

T. N. Godavarman Thirumulkpad

Vs

Union of India and Others

Writ Petitions (C) No. 202 of 1995

(J. S. Verma, B. N. Kirpal JJ)

04.03.1997

ORDER

1. After hearing Mr. Harish N. Salve, the learned amicus curiae, learned Attorney General and learned counsel appearing for the States and other parties in these matters, it is clear that no substantial variation in the earlier order dated 12-12-1996 [T. N. Godavarman Thirumulkpad v. Union of India, (1997) 2 SCC 267] is required to be made as an interim measure; and that some minor variation to the extent indicated hereinafter is all that is required to be done at present.

2. We are satisfied that there is need to constitute a High-Powered Committee to oversee the strict and faithful implementation of the orders of this Court in the North-Eastern Region and for certain ancillary purposes.

Accordingly we direct as under :

(i) There shall be a Committee as under :

(a) Shri T. V. Rajeshwar, Chairman;

(b) Shri R. N. Kaul, Retd. IG of Forests - Member; and

(c) one representative nominated by the Ministry of Environment and Forests (MOEF) - Member Secretary.

Shri T. V. Rajeshwar and Shri R. N. Kaul have given their consent for the purpose.

(ii) This committee shall oversee preparation of inventory of all timber in all forms (including timber products -

(a) lying in the forest or in transit depots, and

(b) lying in mill premises).

The inventory should, wherever possible, indicate the origin and source of the timber. The Committee may for this purpose select suitable persons who would be made available by the State Government concerned at its request.

As far as possible, such inventory should be prepared within eight weeks from today.

(iii) The Committee may, if it considers appropriate, permit the use or sale of any part of the timber or timber products. Any sale shall be effected through the Forest Corporation of the State under overall supervision of the Committee.

(iv) The net sale proceeds after deduction of the transaction related costs and payment of wages to the labour and staff shall be deposited by or through the Forest Corporation/Forest Department in a designated account.

The modalities will be worked out by the Committee.

(v) The Committee may, through the amicus curiae, apply for such directions from time to time as it considers appropriate.

(iv) The MOEF will make available as far as possible within a week suitable office space and provide secretarial and all other related facilities in Delhi (including local transport and telecommunication) befitting the stature of the Committee.

The MOEF will make arrangements for and meet expenses of travel of the Committee. All arrangements for stay etc. of the Committee (outside Delhi) as may be necessary, would be the responsibility of the State Government concerned. The Assam Government will make similar office and other facilities available in Gauhati.

3. It is for the sake of convenience at this stage that the Central Government and the State Governments are being directed to make certain payments and meet all the expenses. However, the question of liability for payment of these amounts would be considered at that final hearing and suitable directions for the purpose given at that stage indicating the principle for determining the liability for making the payment.

4. It is clarified that the directions contained in the order 12-12-1996 and this order would not apply to minor forest produce, including bamboos, etc.

5. The State of Meghalaya has asserted in its affidavit that a significant quantity of timber is required for use in the State itself by the rural tribal population. It has also asserted that there is a loss of revenue to the State Government on account of restrictions placed by the order of 12-12-1996; and a large number of people of the State have been deprived of the employment. The State is directed to file an affidavit with full and complete particulars of :

(i) the quantity of timber which comes from its forest for use by the rural tribal population, the extent to which it is made available to the rural tribal population including the terms on which it is so made available;

(ii) the revenue derived by the State by way of royalty from the minerals, mines and forest areas, purchase tax on export of timber, sale value of timber drawn from the government forests and the extend and quantity of such sale and the manner of sales;

(iii) the number of wood-based industries within the State and the number of persons employed in such industry.

6. All unlicensed saw mills, veneer and plywood industries in the State of Maharashtra and the State of Uttar Pradesh are to be closed forthwith and the State Government would not remove or relax the

condition for grant of permission/licence for the opening of any such saw mill, veneer and plywood industry and it shall also not grant any fresh permission/license for this purpose. The Chief Secretary of the State will ensure strict compliance of this direction and file a compliance report within two weeks.

7. A total of 5322.97 cubic metres of timber presently held by the private parties in their stock purchased from the J&K State Forest Corporation as per Annexure D to the affidavit dated 18-2-1997 filed on behalf of the Government of J&K is permitted to be moved; and any such movement be effected after due certification, consignment-wise made by the Managing Director of the State Corporation which will include certification that the timber has come from the State Forest Corporation sources [as per para 6(a) at page 11 of the earlier order dated 12-12-1996]. The stocks of kail, chir and fir in the depots of the forest Corporation are permitted to be disposed of by the Forest Corporation in any manner which would include movement and disposal of the same even outside the State as per the requirements as indicated in the abovesaid para 6(a). All this would be done by the Forest Corporation itself.

8. The above directions are to be read along with those contained in the order dated 12-12-1986 [Under article 32 of the Constitution of India].

9. We direct that -

(1) where the lessee has not forwarded the particulars for seeking permission under the FCA, he may do so immediately;

(2) the State Government shall forward all complete pending applications within a period of 2 weeks from today to the Central Government for requisite decisions;

(3) applications received (or completed) hereafter would be forwarded within two weeks of their being so made.

(4) the Central Government shall dispose of all such applications within six weeks of their being received. Where the grant of final clearance is delayed, the Central Government may consider the grant of working permissions as per existing practice.

General Directions

10. It is made clear that the order passed by this Court in these matters, including the order dated 12-12-1996 [Under Article 32 of the Constitution of India] and the present order shall be obeyed and carried out by the Union Government as well as the State Governments, notwithstanding any order or direction passed by a court, including a High Court or Tribunal, to the contrary.

11. We further direct the Registrar General to communicate the order dated 12-12-1996 [Under Article 32 of the Constitution of India] as well as the present order to the Registrars of all the High Courts to ensure strict compliance. It is also clarified that the orders passed by this Court including the order dated 12-12-1996 (Under Article 32 of the Constitution of India) and this order will apply to all Autonomous Hill Councils in the North-Eastern States as well as the Union Territories.

12. It is made clear that all the authorities concerned would, in the meantime, continue to examine the various aspects of the problems requiring solution and try to solve these problems in collaboration with the Central Government and the State Governments. An efficacious exercise of

this kind would enable reduction of the area which may require judicial scrutiny and adjudication in these matters.