

Dr. Santanu Kumar Banerjee	...	...	Petitioner
Versus			
The State of Jharkhand and others	...	...	Respondents

For the Petitioner	:	Mr. Aditya Banerjee, Advocate
For the State	:	Mr. Piyush Chitresh, AC to AG
For the SPCB:		Mrs. Richa Sanchita, Adv
		Mr. Suman Roy, Advocate
For the UOI:		Mr. Anil Kumar, ASGI
For the RMC:		Mr. L.C.N. Sahdeo, Advocate

Tarlok Singh Chauhan, C.J.(Oral)

- A. For issuance of an appropriate writ /order/direction commanding upon the concerned respondents to show cause as to why not stringent steps and actions are being taken for regulating and restricting the use of plastic carry bags and for the effective implementation of the notification no.-3/PrayaPradu-52/2007/3900 dated 15-09-2017 (Annexure-2) issued by the Department of Forest, Environment and Climate*

Change, whereby the entire of the state of Jharkhand declared as "plastic carry bags free area" and complete ban has been imposed on the manufacture, import, storage, of transportation, sale and usage plastic carry bags in all parts of the state of Jharkhand.

B. For issuance of an /order/direction mandamus respondents in appropriate writ the nature of directing the concerned to take proper and effective steps for the enforcement in respect of the functions relevant to the notification no.-3/PrayaPradu-52/2007/3900 dated 15-09-2017 (Annexure-2).

C. For issuance of an appropriate writ/order/direction, particularly a writ in the commanding upon nature of mandamus the concerned respondents for taking necessary steps for mandatory segregation of wastes at source, promotion of re-use and recycle of plastic materials in accordance with the Plastic Wastes Management Rule, 2016, as amended from time to time in the year 2018, 2021 and 2024.

5) The State of Jharkhand has already issued a notification dated 15.09.2017 whereby the State has decided to declare entire area of State of Jharkhand as "Plastic Carry Bags Free Area", which notification in its entirety shall have to be reproduced as under:

NOTIFICATION

15 September, 2017

Notification No. 3/PrayaPradu-52/2007/3900-- Whereas, plastic carry bags cause short-term and long-term environmental damage and health hazard, And whereas, Article 48-A of the Constitution of India, inter alia, envisages that the State shall endeavour to protect and improve the environment;

And whereas, the Government of Jharkhand is of the opinion that, the use of plastic carry bags is causing grave and irreparable injury to the environment and the health of human beings as well as animals;

And whereas, it is observed that plastic carry bags are also causing blockage of gutters, sewers and drains resulting in serious environmental problems;

*And whereas, with a view to prevent the occurrence of such problems, the State Government has decided to declare the entire area of the State of Jharkhand as the "**Plastic Carry Bags Free Area**";*

Now therefore, in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (No. 29 of 1986) as delegated under Section 23 of the said Act by the Central Government vide Notification No. S.O. 352 (E) New Delhi, dated 18.04.2001, the State Government, by this notification, issues the following directions for the complete Ban of manufacture, import, storage, transportation, sale and usage of Plastic Carry bags in all parts of the state; namely,

- 1. No industry shall manufacture plastic carry bags and no person including a shopkeeper, vendor, wholesaler or retailer, trader, hawker or rehriwala etc., shall use plastic carry bags for supply of goods and no person shall manufacture, store, import, sell or transport plastic carry bags in the State of Jharkhand with effect from the date of final publication of this Notification.*

Provided that plastic carry bags manufactured exclusively for export purposes against any export order shall be exempted in terms of Rule 2(2) of the Plastic Waste Management Rules, 2016 from the application of this notification.

