ITEM NO.301 & 302 COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.941 IN I.A.No.754-755 WITH I.A.No.777, 1131-1133, 1138-1146, 1148, 1184, 1272, 1361, 1579-1580 in WP(C)No.202/1995

T.N.GODAVARMAN THIRUMALPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)
(For directions)

WITH
W.P.(C) No. 356/2007
(With appln. for stay)

AND
I.A.Nos.1362-1363 IN 966 & 1012 in W.P.(C)NO.202/1995
(for modification & direction & interim stay)
AND
I.A.NOs.1868, 2091, 2225-2227, 2380 & 2568 in W.P.(C)NO.202/1995
(For direction & intervention on B/O Lafonge Union Mining P.Ltd. and vacation of interim order Dt. 23.11.07 and seeking permission to bring addl. facts and documents on record)
AND
I.A.NOS.2616-2617 IN 1620 in W.P.(C)NO.202/1995
(For directions & stay)

AND I.A.No.2618 in
I.A.Nos.2245-2246 in W.P.(C)NO.202/1995
(For restoration of I.A. 2245-2246)
AND
I.A.No.2550 in W.P.(C)NO.202/1995
(For permission)
AND
I.A.No.2569 W.P.(C)NO.202/1995
(For permission)
AND
I.A.No.2579 in W.P.(C)NO.202/1995
(for recommendation of CEC in appln. no.858)

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AND
I.A.No. 2580 in W.P.(C)NO.202/1995
(for recommendation of CEC in appln. no.1041)
AND
I.A.NO.36 IN W.P.(C) NO.171/1996
(For directions)
AND
I.A.No. 2644 in I.A.NO.2386 in W.P.(C)NO.202/1995
(For early hearing)
I.A.No. 2143 in W.P.(C)NO.202/1995
(Report of CEC regarding the non utilization of funds)

Date: 10/07/2009 These Applns./Petitions were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE AFTAB ALAM

Mr. Harish N. Salve, Sr.Adv. (A.C.)
Mr. Uday U. Lalit, Sr.Adv. (A.C.) (N.P.)
Mr. Siddhartha Chowdhury,Adv. (A.C.)
Mr. A.D.N. Rao, Adv. (A.C.)

For Petitioner(s)/
Applicant(s)/
Respondent(s) :

Mr. P.K. Manohar, Adv.

Mr. G.E. Vahanwati, AG
Mr.Haris Beeran, Adv.

Mr. Raj Kumar Mehta, Adv.

Mr. J.R. Das, Adv.

Mr. Vijay Panjwani, Adv.

WP 356/07,IA No. Mr. Mukul Rohatgi, Sr. Adv.
1579080 Mr. Jitendra Mahapatra, Adv.
Ms. Sweta Verma, Adv.

For Mr. Ajay Sharma, Adv.

Mr. Naresh Kr. Sharma, Adv.

IA 941 Mr. V.S. Raju, Adv.
Mr. T.N. Rao, Adv.

IA 754-55 Mr. Janaranjan Das, Adv.
Mr. Shwetaketu Mishra, Adv.
Mr. P.P. Nayak, Adv.

Respondent-in-person

Mr. Jana Kalyan Das, Adv.

IA 1362-63 Mr. Altaf Ahmed, Sr. Adv.
Mr. Manish Goswami, Adv.
Mr. Anil Srivastav, Adv.
For M/s. Map & Co., Advs.

IA 1362 in IA 966 Mr. Altaf Ahmad, Sr. Adv.
Mr. Anil Shrivastav, Adv.

Mr. V.K. Verma, Adv.

IA 1362 Mr. G.E. Vahanavati, AG
Mr. Ajit Pudussery, Adv.
Mr. K. Vijayan, Adv.

Mr. Somiran Sharma, Adv.

