THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extraordinary Jurisdiction)

DATED : 29th August, 2025

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

WP(C) No.33 of 2022

Petitioners : Pema Chhoda Sherpa and (27) Others

versus

Respondents : State of Sikkim and Others

Writ Petition under Article 226 of the Constitution of India

Appearance

Mr. A. Moulik, Senior Advocate with Mr. Ranjit Prasad and Ms. Neha Kumari Gupta, Advocates for the Petitioners.

Mr. Shakil Raj Karki, Government Advocate for Respondent Nos.1 and 2.

Ms. Sangita Pradhan, Deputy Solicitor General of India for the Respondent Nos. 3 and 4.

JUDGMENT

Meenakshi Madan Rai, J.

1. The Petitioners are members of "Project affected families", their lands having been acquired for the development of the Rangit Stage IV, Hydro Electric Power Project, pursuant to an Agreement, dated 09-12-2005, executed between the State-Respondent No.1 with Respondent No.3, through Respondent No.2. The Petitioners are presently employed under the Respondent No.4 Company. In the Writ Petition, they seek the following reliefs;

> (a) a writ of Mandamus and/or any other appropriate writ, order or direction for quashing the Article 4.16 of the Said Agreement.
>
> (b) a writ of mandamus and/or any other appropriate writ, order or direction thereby directing the Respondent No.4 to regularise the services of the Petitioners in view of the regularisation orders issued by the Respondent No.3 to the Petitioners.

(c) a writ of Mandamus and/or any other appropriate writ, order or direction thereby directing the Respondent No.4 to fix pay scale for the Petitioner Nos.1, 2 and 18 as at par with 3rd grade and the Petitioner Nos.3 to 17 and 19 to 29 as at par with 4th grade and all entitlements to be provided to the Petitioners at par with other regular project affected employees of the Respondent No.4.

(d) a writ of Mandamus and/or any other appropriate writ, order or direction thereby direct the Respondents to rehabilitate the Petitioners as per the Article 3.6 of the said Agreement.

(e) pass any other appropriate order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. A brief summation of the facts of the Petitioners case is that, the Respondent No.3 was selected by Respondent No.1, to develop the Rangit Stage IV Hydro Electric Power Project in West/South Sikkim and a consequent Agreement dated 09-12-2005 entered into between Respondent No.1 and Respondent No.3, for the Project, on a build, own, operate and transfer basis (BOOT), through the Sikkim Power Development Corporation (SPDC). Pursuant thereto, lands were acquired from the Petitioners for the above purpose and they were offered appointments in the office of Respondent No.3, in various posts on *ad hoc* basis, in terms of Clause 4.16 of the Agreement which provides as follows;

> **4.16 Displaced Families**
>
> The Company shall provide employment to one member of each of the displaced families or adversely affected as a result of the acquisition of land for the Projects covered in the Rehabilitation Plan referred to in Clause 3.6 and 4.4 above in the process of the construction of the Project and such employment shall cease immediately on completion of construction of the project.

(i) On completion of the period of probation of six months and fulfillment of the terms and conditions of the *ad hoc* appointments, the services of the Petitioners were regularised by the

Respondent No.3 in 2008 and 2009, vide various orders (Annexures R-3 to R-30 collectively). In the meanwhile, in the year 2015 the Respondent No.3 became insolvent and the financial creditor approached the National Company Law Tribunal (NCLT), Hyderabad Branch. The NCLT ordered the commencement of Corporate Insolvency Resolution Process (CIRP) against the Respondent No.3, vide order dated 09-04-2019. The Petitioners made claims against the Respondent No.3 through Legal Notice dated 13-11-2019, to Amit Jain, Resolution Professional. The Resolution Professional addressed the claims of the Petitioners upon which their pending salaries and Employees Provident Fund (EPF) were credited to their accounts. The NCLT then permitted Respondent No.4 to take over the Project of Respondent No.3. The Petitioners continued working in their respective posts in the Project under Respondent No.4 and received monthly salaries from the Respondent No.4 in terms of the regularisation orders issued by the Respondent No.3. The Petitioners vide legal notice, dated 22-12-2021, communicated to the Respondent No.4 that, their services be regularised in terms of Clause 3.6 of the Agreement. Legal notice was also issued to the Respondent Nos.1 and 2, who directed the Petitioners to get their claims addressed by the Respondent No.4. The Respondent No.4 declined to regularise the services of the Petitioners in view of Clause 4.16 of the Agreement dated 09-12-2005. The Petitioners claim that the services of Project affected persons, working in the Teesta Stage V Hydro Electric Project under Respondent No.4 are permanent, hence they seek parity with such employees.

