

TEXTILE PROCESSORS' ASSOCIATION, THROUGH ITS
JT. SECRETARY MR. NITIN THAKKAR

v.

THE CHIEF SECRETARY, STATE OF GUJARAT AND ORS.

JANUARY 4, 1996

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Pollution—Industrial effluents discharged into river—Villages affected—High Court directing payment of one per cent of gross turnover—Industries yet to start working and generate profit—In view of hardship expressed by Industries High Court to go into the matter again—Industries to file Review applications before the High Court—Interference under Special leave jurisdiction not exercised.

Constitution of India, 1950 :

Art. 136—Special Leave jurisdiction—Matter to be gone into by High Court—Hence not inclined to interfere under special leave jurisdiction.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 617 of 1995.

From the Judgment and Order dated 7.8.95 of the Gujarat High Court in S.C.A. No. 770 of 1995.

G. Ramaswamy, Dr. A.M Singhvi, Revethy Raghvan, Dr. Sonia Hurra and Ganpathy for the Petitioner.

The following Order of the Court was delivered :

Delay condoned. This Special Leave Petition filed by the Association seeks leave to file the appeal. The main grievance sought to be brought to our notice by Shri G. Ramaswamy, learned senior counsel is that some industries of the petitioner-Association are outside the Zone and effluents discharged from these industries are not directly leading to Kharicut Canal affecting the water in 11 villages identified by the High Court. Though the High Court had given positive finding in favour of the industries, nonetheless the High Court had directed them to contribute 1 per cent of the gross turnover. Many an industries which the petitioner-Association is representing, are running in losses. Consequently, each industry is required to pay the

amount as directed by the High Court from their corpus and not from the profits.

Dr. A.M. Singhvi, the learned Senior counsel further points out that the units are already having temporary treatment plan and secondary treatment plan and they accumulate the effluents so that discharge would not arise. Unless the industries start working, it would be difficult to generate income by these industries, to comply with the directions issued by the High Court. Therefore, by virtue of the order passed by the High Court practically all the industries, as found by the High Court, though were not discharging the effluents polluting the water leading to the 11 villages, were prevented to run the operations. Consequently, they are put to great loss. In view of these averments, we think it is a matter to be gone into not by us but by the High Court. We are not inclined to exercise the jurisdiction under Art. 136 of the Constitution for the reason they are matters for the High Court to be looked into. Counsel for the petitioner undertakes to file the application for review and in fitness of things, it would be open to each industry affected by the order to approach the High Court and place necessary facts before it and seek appropriate direction, if deemed necessary. Liberty is given to them to file the application as expeditiously as possible. It would be open to the High Court to dispose of the same according to exigency.

The S.L.P. is accordingly disposed of.

Petition disposed of.