

In the High Court of Jucicature of Andhra Pradesh at Hyderabad

K. Purushotham Reddy and another.

v.

Union of India

Writ Petition No. 29629 of 1998

20-06-2001 dd.

Sri S.B. Sinha, C.J

Judgement:

The petitioner by this writ application has prayed for issuance of a writ in the nature of Mandamus directing the respondents to strictly follow the Rules known as 'Hazardous Waste (Management & Handling) Rules, 1989' (for short, 'the Rules') while handling and disposing the used oil for re-refining or re-processing and also disposal of the waste generated during the process.

Andhra Pradesh State Road Transport Corporation is one of the biggest consumers of the lubricating oils. The lubricating oils used by the A.P. State Road Transport Corporation and various others are recycled for the purpose of their being reused. The allegation made in the writ application is that no authorization therefore is obtained and some persons are purchasing used oil from the users of the lubricating oils, including the A.P. State Road Transport Corporation and A.P. State Electricity Board, for the purpose of refining the same with various chemicals, as a result whereof serious threat to environment is being caused. By reason of such process, without taking precautionary measures, even the quality of the underground water is affected. The petitioner contends that:

" 3. It is submitted that in course of our studies we came across used oil which is handled by unauthorized persons polluting fresh water, as such we developed interest in the management of used oil and spent considerable time in investigating how the Corporations like 4th and 5th respondents which are working in Government Corporations handling the used oil and how they are disposing the used oil to the

unauthorized persons for reprocessing. They have no license which is necessary under Hazardous Waste (Management & Handling) Rules, 1989. The unauthorized persons who are purchasing the used oil from the Corporations like respondents 4 & 5 in order to make money by refining with the acid of sulphuric acid, causing serious threat to environment, specially fresh water including underground water. In vacuum distillation process the recovery is about 100% which in turn is useful as various byproducts. In spite of availability of such re-refining/re-processing technology in India, the respondents 4 & 5 etc., not utilizing such facilities. But the 3rd respondent which is duty bound to take action in this matter failed to do so and failed to issue specific instructions against the respondents 4 & 5. "

A counter affidavit has been filed on behalf of the 3rd respondent wherein, inter alia, it has been contended that the Corporation had entered into several agreements with the Reclaiming companies and the used oil is being collected in sealed barrels from its depots and transported to the reclaiming units, wherefor the Corporation has also obtained licence in Form-II.

Mr. S.V. Bhat, learned counsel appearing on behalf of the A.P. State Pollution Control Board, accepts that possessing of such used lubricating oils is covered by Hazardous Waste (Management & Handling) Rules, 1989. Hazardous Wastes (Management and Handling) Rules, 1989 were framed by the Central Government in exercise of the powers conferred upon it by Sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986). Rule 3 (i) of the Rules defines 'Hazardous Wastes' to mean -

"(a) Waste Substances which are generated in the process indicated in Column 2 of Scheme 1 and consists of wholly or partly of the waste substances referred to in Column 3 of the same schedule;
(b) Waste substances which consists wholly or partly of substances indicated in Schedule 2, unless the concentration of the substances is less than the limit indicated in the same schedule; and
(c) Waste substances indicated in Part-A, List 'A' and 'B' of Schedule 3 applicable only to Rules 12, 13 and 14 unless they do not possess any of the hazardous characteristics in Part B of the same schedule. "

'Hazardous Wastes site' has been defined in Rule 3 (j) in the following terms :-

" 'Hazardous wastes site' means a place for collection, reception, treatment, storage and disposal of hazardous wastes which has been duly approved by the competent authority; "

Rule 4-A categorizes the responsibility of the occupier and operator of such facility while handling hazardous wastes. Rule 5 provides for grant of authorization for handling hazardous wastes. Rule 6 empowered the State Pollution Control Board to suspend or cancel any authorization issued under the Rules if the authorised person fails to comply with any of the conditions of the authorization. Schedule-I appended to the said Rules refers to Rule 3 (i)(a) of the Rules, as quoted supra. Item No.44 deals with lubricating and system oil in the following terms:

S.No. Processes Waste streams 1 to 43

xx xx xx xx xx

44 Every action relating to any every use of lubricating and system oil

44.1 Spent oil

44.2 Other spent lubricating and system oil

Having regard to the information report submitted A.P. State Pollution Control Board, the following were directed to be impleaded as party respondents (Respondents 6 to 10 in the writ petition):-- (1) M/s. Gem Lubricants (P) Ltd., Vijayawada; (2) M/s. Gem Petro Chemicals, Vijayawada; (3) M/s. Seetha Rama Oil Lubes, Vijayawada; (4) M/s. Associated Lubricants (P) Ltd., Karimnagar; and (5) M/s. Deccan Oils Chemicals, Medchal, Ranga Reddy District. Notices were also issued to them. As seen from the record, notices were served upon Respondents 6, 7, 9 and 10; but no body has appeared. There cannot be any doubt whatsoever that possessing of a hazardous substance without taking adequate care and precaution would not only give rise to ecological problem but may seriously affect the quality of potable water. In this situation, strict compliance of the Rules, in our opinion, would be the necessity of the day. Mr. S.V. Bhat, learned counsel, informs us that now a new technology has been developed for carrying out the recycling of the waste lubricants.

Having regard to the facts and circumstances of this case and particularly in view of the fact that thousands of kilolitres of such waste lubricants are recycled for its reuse, it is necessary that all authorities including the A.P. State Pollution Control Board must strictly comply with the provisions of the said Rules. We direct accordingly. We further direct that in the event if any person is found to be unauthorisedly handling such hazardous waste products and/or if any person authorised therefor violates any of the terms and conditions or directions or any law operating in the filed, the State Pollution Control Board should take strict view of the matter and shall take steps for cancellation of their authorization in terms of Rule 6 of the Rules.

The writ petition is disposed of with the aforementioned directions. There shall be no order as to costs.