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W.P(C)No. 337 OF 1995

ITEM No.42

Court No. 6

SECTION PIL

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

I.A.Nos.8, 13,16,17,19-24,26-29,30-32 in W.P.(Civil) No.337/1995

CENTRE FOR ENVIR. LAW, WWF-I

Petitioner (s)

VERSUS

U O I & ORS

Respondent (s)

(For permission of transfer of land and impleadment and exemption from filing O.T. and directions/modification of order dated 13.1.2000 and office report and for recalling the order dated 17.7.1998 and modification of order dated 22.8.1997 and directions and modification of court's order dated 13.11.2000 and impleadment/directions and exemption from filing O/T and directions)

Date : 05/09/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE B.N. AGRAWAL

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

Mr. Vijay Panjwani, Adv.

For Respondent (s)

U.O.I.: Mr. A.D.N. Rao, Adv.

Mr. P. Parmeswaran, Adv.

St. of Goa: Mr. T.R. Andhyarujina, Sr. Adv.

Ms. A. Subhashini, Adv.

St. of Uttaranchal: Ms. Rachana Srivastava, Adv.

for O.N.G.C.: Mr. K.R. Sasiprabhu, Adv.

St. of J & K: Mr. Altaf H. Nayak, A.G., St. of J&K

Mr. Anis Suhrawardy, Adv.

St. of Haryana: Mr. Praveen Kumar Rai, Adv.

for Ms. Kavita Wadia, Adv.

St. of West Bengal: Ms. A. Subhashini, Adv.

St. of UP: Mr. R.C. Verma, Adv.

Mr. K.L. Janjani, Adv.

Mr. Mukesh Verma, Mr. Manish Shanker, Adv.

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

Ms. Jyoti Dutt, Adv.

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Govt. of Pondicherry: Mr. V.G. Pragasaam, Adv.

St. of Punjab:Mr. R.K. Rathore, Addl.Adv.Genl., Punjab
Mr. R.S. Suri, Adv.

St. of Meghalaya:Mr. Ranjan Mukherjee, Adv.

St. of Chhattisgarh:Mr. Prakash Srivastava, Adv.

St. of Assam:Ms. Krishna Sarma, Adv.
Ms. Asha G. Nair, Adv.
Mr. V.K. Sidharthan, Adv.
for M/s. Corporate Law Group, Adv.

St.of Nagaland:Mr. U. Hazarika, Adv.
Mr. Kamalshankar, Adv.
Ms. Sumita Hazarika, Adv.

St.of Gujarat &Ms. Hemantika Wahi, Adv.
Mizoram:Ms. Aruna Gupta, Adv.

St.of Sikkim:Mr. A.Maiarputham, Adv.
Mrs. Aruna Mathur, Adv.
for M/s. Arputham, Aruna & Co., Advs.

St.of M.P.:Mr. Sakesh Kumar, Adv.
Mr. S.K. Agnihotri, Adv.

NCT of Delhi:Mr. S.W.A. Qadri, Adv.
Mrs. Anil Katiyar, Adv.

All UTs:Mr. S.W.A. Qadri, Adv.
Mr. Deepak K. Singh, Adv.
Mr. D.S. Mahra, Adv.

For Other parties:Mr. Aruneshwar Gupta,Adv.

Mr. Jana Kalyan Das,Adv.

Mr. Rajiv Mehta.,Adv.

Mr. G. Prakash,Adv.

Mr. Sanjay R. Hegde,Adv.

Mr. Ashok Mathur,Adv.

Mr. B.B. Singh,Adv.

Mr. M. Veerappa,Adv.

Ms. A.Subhashini,Adv. (N/P)

Ms. Kamini Jaiswal,Adv.

Mr. Anil Kumar Tandale,Adv.

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For other parties:Mr. J.S. Attri,Adv.

Mr. S.V. Deshpande,Adv.

Mrs. V.D. Khanna,Adv.

