

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

RECORD OF PROCEEDINGS

I.A.No.981 in I.A.458 in W.P.(Civil) No.202 of 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(For recommendation of CEC in I.A.No.458)

A N D

I.A.No.994 in I.A.548 in in W.P.(Civil) No.202 of 1995

(For clarification of order dt.14.2.2000)

I.A.Nos.1005-1006 in I.A.945 in I.A.883 in W.P.(Civil) No.202 of 1995

(For recalling of order dt.25.8.2003 and c/delay)

I.A.Nos.1021-1022 in W.P.(Civil) No.202 of 1995

(For direction and intervention)

I.A.Nos.1030-1031 in I.A. 921 in IA 813-815 in W.P.(Civil) No.202 of 1995

(For modificatin/clarification of order dt.18.8.03 and exemption
from filing O.T.)

I.A.No.941 in IA Nos.754-755 with IAs.777 & 1036 in W.P.(Civil) No.202/95

(Recommendation of CEC in I.A.Nos.754-755)

I.A.No.1131 in I.As.754-755 in W.P.(Civil) No.202 of 1995

(For impleadment and direction)

I.A.Nos.1133, 1138-1146, 1148, 1184 in I.A.Nos.754-755

in W.P.(Civil) No.202 of 1995

(For impleadment and direction)

I.A.Nos.1190-1191 in I.A.Nos.754-755 in W.P.(Civil) No.202 of 1995

(For modification/vacation of the interim order)

I.A.Nos.956 & 1121 in W.P.(Civil) No.202 of 1995

(For impleadment/direction and amendment of I.A.No.956)

I.A.No.960 in W.P.(Civil) No.202 of 1995

(For impleadment)

I.A.Nos.963-964 in W.P.(Civil) No.202 of 1995

(For direction & impleadment)

I.A.Nos.969-970 in I.A.No.729 in I.A.No.424 in WP (C) 202/1995

(For direction and exemption from filing O.T.)

Date: 29/10/2004 These Petitions were called on for hearing today.

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CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr. Harish N. Salve, Sr.Adv. (A.C.) (NP)

Mr. U.U. Lalit, Sr.Adv. (A.C.)

Mr. Sidhartha Chaudhary, Adv. (A.C.)

For Applicants:

in IA 994:

Mr. T.L.V.Iyer, Sr.Adv.

Mr.K.R. Sasiprabhu, Adv.

in IAs.1005-06:

Mr. Sandeep Sethi, Sr.Adv.

Mr. Manish Kumar, Adv.

Mr. Shri Prakash Sinha, Adv.

Mr. Rahul Kishan, Adv.

Mr. R.K. Sharma, Adv.

in IAs.1021-22: Mr. H.L. Agrawal, Sr.Adv.
Mr. K.K. Gupta, Adv.

in IAs.1030-31: Mr. A.P. Sahay, Adv.
Mr. Kuldip Singh, Adv.

in IA 777: Mr. J.R. Das, Adv.
Mr. Swetaketu Mishra, Adv.
Ms. Moushumi Gahlot, Adv.

in IAs.956, 1121: Mr. S. Ravi Shankar, Adv. (NP)

in IA 960: Mr. K.S. Rana, Adv. (NP)

in IAs.963-864: Mr. Sreepal Singh, Adv.

in IAs.969-970: Mr. Prakash Srivastava, Adv. (NP)

in IAs 754-755: Mr. Harish Chander, Sr.Adv.
Mr. Naresh Kumar Sharma, Adv.
Mr. Swetaketu Mishra, Adv.
Ms. Moushumi Gahlot, Adv.
Mr. Naresh Sahoo, Adv.

in I.A.1036: Mr. V.S. Raju, Adv.
Mr. T.N. Rao, Adv.

in IAs.1190-91: Mr. Shibashish Misra, Adv.

For MOEF: Mr. A.D.N. Rao, Adv.

For St.of T.N. in
IA 1121: Mrs. Sangeeta Kumar, Adv.

For St.of Maharashtra:
Mr. Ravindra K. Adsure, Adv.
Mr. Mukesh K. Giri, Adv.

St. of UP: Mr. S.W.A. Qadri, Adv.
Mr. Pramod Dayal, Adv.

M/o Defence: Mr. S.W.A. Qadri, Adv.
Mrs. Anil Katiyar, Adv.

