

# **IN THE HIGH COURT OF MANIPUR AT IMPHAL**

## **PIL No. 6 of 2018**

1. Mr. Anthony Mung, aged about 35 years, S/o (L) John Mung, Secretary of St. John Chadong Catholic Church (Archdiocese of Imphal, Manipur), P.O. & P.S. Litan, Ukhrol District, Manipur.
2. Mr. Andria Anal, aged about 32 years, S/o Sr. Ngamdil, Finance Secretary, ATSUM residing at Unopat Village, P.O. & P.S. Chandel, District Chandel, Manipur.
3. Ms. Ningshimyao A. Shimray aged about 47 years D/o late Somi A. Shimray permanently residing at Chingcharoi Village, Ukhrol District and present at Wino Bazar East ( Old UBI Building ), Ukhrol P.O. & P.S. Ukhrol.
4. Ms. Aram Pamei, aged about 70 years, D/o (L) Dikhamang, at present a resident of Thalong Village, Kairaoching Khong, P.O. & P.S. Imphal West, Imphal West District, Manipur.

*... Petitioner*

**-Versus-**

1. The State of Manipur represented by the Chief Secretary, Government of Manipur.
2. The Commissioner/Secretary, Irrigation and Flood Control Department, Government of Manipur, Impal.
3. The Chief Engineer, Irrigation and Flood Control Department, Government of Manipur.

4. The Commissioner/Secretary Forest and Environment Department, Government of Manipur.
5. The Deputy Commissioner, Ukhrul District, Manipur.
6. The Deputy Commissioner, Kamjong District, Manipur.
7. The Deputy Commissioner, Imphal East District.
8. The NITI Aayog represented by its Chief Executive Officer, Sansad Marg, New Delhi – 110001.
9. The Union of India represented by the Secretary, Ministry of Environment and Forest and Climate Change, Government of India, 3<sup>rd</sup> Floor, Prithvi Wing Indira Parvayaram Bhawan Jor Bagh, New Delhi – 110003.

*... Respondents*

## **B E F O R E**

**HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR  
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

For the petitioner : Mrs. H. Bisheshwori, Advocate  
For the respondents : Mr. N. Kumarjit, Advocate General  
Date of hearing & order : **31.08.2020**

## **O R D E R**

***[A.B., J.]***

[1] Heard Mrs. H. Bisheshwori, learned counsel appearing for the petitioner and Mr. N. Kumarjit, learned Advocate General appearing for the respondents.

[2] The petitioner, who claims to be keenly interested for the production and enforcement of rights and interest of people affected by the construction of Mapithel Dam (Thoubal Multipurpose Project), filed the present PIL for the following reliefs :

*“(ii) To appoint a commission comprising concerned experts and such other members as this Hon’ble Court thinks fit and proper in order to examine whether the construction of Mapithel Dam (Thoubal Multipurpose Project) has complied with the norms laid down by constitutional, legal, administrative and international law provisions as set forth in the foregoing paras of this writ petition and submit a report to this Hon’ble Court within a stipulated period from the date of the appointment of the commission by this Hon’ble Court;*

*(iii) To issue a writ of mandamus or any other appropriate direction to respondents to comply with the norms stated above in the construction of Mapithel Dam (Thoubal Multipurpose Project);*

*(iv) To issue a writ of certiorari to quash the orders relating to the construction of Mapithel Dam (Thoubal Multipurpose Project) and at the same time to issue a writ of mandamus or any other appropriate direction/order for the removal of Mapithel Dam (Thoubal Multipurpose Project) if respondents can not comply with the norms stated above in the said construction.”*

[3] Today, when the matter is taken up, Mr. N. Kumarjit, learned Advocate General appearing for the respondents submitted that similar issues raised in the present PIL had been considered and dealt with by the National Green Tribunal, Eastern Zone Bench, Kolkata in Appeal No. 04/2014/EZ and 5 other connected matters in its judgment dated 26.02.2016.

[4] It is also submitted by the learned Advocate General that against the said judgment dated 26.02.2016, Review Application No. 46 / 2016/EZ had been filed and the said review application was allowed by the National Green Tribunal, by its judgment dated 06.12.2017 with the following directions :

- “1. While desisting ourselves from prohibiting continuance of the ongoing works of the project, which is also not the case of the Applicant, we direct the State respondents No. 1 & 3 i.e., the State of Manipur and the Irrigation and Flood Control Department, Government of Manipur, to ensure that the FRA, 2006 is duly complied with in the light of the averments contained in paragraph 9 of the Memorandum of Appeal (i.e., Appeal No. 04 of 2014) and sub paragraphs thereunder, so far as it may be practicable.*
- 2. All efforts shall be made to bring the actions taken thus far while carrying out the project by the project proponent, in accord with the provisions of FRA, 2006.*
- 3. The State respondents shall ensure that all Gram Sabha of the area or its equivalent is consulted as required under the Act.*
- 4. The entire exercise in respect of the directions in 1, 2 & 3 above shall be completed within a period of three months.”*

[5] The learned Advocate General further submitted that against the judgment dated 06.12.2017 passed by the National Green Tribunal in Review Application No. 46/2016/EZ, the State of Manipur filed an appeal, registered as Civil Appeal No. 4290 of 2018 before the Hon'ble Supreme Court of India and the said Civil Appeal is still pending.

The learned Advocate General submitted that as the same issue raised in the present PIL is pending before the Hon'ble Apex Court for adjudication, the present PIL is not maintainable.

[6] In view of the above submission made by the learned Advocate General appearing for the respondents, as the decision of the Hon'ble Apex Court rendered in the pending Civil Appeal No. 4290 of 2018 will cover the issue raised by the petitioner in the present PIL, we are of the considered opinion that there is no requirement of keeping the present PIL pending.

Accordingly, the present PIL is closed.

**JUDGE**

**CHIEF JUSTICE**

**FR/NFR**

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