I.A.1868 Dr. A.M. Singhvi, Sr. Adv.
Mr. Mukul Rohatgi, Sr. Adv
Mr. Sanjeev K. Kapoor, Adv.
Mr. Vishal Gupta, Adv.
Mr. Avinash Menon, Adv.
For M/s. Khaitan & Co., Advs.

I.A.1868 Mr. Ranjan Mukherjee, Adv.
Mr. S.C. Ghosh, Adv.

Mr. Santanu Bhowmick, Adv.

Mr. Jitendra Kumar, Adv.

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IA 2550 Mr. Ramji Srinivasan, Sr. Adv.
Mr. Mukesh Kumar, Adv.
For M/s. M.V. Kiwi & Associates, Advs.

IA 36 Mr. Anis Suhrawardy, Adv.
Mr. Syed Mehdi Imam, Adv.

Ms. Sushma Suri, Adv.

Ms. Purnima Bhat Kak, Adv.

IA 2579 Mr. S. Wasim A. Qadri, Adv.
For Mr. S.N. Terdal, Adv.

Mr. B.K. Prasad, Adv.

Mrs. Hemantika Wahi, Adv.
Ms. Jesal Wahi, Adv.

Mr. Anil Kr. Jha, Adv.

IA 2617 in 1620 Mr. Bhavanishankar V. Gadnis, Adv.
Ranchi Assn. & IA For Mrs. B. Sunia Rao, Adv.
2580 GSPCB & Dir.
of Environment

State of Bihar Mr. Manish Kumar, Adv.
For Mr. Gopal Singh, Adv.

State of Tripura Mr. Rituraj Biswas, Adv.
For Mr. Gopal Singh, Adv.

Mr. Kuldip Singh, Adv.

Mr. D.S. Mahra, Adv.

State of Goa Ms. A. Subhashini, Adv. State of Nagaland
Mr. Edward Belho, Adv.
Mr. Rituraj Biswas, Adv.
Mr. P. Athuimei R. Naga, Adv.

UPON hearing counsel the Court made the following
ORDER

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I.A.No. 2143 in W.P.(C)NO.202/1995

Pursuant to a series of Orders passed by this Court for Afforestation purpose, various agencies had deposited amounts by way of Net Present Value (NPV) when the forest area were utilized for non-forest purposes. This amount is lying with the ad-hoc CAMPA. The MoEF, the amicus curiae and the CEC have discussed the matter and they have come up with a scheme as to how to utilize the deposited amount for the purpose of Afforestation. The CEC has filed a Report framing a scheme and the same has been placed before this Court for consideration. We have examined the scheme and accepted the following

recommendations:

A) The guidelines and the structure of the State CAMPA as prepared by the MoEF may be notified/implemented. All previous orders passed by this Court regarding this would stand modified to the extent necessary for implementation of the present proposal.

B) Substantial amount of funds have been received by the Ad-hoc CAMPA and sudden release and utilization of this large sum all at one time may not be appropriate and may lead to its improper use without any effective control on expenditure. This Court considers it appropriate to permit the Ad-hoc CAMPA to release, for the time being, the sum of about Rs.1000 crore per year, for the next 5 years, in proportion of 10% of the principal amount pertaining to the respective State/UT as per the conditions given below:

(i) the details of the bank account opened by the State Executive Committee (in Nationalized Bank) are intimated to the Ad-hoc CAMPA;

(ii) the amount towards the NPV and the protected area may be released after the schemes have been reviewed by the State Level Executive committee and the Annual Plan of Operation is approved by the

Steering Committee;

(iii) the amount towards the CA, Additional CA, PCA and the Catchment Area Treatment Plan may be released in the respective bank accounts of the States/UTs immediately for taking up site specific works already approved by the MoEF while granting prior approval under the Forest (Conservation) Act, 1980.

(C) An amount upto 5% of the amount released to the State CAMPA may also be released and utilized by the National CAMPA Advisory Council, for monitoring and evaluation and for the implementation of the various schemes as given in para 19 of the Guidelines on the State CAMPA. It is left to the discretion of the National CAMPA Advisory Council whether it wants to spend money directly or through the Ad hoc CAMPA.

(D) The recommendations for the release of the additional funds, if any, will be made in due course from time to time after seeing the progress made by the State

Level CAMPA and the effectiveness of the accounting, monitoring and evaluation systems.

(E) The State Accountant General shall carry out the audit of the expenditure done out of State CAMPA funds every year on annual basis.

(F) The State Level Executive Committee shall evolve an appropriate and effective accounting process for maintenance of accounts, returns and for audit.

(G) The interest received by the State CAMPA on the amounts placed at their disposal by the Ad hoc CAMPA may be used by it for administrative expenditure.

(H) Till an alternative system is put in place (after obtaining permission from this Court) the money towards CA, NPV and Protected Areas (National Parks, Wildlife Sanctuaries) shall continue to be deposited in the Ad hoc CAMPA and its release will continue to be made as per the existing orders of this Court.

While carrying out the work of utilizing these funds the broad guidelines adopted by the NREGA may be followed and as far as possible work may be allotted mostly to rural unemployed people, maintaining the minimum wages level.

The CEC may file status reports as regards implementation of the scheme every six months.

I.A.No.941 IN I.A.No.754-755 WITH I.A.No.777, 1131-1133, 1138-1146, 1148, 1184, 1272, 1361, 1579-1580 in WP(C)No.202/1995
WITH
W.P.(C) No. 356/2007

These matters relate to saw mills in the State of Orissa. This Court had earlier directed that there should be no saw mills within 10 kilometers from the boundary of the forest area. Many of the saw mills in the State of Orissa were closed down. The applicants in I.A.Nos.1579 and 1580 also closed down their saw mills. We are told that some of the saw mills had obtained interim orders from the High Court but as those are contrary to the direction given by this Court, all those saw mills must also be closed down immediately.

We are told that the Orissa Forest Corpoation has its own saw mills and these mills are given on lease to private parties. Such practices shall be stopped forthwith.

The State of Orissa to file a fresh affidavit to this effect within a period of four we eks.

The State shall arrange to have an industrial estate and take urgent steps to this effect and shall also take steps to see that there shall be appropriate amendment to the Saw Mills Rules of 1991. It shall file an affidavit to this effect.

List on 21.8.2009.

I.A.No.1362-63 in 966 & 1012 in W.P.(C) No.202/1995

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By these interim applications, the applicant seeks modification of this Court's Order dated 19.4.2004 passed in I.A.No.966 and 1012. The matter relates to the construction of the Lower Subansiri Hydro Electric Project by NHPC. The CEC has made some recommendations and subject to these recommendations the work has to be completed in the entire area of Lower Subansiri Project which will be declared as National Park/Sanctuary. This is accepted and an affidavit to this effect is filed by the Deputy Inspector General (Wildlife), Government of India wherein it is stated that any proposal in the upper stream of Subhansri river would be considered independently on its own merit by the Standing committee as and when submitted by the proponents and the State Government would declare 168 sq. kms of Reserve Forest as Sanctuary and make serious efforts to bring an additional area of 332 sq km reserved forests under the category of Conservation Reserve in consultation with MoEF. This suggestion is acceptable to the State Government and NHPC and Subject to the following conditions the I.As. are disposed of:

i) approval under the F.C. Act for the project has been granted inter alia on the condition that the entire area upstream of the Lower Subansiri Project will be declared as National Park/Sanctuary;

ii) the Standing Committee of the IBWL has cleared the project on the condition that the reserve forest area in the catchment of the project will be declared as National Park/Sanctuary;

iii) the conditions imposed by this Court are identical to the conditions on which the project has been cleared under the FC Act and by the IBWL. These conditions were known to the State of Arunachal Pradesh and a compliance report was also sent by them;

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iv) This Court's order is a consent order which reiterates the conditions already imposed by the MoEF and to which applicant State had already agreed to comply with.

This is in continuation of the earlier order passed by this Court.

I.A.NOs.1868, 2091, 2225-2227, 2380 & 2568 in W.P.(C)NO.202/1995

List on 4.9.2009.

I.A.NOS.2616-2617 IN 1620 & I.A.2618 in 2245-2246
in W.P.(C)NO.202/1995

Adjourned.

I.A.No.36 in W.P.(C)NO.171/1996

No orders. I.A.No.36 is disposed of.

I.A.Nos.2550 & 2569 in W.P.(C)NO.202/1995

List on 21.8.2009.

The CEC to file its report in the meantime.

I.A.No.2579 in W.P.(C)NO.202/1995

Permission is sought for construction of fencing and a patrol road along the Indo-Bangladesh Border in Dampa Tiger Reserve, Mizoram. The CEC has examined the feasibility and has suggested certain recommendations and also directed that the NPV be collected from the concerned agency. As the project is for governmental purpose, the NPV will be charged at the concessional rates. Subject to payment of NPV and subject to the following conditions imposed by CEC, the project is cleared:

i) for the use of 69.26 ha. of forest land approval under the FC Act will be obtained;

ii) NPV will be deposited as per the rates applicable for the use of forest/ non-forest land falling within the National Park/Wildlife Sanctuary;

iii) the mitigative measures and the other conditions including the construction of animal corridors on which the project has been cleared by the Mizoram Forest Deparment will be strictly followed;

iv) the conditions imposed by the Chief Wildlife Warden will be strictly complied with;

v) the clearance from the Standing Committee of the National Board for Wildlife will be obtained; and

vi) no stone quarrying and dumping of malba will be carried out inside the Dampa Tiger Reserve or any forest area falling outside it.

Subject to fulfilling of the above conditions, the I.A. is disposed of accordingly.

I.A.No.2580 in W.P.(C)NO.202/1995

CEC has filed its Report. The State of Goa seeks time to file a response to the Report. Three weeks time is granted for the same. List on 21.8.2009.

I.A.No.2644 in I.A.No.2386 in W.P.(C)NO.202/1995

List I.A.No.2386 on 28.8.2009. I.A.no.2644 is disposed of accordingly.

(R.K. Dhawan)
Court Master

(Madhu Saxena)
Court Master

ITEM NO.MM-G COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.2643 in WP(C)No.202/1995

T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)

Date: 10/07/2009 These Appln./Petition was mentioned today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE AFTAB ALAM

Mr. Harish N. Salve, Sr.Adv. (A.C.)
Mr. Uday U. Lalit, Sr.Adv. (A.C.) (N.P.)
Mr. Siddhartha Chowdhury,Adv. (A.C.)
Mr. A.D.N. Rao, Adv. (A.C.)

For Petitioner(s)/ applicant(s) Ms. Rachna Srivastava, Adv.

UPON hearing counsel the Court made the following
ORDER

List on 31.7.2009.

(R.K. Dhawan)

(Madhu Saxena)

Court Master Court Master
(Mentioned slip enclosed)

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ITEM NO.MM-H COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.991 in WP(C)No.202/1995

T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)

Date: 10/07/2009 These Appln./Petition was mentioned today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE AFTAB ALAM

Mr. Harish N. Salve, Sr.Adv. (A.C.)
Mr. Uday U. Lalit, Sr.Adv. (A.C.) (N.P.)
Mr. Siddhartha Chowdhury,Adv. (A.C.)
Mr. A.D.N. Rao, Adv. (A.C.)

For Petitioner(s)/ applicant(s) Ms. Abha R. Sharma, Adv.

UPON hearing counsel the Court made the following
ORDER

List on 7.8.2009 along with connected I.As.

(R.K. Dhawan) (Madhu Saxena)

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Court Master Court Master
(Mentioned slip enclosed)