

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

APPEAL NO. 97 OF 2014

1. Raghuwar Dutt Tiwari S/o Late Narottam Tiwari,

R/o Village Ghungoli, P.O. Basbhinda,
District Almora, Uttarakhand

2. Harendra Rana,

R/o Village & P.O. Arkhundi, Chandrapuri,
District Rudraprayag, Uttarakhand

VERSUS

1. Union of India

Ministry of Environment & Forests
Through its Secretary,
Paryavaran Bhawan, CGO Complex, New Delhi – 110 003

2. State of Uttarakhand

Through Its Chief Secretary, Dehradun, Uttarakhand

3. L&T Uttranchal Hydro Electric Pvt. Limited

Through its Managing Director,
No.6 Gavni Village, Next to Jalagam Office,
Chandrapuri, District Rudraprayag,
Uttarakhand

Applicant: Applicant in person
Respondent No. 1: Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.
Respondent No. 2: Mr. Rahul Verma and Mr D. Bharathi Reddy, Advs.
Respondent No. 3: Mr. Atmaram N. S. Nadkarni, Sr. Adv. and Mr. Debarshi Bhuyan, Mr. Anuj Sarama, Mr. Santosh Rebello, adn Mr. Datta Prasad Lavande, and Mr. Anshuman Srivastava, Advs. Reddy, Advs.

JUDGMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)
Hon'ble Mr. Justice Sonam Phintso Wangdi (Judicial Member)
Hon'ble Dr. D.K.Agrawal (Expert Member)

- 1. Whether the judgment is allowed to be published on the internet?**
- 2. Whether the judgment is allowed to be published in the NGT Reporter?**

Reserved on : **05th February, 2016**

Pronounced on : **4th May, 2016**

Justice Sonam Phintso Wangdi (Judicial Member)

1. This Application was heard together with Original Application No. 151 of 2014 titled as Bharat Jhunjunwala vs UOI & Ors. as both cases related to Singoli-Bhatwari Hydro Electric Project on River Mandakini in Uttarakhand and substantially raised same questions. In addition, the present Application also raised an issue of construction of underground tunnels and the use of explosives associated with it as well as for restructuring the design of the project as per recommendations of Petitions Committee of the Rajya Sabha and IIT Consortium.

2. As already noted in our order dated 5th Feb, 2016 in O.A. No. 151 of 2014, Mr. Bharat Jhunjhunwala, the Applicant in that case insisted that the question of limitation be taken up first in both the cases as he was duly authorized to argue this case also on behalf of the Applicants of O.A. No.97 of 2014. On these submissions the Applications were taken up for hearing confined solely on the question of limitation.
3. In so far as the finding on the question of limitation is concerned we need not delay ourselves further as this case would also be fully covered by our Order dated 05th February, 2016 in O.A. No. 151 of 2014 as in that case also the Applicant sought to rely upon paragraph 6 of the present Application for explaining the delay. We have noted that Paragraph 6 of the Application is absolutely vague and bereft of material particulars for us to be convinced that the Applicant was prevented by sufficient cause in approaching the Tribunal within the period prescribed under the law, a finding that would hold good also in this case.
4. We may also add that the question as regards the anxiety expressed by the Applicant on the dangers of underground Tunnels were also squarely raised in Application No. 12 of