3. As per Learned Senior Counsel for the Petitioners the Respondents No.1, 2 and 3 failed to comply with Clause 3.6 of the

Agreement which provided for rehabilitation and resettlement plan for the Project affected persons, in coordination with Respondent No.1, which unfortunately has not been drawn up till date. The Petitioners are rendered not only landless now but also homeless, as the lands acquired by the Respondent No.3 from the Petitioners was their only source of livelihood. Permanent jobs in the Project had been promised and provided to the Petitioners by Respondent No.3. The Project having been taken over by Respondent No.4, it becomes their responsibility to ensure continuity of the permanent services of the Petitioners. Emphasising on the permanent employment afforded of the employees in the Teesta Stage V Hydro Electric Project of Respondent No.4, Learned Senior Counsel urged that the Petitioners be treated on parity with the said employees, as employees of both Projects are Project affected families under Respondent No.4. That, not only does Clause 4.16 of the Agreement suffer from inherent defects rendering it unsustainable but the Petitioners have also been working below the prevalent minimum wage, under Respondent No.4. The prayers in the Writ Petition thus be granted. To support his contentions, reliance was placed on ***Modified Voluntary Retirement Scheme of 2002 of Azam Jahi Mill Workers Association*** vs. ***National Textile Corporation Limited and Others***[1] and ***Union of India and Others*** vs. ***Munshi Ram***[2].

4. Learned Government Advocate while contesting the claims of the Petitioners, submitted that Clauses 3.6, 4.4 and 4.16 contained in the Agreement, dated 09-12-2005, casts a duty upon Respondent No.4 to take steps for rehabilitation and resettlement of the Project affected families and the responsibility does not vest on

[1] (2022) 17 SCC 797
[2] 2022 SCC OnLine SC 1493

Respondents No.1 and 2. Clause 3.6 of the Agreement clearly provides that, the Company shall wherever required and subject to the approval of any competent authority, prepare a rehabilitation and resettlement plan in coordination with the Government for local residents, who may be adversely affected or displaced, due to construction of the Project at the site as on the effective date. The provision requires all expenses to be borne by the Company, for costs of preparation and implementation of the rehabilitation and resettlement plan. The rehabilitation and resettlement plan were duly implemented under State supervision. The relief against the State Government is sought for only in prayer (d) of the Writ Petition, viz., to rehabilitate the Petitioners as per Clause 3.6 of the Agreement, which having been complied with, the State-Respondent is not liable to take further steps. That, the instant Petition is an afterthought and hit by delay and laches as apparent from the pleadings as the Petitioners were provided employment way back in the year 2008 and the Petition has rather belatedly been filed in 2022. Hence, the Petition deserves to be dismissed.

