

W.P.7283(W) of 2016
(Partha Protim Datta vs. Union of India & Anr.)

Mr. Shakti Nath Mukherjee
 Mr. Durga Prosad Dutta
 Mr. Sumanta Ganguly.....for the petitioner

Mr. Pranab Kr. Datta
 Mr. Naba Kumar Das.....for the State

Mr. Bhudeb Bhattacharya
 Ms. Sabita Roy.....for the Union of India

This writ petition registers a challenge to a notification bearing no. S.O. 648(E) dated March 03, 2016 issued by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India.

Parties do not dispute that implementation of such notification has been deferred by reason of orders dated March 21, 2016 and April 05, 2016 passed by the Karnataka High Court and the Gujarat High Court respectively.

Although the aforesaid orders do not specify the reasons for deferring implementation of the impugned notification with clarity, one cannot lose sight of the observation made by the Hon'ble Supreme Court in paragraph 22 of the decision reported in (2004) 6 SCC 254 : Kusum Ingots & Alloys Ltd. vs. Union of India to

the effect that an order staying a parliamentary Act, whether interim or final, would have effect throughout the territory of India, subject of course to the applicability of the Act.

There is no reason to pass any further interim order on this writ petition. The notification, insofar as the petitioner is concerned, cannot be implemented in view of the order passed by the Gujarat High Court, which is in general terms and not restricted to the petitioners therein.

Let affidavits-in-opposition be filed by the respondents within two weeks after vacation; reply thereto, if any, may be filed within two weeks thereafter.

The writ petition shall be treated as ready for hearing on expiry of the period fixed above for exchange of affidavits and thereafter the parties shall be at liberty to mention it for consideration before the appropriate bench.

If, however, the interim order of the Gujarat High Court is vacated, the petitioner shall have the liberty to seek interim order on the self-same application.

(DIPANKAR DATTA,J.)

