

ITEM NO.2

COURT NO.1

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

IA Nos.2 & 92, 27, 34, 46-47 & 51, 58-60, 52 & 95, 54, 78-79, 67& 76, 83-84, 37 & 91, 96-97,
100, 101, 103, 104-105, 106&107
IN WRIT PETITION (CIVIL) NO(s). 337 OF 1995

CENTRE FOR ENVIR. LAW, WWF-I

Petitioner(s)

VERSUS

U O I & ORS

Respondent(s)

(For modification of Court's Order dated 13.11.2000 and recommendations of CEC in I.A.NO.67 and directions and restoration and direction/ modification and for permission to lay pipeline under the Swarg Ashram Laxman Jhula Water Supply Scheme and condonation of delay and impleadment and permission to have the BML-HANSI Branch-Batana Branch Multipurpose Link Channel through the 4.9 acres of land and bringing on record addl. facts and office report)

Date: 06/02/2008 These applns. were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BEL MR. JUSTICE J.M. PANCHAL

For Petitioner(s) Mr. Raj Panjwani, Adv.
Mr. Vijay Panjwani, Adv.

For Respondent(s)/

Applicants/Respondents: Mr.S.K.Gambhir, Sr.Adv.
Mr.Niraj Sharma, Adv.
Mr.Vikrant Singh Bais, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. T.S. Doabia, Sr.Adv.
Ms. Kiran Bhardwaj, Adv.

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Mr. D.S. Mahra, Adv.
Mr.P.Parmeswaran, Adv.

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Mr. A.K. Sinha, Adv.

Mr. Ajay Pal, Adv.

Mr. Kuldeep Singh, Adv.

Mr. V.G. Pragasam, Adv.
Mr. S. Joseph Aristotle, Adv.
Mr. S. Prabu Ramasubramanian, Adv.

Mr. Sanjay R. Hegde, Adv.
Mr. Amit Kr. Chawla, Adv.
Mr.Arul Varma, Adv.

Mr. Manjit Singh, AAG, Haryana
Mr. Harikesh Singh, Adv.
For Mr. T.V. George, Adv.
Mr.M.P.Meharia, Adv.

Ms. Suparna Srivastava, Adv.
Mr. Rahul Srivastava, Adv.
Mr. Rajesh Srivastava, Adv.

Mr. Aruneshwar Gupta, Adv.
Mr. Naveen Kumar Singh, Adv.
Mr. Shashwat Gupta, Adv.

Mr. Biswanath Aggarwalla, Adv.
Mr. Rajiv Mehta, Adv.
Mr. A. Henry, Adv.

Mr. Amit Mishra, Adv.
Ms. Vibha Datta Makhija, Adv

Ms. A.Subhashini, Adv

Mrs. Rachana Joshi Issar, Adv

Mr. Bhavani Shankar Gadnis, Adv.
Mrs. B. Sunita Rao, Adv.

Mr. Anil Shrivastav, Adv.
Mr. Ritu Raj, Adv.
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Mr. A. Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
For M/s.Arputham Aruna & Co., Advs.
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Mr. J.S. Attri, Adv
Mr.Naresh K.Sharma, Adv.

Mr. Ranjan Mukherjee, Adv
Mr. S.C. Ghosh, Adv.

Mr. Riku Sarma, Adv.
For M/S Corporate Law Group, Adv

Mr. Gopal Singh, Adv.
Mr. Chandan Kumar, Adv.

Mr. S. Wasim A. Qadri, Adv.
Mr.Jubair Ahmad Khan, Adv.
Mr. D.S. Mahra, Adv.

Mr. U. Hazarika, Adv.
Mr. Satya Mitra, Adv.
Ms. Sunita Hazarika, Adv.

Mr. Ashok K. Srivastava, Adv.

Mr. Ashok Mathur, Adv.

Mr. Anis Suhrawardy, Adv.

Mr. Ajit Pudussery, Adv.

Mr. B.B. Singh, Adv.

Mr. D.N. Goburdhan, Adv.

