

HIGH COURT OF SIKKIM
Record of Proceedings through Video Conferencing

WP (PIL) No. 12/2017

IN RE- DISCHARGE OF EFFLUENTS BY PHARMA COMPANIES SITUATED AT SINGTAM.

- For petitioner : Ms. Manita Pradhan, Amicus Curiae.
Mr. Sajal Sharma, Amicus Curiae.
- For respondents no. 1, 3, 4, 23 & 24 : Dr. Doma T. Bhutia, Addl. Advocate General.
Mr. S.K. Chettri, Govt. Advocate.
Ms. Pema Bhutia, Asst. Govt. Advocate.
- For respondent no.2 : Mr. A. Thameem Mohideen, Advocate.
Mr. Hemlal Manger, Advocate.
- For respondent no. 5 and 47 : Mr. N. Rai, Sr. Advocate.
Ms. Malati Sharma, Advocate.
- For respondent no.6 : Mr. Tashi Rapden Barfungpa, Advocate.
Mr. Passang Tshering Bhutia, Advocate.
- For respondent no.7 : Mr. Manish Kumar Jain, Advocate
Ms. Laden Bhutia, Advocate.
- For respondent no.8 : Mr. Manish Kumar Jain, Advocate
Ms. Laden Bhutia, Advocate.
- For respondent no.9 : Mr. Manish Kumar Jain, Advocate
Ms. Laden Bhutia, Advocate.
- For respondent no.10 : Mr. Manish Kumar Jain, Advocate
Ms. Laden Bhutia, Advocate.
- For respondent no.11 : Mr. Manish Jain, Advocate.
Ms. Laden Bhutia, Advocate.
- For respondent no.12 : Mr. Manish Kr. Jain, Advocate.
Ms. Laden Bhutia, Advocate.
- For respondent no.13 : Mr. Sonam Bhutia, Advocate.
- For respondent no.14 : Mr. Manish Kr. Jain, Advocate.
Ms. Laden Bhutia, Advocate.
- For respondent no.16 : Mr. J.K. Chandak, Advocate.
Ms. Nisha Gurung, Advocate.
- For respondent no.17 : Mr. J.K. Chandak, Advocate.
- For respondent no.18 : Mr. J.K. Chandak, Advocate.
- For respondents no.19 & 34 : Mr. Manish Kr. Jain, Advocate.
Ms. Laden Bhutia, Advocate.
- For respondent no.20 : Mr. Manish Kr. Jain, Advocate.
Ms. Laden Bhutia, Advocate.

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- For respondents no.21, : Mr. Manish Kr. Jain, Advocate.
25, 31, 32, 42 to 44, Ms. Laden Bhutia, Advocate.
49 & 54
- For respondent no.22 : Mr. Karma Thinlay, Central Govt. Advocate.
- For respondent no.26 : Mr. Manish Kr. Jain, Advocate.
Ms. Laden Bhutia, Advocate.
- For respondents no.29, : Mr. Rahul Rathi, Advocate.
30, 33, 36, 37, 38, 45,
46, 55, 56 & 57
- For respondents no.35, : Mr. J.K. Chandak, Advocate.
40, 41 & 52
- For respondent no.51 : Mr. Bhusan Nepal, Advocate.
- For respondent no.27, : None.
28, 50 & 53

Date: 27/07/2021**CORAM :**

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, J.

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PER J.K. MAHESHWARI, CJ

In the present case the pivotal issue is regarding extraction of the ground water though sufficient surface water is available in the State.

Earlier in various orders, certain questions were posed one of them is Central Government Counsel shall give reasons as to why after having sufficient surface water, necessity of extraction of ground water arises.

In this context, it is required to explain by the Central Ground Water Board that on availability of sufficient surface water, why the permission have been granted to 22 companies. The said issue has not been answered despite filing various affidavits.

In addition to the aforesaid and going through the permission so granted for extracting the ground water, those permissions were conditional. Nothing is

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available on record to show those conditions have been complied with by the industries and the Regional Authorities have recorded its satisfaction. It is also not on record that the condition as specified has been truly implemented and who is the Authority verifying those facts and whether they have checked by spot verification.

It is surprising that even during pendency of this Public Interest Litigation permissions have been granted for extracting the ground water without mentioning the fact that such permission is subject to condition of the orders passed by this Court.

It appears that the Central Ground Water Board and its Authorities have not specified reason for granting no objection for extracting the ground water and without such reason conditional permissions were granted. The conditions so stipulated in those permissions have been complied or not it is not on record, however, we cannot appreciate such functioning of the Authority.

As stated by learned Counsel representing the Board that those Pharmaceutical companies have again applied for renewal and in most of the cases renewal has been permitted. This is a matter of serious concern of the Court that the Central Ground Water Board constituted under Section 3(3) of the Environment (Protection) Act, 1986 is bound to comply with the provisions of Section 3(2) and the powers of Section 5. Nothing has been suggested to show true compliance in spirit by them or their Officers. It is also the concern of the Court that the extraction of that water how far is permissible and what was the step of the Authorities to check the same and also of compliance of the condition of the no objection.

As nothing is available to explain the aforesaid issue, therefore, we deem it appropriate to observe that any of the permission of extraction of the ground

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water granted to the industries in the State must be after recording the satisfaction and by assigning the reason.

In case such permission/renewal is found in violation of any conditions, action taken is required to be specified to the Court. All such permissions shall be now subject to the orders, if any, passed in this Public Interest Litigation. It is made clear here if any Authority is found violating the Order of the Court or power not duly exercised then they may be held responsible.

Learned Counsel of the Board is requested to notify the aforesaid facts to all the Regional Officers for its compliance. The explanation to the above issues be made available on affidavit to this Court within a period of four weeks from today.

List for further orders on 10.09.2021.

Judge**Chief Justice**