

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 1308 of 2024

Bijender Kumar

...Applicant

Versus

Uttarakhand Pollution Control Board & Ors.

...Respondents

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PLACE: NEW DELHI
DATE: 02.02.2026

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Original Application No. 1308 of 2024**

Bijender Kumar

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Uttarakhand Pollution Control Board & Ors.

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**ADDITIONAL RESPONSE AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 3**

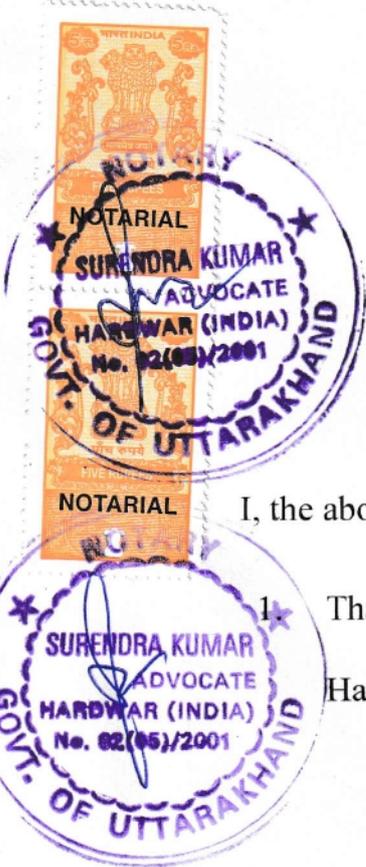
S No-28
30/01/2026

Affidavit of Mayur Dixit S/o
Sh. Umesh Chandra Dixit,
presently posted as District
Magistrate, Haridwar,
Uttarakhand.

I, the above-named deponent, do hereby solemnly affirm and State:

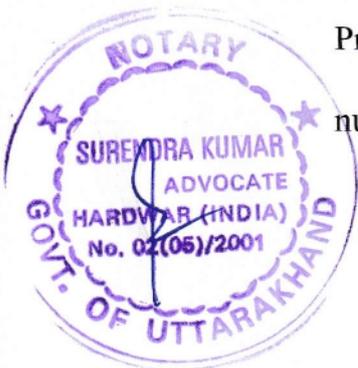
1. That the deponent is presently posted as District Magistrate,
Haridwar, Uttarakhand.

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2. That the above-captioned matter was last listed for hearing on 10.11.2025, during the course of which the counsel for Respondent No. 3 and 5 sought time from this Hon'ble Tribunal to seek instructions with respect to the Counter Affidavit filed by Respondent No. 4. Therefore, Respondent No. 3, by way of the present affidavit, wishes to address the observations highlighted by this Hon'ble Tribunal in its order dated 10.11.2025.

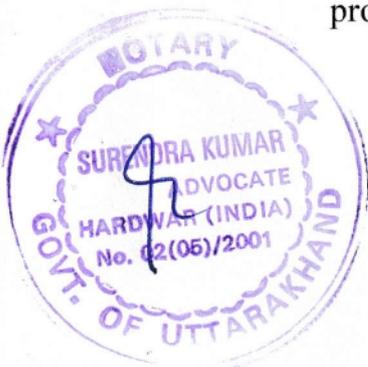
3. That the information has been received by the undersigned from the Executive Engineer, Irrigation Department, Haridwar, with respect to the land in question vide its letter dated 15.01.2026, wherein documented history of administrative transfer of land in question for public purposes has been provided. It is to mention that after the formation of State of Uttarakhand in the year 2000, the said land of 697.576 hectares of the Irrigation Department in Haridwar District was transferred to Uttarakhand (Uttaranchal in the year 2002) vide letter bearing number 3402/02-27-Sin-3 dated 31.10.2002 issued by the Special Secretary, Government of Uttar Pradesh for organizing Kumbh Mela. Copy of the letter bearing number 3402/02-27-Sin-3 dated 31.10.2002 issued by the Special



W

Secretary, Government of Uttar Pradesh is annexed as **Annexure R1**. In pursuant to the aforesaid letter, vide letter dated 28.11.2002, 697.576 hectares of land was duly transferred by the Executive Engineer of the Northern Division Gang Canal Roorkee of the Irrigation Department of Uttar Pradesh to the Executive Engineer of the Irrigation Division, Haridwar of the Irrigation Department of Uttarakhand along with the records. Copy of the letter dated 28.11.2002 depicting transfer of land of 697.576 to the State of Uttarakhand is annexed as **Annexure R2**.

4. It is further submitted that the Hon'ble High Court of Uttarakhand vide its order dated 29.06.2009 passed in the Writ Petition (PIL) No. 02 of 2009 titled as "Arvind Chauhan vs. Government of India & Ors.", has set aside the notification dated 07.11.2000 issued by the Ministry of Water Resources, New Delhi, which provided that till the formation of Ganga Management Board, the ownership of the properties will remain with the Government of Uttar Pradesh as per the earlier arrangement. In the consequence of the same, Government of Uttar Pradesh was directed to hand over all the properties to State of Uttarakhand falling under the said



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notification dated 07.11.2000. Copy of the notification dated 07.11.2000 is annexed as **Annexure R3**. Copy of the order dated 29.06.2009 passed by the Hon'ble High Court of Uttarakhand in Writ Petition (PIL) No. 02 of 2009 titled as "Arvind Chauhan vs. Government of India & Ors." is annexed as **Annexure R4**.

5. That the said order dated 29.06.2009 was challenged by the Irrigation Department of State of Uttar Pradesh vide Special Leave Petition bearing S.L.P.(C) No. 17826/2009 before the Hon'ble Supreme Court of India, wherein the Hon'ble Supreme Court of India granted order of status quo till the next date of hearing with respect to the properties falling under the notification dated 07.11.2000. That thereafter, the Hon'ble Supreme Court of India vide order dated 12.09.2013 disposed of the petition bearing S.L.P.(C) No. 17826/2009 with the direction that the issue at hand will be finally decided by the Central Government. Such directions were passed in light of the fact that during the pendency of the said Special Leave Petition, the Central Government had already initiated talks between the State Governments for an amicable settlement. The Hon'ble Supreme Court further directed that the



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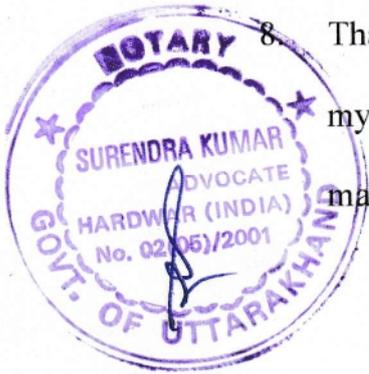
“status quo” order passed vide its order dated 28.07.2009 will remain in force till the time the issue is finally decided by the Central Government. Copy of order dated 28.07.2009 passed in S.L.P.(C) No. 17826/2009 by the Hon’ble Supreme Court is annexed as **Annexure R5**. Copy of order dated 12.09.2013 passed in S.L.P.(C) No. 17826/2009 by the Hon’ble Supreme Court is annexed as **Annexure R6**.

6. In the minutes of the joint meeting of the Hon’ble Chief Ministers of both the States on dated 18.11.2021, regarding the transfer of 697.576 hectares of Kumbh Mela land to Uttarakhand, it was decided at point no. 2 that Uttar Pradesh would retain ownership of the land and permission will be granted in the future for the Kumbh Mela and other necessary purposes. As on today, no Government order has yet been issued on the minutes of meeting held on dated 18.11.2021. Therefore, currently, this land is under the management and control of the Irrigation Division, Haridwar, of the Uttarakhand Irrigation Department.
7. That further, it has been informed by the Mining Department, State of Uttarakhand that the renewal permission has been granted to



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Respondent No. 2 vide O.M. bearing No. 05/S.N.G.M./Mining/Geomining/2024-25 dated 29.10.2024 for a period of two years or till the project construction period, whichever is less. It has been further informed that such permission has been granted for ready mix plant of 95 tonnes per hour capacity. Copy of the O.M. bearing No. 05/S.N.G.M./Mining/Geomining/2024-25 dated 29.10.2024 is annexed as **Annexure R7**.



