

GAHC010059932022



undefined

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2342/2022

1.M/S N E PLAST CO. AND 7 ORS
A PARTNERSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT IIT
ROAD, JAYGURU, SILAMAHEKHAITI, NEAR N.H.-31, AMINGAON, DIST-
KAMRUP, ASSAM, PIN-781031, REPRESENTED BY ONE OF ITS PARTNERS,
SRI ROSHAN SURANA, S/O LATE PRITHWIRAJ SURANA, AGED ABOUT-49
YEARS

2: M/S JAI PLASTECH PVT. LTD.
A PRIVATE LIMITED COMPANY HAVING ITS REGISTERED OFFICE AT
UMTRU POWER HOUSE ROAD RAJABAGAN BYRNIHAT-793101
DIST- RI-BHOI MEGHALAYA
REPRESENTED BY ONE OF ITS DIRECTORS
SRI SANDEEP AGARWAL S/O SANTOSH KUMAR AGARWAL
AGED ABOUT-43 YEARS

3: M/S SHREE GANAPATI UDYOG
A PARTNERSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT
INDUSTRIAL ESTATE P.IO.-BORGURI TINSUKIA DIST-TINSUKIA ASSAM
PIN-786126
REPRESENTED BY ONE OF ITS PARTNERS
SRI ASHISH MODI S/O SRI MANGAL CHAND AGARWAL
AGED ABOUT-38 YEARS

4: M/S SHREE VINAYAK POLYPACK INDUSTRIES
A PARTNERSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT
WARD NO. 1 PARLY CHOWK PALASBARI DIST-KAMRUP ASSAM
PIN-781128
REPRESENTED BY ONE OF ITS PARTNERS
SRI VIJAY KUMAR SINGHI S/O LATE BINOD KUMAR SINGHI
AGED ABOUT-40 YEARS

5: ARUN BORPATRA GOHAIN
S/O GULAP BORPATRA GOHAIN
PROPRIETOR OF M/S SHIV POLYMER INDUSTRIES

HAVING ITS PRINCIPAL PLACE OF BUSINESS AT KARAIKHOWA
MOHABANDHA JORHAT ASSAM PIN-785006

6: M/S G.D. PLAST
A PARTNERSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT
7TH MILE MODEL VILLAGE OPPOSITE DIMUL FACTORY DIMAPUR
NAGALAND PIN-797103
REPRESENTED BY ONE OF ITS PARTNERS
SRI RIKSHIT JAIN S/O LATE MAHABIR PRASAD JAIN
AGED ABOUT 39 YEARS

7: SANDEEP RATHI
S/O SRI GANESH MAL RATHI
PROPRIETOR OF M/S KRISHNA FOOD PRODUCTS
HAVING HIS PRINCIPAL PLACE OF BUSINESS AT AIIDC
JAMBARI SEC-II CHAYGAON DIST-KAMRUP ASSAM PIN-781141

8: M/S R.K. DISPO PRODUCTS
A PARTNERSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT
VILL-KAMALPUR MOUZA-PUB PAR P.O.-BAIHATA DIST-KAMRUP
ASSAM PIN-781380
REPRESENTED BY ONE OF ITS PARTNERS
SRI UDAY KUNDU S/O LATE SUSHIL KUMAR KUNDU
AGED ABOUT 68 YEAR

VERSUS

1.THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE, GOVERNMENT OF
INDIA, NEW DELHI-110001

2:SECRETARY TO THE MINISTRY OF ENVIRONMENT
FORETS AND CLIMATE CHANGE GOVERNMENT OF INDIA
NEW DELHI-110001

3:THE POLLUTION CONTROL BOARD ASSAM
BAMUNIMAIDAM GUWAHATI ASSAM DIST-KAMRUP(M)
ASSAM PIN-781021

4:MEGHALAYA STATE POLLUTION CONTROL BOARD
ARDEN LUMPYNGNGAD SHILLONG PIN-793014

5:NAGALAND POLLUTION CONTROL BOARD
SIGNAI POINT DIMAPUR NAGALAND PIN-79711

For the Petitioner(s) : Mr. O.P. Bhati, Advocate.
: Mr. P. Sarma, Advocate.

