

ITEM Nos.56 to 64

COURT NO.5

SECTION PIL(W)

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

Writ Petition(s) (Civil) No(s).202/1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(Office Report for direction with letter dated 29.06.2016 filed by Mr. P.K. Manohar, Advocate for the petitioner and copy of order dated 30.06.2016 received from Mr. H.C. Chaudhary, Director, MOEFCC)

WITH

I.A.NO.3942 IN W.P.(C) NO.202/1995
(for directions and office report)

I.A.NO. 3947 IN I.A.NOS. 2228-2229, I.A.NO. 3948 & 3954 IN 3947 IN W.P.(C) NO. 202/1995
(for modification of court's order dated 21.10.2011 passed in I.A. Nos.2228-2229 and permission to file additional documents Volume II and III and office report)

I.A.NO. 1493 @ CONMT.PET.(C)NO.280/2003 IN W.P.(C) NO. 202/1995
(for directions and office report)

I.A.NO. 1595-1596 IN W.P.(C) NO.202/1995
(for impleadment and directions and office report)

I.A.NO. 1870-1872 IN W.P.(C) NO.202/1995
(for impleadment and directions and exemption from filing O.T. and office report)

I.A.NO. 2321-2322 IN W.P.(C) NO.202/1995
(for impleadment and directions and office report)

I.A.NO. 2348-2349 IN W.P.(C) NO.202/1995
(for impleadment and directions and office report)

I.A.NO. 3481-3482 IN W.P.(C) NO.202/1995
(for impleadment and stay and office report)

I.A.NO.3489-3491 IN W.P.(C) NO.202/1995

(for impleadment and directions and exemption from filing O.T. and office report)

Date : 03/02/2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

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

Mr. A.D.N. Rao, Adv. (A.C.)

Ms. Aparjita Singh, Adv. (A.C.)

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

Mr. Bavani Shankar, Adv.

Ms. V.S. Lakshmi, Adv.

Mr. A.V. Balan, Adv.

Mr. P.K. Manohar, AOR

Mr. Harish Beeran, AOR

For Respondent(s) /
Applicant(s)

Mr. Ranjit Kumar, SG

Mr. S. Wasim A. Qadri, Adv.

Mr. D.L. Chidanand, Adv.

Mr. Ravindra Bana, Adv.

Ms. Gargi Khanna, Adv.

Ms. Manita Verma, Adv.

Mr. Ajay Sharma, Adv.

Mr. G.S. Makker, AOR

Mrs. Anil Katiyar, Adv.

Mr. P. Chaitanyashi, Adv.

Ms. Sujata Kurdukar, AOR

Mr. Mahaling Pandarge, Adv.

Mr. Nishant R. Katneshwarkar, AOR

Mr. Naresh Kaushik, Adv.

Mr. Manoj Joshi, Adv.

Ms. Lalitha Kaushik, AOR

Ms. Anitha Shenoy, AOR

Mr. Sunil Kumar Jain, AOR (NP)

Mr. Pawan Upadhyay, Adv.

Mr. Sarvjit Pratap Singh, Adv.

Ms. Sharmila Upadhyay, AOR

Mr. R.D. Upadhyay, AOR (NP)

Mr. Abhishek Chaudhary, AOR

Mr. T. Harish Kumar, AOR

Mr. T. Mahipal, AOR

Mr. Tejaswani Kumar Pradhan, AOR

Mr. S.K. Badhopadhaya, Adv.

Ms. Vinakshi Kadan, Adv.

Mr. Puneet Jain, Adv.

Ms. Christi Jain, Adv.

Mr. Priyal Jain, Adv.

Mrs. Pratibha Jain, AOR

Mr. Purushaindra Kaurav, AAG

Mr. Mishra Saurabh, AOR

Mr. Ankit Kr. Lal, Adv.

Mr. M.R. Shamshad, Adv.

Mr. Rajat Singh, Adv.

Mr. Aditya Samaddar, Adv.

Mr. Sankar Ch. Ghosh, Adv.

Ms. Reshmi Rea Sinha, Adv.

Mr. Rudra Dutta, Adv.

Mr. Parijat Sinha, Adv.

Mr. Anip Sachthey, Adv.

Ms. Anjali Chauhan, Adv.

Mr. Vinayak Shukla, Adv.

Ms. Kiran Dhawan, Adv.

Ms. Ria Sachthey, Adv.

Ms. A. Subhashini, Adv.

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

Writ Petition(s) (Civil) No(s).202/1995 with I.A.NO.3942 IN
W.P.(C) NO.202/1995

We have considered the letter dated 29.06.2016 filed by Mr. P.K. Manohar, Advocate. The letter indicates that the petitioner T.N. Godavarman Thirumulpad expired on 1st June, 2016.

Since this is a public interest litigation, there is no question of bringing the legal representatives of the deceased on record.

The Registry will now list the matter as in Re: T.N. Godavarman Thirumulpad Vs. Union of India & Ors. The cause-title stands amended accordingly.

This disposes of the letter dated 29.06.2016.

I.A.NO.3942 IN W.P.(C) NO.202/1995

We have seen the contents of the application, the order dated 30.06.2016 received from Mr. H.C. Chaudhary, Director, Ministry of Environment, Forests and Climate Change as well as the office report.

It is pointed out by learned Solicitor General that the appointment of Mr. Amarnatha Shetty as Member Secretary of the Central Empowered Committee (CEC) in place of Mr. M.K. Jiwrajika is proposed after consulting the learned Attorney General as well as the Chairman of the CEC.

We express our gratitude to Mr. M.K. Jiwrajika for the assistance rendered. The Secretary General will convey our gratitude to Mr. M.K. Jiwrajika.