8. That the aforesaid contents have been drafted by my counsel under my instructions and the same are true and correct and nothing material has been concealed therefrom.

W
DEPONENT

VERIFICATION

Verified at Haridwar, Uttarakhand on 30 day of January 2026 that the contents of the above affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

W
DEPONENT

ATTESTED
Surendra Kumar
30/01/2026
SURENDRA KUMAR
NOTARY, ADVOCATE
DISTT. COURT, HARDWAR

Neeraj
IDENTIFIED BY

प्रेषक,

एन0के0 मांगलिक,
विशेष सचिव,
उ0प्र0 शासन।

सेवा में,

सचिव,
सिंचाई विभाग,
उत्तरांचल शासन,
देहरादून।

सिंचाई अनुभाग-3

लखनऊ दिनांक अक्टूबर 31, 2002

विषय - कुम्भ मेले के आयोजन हेतु जनपद हरिद्वार में स्थित सिंचाई विभाग उ0प्र0 सरकार की भूमि उत्तरांचल सरकार को हस्तान्तरित किये जाने के सम्बन्ध में।

महोदय,

कृपया उपर्युक्त विषयक आपके अर्द्ध शा0 पत्रांक-1518/9-1-सिं/2002, दिनांक 25.06.2002 की ओर आपका ध्यान आकृष्ट करते हुये मुझे आपसे यह कहने का निर्देश हुआ है कि श्री राज्यपाल महोदय जनपद हरिद्वार में सिंचाई विभाग की शहरी भूमि 697.576 हैक्टे0 उत्तरांचल राज्य को कुम्भ मेले के आयोजन हेतु हस्तान्तरित किये जाने के आदेश एतद्वारा प्रदान करते हैं।

भवदीय,

(एन0के0 मांगलिक)
विशेष सचिव

संख्या- 3402(1)/02-27-सिं-3 तदिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. सचिव, उत्तरांचल समन्वय विभाग, उ0प्र0 शासन।
2. प्रमुख अभियन्ता, सिंचाई विभाग उ0प्र0 लखनऊ।
3. मुख्य अभियन्ता (पश्चिम) सिंचाई विभाग लखनऊ।
4. मुख्य अभियन्ता (गंगा) सिंचाई विभाग मेरठ।

(एन0के0 मांगलिक)
विशेष सचिव

उत्तरांचल राज्य को दी जाने वाली भूमि का विवरण (संलग्न नक्शों के अनुसार)

उत्तरांचल की स्थापित भूमि क्षेत्र से
उसके खंड गंगा नहर खंड की उप की भी पीले रंग से

शहरी क्षेत्र जनपद - हरिद्वार

| क्रमांक | भूमि का कुल क्षेत्रफल (हेक्टेयर में) | शिवाई विभाग उपरो की आवश्यकता | उत्तरांचल राज्य को दी जाने वाली भूमि | अभ्युक्ति | सम्बन्धित वादों की सूची | प्रतिक्रमण | विशेष टिप्पणी |
|---------|---|---------------------------------------|---|--|--|--|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | दुधिया बन्ध 22.593 | — | 17.458 | दुधिया बन्ध से पुरानी आपूर्ति धारा तक की भूमि | 1- वाद सं-7226/86 माननीय उच्च न्यायालय दिलहाबाद, पंचवली सलग्न क्र-स. 1 से 95 तक 2- वाद सं-187/96 माननीय जिला न्यायालय हरिद्वार पंचवली सलग्न क्र-स. 1 से 2 तक | पट्टे पर दी गई भूमि में पट्टेवाले द्वारा अनिष्ट रूप से दीन रोड को है। | |
| (13) | — | 3.954 | — | दुधिया बन्ध स्टोर एवं कालोनी की भूमि। | — | — | — |
| (14) | — | 1.181 | — | पुरानी आपूर्ति धारा के शीर्ष के संचालन हेतु भगीरथ बिन्दू की भूमि। | — | — | — |
| 2 | पलाइंग फोक्स 20.549 | — | 18.806 | पलाइंग फोक्स आई लैन्ड। | — | — | — |
| (23) | — | 0.771 | — | पुरानी आपूर्ति धारा के शीर्ष के संचालन हेतु। | — | — | — |
| (24) | — | 0.875 | — | लालजी वाला निरीक्षण भवन की भूमि। | — | — | — |
| (25) | — | 0.034 | — | पुरानी आपूर्ति धारा पर सर्विस रोड के लिए। | — | — | — |
| (26) | — | 0.033 | — | स्थायी स्टोर लालजी वाला। | — | — | — |
| 3 | पन्त द्वीप 41.018 | — | 40.199 | पन्त द्वीप की भूमि। | पाकिस्तान से सम्बन्धित वाद सं-590/2002 माननीय उच्च न्यायालय मैनीटाल रूप वाद सं-260/2002 माननीय उच्च न्यायालय दिल्ली देव लक्ष्मण माननीय न्यायालय की प्रविष्टि सलग्न है। | पन्त द्वीप की इस भूमि पर पाकिस्तान की जाती है। माननीय उच्च न्यायालय के आदेशानुसार कर्मियों को जमीन दे दी गई है। आज तक पन्त द्वीप पर भूमि नहीं जमा है। | |
| | — | 0.819 | — | पुरानी आपूर्ति धारा पर सर्विस रोड के लिए। | — | — | — |
| 4 | रोडीवेल वाला 103.625 | — | 78.733 | रोडीवेल वाला की भूमि। | — | — | — |
| (43) | — | 2.250 | — | एन० एस०सी० एवं लिंक चैनल की बीच की भूमि। | वाद सं-3058/2000 एवं वाद सं-82897/02 माननीय उच्च न्यायालय मैनीटाल उत्तरांचल पंचवली सलग्न क्र-स. 1 से 73 तक, 1 से 60 तक। | — | — |

व्यस्तान्तरण करने वाले :- Anshu Singh
दिनांक 28-11-02
(जगमोहन राय)
जिलावार (आयसी हरिद्वार)
स.डी.जी.सी. हरिद्वार
(नवी सिंह)
उपस्थानक अधिकारी
स.डी.जी.सी. हरिद्वार

(विनय कुमार, श्रीवाराह)
सहायक अभियंता I
स.डी.जी.सी. हरिद्वार

(अरविन्द कुमार)
अभियंता
स.डी.जी.सी. हरिद्वार

व्यस्तान्तरण करने वाले :-
दिनांक 28-11-02
(के.पी. सिंह)
सहायक अभियंता
स.डी.जी.सी. हरिद्वार

