

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND SACHIN SHANKAR MAGADUM	WP 10300/2020	11/01/2021	<p>1. We have perused the statement of objections filed by the second respondent National Highways Authority of India (for short, “the said Authority”).</p> <p>2. To put it very mildly, we are really shocked the way the statement of objections has been filed by the said Authority which is signed and verified by the Deputy General Manager (Tech) of the second respondent. The statement of objections is also signed by the advocate for the second respondent.</p> <p>3. The most shocking part of the statement of objections, which will be quoted in the subsequent part of the order, is that a solemn statement has been made that the Environment (Protection) Act, 1986 (for short, “the said act of 1986”) has been passed by the Parliament at the instance of the foreign powers. Firstly, we can refer to what is stated in paragraph 8 to the statement of objections which reads thus:</p> <p>“This Respondent submits that the purpose of enacting the Environment Protection Act, 1986, are as follows,</p> <p>An Act to provide for the protection and improvement of environment and for matters connected there with: WHEREAS the decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>Hence, the Act has been passed by Parliament not only for protection of environment but also at the instance of foreign powers. And many NGO's are filing such Writ Petitions at the instance of foreign powers. Foreign entities such as Amnesty International and Peoples Union for Civil liberties through its Indian counter parts have filed Writ Petitions directly under Article 32 of the Constitution of India, by passing High Courts, in furtherance of vested interests, disregarding the law in India, i.e., all rights, are subject to reasonable restrictions. Hence, this Writ Petitions being one such, in utter disregard of Indian laws of reasonable restrictions on all rights are not to be entertained and are liable to be dismissed.”</p> <p>(underline supplied)</p> <p>4. A blanket statement has been made that many Non-Governmental Organisations (for short, “NGOs”) are filing writ petitions at the instance of the foreign powers. In this behalf, it is also necessary to refer to what is stated in paragraph 4 of the statement of objections, which reads thus:</p> <p>“It is submitted that there are many organizations in India, calling themselves as Environmental Action Groups and Human Rights Groups, such an Amnesty International etc., which are actively involved in attacking development projects, and challenging Govt. Policies & Notifications and doing anti national activities. There are many NGO's receiving funds from foreign sources and Church funds, in contravention of laws. This Respondent is relying on the proceedings of W.P.No.6111/2014, pending in this Hon'ble Court, where the Petitioner therein, one M/s. Manasa Centre for Development of Social Action, which has challenged the action of freezing of the inward remittance of Funds from “Dan Church Aid”. A copy of the Writ Petition is produced herewith as Annexure R-1. The Respondent No.1/Bank therein has filed its Statement of Objections, producing a copy of the letter of the Ministry of Home Affairs, Money Laundering Cell, barring inward remittance of Dan Church</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p data-bbox="659 199 1978 440">Aid. A copy of the Statement of Objections is produced herewith as Annexure R-2. Apart from Church funds other funds are also received from foreign sources by hawala means, which go undetected. It is not known whether the Petitioner United Conservation Movement Charitable and Welfare Trust, being an Non-Governmental Organization, is receiving any such funds from abroad, in contravention of the Foreign Contribution (Regulation) Act, 2010 and whether, they are duly cleared by the Home Ministry.”</p> <p data-bbox="659 573 947 605">(underline supplied)</p> <p data-bbox="659 740 1978 935">5. In paragraph 5 of the statement of objections, it is stated that the present petitioner has filed Writ Petition No.3350 of 2019 against the said Authority and it has targeted the said Authority. It is stated that this writ petition is filed with mala fide intentions and with ill will and targeting this respondent. All this is stated about the said petition which is pending before the Court for its consideration.</p> <p data-bbox="659 1073 1978 1268">6. In paragraph 6, a reference is made to a NGO which filed a writ petition before the Apex Court. There is a serious allegation made that the said organization “obtained stay” of eviction of lakhs of so called Scheduled Tribes and other traditional Forest dwellers. A general statement is made that such litigations are initiated by vested interests by the individuals and groups with hidden aims.</p> <p data-bbox="659 1406 1978 1471">7. In paragraph 7, a very bold statement has been made based on Section 22 of the said Act of 1986. The statement reads thus:</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p data-bbox="661 199 1978 354">“It is submitted that though the bar generally applies to Civil Courts, the decisions of the Central Government are generally not to be interfered with, on any challenge by vested interest groups and those inimical to public interest and also National Highways being improved or developed.”</p> <p data-bbox="661 492 949 521">(underline supplied)</p> <p data-bbox="661 659 1978 813">8. Paragraph 22 is a very interesting reading. The allegation is that certain passages quoted by the petitioner from the books written by certain foreign authors show that this writ petition may have been filed at the instance of foreign vested interests. We must quote the entire paragraph 22 which reads thus:</p> <p data-bbox="661 870 1978 1479">“With reference to Para 9 of the Writ Petition, the averments therein are denied as the Petitioner has sought to highlight only certain aspects of alleged impediments of flow of stream of water affecting landscape, which cannot be alleged against this Respondent. Further, the fact that the Petitioner has quoted passages from books written by Duniway and Herrick, 2011; Katz et al., 2014, shows that this Writ petition may have been filed at the instance of foreign vested interests. There is an averment that road construction by altering streams dramatically reduced riparian streams. The reference to foreign Authors, Bruizneel 2004, Slide et. al. 2006, Chadwick et.al.2006, in this Para all show that the Petitioner has relied on foreign Authors and their books as material for targeting the Respondents. It is well known that India is rising in the World economically, having achieved the status of having the 5th largest economy, and certain Western powers and India’s enemy neighbors are envious of and want to hit development projects of the Central and State Govts. As also create large scale public unrest, and even funding them. The reference material extracted from the book of Sidle et al., 2006, confirms the above view, that vested interests may be involved.”