

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24358 of 2018

-
-
1. Sangita Plastic, Deep Nagar, Amarpur, Paizawa, Guljarbag, Ptna City, Patna, through its Proprietor, Krishna Prasad, son of Bhukhulu Mahto, resident of Amarpur Naya Tola, Deep Nagar, Sampatchak, Patna City, Patna.
 2. Nirmala Industries, Simli, Sharifaganj, Patna City, Patna, through its Proprietor, Nawal Kishore Roy, son of Mahendra Roy, Maharaja Ghat, Patna City, Patna.
 3. M/s. Maurya Plastic, Begumpura, Karmalichak Road, Begampura, Patna City, Patna, through its Proprietor, Sanjeev Kumar, son of Dharmvir Singh, resident of Shiv Mandir, Nakhas Pind, Begumpura, Patna City, Patna.
 4. M/s. Om Sakshi Polymer, Mahmadpur, Mhuli Road, Patna City, Patna, through its Proprietor, Dilip Kumar, son of Sukhdev Prasad, Uma Shankar Lane, Mogalpur, Patna City, Patna.

... .. Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Environment, Forest & Climate Change, Government of India, New Delhi.
2. The Secretary, Ministry of Environment, Forest & Climate Change, Government of India, New Delhi.
3. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of Environment & Forest, Government of Bihar, Patna.
5. The Principal Secretary, Urban Development & Housing Department, Government of Bihar, Patna.
6. The Chairman, Bihar State Pollution Control Board, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24357 of 2018

1. Priya Ranjan, son of Sri Ramji Prasad Singh, resident of Mohalla Mahesh Nagar, PS- Patliputra, District- Patna.
2. Ramanand Prasad, son of Dasai Prasad, resident of Village & PO- Khartari, PS- Chiraya, District- Purvi Champaran, Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Environment, Forest & Climate Change, Government of India, New Delhi.
2. The Secretary, Ministry of Environment, Forest & Climate Change, Government of India, New Delhi.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of Home, Government of Bihar, Patna.
5. The Principal Secretary, Department of Environment & Forest, Government of Bihar, Patna.



6. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
7. The Chairman, Bihar State Pollution Control Board, Patna.
8. The Director General of Police, Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 24358 of 2018)

For the Petitioner/s	:	Mr. Suraj Samdarshi, Adv.
For the Respondent-State	:	Mr. Lalit Kishore, A.G. Mr. Anshuman Singh, AC tot AG
For the Respondent- UOI	:	Mr. S.D. Sanjay, Addl. S.G. Ms. Nivedita Nirvikar, CGC Mr. Anshuman Singh, CGC
For the Respondent- P.C. Board	:	Ms. Binita Singh, Adv.

(In Civil Writ Jurisdiction Case No. 24357 of 2018)

For the Petitioner/s	:	Mr. Prabhat Ranjan, Adv.
For the Respondent-State	:	Mr. Lalit Kishore, AG Mr. Anshuman Singh AC to AG
For the Respondent- UOI	:	Mr. S.D. Sanjay, Addl. S.G. Mr. Kumar Priya Ranjan, CGC Ms. Nivedita Nirvikar, CGC Mr. Anshuman Singh, CGC
For the Repondent- P.C. Board	:	Ms. Binita Singh, Adv. Mr. Abhimanyu Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 24-01-2019

The petitioners in CWJC No.24358 of 2018 pray for the following reliefs:

- “(i) For declaring the Notification No.1153 dated 15th October, 2018 as published in the Extraordinary Gazette of Bihar on 24th October, 2018, whereby the Manufacture, Import, Storage, Distribution and other allied activities in Plastic Carry Bags (irrespective of their size and thickness) have been completely prohibited in the entire State of Bihar, as unconstitutional and void as abridging the fundamental rights guaranteed under Article 14 and 19 of the Constitution of India and also the ultra vires the provisions of the Environment (Protection) Act, 1986 and the Plastic Waste (Management and Handling) Rules, 2011.



- (ii) For any other relief or reliefs to which the petitioners may be found entitled in the facts and circumstances of the case.”

