

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 4068 OF 2016

Dow Chemical International Pvt. Ltd. ... Petitioner

Vs

1. The Union of India & Anr. ... Respondents

Mr. Vikram Nankani, senior counsel with Mr. Rajan Mishra & Mr. Prithviraj i/b Mr. Vaibhav P. Patankar for the Petitioner.

Mr. A.S. Rao and Mr. Nilesh Kalatri for the Respondents.

**CORAM : S.C. DHARMADHIKARI &
G.S. KULKARNI, JJ.**

WEDNESDAY, 13TH APRIL, 2016

P.C. :

1. After the petition was argued for some time and attention of Mr. Rao was invited to the recording of dates and events in the impugned order, he could not dispute as to how the order carrying a date of 30th October, 2015, would refer to a document / letter annexing therewith a verification report dated 5th November, 2015. Thus, when the contents of paragraph 17 at page 82 of the paper-book were brought to the notice of Mr. Rao, he agreed on the earlier occasion to take instructions.

2. After taking instructions, Mr. Rao states that the only explanation that can be offered is that the order was in fact ready on 30th November, 2015, but it erroneously and mistakenly carries a date of 30th October, 2015. If that is the only correction, then, it is consistent with the contents of the documents at pages 76 and 77 of the paper-book. He would, therefore, submit that this is not a case of an anti-dating or back dating of an order.

3. After a perusal of the petition and the annexures thereto once again, we are of the clear view that this petition can be entertained in the face of multiple remedies only because we find that at paragraph 17 of the order impugned in the petition, it refers to the verification report dated 5th November, 2015. The order, however, is dated 30th October, 2015, and we do not express any opinion as to whether it is a mistake or otherwise. Once this report and copy of which is at page 76 of the paper-book was not disclosed with its contents to the petitioner and the petitioner was not given an opportunity to meet the same, then, on this short ground alone we set aside the impugned order.

4. We direct that the concerned Commissioner shall hear the petitioner again and allow it not only to inspect the record, but make submissions, including on the contents of the final verification report, copy of which is at page 76 of the paper-book. The Commissioner shall pass a fresh order on merits and in accordance with law, uninfluenced by any earlier observations, findings and conclusions. All contentions of the petitioner are kept open. We expect the Commissioner to decide the case as expeditiously as possible and within a period of two months from the date of receipt of a copy of this order.

5. The Writ Petition is, accordingly, disposed of.

G.S. KULKARNI, J.

S.C. DHARMADHIKARI, J.