

Rural Litigation and Entitlement Kendra

Vs

State of U. P.

Writ Petitions Nos. 8209 and 8821 of 1983 with 959 and 876 of 1987 and 1770 of 1986

(Ranganath Misra, M. M. Dutt JJ)

19.10.1987

ORDER

1. A three judge Bench consisting of one of us by judgment dated March 12, 1985, reported in Rural Litigation and Entitlement Kendra v. State of U.P. [(1985) 2 SCC 431] made a detailed order regarding the working of the limestone quarries in the Dehradun-Mussoorie belt. The quarries in that area were classified into three categories being A, B and C. In regard to the C grade quarries, this Court ordered : (SCC pp. 434-35, para 7)

We are clearly of the view that so far as the limestone quarries classified in category C in the Bhargav Committee report are concerned which have already been closed down under the directions of the Bhargav Committee, should not be allowed to be operated. If the lessees of these limestone quarries have obtained any stay order from any court permitting them to continue the mining operations such stay order will stand dissolved and if there are any subsisting leases in respect of any of these limestone quarries they shall stand terminated without any liability against the State of Uttar Pradesh. If there are any suits or writ petitions for continuance of expired or unexpired leases in respect of any of these limestone quarries pending, they will stand dismissed.

Thus in regard to the C grade quarries, the dispute has ended.

2. Coming to category B quarries of the Bhargav Committee report, this Court held that such limestone quarries should not be allowed to be operated and should be closed down forthwith. Similarly the B category stone quarries in the report of the working group other than mining lease Nos. 31, 36 and 37 were directed also to be closed down finally and this Court further directed : (SCC p. 435, para 8)

If there are any subsisting leases in respect of any of these limestone quarries they will forthwith come to an end and if any suits or writ petitions for continuance of expired or unexpired leases in respect of any of these limestone quarries are pending, they too will stand dismissed.

In regard to the remaining B category limestone quarries, in paragraph 10 of the judgment this Court dealt with the question at length; the lessees were directed to submit schemes to the Committee and the Committee was directed to examine such schemes at length and make a full report to the Court. This Court indicated : (SCC p. 437, para 10)

The report submitted by the Bandhopadhyay Committee in each case will be considered by the court and a decision will then be taken whether the limestone quarry or quarries in respect of which the report has been made should be allowed to be operated or not. But until then these limestone

quarries will not be allowed to be operated or worked and the district authorities of Dehradun will take prompt and active steps for the purpose of ensuring that these limestone quarries are not operated or worked and no mining activity is carried on even clandestinely. This order made by us will supersede and stay or any other interim order obtained by the lessee of any of these limestone quarries permitting him to carry on mining operations and notwithstanding such stay order or other interim order or subsisting lease, the lessees shall not be entitled to carry on any mining activity whatsoever in any of these limestone quarries and shall desist from doing so.

The Court took note of the fact that Sl. Nos. 17 to 20 in category B of the Bhargav Committee report had already closed down and, therefore, no direction was necessary to be given in regard to them save and except in regard to removal of the limestone or marble chips already gathered.

3. In regard to the A category limestone quarries of the Bhargav Committee report, the judgment classified the stone quarries into two groups - those which were located within the Mussoorie municipal limits and the others which were not so located. In regard to the stone quarries of the A category within the municipal limits the same direction as given in respect of the B category stone quarries referred to above, was given. In regard to the remaining A category stone quarries, it was observed : (SCC pp. 435-36, para 9)

We take the view that the limestone quarries falling within category A of the Bhargav Committee report and/or category 1 of the Working Group Report and falling outside the city limits of Mussoorie, should be allowed to be operated subject of course to the observance of the requirements of the Mines Act, 1952, the Metalliferous Mines Regulations, 1961 and other relevant statutes, rules and regulations. Of course when we say this, we must make it clear that we are not holding that if the leases in respect of these limestone quarries have expired and suits or writ petitions for renewal of the leases are pending in the courts, such leases should be automatically renewed. It will be for the appropriate courts to decide whether such leases should be renewed or not having regard to the law and facts of each case.

4. The Bhargav Committee examined the schemes drawn up by the stone quarry lessees and has submitted its report. With reference to the said report, 15 lessees have filed their objections. We have heard each of the objectors and have also given a hearing to some of the A category lessees located outside the city limits.

5. It is relevant at this stage to take note of a subsequent order rendered by a two judge Bench of which one of us was a party in these very cases - Rural Litigation and Entitlement Kendra v. State of U.P. [1986 Supp scc 517]. On that occasion, this Court pointed out : (SCC pp. 521-22, paras 11-13)

The Himalayan range on the northern boundary of India is the most recent mountain range and yet it is the tallest. It has formed the northern boundary of the country and until recent times provided an impregnable protection to the Indian subcontinent from the northern direction. This mountain range has been responsible to regulate the monsoons and consequently the rainfall in the Indo-Gangetic belt. The Himalayas are the source for perennial rivers - the Ganges, Yamuna and Brahmaputra as also several other tributaries which have joined these main rivers. For thousands of years nature has displayed its splendour through the lush green trees, innumerable springs and beautiful flowers. The Himalayas has been the storehouse of herbs, shrubs and plants. Deep forests on the lower hills have helped to generate congenial conditions for good rain.