Mr. G. Prakash ,Adv.

Ms. Hemantika Wahi ,Adv

Ms. Pinky Behera, Adv.

Ms.Jesal, Adv.

Ms.Shivangi,Adv.

Ms.Sangeeta Singh, Adv.

Ms. Kamini Jaiswal ,Adv.

Mr. M. Veerappa ,Adv.

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Mr.Shail Kr.Dwivedi, Adv.

Mr.G.V.Rao, Adv.

Mr. Pradeep Misra ,Adv.

Mr. Rajesh Prasad Singh ,Adv.

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Mr. R.S. Suri ,Adv

Ms. Sushma Suri ,Adv.

Mrs. Lalita Kaushik,Adv.

Mr. Naresh Kaushik, Adv.

Mr. Jana Kalyan Das ,Adv

Mr. Avijeet Bhujabal, Adv.

Mr.Sridharan Ramkumar, Adv.

Mr. Annam D.N. Rao ,Adv

Mr. A.K. Chitale, Sr.Adv.

Mr. Niraj Sharma ,Adv

Mrs. Sadhna Sharma, Aadv.

Ms. Rachana Srivastava ,Adv.

Mr.A.P.Sahay, Adv.

Ms. Anitha Shenoy ,Adv

Mr. Amit Kumar ,Adv

Mr.Debasis Mishra, Adv.

Mr. S.S. Shinde, Adv.

For Mrs. Asha G.Nair, Adv.

Mr.A.P.Mayee, Adv.

Mr. Ravindra Keshavrao Adsure ,Adv

Mr. Ameet Singh, Adv.

Mr. Praveen Swarup, Adv.

Mr. Anil Kumar Jha, Adv.

Mr.Fuzail Ahmad, Adv.

Mr. BS. Banthia, Adv.

Mr.Vikas Upadhyay, Adv.

Mr.K.N.Madhusoodhanan, Adv.

Mr.R.Sathish, Adv.

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Mr.P.V.Dinesh, Adv.

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UPON hearing counsel the Court made the following
ORDER

I.A.No.2 and I.A.No.92:

The learned Additional Solicitor General submitted that NBWL will be meeting on 19.2.2008 and prayed for time to file response of MoEF and NBWL in respect of the prayer of State of Madhya Pradesh seeking Rs.280 crores for settlement of rights of 150 villages and waiver of NPV, relating to Settlement of Rights Proceedings under Section 24 of the Wild Life Protection Act. List in the second week of April, 2008 for the response of MoEF and NBWL.

I.A.No. 27:

There is an irrigation dam in the State of Orissa near Sunabeda Wildlife Sanctuary. Central Government gave approval in March, 1986 for submergence of 339.253 hectares of forest land. In the year 1989, the height of the dam was increased by 3.5 mtrs., in anticipation of approval by Central Government. In view of such increase in the height of the dam, an additional area of 142.62 hectares of forest land submerged under water. IBWL rejected the proposal on the ground that it would cause damage to wild life and directed action against the Irrigation Department officials of the State of Orissa for violation of the provisions of Forest Conservation Act. I.A.No.27 filed by State of Orissa was referred to NBWL which rejected the proposal on 25.8.2004. On 6.12.2004 this

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Court directed MoEF to file its response on the proposed action for violation of the provisions of the said Act. MoEF by its letter dated 21 st May, 2007 directed the State Government to initiate action against the officers who are involved. The State Government is yet to take any action for prosecution.

We are told that the State of Orissa has already made available a total of 575 hectares of land to the forest department for afforestation apart from paying a compensation of Rs.35.14 lacs to the Forest Department for afforestation purpose in lieu of the submerged land. It is also stated saplings have also been planted in the said land. It is also stated that

the decision to raise the height of the dam was taken by some officers of Irrigation Department more than twenty years ago and those officers have all retired from service. In view of the peculiar circumstances of the case and the compensatory action as also long delay, we are of the view that the proposed action against the officers of the Irrigation Department should be dropped and the matter be closed. However, MoEF may verify as to whether the afforestation activities are being carried out as stated, and if there are any lapses, further action may be taken in that regard. With the observations, I.A.No.27 i

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disposed of.