5. Learned Deputy Solicitor General of India (DSGI) for the Respondents No.3 and 4 resisting the stance of the Petitioners contended that, this Court has no jurisdiction to consider the instant matter which was settled by the NCLT, vide its Order dated 24-12-2020, on which count succour was obtained from ***Ghanashyam Mishra and Sons Private Limited through the Authorised Signatory*** vs. ***Edelweiss Asset Reconstruction Company Limited through the Director and Others***[3]. That, the employees of Respondent No.3 have been taken over by Respondent No.4, the Agreement was of 2005, the payment made in

[3] (2021) 9 SCC 657

2019 while the Writ Petition has been lodged in 2022, there is no explanation for the delay of seventeen years, which is thereby not maintainable as it suffers from delay and laches. Reliance was placed on ***Mrinmoy Maity*** vs. ***Chhanda Koley and Others***[4] and ***Chennai Metropolitan Water Supply and Sewerage Board and Others*** vs. ***T. T. Murali Babu***[5].

(i) It was further contended that, the NCLT approved the Resolution Plan submitted by Respondent No.4. The Agreement dated 09-12-2005 executed between the State Government and the Respondent No.3 is a part of the NCLT Order, pursuant to which Respondent No.4 acquired Respondent No.3 Company. The Petitioners having participated in the Resolution Proceedings did not seek quashing of Clause 4.16 of the said Agreement and are therefore estopped from seeking the same now.

(ii) It was urged that there has been a misrepresentation and concealment of facts as the Petitioners have stated that they are employees of Respondent No.4 when, in fact, they were contractual employees of Respondent No.3. Respondent No.3 and Respondent No.4 are two separate legal entities. On account of such misrepresentation, they are not entitled to the reliefs.

(iii) It was next contended that the Petitioners being contractual employees cannot claim regularisation as a matter of right. Contrary to their claims of not having been rehabilitated, in compliance of Clause 3.6 of the Agreement, dated 09-12-2005, the Petitioners have been rehabilitated and are being paid wages as per entitlements applicable in the State of Sikkim. In this context, the Petitioners had complained before the Labour Department alleging

[4] 2024 SCC OnLine SC 551
[5] (2014) 4 SCC 108

deprivation of minimum wages by Respondent No.4, which was dismissed by the Department, on letter dated 25-11-2021 indicating payment of minimum wages being submitted by Respondent No.4. The land of the Petitioners was acquired following due procedure in terms of the Land Acquisition Act, 1894 and the Petitioners were well compensated for their lands, that aside, the Act (*supra*) makes no provision for rehabilitation and resettlement.

(iv) In a contradictory argument it was submitted in the written arguments of Learned DSGI that, Respondent No.4 was not a party to the Agreement dated 09-12-2005 and therefore did it assume any obligations thereunder. The Petitioners' contractual engagement was exclusively with Respondent No.3, which ceased to exist, hence no relief can be sought against Respondent No.4. To buttress her arguments, Learned DSGI sought strength from the Judgment of this Court in ***Sonam Thendup Bhutia and Another*** vs. ***State of Sikkim and Another***[6].

(v) It was urged that there has been no violation of the fundamental rights of the Petitioners, hence the Writ Petition deserves no consideration, for which reliance was placed on ***Yogesh Mahajan*** vs. ***Professor R. C. Deka, Director, All India Institute of Medical Sciences***[7] and ***Ganesh Digamber Jambhrunkar and Others*** vs. ***State of Maharashtra and Others***[8].

6. Learned Counsel for the parties were heard at length, the pleadings perused, as also the citations relied on by Learned Counsel for the parties.

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[6] 2022 SCC OnLine Sikk 113
[7] (2018) 3 SCC 218
[8] 2023 SCC OnLine SC 1417

7. The questions that fall for determination are; (i) whether this Court has jurisdiction to consider the matter; and (ii) whether there has been delay and laches in the Petitioners approaching the Court.

8. Before venturing into a discussion on the above questions, it is essential to point out that the arguments submitted by Learned DSGI to the effect that Respondent No.4 was not a party to the Agreement dated 09-12-2005 and therefore did not assume the obligations of Respondent No.3 are erroneous and misleading as Learned DSGI herself has in an earlier argument conceded that the Agreement dated 09-12-2005, executed between the State Government and the Respondent No.3 is a part of the NCLT Order upon which, Respondent No.4 acquired Respondent No.3 and the Petitioners had participated in the Resolution Proceedings where no issues were raised regarding Clause 4.16 of the Agreement. The argument that Petitioners have stated that they are employees of Respondent No.4 when they are contractual employees of Respondent No.3 cannot be countenanced, in view of the Order of the NCLT dated 24-12-2020, whereby the employees of Respondent No.3 were taken over by Respondent No.4. These points need detain us no further.