(स.एस. अहिर)
उपस्थानक अधिकारी
सिन्हाई एवं हरिद्वार

सलग्न त्रानचिद के अनुसार।

उत्तरांचल के खानसी जिले में उत्तरी खण्ड गंगा नहर स्केप की उ.प्र. की भूमि प्लेन की है।

| क्र.मांक | भूमि का कुल क्षेत्र-फल (हेक्टेयर में) | सिंचाई विभाग उ.प्र. की आवश्यकता | उच्चतम राज्य के क्षेत्र वाली भूमि। | अव्यक्त | सम्बन्धित गाँवों की सूची | अतिक्रमण | विशेष विषयी |
|----------|---------------------------------------|---------------------------------|------------------------------------|--|---|---|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 11 | खिल्लोवाली जंगल 53.622 | — | 53.622 | खिल्लो वाली घना जंगल। | — | — | — |
| 12 | 24.885 | 24.885 | — | भीम गोडा बैराज की सुरक्षा हेतु घिल्ला रोड एवं गंगा नदी के बाँधों किनारे की बीच की जंगल। | — | — | — |
| 13 | 6.948 | — | 3.474 | घिल्ला रोड से ऊपर का जंगल। | — | — | — |
| (133) | — | 3.474 | — | बैराज की सुरक्षा हेतु। | — | — | — |
| 14 | 47.258 | — | 47.258 | चण्डीपुल के अपरस्टिम में गंगा टापू एवं जंगल। | — | — | — |
| 15 | 416.429 | — | 415.929 | चण्डी प. के डाउनस्टिम में गंगा टापू एवं | बं. सं. 187/76 माननीय जिला न्यायालय हरिद्वार पलमली सलग्न जम. समया से 15 तक | 1. चण्डीपुल के उत्तर में कुछ आसम. का जम. डी.ए. संस्था द्वारा कब्जे में किया गया है। 2. उक्त जम. सिवा मिलन हय कि. वि. की भूमि पर पुल के उत्तर में अन्य निम्न कर्म किया गया। | — |
| (153) | — | 0.500 | — | पूर्वी गंगा नहर का स्टोर। | — | — | — |
| 16 | 0.093 | — | 0.093 | मायापुर स्केप की दायें किनारे की भूमि। | बं. सं. 187/76 माननीय न्यायालय खण्डी एवं हरिद्वार पलमली सलग्न क. सं. 1 से 32 तक | स्थापना सदन के पास 217-32 वर्ग मी. में अतिक्रमण। | उ.प्र. सरकार द्वारा सि. वि. की भूमि में मायापुर सलग्न न. सं. 1/28 में अतिक्रमण किया। |
| | सिंह द्वार कालोनी 4.011 | 3.371 | — | सर्वकारियों के आवासीय एवं अनावासीय भवन बने हुए हैं। | — | — | — |
| | — | — | 0.640 | कैलास फील्ड हॉस्टल की भूमि। | — | — | — |

याग: 771.318 73.742 697.576

इस्ताना-तरा के वाले :-
दिनांक: 23.11.07

(नाथ सिंह)
उपरजस्त अधिकारी
ख.डी.जी.सी.खण्डी।
अधिकारी (आयुक्त) हरिद्वार
ख.डी.जी.सी.खण्डी।
(विनय कुमार शीवास्तव)
सहायक अभियन्ता I
ख.डी.जी.सी.हरिद्वार।

अधिसासी अभियन्ता
उत्तरी खण्ड गंगा नहर,
रुड़की
23/11/07
(अरविन्द कुमार)
आयुक्त अभियन्ता
ख.डी.जी.सी.खण्डी।

इस्ताना-तरा पर लेने वाले :-
दिनांक: 23.11.07
(के.पी. सिंह)
आयुक्त अभियन्ता
सिंचाई एवं हरिद्वार
(रमेश चंद्र)
उपरजस्त अधिकारी
सिंचाई एवं हरिद्वार।

नोट :- इस श्रेणी पर माननीय उच्च न्यायालय पन्त दीव:- इलाहाबाद के आदेश दिनांक 11.08.06 के तुरंतपालन में श्री टी.एन. सिंह एवं श्री धनराज सिंह निवासी रेलवे रोड नगीना जिला-विजयपुर की पार्षदों ने जम. सं. 1/2.02 तक धनराज जमा है। उक्त कर्मचारी जमा उच्च न्यायालय इलाहाबाद के जम. आदेशानुसार की जाती है।

Annexre R3

संख्या-3402/02-27-सि-3

एज0के0गंगांतिक,
विशेष सचिव,
उ0प्र0शासन।
सचिव,
सिंचाई विभाग,
उत्तरांचल शासन,
देहरादून।

63.67

5-11-200

सिंचाई अनुभाग-3

तखनक्र:दिनांक: 1 अक्टूबर, 31 2002

विषय:- कुम्भ मेले के आयोजन हेतु जनपद हरिद्वार में स्थित सिंचाई विभाग-उत्तरांचल सरकार की भूमि उत्तरांचल सरकार को हस्तांतरित किये जाने के संबंध में।

बायरो 1158
11-11-02

मु0म0(ग.ज.प.)
प्रवर्तिका

महोदय,

कृपया उपरोक्त विषयक आपके अर्द्धशा0पत्रांक- 1-518/9-1-सिंचाई2002, दिनांक 25.6.2002 की ओर आपका ध्यान आकृष्ट करते हुए मुझे आपसे यह चक्राने का निदेश हुआ है कि श्री राज्यापाल महोदय जनपद हरिद्वार में सिंचाई विभाग की शहरी भूमि 697.576 हेक्टेयर उत्तरांचल राज्य को कुम्भ मेले के आयोजन हेतु हस्तांतरित किये जाने के आदेश एतद्द्वारा प्रदान करते हैं।

भवदीय,

(एज0के0गंगांतिक)
विशेष सचिव

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संख्या- 3402 (1)/02-27-सि-3 तदिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है

1. सचिव, उत्तरांचल, सर्वोच्च विभाग, उ0प्र0 शासन।
2. प्रमुख अभियंता, सिंचाई विभाग, उ0प्र0शासन।
3. मुख्य अभियंता (परिचालन), सिंचाई विभाग, लखनऊ।
4. मुख्य अभियंता (गंगा), सिंचाई विभाग, मेरठ।

(एज0के0गंगांतिक)
विशेष सचिव

कार्यालय मुख्य अभियंता एवम विशागाध्यक्ष
सिंचाई विभाग उत्तरांचल, यमुना कालीनी
देहरादून

पत्रांक सी-162/मुअ/सिंचाई/एअ-5/परिसम्पत्ति/नियोजन दिनांक, नवम्बर 01, 2002

प्रतिलिपि निम्नांकित को सूचनार्थ एवम आवश्यक कार्यवाही हेतु प्रेषित है

1. मुख्य अभियंता गंगा उ0प्र0 सि0वि0मेरठ, एवम मुख्य अभियंता गंगा घाटी उत्तरांचल।
2. अधीक्षक अभियंता गंगा संचालन मण्डल मेरठ एवम अधीक्षक अभियंता सिंचाई कार्य मण्डल देहरादून
3. अधीक्षक अभियंता अनुसंधान एवम नियोजन। जलसंधान। खण्ड हरिद्वार एवम अधीक्षक अभियंता उत्तरी खण्ड गंगा नहर रुड़की तथा नोडल अधिकारी उ0प्र0 सि0 वि0 शासन उत्तरांचल हरिद्वार।

। एस. एम. सर्वसेना ।

वरिष्ठ स्टाफ अधिकारी, विशागाध्यक्ष

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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 718]

नई दिल्ली, मंगलवार, नवम्बर 7, 2000/कार्तिक 16, 1922

No. 718]

NEW DELHI, TUESDAY, NOVEMBER 7, 2000/KARTIKA 16, 1922

जल संसाधन मंत्रालय

अधिसूचना

नई दिल्ली, 7 नवम्बर, 2000

का. आ. 992 (अ).—(उत्तर प्रदेश पुनर्गठन अधिनियम, 2000 के भाग VII, VIII और IX के तहत प्रदत्त शक्तियों का प्रयोग करते हुए जारी अधिसूचना)।