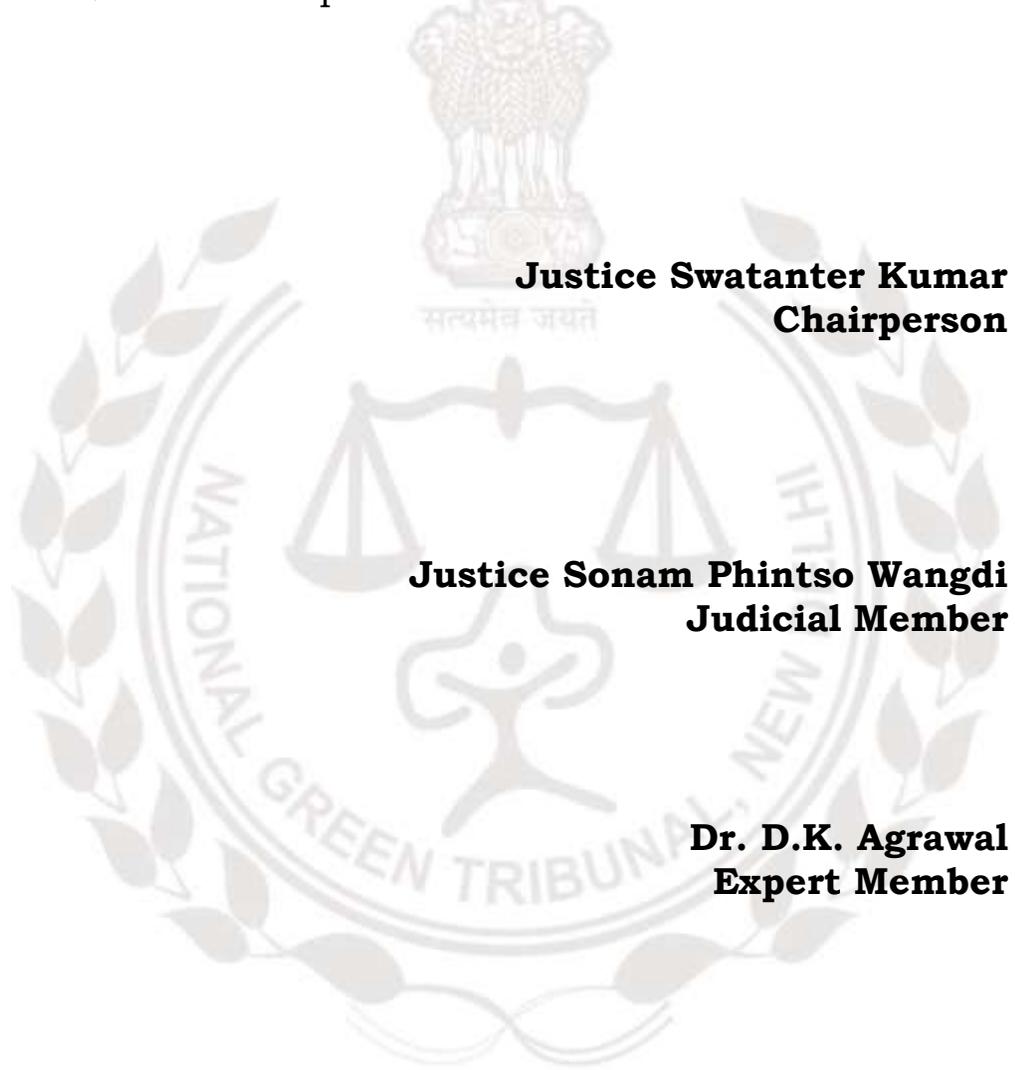
2011 filed earlier before this Tribunal. As noted already, the Application was dismissed as being barred by limitation vide judgement of the Tribunal dated 14th December, 2011. The judgement having not been appealed against has thus assumed finality and it is now not open for the Applicant to re-agitate the very same question again.

5. Next, the first prayer in the Application for formation of committee to examine the feasibility of abstracting water by making partial obstruction on the river as recommended by the Petitions Committee of the Rajya Sabha and IIT Consortium and for putting on hold activities on the project until completion of the studies by the Committee, in our view, will amount to putting the clock back on the project which had concededly commenced under valid statutory clearances obtained at the material time as far back as in the years 2006, 2007 and 2009.

6. In any case, we are of the considered opinion that for the reasons already stated in O.A. No. 151 of 2014, this Application also deserves to be dismissed being barred by limitation.

As a result the Application is dismissed with no order as to cost.

A copy of the Order dated 05th February, 2016 passed in O.A. No. 151 of 2014 be also placed in the records of this case.



Justice Swatanter Kumar
Chairperson

Justice Sonam Phintso Wangdi
Judicial Member

Dr. D.K. Agrawal
Expert Member

NEW DELHI

DATE: 4th May, 2016

NGT