

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

Original Application No. 29/2015/EZ

**Pradip Kumar Bhuyan & Anr
Vs
Union of India & Ors.**

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT:

Applicants		: Mr. Sanjay Upadhyay ,Advocate. Ms. Eisha Krishen, Advocate
Respondent No. 1		: Mr. Kallol Guha Thakurta, Advocate Mr. Binod Kumar Singh, Advocate
Respondent No. 2		: Mr. Gora Chand Roy Chowdhury, Advocate With dr. S. Prabhu, Scientist-'C'/DD
Respondent No. 3		: Mr. Gautam Choudhury, Advocate Mr. Asit Kr. Hazra, Advocate Mr. Nirmal Maity, Advocate
Respondent No.4		: Mr. A.D.N.Rao, advocate, Advocate
Respondent No. 8		: Mr. Prantik Gorai, Advocate
Other respondents		: None

Date & Remarks	Orders of the Tribunal
<p>Item No. 13 1st September, 2016.</p>	<p>Mr. Gora Chand Roy Chowdhury, Ld. Adv. for the Respondent No. 2, MOEF, seeks for leave to file an affidavit said to be in compliance to our order dated 10.5.2016. Upon our query, he is not in a position to inform as to whether the affidavit is, in fact, in compliance of the said order or not. Our order was very clear and specific which reads as follows :-</p> <p style="text-align: center;">“Let response be filed within four weeks as prayed for Mr. Gora Chand Roy Choudhury. We expect that the Ministry of Environment, Forest and Climate Change to file a comprehensive affidavit dealing with all issues including the</p>

following:-

- 1) Cumulative impact assessment;
- 2) Strategic Impact Assessment;
- 3) Bio-diversity Assessment as mandated under Section 36 of the Biological Act, 2002
- 4) The issue of E –flow demarcation;
- 5) The impact on Dihang Debang bio-sphere reserve;
- 6) Down Stream Impact on the State of Assam;
- 7) Picking Dam and panic release; “

In fact, the submission of Mr. Roy Chowdhury is that the seven points indicated in the order have been addressed in the affidavit. From the order extracted above, it is quite clear that it was not just on those seven points but a comprehensive affidavit was sought for apart from those.

Although we are not satisfied with the submission yet, in the interest of justice, we accept the affidavit subject to the condition that if it does not fulfil the requirements of our direction indicated above, cost of Rs. 50,000/- as directed in our order dated 21.7.2016 shall stand. The accountability of payment of the cost shall be fixed on the officers responsible for causing the delay.

Mr. Roy Chowdhury is directed to go through the affidavit to satisfy himself on this aspect. He is also directed to ensure that copies are served on the other

side in course of the day.

None is present for the Respondent No. 1, i.e. Ministry of power. This respondent was also required to file their response emphasising on the issues indicated above, as was submitted by Mr. Kallol Guha Thakurta, Ld. Counsel for the said respondent. However, neither has he appeared nor the response filed as submitted by him on the last occasion.

The crucial question that we are faced with at this stage is as to whether MOEF OM No. J-11013/1/2013-IA-1 dated 28.5.2013 has been complied with or not before environment and forest clearances had been granted for the project since the OM stipulates that before completion of the study on carrying capacity of river basin no such clearance can be granted. Mr. Prantik Ghorai, Ld. Adv. for the Respondent No. 8, the project proponent, submits that the requirements have been complied with and prays for time to file affidavit placing those on record.

The prayer is considered and allowed. Let respondent No. 8 file affidavit-in-opposition on or before the next date.

Mr. Sanjay Upadhyay, Ld. Counsel for the applicant submits that in the Alakananda case pending before the Hon'ble Supreme Court, a comprehensive affidavit has

been filed by the Ministry of Water Resources, which would be relevant for an effective adjudication of the present case also and, therefore, prays that he be permitted to place a copy of it on record.

The prayer is allowed. The copy of the affidavit be placed on record on or before the next date. However, this order shall be without prejudice to the rights and contentions available to the other parties.

List on 27.10.2016.

.....
Justice S.P.Wangdi, JM

.....
Prof. (Dr.) P. C. Mishra, EM

LATER : Mr. Kallol Guha Thakurta, Ld. Adv. for the respondent No. 1 appears and prays for time to file supplementary affidavit on behalf of the said respondent.

The prayer is allowed. Let the affidavit be filed on or before the next date with advance copies on the other side.

.....
Justice S.P.Wangdi, JM

.....
Prof. (Dr.) P. C. Mishra, EM

