

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
ORIGINAL SUIT NO.1 OF 2017

State of OdishaPlaintiff

Versus

State of Chhattisgarh & Ors. . . .Defendants

O R D E R

This suit has been filed by the plaintiff - State of Odisha seeking the following reliefs *inter alia* by way of injunction against the contesting defendant no.1 - State of Chhattisgarh :

(a) Grant an injunction restraining Defendant No.1, its servants and agents from continuing with the construction and operation of the six ongoing industrial barrages namely Samoda, Seorinarayan, Basantpur, Mirouni, Saradiha and Kalma, pending constitution of the Tribunal as sought in the complaint dated 21.11.2016 filed by the Plaintiff for resolution of the water disputes in respect of waters of the Mahanadi Basin;

(b) Grant an injunction restraining Defendant No.1, its servants and agents from continuing with the construction and operation of seven ongoing projects for utilization of 2.95 MAF of

water annually viz., Kelo, Arpa-Bhaisajhar Barrage, Sondhur, Rajiv Samodanisda Diversion Project, Phase-II, Mongra Barrage, Ph-II Sukhanalla barrage and Ghumariya Nalla Barrage, pending constitution of the Tribunal as sought in the complaint dated 21.11.2016 filed by the Plaintiff for resolution of the water disputes in respect of waters of the Mahanadi Basin;

(c) Grant an injunction restraining Defendant No.1, its servants and agents from taking up any projects against the category of future projects mentioned in the letter dated 27.08.2016 of the State of Chhattisgarh in ANNEXURE P-1, pending constitution of the Tribunal as sought in the complaint dated 21.11.2016 filed by the Plaintiff for resolution of the water disputes in respect of waters of the Mahanadi Basin.

Union of India is defendant no.2 and the States of Madhya Pradesh, Maharashtra and Jharkhand are proforma defendant nos.3, 4 and 5 respectively, in the instant Suit.

Having regard to the provisions of the Inter-State River Water Disputes Act, 1956 (for short, the 'Act'), a submission was made before us that it would be appropriate to refer the matter to a Water Disputes Tribunal under the said Act. We were then informed that such a Tribunal has not been constituted so far. From time to time, adjournments were sought in the matter on behalf of Defendant No.2 - Union of India to report the

stage at which the matter pertaining to the constitution of Water Disputes Tribunal, rests. We find that no such Tribunal is constituted till date by the Central Government.

Mr. Atmaram N.S. Nadkarni, learned Additional Solicitor General appearing for Defendant No.2 - Union of India, submits that the Water Disputes Tribunal could not be constituted because one of the disputing States did not come forward to resolve the disputes by negotiations.

Therefore, according to Mr. Nadkarni, learned Additional Solicitor General appearing for Defendant No.2, the Central Government has not come to the conclusion that the dispute cannot be settled by negotiations, as contemplated by Section 4 of the Act.

Mr. Mukul Rohatgi, learned Senior Counsel appearing for the plaintiff, has pointed out a statement made by the Minister of State for Water Resources, River Development and Ganga Rejuvenation, on the floor of the Rajya Sabha, Parliament of India, to the following effect:

"The Negotiation Committee held two meetings on 28.02.2017 and 22.05.2017 and submitted its report in which it is mentioned that any further meetings of this Committee would not be fruitful as there had been no participation from complainant State i.e. State of Odisha in both the meetings. Accordingly, the Ministry concluded that the dispute cannot be resolved by negotiation and it has been decided to constitute a Tribunal for adjudication of the dispute. Draft Cabinet Note in this regard has been prepared.

It is clear that the above statement made by the Minister is with reference to this very dispute and the Ministry has concluded that the disputes cannot be resolved by negotiations.

We, therefore, have no hesitation in directing that the Central Government shall issue appropriate notification in the Official Gazette and constitute a Water Disputes Tribunal for adjudication of the water dispute between the parties herein within a period of one month from today. Accordingly, the plaint in Original Suit No.1 of 2017 is returned to the plaintiff for its presentation and adjudication by the Water Disputes Tribunal to be newly constituted by the Central Government.

We order accordingly.

With the aforesaid directions, the instant suit is disposed of as having returned to the plaintiff for its presentation to the Water Disputes Tribunal.

Needless to mention that questions of all reliefs as may be allowed to the parties, are left open.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

NEW DELHI;
JANUARY 23, 2018.

ITEM NO.10

COURT NO.7

SECTION XVII

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

Original Suit No.1/2017

STATE OF ODISHA

Plaintiff(s)

VERSUS

STATE OF CHHATTISGARH & ORS.

Defendants

(IA No.60623/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS FOR [APP FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS] ON IA 2/2017 and IA No.134950/2017-CLARIFICATION/DIRECTION and IA No.7781/2018-XTRA)

Date : 23-01-2018 This Suit was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Rakesh Dwivedi, Sr. Adv.
Mr. S.P. Mishra, Sr. Adv.
Mr. Mohan V. Katarki, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Karan Lahiri, Adv.
Ms. Parul Shukla, Adv.
Mr. Abhinav Agrawal, Adv.
Mr. Raghav Dwivedi, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. Nitin Sonkar, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, AOR

Mr. Atmaram N.S. Nadkarni, ASG
Mrs. V. Mohana, Sr. Adv.
Mr. S. Wasim A. Qadri, Adv.
Mrs. Swarupma Chaturvedi, Adv.
Mr. Mukesh Kumar Maroria, AOR

Mr. Tapesk Kumar Singh, AOR
Mr. Mohd. Waquas, Adv.

Mr. Aditya Pratap Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The instant suit is disposed of as having returned to the
plaintiff, in terms of the signed order.

Pending interlocutory applications, if any, stand
disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASST.REGISTRAR

(Signed Order is placed on the file)