Explanation: *For the purpose of this Notification the words 'plastic' and 'carry bags' shall have the same meaning as defined under the Plastic Waste Management Rules, 2016. Containers used for packaging food material, milk and milk products and raising plants in nurseries shall not be deemed as carry bags.*

- 2. Jharkhand State Pollution Control Board shall be responsible for enforcement in respect of the functions*

relevant to this notification and specified in clause (1) of Rule 12 of the Plastic Waste Management Rules, 2016, whereas the Urban Local Bodies and Gram Panchayats shall be responsible for enforcement under their jurisdictions in respect of the functions relevant to this notification and specified in clause (2) and (3) respectively of Rule 12 of the said Rules.

3. Officers as mentioned in Government of India's Notification No. S.O. 394 (E) dated 16 April, 1987 issued under Section 19 of the Environment (Protection) Act, 1986 shall be authorized to file complaints in the jurisdictional court of law against violation of directions contained in this notification.

4. From the date of final publication of this Notification, Notification No. 3/Parya. Pradush.-62/2007-3691 Van Parya., dated 11 September, 2013 shall be superseded except in respect of things done or omitted to be done before such supersession, to the extent that complaint cases filed under previous the Notification are pending.

6) The Ministry of Environment Forest and Climate Change, has enacted the plastic waste management Rules 2016 that stand amended vide Gazette Notification dated 12.08.2021 known as Plastic Waste Management (Amendment) Rules, 2021. Rule 4(i) and 4(ii) reads as under:-

4(i) for the words “importer stocking”, the words “ import, stocking” shall be substituted:

(ii) in clause © for the words “ fifty microns in thickness”, the words, figures, letters and brackets” seventy five microns in thickness with effect from the 30th September, 2021 and one hundred and twenty (12)0 microns in thickness with effect from the 31st December, 2022” shall be substituted; Rule 3 (va) of the Rules defines single use plastic commodity as “ a plastic item intended to be used once for the same purpose before being disposed of or recycled.

7) Plastic, particularly single use plastic items such as bags, bottles, straw and packaging has become ubiquitous in modern life. While offering convenience and low-cost production, plastic is not biodegradable and takes hundreds to thousands of years to decompose in natural environments. Furthermore, it has contributed significantly to environmental degradation, including the pollution of oceans, rivers, and urban landscapes, as well as the harm it causes to wildlife. Scientific studies indicate that approximately eight million tons of plastic enter the oceans every year, wreaking havoc on marine ecosystems. Oceanic plastic waste leads to the death of hundreds of thousands of marine species annually. Additionally, plastic waste contributes to the creation of “garbage patches” in the ocean, such as the Great Pacific Garbage Patch, which is now estimated to be the size of several countries combined.

8) Plastic production also entails significant greenhouse gas emissions, both during manufacturing and as waste decomposes. In a world grappling with the effects of climate change, the reduction of plastic waste plays a crucial role in mitigating global warming. Given the irreversible damage to ecosystems, biodiversity, and the climate, the Government found it fit to impose a ban on plastic as a necessary step toward sustainable environmental stewardship.

9) Apart from that the health risks associated with plastic waste cannot be overstated. Microplastics-tiny particles that result from the breakdown of larger plastic items - have been found in drinking water, food sources, and even in the air. Studies show that these microplastics are ingested by humans, leading to potential long-term health consequences, including cancer, hormone disruption, and developmental toxicity. Moreover, the use of certain

chemicals in plastics, such as bisphenol A (BPA) and phthalates, has been linked to a variety of adverse health effects. The ability of these chemicals to leach into food and drink containers only adds to the growing body of evidence that plastic is a major contributor to public health risks. Numerous countries, including the European Union, India, and Kenya, have implemented plastic bans with significant success. These nations have shown that, with appropriate policy, public awareness, and innovation, it is possible to transition away from plastics without undermining economic progress. The global nature of the plastic pollution crisis means that the actions of one nation can have a ripple effect on the rest of the world. By enacting this ban, the Republic sets a positive example for others to follow and reinforces its commitment to global environment goals, including the United Nations' Sustainable Development Goals.