1. जबकि नियत दिन से उत्तरांचल के नए राज्य का सृजन होने के बाद, जल-आपूर्ति अथवा विद्युत सृजन की परियोजनाएं आंशिक रूप से उत्तरांचल में और आंशिक रूप से उत्तर प्रदेश में आ सकती हैं।
2. और जबकि यह आवश्यक है कि जब तक इस अधिनियम की धारा 80 के अन्तर्गत गंगा प्रबंधन बोर्ड का सृजन नहीं हो जाता अथवा वैकल्पिक व्यवस्था नहीं हो जाती है, तब तक उत्तर प्रदेश और उत्तरांचल के उत्तरवर्ती राज्यों को जल आपूर्ति सम्बन्धी विद्यमान व्यवस्था में परिवर्तन नहीं किया जाए।
3. अब, इसलिए इस अधिनियम की धारा 64 के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा यह निदेश दिया जाता है कि :—
 - (क) हैड वर्क्स (बाँधों, बैराजों, नियामकों, जलाशयों) के प्रशासन, निर्माण, अनुरक्षण और प्रचालन के संबंध में तथा संबंधित राज्य को जल आपूर्ति करने के लिए आवश्यक नहर नेटवर्क के हिस्से संबंधी विद्यमान व्यवस्थाओं को तब तक जारी रखा जाये जब तक कि गंगा प्रबंधन बोर्ड का गठन नहीं हो जाता है अथवा जब तक भारत सरकार द्वारा इस संबंध में और निदेश जारी नहीं किए जाते हैं।
 - (ख) मुख्य अभियंता, उत्तराखंड द्वारा प्रबंधन की जा रही परियोजनाओं का प्रबंधन उत्तर प्रदेश के नए राज्य के किसी भी क्षेत्र को कोई नुकसान पहुँचाए बिना यथावत् जारी रहेगा।
 - (ग) अधिनियम के भाग II के प्रावधान के आधार पर नए उत्तरांचल राज्य के क्षेत्र में आने वाली उपरोक्त मद 3-ख के अन्तर्गत शामिल परियोजनाओं के अतिरिक्त मौजूदा उत्तर प्रदेश राज्य के प्रमुख अभियंता द्वारा प्रबंधन की जा रही जल संसाधन परियोजनाओं की देख-रेख नये उत्तर प्रदेश राज्य द्वारा मौजूदा व्यवस्था के अनुसार नये उत्तरांचल राज्य के किसी भी क्षेत्र को कोई नुकसान पहुँचाए बिना जारी रहेगा।

- (घ) नया उत्तर प्रदेश और उत्तरांचल राज्य यह सुनिश्चित करेंगे कि विद्युत शक्ति की आपूर्ति के सृजन अथवा किसी क्षेत्र के लिए जल आपूर्ति के लिए किसी परियोजना के प्रशासन, निर्माण, रखरखाव और प्रचालन के संबंध में व्यवस्था में इस तथ्य के आधार पर कि भाग II के प्रावधानों के अनुसार यह राज्य के बाहर है जहां ऐसी विद्युत की आपूर्ति के सृजन के लिए विद्युत गृह तथा अन्य संस्थापना अथवा आपाह क्षेत्र, जलाशयों, टूर नेटवर्क और जल आपूर्ति के वास्ते अन्य कार्य, जैसी भी स्थिति हो, स्थित हैं, उस क्षेत्र के लिए हानिकारक कोई संशोधन नहीं किया जाएगा।
- (ङ) यदि इस अधिसूचना के प्रावधानों को कार्यान्वित करने में कोई कठिनाई आती है तो केन्द्र सरकार जहां कहीं आवश्यक हो प्रत्येक नए राज्य की सरकार से परामर्श करने के बाद संबंधित राज्य सरकार अथवा अन्य प्राधिकारी को प्रशासन, निर्माण (हटाना सहित), रखरखाव तथा प्रचालन नियत तिथि से पहले तत्काल पूर्व व्यवस्था के प्रचालन के लिए निर्देश दे सकती है।
- ये आदेश 9 नवम्बर, 2000 से लागू होंगे।

[फ़. सं. 10-19/2000-ल.सि.]

पी.सी. माथुर, आयुक्त (परियोजना)

MINISTRY OF WATER RESOURCES
NOTIFICATION

New Delhi, the 7th November, 2000

S.O. 992 (E).—(Notification issued in exercise of powers conferred under Part VII, VIII and IX of the Uttar Pradesh Reorganisation Act, 2000).

1. Whereas, after the creation of the new State of Uttaranchal from the Appointed Day, projects for supply of water, or for generation of electricity may fall partly in Uttaranchal and partly in Uttar Pradesh,
2. And whereas it is necessary that till the Ganga Management Board under Section 80 of the Act is created or alternative arrangements made, the present arrangements in regard to supply of water to the successor States of Uttar Pradesh and Uttaranchal, are not disturbed,
3. Now, therefore, in exercise of the powers conferred under section 64 of the Act, it is hereby directed that:
 - (A) The present arrangements in regard to the administration, construction, maintenance and operation of Head works(dams, barrages, regulators, reservoirs) and part of canal network necessary to supply water to the state concerned be continued till the constitution of the Ganga Management Board or till further directions in this regard are issued by the Government of India.
 - (B) The projects being managed by the Chief Engineer, Uttarakhand shall continue to be managed as before without any disadvantage to any area of the successor State of Uttar Pradesh.

- (C) The Water Resources Projects being managed by the Engineer-in-Chief of the existing State of Uttar Pradesh other than those covered under item 3-B above falling in geographical area of the successor State of Uttaranchal by virtue of the provision of Part II of the Act, shall continue to be looked after as per the existing arrangement by the successor State of Uttar Pradesh without any disadvantage to any area of successor State of Uttaranchal.
- (D) The successor State of Uttar Pradesh and Uttaranchal shall ensure that the arrangement in regards to the generation of supply of electric power, or the supply of water for any area or in regards to the administration, construction, maintenance and operation of any project for such generation or supply shall not be modified to the disadvantage of that area by reason of fact that it is, by virtue of the provisions of Part II, outside the state in which the power station and other installation for generation of supply of such power or the catchment area, reservoirs, canal network and other works for the supply of water, as the case may be, are located.
- (E) If any difficulty arises in giving effect to the provisions of this Notification, the Central Government may, after consultation with the Government of each successor State, wherever necessary, give such directions as it deems proper to the State Government or other authority concerned, for the administration, construction (including removal), maintenance and operation of the previous arrangement immediately before the appointed day.

These orders will come into force from 9 Nov., 2000.

[F. No. 10-19/2000-MI]

P.C. MATHUR, Commissioner (Projects)

(18) (3)

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition P.I.L. No. 2 of 2009

Sri Arvind Chauhan. Petitioner

Versus

Union of India & others. Respondents

Mr. S.N. Babulkar, Senior Advocate with Mr. Ravi Babulkar, Advocate for the petitioner.

Mr. Pradeep Joshi, Central Govt. Counsel for respondent No. 1.

Mrs. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 2.

Mr. L.P. Naithani, Advocate General with Mr. Ashish Joshi, Brief Holder for respondent No. 3.

JUDGMENT

Coram: Hon'ble V.K. Gupta, C.J.
Hon'ble V.K. Bist, J.

