

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A. NOS.27,53,36,54,55,57,52 AND 81 WITH 34,63,65 WITH 86,73,74,75,
78, 79, 2 WITH 67 AND 76, 80,83, 84, 87,88,89, 90,92 AND 93 IN WRIT
PETITION (CIVIL) NO.337 OF 1995

CENTRE FOR ENVIR. LAW, WWF-I

Petitioner(s)

VERSUS

U.O.I. & ORS.

Respondent(s)

(For modification/amendment of Court's order dated 22/08/1997, exemption from filing O.T., direction/modification of order dated dated 13/11/2000, recommendations of C.E.C. in I.A. No.67, directions, restoration and direction/modification, for permission to lay pipeline under the Swarg Ashram Laxman Jhula Water Supply Scheme and direction/modifications, condonation of delay, impleadment and office report)

Date: 29/08/2006 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

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

C.P.C.B.: Mr. Vijay Panjwani,Adv.

For Applicant(s) Mr. Naresh Kaushik,Adv.

In I.A. Nos.83-84: Mrs. Lalitha Kaushik,Adv.

For Respondent(s) Mr. A.D.N. Rao,Adv.

For Rajasthan: Mr. Naveen Kumar Singh,Adv.

Mr. Mukul Sood,Adv.

Mr. Shashwat Gupta,Adv.

Ms. Shikha Tandon,Adv.

Mr. Aruneshwar Gupta,AAG.,Rajasthan.

For Orissa:

Mr. Jana Kalyan Das,Adv.

For Meghalaya:

Mr. Ranjan Mukherjee,Adv.

For Tripura:

Mr. Gopal Singh,Adv.

Mr. Rituraj Biswas,Adv.

Mr. G. Prakash,Adv.

For Sikkim:

Mr. Sonam Wangdi,AG.

Mr. A. Mariarputham,Adv.

Ms. Aruna Mathur,Adv.

Ms. Mini N. Nair,Adv.

for M/s. Arputham, Aruna & Co.,Advs.

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- 2 -

For Uttar Pradesh:

Mr. P.N. Mishra,Sr.Adv..

Mr. Kamendra Mishra,Adv.

Mr. Rajeev K. Dubey,Adv.

For Andhra Pradesh: Mr. Manoj Saxena,Adv.

Mr. Rajneesh Kumar Singh,Adv.

Mr. Rahul Shukla,Adv.

Mr. T.V. George,Adv.

For Maharashtra:

Mr. A.P. Mayee,Adv.

Mr. Pradeep Misra,Adv.

Mr. Sandeep Singh,Adv.

For Arunachal Pradesh:

Mr. Anil Shrivastav,Adv.

For Gujarat:

Ms. Hemantika Wahi,Adv.

Ms. Sadhana Sandhu,Adv.

Ms. Shivangi,Adv.

For Karnataka:

Mr. Sanjay R. Hegde,Adv.

Mr. Anil K. Mishra,Adv.

Mr. A. Rohen Singh,Adv.

For Punjab:

Mr. R.K. Rathore,AAG.,Pb.

Mr. M.K. Verma,Adv.

Mr. A.K. Sinha,Adv.

Mr. Rajeev Kumar Sharma,Adv.

for Mr. R.S. Suri,Adv.

Mr. A.D.N. Rao,Adv.

Mr. Ashok Mathur,Adv.

For U.Ts.:

Mr. S.W.A. Qadri,Adv.

Mr. D.S. Mahra,Adv.

For Bihar:

Mr. Gopal Singh,Adv.

Mr. Nishakant Pandey,Adv.

Mr. Rituraj Biswas,Adv.

For N.C.T. of Delhi:

Mr. S.W.A. Qadri,Adv.

Ms. Anil Katiyar,Adv.

For Goa:

Ms. A. Subhashini,Adv.

For U.T. Chandigarh:

Ms. Kamini Jaiswal,Adv.

Ms. Shomila Bakshi,Adv.

Ms. Rani Mishra,Adv.

Mr. V.G. Pragasam,Adv.

Mr. P. Parmeswaran,Adv.

Mr. Ashish Kumar,Adv.

for Mr. Amit Kumar,Adv. (N/P)

For Assam: Mr. Riku Sharma, Adv.
for M/s. Corporate Law Group, Advs.