For the Respondent(s) : Mr. R.K.D. Choudhury, Deputy Solicitor General of India.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

22.01.2026

(Ashutosh Kumar, CJ)

We have heard Mr. O.P. Bhati, learned Advocate for the petitioners and Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India for Union of India.

2. This writ petition has been filed by 8(eight) manufacturers of disposable plastic items, such as plates, cups, glasses, cutlery, straw, trays and similar single use of plastic products.

They claim to have established their industrial units after complying with the State Industrial Policies of obtaining incentives, tax exemptions and necessary permissions from the State Pollution Control Boards.

3. The challenge in this petition is made to Rule 4(2)(b) of the Plastic Waste Management Rules, 2016 (as amended) [hereinafter to be referred as the 'Rules of 2016'], notified by the Ministry of Environment, Forests and Climate Change on 12.08.2021.

This Rule prohibits the manufacture, import, stocking, distribution, sale and use of specific single use of plastic commodities,

including plates, cups, glasses, cutleries, trays, etc.

4. The contention of the petitioners is that this absolute ban is arbitrary and discriminatory, as their products are recyclable; which could be managed through existing waste systems; yet, the Rule singles them out, while allowing other similar or even non- recyclable plastics.

Their concern is that this ban will render their investments obsolete; would lead to their financial ruin, force plant closures, which ultimately would result in job losses for skilled and unskilled workers, without providing any transitional support or alternatives.

5. Mr. O.P. Bhati, learned Advocate for the petitioners, while addressing this Court, also laid great stress on the disproportionality of the Rule in question by demonstrating that on the scores of littering capacity; collectability and recyclability, the manufactured products of the petitioners ought not to fall in the category of banned single-use plastic.

6. For the sake of completeness, we deem it appropriate to extract Rule 4 of the Rules of 2016 in its entirety :

“4. Conditions.-(1) The manufacture, [import, stocking], distribution, sale and use of carry bags, plastic sheets or like, or cover made of plastic sheet and multilayered packaging, shall be subject to the following conditions, namely:-

(a) carry bags and plastic packaging shall either be in natural shade which is without any added pigments or made using only those pigments and colourants which are in conformity with Indian Standard : IS 9833 : 1981 titled as ‘List of pigments and colourants for use in plastics in contact with foodstuffs, pharmaceuticals and drinking water’, as amended from time to time;

[(b) carry bags made of recycled plastic or products made of recycled plastic can be used for storing, carrying, dispensing, or

packaging ready to eat or drink food stuff subject to the notification of appropriate standards and regulation under the Food Safety and Standards Act, 2006 (34 of 2006) by the Food Safety and Standards Authority of India;]

- (c) carry bag made of virgin or recycled plastic, shall not be less than [seventy five microns in thickness with effect from the 30th September, 2021 and one hundred and twenty (120) microns in thickness with effect from the 31st December, 2022];*
- (d) plastic sheet or like, which is not an integral part of multilayered packaging and cover made of plastic sheet used for packaging, wrapping the commodity shall not be less than fifty microns in thickness except [as specified by the Central Government] where the thickness of such plastic sheets impair the functionality of the product;*
- (e) the manufacturer shall not sell or provide or arrange plastic to be used as raw material to a producer, not having valid registration from the concerned State Pollution Control Boards or Pollution Control Committee;*
- (f) Sachets using plastic material shall not be used for storing, packing or selling gutkha, tobacco and pan masala;*
- (g) recycling of plastic waste shall conform to the Indian Standards : IS 14534 : 1998 titled as Guidelines for Recycling of Plastics, as amended from time to time;*
- (h) The provision of thickness shall not be applicable to carry bags [and commodities] made up of compostable plastic [and biodegradable plastics] carry bags [or commodities or both] made from compostable plastics shall conform to the Indian Standard : [IS/ISO/17088:2021] titled as Specifications for Compostable Plastics, as amended from time to time. The manufacturers or seller of compostable plastic [and biodegradable plastics] carry bags shall obtain a certificate from the Central Pollution Control Board before marketing or selling; and*
- (i) plastic material, in any form including Vinyl Acetate-Maleic Acid-Vinyl Chloride Copolymer, shall not be used in any package for packaging gutkha, pan masala and tobacco in all forms:*
- [(j) non-woven plastic carry bag shall not be less than 60 Gram Per Square Meter (GSM) with effect from the 30th September, 2021.]*

