

CASE NO.:
Appeal (civil) 2160 of 2008

PETITIONER:
Nicoment Industries Ltd

RESPONDENT:
Goa State Pollution Control Board & Ors

DATE OF JUDGMENT: 25/03/2008

BENCH:
CJI K. G. Balakrishnan & Altamas Kabir & R. V. Raveendran

JUDGMENT:
JUDGMENT
O R D E R

Civil Appeal No 2160 OF 2008
(Arising out of SLP (Civil) No.23352 of 2007)

Leave granted. Heard learned counsel for the parties.

2. This appeal is directed against an interim order passed by the High Court of Bombay at Goa. The appellant herein, Nicoment industries Ltd., is a manufacturer of Cobalt metal and Cobalt derivatives. It was alleged in a public interest petition before the High Court that Appellant's factory, among others, were producing huge quantity of hazardous and toxic waste; and that appellant was not taking steps to store the waste in safe and effective manner, and dumping such waste in the open, leading to serious problems of pollution. The Goa State Pollution Control Board ('Board' for short) informed the High Court that appellant had not complied with the requirement of setting up a landfill site for its hazardous waste and violated the conditions of authorization and sought leave to stop its activities. The Chief Engineer, Water Resources Department, submitted before the High Court that the landfill site proposed by the appellant (in Survey No.339/1 and 340/1) did not fulfil the requirements for waste treatment management and disposal, as use of that site was likely to lead to water contamination. The High Court after examining the various aspects passed an interim order on 23.11.2007, directing the appellant to shut down its factory and stop all its operations till it complied with all the environmental requirements and all directions issued by the Board. The Board was also directed to seal the premises of the appellant where the hazardous operations were being carried out and inform the Court as and when the appellant fulfilled the requirements. Accordingly, the appellant's operations have been stopped.

3. Learned counsel for the appellant submitted that the appellant has now made the necessary short term and long term arrangements for the disposal of hazardous waste. According to him, the appellant had installed a three stage evaporator for treatment of effluents and had created a secure storage space (two sheds) to accommodate 4400 tonnes of hazardous waste. It is submitted that the sheds will be able to store the hazardous waste generated for about 13 months; that the appellant had also implemented suggestions of National Environmental Engineering Research Institute, Nagpur ('NEERI') to prevent seepage from the said two sheds where hazardous waste will be stored. It is submitted that for the present, the hazardous waste generated will be stored in the said two sheds constructed within the factory premises. He submitted that as a long term measure the appellant had now obtained allotment of captive landfill site measuring 38279 Sq. Mtrs. for dumping the hazardous waste in the Cuncolim Industrial Estate from the Goa Industrial Development Corporation and NEERI by its letter dated 28.2.2008 had cleared the said site for establishing a 'Captive hazardous waste secured landfill facility'. It was further submitted that within three months, the said

landfill site will be made ready to receive the hazardous waste in accordance with the Rules. The appellant prays that it may be permitted to re-open its factory as it has fulfilled the requirements for long term disposal and short term disposal of the hazardous waste.

4. The Goa State Pollution Control Board has confirmed the above, in its counter-affidavits dated 25.1.2008, 19/20.3.2008 and the Inspection Report dated 30.8.2007. The learned counsel for the Board also submitted that the Board has satisfied itself about the measures taken by the appellant for storage and disposal of the hazardous waste.

5. Learned counsel for the Cuncolim Municipality submitted that when the appellant's factory was functioning, the seepage from the sheds where hazardous waste was stored, was polluting the water channels. But the affidavit now filed by the Member Secretary of the Board shows that the appellant has subsequently complied with the recommendations of NEERI and made the two sheds within its factory premises secure and fit for storage of hazardous waste. The Environment Impact Assessment Study shows that the openings of the compound wall which had earlier led to the leakage of water where the hazardous waste stored are now blocked and the appellant has also constructed a storm water drain to divert the storm waste passing through the factory. However, when the factory of appellant is re-opened, if the municipality finds that the steps taken by the Appellant are not adequate or defective, it would be at liberty to bring it to the notice of the Board and also approach the High Court for appropriate orders.

6. In view of the above, we modify the order of the High Court and direct the Board to de-seal the appellant's factory. We permit the appellant to commence its activities. The appellant shall give an undertaking within a period of two weeks to the High Court that it will act strictly in accordance with the Hazardous Waste Management Rules in regard to the management of its hazardous waste, in using the two sheds in the factory premises for storing hazardous waste temporarily, in transporting the waste to the landfill site and in the use of Cuncolim Industrial area site as a permanent captive hazardous waste secured land fill facility. The High Court may pass appropriate further orders if there is any violation or if directions become necessary. The appeal is disposed of accordingly,