

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. No. 646 of 2013  
in  
Original Application No. 167/2013

Themrei Tuithung & Ors. V/s State of Manipur & Ors.

**CORAM:** HON'BLE Mr. JUSTICE Dr. P. JYOTHIMANI, JUDICIAL MEMBER  
HON'BLE Mr. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER  
HON'BLE PROF. DR. P. C. MISHRA, EXPERT MEMBER  
HON'BLE PROF. A. R. YOUSUF, EXPERT MEMBER  
HON'BLE Mr. RANJAN CHATTERJEE, EXPERT MEMBER

**Applicant / Appellant :** Mr. Ritwick Dutta, Adv.

**Respondent No. 1 & 3 :** Mr. U. Hazarika, Sr. Adv along with Mr. Sapam Biswajit, Adv

**Respondent No. 2 :** Mr. Vikas Malhotra, Adv along with Mr. M. P.Sahay, Adv

Date and Remarks	Orders of the Tribunal
<b>Item No. 3</b> <b>November 20, 2013</b>	<p>The issue which has been raised in this application is about the proposal made by the Government of Manipur for construction of a multipurpose hydroelectric project for which an application was made to the concerned authorities by the State Government as early as in the year 1988. Accordingly, it appears that for the purpose of implementing the project 595 hectares of land were acquired and in pursuance to the acquisition proceedings, compensations have been paid to the stakeholders.</p> <p>It was ultimately in the year 2010 that the MoEF, Government of India has issued stage 1 clearance for the project. It is not in dispute that the project involved very huge amount and the first stage of project pursuance to the approval has been proceeded with. In the meantime when the second stage of the project has to be proceeded, which requires further approval, some of the residents of the area have filed the present application seeking for a direction to the project proponent to follow the provisions of the Forest (Conservation) Act 1980 in respect of the Mapithel Dam (Thoubal Multipurpose Project) in the State of Manipur and till then stop further activities.</p> <p>The Tribunal by its order dated 12.11.2013 has passed an order on the basis that in respect of the second stage, the project proponent namely the State of Manipur has filed application to the MoEF in the year 2013 admittedly after filing of this application and having found that the application is pending before the MoEF to pass orders, has observed that</p>

when such application is pending with the MoEF any permission granted by the State Government to proceed with the project under the Forest( Conservation) Act 1980 cannot be valid in law and therefore, we directed Respondent No.1 not to proceed with the project as per the order dated 20.11.2013.

Mr. Ritwik Dutta Learned counsel appearing for the applicant who has prayed for the Interim order of stay has taken us to various provisions of not only the Forest (Conservation) Act but also the Forest Rights Act 2006. He would submit that as per the present Act of 2006 which is distinct from merely granting rehabilitation to the tribal people but is relating to the community forests resources and to substantiate his contention he would also refer to the Judgment of the Honorable Apex Court in Vedanta case reported in 2013 (6) SCC 476. Therefore, according to him by virtue of the new Act of 2006, the Ministry of Environment and Forests has to follow certain procedures and in fact the Government of India itself has issued a communication as early as on 03.08.2009 in the form of a memorandum stating that in respect of use of forest lands for non forest purposes for granting permission certain procedures are to be followed as contained therein. Therefore, according to him until and unless the MoEF grants approval by following such procedures, the Respondent No. 1 (Government of Manipur) cannot be permitted to proceed with the second stage of the project.

On the other hand Mr. Hazarika, Learned Sr. counsel appearing for the State of Manipur would submit that even as per the original pleading of the applicants the applicants have not raised anything about the Act of 2006 and therefore, the tribal people from whom the lands were acquired, having received very huge amount of compensation cannot be permitted to raise other issues now. According to him, the Government have spent huge amount from exchequer for the purpose of the project in the State which is affected due to various reasons like insurgency, and thus, any order of stay to the second stage of the project would be detrimental to the public interest. Mr. Hazarika has also taken us to the Memorandum of Agreement entered in the year 1993 where by not only adequate compensation has been paid to all stakeholders but also various rehabilitatory measures have been accepted and signed by the village representatives formed

as a sub-committee and therefore, there is no necessity to redo the same at this stage, since it would be against the public interest.

Mr. Vikas Malhotra Learned Counsel appearing for the MoEF would submit that in fact the application made by the Respondent No. 1 (Manipur Government) for the purpose of approval for the second stage has been sent to the Ministry of Tribal Affairs of the Government of India for its comments on 24.10.2013 and a reminder has also been sent on 19.11.2013 and as soon as the comments are received from said Ministry, the MoEF would take action expeditiously.

Having heard all the respective Counsel, and taking note of the facts that the project proposal has been made in the year 1988, clearance of the first stage having been granted in 2010 and is pending for more than 25 years, and without expressing any opinion on the merits, we are of the view that certain directions must be given to the MoEF as well as the Ministry of Tribal Affairs to expedite the matter in public interest. Accordingly, we direct the Ministry of Tribal Affairs with whom the proposal sent by the MoEF is pending, to forward their comments forthwith to the MoEF within a period of one week from the date of receipt of the copy of the order.

On receipt of the comments from the Ministry of Tribal Affairs, the Ministry of Environment and Forests shall pass appropriate orders on the proposal given by the State of Manipur in respect of the second stage clearance by following the procedure in accordance with law, including all the memoranda issued by the Government of India from time to time in this regard and such order shall be passed expeditiously and in any event within a period of 6 weeks thereafter.

We hope that both the Ministry of Tribal Affairs as well as the Ministry of Environment and Forests will scrupulously follow this order and report the same on the next date of hearing.

Till such orders are passed *Status Quo* as on date shall continue.

Mark this copy to the Secretary, Ministry of Tribal Affairs Government of India.

Stand over to 23<sup>rd</sup> January, 2014.

....., JM  
(Dr. P. Jyothimani)

....., JM  
(M.S. Nambiar)

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

....., EM  
(Prof. A. R.Yousuf)

....., EM  
(Ranjan Chatterjee)