Under the circumstances, we accept the recommendation and appoint Mr. Amarnatha Shetty as Member Secretary of CEC.

I.A.No.3942 stands disposed of.

I.A.NO. 3947 IN I.A.NOS. 2228-2229, I.A.NO. 3948 & 3954 IN 3947 IN W.P.(C) NO. 202/1995

(for modification of court's order dated 21.10.2011 passed in I.A. Nos.2228-2229 and permission to file additional documents Volume II and III and office report)

The admitted position is that the environmental clearance granted to the applicant, i.e., Matheran Ropeways Pvt. Ltd. in 2008 has since expired since it was valid for a period of five years only.

The admitted position is that on 3rd September, 2016, a fresh application was made for grant of environmental clearance for proposed Matheran Ropeway project at Village Bhutivali - Garbut - Madhavji point at Matheran, Tehsil Karjat, Dist. Raigad, Maharashtra being developed by M/s. Matheran Ropeway Pvt. Ltd. That application is still pending consideration.

The concerned authorities including the Ministry of Environment, Forests and Climate Change should consider the application and take a final decision thereon within a

period of four weeks from today.

All the applications stand disposed of.

I.A.NO. 1493 @ CONMT.PET.(C)NO.280/2003 IN W.P.(C) NO. 202/1995

(for directions and office report)

In view of the amendment in the Mines and Minerals (Development and Regulation) Act, 1957, no mining lease can be granted except by way of an auction. In addition to that, the necessary statutory clearances are required to be obtained before the grant of a mining lease.

Under the circumstances, nothing further survives in this application, which is disposed of accordingly.

It is made clear that the State of Karnataka will not grant any mining lease except in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and other statutory requirements.

I.A.NO. 1595-1596 IN W.P.(C) NO.202/1995

(for impleadment and directions and office report)

No one is present on behalf of the applicant.

Applications are accordingly dismissed for non-prosecution.

I.A.NO. 1870-1872 IN W.P.(C) NO.202/1995

(for impleadment and directions and exemption from filing O.T. and office report)

No one is present on behalf of the applicant.

Applications are accordingly dismissed for non-prosecution.

I.A.NO. 2321-2322 IN W.P.(C) NO.202/1995
(for impleadment and directions and office report)

Since the mining lease has already come to an end, nothing further survives in these applications which are accordingly dismissed.

I.A.NO. 2348-2349 IN W.P.(C) NO.202/1995
(for impleadment and directions and office report)

By this application, the prayer made is for a direction to the Government of Goa to close mining operations on the mining leases listed along with the application as well as any other lease which has private forest but for which forest clearance under the Forest (Conservation) Act, 1980 has not been obtained.

It is further prayed that even if applications are made under Rule 24A of the Mineral Concession Rules, 1960, once the lease has expired, no further mining should be permitted until the applicants have the necessary forest clearance under the Forest (Conservation) Act, 1980.

This Court had sought the recommendations of the Central Empowered Committee by an order dated 12th December, 1996. The Central Empowered Committee has considered the matter in detail and it has given its observations and

recommendations which read as follows:

"6. The CEC is of the view that the mining lease containing forest area can be renewed under the MMRD Act only after obtaining the approval under the FC Act for the non forestry use of the forest land as well as for the renewal of the lease. The approval under the FC Act is also required even if the forest area is not proposed to be used for mining during the validity of the mining lease. The Rule 24A of the Mineral Concession Rules, 1960 provides that the mining lease is deemed to be extended till an order is passed by the Government on the Application made by the mining lease holder for the renewal of the mining lease. Since there is no deemed renewal clause in the FC Act, the CEC is of the considered view that the above provision will apply to a mining lease containing forest area only if approval under the FC Act for the non forestry use/ renewal is first obtained. Unless the approval under the FC Act is obtained, a mining lease containing forest area cannot be renewed and therefore the deemed renewal clause also does not become effective. This is the reason why the Temporary Working Permissions (TWP) in terms of this Hon'ble Court's order dated 4.8.2008 is necessarily required at the time of the renewal of the mining lease.

7. In view of the above and without going into the details of the mining leases which are actually having private forest area, it is recommended that IA No.2348 of 2008 filed by the Goa Foundation may be disposed of with the direction/clarification that the mining leases having forest area can be renewed only after obtaining the approval under the FC Act and that the Rule 24A of the Mineral Concession Rules, 1960 is subject to the compliance of the provisions of the Forest (Conservation) Act, 1980."

There is no objection to the recommendations/
observations of the CEC.

We accept the report of the CEC and clarify and direct that the mining leases having forest area may be renewed only after obtaining prior approval under the Forest (Conservation) Act, 1980 and Rule 24A of the Mineral Concession Rules, 1960 is subject to the compliance of the provisions of the Forest (Conservation) Act, 1980.

Needless to say and we direct that this will be applicable to private forests as well.

Applications stand disposed of.

I.A.NO. 3481-3482 IN W.P.(C) NO.202/1995
(for impleadment and stay and office report)

Learned counsel for the applicant - Mahanadi Coalfields Ltd. seeks some time to take instructions with regard to the environmental clearance, pollution certificate and forest clearance and consent to operate the mining lease.

We would also like learned counsel to consider the effect of the amendment to the Mines and Minerals (Development and Regulation) Act, 1957 so far as the prayer made by the applicant is concerned.

List the application on 10th March, 2017.

I.A.NO.3489-3491 IN W.P.(C) NO.202/1995
(for impleadment and directions and exemption from filing
O.T. and office report)

Learned counsel for the applicant seeks leave to withdraw the applications and pursue the Writ Petition No.8661 of 2011 pending before the High Court of Madhya Pradesh.

Applications are dismissed as withdrawn.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER