

ITEM NO.25

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
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). 728/2015

ARJUN GOPAL & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA 119396/2017-CLARIFICATION/DIRECTIONS, IA 178876/2018-INTERVENTION/IMPLEADMENT, IA 178878/2018-APPROPRIATE ORDERS/DIRECTIONS, IA 179036/2018-INTERVENTION/IMPLEADMENT, IA 179145/2018-INTERVENTION/IMPLEADMENT, IA 179554/2018-INTERVENTION/IMPLEADMENT, IA 4/2019-INTERVENTION/IMPLEADMENT, IA 10915/2019-INTERVENTION/IMPLEADMENT and IA 13877/2019-EXEMPTION FROM FILING O.T.)

WITH

W.P.(C) No. 891/2016 (PIL-W)

W.P.(C) No. 895/2016 (PIL-W)

W.P.(C) No. 899/2016 (PIL-W)

W.P.(C) No. 213/2017 (PIL-W)

Date : 05-03-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE S. ABDUL NAZEER

Counsel for the parties:

Mr. Gopal Sankaranarayanan, Adv.
Ms. Pooja Dhar, AOR
Mr. Amit Bhandari, Adv.
Ms. Gayatri Verma, Adv.
Ms. Aishwarya Kane, Adv.

Petitioner-in-person

Mr. Abhishek Agarwal, AOR

Mr. Anubhav Kumar, Adv.
Mr. Ankit Agarwal, Adv.
Mr. Abhishek Swarup, Adv.
M/s Manoj Swarup And Co., AOR

Ms. Astha Sharma, AOR

M/S. Corporate Law Group, AOR

Mr. B. Krishna Prasad, AOR

Mrs. Sarla Chandra, AOR

Mr. Vijay Panjwani, AOR

Dr. Charu Walikhanna, Adv.

Mr. Chirag M. Shroff, AOR

Ms. Neha Sangwan, Adv.

Mr. Rajiv Dutta, Sr. Adv.

Mr. M. A. Chinnasamy, AOR

C. Rubavathi, Adv.

Mr. P. Raja Ram, Adv.

Mr. V. Senthil Kumar, Adv.

Mr. S. Manoj Selvaraj, Adv.

Mr. K. Ethiraj, Adv.

Ms. Rohini Musa, AOR

Mrs. V. D. Khanna, AOR

Mr. Anish R. Shah, AOR

Mr. Sachin Mittal, Adv.

Mr. Vaibhav Sharma, Adv.

Mr. Anupam Vishvas, Adv.

Mr. Yoginder Handoo, AOR

Applicant-in-person, AOR

Ms. Garima Bajaj, AOR

Mr. Ashok Kumar Gupta II, AOR

Mrs. Smita Pandey, Adv.

Mr. Suvidutt M.S., AOR

Mr. Mohinder Jit Singh, AOR

Mr. S. K. Verma, AOR

Mr. K.V. Jagdishvaran, Adv.

Ms. G. Indira, AOR

Mr. Yugandhara Pawar Jha, AOR

Mr. A.N.S. Nadkarni, ASG
Mr. Ajit Kumar Sinha, Sr. Adv.
Ms. Ruchi Kohli, Adv.
Mr. B.K. Satija, Adv.
Ms. Nidhi Jaswal, Adv.
Ms. Srishti Mishra, Adv.
Mr. Raj Bahadur, AOR
Ms. Archana Pathak Dave, Adv.
Satya Lipsu Ray, Adv.
Mr. B.V. Balram Das, AOR
Mr. Gurmeet Singh Makker, AOR

Ms. Swarupama Chaturvedi, Adv.

Ms. M.K. Aswathi, AOR
Mr. S. Manoj Selvaraj, Adv.
Ms. J. Vijetha, Adv.
Mr. Solomon, Adv.
Mr. R. Naveen Raj, Adv.
Mr. Joseph Jerry, Adv.

Mr. Shishir Deshpande, Adv.
Mr. Amit Yadav, Adv.

Mrs. Anil Katiyar, AOR
Mr. B.V. Balaram Das, AOR

Mr. Ajay Bansal, Adv.
Mr. Praveen Swarup, AOR
Mr. Gaurav Yadava, Adv.
Ms. Veena Bansal, Adv.
Mr. Ajay Kumar Giri, Adv.
Mr. Dheeraj Gupta, Adv.

Mr. Jayesh Gaurav, Adv.
Ms. Diksha Ojha, Adv.
Mr. Farukh Rasheed, Adv.

Mr. Ranjan Mukherjee, Adv.
Mr. K.V. Kharlyngdoh, Adv.
Mr. Upendra Mishra, Adv.
Mr. S. Bhowmick, Adv.
Ms. Aprajita Mukherjee, Adv.
Mr. Deniel Stone Lyngdoh, Adv.

Mr. Dhruv Pall, Adv.
Mr. Himanshu Pal, Adv.
Ms. Aprajita Mukherjee, Adv.

Mr. Tayenjam Momo Singh, Adv.

Mr. Anil Grover, AAG

Ms. Noopur Singhal, Adv.
Mr. Sanjay Kumar Visen, AOR

Ms. Uttara Babbar, AOR
Ms. Bhawna Duhoon, Adv.

Mr. D. N. Goburdhan, AOR

Mr. J. Sai Deepak, Adv.
Mr. K.V. Muthu Kumar, AOR
Ms. G. Plagna Devi, Adv.
Mr. Avinash K. Sharma, Adv.
Mr. Ashutosh Nagar, Adv.

Mr. Pradeep Misra, Adv.
Mr. Suraj Singh, Adv.

Mr. Sanjay Kumar, Adv.
Mr. Subhro Sanyal, Adv.

Mr. Sanjay Kumar Tyagi, AOR
Mr. Prakash Gautam, Adv.
Mr. Sandeep Singh, Adv.
Mr. Ajay Kumar Pandey, Adv.

Mr. Jai Dehadrai, Adv.
Mr. S. S. Rebello, Adv.
Mr. Sidharth Arora, Adv.
Ms. Srishti Kumari, Adv.
Mr. Prashant V., Adv.
Ms. Anisha Ambwani, Adv.

Ms. Kiran Bhardwaj, AOR

Mr. Atul Dewan, Adv.
Mr. Deepkaran, Dalal, AOR

Mr. Deepak Jain, Adv.
Mr. Jaspreet A., Adv.
Ms. Twisha Issar, Adv.
Mr. Tanpreet Gulati, Adv.
Ms. Shaila Arora, Adv.
Mr. Vaibhav Manu Srivastav, Adv.

Mr. Avijit Roy, Adv.

Ms. Vandana Roy Sehgal, AOR

Mr. Shuvodeep Roy, AOR
Mr. Rijuk Sarkar, Adv.

Mr. Gaurang Kanth, Adv.

Mr. Akhilesh Aggarwal, Adv.
Mr. Chandan Kumar, AOR

Mr. M. Yogesh Kanna, AOR
Mr. S. Partha Sarthi, Adv.
Mr. S. Raja Rajeshwaran, Adv.

Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Balaji Srinivasan, AAG
Mr. B. Vinodh Kanna, AOR
Ms. S. Valarmathi, Adv.
Mr. Akshay Nagarajan, Adv.

Mr. P.V. Yogeswaran, AOR
Mr. Ashish Kumar Upadhyay, Adv.
Mr. Y. Lokesh, Adv.
Mr. Babul Kumar, Adv.
Mr. S. Vallinayagam, Adv.
V. Susheetha, Adv.
Mr. Saurabh Kirpal, Adv.
Ms. Unnati Misra, Adv.
Mr. Devesh Tripathi, Adv.
Mr. Hitendra Nath Rath, AOR

Mr. Siddhesh Kotwal, Adv.
Ms. Bansuri Swaraj, Adv.
Mr. Raghunatha Sethupathy, Adv.
Mr. Gagan Narang, Adv.
Ms. Arshiya Ghose, Adv.

Ms. Madhumita Bhattacharjee, Adv.
Mr. Vidur Kamra, Adv.
Ms. Srija Choudhury, Adv.

Mr. Bijender Singh Choudhry, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Kailash Chand, AOR

Mr. V.G. Pragasam, Adv.
Mr. S. Prabu Ramasubramanian, Adv.
Mr. S. Manuraj, Adv.

Ms. K. Enatoli Sema, Adv.

Ms. Aparna Rohatgi Jain, Adv.
Mr. Mahesh Kasana, Adv.
Mr. S.K. Dhingra, Adv.

Mr. Mukesh Verma, Adv.
Mr. Pawan Kumar Shukla, Adv.

Mr. Yash Pal Dhingra, AOR

Mr. Arvind Kumar, Adv.

Mrs. Sunita Pandey, Adv.

Mr. Suvidutt M.S., AOR

Ms. Usha Nandini, AOR

Ms. Supriya Juneja, AOR

Mr. S.N. Bhatt, AOR

Mr. Rahul Joshi, AOR

Mr. Nikhil Nayyar, AOR

Mr. N. Sai Vinod, Adv.

Mr. Dhananjay Baijal, Adv.

Mr. Divyanshu Rai, Adv.

Mr. Jogy Scaria, AOR

Ms. Beena Victor, Adv.

Mr. D.N. Goburdhun, Adv.

Ms. Gauri Goburdhun, Adv.

Ms. Pallavi Chopra, Adv.

Mr. Fuzail Ahmad Ayyubi, AOR

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

Insofar as the problem of crop/ stubble burning in the State of Punjab as well as the State of Haryana is concerned, the petitioner(s) had given certain suggestions on the last date of hearing which were taken note of. We direct these two States and the India Meteorological Department ("Met Department") to file their comprehensive response to those suggestions within a period of three weeks.

Insofar as the issue of manufacture of environment-friendly crackers is concerned, learned counsel appearing for the PESO has produced before us a copy of Minutes of Meeting dated 27.02.2019.

