

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. 13, 27, 33, 35, 36, 37, 52, 53, 54-55, 57, 63, 34, 38, 39, 40,
41, 48-50, 46, 47, 51, 43, 44, 45, 58-60, 69-71, 65, 73, 74, 75, 76
with 67, 78-79, 80, 81, 82 in 35, 83-85 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/amendment of the court's order dated 22.8.1997 and exemption from filing O.T . and

directions/modification of order dated 13.11.2000 and recommendations of CEC in IA 67 and dire ctions

and restoration and direction/modification and for permission to lay pipeline under the Swarg Ashram Laxman Jhula Water Supply Scheme)

(With office report)

Date: 23/11/2005 This Petition was 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.

Mr. Vijay Panjwani, Adv.

For Applicant(s) in

IA.s.38-41,43,48-50:

Mr. G.L. Sanghi, Sr.Adv.

Mr. Ashwani Garg, Adv.

Mr. Vijay Kumar, Adv.

IA 52: Ms. Anitha Shenoy, Adv.

IA 67: Mr. A. Sharan, Sr.Adv.

Mr. Amit Kumar, Adv.

Mr. Ashish Kumar, Adv.

Mrs. Punam Sinha, Adv.

IAS.69-71: Mr. J.P. Mishra, Adv.

Mr. Shankar Divate, Adv.

IAS.78 & 79: Mr. Narendera M. Sharma, Adv.

Mr. R.P. Singh, Adv.

IA 81: Ms. Rachana Joshi Issar, Adv.

IAS.83-85: Mr. Naresh Kaushik, Adv.

1

Ms. Shilpa Chohan, Adv.

Mohd. Shahid Hussain, Adv.

Mrs. Lalitha Kaushik, Adv.

For State of Maharashtra

in IAs.36,57,65: Mr. S.S. Shinde, Adv.

Mr. Mukesh K. Giri, Adv.

for Mr. V.N. Raghupathy, Adv.

State of Rajasthan: Mr. Aruneshwar Gupta, Addl.Adv.Genl.

Mr. Naveen Kumar Singh, Adv.

State of Orissa: Mr. J.K. Das, Adv.

State of Nagaland: Mr. Upamanyu Hazarika, Adv.

Mr. Satya Mitra, Adv.

Ms. Sumita Hazarika, Adv.

Ms. Suparna Srivastava, Adv.

Ms. Deepti Singh, Adv.

Mr. Rajesh Srivastava, Adv.

State of U.P.: Mr. Anuvrat Sharma, Adv.

Mr. Sanjay Kr. Singh, Adv.

Mr. Pradeep Misra, Adv.

State of Goa: Ms. A. Subhashini, Adv.

State of Assam: Ms. Krishna Sarma, Adv.

Mr. V.K. Sidatharan, Adv.

Mr. Riku Sarma, Adv.

for M/s. Corporate Law Group, Adv.

St.of Arunachal Pd.: Mr. Anil Shrivastav, Adv.

Mr. Saurabh Shrivastav, Adv.

Ms. Smita, Adv.

State of Sikkim: Mr. A.Mariarputham, Adv.

Ms. Aruna Mathur, Adv.

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

State of Tamil Nadu: Mr. R. Ayyam Perumal, Adv.

Mr. S.Vallinayagam, Adv.

State of Punjab: Mr. Sarup Singh, Sr.AAG.

Mr. Arun K. Sinha, Adv.

State of Haryana: Mr. T.V. George, Adv.

Mr. Manjeet Singh, Adv.

Ms. Vivekta Singh, Adv.

Mr. Hariksh Singh, Adv.

State of Jharkhand

in IAs.82 & 35: Mrs. Pinky Anand, Adv.

Mr. D.N. Goburdhan, Adv.

Mr. Rajesh Ranjan, Adv.

Mr. Rajesh Pathak, Adv.

State of Uttaranchal

in IA 74: Mr. Avatar Singh Rawat, Addl.Adv.Genl.

Mrs. Rachana Srivastava, Adv.

State of Uttaranchal

in IAs.37,53,73,74,

77,80, 34-83:

Mrs. Rachana Srivastava, Addl.Adv.Genl.

NCT of Delhi:

Mr. S.Wasim A. Qadri, Adv.

Mr. D.S. Mahra, Adv.

State of H.P.:

Mr. J.S.Attri, Addl.Adv.Genl.

Ms. Shivani Thakur, Adv.

State of Maharashtra

in IAs.33, 54-55:

Mr. R.K. Adsure, Adv.

State of Kerala:

Mr. K.R.Sasiprabhu, Adv.