V.K. GUPTA, C. J. (Oral)

In this Petition, in the nature of public interest, filed by the petitioner under Article 226 of the Constitution of India, the following reliefs have been claimed:

- i. to issue a writ, order or direction in the nature of certiorari quashing the impugned Notification dated 07.11.2000 issued by respondent no. 1. (Annexure No. 1).
- ii. to issue a writ, order or direction in the nature of mandamus declaring the notification dated 07.11.2000 ultra virus to the provisions of U.P. Reorganisation Act 2000 (section 43, 64 and 79) (Annexure No. 1).
- iii. to issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 & 2 to handover the possession of all the properties covered under the notification dated 07.11.2000 to the State of Uttarakhand forthwith (Annexure No. 1).
- iv. to issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 1 and 2 to implement forthwith the agreement / consensus between the secretaries of Uttar Pradesh and Uttarakhand Governments dated 15.11.2007 arrived u/s 79 of the U.P. Reorganisation Act 2000 (Annexure No. 12).



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- v. to issue a writ, order or direction in the nature of mandamus commanding and directing the Govt. of India i.e. respondent no. 1 to approve / implement the consensus / agreement dated 15.11.2007 forthwith (Annexure No. 12).
- vi. to mould and issue any other writ, order or direction which this Hon'ble Court deems just and proper in the circumstances of the case.
- vii. to award the cost of the petition to the Petitioner."

2. Prayers (i) to (iii) revolve around and are based upon as well as directly linked with Notification No. S.O. 992 (E) dated 7th November, 2000 issued by the Ministry of Water Resources, Government of India. Prayers (iv) & (v) touch upon and arise out of an Agreement (styled as "Consensus Agreement") executed between the Secretaries of the Governments of Uttar Pradesh and Uttarakhand on 15th November, 2007. Even though the said Agreement nowhere mentions that it has been drawn up or arrived at under any specific provision or under any provision of any law, including The Uttar Pradesh Reorganisation Act, 2000 ("2000 Act" for short), the petitioner has averred that this Agreement has been arrived at and drawn up between the two Secretaries of the aforesaid two Governments in terms of Section 79 of the 2000 Act and, therefore, the approval of the Central Government with respect to the aforesaid Agreement has been sought in Prayer (v) of the Writ Petition.

3. By virtue of Sections 3, 4, 5 & 6 occurring in Part II of 2000 Act, on and from the "appointed day", State of Uttaranchal (renamed later as the State of Uttarakhand and being presently so called by that name) came into being by bifurcating and carving out some parts of the "existing" State of Uttar Pradesh. 9th November, 2000 was the "appointed day". It was on this day that the State of Uttaranchal came into being. As far as the subject matter of this Petition goes, three provisions of 2000 Act are relevant for our consideration. These are Sections 64, 79 and 80. For ready reference, these three Sections are reproduced hereunder and read thus:



"64. Continuance of arrangements in regard to generation and supply of electric power and supply of water. - If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of Part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may, after consultation with the Government of each successor States wherever necessary, give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

79. Water Resources Development and its Management. - (1) Notwithstanding anything contained in this Act but subject to the provisions of Section 80, all rights and liabilities of the existing State of Uttar Pradesh in respect of water resource projects in relation to -

- (i) Ganga and its tributaries traversing the successor States excluding the Upper Yamuna River up to Okhla; and
- (ii) Upper Yamuna River and its tributaries up to Okhla,

shall, on the appointed day, be the rights and liabilities of the successor States in such proportion as may be fixed, and subject to such adjustments as may be made, by agreement entered into by the said States after consultation with the Central Government, or, if no such agreement is entered into within two years of the appointed day, then, the Central Government may, by order, determine within one year having regard to the purposes of the project:

Provided that the order so made by the Central Government may be varied by any subsequent agreement entered into by the successor States after consultation with the Central Government.

(2) An agreement or order referred to in sub-section (1) shall, where an extension or further development of any of the projects referred to in that sub-section after the appointed day is undertaken, be the rights and liabilities of the successor States in relation to such extension or further development.

(3) The rights and liabilities referred to in sub-sections (1) and (2) shall include -

- (a) the right to receive and utilise the water available for distribution as a result of the projects; and
- (b) the right to receive and utilise the power generated as a result of the projects,

(B)

but shall not include the rights and liabilities under any contract entered into before the appointed day by the Government of the existing State of Uttar Pradesh with any person or authority other than Government.

80. Constitution and functions of the Ganga Management Board. - (1) The Central Government shall constitute a Board to be called the Ganga Management Board (hereinafter referred to as the Board) for administration, construction, maintenance and operation of projects referred to in sub-section (1) of Section 79 for any or for a combination of the following purposes, namely:

- (i) irrigation;
 - (ii) rural and urban water supply;
 - (iii) hydro power generation;
 - (iv) navigation;
 - (v) industries; and
 - (vi) for any other purpose which the Central Government may, by notification in the Official Gazette, specify.
- (2) The Board shall consist of -
- (a) a whole-time Chairman to be appointed by the Central Government in consultation with the successor States;
 - (b) two full-time members, one from each of the successor States, to be nominated by the respective State Government;
 - (c) four part-time members, two from each of the successor States, to be nominated by the respective State Government;
 - (d) two representatives of the Central Government to be nominated by that Government.
- (3) The functions of the Board shall include -
- (a) the regulation of supply of water from the projects referred to in clause (i) of sub-section (1) of Section 79 to the successor States having regard to -
 - (i) any agreement entered into or arrangement made covering the Government of existing State of Uttar Pradesh and any other State or Union territory, and
 - (ii) the agreement or the order referred to in sub-section (2) of Section 79;
 - (b) the regulation of supply of power generated at the projects referred to in clause (i) of sub-section (1) of Section 79, to any Electricity Board or other authority in-charge of the distribution of power having regard to -



22 (2)

- (i) any agreement entered into, or arrangement made covering the Government of the existing State of Uttar Pradesh and any other State or Union territory, and
- (ii) the agreement or the order referred to in sub-section (2) of Section 79;
- (c) the construction of such of the remaining on-going or new works connected with the development of the water resources projects relating to the rivers or their tributaries as the Central Government may specify by notification in the Official Gazette;
- (d) such other functions as the Central Government may, after consultation with the successor States entrust to it."

4. Impugned Notification dated 7th November, 2000 was issued by respondent No. 1 in purported exercise of the power vesting in it under Section 64 of 2000 Act. For ready reference, the text of the impugned Notification is reproduced hereunder, which reads thus:

1. Whereas, after the creation of the new State of Uttaranchal from the Appointed Day, projects for supply of water, or for generation of electricity may fall partly in Uttaranchal and partly in Uttar Pradesh.
2. And whereas it is necessary that till the Ganga Management Board under Section 80 of the Act is created or alternative arrangements made, the present arrangements in regard to supply of water to the successor States of Uttar Pradesh and Uttaranchal, are not disturbed.
3. Now, therefore, in exercise of the powers conferred under section 64 of the Act, it is hereby directed that:
 - (A) The present arrangements in regard to the administration, construction, maintenance and operation of Head works (dams, barrages, regulators, reservoirs) and part of canal network necessary to supply water to the state concerned be continued till the constitution of the Ganga Management Board or till further directions in this regard are issued by the Government of India.
 - (B) The projects being managed by the Chief Engineer, Uttarakhand shall continue to be managed as before without any disadvantage to any area of the successor State of Uttar Pradesh.