Ms. Sushma Suri,Adv.

Ms. Sandhya Goswami,Adv.

Mr. Ajit Pudussery, Adv.

Mr. Vishwajit Singh, Adv.

Mr. Mukesh K. Giri, Adv.

UPON hearing counsel the Court made the following

O R D E R

Under Section 5-A of the Wild Life (Protection) Act, 1972, the Central Government was required to constitute National Board for Wild Life within three months from the date of commencement of the Wild Life (Protection) Amendment Act, 2002. The Prime Minister, as per Section 5-A, is the Chairperson of the National Board for Wild Life and the Minister in-charge of Forests and Wild Life is the Vice Chairperson. The date of the commencement of the Amendment Act is 1st April, 2003. Three months' time statutorily fixed expired on 1st July, 2003. It is unfortunate that for constitution of such a Board of which Prime Minister of the country is the Chairperson and where a statutory provision fixes a mandatory period, orders have to be passed directing the Central Government to comply with its obligation. Now, we are told that about a day or two earlier, the said Board has been constituted.

Under Section 5-B of the Act, the National Board for Wild Life is required to constitute a Standing Committee for the purpose of exercising such powers and perform such duties as may be delegated to the Committee by the National Board. Under sub-

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Section (3) of Section 5-B, the National Board is empowered to constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.

Mr.A.D.N.Rao, learned counsel, states that the first meeting of the National Board has been fixed for 15th October, 2003 and, on instructions, further states the learned counsel, it is very difficult to advance the said date. The result is that as of now, there is neither a Standing Committee nor any other committee. Meanwhile, certain urgent applications are pending on which the expert views are necessary to be obtained.

One such application is I.A.No.30/2003 filed by the State of Uttaranchal PEY Jal Nigam. That application was filed about three months back. The prayer in the application is for grant of permission to transfer the forest land as stated in para 17(a) of the application. The application, inter alia, states that the State administration has decided that the arrangements for Ardh Kumbh Mela shall be completed by 15th November, 2003. The said Ardh Kumbh Mela is due to fall in the month of January, 2004. According to the application, the work after grant of permission is likely to take four months.

Considering the urgency and the aforesaid state of affairs, we refer the above application for examination to the Central Empowered Committee. The Central Empowered Committee is requested to give its report as early as possible. We would consider the said application, on receipt of the report of the Central Empowered Committee, on 22nd September, 2003.

The report shall positively be submitted by the Committee before the next date of hearing, i.e., 22nd September, 2003.

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In regard to I.A.Nos.22 and 23, orders were earlier passed on 28th April, 2003 and again on 22nd August, 2003. By the last order, we directed the two Ministries, namely, Ministry of Petroleum and Natural Gas and Ministry of Environment and Forests, to sort out the matter and report it today. It seems that nothing has been done in that regard. Mr.Rao states that these applications would also be placed before the National Board in its meeting on 15th October, 2003.

The Indian Board for Wild Life (IBWL) had recommended that ONGC be granted permission to explore on compliance of conditions contained in that recommendation and also deposit of Rupees five crore as a condition. The condition of deposit of Rupees five crore, according to the ONGC, is onerous.

We accept the recommendation of the IBWL except the condition in regard to the amount to be deposited which we defer and will decide after the National Board examines the matter. For present, we permit the ONGC to deposit an amount of Rupees one crore and proceed with the work. The ONGC would be required to deposit the balance, if any, as directed by this Court. The amount of Rupees one crore shall be deposited in this Registry which shall be kept in a Fixed Deposit for a period of one year for the time being.

The two applications filed by the ONGC (I.A.Nos.22 & 23) and the I.A.Nos.24 and 26 filed by the State of Goa shall be listed on 7th November, 2003.

Reply to I.A.Nos.24 and 26 be filed within four weeks.All other applications shall also be listed on 7th November, 2003.

(N. Annapurna)
Court Master

(S. Krishnan)
Court Master