



THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Extraordinary Jurisdiction)

D.B.: THE HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, C.J.
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (PIL) No. 04 of 2017

In Re: Release of Water from Dikchu Hydelpower Project.

.... Petitioner.

Versus

1. The Chief Secretary,
Government of Sikkim,
Gangtok.
2. The Home Secretary,
Government of Sikkim,
Gangtok.
3. The District Collector,
East District, Gangtok.
4. Mr. Niladri Mondal,
Plant Head,
Sneha Kinetic Power Project Ltd.,
D.H.E.P. 96 MW
East Sikkim.
5. National Hydroelectric Power Corpn. Ltd.,
Teesta Stage-V
Balutar, Sirwani
Singtam, East Sikkim.
6. General Manager,
Teesta State III.
Hydro Power at Chungthang, North Sikkim
7. The Director,
Shiga Energy Ltd.,
Implementing company of Tashiding,
Hydroelectric Project at Lower Kabithang,
Labing, West Sikkim.
8. The General Manager,
National Hydroelectric Power Project at Hingdam,
Tashiding Road, South Sikkim.

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9. Site Incharge/Plant Incharge,
O and M, Dans Energy Private Limited,
Chisopaney, South Sikkim.
10. Site Incharge/Plant Incharge,
O and M. Chuzachen Hydro Electric Project
At Rangpo and Rongli, East Sikkim.
11. Site Incharge/Plant Incharge,
O and M. Rongli Dam at Rongli,
East Sikkim. Respondents.

Appearance:

Mr. N. Rai, Senior Advocate as Amicus Curiae.

Dr. Doma T. Bhutia, Additional Advocate General with Mr.
S. K. Chettri, Government Advocate for the Respondent
nos.1 to 3.

Mr. Tashi Raptan Barfungpa, Advocate for the respondent
no.4.

Mr. A. K. Upadhyaya, Senior Advocate with Mr. Sonam
Rinchen Lepcha, Advocate for the respondent nos. 5 and 8.

Ms. Sabina Chettri, Advocate for respondent no.6.

Mr. Rahul Rathi, Advocate for the respondent nos.7 and 9.

Mr. Sudhir Prasad, Advocate for respondent nos. 10 and
11.


Date of Hearing : 01.03.2021

Date of Judgment : 01.03.2021

J U D G M E N T

Bhaskar Raj Pradhan, J.


1. On 31.05.2017 this court issued notice upon the
respondent nos. 1 to 5 after it was brought to our notice



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through a newspaper report titled “Local accuse Dikchu Project Developers of releasing water without warning” which appeared in Summit Times, a local daily, on 28.05.2017 that water was being released from Dikchu hydropower project without any warning or information which may jeopardize the life and property of the residents living downstream. On 01.06.2017 we took note of the “Guidelines for Public Safety at Hydropower Projects” (safety guidelines) issued vide Notification No.26/Home/2015 dated 22.06.2015 and the fact that the respondent no.4, a hydropower project, despite notice had not taken necessary steps. The district collector, East Sikkim was directed to visit the site and verify as to whether the safety guidelines issued were being followed.

2. The district collector filed a report dated 02.06.2017 pointing out various deficiencies which was noted in our order dated 05.06.2017. We therefore, issued directions upon the respondent no.4 to make good the deficiencies and to ensure that all safety standards required be installed and undertaken. On the request of the learned Amicus Curiae, vide order dated 20.06.2017, this court permitted him to make site inspection of other hydropower projects situated in Sikkim as well, and submit a report regarding their compliance of the safety guidelines. On



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28.07.2017 the learned Amicus Curiae reported that he had visited various hydropower projects situated in Sikkim and found that several requirements of the safety guidelines had not been complied with by those hydropower projects. Thus we issued notice upon all the other hydropower projects named in the order dated 28.07.2017 (respondent no.6 to 11). Pursuant to the notice, affidavits were filed by the hydropower projects and the concerned district collectors were directed to examine the affidavits, inspect the site and submit their response vide our order dated 14.09.2017. Various directions to specific hydropower projects for compliance of the safety guidelines were issued from time to time by us on being pointed out the deficiencies. On 12.12.2017 it was noted by us that all safety measures had been complied by the hydropower projects situated in the four districts as per the reports submitted by the four district collectorates in compliance of the order dated 21.11.2017 passed by this court.

3. At this juncture the Energy and Power Department, Government of Sikkim submitted a report with regard to the abandoned pond at the Sirwani hydropower project (Sirwani project) where stagnant water of around 35000 cum. was seen.

4. Thereafter, various orders were passed from time to time to ensure the drainage of the stagnant water at the Sirwani project. An affidavit dated 22.02.2021 has been filed on behalf of respondent no.5 stating that in pursuance to the order dated 30.11.2020 the dewatering of the desilting basin has been completed and there is no water logging in the area. It is also pointed out that seepage water has been collected in a sump and there is continuous dewatering from the sump on a regular basis. The respondent no.5 points out that construction activity in the said area has also started. The latest photographs before and after dewatering has been annexed along with the affidavit.

5. The learned Amicus Curiae, thus, submit that nothing further survives in the public interest litigation which may, therefore, be closed.

6. We have considered the submission made by the learned Amicus Curiae and examined the reports filed from time to time by parties before this court. We are of the considered view that the present Public Interest Litigation has served its purpose. Thus, we close the case with the direction that the hydropower projects in Sikkim shall ensure strict compliance of the safety guidelines. The concerned Governmental authorities are also directed to



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undertake periodic inspection and review to ensure that the hydropower projects in Sikkim follow the safety guidelines and all other rules and regulations mandating safety measures to ensure that life and properties of the people living in the vicinity of the hydropower projects and in the areas which could be affected by the flow of the waters from these projects are safeguarded.

(Bhaskar Raj Pradhan)	(Jitendra Kumar Maheshwari)
Judge	Chief Justice
01.03.2021	01.03.2021

Approved for reporting : Yes
Internet : Yes
to/