

**WP(PIL) No. 09/2019**

IN RE: VILLAGES IN UPPER DZONGU MAROONED DUE TO COLLAPSE OF A BRIDGE AT MANTAM LAKE, NORTH SIKKIM.

**Date: 20/06/2020**

**CORAM :**

**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.  
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.**

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(ARUP KUMAR GOSWAMI, CJ)

This matter is taken up through V.C.

**2.** Heard Mr. Tashi Raptan Barfungpa, learned Amicus Curiae as well as Mr. Vivek Kohli, learned Advocate General, Sikkim.

**3.** This Suo Motu Public Interest Litigation was registered on the basis of newspaper reports. A news article captioned "Newly constructed bridge in Dzongu overflowed, 13 villages affected" was published on 05<sup>th</sup> May, 2019 issue of Sikkim Express, wherein it was stated that due to heavy rainfall in North Sikkim, water level of Kanaka river had risen resulting in submersion of the bailey bridge, which was built over the river at Dzogu. Similar news with the caption "Heavy rainfall submerge Mantam bridge" was also reported in Summit Times on its 05<sup>th</sup> May, 2019 issue.

**4.** A news item was published on 19<sup>th</sup> June, 2019 issue of Sikkim Express, under the headline "13 Villages Marooned". Summit Times, on its 19<sup>th</sup> June, 2019 issue reported the events under the headline "Rain scare sends jitters along Teesta".

**5.** At the very outset, it is relevant to be noticed that as a result of heavy landslide on 13.08.2016, natural flow of Kanaka river was blocked resulting in formation of a lake - one village was submerged and several wards were marooned.

**6.** This Court had taken cognizance of the aforesaid incident on 17.08.2016 and had registered a suo motu writ petition, registered as WP (PIL) No. 05 of 2016, titled "In Re: Debacle in Upper Dzongu".

**7.** The aforesaid Public Interest Litigation was disposed of by an order dated 27.06.2018. Paragraphs 9, 10, 11 and 12 of the aforesaid order reads as follows: -

"9. Over the months, the Task Force undertook the task of controlled blasting for draining the artificial lake. So far as the construction of Bridge is concerned, the LR&DM Department undertook to furnish technical details about the possibility of constructing a Suspension Bridge to accommodate one vehicle in place of the Foot Bridge which was proposed then. It was brought to the notice of this Court that the Government had taken a decision to establish a two lane permanent RCC Bridge connecting the people living on the other side of the lake for which a sum of Rs.49,05,75,000/- (Rupees forty-nine crores, five lakhs and seventy-five thousand) only, have been sanctioned. In the meanwhile, a Suspension Foot Bridge would be installed to facilitate the movement of goods and basic necessities to people who stranded are on the other side of the lake. On 25-04-2018 the State Government in its Affidavit submitted that the Suspension Foot Bridge would be completed by the end of May, 2018, while financial bid was being examined for the two lane RCC Bridge, the technical evaluation being completed.

10. Today, it is submitted before this Court that the Suspension Foot Bridge is now complete and is being used by people for their daily thoroughfare, installation of wire mesh on the sideways of the Bridge would be completed in two weeks. That, tender process for construction of two lane RCC Bridge is completed and the process of

award of work is underway. The Amici Curiae submit that total completion of the Suspension Bridge including painting would take about one month, however, he concedes that presently the Bridge is ready for use.

11. In view of the aforesaid circumstances, we are of the considered opinion that necessary directions given by this Court pertaining to relief and rehabilitation measures of affected people of the landslide area including construction of Bridges have been complied with.

12. Nothing further remains for adjudication and hence, the matter stands disposed of with liberty granted to the Learned Amici Curiae to approach this Court, if and when the need so arises.”

