



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

WRIT PETITION NO. 9265 OF 2024

**Growers Flowers Council
Of India (GFCI) and Anr.**

.. Petitioners

Versus

Union of India & Ors.

.. Respondents

Mr. Aseem Naphade a/w Sanjeel Kadam a/w Nitisha Lad i/by Kadam & Company for petitioners.

Mr. Y. R. Mishra for respondent no.1 (UoI).

Mr. C. M. Lokesh for respondent no.2 (CPCB).

Mr. Sachindra B. Shetye a/w Akshay S. Pansare for respondent no.3 (MPCB).

Mr. P. P. Kakade, Government Pleader a/w Mr. O. A. Chandurkar, Addl. Govt. Pleader and Mrs. G. R. Raghuwanshi, AGP for respondent no.4 (State).

Mr. Pradeep M. Patil for respondent no.5- MCGM.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 5th JULY, 2024

P.C.:

1. Issue notice to the respondents.
2. Mr. Mishra, learned counsel, has put in appearance on behalf of respondent no.1 and waives service of notice. Mr. Lokesh, learned counsel, has put in appearance on behalf of respondent no.2 and waives service of notice. Mr. Pansare, learned counsel, has put in appearance on behalf of

respondent no.3 and waives service of notice. Mr. Kakade, learned Government Pleader has put in appearance on behalf of respondent no.4 and waives service of notice. Mr. Patil, learned counsel, has put in appearance on behalf of respondent no.5 and waives service of notice.

3. This petition filed by an Association of Flower Growers raises concern about use of plastic flowers of a thickness of less than 100 microns. In a study report, which has been enclosed as Exhibit "F" to the petition, the maximum thickness of artificial flowers is shown to be 30 microns, whereas the minimum thickness is 29 microns and average thickness of plastic flowers is shown to be 29 microns.

4. The submission is that Maharashtra Pollution Control Board (MPCB) has issued a notice dated 8th March, 2022 for prohibiting production, commerce, stocking, distribution, sale and use of single use plastic items (SUP). Referring to the notification issued by Ministry of Environment, Forest and Climate Change and also making a reference to a notification known as the Maharashtra Plastic and Thermocol Products (Manufacture, Usage, Sale, Transport, Handling and Storage) Notification, 2018, the notice dated 8th March, 2022 enlists certain items which are prohibited. Such items include ear buds with plastic sticks, plastic sticks for balloons, plastic flags, candy sticks, ice-cream sticks, polystyrene (thermocol) for decoration, plates, cups, glasses, cutlery, wrapping or packing films around the sweet boxes, invitation cards and cigarettes packets, plastic or PVC banners of less than 100 microns thickness and stirrers etc. It also mentions the items like all types of plastic bags (carry bags) – (with or without

handle), irrespective of thickness compostable plastic, non-woven carry bags and other SUP items such as dish, bowl, container etc.

5. Mr. Naphade stated that the said notice issued by the MPCB, though does not specifically mention the plastic flowers, however, the thickness of plastic flowers being less than 100 microns ought to be included in the notification and accordingly the said notice should cover the plastic flowers as well. His submission is that despite the plastic flowers being covered under the said notice dated 8th March, 2022, its use, production, commerce, distribution and sale etc. are still prevalent in the entire State of Maharashtra.

6. He has drawn our attention to a State Legislation known as the Maharashtra Non-biodegradable Garbage (Control) Act, 2006 (hereinafter referred to as "the 2006 Act), where "non-biodegradable garbage" and "non-biodegradable material" have been defined in Section 2 (g) and (h) respectively. Section 3 of the said enactment puts a prohibition on non-biodegradable garbage being thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, natural or manmade lakes, wetlands etc. Section 4 of the said enactment empowers the State Government to impose restriction or prohibition on the use of non-biodegradable material or any other material harmful to environment within the State which is contrary to the norms, by issuing a notification as the State Government may, by notification in the Official Gazette, specify.

7. If the notice dated 8th March, 2022 issued by the MPCB is read in conjunction with provisions of Section 4 of the 2006

Act, the single use plastic items mentioned in the said notice appear to be prohibited so far as their use is concerned. However, the issue raised by the petitioner is that in absence of the plastic flowers being mentioned in the notice dated 8th March, 2022, its use, commerce, sale etc. is prevalent, which is causing more harm to the environment and the eco-system.

8. Mr. Naphade has also invited our attention to a letter dated 14th October, 2020 written by the Commissionerate of Agriculture, Maharashtra State to the Government of India, in the Ministry of Environment, Forest and Climate Change, which is available at Exhibit "G" appended to the writ petition and has submitted that the said letter explicitly expresses concerns about use of plastic flowers though single use plastic is banned for various purposes including its use, manufacture, commerce etc. In the light of the said letter, it is the submission of the learned counsel for the petitioner Mr. Naphade that appropriate direction by this Court needs to be issued requiring Central Government to issue necessary prohibitory orders and directions to contain, check and ban the use of plastic flowers, having a thickness of less than 100 microns under Section 5 of the Environment (Protection) Act, 1986.

9. The concerns raised in this writ petition needs to be addressed at the earliest for the simple reason that if other plastic items of thickness of less than 100 microns have been prohibited, there does not appear to be any impediment in prohibiting plastic flowers as well from use etc.

10. We, thus, call upon the State Government, the Maharashtra Pollution Control Board (MPCB), Union

Government in the Department of Forest and Environment and Central Pollution Control Board to respond to the issues raised in this writ petition by filing their respective affidavits-in-reply within a period of four weeks. A week's time thereafter shall be available to the petitioner to file rejoinder, if any.

11. Stand over to 9th August, 2024. To be listed High on Board.

JAYANT
VISHWANATH
SALUNKE

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by JAYANT
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(AMIT BORKAR, J.)

(CHIEF JUSTICE)