

CASE NO.:
Appeal (civil) 2991 of 2004

PETITIONER:
Modern Terry Towel Ltd.

RESPONDENT:
Solanki Muljibhai Revabhai Harijan Vyas & Ors.

DATE OF JUDGMENT: 05/05/2004

BENCH:
CJI & G.P. MATHUR.

JUDGMENT:
J U D G M E N T

(arising out of S.L.P. (C) No. 11462/2002)

RAJENDRA BABU, CJI :

Leave granted.

A writ petition was filed in the High Court by a resident within the vicinity of a unit of the appellant on the allegation that the appellant was letting out its trade effluents outside factory premises. On 16.12.1996 the High Court appointed a Committee to make a report regarding discharge of effluent. On the filing of Report by that Committee a show cause notice was issued to the appellant on 26.12.1996 in the light of the contents thereof. Thereafter, the High Court on 9.1.1997 directed the closure of the factory. In the course of the order made by the High Court it was noticed that the appellant could not say that there was no discharge of trade effluent. The High Court directed the appellant to deposit a sum of Rs. 75,000/- and also ordered its closure. On 16.1.1997 by another order made the High Court directed the appellant to deposit a sum of Rs. 75 lakhs as a condition for restarting of the unit. On depositing such amounts in instalments the High Court directed restarting of certain activities which do not generate any kind of effluent. Then by an order made on 27.1.1998 the High Court disposed of the matter. In the course of the order made on that day it was noticed that an agreement had been entered into between the petitioner and certain other persons residing in the village with the appellant; that effluent treatment plant (ETP) was about to be commissioned and this would include training of the people of the industry for the operation and of the maintenance of the ETP; that the report filed by the Gujarat Pollution Control Board on examining the samples collected on 20.01.1999 indicated that the appellant is meeting the norms; that the petitioners and others in the writ petition filed before the High Court had been paid damages arising on account of discharge of effluents and had entered into an agreement which was filed before the High Court; and that the unit having met with the requirements of the Gujarat Pollution Control Board. On that basis, the High Court disposed of the writ petition allowing the same to be withdrawn.

However, as regards the refund of the amount deposited by the appellant before the Court, the High Court stated that this aspect could be considered at a later stage.

Thereafter, an application was made for refund of the said amount in deposit. The High Court disposed of that application without making any order by making it clear that such application could be revived after the cases pending before this Court are disposed of.

In this appeal, it is urged before us that the writ petition having been withdrawn and the concerned persons who had suffered damage on account of discharge of effluents having been compensated, question of continuing to keep the said amounts deposited in Court would not arise. It is further submitted that this case stands entirely on different footing from other cases pending before this Court because in other cases discharge of effluent was to a common ETP while no such discharge had been made in this case, except some of the effluents having been discharged into lands surrounding the factory.

Degradation of environment or damage, if any, suffered by the residents residing in the vicinity having been satisfied with the compensation paid to them in terms of the agreement which was produced before the High Court, the ETP having been set up and with pollution control norms having been satisfied, the High Court ought to have considered question of refund of the amounts deposited with Court and should have treated this case on a different footing altogether and not connected with other cases pending before this Court.

Therefore, we set aside the order made by the High Court, remit the matter to the High Court for fresh consideration of the application for refund and to dispose of the matter in accordance with law.

The appeal is allowed accordingly.