

ITEM NO.22

COURT NO.12

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8137/2018

(Arising out of impugned final judgment and order dated 28-09-2016 in WP No. 6360/2015 passed by the High Court Of Judicature At Bombay At Nagpur)

THE STATE OF MAHARASHTRA & ANR.

Petitioner(s)

VERSUS

CENTRAL INDIA AYUSH DRUGS MANUFACTURERS ASSOCIATION & ORS.

Respondent(s)

WITH

SLP(C) No. 7951/2014 (IV-A)

IA No. 8599/2021 - APPROPRIATE ORDERS/DIRECTIONS)

C.A. No. 1057/2022 (XVII)

(IA No.17344/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.17339/2022-EX-PARTE STAY)

Date : 22-11-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Akhil Abraham Roy, Adv.
Mr. Abhishek Anand, Adv.
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Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Ms. Kirti Dadheech, Adv.
Ms. Farha Hashmi, Adv.
Ms. Aishwarya Dash, Adv.

Mr. Nikhil Nayyar, Sr. Adv.
Ms. Pritha Srikumar Iyer, AOR
Ms. Nikita Garg, Adv.
Mr. Dhananjay Baijal, Adv.

For Respondent(s) Mr. Apoorv Khathor, Adv.

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Ms. Mantika Vohra, Adv.

Ms. Aishwarya Bhati, Ld. ASG
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Ms. Ruchi Kohli, Adv.
Mr. T.S. Sabarish, Adv.
Mr. Rustam Chauhan, Adv.
Ms. Shagun Thakur, Adv.
Ms. Shreya Jain, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Avijit Roy, AOR

Mr. P. Chidambaram, Sr. Adv.
Mr. Prashant Pakhiddey, Adv.
Mr. Byron Sequeira, Adv.
Mr. Kapil Kumar, Adv.
Mr. Abhay Kumar, AOR

Mr. Sabarish Subramanian, Adv.
Mr. Vishnu Unnikrishnan, Adv.
Ms. Shivani Jena, Adv.
Mr. P. Shankar, Adv.
Mr. Naman Dwivedi, Adv.
Mr. M. Yogesh Kanna, AOR

UPON hearing the counsel the Court made the following
O R D E R

Special Leave to Appeal (C) No. 8137/2018

We have heard learned counsel for the parties.

The challenge made in this special leave petition to an order deciding the issue with regard to maintainability of writ petition before the trial court. The main matter is still pending adjudication.

Considering the aforesaid facts, we dispose of this leave petition with the observation that the High Court shall be free to proceed to decide the writ petition on merits as expeditiously as possible.

In so far as the question of maintainability of the writ petition before the High Court is concerned, the question is left open to be raised and decided in case, any party aggrieved by the final judgment of the High Court challenges the same.

With the aforesaid observations, the Special Leave Petition disposed of finally.

Pending application(s), if any, stand disposed of.

Special Leave to Appeal (C) No. 7951/2014

Challenges in this petition is to an order passed by the High Court transferring the petition and other applications to the appropriate Bench of National Green Tribunal for adjudication. The High Court by impugned order held that the challenge can be made before the National Green Tribunal under the National Green Tribunal Act, 2010 and as such, transfer the proceedings.

Learned counsel for the petitioner relies upon the judgment of this Court in "*Tamil Nadu Pollution Control Board Vs. Sterile India Limited*" (2019) 19 SCC, 479 to contend that the National Green Tribunal will have no power to entertain the question of constitutional validity of any enactment and the High Court committed a wrong in taking a contrary view.

Since in the connected appeal arising from the judgment of the Bombay High Court wherein the High Court has held that writ petition is maintainable before the High Court, we have remitted the matter back to consider the issue on merits leaving it open to the aggrieved party to raise the question of maintainability in case any challenge is made to the final order on merits. Accordingly, in this case also, we set aside the impugned order

passed by the High Court and restore the writ petition back to its original number requesting the High Court to consider and decide writ petition itself on merits. The question of maintainability of writ petition is left open to be raised and decided in case any challenge is made to final order passed by High Court.

With the aforesaid observations, this Special Leave Petition also disposed of finally.

Pending application(s), if any, stand disposed of.

Civil Appeal No. 1057/2022

Item No. 22.2 is detagged and listed separately for hearing.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(MATHEW ABRAHAM)
COURT MASTER (NSH)