
(2023) 06 SIK CK 0029
In the Sikkim High Court
Case No : Writ Petition (C). No. 56 Of 2022

NHPC Limited

APPELLANT

Vs

State Of Sikkim & Ors.

RESPONDENT

Date of Decision : 13-06-2023

Acts Referred:

Citation : (2023) 06 SIK CK 0029

Hon'ble Judges : Bhaskar Raj Pradhan, J

Bench : Single Bench

Advocate : Divij Kumar, Varun Tandon, Sangita Pradhan, Natasha Pradhan, Dr. Doma T. Bhutia, S.K. Chettri, Yadev Sharma, Shakil Raj Karki, Rita Sharma, Norzila Tamang, Purnima Subba

Judgement

Bhaskar Raj Pradhan, J

I.A. No. 04 of 2023

1. Heard learned Deputy Solicitor General of India in I.A. No. 04 of 2023 which is an application for intervention on behalf of the Union of India. The application is not opposed by the petitioner as well as the State-respondents. Considered the application. The petitioner challenges the vires of a Water Courses and Road Reserve (Preservation and Protection) Act, 1988 on the ground that only the Union of India has the legislature competence to levy taxes on use of inter-State river water. It would be necessary to hear the Union of India on this issue. The Union of India is impleaded as respondent no.4. Intervention application is allowed. I.A. No. 04 of 2023 stands disposed.

2. Respondent nos. 3 and 4 are permitted to file their counter-affidavits within a period of four weeks. Two weeks thereafter, to the petitioner to file rejoinder if any.

I.A. No. 02 of 2023

1. The petitioner is seeking amendment of the writ petition to the extent

indicated in the application i.e. to amend paragraph 24 of the writ petition and to incorporate Ground A and to amend Grounds I, K, O and P, as well as the prayer clause. This amendment application is opposed by the respondent nos. 1, 2 and 3 on the ground that the Sikkim Forest and Water Courses and Road Reserve (Preservation and Protection) Act, 1988 and the provisions thereunder have been duly passed by the State Legislature and assented by the President of India which has been in existence for the past 35 years. It is also contended that the instant amendment petition is an afterthought and filed with a malafide intention to frustrate the ongoing writ petition by challenging an established Act.

2. Considered the rival submissions of the parties. On such consideration, it is found that the amendment sought for would be necessary for the petitioner to pursue this case.

3. In view of the same, the amendment application is allowed. I.A. No. 2 of 2023 stands disposed. The amended writ petition shall be filed within two weeks. Counter affidavit may be filed within three weeks thereafter.

I.A. No. 05 of 2023

This is an application seeking to place on record a letter dated 26.05.2023 issued by the Conservator of Forests, Government of Sikkim as well as seek certain reliefs more specifically made in prayers (ii) and

(iii) thereof. Considered the application. The documents i.e. letter dated 26.05.2023 is taken on record. Rest of the prayers are not pressed.

I.A. No. 03 of 2023

This is an application to place on record 4 documents i.e. a copy of demand letters dated 21.12.2022 and 23.02.2023, copy of payment voucher dated 31.12.2022 and 06.03.2023, copy of the advisory issued by the Ministry of Power, Government of India dated 25.04.2023 and copy of demand letter dated 25.04.2023 issued by the Government of Sikkim through Department of Forest and Environment. The application is allowed and the 4 documents are taken on record. I.A. No. 03 of 2023 stands disposed.

I.A. No. 01 of 2022

On the request of the learned counsel for the parties, list for further consideration on 20.06.2023.