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**(2006) 08 GAU CK 0088**  
**In the Gauhati High Court**  
**Case No : Writ Petition (PIL) No. 6 of 2006**

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| H. Nabachandra Singh            | Vs | APPELLANT  |
| Union of India (UOI) and Others |    | RESPONDENT |

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**Date of Decision :** 10-08-2006

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2006) 3 GLT 842 : (1999) 2 GLT 557

**Hon'ble Judges :** Maibam B.K. Singh, J; Amitava Roy, J

**Bench :** Division Bench

**Advocate :** Party in Person, for the Appellant; I. Lalit Kumar Singh, A. Jagatchandra, K. Kumar, L. Jayanta and Niranjan, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Amitava Roy, J.—The reservation expressed in the instant proceeding draped as a Public Interest Litigation relates to the construction of Khuga Dam in Churachandpur District of the State.

2. We have heard Mr. H. Nabachandra, Petitioner-in-person, Mr. I. Lalitkumar, learned senior counsel assisted by Mr. Niranjan, learned Counsel for the Respondent No. 4, Mr. A. Jagatchandra, learned State counsel for the Respondents 3,5,6,7 and 8, Mr. K. Kumar, learned Counsel for the Respondents No. 1 and 2 and Mr. L. Jayanta, learned Counsel for the Respondent No. 9.

3. Admittedly the project had been initiated as early as in the year 1980 across the river Khuga. Construction works are at the closing stage. In short, the Petitioner has assailed the project contending that the dam is being constructed without the necessary site clearance and is located on a seismic zone likely to result in heavy damages in the event of an earthquake of the intensity of point 7 on the Richter scale. Further remonstrance is that the dam is being constructed without the environmental clearance either from the Central Government or the State Government. Not only the project is against the principle of sustainable

development no benefit can be expected there from as well. Besides, the construction of the dam would have serious adverse impact on the adjoining settlements and would result in shrinking of forest area posing health hazards to the public of the locality.

4. Noticeably, paragraphs 18 and 19 of the petition refer to a memorandum of understanding between the Dam Action committee and the Government of Manipur on 28.11.2005 and 14.12.2005 whereunder the Government have undertaken to look after the demand of the Committee with regard to the payment of compensation, resettlement and rehabilitation of the people likely to be affected. The contents of the said paragraphs also disclose that the Government had agreed to pay compensation for the submersible area at the present market value. A charter of demand considering of 23 heads had been submitted by the Dam Action Committee on 20.12.2005 for providing relief packages to the people which, according to the Petitioner, have not yet been attended to.

5. The parawise comments produced on behalf of the Respondent No. 4 in course of the arguments reveal that the project is being constructed to harness the perennial water of Khuga River for creating irrigation facilities, water supply and generation of power and that the same is likely to be completed during 2006-07. It is averred therein that the project is a water resource development project to facilitate an annual irrigation of 15,000 ha., 5 MGD of water supply and 1.75 M.W. of Power to Churachandpur District and Bishnupur District. Provisions for rehabilitation and resettlement of the affected people and compensation for the loss of properties have been adequately provided in the project estimate. It has been categorically asserted that the environmental clearance of the project was accorded in the year 1983 by the Ministry of Environment and forests, Government of India vide communication No. J-11016/103/82-ENV dated 5.03.1983. This finds support also from copy of the said communication produced before this Court by the learned Counsel for the Respondent No. 9. While denying the allegation that the project does not present any benefit to the people, it has been asserted that structures of the dam have been constructed as per the drawings and specifications furnished by the Central Water commission, New Delhi, officials of which had time and again visited the site to over see the works. The charge of serious degradation in catchment areas has been categorically denied. It has been asserted that there would be no detrimental impact on human health as the reservoir area is wide, airy and free from pollution. Further the State Health Department is in readiness for routine surveillance duties.

6. The parawise comments further disclose that the Government, in response to the genuine demands of the people affected, have provided for adequate rehabilitation measures granting compensation to the affected villagers. It has been stated that no artificial flood at Churachandpur had occurred during June and July, 2006 as apprehended in the petition.

7. Learned Counsel for the Petitioner while reiterating the contentions raised in the petition has emphatically argued that the project is in contravention of the essential requirements of law pertaining to environment and site clearance and as the same is likely to result in hazardous consequences to the people in general, interference of this Court is called for.

8. The learned Counsel for the Respondents on the other hand have questioned the maintainability of the proceeding on the ground of delay. Further on the basis of the facts disclosed in the para-wise comments, the learned Counsel for the Respondent No. 4, in particular, has urged that the instant proceeding does not merit further consideration of this Court and is liable to be dismissed.

9. Upon hearing the learned Counsel for the parties and on a consideration of the materials before us, we are inclined to agree with the Respondents. Admittedly, the project had been started in the year 1980. Logically therefore the construction works relating thereto had proceeded thereafter and are nearing completion as is evident from the para-wise comments furnished on behalf of the Irrigation and Flood Control Department, Government of Manipur. There is no explanation whatsoever in the petition for this undue delay. As a matter of fact, this in our opinion is extinctive of the public element with which the present proceeding is to be essentially informed of. It is incomprehensible as to how if the project, in fact, is plagued with so many illegalities as alleged that no challenge thereto was made at any earlier point of time. Apart there from, in face of the clear and unambiguous assertions made in the para-wise comments bearing on the environmental clearance and other safety measures, we are not inclined to sustain the Petitioner's pleas to the contrary. From the stand taken in the para-wise comments, it appears to us that the Respondents are fully aware of the merits of the project and have also attended of the genuine demands of the people affected in the course of the execution thereof. We see no reason therefore in the exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India, to interfere with the project at this stage at the instance of the Petitioner.

10. In view of the above, there is no merit in the petition which is, accordingly, dismissed. No costs.