**8.** In this proceeding, a report in the form of an affidavit was filed by the Chief Secretary and the Principal Chief Engineer-cum-Secretary, Roads & Bridges Department, Government of Sikkim, i.e. respondent nos. 1 and 4, respectively, on 19.09.2019, admitting that due to heavy downpour on 18.06.2019, the foot suspension bridge over river Kanaka at Mantam, Upper Dzongu had been damaged and the bridge had collapsed. It is stated that a cane bridge was constructed and opened for public on 02.09.2019 so that no inconvenience is caused to the public of Tingbong GPU, Sakyong Pentok GPU and Laven GPU. It is stated that a steel bridge downstream of the foot suspension bridge connecting Lingthem to Tingvong, Kusong, Lingzya and other adjoining villages falling on the left bank of the river Kanaka had also been damaged by the floods and as the volume of the water in the lake is very high and volatile, restoration of temporary bridge for vehicular traffic can be taken only after the monsoon is over.

**9.** In the affidavit, it is stated that in order to address the issue of connectivity permanently, a proposal was sanctioned for construction of a permanent bridge over river Kanaka at a cost of Rs.88.54 crores and the

work order had been issued to National Projects Construction Corporation Limited on 28.01.2019 and the scheduled completion time is January, 2021.

**10.** Learned Amicus Curiae, after visiting the site, had submitted a report/suggestions on 01.11.2019. In the report/suggestions of the learned Amicus Curiae, it is stated that the road leading towards Mantam village connecting Lingthem GPU is in a pathetic condition. Similarly, the road on the other side of river Kanaka towards the cut off villages was also pathetic. In the report/suggestions, learned Amicus Curiae had stated that a ropeway had been constructed by the Public Works Department, Roads and Bridges, Government of Sikkim for the purpose of transportation of goods. However, after inauguration of the same sometime in the year 2002, it had remained mostly inoperative. Earlier, when the same was operational, villagers were allowed to use it during day time for transportation of goods provided they arranged diesel for the machine. It is further stated that presently in times of need, the villagers are making use of the ropeway by manually pulling it with their hands. In the report/suggestions learned Amicus Curiae had put on record that villagers had indicated to him that if the ropeway was made operative, it would solve their problem to a certain extent while transporting rations and items of their daily use from the other side of the river (Ruklu Kayam, under Lingthem GPU) across to 6<sup>th</sup> mile Tingvong, through the ropeway. Learned Amicus Curiae had suggested the following temporary measures for mitigating the suffering of the villagers on the other side of the lake and river:

- "I. Since the conditions of the roads are not only Pathetic but dangerous and is a serious concern voiced by majority of the villagers, there is a dire need for immediately improving the road condition on both the sides of the river.

- II. The path leading to the Bamboo Cane Bridge needs to be made more stable and comfortable for people of all age and gender to commute through. The logs as depicted in the pictures annexed herewith should be replaced with strong wooden planks for balance and stability.
- III. Since the bridge could be used during the nighttime as well, the area in and around the bridge needs to be provided proper lighting. Arrangements for street lights needs to be made immediately on both the sides of the river as well as on the bridge. With winters approaching and the days being replaced by longer nights, proper lighting over and across the existing Bamboo Cane Bridge becomes all the more essential.
- IV. The State respondents could make immediate arrangements to make the rope-way operative which connects Ruklu Kayam village under Lingthem – Lingdem GPU to 6<sup>th</sup> Mile Tingvong on the other side of the river. The functioning of the rope way shall ease the problems of the people of the cut off villages in transporting rations and goods required for their day to day use including raw materials required for private as well as government construction works being carried out in these villages.
- V. Looking at the terrain and the site where the work for the construction of permanent bridge is being carried out, the Amicus as well as the villagers have serious doubt that the same shall be completed within the scheduled time i.e. January 2021, therefore in order to make sure that the Temporary Bridge that the Government is to construct does not meet the same fate of being washed away by the river like the previous suspension

bridge, the Respondents could take some expert suggestion and look at the option of River Training so that the flow of the river towards a certain direction is controlled which could eventually help in permanently protecting the bridge for the use of public till the construction of the permanent bridge is completed and even thereafter.