9. While addressing the argument on the jurisdiction of this Court, it is no more *res integra* that the existence of the statutory remedy does not affect the jurisdiction of the High Court to issue a writ. Nevertheless, Writ Jurisdiction being discretionary by policy, the Writ Courts generally insist that the parties adhere to alternative statutory remedies, as this reinforces the rule of law. However, in exceptional cases, Writ Jurisdiction can still be exercised to access

the Court for justice and relief. In this context, in ***Tamil Nadu Cements Corporation Limited*** vs. ***Micro and Small Enterprises Facilitation Council and Another***[9], the Supreme Court held as follows;

> **"57.** Following the judgments in *Whirlpool Corpn.* v. *Registrar, Trade Marks* [(1998) 8 SCC 1] and *Harbanslal Sahnia* [(2003) 2 SCC 107], this Court in *Radha Krishan Industries* v. *State of H.P.* [(2021) 6 SCC 771] laid down the following principles : (*Radha Krishan Industries case* [(2021) 6 SCC 771], SCC p. 795, para 27)
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> "*27*. The principles of law which emerge are that:
>
> *27.1*. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.
>
> *27.2*. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.
>
> *27.3*. Exceptions to the rule of alternate remedy arise where : (*a*) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (*b*) there has been a violation of the principles of natural justice; (*c*) the order or proceedings are wholly without jurisdiction; or (*d*) the vires of a legislation is challenged.
>
> *27.4*. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.
>
> *27.5*. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.
>
> *27.6*. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.**".**"

[9] (2025) 4 SCC 1

The law on the exercise of Writ Jurisdiction and its invocation is therefore soundly determined and needs no reiteration.

10. At this stage, it would be apposite to refer to the Judgment of ***Ghanashyam Mishra*** (*supra*) relied on by Learned DSGI. In the said matter, the Supreme Court was considering the following questions;

> **"**……
>
> **2.1.** (*i*) As to whether any creditor including the Central Government, State Government or any local authority is bound by the resolution plan once it is approved by an adjudicating authority under sub-section (1) of Section 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the I&B Code")?
>
> **2.2.** (*ii*) As to whether the amendment to Section 31 by Section 7 of Act 26 of 2019 is clarificatory/declaratory or substantive in nature?
>
> **2.3.** (*iii*) As to whether after approval of resolution plan by the adjudicating authority a creditor including the Central Government, State Government or any local authority is entitled to initiate any proceedings for recovery of any of the dues from the corporate debtor, which are not a part of the resolution plan approved by the adjudicating authority?
>
> ……**"**

(i) The Supreme Court *inter alia* elucidated therein as follows;

> **"65.** Bare reading of Section 31 of the I&B Code would also make it abundantly clear that once the resolution plan is approved by the adjudicating authority, after it is satisfied, that the resolution plan as approved by CoC meets the requirements as referred to in sub-section (2) of Section 30, it shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders. Such a provision is necessitated since one of the dominant purposes of the I&B Code is revival of the corporate debtor and to make it a running concern.
>
> **67.** Perusal of Section 29 of the I&B Code read with Regulation 36 of the Regulations would reveal that it requires RP to prepare an information memorandum containing various details of the corporate debtor so that the resolution applicant submitting a plan is aware of the assets and liabilities of the corporate debtor, including the details about the creditors and the

amounts claimed by them. It is also required to contain the details of guarantees that have been given in relation to the debts of the corporate debtor by other persons. The details with regard to all material litigation and an ongoing investigation or proceeding initiated by the Government and statutory authorities are also required to be contained in the information memorandum. So also the details regarding the number of workers and employees and liabilities of the corporate debtor towards them are required to be contained in the information memorandum.