St. of Tripura: Mr. Gopal Singh, Adv.
Mr. Anurag Sharma, Adv.
Mr. Rithuraj Biswas, Adv.

St. of Manipur: Mr. KH. Nobin Singh, Adv.

St. of Rajasthan: Mr. Aruneshwar Gupta, AAG.

St. of Punjab: Mr. R.K. Rathore, AAG.

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

Ranchi Assn.: Mr. Bhavanishankar V. Gadnis, Adv.
Mrs. Sunita B. Rao, Adv.
Mr. Nitin Popli, Adv.

St. of Orissa: Mr. Raj Kumar Mehta, Adv.
Mr. J.S. Attri, Adv.
Mr. Vijay Panjwani, Adv. (NP)

UPON hearing counsel the Court made the following

O R D E R

I.A.No.1159:

Taken on Board.

Issue notice to respondents.

Copy of the application has also been given to learned amicus curiae who may

also examine the matter.

Adjourned, to be listed on the next date when this Bench assembles.

I.A.No.981 in IA 458:

Having heard learned counsel, in respect of order dated 15th January, 1998,

we accept the recommendation of CEC dated 29th August, 2003 which is in the following terms:

"The CEC, therefore, recommends that I.A.No.458 may be disposed off with the clarification that the Custom Department and the Border Security Force are at liberty to take appropriate action under the

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provisions of the Custom Act, 1962 for confiscation and disposal of the timber and timber products and recovery of fines/penalties in all the States/UTs except North-Eastern States (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura). However, such confiscated timber and timber products should be disposed off through open auction/sealed tender through the respective State Forest Department and the sale proceeds, after deducting the expenses, should be deposited with the concerned Central Government Department."

In addition, we direct that before auction/tender, reserved price must be fixed.

The I.As. are disposed of accordingly.

I.A.No.994 in IA 548:

List the I.A. along with I.A.No.548.

I.A.Nos.1005-1006 in IA 945 in IA 883:

The I.As. are dismissed.

I.A.Nos.1021-1022:

These IAs. are dismissed as not pressed.

I.A.Nos.1030-1031 in IA 921 in IAs.813-815:

We have heard learned counsel and perused the order dated 18th August,

2003 as also the resolution of the Government of Bihar, Department of Environment and

Forest, dated 13th November, 2003. Sub-clause (b) of Clause (6) of Paragraph 4(B) of

Resolution No.418-E, dated 8th July, 2002 reads as under:

"(b) The seniority of sawmills falling under Section 5(b) of the Bihar Saw mills (Regulation) Act, 1990 shall be determined on the basis of their date of registration in the Industries Department. Under this rule only those saw mills shall come who were operational prior to coming into force of the Act and who have applied for license within 30 days from the date of implementation of the Act i.e. 1.5.90 and license has been granted to them."

It is implicit that the aforesaid date would, in fact, be the date when the Rules came into operation as the application for grant of license could be filed within thirty days therefrom. This would be kept in view while determining seniority in terms of the order dated 18th August, 2003.

The I.As. are disposed of accordingly.

I.A.No.941 in I.As. 754-755 & I.A.No.777:

A copy of the affidavit filed by the State of Orissa shall be handed over to

learned Amicus Curiae who shall have the same examined by CEC and file response

thereto. The parties are permitted to give their suggestions, if any, in respect of the area

beyond 10 Kms. from the forest to the State Government as also to CEC. Those

suggestions shall also be examined and necessary responses filed.

The I.As. are adjourned.

I.A.Nos.1090 & 1091:

Let the CEC send its recommendation in respect of the prayer made in the

application.

I.A.No.1036:

The CEC shall examine this application and file its recommendation.

I.As.1131-1133, 1138-1146, 1148, 1184:

List along with I.A.No.941 in I.As.754-755.

I.A.Nos.956, 1121 & 960:

None appears for the applicants. The I.As. are dismissed.

I.A.Nos.963-964:

Learned counsel seeks leave to withdraw the applications. However,

Mr.Lalit, learned amicus curiae, submits that there is something serious about which

HPC would like to place a report before this Court. Let that report be filed within four weeks.

List the I.As. thereafter.

I.A.Nos.969-970:

en These applications be taken up along with I.A.No.1126 on the next date wh

this Bench assembles.

(N. Annapurna)

Court Master

(V.P. Tyagi)

Court Master