Identical prayer is made by the petitioners in CWJC No.24357 of 2018 (hereinafter referred to as the ‘second writ petition’) and which runs as under:

- “(i) For declaring that the Notification No.1153 dated 15th October, 2018 as published in the Extraordinary Gazette of Bihar on 24th October, 2018 (Annexure 1) whereby the Manufacture, Import, Storage, Distribution and other allied activities in Plastic Carry Bags (irrespective of their size and thickness) have been completely prohibited in the entire State of Bihar as unconstitutional and void as abridging the fundamental rights guaranteed under Article 14 and 19 of the Constitution of India and also the ultra vires the provisions of the Environment (Protection) Act, 1986, the Plastic Waste (Management and Handling) Rules, 2011 and the Plastics Manufacturer, Sale and Usage Rules, 1999; and
- (ii) During the pendency of the writ application for a direction that the impugned Notification may not be given effect to so far as the Manufacturer, Import, Storage, Distribution and allied activities of Plastic Carry Bags of 50 Microns (as permissible under the Rules) by the respondent authorities.”

Since the prayer made in the two writ petitions is almost identical that the two writ petitions have been heard analogous and with the consent of the parties are being disposed of by a common judgment at the stage of admission.

For the sake of convenience we shall be referring to



the pleadings and Annexures as occurring in CWJC No.24358 of 2018 unless clarified by specific reference to the 'second writ petition'.

Mr. Suraj Samdarshi, learned counsel has appeared for the petitioners in CWJC No.24358 of 2018, while Mr. Prabhat Ranjan has appeared for the petitioners in the 'second writ petition'. The State is represented by the learned Advocate General assisted by Mr. Anshuman Singh. The Union of India is represented by Mr. S.D. Sanjay, learned Additional Solicitor General assisted by Ms. Nivedita Nirvikar, learned Central Government Counsel and Mr. Anshuman Singh, learned Central Government Counsel. The Bihar State Pollution Control Board is represented through Ms. Binita Singh assisted by Mr. Abhimanyu Singh.

A plain reading of the prayer made in the two writ petitions would confirm that each of these petitioners are substantially aggrieved by the notification bearing Memo No.1153(E) dated 15.10.2018, whereby the Government of Bihar has imposed a complete ban on manufacture, import, store, transport, sale and use of plastic carry bags (irrespective of their size and thickness) across the State on expiry of 60 days from the date of publication of the notification in the official



gazette which has since been published in the official gazette on 24.10.2018, a copy of which is enclosed at Annexure 1 to the 'second writ petition'.

The notification in question has been issued by the Government of Bihar in discharge of obligation cast under Article 48A of the Constitution of India and in exercise of powers delegated under notification bearing No. S.O.-152(E) dated 10.02.1988 of the Government of India in its Ministry of Environment and Forest, a copy of which is enclosed at Annexure 2 to the 'second writ petition'.

It is the argument of Mr. Suraj Samdarshi, learned counsel appearing for the petitioners in CWJC No.24358 of 2018 and Mr. Prabhat Ranjan, learned counsel appearing for the petitioners in the 'second writ petition' that the delegation of powers to the State Government vide notification dated 10.02.1988 at Annexure 2 under section 23 of the Environment (Protection) Act, 1986 (hereinafter referred to as 'the Act') would not bestow powers on the State Government to issue notification which is in excess of the delegated powers.

Learned counsel while accepting that the Central Government is vested with powers to delegate such of the powers and functions conferred under the 'Act' as it may deem



necessary and expedient to do so on any officer, the State Government or other authority, go on to add that such delegation has its limitation and it cannot travel beyond the limits drawn by the Central Government itself, in exercise of its rule-making power vested under section 25 of 'the Act'.

Proceeding on the submission learned counsel has referred to the Plastic Manufacture, Sale and Usage Rules, 1999 (hereinafter referred to as the '1999 Rules') framed by the Central Government in exercise of powers vested under section 25 read alongside section 3(2) (vii) to submit that rule 4 of the said Rules permitted manufacture, sale, distribution and usage of virgin and recycled plastic carry bags and recycled plastic containers subject to the restriction present thereunder. While accepting that the '1999 Rules' were superseded by the Plastic Waste (Management and Handling) Rules, 2011 which in turn have been replaced by the Plastic Waste Management Rules, 2016 (hereinafter referred to as the '2016 Rules'), it is the argument of learned counsel relying upon section 4(1)(c) thereof that manufacture of carry bags made of virgin or recycled plastic having thickness of not less than fifty microns has been permitted.

According to learned counsel, if the Central



Government under its rule-making power vested under section 25 of 'the Act' has permitted amongst others, the manufacture, sale and usage of carry bags having thickness of more than fifty microns, the State Government as a delegate under section 23 cannot override this statutory prescription so present in the '2016 Rules' by the notification impugned which completely bans manufacture, sale and use of plastic carry bags and which notification according to learned counsel, is in excess of the delegated powers and thus ultra vires the provisions of 'the Act' and the Rules framed thereunder.

Mr. Prabhat Ranjan, learned counsel in reference to Article 48A of the Constitution of India has submitted that the said provision falling under Chapter of 'Directive Principles', does not confer legislative competence on any State to issue any such notification which is in conflict with the statutory rules.

Learned counsel in support of his submission has relied upon the Constitution Bench judgment of the Supreme Court reported in **(2002) SCC 459 (Koluthara Export Limited vs State of Kerala)** and in a particular reference to the opinion expressed at paragraph 18 of the judgment he has submitted that the 'legal position' has been explained in reference to the obligations cast under the 'Directive Principles' present at Part



IV of the Constitution of India qua the legislative fields discussed in the Seventh Schedule of the Constitution of India.

According to Mr. Prabhat Ranjan, no doubt the Chapter on 'Directive Principles' at Part IV of the Constitution obliges a State to follow principles found essential in governance of a country but the power to legislate is derived from the entries present in Lists 1, 2 and 3 of the Seventh Schedule of the Constitution.

In reference to the notification put to challenge he submits that the notification issued in reference to Article 48A of the Constitution of India is in the teeth of the legal position so settled by the Constitution Bench while testing similar issue.

Mr. S.D. Sanjay, learned Additional Solicitor General has appeared for the Government of India in each of the two writ petitions assisted by the Central Government Counsel appearing in the respective writ petitions. Learned Additional Solicitor General in reference to Section 5 of 'the Act' has submitted that it enables the Central Government to issue directions which, inter alia, also includes a power to direct closure, prohibition or regulation of any industry, operation or process.

In reference to Section 3 of 'the Act' he submits that



sufficient power is vested in the Central Government to take measures for protecting and improving the environment which is explained in sub-section (2) thereof.

Learned counsel next refers to Section 23 of 'the Act' which enables the Central Government to delegate its power and functions to any officer, State Government or authority except the rule-making power and the power vested under section 3(3) of 'the Act'.

He next refers to the notification dated 10.02.1988 enclosed at Annexure 2 to the writ petition to submit that a number of State Governments including the State of Bihar were delegated with powers to issue directions under section 5 of 'the Act' in public interest. According to Mr. Sanjay, the notification in question is not in contravention with the Rules so framed by the Central Government rather it is a measure to prevent environmental damage and health hazard.

In sum and substance the argument of the learned Additional Solicitor General is that the notification is much within the power delegated to the State Government of Bihar for issuing directions for environmental preservation.

Mr. Lalit Kishore, learned Advocate General while defending the notification, has taken this Court through the



preamble of 'the Act' to submit that it is for protection and improvement of environment and all matters connected therewith. According to the learned Advocate General, section 3 and section 5 of 'the Act' are the lifelines laying down the mode and manner in which the aims and object of 'the Act' is to be given effect to. In particular reference to the provision underlying section 3(1) as well as sub-section (2) (v) and (vii) thereof he submits that each of the regulatory powers so present thereunder are capable of being delegated to the State by the Central Government under section 23 of 'the Act' and since it allows putting restrictions on an industry from making its operations for preventing environmental pollution as also laying down the procedure and safeguards for handling of hazardous substances, the notification in question is an exercise in such direction.

Learned Advocate General in reference to the notification dated 10.02.1988 at Annexure 2 has submitted that it is in exercise of delegated powers that the Government of Bihar exercising powers under section 5 of 'the Act', has issued directions imposing a complete ban on manufacture, sale, distribution and use of plastic carry bags and which is within the delegated powers.



In opposition of the reliance placed by learned counsel for the petitioners to the '1999 Rules' and '2016 Rules' it is argued by the learned Advocate General that the relaxation present in these Rules are only in circumstances where the State Government permits such manufacture and in which circumstance the regulatory provisions present in the '2016 Rules' would come into play but where the State Government has chosen to completely ban the manufacture of plastic carry bags across the State, these regulatory provisions present in the '2016 Rules' would not come to the aid of the petitioners.

Learned Advocate General in justification of the impugned notification has submitted that not less than 15 States have chosen to completely ban manufacture and sale of plastic carry bags appreciating the environmental hazard and the State of Bihar is no exception thereto. Learned Advocate General has referred to a judgment of the Madras High Court, a copy of which is enclosed at Annexure R6/2 to the counter affidavit of the Bihar State Pollution Control Board and in reference to statements present at paragraphs 10 to 13 of the affidavit, submits that a movement has been initiated to preserve the environment and the notification is a step towards the same which requires no interference.



Learned Advocate General has also referred to a Division Bench opinion of this Court rendered in **CWJC No.8769 of 2016 (Uma Shankar Singh vs. The State of Bihar)** to submit that the issue and the stand taken by the State in defence of the notification in question came up for consideration before a Division Bench in the writ petition in question which was heard along with another case which was suo-moto registered on the basis of a news item and the Division Bench taking note of the submission made on behalf of the State in taking steps for banning plastic carry bags in its entirety disposed of the writ petition with a direction to the State Government to act accordingly. He thus submits that in the circumstances explained, the writ petitions lack merit and are fit to be dismissed.

Ms. Binita Singh, learned counsel appearing for the Pollution Control Board has while defending the action taken by the State Government, submitted that it is a step towards the preservation of environment as also to prevent health hazard and since a large number of States have taken such a decision, which also has a judicial sanction, the prayer made by the petitioners require no indulgence.

Mr. Prabhat Ranjan, learned counsel appearing for the



petitioners in an attempt to respond to the arguments advanced by the learned Additional Solicitor General, learned Advocate General and learned counsel appearing for the Pollution Control Board while reiterating the earlier arguments has submitted that an opinion on a public interest litigation cannot apply and answer issues involving legislative competence. In support learned counsel has made reference to a judgment of the Supreme Court reported in **(2017) 5 SCC 163 (State of U.P. vs. Subhash Chandra Jaiswal)** paragraphs 10 to 14.

We have heard learned counsel for the parties and we have perused the records.

Having heard the spirited arguments advanced on behalf of the petitioners to question the validity of the notification dated 15.10.2018 as published in the official gazette on 24.10.2018 on the legislative competence as well as on sustainability we are persuaded to take note of some of the statutory provisions underlying 'the Act' as well as the nature of delegation made by the Central Government under section 23 of 'the Act' present in the notification dated 10.02.1988.

Section 3 of 'the Act' deals with the power of Central Government to take measures to protect and improve environment as it deems necessary or expedient for the purpose



of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. Sub-section (2) of section 3 without restricting the sweeping powers vested under sub-section (1) lays down the circumstances in which such powers can be exercised and clause (v) and (vii) thereof so relied upon by the learned Advocate General deals on restriction put on any industry and for laying down procedures for handling of hazardous substances, respectively.

Section 5 of 'the Act' empowers the Central Government to issue direction which inter-alia, may include a power to direct for a closure, prohibition or regulation of any industry, operation or process.

Section 23 of 'the Act' vests jurisdiction in the Central Government to delegate its power and functions, vested under 'the Act' with the exception of powers vested under section 3(3) and the rule-making power vested under section 25. Such delegation can be made in favour of any officer, State Government or any other authority.

Section 25 vests rule-making power in the Central Government for effective implementation of 'the Act'.

The impugned notification dated 15.10.2018 published



in the Bihar Gazette (Extraordinary) on 24.10.2018 derives its power from the notification dated 10.02.1988, a copy of which is enclosed at Annexure 2 to the writ petition, whereby the Central Government has delegated its power vested under section 5 of 'the Act' to the State Governments mentioned thereunder including the Government of Bihar.

A plain reading of the notification in question impugned at Annexure 1 it appears that it is taking note of the obligation cast on the State Government under Article 48A of the Constitution of India that in exercise of delegated powers vested under notification dated 10.2.1988 to issue direction under section 5 read alongside section 23 of 'the Act' that a complete ban on manufacture, import, store, transport, sale and use of plastic carry bags (irrespective of size of thickness) has been imposed across the State, to be effective on expiry of 60 days of the publication of the notification in the official gazette which took place on 24.10.2018.

We shall be dealing with the objections raised by the learned counsel for the petitioners to assail the notification dated 15.10.2018 impugned at Annexure 1 one by one and test it as against the stipulations present in the statute book as well as the submissions of learned counsel appearing for the respondents to



record our conclusions.

Learned counsel for the petitioners have placed heavy reliance on the '2016 Rules' which repealed and replaced the Plastic Waste (Management and Handling) Rules, 2011 which in turn repealed and replaced the Plastic Manufacture, Sale and Usage Rules, 1999 to submit that if the Central Government under its rule-making power has permitted manufacture, sale and usage of plastic carry bags having a thickness of more than 50 microns, the State Government of Bihar as a delegate of the Central Government while exercising powers vested under section 5 of 'the Act' cannot issue directions to restrict this permissive by imposing a complete ban. It is thus to be seen whether the impugned notification dated 15.10.2018 is in conflict with the '2016 Rules'.

The impugned notification while imposing a complete ban on manufacture, sale, distribution and use of plastic carry bags (irrespective of its thickness) definitely impinges on the liberty present under rule 4(1) (c) of the '2016 Rules' allowing usage of plastic carry bags of having thickness above 50 microns but then it bears relevance to first appreciate the aims and object of the notification as against the operational contours of the '2016 Rules'.



For the purpose we would first refer to the repealed '1999 Rules' i.e. The Plastic Manufacture, Sale and Usage Rules, 1999 which was framed to regulate the manufacture, sale and usage of plastic carry bags. Rule 4 of the said Rules specifically deals with the restriction on manufacture, sale, distribution and use of virgin and recycled plastic carry bags and recycled plastic containers. This Plastics Manufacture, Sale and Usage Rules, 1999 was replaced by the Plastic Waste (Management and Handling) Rules, 2011 and which rule in turn has presently been replaced by the Plastic Waste Management Rules, 2016.

The developments noted above is with a purpose because it bares relevance to the issue in contest. While initially the Central Government framed Rules to regulate the manufacture, sale and usage of plastic carry bags, by passage of time it got replaced by the regulatory rules dealing with the 'Plastic Waste Management' which included the carry bags as well. In our opinion this was a conscious shift in the legislative discharge by the Central Government from initially regulating the manufacture, sale and usage etc. of plastic carry bags to a limited regulation on the Plastic Waste Management by framing the '2016 Rules', which operates exclusively in the field of



‘Plastic Waste Management’ and not in the field of manufacture, sale and usage etc.

We are fortified in our opinion by the definition of ‘waste management’ present at rule 3(z) of the ‘2016 Rules’ which means collection, storage, transportation, reduction, re-use, recovery, recycling, composting or disposal of plastic waste in an environmentally safe manner.

A plain reading of the activities which constitute ‘waste management’ present in rule 3(z) of the ‘2016 Rules’ would show that it conspicuously does not include ‘manufacture’ of plastic waste.

Rule 4 of the ‘2016 Rules’ lays down the conditions for manufacture, import, stocking, distribution, sale and use of carry bags. Now since the object of the ‘2016 Rules’ is ‘Plastic Waste Management’ and not ‘Manufacture’, it is only when any State would permit such manufacture of ‘plastic carry bags’ that the regulation present in rule 4(1) (c) would come into play and not where the State decides to impose a complete ban on such manufacture.

In our opinion considering the scheme of the ‘2016 Rules’, the petitioners cannot rely on the said rules to question the delegated exercise by the State under section 23 of ‘the Act’ on grounds that it exceeds the delegated powers. May be, if the



‘1999 Rules’ which specifically dealt with manufacture, sale and usage of plastic carry bags, were in force, the State Government may have been put to difficult task of justifying the complete ban as put by the notification but where the Central Government after framing rules to regulate manufacture, sale and usage of plastic carry bags in 1999 decided to repeal these Rules by such rules which simply regulates the ‘plastic waste management’, then in our considered opinion neither its scope can be expanded nor it can be read down to trench on the power of the State Government to take such policy decision in public interest and in preservation of environmental protection as found expedient under the powers delegated by the Central Government.

We are conscious of the exception present in the impugned notification which allows use of plastic carry bags above 50 microns thickness for collection/storage of Bio-Medical Waste for its disposal as per the provisions of the Bio-Medical Waste Management Rules. We also take notice of the powers reserved by the State Government to provide for any further exception based on its assessment. The exception clause exempts plastic containers used for packaging of food materials, milk and milk products etc from such application.

The explanation attached to the impugned notification



takes notice of the definition of 'plastic carry bags' present in the '2016 Rules'.

The discussion above would confirm that the State Government has issued the notification in full consciousness of the '2016 Rules' and not being oblivious thereof.

The learned Advocate General thus is absolutely correct to submit that it is only where a State would allow manufacture of plastic carry bags that the regulation present in rule 4(1) (c) of the '2016 Rules' would come into play for the purpose of plastic waste management but until such time that the State on assessment of the situation takes such decision, the reliance by the petitioners on the '2016 Rules' is completely misplaced.

Our discussions above is sufficient enough to confirm that the exercise of powers by the State Government in its delegated jurisdiction is in tune with the legal prescriptions and suffers no infirmity either on extent of discharge or on merits.

The second issue raised by Mr. Prabhat Ranjan, learned counsel appearing for the petitioners in the 'second writ petition' was that the legislative functions cannot be discharged by the State in exercise of powers vested under the 'Directive Principles' of the State Policy present at part IV of the



Constitution of India and in so far as the present case is concerned, Article 48A of the Constitution of India.

There cannot be any dispute on the proposition so advanced by Mr. Ranjan specially where it has support of a Constitution Bench judgment in the case of **Koluthara Export Limited** (supra). However, this proposition is not applicable to the issue in contest because while the reference to Article 48A of the Constitution of India has been made by the State Government to remind itself of the obligation cast thereunder to protect and improve the environment, the notification has been issued in exercise of powers delegated under the notification dated 10.02.1988 under section 5 read alongside section 23 of 'the Act'. The exercise thus is under the delegated powers vested in the State under the notification dated 10.02.1988 which enables the State Government to issue any direction under section 5 of 'the Act' with a view to protect and improve the environment and is in tune with the obligations so cast on the State under Article 48A of the Constitution of India.

In view of the position explained there is absolutely no illegality in the legislative discharge by the State Government in issuing the impugned notification and the objection taken by Mr. Ranjan is on a mis-appreciation of the textual content of the



impugned notification.

The third of the issue that was raised by the learned counsel for the petitioners is that an opinion expressed by a Division Bench in a Public Interest Litigation cannot be binding on a contest which raises the issue of legislative competence.

We are in complete agreement with the proposition advanced by Mr. Prabhat Ranjan and the expression of the Supreme Court in the case of **Subhash Chandra Jaiswal** (supra) leaves no room for confusion.

We have also gone through the order passed by the Division Bench in the case of **Uma Shankar Singh** (supra) and we find that the Division Bench after taking note of the intention of the State Government to issue notification to put a total ban on plastic carry bags as informed by the learned Advocate General simply reminded the State Government of its duty before disposing of the writ petition. Though reliance was placed by the learned Advocate General on this opinion but since the notification in question was neither put up for test on its validity rather the writ petition was disposed of on 01.10.2018 i.e. even prior to the issuance of the impugned notification on 15.10.2018, the said disposal neither has bearing on the contest herein nor the expression found therein, answers



the issue raised.

For the reasons and discussions above and since the arguments of learned counsel for the petitioners on the validity of discharge by the State Government in issuing the notification under challenge neither finds support from Constitution nor ‘the Act’ or the rules framed thereunder, it becomes a mere completion of formality for us to hold that the notification of the State Government put to challenge bearing Memo No.1153(E) dated 15.10.2018 published in the official gazette on 24.10.2018 impugned at Annexure 1 to the writ petitions is intra vires and issued in lawful discharge of exercise.

In result, the writ petitions are dismissed with no order as to costs.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Skpathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.02.2019
Transmission Date	NA