- (C) The Water Resources Projects being managed by the Engineer-in-Chief of the existing State of Uttar Pradesh other than those covered under item 3-B above falling in geographical area of the successor State of Uttaranchal by virtue of the provision of Part II of the Act, shall continue to be looked after as per the existing arrangement by the successor State of Uttar Pradesh without any disadvantage to any area of successor State of Uttaranchal.
- (D) The successor State of Uttar Pradesh and Uttaranchal shall ensure that the arrangement in regards to the generation of supply of electric power, or the supply of water for any area or in regards to the administration, construction, maintenance and operation of any project for such generation or supply shall not be modified to the disadvantage of that area by reason of fact that it is, by virtue of the provisions of Part II, outside the state in which the power station and other installation for generation of supply of such power or the catchment area, reservoirs, canal network and other works for the supply of water, as the case may be, are located.
- (E) If any difficulty arises in giving effect to the provisions of this Notification, the Central Government may, after consultation with the Government of each successor State, wherever necessary, give such directions as it deems proper to the State Government or other authority concerned, for the administration, construction (including removal), maintenance and operation of the previous arrangement immediately before the appointed day.

These orders will come into force from 9 Nov., 2000."

5. We can dispose of this Petition insofar as the Prayers (i) to (iii) are concerned on a very short point. As is clearly evident from a bare reading of Section 64 read with Sections 3, 4, 5 & 6 occurring in Part II of 2000 Act, even though with respect to the arrangements relating to generation or supply of electric power or the supply of water for any area etc. etc. the Central Government has the power to give directions as it deems proper, this power cannot be exercised and directions cannot be issued by the Central Government except, "after consultation with the Government of each successor State, wherever necessary".

(25)

6. Section 64 clearly stipulates that wherever the generation or supply of electric power or supply of water for any area etc. is likely to be modified to the disadvantage of that area by reason of the fact that by virtue of Part II of 2000 Act such area falls outside the successor State, it clearly means that the occasion to issue / give directions as far as the Central Government is concerned, in terms of Section 64 (supra), would arise only after the "successor" States of Uttar Pradesh and Uttarakhand would come into being by virtue of Part II of 2000 Act. By a combined reading of Section 64 and Part II of 2000 Act, therefore, what clearly emerges is as under:

- i. The occasion to issue / give directions as far as the Central Government is concerned qua the State Governments of Uttar Pradesh and Uttarakhand under Section 64 would come and arise only after the two successor States have actually come into being; and
- ii. Such directions by the Central Government cannot be given or issued by it except after consultation with the Governments of each successor State, "wherever necessary".

7. Undoubtedly, the expression, "wherever necessary" does find a mention in Section 64, but that does not dispense with the responsibility cast upon the Central Government to decide and formulate an opinion whether, in the facts and circumstances of the case or in a given situation, consultation with both or one of the two successor States is necessary or not. That occasion also would arise only after the two States have actually come into being.

8. The impugned Notification was issued on 7th November, 2000. The two "successor" States of Uttar Pradesh and Uttaranchal came into being on the Appointed Day, which was 9th November, 2000. We have no hesitation in holding that because of the aforesaid reasoning, as far as 7th November, 2000 is concerned, the Central Government



25 (24)

had no jurisdiction, power or authority to issue the Notification in terms of Section 64 of 2000 Act and, in any event, the Notification, on its plain reading and as per the admitted stand of respondent No. 1, was issued without any consultation with any of the two "successor" States or without the Central Government noting or recording an endorsement that it did not deem it necessary to hold consultation with anyone or both the successor States. Mr. Pradeep Joshi, learned Central Government Counsel appearing for respondent No. 1, Mrs. Beena Pandey, learned Standing Counsel appearing for respondent No. 2 and Mr. L.P. Naithani, learned Advocate General appearing for respondent No. 3 have all submitted before us that indeed the impugned Notification dated 7th November, 2000 suffered from a patent error and violation of law inasmuch as it was issued in violation of the legal requirement contained in Section 64 (supra). Mr. Pradeep Joshi and Mrs. Beena Pandey have actually categorically stated before us that on this ground alone this Notification deserves to be quashed and set aside and according to them should be quashed and set aside.

9. As far as Prayers (iv) & (v) are concerned, we were taken through the text of the Agreement dated 15th November, 2007. As we have already observed, this Agreement, on its own, does not state as to under which provision of law or any specific or particular provision of any law, including 2000 Act, has it been drawn up or executed. The petitioner, however, contends that this Agreement was executed in terms of Section 79 of 2000 Act and, therefore, the approval of the Central Government is necessary for ratification / implementation of this Agreement. We do not agree with this submission of the petitioner because a plain reading of Section 79 (supra) clearly informs us that any agreement to be entered between the "successor" States, with respect to rights and liabilities of the "existing" State of Uttar Pradesh in relation to water resource projects with respect to Ganga & its tributaries and Upper Yamuna River & its tributaries, after consultation with the Central Government, has to be entered into and executed within two years of the Appointed Day. As per the



specific and unambiguous provision contained in Section 79, if the State Governments of the "successor" States do not enter into any such agreement, after consultation with the Central Government, within a period of two years from the Appointed Day, the Central Government has been given the jurisdiction, power and authority to pass an appropriate order within one year after the expiry of the aforesaid period of two years. What, therefore, emerges is that as far as the State Governments are concerned, there is a moratorium of two years starting from the Appointed Day and as far as the Central Government is concerned, there is a moratorium of one year from the date of expiry of the aforesaid period of two years. The complete moratorium, therefore, with respect to the Central Government and the State Governments becomes effective at the expiry of three years from the Appointed Day. Undoubtedly, the Agreement / Consensus Agreement was entered into between the Secretaries of the two Governments on 15th November, 2007, i.e. much, much after the expiry of the aforesaid period of three years. This Agreement, therefore, cannot be termed as one flowing from Section 79 of 2000 Act.

10. There is another reason why we have no hesitation in holding that the Agreement dated 15th November, 2007 does not flow from Section 79 of 2000 Act. A bare look at the Agreement discloses that it is not confined to rights and liabilities of the two States in respect of water resource projects in relation to Ganga & its tributaries and Upper Yamuna River & its tributaries, but extends to various subjects between the two Governments such as Canals, not necessarily from out of Ganga or Upper Yamuna River, buildings and maintenance of the buildings, various lands, flood control measures etc. etc. Section 79 is very restrictive in its operation and application. It applies and operates only with respect to water resource projects in relation to the Ganga and Upper Yamuna Rivers and to nothing else.



27 (22)

11. Agreement dated 15th November, 2007 is a bilateral Agreement between the Secretaries of the two Governments covering the subjects mentioned therein. This Agreement being bilateral in nature, it is entirely up to the two Governments to follow it up or do whatever else is required from them or expected from them. As far as this Court is concerned, this Court holds that this Agreement does not flow from nor is in any manner linked with Section 79 of 2000 Act.

12. Because we have held that the Notification dated 7th November, 2000, undoubtedly, was issued by the Central Government in patent violation of Section 64 of 2000 Act and since the Central Government, apart from Section 64, had no jurisdiction or power or authority to issue such a Notification under any other provision of 2000 Act or any other provision of any other law, this Notification is hereby declared by us to be non est in the eyes of law. The necessary consequence as well as corollary which would follow is that this Notification, being non est in the eyes of law, now cannot be acted upon or enforced in any manner. State of Uttarakhand, therefore, in no way is bound by this Notification and in no manner is it under any obligation to act upon this Notification or any part thereof. For the same reasoning, we have also no hesitation in holding and declaring that this Notification cannot be legally and validly enforced, not at least qua or against respondent No. 3.

13. On a totality of circumstances, therefore, and based on the aforesaid reasoning, we allow this Writ Petition and issue herein below mentioned directions and pass the following orders:

- i. Notification dated 7th November, 2000, impugned in this Writ Petition is quashed and set aside with all the consequences operating qua respondent No. 2 as well as respondent No. 3.