For Himachal Pradesh: Mr. J.S. Attri, AAG.
Ms. Shivani Thakur, Adv.

For Nagaland: Mr. U. Hazarika, Adv.
Mr. Satya Mitra, Adv.
Ms. Sumita Hazarika, Adv.
Ms. Kavita Wadia, Adv.
Ms. Sushma Suri, Adv.
Mr. Ajit Pudussery, Adv.
Mr. K.R. Sasiprabhu, Adv.
Mr. Kartik A., Adv.
Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.
Mr. Vishwajit Singh, Adv.
Mr. S.S. Shinde, Adv.
Mr. V.N. Raghupathy, Adv.
Mr. D.N. Goburdhan, Adv.
Ms. Rachana Joshi Issar, Adv.
Mr. Ashok K. Srivastava, Adv.
Mr. Niraj Sharma, Adv.
Mr. S. Prasad, Adv.
Mr. Anis Suhrawardy, Adv.
Ms. Anitha Shenoy, Adv.

Mr. Shankar Divate,Adv.

Mr. Rajesh Prasad Singh,Adv.

Mr. Naresh Kaushik,Adv.

Ms. Lalita Kaushik,Adv.

For Haryana:

Mr. Ajay Siwach,AAG.

Mr. Manjeet Singh,AAG.

Mr. Harikesh Singh,Adv.

Mr. Pardeep Dahiya,Adv.

Mr. Sandeep Sharma,Adv.

Mr. T.V. George,Adv.

For Chhatisgarh:

Ms. Suparna Srivastava,Adv.

Ms. Pooja Matlani,Adv.

Mr. Rajesh Srivastava,Adv.

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- 4 -

For Madhya Pradesh:

Ms. Vibha Datta Makhija,Adv.

For Kerala:

Mr. P.V. Dinesh,Adv.

Ms. Sindhu T.P.,Adv.

For Uttaranchal:

Mr. Avatar Singh Rawat,Adv.

Ms. Rachana Srivastava,Ad. (N/P)

UPON hearing counsel the Court made the following

O R D E R

I.A. No.27:

me to file

Mr. A.D.N. Rao, learned counsel, prays for further ti

affidavit of the Ministry of Environment and Forests. Let it be filed within four weeks.

I.A. No.53:

The interlocutory application is adjourned.

I.A. Nos.36 and 57:

Let the affidavit of Ministry of Environment and Forests be filed during the course of the day. Copy of the affidavit has been supplied to the learned counsel for the State of Maharashtra, who prays for and is granted four weeks' time to file response to the affidavit.

I.A. No.54:

Four weeks' time is sought and is granted to file response to the report of the Central Empowered Committee.

I.A. No.55:

The Central Empowered Committee as also the Standing Committee of the National Board for Wildlife have rejected the proposal of the applicant-State of Maharashtra. In this view, we dispose of the application with liberty to the State of Maharashtra to take, if so advised, any other appropriate step, if permissible in law.

I.A. Nos.52 and 81 with 34:

The Interlocutory applications are adjourned.

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I.A. No.63:

Mr. A.D.N. Rao, learned counsel, states that the Standing Committee of the National Board for Wildlife has cleared the project. Let the affidavit of the Ministry of Environment and Forests with a copy to the applicant and the State of Himachal Pradesh be filed during the course of the day.

The interlocutory application is adjourned.

I.A. Nos.65 and 86:

I.A. No.86 seeks amendment of the prayer made in I.A. No.65.

Amendment is allowed. I.A. No.86 is disposed of.

In I.A. No.65, Mr. A.D.N. Rao, learned counsel, states that the Standing Committee of the National Board for Wildlife has rejected the proposal for de-reservation of 4.56 hectares of land. Let that be placed on record in the form of an affidavit. Now by I.A. No.86, the proposal is restricted to 1.48 hectares of land. Let this fresh proposal be placed before the Standing Committee of the National Board for Wildlife.

I.A. No.73:

Mr. A.D.N. Rao, learned counsel, states that the report of the Standing Committee of the National Board for Wildlife has not been received.

The interlocutory application is adjourned.

I.A. No.74:

The Standing Committee of the National Board for Wildlife has accepted the proposal of diversion of the land in question. We accept the recommendation and permit diversion, as recommended. On the basis of, in principle, approval granted by the Standing Committee of the National Board for Wildlife, the Ministry of Environment and Forests has sent a communication dated 10th/11th June, 2005, to the Government of Uttaranchal conveying diversion of the land in question [2527.90 hectares], subject to the fulfillment of the conditions stated therein. The conditions are acceptable to the State Government. In this view, we permit diversion accordingly.

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- 6 -

The interlocutory application is disposed of.

I.A. No.75:

As prayed, the State of Chhattisgarh is granted four weeks' time to file response to the report of the Central Empowered Committee. The Standing Committee of the National Board for Wildlife may examine the matter and decide it expeditiously.

I.A. Nos.76 and I.A. No.67 in I.A. No.2:

The State of Maharashtra is directed to file an affidavit of a responsible officer from its Forest Department in response to the recommendation of the Central Empowered Committee (I.A. No.76) within

four weeks.

The cases are adjourned.

I.A. Nos.78-79:

To await the decision of the Standing Committee of the National Board for Wildlife.

The interlocutory applications are adjourned.

I.A. No.80:

The interlocutory application is adjourned.

I.A. Nos.83-84:

Ms. Rachana Srivastava, leaned counsel, is not present.

The interlocutory applications are adjourned.

I.A. Nos.87-88:

The interlocutory applications are referred to the Standing Committee of the National Board for Wildlife.

I.A. No.89:

It is stated that the matter is being looked into by the Central Empowered Committee. This application is also referred to it. List the application after the report is received from the Central Empowered Committee.

I.A. No.90:

The interlocutory application is referred to the Standing Committee of the National Board for Wildlife.

I.A. No.92:

Copy of the interlocutory application be supplied to Mr. A.D.N.

Rao and Mr. Raj Panjwani, learned counsel.

The interlocutory application is adjourned.

I.A. No.93:

Issue notice to the respondent.

I.A. No.2:

The matter of completing the process of determination of rights

and acquisition of land or right as contemplated by the Act in respect of

some of the National Parks and Wildlife Sanctuaries has still not been

completed despite lapse of so many years. Mr. Raj Panjwani, learned

counsel, points out that it has not been completed in 14 out of 85 National

Parks and 170 out of 494 Wildlife Sanctuaries, as per the affidavits placed

by the State Government on record.

By order dated 23rd November, 2005, we directed that the State

Governments/Union Territories to file affidavits placing on record the

status as existing on 1st November, 2005. In relation to the compliance of the

aforesaid directions, the Registry has reported that no response has been

filed on behalf of the States of Andhra Pradesh, Arunachal Pradesh,

Gujarat, Bihar, Maharashtra, Chattisgarh, West Bengal, Haryana,

Himachal Pradesh, Jammu and Kashmir, Jharkhand, Kerala, Manipur,

Sikkim, Mizoram, Nagaland, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and Uttaranchal and Union Territories of Daman and Diu, Dadra Nagar Haveli, Lakshwadweep and Pondicherry. Despite lapse of more than nine months, the status report has not been filed by the afore-noted States/Union Territories. We grant last opportunity and direct the Chief Secretaries to personally look into the matter and file their own affidavits in terms of order dated 23rd November, 2005, within four weeks of the receipt of the copy of this order. It would be the personal responsibility of the Chief Secretaries to comply with this order.

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- 8 -

In respect of Kaziranga National Park, Mr. A.D.N. Rao, learned counsel states that he will check up and find out whether special leave petition has been filed or not and, if not filed, why there is delay and ensure its filing without further delay.

Mr. Raj Panjwani, learned counsel, points out that the State of Madhya Pradesh in one National Park and four Wildlife Sanctuaries has reduced area by twenty five per cent to fifty per cent. The Central Government was directed to file its response to this aspect. In this regard, reference is made to the affidavit at Page 2057 of Volume VII dated 29th September, 2000. As prayed, the Central Government is granted four weeks' time to file its response.

I.A. No.34 and other connected matters shall also be listed on the

next date of hearing.

[T.I. Rajput]

A.R.-cum-P.S.

[V.P. Tyagi]

Assistant Registrar