

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9791 OF 2015

Sulphur Mills Limited Petitioners

Vs.

The Union of India & Others Respondents

Mr. Prakash Shah & Mr. Jas Sanghavi i/by M/s. PDS
Legal for the Petitioners.

Mr. Pradeep S. Jetly and Ms Anamika Malhotra for
the Respondents.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : SEPTEMBER 19, 2016

ORAL JUDGMENT (Per Shri S.C. DHARMADHIKARI, J.):

1. Rule. The respondents waive service. By consent of the parties, rule made returnable forthwith and heard finally.

2. The issues involved in this petition being similar to the ones raised in Civil Writ Petition No.7981 of 2015 {***Deepak Fertilisers and Petrochemicals Vs. The Union of India & Others***} and the said writ petition having been allowed by our

detailed Judgment passed today, this writ petition also succeeds. The impugned communications/letters are set aside. The petitioners will have to be given an opportunity of being heard by treating the Show Cause Notices dated 16-5-2009 and 21-5-2009 as pending an adjudication. In other words, in the event the respondents desire to proceed, then, they must grant an opportunity of personal hearing to the petitioners and allow them to rely upon the entire records and make detail submissions. Thereafter, a reasoned order reflecting due application of mind by the respondents should be passed. It is only thereafter that the sums can be recovered and subject to all the legal rights of the petitioners being intact. Once we set aside the impugned communications, then, it is not necessary to decide the other issue as to whether the appeal of the petitioners could have been entertained by the Appellate Authority or not. The Appellate Authority's order also does not stand because it merely confirms the impugned communications.

2. Once the writ petition succeeds in the above terms, then, all that we clarify is that our order does not mean that we

have concluded any factual matter, or issues, or controversy on merits. All contentions in relation thereto of both sides are kept open. We also clarify that while passing orders in furtherance of our direction, the respondents shall not be influenced by the impugned letters or communications nor the affidavit in reply filed in this Court and the contents thereof.

3. Rule is made absolute in the above terms.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)