The Doon valley has been an exquisite region bounded by the Himalayan and the Shivalik ranges

and the Ganga and Yamuna rivers. The perennial water streams and the fertile soil have contributed not only to the growth of dense lush green forests but have helped the yield of basmati rice and leechis. Mussoorie, known as the queen of Indian hill stations situated at a height of 5000 ft. above sea level and Dehra Dun located below the heights have turned out to be important places of tourist attraction, centres of education, research and defence complex.

At present the valley is in danger because of erratic, irrational and uncontrolled quarrying of limestone. The landscape has been stripped bare of its verdant cover. Green cover today is about 10 per cent of the area while some decades ago it was almost 70 per cent.

Consciousness regarding environmental upkeep is of recent origin. Cognizance of ecological importance has entered into governmental activity only in this decade. Every day that consciousness as also the sense of social obligation in this regard are on the increase. It has been pointed out to us in course of hearing of the objections that the classification of the A category limestone quarries on the basis of their location - within the municipal limits and outside - was indeed not a real one. We have been shown and it seems to be factually true that some of the limestone quarries said to be outside the city limits are closer to the heart of the city of Mussoorie than others located within city limits. If the real purpose of the order made by this Court was not to permit mining within the city limits without further scrutiny as in the case of B category stone quarries, we really do not see any justification as to why these stone quarries located outside the city limits but close to the heart of the city should not have been subjected to such scrutiny. Since the writ petitions have not been finally disposed of and the order made in regard to the A category quarries located outside the city limits by the judgment referred to above only exempted them from further scrutiny as was directed in respect of the other quarries, we see no impediment in the matter of giving a re-look at the matter even with reference to the A category quarries located outside the city limits.

6. In this connection it is relevant to take note of the fact that the State Government has already formed an improvement programme of the area by constituting a combined body for Mussoorie and Dehradun. The considerations which had weighed with the court on the basis of municipal limits has indeed to be extended now to the entire area covered by the new scheme. We are, therefore, of the view that the A category stone quarries in this area irrespective of location within or outside city limits should be subjected to further order of this Court and there is no legal impediment for this Court to do the same.

7. Indisputably the extraction of limestone from this area satisfies roughly 3 per cent of the country's demand for such raw material but one important feature is that the quality of the material is invariably above 97 per cent purity. It may be that limestone of this grade would not be available in other areas. Parties have not placed material before the court in this regard. There has been some allegation that on account of the closure of mining activities in this area, the import of limestone had to go up and the country had to pay for the same in foreign currency.

8. We are of the view that stone quarrying in the Doon Valley area should generally be stopped and reasons thereof we shall provide in due course. At the same time it would be difficult to overlook the economic and defence interest of the country. There is material on record that for production of sophisticated defence armaments it is necessary to utilise this high grade limestone. As we have already pointed out, the question of foreign exchange is also involved. This aspect of the matter had not been considered by the court earlier and even the Union of India has not placed the exact material relevant to come to a conclusion by taking into consideration the requisite material.

9. While we reiterate our conclusion that mining in this area has to be stopped as far as practicable, we also make it clear that mining activity has to be permitted to the extent it is necessary in the interests of the defence of the country as also for the safeguarding of the foreign exchange position. We call upon the Union of India in the relevant ministry or ministries to place before the court on affidavit the minimum total requirement of this grade of limestone for manufacture of quality steel and defence armaments. The affidavit should also specify as to how much of high grade ore is being imported into the country and as to whether other indigenous sources are available to meet such requirement. This Court would also require an affidavit from responsible authorities of the Union of India as to whether keeping the principles of ecology, environmental protection and safeguards and anti-pollution measures, it is in the interest of the society that the requirements should be met by import or by tapping other alternate indigenous sources or mining activity in this area should be permitted to the limited extent. The court expects the Union of India to balance these two aspects and place on record its stand not as a party to the litigation but as a protector of the environment in discharge of its statutory and social obligation for the purpose of consideration of the court by way of assisting the court in disposing of the matters in issue. If the court comes to the conclusion that the minimum requirement of limestone will be permitted to be lifted from some of these limestone quarries, it shall be for the court to indicate as to which of the quarries shall be operated for that limited purpose. We make it clear that whichever quarries may be permitted to be worked out the same shall be subjected to strict control and regulations and would have to undertake acceptance of the obligation to maintain the green cover of the area by diverting a major portion of its profits.

10. The court intends to constitute a superintending body for effecting control of the environment and ecology in the area by appointing a committee of experts, public authorities, residents and such other persons as may be approved by the court. In due course we shall advert to that aspect.

11. Four weeks' time is allowed to the Union of India to file its affidavits in regard to what has been stated above. The petitions may be listed on November 17, 1987 for further hearing on this limited point.

</html