- VI. Since some of the villagers were of the opinion that the abutment of the previous bridge not being constructed at the right place could be one of the reason for the bridge not being able to withstand the pressure of the river, the government, before the construction of the bridge could consult the Panchayats and the residents of the area who could have better knowledge about the terrain and quality of the land.

The Amicus Curiae seeks the liberty of this Hon'ble Court to allow the Amicus to place any further reports or suggestions as and when the same is required."

- 11.** Subsequent to filing of the aforesaid report/suggestions of the learned Amicus Curiae, respondent nos. 1 and 4 filed an affidavit dated 03.12.2019 stating as follows: -

"That the Roads and Bridges Department has instructed the concerned field Officers in North Sikkim to take up the works Vide letter no. loose/ACE/N/E/R& B /36 dated 7/11/19 and accordingly as directed by the High Court many steps have already been taken up to mitigate the issues. A copy of the letter is annexed and marked herewith as

**Annexure- R 1.**

- I. That the road on right bank of the river has been temporarily restored and riding quality has been considerably improved and loaded vehicles are plying comfortably on this stretch of the

road. The temporary restoration of road on left bank of the river will be taken up after completion of temporary bridge which is under construction.

(A copy of the recent Photographs of restored roads is annexed and marked herewith as **Annexure – R 2**).

- II. With regard to the temporary measures as directed, the Path leading to the Cane Bridge has been made comfortable and stable for people of all ages and gender to commute through to the possible extent. Once the construction of the temporary vehicular bridge is completed and all pedestrian as well as vehicular traffic is diverted through the bridge further improvement works would be taken up because as of now due to continuous use of the bridge by the people works are hindered now and then.

(A copy of photographs been annexed and marked herewith as **Annexure – R3**).

- III. As directed for proper lighting in and around the bridge the same has been carried out by providing lighting over and across the existing bamboo Cane Bridge.

(A copy of the photographs has been marked and annexed herewith as **Annexure – R4**).

- IV. With regard to the ropeway operation as directed it is to submit that as per the records it was constructed under the funding by the SJEWD, sponsored by the Ministry of Tribal Affairs, Government of India in the year 2002. It is found that the onus of maintenance of the ropeway falls under the purview of LRDM Department. As of now the Ropeway is in operation status.

- V. With regard to the construction of a permanent bridge, the foundation work for the abutments is ongoing and simultaneously the fabrication of bridge parts is also nearing completion. The bridge will be completed within the schedule time i.e. January 2021.
- VI. Men and Machineries are engaged for erection of a temporary vehicular bridge across the river for easy movement of vehicles during the lean period. The work for the same is underway on war-footing and would be completed positively in all respects by 12/12/2019. Further, it is to submit that delay in commencement of this work is mainly attributed by the land disputes in the initial stage of the site where the work was to be taken up. The concerned Gram Panchayat has given a certificate, certifying the dispute, settlement and completion of the temporary vehicular bridge.

(A copy of the certificate is annexed and marked herewith as **Annexure – R5**).

(A copy of photographs of progress of the work of construction of temporary vehicular bridge has been enclosed for reference at **Annexure – R6**)."

**12.** By an order dated 05.12.2019, this Court directed the matter to be listed on 19.02.2020 to take note of further developments. A report in the form of an affidavit was filed by respondent nos. 1 and 4 on 15.02.2020. It is stated therein that the construction of the temporary bridge for all pedestrian as well as vehicular traffic across river Kanaka was completed on 12.12.2019. With regard to the construction of permanent bridge, it is stated that excavation in foundation work for both the abutments at Tingbong and Kayum side were completed for 2-lane bridge over Kanaka river. The



fabrication of steel bridge parts had been completed at the workshop and transportation and stacking at work site is under process and stacking of the reinforcing bars had been completed. It is stated that the concrete works for the abutments will be completed within the scheduled time.

