

High Court of Sikkim

Record of proceedings

WP(C) No.46 of 2020

Dolma Kumari Thatal and Another

Petitioners

VERSUS

State of Sikkim and Others

Respondents

Date : **08-09-2022**

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

For Petitioners

Ms. Mon Maya Subba, Advocate.

For Respondents

R-1 & R-2

Mr. Sudesh Joshi, Additional Advocate General.
Mr. Thinlay Dorjee Bhutia, Government Advocate.
Mr. Yadev Sharma, Government Advocate.

R-3

Mr. Sudhir Prasad, Advocate.

O R D E R

During the course of hearing, it appears that despite specific directions to the District Collectors in ***Zangpo Sherpa vs. Government of Sikkim and Others*** : AIR 2016 Sikk 17, to the effect that the Respondents No.1 and 2 shall carry out bimonthly inspections by a team of Officers selected by the District Magistrate to check whether safety measures as required are in place and guidelines issued vide Notification No.26/HOME/2015, dated 22-06-2015, are being adhered to, the State-Respondents have not complied with the said direction in letter and spirit. The directions issued in the Judgment *supra* were *inter alia* as follows;

"25. Thus, in conclusion, having considered the facts and circumstances of the matter, Report made by the Respondents No.1 and 2, the submissions at the Bar and considering the negligent act of the Respondent No.3, we pass the following directions disposing of the Writ Petition;

(i) The Respondent No.3 shall pay compensation of Rs.5,00,000/- (Rupees five lakhs) only, to the parents of the victim, as a measure of mitigating the loss accrued to them on account of the death of their child, within the stipulated period mentioned hereunder, failing which this amount shall carry interest @ 9% per annum from the date of judgment till realization.

High Court of Sikkim

Record of proceedings

(ii) The Respondents shall follow the Notification No.26/HOME/2015 dated 22-06-2015 for public safety at Hydro Power Projects.

(iii) The Respondent Nos.1 and 2 shall carry out bimonthly inspections by a team of Officers selected by the District Magistrate to check whether safety measures as required are in place and guidelines issued vide Notification No.26/Home/2015, dated 22-06-2015, are being adhered to.

(iv) The Respondent No.3 shall install scientific and technical instruments necessary for ensuring the safety of the Dam and the life and property of people in the area and downstream.

(v) The Respondent No.3 shall have Ambulances and Para-Medical Staff in their employment at all the HEPPs to deal with emergencies arising out of any disaster occurring due to release of water from the Dams.

(vi) The Respondent No.3 shall create an emergency fund up to the maximum of Rs.1,00,00,000/- (Rupees one crore) only, to meet any disasters and fatalities arising out of any failure on their part. The modalities shall be worked out in consonance with Respondents No.1 and 2."

In Paragraph 7 of the Additional Counter-Affidavit dated 24-08-2021 filed on behalf of the Respondent Nos.1 and 2, it has been stated as follows;

"7. It is humbly submitted that these inspection were conducted in the year 2017 and during that period all required safety measures were found complied in all the hydropower projects in Sikkim. However, it is humbly submitted that after these inspections the District Collectors due to sheer oversight and some compelling circumstance such as the Panchayat Election in the end of 2017; the General Election in 2019 and the outbreak of Covid-Pandemic in 2020 have inadvertently missed out carrying the inspection Bi-monthly as directed by the Hon'ble Court passed in WP(PIL) No.25 of 2014 (Zangpo Sherpa vs Govt of Sikkim) in these three years from 2018 to 2020."

In light of this circumstance, issue Show Cause Notice to the District Collector, Gangtok District and the District Collector, Pakyong District, returnable in two weeks, as to why contempt proceedings should not be initiated against them for deliberate

High Court of Sikkim

Record of proceedings

non-compliance of the directions of this Court enumerated in the Judgment *supra*.

List on 22-09-2022 for appearance of the Contemnors and filing reply to the Show Cause Notices.

Judge

08-09-2022

ds/sdl