Respondent No. 2 is hereby directed by us, by issuance of a writ of mandamus, to handover the possession of all the

28 (2)

properties to respondent No. 3 covered under Notification dated 7th November, 2000.

iii. As far as the Agreement dated 15th November, 2007 is concerned, it is held not to have been arrived at under or in terms of Section 79 of the 2000 Act. This Agreement, being bilateral in nature, has been drawn up and executed between the Secretaries of the two Governments in the exercise of the States' normal executive power under Article 157 of the Constitution of India. Therefore, there is no occasion for this Court to issue any direction qua respondent No. 1 to approve, ratify or implement the Agreement or take any other step as far as this Agreement is concerned.

Sd/-
(V.K. Bist, J.)
29.06.2009

Sd/-
(V.K. Gupta, C. J.)
29.06.2009

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True Copy

Assistant Registrar (Copy In) *3.7.09*
High Court of Uttarakhand
NAINITAL

*sent with original
Gugata*

GEETA PARIHAR
Advocate
Regd. No. 8026199
Path Commissioner
High Court of Uttarakhand
At - NAINITAL
Sl. No. 14649
Date 26/6/2016



ITEM NO.MM-2

COURT NO.1

SECTION X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17826/2009

(From the judgement and order dated 29/06/2009 in PIL No. 2/2009 of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

STATE OF U.P.

Petitioner(s)

VERSUS

ARVIND CHAUHAN & ORS.

Respondent (s)

Date: 28/07/2009 This Petition was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE DR. JUSTICE B.S. CHAUHANFor Petitioner(s) Mr.Mukul Rohtagi, Sr.Adv.
Mr.Shail Kr.Dwivedi, AAG
Mr. Chandra Prakash Pandey,Adv.
Ms.Vandan Mishra, Adv.
Mr.Ashutosh Sharma, Adv.
For Respondent(s) Mr.A.K.Ganguli, Sr.Adv.
Mr. P.N. Gupta,Adv.

Mr. Atishi Dipankar ,Adv

UPON hearing counsel the Court made the following
ORDER

List on 10.08.2009.

Status quo, as on today, shall be maintained till then.

(G.V.Ramana)
Court Master

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(Veera Verma)
Court Master

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à.

ITEM NO. 3

COURT NO.4

SECTION X

28

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17826/2009

(From the judgement and order dated 29/06/2009 in PIL No.2/2009 of The
HIGH COURT OF UTTARAKHAND AT NAINITAL)

STATE OF U.P.

Petitioner(s)

VERSUS

ARVIND CHAUHAN & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., amendment of the
petition, impleadment, permission to file addl. documents and prayer for
interim relief and office report) (For final disposal)

WITH SLP(C) NO. 26359 of 2009

(With office report) (for final disposal)

SLP(C) NO. 34424 of 2012

(With appln. for c/delay in filing SLP and office report)

Date: 12/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)

Mr. S.R. Singh, Sr. Adv.
Mr. Kunal Verma, Adv.
Mr. Ardhendumauli Kumar Prasad, Adv.

Mr. Alakh A. Srivastava, Adv.
Mr. Mohit Garg, Adv.
Mr. D.S. Mahra, Adv.

For Respondent(s) Mr. Dinesh Dwivedi, Sr. Adv.

Mr. Jatinder Kumar Bhatia, Adv.
Mr. Mukesh Verma, Adv.
Mr. Manish Shanker Srivastava, Adv.
Mr. Krishnan Mishra, Adv.

Mr. Atishi Dipankar, Adv.

Mr. B.S. Chahar, Sr. Adv.
Mr. Anil K Sharma, Adv.
Mr. Vishwa Pal Singh, Adv.

Mr. Aman Vachher, Adv.
Mr. Ashutosh Dubey, Adv.
Mr. P.N. Puri, Adv.

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

Delay condoned.

Applications for intervention/impleadment are
dismissed.

This Court by order dated 18.10.2012, had succinctly stated that the dispute involved in these special leave petitions is between the State of Uttar Pradesh and the State of Uttarakhand regarding certain properties of irrigation department.

Since the matter was pending before this Court for a long time, this Court thought it fit to direct the Central Government to invite both the parties and then persuade them to reach at an amicable settlement/agreement. We are told by the learned counsel appearing for the Central Government that pursuant to the directions issued by this Court on 18.10.2012, a draft notification is issued by the Central Government inter alia directing the States of Uttar Pradesh and Uttarakhand to file their replies to the draft notification. It is the grievance of the learned counsel for the Central Government that in spite of the considerable lapse of time, the reply to the draft notification is still not received from one of the States. Be that as it may.

We have already observed that it is a dispute between the two States. For resolving the said dispute it would be appropriate for the party aggrieved to file an appropriate suit as contemplated under Article 131 of the Constitution of India.

Secondly, since the Central Government has already initiated certain proceedings by issuing the draft notification pursuant to the orders and directions issued by this Court on 18.10.2012, in our view the disposal of these special leave petitions should not come in the way of the Central Government in continuing with the proceedings.

In view of the above, we dispose of these special leave petitions with liberty to the parties, if they so desire, to get the dispute (s) resolved by filing an appropriate civil suit before appropriate forum.

As we have already observed that the Central Government has already initiated the proceedings by calling the parties to reach at an amicable agreement/settlement to resolved their disputes(s), we make it clear that this exercise should continue even after disposal of these special leave petitions. If for any reason any party is aggrieved by the decision of the Central

Government, it is at liberty to question the same before an appropriate forum.

This Court vide order dated 28.07.2009, had granted "status quo" order as on that date. The interim order so granted shall continue till the matter is finally decided by the Central Government. We hope and trust that the Central Government will decide the dispute between the parties as expeditiously as possible.

All the contentions of both the parties are left to be agitated before an appropriate forum.

| [Charanjeet Kaur] | | [Vinod Kulvi] |
|Court Master | |Asstt. Registrar |

संयुक्त निदेशक, गढ़वाल मण्डल,
भूतत्व एवं खनिकर्म,
कार्यालय जनपद गढ़वाल।

संख्या : /सं0नि0ग0म0/खनन/भू0खनि0नि0/2024-25,

दिनांक 29 अक्टूबर 2024

कार्यालय ज्ञाप

भैरव हरकॉन इन्टरनेशनल लि0 हरिद्वार बाईपास परियोजना 14, प्रथम तल विवेकानन्द, एलयलेंग, जगन्नीतपुर, हरिद्वार के द्वारा जनपद हरिद्वार क्षेत्रान्तर्गत बैरागी कैम्प कनखल हरिद्वार में 95 टन प्रति घंटा क्षमता के रेडिमिक्स प्लांट तथा प्लांट परिसर में कुल 2,20,000 टन उपखनिज भण्डारण की अनुज्ञप्ति के नवीनीकरण हेतु प्रस्तुत आवेदन पत्र पर खान निरीक्षक/प्रभारी जिला खान अधिकारी, भूतत्व एवं खनिकर्म विभाग, जनपद हरिद्वार के पत्र संख्या 1077/भू0खनि0वि0-हरि0/रेडि0प्लां0-अनु0/2024-25, दिनांक 22 अक्टूबर 2024 के साथ संलग्न संयुक्त निरीक्षण आख्या तथा शिकायतकर्ता के शिकायती पत्र दिनांक 09 अक्टूबर 2024 की जांच के क्रम में प्रभारी जिला खान अधिकारी/खान निरीक्षक, भूतत्व एवं खनिकर्म विभाग, जनपद हरिद्वार के पत्र संख्या 1122/भू0खनि0वि0-हरि0/रेडि0प्लां0-अनु0/2024-25, दिनांक 28 अक्टूबर 2024 के साथ संलग्न संयुक्त निरीक्षण आख्या दिनांक 28 अक्टूबर 2024 के आधार पर उत्तराखण्ड स्टोन क्रेशर, स्क्रीनिंग प्लांट, पल्वराईजर, मोबाईल स्टोन क्रेशर, मोबाईल स्क्रीनिंग प्लांट, हॉट मिक्स प्लांट, रेडी मिक्स प्लांट अनुज्ञा (तृतीय संशोधन) नीति 2024 के विन्दु संख्या 28 में दिये गये प्रावधानानुसार राष्ट्रीय महत्व की परियोजना के दृष्टिगत प्लांट स्वामी को जनपद हरिद्वार क्षेत्रान्तर्गत बैरागी कैम्प कनखल हरिद्वार में पूर्व से स्वीकृत 95 टन प्रति घंटा क्षमता के रेडिमिक्स प्लांट तथा प्लांट परिसर में एक समय में कुल 2,20,000 टन उपखनिज भण्डारण में नवीनीकरण की अनुज्ञा की अनुमति 02 वर्ष अथवा परियोजना निर्माण अवधि, जो भी न्यून हो, तक की अवधि हेतु सुसंगत नियमों का पालन करने की शर्त के साथ-साथ निम्न शर्तों के अधीन प्रदान की जाती है:-