68. All these details are required to be contained in the information memorandum so that the resolution applicant is aware as to what are the liabilities that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the corporate debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the adjudicating authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in sub-section (2) of Section 30 is that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is that he should start with fresh slate on the basis of the resolution plan approved.**"**

(ii) It was further held that;

"102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

102.2. The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.

102.3. Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.**"**

[emphasis supplied]

The Supreme Court has held in no uncertain term that once a plea is approved by the adjudicating authority, the claims provided therein stand frozen and are binding on the stakeholders therein.

(iii) In ***Committee of Creditors of Essar Steel India Limited*** vs. ***Satish Kumar Gupta and Others***[10] the Supreme Court observed as follows;

> **"107.** For the same reason, the impugned NCLAT judgment [*Standard Chartered Bank* v. *Satish Kumar Gupta*, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. **A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor.** This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count.**"**
>
> **[emphasis supplied]**

11. On the bedrock of these settled positions of law, it would be apposite to notice that the Petitioners have averred that they have put forth their demands before the Resolution Professional and subsequently their demands with regard to the salary and EPF were met. The Order of the NCLT dated 24-12-2020 *inter alia* reads as follows;

> **"**1. The present application bearing IA No. 171/2020 is filed by Resolution Professional seeking following reliefs:

[10] (2020) 8 SCC 531

i. Accept and approve the Resolution Plan dated 04.12.2019, as amended and restated vide the final negotiated resolution plan submitted on 20.01.2020, each issued by NHPC and submitted in respect of the CIR Process of the Corporate Debtor.

ii. Declare that the resolution plan, upon its approval shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders (including but not limited to Government Undertakings) involved in the resolution plan;

iii. Approve and grant such reliefs as sought by the Resolution Applicant under the Resolution Plan, as set out under para 19 and clause 15 of the Annexure G of the Resolution Plan;

iv. Approve the appointment of the Monitoring Agency as stipulated in the Resolution Plan from the Effective Date until the Completion Date and direct that the CoC and the Resolution Professional may continue with their roles and responsibilities, and have protections, as set out in the Code including approving the matters as are being approved, during the period prior to the Effective Date;

v. Direct that the powers of the Board of Directors of the Corporate Debtor shall remain suspended until the Completion Date / Transfer Date.**"**

(i) In tandem with the said Paragraph, Annexure 'G' of the NCLT Order is also to be considered. As per Clause 7.2(b) of Annexure 'G', it was ordered as follows;

> **"**7.2 **Liquidation value to Employee's/workmen's dues**
>
> (a) ……
>
> (b) **The Services of existing employees who are on contract employment or fulltime employment would be suitably extended considering their qualification, competency and suitability and as per the requirement of the Corporate Debtor and Resolution Applicant over the construction period on existing terms and conditions."**
>
> [emphasis supplied]

(ii) The application, [being IA No.171 of 2020 (*supra*)] was in the knowledge of the Petitioners. Clause 7.2(b) (*supra*) was brought to the notice of the Assistant Labour Commissioner,

Department of Labour, vide letter dated 25-11-2022 by the Group General Manager of Rangit IV Hydro Electric Project (JPCL), Annexure R4. Looking into this Clause, it is apparent that the Petitioners who were evidently the employees of Respondent No.3, became the employees of Respondent No.4, as Respondent No.4 was to continue it as a going concern. Indubitably, the Petitioners were a part of the Resolution Process, having submitted their demands to the Resolution Professional. They are evidently aware of the outcome of the decision of the NCLT as can be seen from the fact of the settlement of their salaries and EPF. The above Clause extracted is not only succinct but explains lucidly about the service conditions of the Petitioners. Despite the NCLT having dealt with the service conditions of the Petitioners and spelt out that the services of existing employees, who are on contract employment or full time employment would be suitably extended, depending upon the factors enumerated therein, the Petitioners did not at any point in time deem it essential to raise the issue before the NCLT if they were aggrieved by such an observation, nor was Clause 4.16 of the Agreement agitated before the Adjudicating Authority as unjust. They did not claim permanent employment in the Respondent No.4 Company in the face of the orders of the NCLT.