[(2) The manufacture, import, stocking, distribution, sale and use of following single use plastic, including polystyrene and expanded polystyrene, commodities shall be prohibited with effect from the 1st July, 2022 :-

- (a) ear buds with plastic sticks for balloons, plastic flags, candy sticks, ice-cream sticks, polystyrene [Thermocol] for decoration;*
- (b) plates, cups, glasses, cutlery such as forks, spoons, knives, straws, trays, wrapping or packing films around sweet boxes, invitation cards, and cigarette packets, plastic or PVC banners less than 100 micron, stirrers.*

(3) The provisions of sub-rule (2)(b) shall not apply to commodities made of compostable plastic [and biodegradable plastics].

[Emphasis provided]

(4) Any notification prohibiting the manufacture, import, stocking, distribution, sale and use of carry bags, plastic sheets or like, or cover made of plastic sheets and multilayered packaging and single-use plastic, including polystyrene and expanded polystyrene, commodities, issued after this notification, shall come into force after the expiry of ten years, from the date of its publication.”

7. A bare bearing of Rule 4 of the Rules of 2016 would indicate that plates, cups, glasses, cutlery, such as forks, spoons, knives, straw, trays, wrapping or packing films around sweet boxes, invitation cards, and cigarette packets, plastic or CVC banners less than 100 micron, stirrers are prohibited from being manufactured; imported; stocked; distributed; sold or made use of.

However, sub-Rule (3) of Rule 4 further clarifies that the provisions of sub-Rule (2)(b), referred to above, shall not apply to the commodities made of compostable plastic and biodegradable plastics.

8. “Compostable Plastics”, according to the dictionary of the Rule, means plastics that undergo degradation by biological process during composting to yield CO₂, water, inorganic compounds and

biomass at a rate consistent with other known compostable materials, excluding conventional petro-based plastics, and does not leave visible, distinguishable or toxic residue.

“Biodegradable plastics” means plastics, other than compostable plastics, which undergo degradation by biological processes under ambient environment (terrestrial or in water) conditions, without leaving any micro plastics, or visible, or distinguishable or toxic residue, which has adverse environment impacts, adhering to the laid down standards of Bureau of Indian Standards and certified by the Central Pollution Control Board.

9. The restriction, thus, on the manufacture of cups, plates, cutlery etc, is not absolute and the only restriction which has been imposed under the Rules, for ecological preservation, is that the plastic used in such production/manufacture should be compostable or biodegradable.

10. This restriction is absolutely reasonable and cannot be said to violative of any fundamental rights of the petitioners for carrying out their trade/vocation etc.

11. After some arguments, on the query of the Court, Mr. Bhati, on instructions, has submitted that the product manufactured by the petitioners are of only biodegradable plastics.

12. In that view of the matter, the restriction imposed under Rule 4(2)(b) of the Rules of 2016 would not apply to the products of the petitioners

13. Thus, the grounds raised in this writ petition remain only academic, which are not necessarily required to be decided.

14. Since the petitioners are not affected by the Plastic Waste Management Rules, 2016, we close this writ petition for the Rules being not having any deleterious effect on the business of the petitioners.

15. The writ petition is disposed off accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant