

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 643 OF 2005**

Solomon Mordecai ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Uday P. Warunjikar for petitioner.

Ms. Geeta Joglekar for respondent no. 2.

Mr. J.S. Saluja, A.G.P. for respondent no. 1.

Mr. A.L. Patki for respondent no. 3.

Mr. R.V. Govilkar with Smt. Sadhana Mahashabde for applicants/intervenors.

Mr. N.R. Prajapati for respondent Union of India.

CORAM : MOHIT SHAH, C.J. AND

SMT.ROSHAN DALVI, J.

DATED : JANUARY 10, 2012

P.C.

The learned counsel for the newly added respondents submit that the said respondents have been carrying on electroplating industries at the present site for the last more than 10 to 20 years and that if the Maharashtra Pollution Control Board (MPCB) is permitted to implement the closure directions, the industry will be closed down and it will not be

possible for them to make any recovery. It is further stated that all the 17 respondents have placed an order for purchasing and installing Effluent Treatment Plant and air pollution control plant and that the said plants will be installed by 29th February, 2012; that all the respondents will file undertaking before this court that Air Pollution control system and Effluent treatment plant will be installed by each one of the private respondents by 29th February, 2012 and in case such plants are not installed by that date, the concerned respondent will close down the industry till such plants are installed. It is further stated that the concerned respondents will state in the undertaking that the air pollution control plant and Effluent Treatment Plant shall be kept operative and shall be operated at all times, and that if for any reason, the air pollution control plant and Effluent Treatment plant are not operating on any day for any reason, the concerned industry shall not carry on any manufacturing activity on that day.

2. The learned counsel for the MPCB submits that even after installation of such plants, the MPCB will have to consider the application of the other laws and particularly as to whether the concerned respondents are running their industry in consonance with the

industrial policy of the State and the pollution control norms and particularly, it is submitted that if the industries are situated in residential zones, the MPCB is not the authority to permit carrying on such industry within the residential zone.

3. The learned counsel for the newly added respondents, there upon submits that the concerned industries would like to approach the industrial department of the State Government for permitting them to continue to carry on Electroplating industry on the existing site and in case such permission is not granted, the industries would like to request the State Government and/or the other concerned authorities for allocating them another suitable land in industrial zone. But this process is likely to take some time. Till then, the industries which comply with pollution control norms may be permitted to continue to run their industries.

4. Having heard the learned counsel for the parties, we are of the view that since the newly added respondents are undertaking to install the air pollution control systems and Effluent treatment plants for electro plating industries by 29th February, 2012, the respondent MPCB

shall not implement the closure directions till 29th February, 2012 provided the said undertakings are filed within ten days from today and that the benefit of the said direction shall also enure to other electro plating industries which comply with all the conditions being imposed upon the newly added respondents. Accordingly subject to the newly added respondents filing undertaking within ten days as aforesaid to install Air Pollution Control system and Effluent Treatment plant for electro plating industries by 29th February, 2012, and other undertakings as indicated in para 1 hereinabove the MPCB shall not implement closure directions in respect of the said respondents and other parties including the petitioner on the same conditions. It is also directed that as soon as the concerned respondents install the above referred pollution control plant, the same shall be informed to MPCB immediately and there upon MPCB officers shall inspect the concerned plant and also take samples of the Effluent as well as air emission of the concerned industries and submit report by 31st March, 2012. In case the concerned industry does not comply with the pollution norms, it will be open to the MPCB to issue fresh closure directions. It is clarified that the above directions and the time limit given to the industries, does not prevent the industries from taking all other necessary steps for

preventing and controlling pollution. No party shall continue any manufacturing activity when the air pollution control system/effluent treatment plan is not in operation.

5. It is also clarified that pendency of this appeal and above directions do not prevent the industries from approaching the State Government for allocating lands in industrial zones for electro plating industries. All such other parties will have to file the said undertaking before this court or do so by submitting the same through MPCB.

6. The learned A.G.P. produced on record the copy of the letter dated 9.1.2012. The letter is taken on record and marked "X" for identification.

S.O. to 9th April, 2012.

CHIEF JUSTICE

(SMT.ROSHAN DALVI,J.)