

M/s A. R. C. Cement Ltd. and Others

Vs

State of U. P. and Others

I.A. No. 2 in Write Petition (Civil) Nos. 12451 of 1985 with 12017, 12346, 12377 of 1985, 1056 of 1986 with CMP Nos. 40276, 36815, 40238, 40239 of 1985, 2104 of 1986, SLP (C) No. 11844 of 1986

(CJI Ranganath Misra, P. B. Sawant, Kuldeep Singh JJ)

01.08.1991

ORDER

1. This Court after hearing parties at great length came to the conclusion that mining operation in the Doon Valley area should come to a total halt and passed an order of injunction against running any mining activity in the area and with a view to restoring the Doon Valley to its original character directed also that the area may be declared as non-industrial. Within that area notwithstanding the direction of Court Uttar Pradesh Government allowed a cement factory not being the petitioner, to come into existence. That matter is engaging the attention of this Court in different proceeding. The present petitioner who started operating a second cement factory was not permitted to carry on the manufacturing process as it was polluting and there was an order of prohibition by this Court. On notice from the Court, the petitioners appeared before us and wanted our permission to open by undertaking to comply with all conditions which have been agreed to by the other factory which is running. To that we did not agree. Ultimately, by an order dated March 31, 1987 we indicated :

"We were informed that the petition's desire to shift their cement factory elsewhere and that they have submitted proposals to the State Government. The State Government is considering the question of feasibility of the proposal. We hope this is done as expeditiously as possible as this involves loss to the public. The matter is adjourned to May 7, 1987."

2. For over four years now the question of shifting the cement factory from this location to a non-controversial area have been engaging the attention of the State Government, the Pollution Board and the petitioners and occasionally this Court when moved. We are sorry to state that within these four years an alternate site has not been found out. It may be that the petitioners are more responsible for this than the public authorities on account of the fact that a definite alternate site has not been proposed to government. In such matters the State Government has also its own responsibility to discharge. Pollution cannot be controlled by one party or the other and effective control of pollution would be possible only when coordinated activity is carried on.

3. We cannot go back upon our earlier order that cement factory shall not be permitted to run at the site. Shifting from this place has, therefore, got to be done. We permit the petitioner to indicate some alternate sites so that there would be option available to the State Government as also to the Pollution Board to consider which of the sites offered may be acceptable to them for the purpose of shifting of cement factory from the present location. Petitioners are directed to offer the alternate sites by filing an affidavit in this Court within two weeks from today. Copy of the affidavit be

served on Mrs. Dixit, it shall be the obligation of the State Government to indicate its definite response. If definite response one way or the other is not indicated within the time, it shall be presumed that the State Government has no objection for the site or any of the sites and it shall be for the Court to decide which shall be proper one for the shifting of the cement factory.

AR-cum-PS & Court Master.

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