I.A. Nos. 52 and 95

Report of NBWL and response of the State of Uttarakhand are awaited. List in the 2nd week of April, 2008.

I.A.No.54:

Report awaited from the National Board for Wildlife. List in the 2nd week of April, 2008.
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I.A.Nos.78 and 79:

The applicant, a manufacturer of Titanium Dioxide, has sought permission to draw water from the Chambal river by laying a pipeline through Gharyal wildlife sanctuary. The proposal was examined and rejected by the National Board for Wildlife. The applicant has not filed any response to NBWL report regarding rejection. In view of the same, the two applications (I.A.Nos.78 and 79) are rejected.

I.A. Nos.67 & 76:

Report awaited from the National Board for Wildlife. List in the 2nd week of April, 2008.

I.A. Nos. 83 & 84:

It is alleged that applicant was given 3.125 acres of land in Tanda Forest Block, Terai Central Forest Division, Haldwani, Dist. Nainital, in lieu of some encroached land. The issue was referred to C.E.C. and the C.E.C. has advised that the allotment may be considered by the Forest Advisory Committee. The applicant was, therefore, permitted to submit his application before the F.A.C. The applicant states that he has submitted his applications on 7th December, 2007. The F.A.C. has not filed its report as per the directions of this Court. Report of the F.A.C. is awaited. List in the 2nd week of April, 2008.

I.A. No. 37:

Report awaited from the National Board for Wildlife. List in the 2nd week of April, 2008.

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I.A. No. 91:

The Uttaranchal Jal Vidyut Nigam Ltd. requires an extent of 0.334 hectares of land in Askote Wildlife sanctuary for construction of a new power house. The matter was referred to the National Board for Wild Life for consideration and report/response as long

back as 18.7.2006. NBWL has not so far filed any report or response. The work is stated to be crucial and any further delay will cause considerable hardship. As the land required is less than one acre and as NBWL has not submitted its report for a long time, we permit the Uttaranchal Jal Vidyut Nigam Ltd. to proceed with the construction. The Vidyut Nigam and the State Government shall however, comply with any conditions that may be imposed by NBWL in due course. I.A. is disposed of accordingly.

I.A.Nos.96 & 97:

The National Hydro Electric Power Corporation seeks permission for construction of two hydro electric power projects for which it requires 266.75 hectares of land in the Askote Musk Deer Wild Life Sanctuary. The project has been approved by the National Board for Wild Life by its letter dated 6.7.2006, subject to fulfillment of three conditions. As per condition no.2, the State Government should increase the sanctuary area suitably. As per condition no.3, the project proponent should pay NPV and comply with the conditions. The learned counsel appearing for the State expresses some technical difficulty in increasing the sanctuary area due to demarcation etc.. We have considered the matter.

The State is

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directed to identify suitable forest land for increasing the sanctuary area as per condition no.2. The State may also hold discussions with MoEF and seek modification of condition no.2. The project proponent is, however, directed to comply with condition no.3 as also other conditions. The applicant (National Hydro Electric Power Corporation) is permitted to execute the work subject to the above. This order shall not, however, be a precedent for other matters. The I.A.s are disposed of accordingly.

I.A.No.100:

There was a proposal to translocate some lions from Gir N.P. Gujarat to the Kuno wildlife sanctuary in the State of Madhya Pradesh. As the State of Gujarat has raised certain objections, the matter was directed to be considered by the National Board for Wild Life. We are told that the Board would be meeting on 19.2.2008 and is expected to take a decision in the matter. To await the report/response from N.B.W.L., post the I.A. in the 2nd week of April, 2008.

I.As 101, 103, 104-105, 106 & 107, 46-47 & 51, 58-60 and 34:

To be listed in the first week of March, 2008.

(G.V.Ramana)
Court Master

(Veera Verma)
Court Master