

Deepak Kumar

v.

State of Haryana & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN HON'BLE MR. JUSTICE  
CHANDRAMAULI KR. PRASAD

Interlocutory Application No. 12-13, 14-15, 16-17 & 18-19 In Slp(C) No. 729-731 Of 2011, Slp(C) No. Cc 16157 Of 2011, Slp(C) No. Cc 18235 Of 2011, 302. Interlocutory Application No. 1433 & 1477 In W.P.(C) No. 202 Of 1995, 303. Interlocutory Application No. 1672 In W.P.(C) No. 202 Of 1995, 304. Ia No. 2588-2589 In W.P.(C) No. 202 Of 1995, 305. Interlocutory Application No. 2590-2591 In W.P.(C) No. 202/1995, 306. Interlocutory Application No. 3277-3280 In W.P.(C) No. 202 Of 1995, 307. Interlocutory Application No. 2414-2416 & 3285 In W.P.(C) No. 202 Of 1995, 308. Interlocutory Application No. 3336-3337 | 23-01-2012

Chandramauli Kr. Prasad, J.

MM-2: SLP(C)...CC No.1663/2012 and SLP(C)No.2666/2012:

1. List on 30.1.2012.

301(PH) I.A. Nos. 12-13, 14-15, 16-17 & 18-1 IN SLP(C)No.19628-19629/2009:

2. List on 30.1.2012.

302. I.A. Nos. 1433 & 1477 IN W.P.(C) No.202/1995:

3. Heard learned counsel for the parties.

4. Order reserved.

303. I.A.NO. 1672 IN W.P.(C) No.202/1995:

5. Four weeks' time is granted to the State of Himachal Pradesh to file the Counter.

6. Post after four weeks.

304-305. IA Nos. 2588-2589 and I.A. Nos. 2590-2591 in W.P.(C)No.202/1995:

7. Await the Report of Central Empowered Committee (CEC).

8. Post after four weeks.

306. I.A. Nos. 3277-3280 IN W.P.(C)No.202/1995:

9. Learned counsel for Petitioner is directed to furnish copy of the Application to the State of Chhattisgarh to enable it to file its response.

10. Post after three weeks.

307. I.A. Nos. 2414-2416 & 3285 IN W.P.(C)No.202/1995:

11. Applicant seeks a direction to Respondent Nos. 1 and 2 to grant exemption, from payment of Net Present Value (NPV) in favour of the Applicant Corporation and also for other consequential reliefs.

12. We have perused the Recommendations of the Central Empowered Committee (CEC) in its Report dated 17/09/2009.

13. Para 6 of the said Report reads as follows :

"6. On examination of the relevant documents it is seen that the formal approval under the Forest (Conservation) Act for the non-forestry use of 2582.90 hectares of the forest land for the Tehri Dam project was accorded by the MoEF on 4.6.1987 i.e. Almost 15 years prior to this Hon'ble Court's orders dated 30.10.2002. Pursuant to the above order of this Hon'ble Court the NPV is payable in all cases where formal approval under the FC Act have been accorded after 30.10.2002. The MoEF's subsequent orders dated 09.02.1988 and 25.06.2004 merely modify the stipulated condition on which the formal approval under the FC Act has been accorded and are not fresh approvals. No additional forest land has been diverted. The Supreme Court by order dated 15.9.2006 (After Annexure A-3 of the IA) has clarified that the NPV is payable in all cases where the formal approvals for the non forestry use of the forest land have been accorded under the FC Act after 30.10.2002 even if the approval in principle were accorded prior to 30.10.2002. In the present case, no NPV is payable as the formal approval for the diversion of the forest land has been accorded by the MoEF much before 30.10.2002. In fact, it was accorded almost 15 years earlier. The demand of ₹237.63 crores by the District Magistrate, Tehri Garhwal towards the NPV payment for the diversion of the forest land for the Tehri Dam project is therefore, not justified and needs to be set aside."

14. Report of CEC is accepted and the demand for NPV stands set aside. We order accordingly.

308. I.A. Nos. 3336-3337 IN W.P.(C)No.202/1995:

15. Post the matter on Monday, the 30th January, 2012.

309. IA NO.3305 IN 1157 With 1157, 2085, 2350 IN W.P.(C)No.202/1995:

16. State of Uttarakhand is directed to file its response to the present Application in I.A. No.3305 of 2011 within a period of four weeks. Post after four weeks.

310. I.A. Nos. 2, 9, 11-13, 16-20, 23, 24, 28, 29, 33-34/2005 AND 37/201 IN W.P.(C)No.171/1996 With Conmt. Pet. (Civil) No.290- 292/1998:

17. Four weeks' time is granted to the State of Jammu & Kashmir to make available necessary data to the Central Empowered Committee (CEC).

18. Post the matter thereafter.

311. I.A. Nos. 3302-3304 IN W.C.(C) NO.202/1995:

19. Two weeks' time is granted to the learned counsel for State of Uttar Pradesh to file their response.

20 Post after three weeks.

312.IA Nos. 3311-3313 IN W.P.(C) No.202/1995:

21. Matter is adjourned at the request of learned counsel for Applicants.

313.IA NO.335 IN IA NO.316 IN W.P.(C) No.13029/1985:

22. The word 'Rs' is deleted from the order dated 11.11.2011 in I.A. No.333 in I.A. No.316 in WP(C) No.13029/1985 & in connected I.A.s, since it was an inadvertent mistake. We order accordingly.

23. Having heard the learned counsel for the parties and after going through the record, we find no reasons to modify the order dated 11.11.2011 (as corrected).

24. Interlocutory Application No.335 is dismissed accordingly.

315. SLP(C) .....CC NO.19672/2011:

25. List the matter along with the connected matters. In the meanwhile, pleadings be completed by the parties.

26. State of Tamil Nadu is directed to file their Counter Affidavit, if not already filed and give copies to the Petitioners in all the Special Leave Petitions. In the meanwhile, there will be a stay of dispossession and demolition of buildings for a period of two months.

27. Learned counsel appearing for MoEF submitted that they will file their response by the end of February, 2012.

28. Permission granted.

29. List all the matters thereafter.

316. SLP(C) NO.1215/2003:

30. Three weeks' time is granted. List the matter thereafter.

332. I.A. Nos.7-8 and 9-10 in SLP(C)No.17313-17314/2011:

31. IA Nos.7-8 and 9-10/2012, would stand dismissed. If the applicants are so advised, they may move the Madras High Court. List the SLPs with the connected matters.

SLP(C)...CC 15351/2011:

32. Permission to file SLP is granted.

33. Delay condoned.

34. Issue notice. Dasti, in addition, is permitted.

35. Petitioner shall give a copy of the special leave petition to the counsel appearing for the State of Tamil Nadu, who has to file counter affidavit within four weeks.

36. In the meanwhile, there shall be stay of dispossession and demolition of the buildings of the petitioner.

SLP(C)No.25010/2011:

37. Application for deletion of proforma respondents is allowed at the risk of the petitioner.

317(PH). I.A. NO.100 IN W.P.(C) No.337/1995:

38. Mr. Raj Panjwani, learned senior counsel appearing for the petitioner commenced his arguments at 3.25 P.M. and was on his legs till the Court rose for the day.

39. List on 30.1.2012.

40. Rest of the matters, not taken up.