

SUPREME COURT OF INDIA

T.N. Godavarman Thirumulpad (101)

Vs

Union of India and Others

I.As Nos. 1566-68 in WP C No. 202 of 1995 with Nos. 1450-52. 1480-82, 1150, 1010, 1458, 1232, 963-64, 1352, 1337, 827, 1122, 1216, 1387, 566, 1351, 1212-13, Wp (C) No. 36 of 2003, Slps (C) Nos. 17116-17 of 2003, Ias Nos. 1434, 566, 1572, 1578, 1533-34, 548

(Y. K. Sabharwal, Arijit Pasayat and Hon'ble Justice S. H. Kapadia, JJ)

05.05.2006

JUDGMENT

DR. ARIJIT PASAYAT, J.

1.The special leave petitions are directed against the order dated 2-4-2003, whereby, as an interim measure during the pungeny of the proceedings before the Cauvery Water Disputers Tribunal (for short "the Tribunal"), the petitioners State of Kerala was directed not a proceeding with the construction and to maintain status quo. The learned counsel for the parties submit that the main matter has been argued before the Tribunal. In this view, we dispose of the special lave petitions and the issue raised therein may be considered by the Tribunal while disposing of the matter finally and making the award.

2. Taken on board.

3. Issue notice.

4. Mr. A.D.N. Rao, learned counsel, accepts notice on behalf of the Ministry of Environment and

Forests.

5. The applications seek permission for developing water sports complex at Tighra Dam, Gwalior. The Central Empowered Committee (CEC) may look into it and file its report within eight weeks.

IAs Nos. 1572 and 1578

6. Issue notice.

7. Mr. A.D.N. Rao, learned counsel, accepts notice on behalf of the Ministry of Environment and Forests.

8. The Central Empowered Committee may look into the proposal for diversion of forest land and file its report within eight weeks.

In Re, NPV Report

9. A copy of the report be supplied to Mr. A.D.N. Rao, learned counsel for the Ministry of Environment and Forests, the Central Empowered Committee and to Mr. Harish N. Salve, learned amicus curiae.

IAs Nos. 151, 6-68

10. Issue notice.

11. Mr. A.D.N. Rao, learned counsel, accepts notice on behalf of the Ministry of Environment and Forests.

12. The Central Empowered Committee may look into it and file its report.

IAs Nos. 1450-52

13. Issue notice.

14. Mr. A.D.N. Rao, learned counsel, accepts notice on behalf of the Ministry of Environment and

Forests.

IAs Nos. 1480-82

15. Report of the Central Empowered Committee is awaited.

16. List the matter in July 2006. IA No. 1150

17. A copy of the reports and documents filed by the Indian Institute of Technology be supplied to the counsel for the parties and learned amicus curiae.

18. List the matter on 10-5-2006 at 10.30 a.m.

IA No. 1232

19. The seized timber shall be sold under the supervision of HPC by inviting sealed tenders after giving due publicity and the sale proceeds for the time being shall be kept by HPC, subject to further orders that may be passed by this Court.

20. In the meanwhile, steps be taken for bringing on record the legal representatives of Mr. Indrasen.

IAs Nos. 1387 and 1434

21. The Ministry of Environment and Forests may file its response within eight weeks. The Central Empowered Committee may also examine it and file its report within the same period. In the meanwhile, the Ministry of Defence/army authorities are permitted to use firing- range/training areas, subject to the further orders that the Court may pass in regard to the payment of NPV, for the present without payment of NPV.

IA No. 1351

22. The interlocutory application is disposed of in terms of order already passed on 16-9-2005 (T.N. Godavarman Thirumulpad (57) v. Union of India, 2006 (5) SCC 25.

Writ Petition (C) No. 36 of 2003

23. Issue notice to the respondents.

24. A copy of the petition shall also be given to the Central Empowered Committee which shall file its report within eight weeks.

IA No. 1337 with IAs Nos. 827, 1122, 1216, 1473 in Writ Petition (C) No. 202 of 1995

25. We have considered the report (IA No. 1473) of the Central Empowered Committee dated 24-1-2006.

26. In terms of the order dated 29-10-2002 (T.N. Godavarman Thirumulpad (57) v.

Union of India, IA No. 566 in WP (C) No. 202 of 1995 dated 29-10-2002), it was directed that a compensatory afforestation fund shall be created in which all monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, catchment area treatment plan funds, etc. shall be deposited. The rules, procedure and composition of the body for management of the compensatory afforestation fund shall be finalised by the Ministry of Environment and Forests with the concurrence of the Central Empowered Committee within one month. The position till date is that CAMPA has still not become operational, though it appears that the Planning Commission and the Ministry of Finance have conveyed their suggestions and no-objection to the matter of operation of CAMPA. We have seen the position as disclosed by the Principal Director of Audit in his communication dated 4-5-2006 addressed to the Member Secretary, Central Empowered Committee and it appears therefrom that test checks show diversion of larger amounts.

27. Having regard to the facts and circumstances of the case, we accept the suggestion, as contained in the report of the Central Empowered Committee, for constitution of an ad hoc body till CAMPA becomes operational. The ad hoc body would comprise the Director General Forests and Special Secretary, Ministry of Environment and Forests as Chairman, the Inspector General of Forests (FC), a representative of the Comptroller and Auditor General and a nominee of the Chairman of the Central Empowered Committee as members. All the State Government/Union Territories shall account for and pay the amount collected with effect from 30-10-2002 in conformity with the order dated 29-11-2002 (2) to the said ad hoc body. In short, we accept suggestions (a) and (b) in the report, which are as under:

"(a) ensure that all the monies recovered on behalf of 'CAMPA' and which are presently lying with the various officials of the State Government are transferred to the bank account(s) to be operated by this body;

(b) Get audited all the monies received from the user agencies on behalf of 'CAMPA' and the

income earned thereon by the various State Government officials. The auditors may be appointed by GCAG. The auditor may also examine whether proper financial procedure has been followed in investigate the funds;'

28. The Chief Secretaries of the State Governments/Administrators of Union Territories are directed to cooperate with the ad hoc body as well as with he Comptroller and Auditor General. For the present, the administrative expenditure will be borne by the Central Empowered Committee.

29. The affidavit filed by the Ministry of Environment and Forests is taken on record.

30. List the matter in August 2006.