10) The issue before this Court is the lack of serious enforcement of the plastic ban by various governmental agencies, despite the existence of laws prohibiting the manufacture, sale, and use of plastic materials, particularly single-use plastics. The ban is ineffective due to inadequate monitoring, weak penalties, and the failure of the government agencies to ensure compliance. The Court acknowledges the laudable goal behind the ban, but as it stands, the situation calls for immediate intervention. The government must be held accountable for its inability to enforce a policy that it itself championed.

11) As observed above, the government, in response to the increasing environmental damage caused by plastic waste, passed legislation to ban the production, sale, and use of certain plastic products, including single-use plastic bags. The law was intended to curb pollution, reduce plastic waste in landfills and oceans, and promote the use of eco-friendly alternatives.

Despite the legal framework being in place, a pattern of non-compliance has emerged. This could be due to a varietal reason, some of which may be curled out as follows:

- **Inconsistent enforcement by local authorities:** Various districts and municipalities have been slow or unwilling to impose penalties on violators.
- **Lack of awareness and education:** There has been insufficient effort to educate businesses and the public on the new regulations.
- **Corruption and lack of political will:** Some areas have experienced delays or non-implementation due to local political influence or corruption.
- **Inadequate infrastructure for alternative:** The Government has failed to provide a clear framework or incentives for industries to switch to sustainable alternatives.

Analysis of Government Failure in Enforcement

Inconsistent and inefficient Monitoring

One of the primary reasons for the lack of enforcement is the absence of a robust monitoring system. While there are national directives in place, enforcement largely depends on local authorities such as municipal corporations, regional pollution control boards, and law enforcement agencies. These bodies are often understaffed, poorly equipped, and lack sufficient training to identify and act against violators effectively.

The responsibility for monitoring is fragmented, with no clear accountability between the various authorities. This has led to an inconsistent application of the ban across State irrespective of whether it is the city or the rural areas.

Weak Penalties and Lack of Deterrence

Although the plastic ban laws provide for penalties, fines, and imprisonment for violators, these sanctions are rarely enforced in practice. The penalties for illegal production or sale of plastic items are minimal, often not commensurate with the scale of the environmental damage caused by plastic waste. Additionally, there is a lack of consistency in how fines are levied. Many violators simply pay the nominal fines and continue their operations without any lasting deterrent effect.

In some regions, we have found that the local authorities turned a blind eye to violators in exchange for bribes or favors, thereby undermining the very purpose of the legislation. Without strict enforcement, these violations continue unchecked, leading to the ineffective implementation of the ban.

Lack of Political Will and Public Awareness

Moreover, the general public and small businesses are often unaware of the full scope of the ban or the alternative solutions available to them. The Government's efforts to raise awareness about the ban have been woefully inadequate. Public campaigns to educate consumers about the harmful effects of plastic waste and the benefits of alternatives have been sporadic and poorly funded.

Insufficient Infrastructure for Alternatives

While the law rightly bans plastic, there has been no significant effort to create the necessary infrastructure to replace it with viable, eco-friendly alternatives. Alternative materials like biodegradable plastics, paper products, and reusable bags are often more expensive, and their availability is limited, especially in rural areas. Business that depend on plastic products for packaging, food service, and retail find it difficult to transition without

affordable and scalable alternatives. The Government's failure to incentivize or support these alternatives-through subsidies, tax breaks, or public-private partnerships-has further delayed the practical implementation of the ban.

Low Public Awareness and Resistance to Change

There is lack of understanding and awareness about the harmful effects of plastic and many consumers and businesses resist transition to alternatives due to the perceived inconvenience or high costs.

Consequences of Inaction

The failure to enforce the plastic ban seriously has profound consequences for the environment, public health, and the economy. The continued use and disposal of plastic products exacerbates pollution, harms wildlife, and contributes to the degradation of natural ecosystems. Microplastics continue to enter the food chain, causing potential long-term health risks to humans. The burden on waste management systems increases, putting pressure on local governments to deal with ever-growing landfills. Additionally, the lack of enforcement undermines public trust in the Government and its policies, as citizens see laws that are meant to protect the environment ignored by those who are responsible for upholding them.