(iii) As per Office Order of the Respondent No.3 dated 29-06-2021 (Annexure R3 collectively), it has been elucidated unequivocally therein *inter alia* as follows;

> "……
>
> (i) The services of the Four (04) employees as employed/engaged by the erstwhile management of JPCL and posted at Project Site Office as per the names enclosed at Annexure-I of this order is hereby continued for a period of One (01) year w.e.f. 01.04.2021 on the existing

salary, terms and conditions of Fixed Term Basis (FTB) extendable from time to time as per requirement.

(ii) The services of the Twenty Nine (29) Nos of PAF persons as engaged by the erstwhile management of JPCL and posted at Project Site Office as per the names enclosed at Annexure-II of this order is hereby continued for a period of One (01) year w.e.f. 01.04.2021 on the existing terms and conditions on Fixed Term Basis (FTB) extendable from time to time as per requirement till the duration of construction of the project.

(iii) While extending the services of the above employees/PAFs, the provisions of minimum wages as notified by the state and as applicable to the employees/PAFs shall be complied with.

……"

(iv) This Office Order is indicative of the fact that the employment of the Petitioners was in terms as agreed with Respondent No.3. The Agreement with Respondent No.3 at Clause 4.16 which has already been extracted hereinabove, and provides that the company shall provide employment to one member of each of the displaced or adversely affected families as a result of the acquisition of land for the Projects covered in the rehabilitation plan, referred to in Clause 3.6 and Clause 4.4, in the process of the construction of the Project. It has been categorically specified therein that such employment shall cease immediately on "completion of construction of the project". Relevantly, it may be mentioned that at Clause 3.3 of the Agreement, it has been clarified that the Government in association with the SPDC shall acquire at the request and the expense of the Company and in accordance with the provisions of Land Acquisition Act, 1894, under the State Government and other applicable laws, such private lands within the State of Sikkim as may be required by the Company for construction, operation and maintenance of the Project (acquired land) and transfer such acquired land in favour of the Company for

implementing the Project. It is pertinent to mention here that the pleadings of neither the Petitioners nor the Respondents indicate whether compensation was paid to the Petitioners in terms of Land Acquisition Act, 1894. Be that as it may, as it is not the bone of contention between the parties no further discussions need ensue thereon. Clause 3.6 of the Agreement provides as follows;

> **"3.6 Rehabilitation and Resettlement Plan**
>
> The Company shall wherever required and subject to the approval of any competent authority, prepare a rehabilitation and re-settlement plan in coordination with the Government for local residents that might be adversely affected or displaced due to construction of the Project at the Site as on the Effective Date. The cost of preparation and implementation of the above plan shall be borne by the Company and implemented under the supervision of the Government.**"**

Clause 4.4 of the Agreement provides for Rehabilitation and Resettlement Plan and reads as follows;

> **"4.4 Rehabilitation and Resettlement Plan**
>
> The Company shall prepare rehabilitation and resettlement plan in coordination with the Government and implementation thereof will be done under the supervision of the Government at the cost of the Company pursuant to Clause 3.6. The amount so incurred shall form part of the Project cost.**"**

(v) From a bare reading of the above Clauses, there is no specification that permanent employment is to be granted to the Petitioners. In terms of Clause 4.16 (*supra*), the members of the displaced families have been granted employment which is to be till completion or construction of the Project. The Agreement is of 2005, the Petitioners did not raise any objection to the terms and conditions therein as already pointed out. The argument advanced by Learned Senior Counsel for the Petitioners that there has been no compliance of Clause 3.6 of the Agreement cannot be countenanced for the reasons enumerated hereinabove.

