

ITEM NO.15

COURT NO.9

SECTION IV-C

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

Petition for Special Leave to Appeal (C) Nos.17680-17682/2022

(Arising out of impugned final judgment and order dated 13-06-2022 in WP No. 12833/2022 and order dated 20-09-2022 in IA No. 11694/2022 & in IA No. 9476/2022 passed by the High Court of M.P. Principal seat at Jabalpur)

MADHAV INFRA PROJECTS LIMITED & ANR.

Petitioner(s)

VERSUS

M. P. MADHYA KSHETRA VIDYUT VITRAN CO. LIMITED & ORS. Respondent(s)

(FOR ADMISSION and I.R. IA No.146806/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.146808/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 188102/2022 - EXEMPTION FROM FILING O.T., IA No. 156496/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 149604/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES & IA No. 170844/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s)

Mr. C.A. Sundaram, Sr.Adv.

Ms. Uttara Babbar, Adv.

Ms. Shreya Dubey, Adv.

Mr. Abhishek Gupta, Adv.

Mr. Sakya Singha Chaudhuri, AOR

For Respondent(s)

Mr. Bharat Singh, AAG

Mr. Ashish Pandey, Adv.

Mr. Kshitiz Singh, Adv.

Mr. Amit Pawan, AOR

Mr. Saurabh Mishra, ASG

Mr. Sunny Choudhary, AOR

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

Exemption Applications are allowed.

The Madhya Pradesh Electricity Board conceived the setting up of Chambal Mini Hydel Project, for which grant was received from the Ministry of Non-Conventional Energy Sources.

The Project was initially awarded to a private entity but it was eventually abandoned in the year 1999. Thereafter, pursuant to a tender floated by the Board, the Chambal Mini Hydel Project was leased in favour of the petitioner on 23-08-2013 for 30 years. The bid given by the petitioner was formally accepted on 12-02-2014 followed by a lease agreement executed between the parties on 24.03.2014.

It appears that there arose some operational issues in the year 2021, for which there are allegations and counter-allegations made by the parties. Since those issues are sub-judice before the High Court of Madhya Pradesh at Jabalpur in Writ Petition No.12833 of 2022, we do not deem it appropriate to delve into that controversy.

Suffice it is to observe that the lease agreement in respect of the project was terminated by the 1st respondent on 30-05-2022 and the aggrieved petitioner has filed the above-mentioned Writ Petition challenging the same.

The High Court initially granted ad-interim stay in favour of the petitioner on 13-06-2022 directing that "the respondent shall

not take any coercive action against the petitioner”.

The above-stated interim order has been subsequently vacated/modified vide impugned Order dated 20.09.2022.

Since the project and consequential production of electricity power came to a halt, this Court, as an interim measure, directed the 1st respondent on 19-10-2022 to supply electricity to the petitioner to enable them to pump-out the water. Similarly, status-quo regarding transfer or handing over the assets was also directed to be maintained.

The Writ Petition is still pending before the High Court and the plant is lying defunct.

We have heard learned Senior counsel appearing on behalf of the petitioner, learned counsel appearing for the Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited and learned Additional Advocate General appearing for the State of M.P. The record has also been perused.

We are of the considered view that closure of the Hydro Plant is totally detrimental to the public interest as not only will it deteriorate the functional condition of the plant, the non-production of energy will also be a national loss. We appreciate that the respondent has strong reservation against the rate being charged by the petitioner for supply of the energy but these are the issues which can be effectively resolved in appropriate proceedings. The dispute regarding charges for the produced energy, in our considered opinion, is not a sufficient or valid ground to

keep the plant defunct, more so when the justification of the reason(s) for termination of the contract are yet to be scrutinised by the High Court.

For the reasons afore-stated and without prejudice to the rights of the parties, and as an interim measure, we direct that the termination of contract between the parties shall remain in abeyance and the petitioner will be allowed to operate the plant and produce hydro energy. The respondents shall continue to purchase the generated power but without prejudice to their objection regarding the rate of electricity charges initially agreed to between the parties and payable by them to the petitioner. Notwithstanding the terms and conditions of the agreement, as observed earlier, the said issue will be resolved separately.

Since the High Court is seized with the question of validity of the termination of the contract, it is clarified that we have not expressed any opinion with respect thereto.

Keeping the nature of urgency involved in the matter, we request the High Court to make an endeavour to decide the Writ Petition, pending adjudication before it, at the earliest and preferably within a period of six months from the date of communication of a copy of this order subject to, however, other prioritised matters.

The Special Leave Petitions are disposed of, in the above-terms.

All pending applications shall also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
COURT MASTER (NSH)