Mr. Balraj B., Adv.

State of Karnataka:

Mr. Sanjay R. Hegde, Adv.

Mr. Anil K. Mishra, Adv.

Mr. A. Rohen Singh, Adv.

MoEF:

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

For Respondent(s)

Mr. Ashok K. Srivastava ,Adv

Mr. Ashok Mathur ,Adv

Mr. Anis Suhrawardy ,Adv

Mr. Ajit Pudussery ,Adv

Mr. B.B. Singh ,Adv

Mr. G. Prakash ,Adv

Ms. Hemantika Wahi ,Adv

Ms. Kamini Jaiswal ,Adv
Mr. M. Veerappa ,Adv
Mr. P. Parmeswaran ,Adv
Mr. R.S. Suri ,Adv
Mr. Rajeev Kumar Sharma ,Adv
Ms. Sushma Suri ,Adv
Mr. Ranjan Mukherjee ,Adv
Mr. V.G. Pragasam ,Adv
Mr. Jana Kalyan Das ,Adv
Mr. Niraj Sharma ,Adv
Mr. B.S. Banthia ,Adv
Mr. Rajiv Mehta ,Adv
Mr. Subramonium Prasad ,Adv
Mr. Vishwajit Singh ,Adv
Ms. Kavita Wadia ,Adv
Mr. Mohanprasad Meharia ,Adv

UPON hearing counsel the Court made the following

O R D E R

3

I.A.No.13:

List the application after six months.

I.A.No.27:

On 26th July,2005, the Union of India was granted four weeks' time to file its response which has still not been filed. As a last opportunity, the MoEF is directed to

file the same within four weeks.

I.A.No.33:

Learned counsel for the State of Maharashtra prays for and is

granted one

week's time to file a joint affidavit of the Water Resources Department and Forest

Department of the State.

I.A.No.53:

The minutes of meeting of the Standing Committee of National Board for Wild

Life dated 6th April, 2005 recommends the rejection of the proposal for diversion of

0.1532 hectares of forest land from Rajaji National Park to lay a pipeline for drinking water along the bridle path route of Neelkanth Mahadev Temple by Uttaranchal Pey

Jal Sansadhan Vikas Evam Nirman Nigam Ltd. The copy of the said minutes may be

obtained by learned counsel appearing for the State of Uttarachal from either

Mr.A.D.N.Rao or Mr.Raj Panjwani. The State is granted four weeks' time to file an

affidavit on the issue.

Adjourned.

I.A.No.36:

MoEF is directed and granted four weeks' time to file the affidavit, in terms of order dated 26th July, 2005.

I.A.No.54,55:

Copy of the minutes of meeting of the Standing Committee of National Board

for Wild Life dated 6th April, 2005 may be obtained by learned counsel appearing for

the State of Uttarachal from either Mr.A.D.N.Rao or Mr.Raj Panjwani. The State is

granted four weeks' time to file an affidavit on the issue.

Adjourned.

I.A.No.57:

As per the office report, the report of the Standing Committee of the National Board for Wild Life has not been filed. Let it be filed within eight weeks.

Adjourned.

I.A.No.37:

The Standing Committee of National Board for Wild Life as per the minutes dated 6th April, 2005 has recommended the acceptance of the proposal subject to seven conditions. On request of learned counsel for the State, the application is adjourned for eight weeks. Response, if any, may be filed in the meanwhile.

I.A.No.52:

As prayed, two weeks' time is granted to file additional affidavit to place on

record the upto-date position.

List this application along with I.A.No.34.

I.A.No.63:

On 6th December, 2004, it was stated that the matter would be placed before the Standing Committee of National Board for Wild Life in its next meeting. But since the report was not filed placing on record the decision that may have been taken by the Board and to await the report, the matter was adjourned in terms of order dated 26th July, 2005. The report has still not been filed. Let it now be filed within four weeks.

I.A.Nos.69-72:

Besides the report of the Standing Committee, we have also per

used the

affidavit dated 24th September, 2005 filed by the Director, Rajaji National Park, and

heard the learned counsel. There is no merit in the applications.

The applications are dismissed.

I.A.No.65 & 73:

Mr.A.D.N.Rao, learned counsel, states that the matter was probably taken up by the Standing Committee of National Board for Wild Life in its last meeting but he is yet to get the report/minutes. As prayed, the matters are adjourned to be listed after

5

four weeks.

I.A.No.74:

The letter dated 10/11th June, 2005 sent by the MoEF to the Government of

Uttaranchal informing the State Government about the recommendation, agreeing in

principle, for diversion of the land subject to the conditions stated therein has been filed

in the Court. Learned counsel for the State of Uttaranchal, as prayed, is granted one

week's time to take instructions and file affidavit in response.

