

A T.N. GODAVARMAN THIRUMULPAD

v

UNION OF INDIA AND ORS.

MAY 1, 2000

B [B.N. KIRPAL, V.N. KHARE AND M.B. SHAH, JJ.]

*Environmental Law :*

C *Protection and conservation of forests—High Power Committee constituted by Supreme Court—Penalty for excess production on units recovering veneer from timber—Norms adopted by HPC approved—HPC entitled to impose penalty larger than the penalty originally imposed as long as this penalty is based on records produced—HPC entitled to look into records and pass orders in every case whose documents and material had been placed before it by 15.1.1998—Unit concerned entitled to approach HPC for reconsideration of penalty/additional penalty imposed by it—HPC discharging quasi-judicial functions, would briefly indicate reasons in support of order passed by it.*

D *T.N. Godavarman Thirumulpad v. Union of India & Ors., [1998] 1 SCR 211, order modified.*

E *T.N. Godavarman Thirumulpad v. Union of India & Ors., [1997] 2 SCC 267, referred to.*

CIVIL ORIGINAL JURISDICTION : I.A. No. 565 of 2000.

IN

F Writ Petition (C) No. 202 of 1995.

(Under Article 32 of the Constitution of India)

G Harish N. Salve, Solicitor General (AC), Mukul Rohtagi, K.N. Raval, Altaf Ahmad, Additional Solicitor Generals, Anil B. Divan, Kapil Sibal, P. Chidambaram, Dipankar Gupta, G.L. Sanghi, M.C. Bhandare, V.A. Mohta, M.N. Rao, V.R. Reddy, K.K. Venugopal, Dr. Rajiv Dhavan, Jayant Das, U.U. Lalit, (AC), Mahendra Vyas, P.K. Manohar, A.D.N. Rao, S. Wasim A. Quadri, Hemant Sharma, S.K. Dwivedi, P. Parmeswaran, Ms. Anil Katiyar, B.V. Balram Das, (Ms. Sushma Suri), (NP), Rajiv Nanda, B.K. Prasad, Rajiv Tyagi, Anip Sachthey, Anupam Lal Das, Ms. Sandhya Rajpal, Arijit Prasad, S.K. Agnihotri, Rajendra Singhvi, Mrs. Yogmaya, Vivek Tankha, Ms. Madhur Dadlani, Rakesh K. Sharma, C. Mukhopadhaya, Manish Kumar, Manoj

Sharma, Gopal Jain, Ms. Nandini Gore, K.V. Vishwanathan, K.V. Vijay Kumar Chauhan, Ravi Prakash Gupta, Prashant Bhushan, B.S. Banthia, T.S. Chowdhary, B.R. Atre, Himanshu Shekhar, V.J. Francis, M.L. Lahoty, P.K. Sharma, Ashok K. Gupta, Farrukh Rashid, Anil Shrivastav, (M/s. L.P. Agarwala & Co., Sakesh Kumar, Uma Nath Singh, Sanjay R. Hedge, Satya Mitra, Naresh K. Sharma, Ms. Sandhya Goswami, A. Mariarputham, Ms. Aruna Mathur, Anurag D. Mathur, Ms. Hemantika Wahi, Ashok Mathur, Mahabir Singh, S.S. Shinde, S.V. Deshpande, R.K. Mehta, Gopal Singh, R.B. Mishra, S.S. Shamsbery, K.B. Rohtagi, Ms. Aparna Rohtagi Jain, Mahesh Kasana, V.G. Pragasam, Ranjan Mukherjee, Ms. Binu Tamta, D.S. Mehra, Y.P. Mahajan, P.S. Narsimha, K. Raghavacharyulu, P. Sridhar, K.N. Jha, Manoj Swarup, Sanjay Kapoor, Sunil K. Jain, Davinder Singh, S. Sukumaran, M.C. Bhandari, R.P. Gupta, Mukul Rohtagi, Ms. Beena Prakash and Ujjawal Banerjee for the appearing parties.

The following Order of the Court was delivered :

This is an application by the learned *Amicus Curiae* seeking clarification in relation to the working of the High Power Committee which was constituted by this Court.

The first clarification which is sought is with regard to the orders passed by the High Power Committee (HPC) imposing a penalty based on actual adjudication at the behest of the units even if it results in the imposition of penalty larger than the penalty originally imposed. The question is whether such a penalty and/or additional penalty which is imposed on the basis of the documents produced by the units is valid and permissible.

The HPC fixed normal recovery norms after obtaining data and expert advice from different sources. The norms so fixed showed as to how much veneer etc. could be recovered from the timber and it is on that basis that it proceeded to examine the records of the different units and then determined whether there has been excess production indicating use of illegal timber and thereby justifying imposition of penalty and/or additional penalty.

After hearing the learned counsel for the parties, we are in agreement with the norms adopted by the HPC. We also hold that on the basis of the documents and records produced by the units, the HPC was and would be entitled to impose penalty larger than the penalty originally imposed, as long as this penalty is based on the records so produced.

A A question has arisen with regard to cases where orders had not been made by the HPC on or before 15th January, 1998. This Court's order dated December, 1996 had contemplated documents being filed and orders being passed by 15th January, 1998. It is possible that due to volume of work, the HPC may not have been able to pass orders by 15th January, 1998 even though papers and other relevant material had been submitted to the HPC by that date. We, therefore, make it clear that the HPC would be entitled to look into the records and pass orders in every case where documents and material had been placed before the HPC by 15th January, 1998. We further make it clear that wherever any penalty and/or additional penalty has been imposed by the HPC, the unit concerned will have a right to approach the HPC to examine the matter afresh. In modification of paragraph 14 of the order of December 1996, we permit any unit in respect of which penalty and/or additional penalty has been levied by the HPC to approach the HPC for reconsideration on the basis of the material which it may choose to produce provided such a request is made by the unit within one month of the passing of the order by the HPC or, in those cases where orders have already been passed, within one month from today.

Inasmuch as the HPC would in effect be discharging quasi-judicial functions, it will be appropriate that the HPC may briefly indicate the reasons in support of the order passed by it.

It is further clarified that wherever the HPC has given clearance to a unit after 9th February, 1998, the unit will be entitled to relocation.

It is, however, made clear that no unit which had not furnished the record and particulars before 15th January, 1998, will be entitled to the benefit to this order.

This I.A. stands disposed of.

R.P.

Petition disposed of.