12) Thus, what can be concluded is that while the intention behind the plastic ban is laudable, the Government's failure to impose the law effectively as rendered it largely ineffective, it is incumbent on the authorities to show the requisite political will, commitment, and capacity to ensure that the ban has a meaningful impact on plastic pollution. The Court finds that without serious enforcement, the objectives of the plastic ban cannot be realized.

13) The respondents are hereby directed to take immediate and substantive steps to ensure that plastic ban that has been imposed is implemented with full seriousness. This should include and not limited to:

- i. **Strengthening Enforcement Mechanisms:** The Government must establish a centralized, multi-tiered monitoring system that integrates state, and local agencies. This system should be equipped with real-time data, clear guidelines, and well-trained personnel to ensure consistent enforcement. This system should ensure that no unit manufactures, imports or distributes plastic carry bags.
- ii. **Increasing Penalties and Creating Deterrents:** The Government should revise penalty structures to impose more significant fines on repeated offenders, with escalating penalties for larger violations. It is essential to ensure that penalties are not seen as a cost of doing business, but rather as a genuine deterrent.
- iii. **Raising Public Awareness:** The Government should launch a statewide, sustained campaign to educate the public on the dangers of plastic and the benefits of sustainable alternatives. This should include targeted programs for schools, business, and rural communities.
- iv. **Incentivizing Alternatives:** The Government must work to make eco-friendly alternatives accessible, affordable, and scalable. It should offer subsidies, tax exemptions, or financial support to businesses investing in sustainable packaging and products.
- v. **Strengthening Political Accountability:** Local and state authorities should be held accountable for the failure to enforce the ban. A system of regular audits and reports should be introduced to ensure that the authorities are meeting their obligations.

Use of Technology

A digital monitoring platform should be introduced to track the production, distribution, and sale of plastic products. The platform could leverage technologies such as GPS, RFID, and blockchain to ensure that plastic items entering the market are traced from production to final sale.

Surveillance and Compliance: Local authorities should be equipped with smartphones and other devices linked to this platform to report illegal plastic sales or violations in real time after all the permissible bags have a QR Code.

Data Transparency: The platform should make data publicly accessible, allowing citizens, NGOs, and businesses to track enforcement and identify areas with high violations.

Capacity Building and Training of Local Authorities

Many local authorities lack the expertise and resources to enforce the plastic ban effectively. The Government should launch a capacity-building initiative for local enforcement agencies. This initiative should include:

- **Training for Enforcement Personnel:** Local officers must be trained on how to identify violations, issue fines, and ensure compliance with the law.
- **Building Local Compliance Teams:** Each district or municipality should have a dedicated team of inspectors tasked solely with monitoring the plastic ban.

This initiative should ensure that enforcement is uniform, well-informed, and systematic.

Statewide campaign regarding public awareness should be held at:

- **Schools and Universities:** To educate young citizens about sustainable practices and the dangers of plastic pollution.

- **Local communities:** Using community outreach programs, such as workshops, rallies, and local media, to spread awareness of the ban and alternatives.
- **Business Associations:** Collaborating with retail and business associations to ensure that manufacturers and retailers understand the legal obligations and explore alternatives to plastic.

Strengthening the Role of Civil Society and NGOs

Civil society organizations and NGOs can play a pivotal role in the enforcement of the plastic ban by

- **Monitoring:** Encouraging public reporting of violations through helplines or mobile apps.
- **Advocacy:** Leading advocacy campaigns to put pressure on local authorities to enforce the ban and create awareness.
- **Collaboration:** Partnering with the Government to implement grassroots programs in remote areas or town.

The Government should create a framework for collaboration between the public, private, and non-government sectors to foster a multi-stakeholder approach.