शर्त:-

1. प्लांट स्वामी को प्लांट में उत्पादित/विक्रय किये गये उपखनिज की मात्रा पर पर्यावरण एवं खनिज सम्पदा शुल्क रु0 1.00 प्रति कुन्तल की समतुल्य धनराशि निर्धारित लेखा शीर्षक में अग्रिम रूप से जमा किया जाना अनिवार्य होगा।
2. रेडिमिक्स प्लांट की स्थापना हेतु प्लांट स्वामी द्वारा उपलब्ध कराये गये अभिलेख यदि भ्रमक/त्रुटिपूर्ण पाये जाते हैं तो इसकी सम्पूर्ण जिम्मेदारी आवेदक की होगी तथा भ्रमक/त्रुटिपूर्ण अभिलेख पाये जाने की पुष्टि होने की दशा में प्लांट की अनुज्ञा निरस्त किये जाने की कार्यवाही सम्पादित की जायेगी, जिसकी सम्पूर्ण जिम्मेदारी आवेदक की होगी।
3. प्लांट स्वामी द्वारा उत्तराखण्ड स्टोन क्रेशर, स्क्रीनिंग प्लांट, पल्वराईजर, मोबाईल स्टोन क्रेशर, मोबाईल स्क्रीनिंग प्लांट, हॉट मिक्स प्लांट, रेडी मिक्स प्लांट अनुज्ञा नीति 2021 व उत्तराखण्ड स्टोन क्रेशर, स्क्रीनिंग प्लांट, पल्वराईजर, मोबाईल स्टोन क्रेशर, मोबाईल स्क्रीनिंग प्लांट, हॉट मिक्स प्लांट, रेडी मिक्स प्लांट अनुज्ञा (तृतीय संशोधन) नीति 2024 में उल्लिखित निर्धारित शर्तों/प्रतियन्धों का अनुपालन किया जाना होगा।
4. प्लांट स्वामी द्वारा प्लांट के संचालन से पूर्व उत्तराखण्ड पर्यावरण संरक्षण एवं प्रदूषण बोर्ड से संचालनार्थ सहनति की अनुमति प्राप्त किया जाना अपरिहार्य होगा।
5. प्लांट स्वामी को अनुज्ञा नवीनीकरण के उपरान्त विभागीय ई-रवन्ना पोर्टल पर अपडेशन कराया जाना अनिवार्य होगा, यदि प्लांट स्वामी द्वारा ई-रवन्ना पोर्टल पर अपडेशन किये बिना रेडिमिक्स प्लांट संचालित किया जाता है तो उक्त दशा में संयंत्र स्वामी के विरुद्ध नियमानुसार कार्यवाही की जायेगी, जिसके लिये संयंत्र स्वामी स्वयं जिम्मेदार होगा।



प्लान्ट स्वामी द्वारा प्लांट स्थापित करने हेतु पर्यावरण संरक्षण अधिनियम 1986, वायु अधिनियम 1981, जल अधिनियम 1974, एवं उसके अन्तर्गत नियमित नियमों के साथ ही केन्द्र सरकार एवं राज्य सरकार द्वारा समय-समय पर जारी आदेशों/अधिनियमों में इंगित दिशा निर्देशानुसार सभी मानक अनिवार्य रूप से पूर्ण करने होंगे।

7. प्लान्ट स्वामी को रेडिमिक्स प्लांट से धूल के कणों का उत्सर्जन को रोकने की विधि (Dust Extractor) या धूल के कणों एवं धुएं को हवा में उड़ने की विधि का प्रभावी उपयोग उत्पादन क्षमता के अनुरूप उपयोग करना होगा।
8. प्लान्ट स्वामी द्वारा भण्डारण स्थल के परिसर में सी0सी0टी0वी0 कैमरा, इलेक्ट्रॉनिक्स तोल मशीन स्वयं के व्यय से अनिवार्य रूप से स्थापित करेगा।
9. प्लान्ट स्वामी द्वारा अवैध ई-रवन्ना पर क्रय-विक्रय व परिवहन किये जाने पर सूचना प्रौद्योगिकी अधिनियम-2000 के अन्तर्गत कार्यवाही की जायेगी।
10. प्लांट स्वामी के द्वारा मा0 उच्चतम न्यायालय, मा0 राष्ट्रीय हरित प्राधिकरण, मा0 उच्च न्यायालय, नैनीताल, केन्द्र सरकार व राज्य सरकार द्वारा समय-समय पर निर्गत आदेशों का अनुपालन सुनिश्चित किया जाएगा।
11. उक्त रेडिमिक्स प्लांट के नवीनीकरण की अनुमति इस उपबन्ध के साथ प्रदान की जा रही है कि यदि भविष्य में उक्त भूमि की आवश्यकता किसी सरकारी विभाग को पड़ती है तो उक्त दशा में रेडिमिक्स प्लांट को अन्यत्र स्थानान्तरित किया जाना होगा एवं उक्त भूमि पर प्रदान की गयी रेडिमिक्स प्लांट की नवीनीकरण अनुज्ञा स्वतः निरस्त समझी जायेगी।
12. प्लांट स्वामी के द्वारा शासन की नीति के विपरीत कार्य करने पर सुनवाई का युक्तियुक्त अवसर प्रदान करने के उपरान्त गुण-दोष के आधार पर अनुज्ञा रद्द करने का निर्णय लिया जायेगा।

(जी0डी0 प्रसाद)
संयुक्त निदेशक,
गढ़वाल मण्डल।

संख्या : 05 / सं0नि0ग0म0 / खनन / मू0खनि0नि0 / 2024-25, तददिनांकित।

प्रतिलिपि:- निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. सचिव, खनन, उत्तराखण्ड शासन।
2. जिलाधिकारी, हरिद्वार।
3. निदेशक, भूतत्व एवं खनिकर्म निदेशालय, उत्तराखण्ड, देहरादून।
4. सदस्य सचिव, उत्तराखण्ड पर्यावरण संरक्षण एवं प्रदूषण नियंत्रण बोर्ड, देहरादून।
5. क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, रुड़की।
6. प्रभारी जिला खान अधिकारी, भूतत्व एवं खनिकर्म विभाग, जनपद हरिद्वार।
7. मैसर्स इरकॉन इन्टरनेशनल लि0 हरिद्वार बाईपास परियोजना 14, प्रथम तल विवेकानन्द, एलफ्लेव, जगजीतपुर, हरिद्वार।

(जी0डी0 प्रसाद)
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