 8th March, 2018.

He submits that subsequent to the aforesaid order, an
Office Memorandum was issued by the Ministry of Petroleum
and Natural Gas, Government of India on 9th March, 2018
wherein it is stated as follows:

"4. It should also be noted that if import of
petcoke is allowed for all the above industries
for the total requirement, then there is a
possibility of domestically produced petcoke
being diverted to other industries which do not
have adequate pollution control measures. Hence
when taking decision for allowing import of

petcoke in the country, the production of domestically produced petcoke should be factored in and import should be allowed only to that extent. However, these industries may be allowed to import for own use only and not for trading.

5. As there will be problem in enforcement and monitoring of emission in unorganised sector, use of petcoke by other industries and unorganised sector may be discouraged. These industries may be encouraged to switch over to alternate lower pollution fuels like natural gas, LPG etc.”

The issue was then considered by the Ministry of Environment, Forests and Climate Change (MOEF) and by an Office Memorandum dated 20th March, 2018 the views of the Director General, Foreign Trade were sought in view of the observations made by the Ministry of Petroleum and Natural Gas.

The Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade has since responded on 27th March, 2018 in which certain suggestions have been made.

Learned Additional Solicitor General says that the matter is under the active consideration of the MOEF. Information and statistics are being compiled from all the States and Union Territories. He says that this exercise will take about 3 to 4 weeks or so.

List Report No.79 on 9th May, 2018 by which time we expect some finality on the issue by the MOEF.

ON BEHALF OF MOEF ON 1ST FEBRUARY, 2018)

Learned *amicus curiae* has drawn our attention to the order dated 5th February, 2018 which deals with as many as eight issues.

It is submitted by learned Additional Solicitor General that some of these issues have since been resolved while the others are under process and pending.

A comprehensive status report should be filed within a period of three weeks.

List the Report No.80 on 09th May, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER