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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decision delivered on: 28.05.2024+ **CM No.32552/2024 in**
W.P.(C) 5448/2024**CEMENT MANUFACTURERS ASSOCIATION & ORS..Petitioners**Through: Dr Abhishek Manu Singhvi and Mr
Dayan Krishnan, Sr Advs. with Mr
Mahesh Agrawal, Mr Rishi Agarwala,
Mr Pratham Vir Agarwal and Mr
Abhinabh Garg, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Asheesh Jain, CGSC with Mr Gaurav
Kumar and Mr Gokul Sharma, Advs. for
UOI.
Dr Subhash C. Gupta, Adv. for R-2.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):****CM No.32552/2024**

1. This is an early hearing application filed on behalf of the petitioners.
2. The learned counsel for the respondents say that they would have no objection if the prayer made in the application is allowed.
3. It is ordered accordingly. The writ petition is, accordingly, taken up for



hearing and final disposal at this stage itself.

W.P.(C) 5448/2024

4. The record discloses that notice in the above-captioned petition was issued on 16.04.2024.

4.1 On that date, Mr Asheesh Jain, learned CGSC, had accepted notice on behalf of respondent nos.1 and 3.

5. Mr Jain was accorded four (04) weeks to file a counter-affidavit in the matter and the returnable date in the petition was fixed as 20.05.2024. On 20.05.2024, the Bench could not convene and, therefore, in the usual course, the writ petition was posted for 27.09.2024.

6. It is against this backdrop that an early hearing application was moved on behalf of the petitioners, to which we have referred to above.

7. We may also indicate that the reason why the petitioners have moved the early hearing application is on account on the fact that the impugned order, i.e., the Quality Control Order [hereinafter referred to as, “2023 QCO”] kicks in from 06.06.2024.

8. We may note that Dr Subhash C. Gupta, Advocate, has entered appearance on behalf of respondent no.2, i.e., Bureau of Indian Standards [in short, “BIS”].

9. Briefly, the grievance of the petitioners is that BIS has made it mandatory, *via* the impugned 2023 QCO, to reduce the ash content in cement bags to 6%, as against 12% which was obtaining prior to the issuance of the aforementioned order.

10. It is the submission of the petitioners that such reduction in the ash



content would result in serious ecological and environmental damage as reduction in ash content would involve enhancement of plastic content, i.e., polyethylene in the cement bags.

10.1 It is also the stand of the petitioners that such a step would burden the cement industry with an additional cost to the tune of, approximately, Rs. 223 crores per annum.

11. We may note that Dr Abhishek Manu Singhvi and Mr Dayan Krishnan, learned senior counsel, who appear on behalf of the petitioners, have emphasised that the 2023 QCO was issued even before a proper technical study could be completed.

12. On the other hand, Dr Gupta says that all the facets, including ecological concerns, were taken into account before issuance of the 2023 QCO.

12.1 It is also Dr Gupta's stand that the representatives of the petitioners were heard before issuance of the 2023 QCO.

12.2 Mr Jain has made his submissions in line with Dr Gupta's contentions.

13. Having heard the learned counsel for the parties, we are presently of the view that the respondents need to explain as to why the technical study, as contended by the petitioners, was sidestepped.

13.1 If there are good reasons for doing so, the same need to be articulated after the submissions advanced by the petitioners on this score and other aspects are heard and dealt with by the BIS.

14. The writ petition is, therefore, disposed of with the following directions:

(i) The above-captioned petition will be treated as a representation to the BIS. Since the submissions made in the petition are lengthy, we expect the



petitioners to serve the respondents a synopsisized version of their contentions and grievances; which would not exceed three (03) pages.

(ii) BIS will fix the date and time for hearing the representatives of the petitioners and thereafter pass a reasoned order.

(iii) In case the petitioners are aggrieved by the order passed by BIS, they will have the liberty to take recourse to an appropriate remedy, *albeit* as per law.

(iv) Till such time a decision taken on the petitioners' representation and for ten (10) days thereafter, no coercive measures will be taken, in the event the petitioners are aggrieved by the decision.

(v) The petitioners will file their synopsis within the next three (03) days. BIS will, thereafter, fix the date of hearing within one week.

15. The date already fixed in the writ petition, i.e., 27.09.2024 shall stand cancelled.

16. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MAY 28, 2024

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