

**Srinagar Bandh Aapda Sangharsh Samiti & Anr. v. Alaknanda hydro Power Co. Ltd.
& Ors.**

Original Application No. 03 of 2014

In this case no fault liability principle invoked

Bench: U.D. Salvi J.

Pronounced on: 19th August, 2016

Facts:

1. Petitioner No. 1 and another filed a petition raising several issues seeking directions to the first Respondent, Alaknanda Hydro Power Co. Ltd. to compensate to the tune of INR 9,26,42,795 against the damage suffered by the members of the Petitioner Samiti in terms of life and property. The 2013 Uttarakhand floods which caused mass destruction of life and property is the backdrop of this case.
2. The case of the Applicants was that the first Respondent had dumped a huge quantity of 'muck' generated during construction of the Srinagar Hydro Electric Project without taking the prescribed measure to secure such much from the floods.
3. Due to heavy rains when the reservoir of the Project got filled, due to the opening of the gates of the dam, all the muck got carried to the villages resulting in huge loss to the life and property of members of the Samiti.

Legislations:

1. Section 2 of the NCT Act, 2010.
2. Section 2 (a) of the NGT Act, 2010. 44. Oxford Dictionary of English 3rd Edition
3. Section 17 of the NCT Act, 2010.
4. Section 17 (3) of the National Green Tribunal Act, 2010.
5. Section 5 Environment Protection Act, 1986.
6. Section 7 Public Liability Insurance Act, 1991.

Issue:

Whether the Respondent No. 1 was liable to pay the claimed compensation?

Judgment:

1. The Tribunal reached the conclusion that damage to the property as alleged by the applicants was incurred as a result of flood water, which brought along soil and muck, entering residential premises.
2. There was contribution of Phyllite, which is a product generated by digging of tunnel and canal and through power house excavation downstream the barrage in question. Thus, clear contribution of the project could be noticed.
3. The Tribunal noted that although the 2013 Uttarakhand floods were the result of a cloud burst, the damage caused to the residential area was not the result of Act of God.
4. The muck was about 30 percent, which clearly was the footprint of Respondent No.1's involvement in the damage. And even if it was an Act of God, the Tribunal

saw the invocation of the ‘No Fault Liability’ under Section 17(3) of the National Green Tribunal Act, 2010 justified, which principle made the Respondent No. 1 liable to pay the claimed compensation along with Rs. 1 lakh each to the applicants along with costs