</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p data-bbox="661 280 949 313">(underline supplied)</p> <p data-bbox="661 448 1976 561">9. Only because the petitioner has referred to and relied upon what is stated by certain foreign authors, the said Authority has drawn an inference that the vested interest may be involved in filing this petition.</p> <p data-bbox="661 699 1976 769">10. Paragraph 28 shows the understanding of the said Authority of the provisions of the said Act of 1986. The paragraph 28 reads thus:</p> <p data-bbox="661 824 1976 979">“With reference to Para 15 of the Writ Petition, the power under the Environment Protection Act, 1986, is not only to restrict dangerous activities but also to permit harmless activities and operations, as also those with minimal environmental damage. Therefore, it cannot be said that it is only to prevent, control and abatement of environmental pollution.”</p> <p data-bbox="661 1117 1976 1523">11. In the morning session, we were at pains to explain to the learned counsel for the second respondent that such objectionable pleadings cannot be filed. But he was not in a mood to accept the same. The impression he gave was that he wants to defend the way the pleadings were made by his clients (the said Authority). Only in the afternoon session, when he appeared physically, he stated that the statement of objections will be withdrawn. We cannot casually allow withdrawal of such a statement of objections in which a bold stand has been taken by the said Authority on oath that the said Act of 1986 has been enacted not only for the protection of the environment, but also at the instance of the foreign powers. Such scandalous allegation has been made against the Central Legislature by an agency and instrumentality of the State. The said inference appears to have been drawn on the</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>basis of decisions taken at the United Nations Conference of the Human Environment held at Stockholm in June 1972, in which India participated and agreed to take steps for protection of the environment. Moreover, the said Authority seems to be proceeding on the footing that most of the organizations which file petitions in this Court and the Apex Court in environment matters for protecting the environment are supported by the foreign powers.</p> <p>12. Moreover, there is a specific allegation made in paragraph 6 of the statement of objections that a NGO called Wildlife First Trustee has filed in the Supreme Court of India Writ Petition (Civil) No.109 of 2008 and has “obtained stay” on the eviction of lakhs of Scheduled Tribes and other traditional forest dwellers. The entire statement of objections proceeds on the footing that the public interest litigations are initiated by the organizations with hidden aims/agenda.</p> <p>13. Needless to say that the said Authority is a creation of the National Highways Act, 1956 and it is an agency and an instrumentality of State. The approach of the said Authority, to say the least, is shocking. It has shown a complete lack of sensitivity about the environment.</p> <p>14. We direct the Chairman of the said Authority to nominate a very senior officer to look into and inquire into the manner in which the statement of objections has been filed by the said Authority before this Court which we have referred above. He will have to also go into the question how such a statement of objections was signed by the advocate appointed by the said Authority.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>15. The said Authority being an agency and an instrumentality of the State is under an obligation to explain to the Court, the procedure, if any, adopted for finalizing the statement of objections. Considering the seriousness of the issue, we hope and trust that the Chairman of the said Authority will entrust the inquiry to a very senior and responsible officer.</p> <p>16. If the said Authority does not want to support the stand already taken in the statement of objections, needless to state that the said Authority must come clean before the Court and state before the Court what action has been taken against the persons responsible for filing such a statement of objections which prima facie contain scandalous and irresponsible allegations.</p> <p>17. We also direct the petitioner to place on record the details of its constitution and the activities carried out by it in the field of environment and other fields.</p> <p>18. We must note here that we have already quoted paragraph 4 of the statement of objections in which it is boldly stated that there are many organizations in India calling themselves as Environmental Action Groups and Human Rights groups such as Amnesty International, etc. which are doing anti-national activities. The allegation is that such NGOs are receiving funds from the foreign sources and church funds in contravention of laws. In the light of this allegation, we direct the petitioner to disclose whether it is receiving any funds from any foreign organization or entity. This direction issued against the petitioner does not mean that we have accepted the reckless allegations made in the statement of objections by the said Authority.</p> <p>19. The learned counsel appearing for the second respondent repeatedly requested the Court to permit him to withdraw the statement of objections. He has not explained how he has signed such statement of objections. The said prayer is rejected. Such an oral prayer</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>cannot be entertained unless a proper application is made by a higher officer of the said Authority after making due inquiry as aforesaid and after making out a proper ground seeking withdrawal of the statement objections.</p> <p>20. The report on the inquiry made by the officer appointed by the Chairman of the said Authority shall be filed before the Court in a sealed envelope.</p> <p>21. At this stage, the learned counsel for the second respondent seeks time as a copy of the order will not be immediately available. The order has been dictated clearly and loudly in the open Court. Fortunately, the counsel for the second respondent is personally present in the Court when this order is being dictated. Therefore, he can always communicate by a letter the order which is dictated in the open Court. Nevertheless, we grant time for submitting the inquiry report till 1st February 2021.</p> <p>22. The petition shall be listed on 2nd February 2021.</p> <p>23. Whether the petition has any merit or not, this is a fit case where the said Authority should be saddled with exemplary costs. We are not passing such order today as we are awaiting the report which may be submitted by the higher officer to be appointed by the Chairman of the said Authority.</p> <p>24. At this stage, the learned counsel for the second respondent states that the statement of</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			objections is not verified. However, we have perused the original statement of objections and we find that there is a verifying affidavit of Shri R.B.Pekam S/o Balajirao, Deputy General (T), affirmed before Shri Ramesh Kumar, Notary, Government of India. Surprisingly, this submission is made though the verification affidavit is signed by the said advocate.

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