Adjourned for two weeks.

I.A.No.75:

The response of the National Board for Wild Life as well as of the Central

Empowered Committee has still not been filed. Let that be filed within three weeks.

List after four weeks.

I.A.Nos.78-79:

The applications are referred to the Standing Committee of the National

Board for Wild Life for consideration and recommendation.

I.A.No.80:

The application is referred to the Central Empowered Committee for

consideration and recommendation.

I.A.No.81:

To be taken up along with I.A.No.34.

I.A.No.....

As prayed by learned counsel for the State of Haryana, one week's time is

granted to rectify the defects. After the needful is done, the application may be placed

for orders before the Court, after serving its copies to Mr.A.D.N.Rao and Mr.Raj

Panjwani, learned counsel.

I.A.Nos.83, 84 & 85:

I.A.No.85, application for exemption from filing O.T., is allowed.

I.A.Nos.83 and 84 are referred to the Central Empowered Committee for

consideration and recommendation.

I.A.No.2:

On 22nd August, 1997, this Court after noticing that even though notifications

in respect of sanctuaries/national parks have been issued under section 18/35 in all

States/Union Territories, further proceedings as required under the Act i.e. issue of

proclamation under section 21 and other steps as contemplated by the Act have not been

taken, and thus all the State Governments/Union Territories were directed to issue the

proclamation under Section 21 in respect of the sanctuaries/national parks within two

months. It was further directed that the process of determination of rights and

acquisition of land or rights as contemplated by the Act shall be completed within a

period of one year.

Mr. Panjwani states that though proclamations under section 21 were issued,

but it appears that the process of determination of rights and acquisition of land or

rights as contemplated by the Act still remains to be completed by many State

Governments/Union Territories despite lapse of nearly seven years, having regard to the

time granted in the order dated 22nd August, 1997. Learned counsel has taken us

through various provisions of the Wild Life (Protection) Act in relation to obligation of

completing the process of determination, as directed by this Court.

Under these circumstances, we direct the State Governments/Union Territories

to file affidavits, placing on record, the status as existing on 1st November, 2005 in

relation to compliance of the aforesaid direction.

This order be communicated to the State Governments/Union Territories,

through Chief Secretaries, and status report be filed within four weeks of the receipt of a copy of this order.

List these matters after six weeks.

I.A. Nos.35 and 82:

The project in question has been recommended for implementation on the basis of presentation, discussion and inspection, subject, however, to certain conditions. We accept the recommendation but making it clear that diversion would be only on fulfillment of the conditions that have been imposed and mentioned in the affidavit filed

7

by the Ministry of Environment and Forest. The applications are disposed of accordingly.

I.A. No.67:

The Central Empowered Committee (C.E.C.) [I.A. No.76], in its report dated 30th June, 2005, has recommended that the permission sought by the Krishna Valley Development Corporation for construction of minor irrigation tank involving diversion of 7.76 hectares of forest land inside Bhimashankar Wildlife Sanctuary may be rejected and the Chief Secretary of the Government of Maharashtra may be asked to fix the responsibility for undertaking the work in violation of the Forest (Conservation) Act and the orders of this Court dated 14th February, 2000, and to ensure that projects involving use of forest land should be implemented in the State only a

fter obtaining

necessary approval under the Act and if the land falls within a National Park or Wildlife

Sanctuary, only after obtaining the permission of this Court. The report also takes a

note of the submission of the Forest Department, inter alia, to the effect that the work

started and continued in spite of repeated objections raised by the Forest Department

against taking the work in violation of the Act and without seeking permission of this

Court. In that regard, various letters were placed before the C.E.C. Those letters have

been filed along with the Report of the C.E.C. The Corporation has filed its response

dated 22nd September, 2005, to the recommendation of the C.E.C. Copy of the

response/objections shall be sent to the State of Maharashtra, Forest Department of the

State of Maharashtra and the C.E.C., who may file their responses/comments to the

response/objections of the Corporation dated 22nd September, 2005, within four weeks

of the receipt of the copy of the order of this Court.

I.A. No.34 and connected applications:

The written submissions have not been filed by the applicants though copies

thereof have been supplied to Mr. Raj Panjwani, learned counsel. Let the same be filed

in this Court within one week.

List these applications in the month of January, 2006, on a non-miscellaneous day.

(T.I. Rajput)

(N. Annapurna)

(V.P.Tyagi)

Court Master

Court Master

Court Master