**13.** Order of this Court dated 19.02.2020 goes to show that Mr. Kohli had submitted that though temporary vehicular bridge had been constructed and was functional, with the onset of monsoon, the bridge has to be dismantled as the surging water of river Kanaka will submerge the temporary bridge and during the period of monsoon, the bamboo bridge, which was in existence, would have to be used by the villagers and others. He further submitted that the bamboo bridge may be required to be strengthened before the onset of monsoon. He further submitted that the ropeway, which was at that point of time operated manually, might have to be made functional to operate in a mechanized way.

**14.** In the aforesaid order dated 19.02.2020, this Court had taken note of the submission of Mr. Barfungpa that the motor of the ropeway was not in working condition and that is why the same was required to be operated manually. The order goes to show that the learned Advocate General had submitted that he would look into all aspects of the matter and would file a comprehensive report relating to strengthening of the bamboo bridge and mechanized operation of the ropeway.

**15.** Though, by the aforesaid order dated 19.02.2020, the case was directed to be listed on 23.04.2020, due to lockdown, the same could not be listed and the matter came to be listed on 10.06.2020. Till then, because of lockdown, the report was not filed and on a prayer made by the learned State Counsel, while granting seven days' time to file an affidavit, the matter was directed to be listed today.

**16.** Accordingly, an affidavit dated 18.06.2020 in the form of a report was filed by respondent nos. 1 and 4.

**17.** In the said affidavit, it is stated that the temporary bamboo cane bridge was strengthened using a ten ton capacity winching machine to pull the main cable to minimize the sagging. After the sagging was minimized, the damaged bamboo decking was replaced ensuring that there was no gap in between and after such replacement of the decking, the gap between foot bridge and the river, at the minimum, is 8 feet. It is further stated that the ropeway has been mechanized and the villagers are using the same. With regard to construction of the permanent bridge, it is stated that though very little progress was achieved during the period of lockdown on account of COVID-19 pandemic, the scheduled completion date had not been revised from the earlier scheduled date, which is 21.01.2021.

**18.** Mr. Barfungpa has submitted that though the bamboo bridge has been constructed, as the same is the lifeline for the villagers of Tingvong GPU, Sakyong Pentok GPU and Laven ward under Lingthem GPU, respondent authorities should regularly monitor the condition of the bamboo bridge and whenever required, strengthen the same so that the villagers are not cut off from the rest of the world. Mr. Barfungpa further submits that a direction may also be issued to improve the condition of the road leading towards Mantam village and further connecting Lingthem GPU and the condition of the road towards the cut off villages. He further submits that the Public Interest Litigation may be disposed of by directing the respondent authorities to keep the ropeway functional in mechanized form and to ensure that the permanent bridge is constructed without any delay and within the scheduled completion date.

**19.** Mr. Kohli has submitted that in view of the steps taken by the respondents, nothing further survives for consideration in this case and the

petition may be disposed of with a liberty to the learned Amicus Curiae to approach this Court again if the occasion arises.

**20.** Considering the matter in its entirety and taking note of the submissions as well as the affidavits/reports on the record, we dispose of this Public Interest Litigation with the following directions:-

- (i) The respondents shall regularly monitor the condition of the temporary bamboo cane bridge to ensure safety of villagers crossing the bridge and to ensure that the bridge remains functional so as to not cause any inconvenience to the affected villagers. The bamboo cane bridge, as and when required, is to be appropriately strengthened.
- (ii) Respondents will keep the ropeway functional in mechanized form.
- (iii) Condition of the road on the other side of Kanaka river, i.e. towards the cut off villages i.e. Tingvong GPU, Sakyong Pentok GPU and Laven ward under Lingthem GPU shall be improved so that the villagers of the remote corners of the State have better connectivity.
- (iv) Respondents shall ensure completion of construction of the permanent bridge within the schedule time.

**21.** While disposing of the petition, we grant liberty to learned Amicus Curiae to approach this Court, if need so arises in future.

**Judge**

**Chief Justice**