

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 25 of 2013**

- Ramanand Tiwari S/o Late Ramnath Tiwari, aged about 67 Years, R/o Civil Line, Ward No. 10, Tilda Newra Marg, Police Station Simga, Distt. Baloda Bazar, Bhatapara-C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through - the Secretary, Public Health Engineering Department Mantralaya, New Raipur, District - Raipur (C.G.)
2. Secretary, Department of Water Resources, Mantralaya, New Raipur, District - Raipur (C.G.)
3. Chief Municipal Officer, Nagar Panchyat Simga, District - Baloda Bazar Bhatapara (C.G.)
4. Bajrang Power and Ispat Limited, Through - Its Vice President Shri Ajay Agrawal (Tilda Division), Village - Tandwa, P.S. & Post Tilda Distt. Raipur (C.G.)
5. Chief Engineer, Mahanadi Godavari Kachhar, Water Resources Department Raipur (C.G.)
6. Collector Baloda Bazar, Bhatapara District Baloda Bazar (C.G.)

---- Respondents

For Petitioner	:	Shri Sushobhit Singh, Advocate
For State /	:	Shri J. K. Gilda, Advocate General
Respondents No. 1,2,5 & 6		along with Shri A.S. Kachhawaha, Additional Advocate General.
Respondent No.4	:	Shri Sunil Otwani, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Pritinker Diwaker****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****21.03.2017**

1. We have heard learned counsel for the Petitioner, learned Advocate General and learned counsel for the private respondents quite *in extensio* on different aspects of the issues raised through this Public Interest Litigation.

2. The Petitioner says that he is an aged citizen and is interested in the matters relating to river Shivnath and the users of that water source, in particular, large number of residents at Simga and other adjoining locality. He challenges Annexure P-1, a decision rendered on 19.08.2010, by instituting this writ petition on 22.04.2013. This time frame in institution itself would have been sufficient enough to prompt us to think that there is no prompt action, if at all there is any public spirit in the petitioner to project the plea raised by him as a Public Interest Litigation. Be that as it may, we will proceed to consider the most crucial aspect.
3. It is not in dispute that Annexure P-1 has been issued by the competent authority in the Government. It relates to grant of permission to the 4th Respondent, which is stated to be a producer of thermal power. Water is permitted to be utilized for its purposes to the extent regulated and issued in terms of Annexure P-1. If, in actual operation, the activity following Annexure P-1 results in any adverse consequence to the local environmental or ecological situation or availability of potable water or water for irrigation purposes to the local people, that is a matter which has to fall for consideration only with the Authority which issued Annexure P-1. We say this because we are told that Annexure P-1 is the result of consideration of all relevant aspects by a competent committee headed by the Chief Secretary of the State Government. Adjudication would become necessary and directions from the judicial seat may be called for in matters of governance only when the executive machinery is shown to have failed or has broken the Constitution and the laws. Otherwise, the matters within the executive domain would be best left for decision at the hands of the executive, more particularly because the executive

has the support of experts including from the fields which may be relevant on case to case basis.

4. With the aforesaid, we do not see that there is any justiciable issue for consideration by the writ Court in exercise of authority under Article 226 of the Constitution of India in this writ petition. However, we accede to the request of learned counsel for the petitioner that his client may be left with an opportunity to make an appropriate representation, if need be, to the Chief Secretary to the State Government and leave it to the wisdom of that official at the highest level of the State Administration to have any such complaint considered by the appropriate body, as may be found required, in the circumstances and the nature of the complaint, if any, that may be lodged.
5. For the aforesaid reasons, the writ petition is dismissed preserving the right of the petitioner to make such representation as is noted in the immediately preceding paragraph.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Pritinker Diwaker)
Judge