(vi) The argument that permanent jobs in the Project had been promised and provided to the Petitioners by Respondent No.3 appears to be an erroneous submission on behalf of the Petitioners. The Order issued to the Petitioner No.1 (by way of example), dated 19-03-2009 (in Annexure P3 collectively), by Respondent No.3, specifies therein that "…… The services are being regularised as per the Agreement made on 09.12.2005, with Govt. of Sikkim. ……". The terms of the Agreement, more especially Clause 4.16 has already been laid out hereinabove for clarity which makes no mention of permanent employment to the Petitioners.

(vii) Also the Petitioners have not been able to show any statutory or other rights to have their contracts extended beyond the period of the completion of the projects. It is now settled law that no contract employee has right to have his or her contract renewed from time to time. This has been reiterated by the Supreme Court in ***Yogesh Mahajan*** (*supra*) as follows;

> **"6.** It is settled law that no contract employee has a right to have his or her contract renewed from time to time. That being so, we are in agreement with the Central Administrative Tribunal and the High Court that the petitioner was unable to show any statutory or other right to have his contract extended beyond 30-6-2010. At best, the petitioner could claim that the authorities concerned should consider extending his contract. We find that in fact due consideration was given to this and in spite of a favourable recommendation having been made, the All India Institute of Medical Sciences did not find it appropriate or necessary to continue with his services on a contractual basis. We do not find any arbitrariness in the view taken by the authorities concerned and therefore reject this contention of the petitioner.**"**

(viii) Thus, in light of the factual situation and the legal position propounded in the foregoing decisions, I find that no reason arises for this Court to delve into matters settled by the NCLT,

where the final orders have been accepted without demur by the Petitioners.

12. While addressing the second question, it is apparent from the timelines that the Petitioners have slept over their rights. In ***Chennai Metropolitan Water Supply and Sewerage Board*** (*supra*), the Supreme Court held as follows;

> **"16.** Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.**"**

(i) It appears from the facts placed before this Court that there has been an inordinate delay in approaching the Court. The following can be culled out from the Writ Petition;

a) On 09-12-2005, an Agreement was entered into between Respondent No.1 with Respondent No.3 through Respondent No.2.

b) In 2008, vide various Office Orders (Annexure P3 collectively), employment was given to the Petitioners by Respondent No.3.

c) The NCLT issued its Order dated 24-12-2020.

d) Vide Office Order dated 29-06-2021 (Annexure R3 collectively), the Respondent No.3 became a wholly owned subsidiary company of Respondent w.e.f. 31-03-2021.

e) Although the insolvency of Respondent No.3 pertained to the year 2015 and the NCLT commenced the CIRP against Respondent No.3 in April, 2019, but the Agreement between Respondents No. 1 and 2 with Respondent No.3 was of the year 2005 and Clause 4.16 is categorical in its intent and purport, but remained unassailed from 2005.

f) The Writ Petition came to be filed on 04-07-2022 enumerating the grievances and reliefs sought.

(ii) The settled position of law is, *vigilantibus non dormientibus aequitas subvenit lex*, in other words equity aids the vigilant and not those who sleep over their rights. 'Laches' derived from the French language, meaning "remissness and slackness", involves unreasonable delay. Acquiescence would mean a tacit or passive acceptance [See *Union of India and Others* vs. *N. Murugesan and Others* : *(2022) 2 SCC 25*]. The conduct of the Petitioners points to delay, laches and acquiescence. The timelines extracted above are reflective of the belated steps taken by Petitioners in filing the Petition. The above discussions lends a quietus to the second question settled for determination.

13. The Writ Petition lacking merit, deserves to be and is accordingly dismissed.

(Meenakshi Madan Rai)
Judge
29-08-2025

Approved for reporting : **Yes**

ds/sdl