14) In addition to the suggestion that have been formulated by the Court hereinabove, the petitioner has also given some suggestions which are enumerated herein below:-

a) The following alternatives to ban plastic items may be encouraged (by various means, including subsidizing and incentivizing alternatives):

Plastic Bottles	Glass/stainless stell/copper bottles.
Understricted use of plastic water bottles in official functions and	Water kiosks and dispensers in city areas and public places.

other functions including weddings etc. account for a huge share of plastic bottle usage.	Arrangements for Glass bottles/refilling kiosks may be made in meetings/function etc
Use and throw plastic food containers	Stainless steel containers, glass containers with metal lid, tin plate containers, ceramic containers, biodegradable containers such as sugarcane bagasse disposable containers.
Compostable plastic products like cups, plates etc.	Utensils made of steel, wood, clay copper etc.
Non-woven carry bags	Cloth/paper bags

- b) Non-usage of banned plastic items and plastic bottles in hotels, restaurants, auditoriums, meeting halls etc. may be made part of license conditions.
- c) Increased awareness campaigns/regulatory controls by the civic agencies to prevent littering of plastic bags, packaged beverages, water bottles, plastic cutlery, plastic plates used in airlines, railways, wedding parties, mass gatherings at fast food joints.
- d) Manufacture and use of biodegradable plastic bags may be given wide encouragement as their waste is consumed by micro-organisms. Such plastics are costly, but Govt may introduce incentives and tax/duty concessions to make these plastics affordable and an economically viable option for plastic bags manufactures. Such indirect tax benefits may be provided separately on capital investments, raw materials and finished products for promoting biodegradable products

- e) Discouraging use of recycled plastic bags and encouraging usage of virgin plastic/biodegradable bags.
- f) Buy-back facilities of plastic waste for sale to the recyclers of plastic waste can also be provided either by private entrepreneurs or by the State so that after compaction of plastic waste, the plastic waste may be sold there itself. Reasonable rates may be fixed for the plastic waste to encourage the rag pickers and others to collect and sell plastic bags waste. This may incentivise even the domestic help to segregate, store and then sell plastic bags waste at such centres, to earn some money.
- g) The used/discarded plastic bags/packaging material should be encouraged for other segments like manufacturing of plastic furniture, non-critical household products like dustbins, mats, clothes hangers etc. It should be used in construction of roads since it blends with bitumen and has given encouraging results as pointed out by Shriram Institute of Industrial Research and CPCB.
- h) The waste generated by plastic bags can also be used for making various items of daily use and handicraft items. It can also be used for manufacturing doors and windows. It can be used as partial fuel in cement kilns and blast furnaces of steel plants. Even railway sleepers can be manufactured by this waste. The many other uses of plastic wastes can be explored and tapped into.
- i) The major mass contributors/generators of plastic bags waste like malls, airports, railways, fast food centres etc. should be asked to make arrangements for plastic waste collection. They should be made fully accountable for delivery of plastic bags waste to authorized recycling units. They may also be directed to use only bags made of biodegradable plastics.

j) Public awareness campaigns and enforcement/encouragement regarding ban of plastic may be intensified and increased-in different public places, including marketplaces, schools, colleges etc. Schools and Colleges may further be incentivised for reducing and minimising plastic usage in their premises.

k) The State and its instrumentalities shall issue directives ensuring manufacturing and marketing of alternatives such as carry bags and packets made of non-plastic bio-degradable material on highly subsidized rates to be affordable to the common man.

Small scale industries may be encouraged and incentivised to manufacture and market such bags/packets by establishing necessary plants for this purpose in adequate number in all districts.

15) The respondents are directed to file their counter affidavits with regard not only to the petition but also with regard to each of the suggestion given in this order.

16) List this case on 16.10.2025.

(Tarlok Singh Chauhan, C.J.)

(Rajesh Shankar, J.)

19.09.2025
A.F.R.
Sharda/-