It records the minutes of joint work which was undertaken by CSIR-NEERI, standard fireworks and other fireworks manufacturers relating to the formulation and deployment/ production of green crackers. Since these minutes are of some significance, we would like to reproduce the same in its entirety in this Order:

"MINUTES OF MEETING

The following joint work was undertaken by CSIR-NEERI, standard fireworks and other fireworks manufactures related to formulation and deployment/ production of green crackers:

- i. Trial production of following samples were made at Standard fireworks:
 - a) Conventional formulations (with Barium Nitrate and Potassium Nitrate as oxidizers) of Standard with additives provided by CSIR-NEERI were prepared and fireworks were developed and tested for performance efficiency-improved crackers called as Green fireworks/ Green crackers.
 - b) New formulations of standard with additives provided by CSIR-NEERI were prepared and fireworks were developed and tested for performance efficiency-Green fireworks/Green crackers.
 - c) Subsequent to lab scale trials completed by CSIR-NEERI, new formulations of CSIR-NEERI were prepared and fireworks were developed at standards fireworks and tested for performance efficiency - Green fireworks/ Green crackers including reduced emission crackers (SWAS, SAFAL, STAR).
- ii. The above samples shall be assessed comparatively for emissions from conventional and reduced emissions crackers/ green crackers at CSIR-NEERI.

- iii. Testing of light emitting fireworks including flowerpots, pencils, chakkars, aerial 7 shots, sparklers etc. demonstrated successfully in presence of PESO officers and FW manufacturers (more than 100).
- iv. Testing of sound emitting fireworks including STAR, SWAS, SAFAL and other conventional crackers (bullets, maroons) etc. demonstrated successfully in presence of PESO officers and FW manufacturers (more than 100).
- v. Visits and discussions held with several manufacturers from TANFAMA and TIFMA.
- vi. Apprising of media and press of the purpose of visit.
- vii. Visit and meeting was held with Sony fireworks and Kaliswari for above work to be initiated.
- viii. Procedure initiated for PESO approval by licensed manufacturers (Standards, Sony etc.) with duly signed NDA/MoU with CSIR.
- ix. It was mutually agreed to proceed with submission of product approval documents by FW manufacturers by 7th March, 2019.
- x. It is envisaged that product approval for improved formulation by PESO shall be given by 21st march, 2019.
- xi. It is envisaged that product approval for new formulations shall be given by PESO by 30th April, 2019.
- xii. It is envisaged that bulk production of fireworks (improved formulations) shall be initiated by 30th March, 2019.
- xiii. It is envisaged that bulk production of fireworks (New formulations) shall be initiated by 10th May, 2019.
- xiv. Dialogue was initiated for setting up interim raw materials and compositional analysis emissions facility at Sivakasi with existing infrastructure to meet the demands by July, 2019.

- xv. Joint work to be initiated for assessing emissions from conventional and green crackers of CSIR labs and FW manufacturers to establish relationship between Raw materials, compositional analysis and emissions for different fireworks to illustrate the importance of usage of acceptable quality of raw materials.
- xvi. Nearly 200 MoUs signed with fireworks manufacturers.

After the joint work in various fireworks manufacturing factories situated in and around Sivakasi, and after observation, materials, analysis / assessment of the manufacturing process and testing performance efficiency, it appears that the above mentioned manufacturing shall reduce the emission of pollutants, PM 2.5 atleast by 25-30% (improved and GREEN FIREWORKS / GREEN FIRECRACKERS) and it will be a win-win situation in the interest of all stake holders in the public interest. However, investigations of i(a & b) needs to be included in the report being prepared for definition, composition and emission norms of improved and green crackers.

Many unregulated and distributed manufacturers do not adhere to the quality checks and therefore quality suffers leaving to more pollution. It is desirable that only PESO should be the authorised for any manufacturing of any size. NEERI led system should be used for the testing of quality of raw material for all and a mechanism of barcode or QR code shall be used for all products to avoid any duplicates of Indian or foreign origin."

It is clear from the above that PESO and NEERI have been able to finalise the improved formulations for manufacture of green crackers, timelines within which the final approval would be given and bulk production would start, were also mentioned therein.

We direct the NEERI and PESO to stick to the aforesaid timelines given in these minutes.

Prima facie, we feel that once these new formulations are developed by the Expert Body of NEERI and PESO which have

associated with other experts also, there should not be any problem in manufacturing the green crackers with the aforesaid formulations. However, it is pointed out by the learned counsel that it should be with the condition that no Barium Nitrate or Potassium Nitrate as oxidizers is used.

It is not known as to what are the new formulations developed by the PESO/NEERI. This is the aspect which Experts know better. Needless to mention that the new formulations shall apply to the manufacturers. Be that as it may, the matter shall be listed on 12.03.2019 when all Interlocutory Applications shall also be taken up for hearing..

Union of India as well as the petitioners can give their response on the next date of hearing.

(SUSHIL KUMAR RAKHEJA)
AR-CUM-PS

(RAJINDER KAUR)
BRANCH OFFICER