

SUPREME COURT OF INDIA

T.N. Godavarman Thirumalpad And Society, Protection of Human Rights

Vs.

Union of India (Uoi)

(Y Sabharwal and A Pasayat JJ.)

16.12.2002

ORDER

IA 827

1. Let Central Empowered Committee file its response to the affidavit dated 14.12.2002 filed on behalf of Ministry of Environment & Forest within three weeks. List on 14.2.2003.

IA 798

2. Reply by the respondent be filed within four weeks. List on 14.2.2003.

IA 745

3. Mr. ADN Rao, learned counsel states that out of 23 accused in the murder of Sanjay Singh, some of them have been arrested and for remaining proceedings are being taken for declaration of proclaimed offenders and efforts made to apprehend them. List on 14.2.2003.

IAs 782 to 784, 793 to 795 & 813 to 815.

4. The applications are referred to Central Empowered Committee which will respond thereto within six weeks. List on 14.2.2003.

I.A. 785:

5. The application is referred to Central Empower Committee for its suggestions.

IA 786

6. Issue notice to the Ministry of Environment. Mr. Rao will respond to the application. List the application on

14th February, 2003.

IA 799

7. Union of India will respond.

8. List the application on 14th February, 2003.

IA 804

9. We direct the Chief Secretary of the State of Madhya Pradesh to file reply on or before 20th December 2002.

IAs 805-806, 807-808, 809-810 and 811-812

10. Referred to the Central Empowered Committee for its suggestions. Contempt Petition 479/2002 with IA No. 1 in WP 202/95

11. The copy of the application be served on to the Amicus Curiae. IA 836

12. Mr. Himansh Sekhar, learned counsel accepts notice on behalf of Respondent No. 4 and Mr. Rao,' learned counsel accepts notice on behalf of respondent Nos. 1-3.

13. Counter affidavit be filed within four weeks. Rejoinder affidavit, if any, be filed in another two weeks.

14. Till further order, the operation of the order dated 20th August, 2002 shall remain stayed.

15. The above order will apply to similar other areas in the National Park. It would be the responsibility of the State Government to ensure the compliance of the same. Cont. P. 193/2001

16. We request Central Empowered Committee to give recommendations on the aspects which have been highlighted in the Report filed by the Principal Chief Conservator of Forests, Tamil Nadu within four weeks.

17. List the matter for hearing on 7th March, 2003 at 2.00 p.m. IAs 828, 833, 834-835, 837-838, 839, 840, 846 & 847

18. One of the aforesaid applications has been filed by the State of Rajasthan seeking modification or clarification to the effect that the order dated 29/30th October 2002 would be applicable only to illegal mines in the Aravalli hills. IA 840 has been filed by M/s. Gurgaon Sohna Mineral and Anr. seeking similar relief. Applications have also been filed by State of Haryana and other parties.

19. We have heard learned counsel. On 29th/30th October, 2002 this Court prohibited and banned the mining activities in the entire Aravalli hills. This ban, it was directed, is not limited only to the hills encircling Kote and Alampur villages but extends to the entire hill range of Aravalli from Haryana to Rajasthan. The Chief Secretary, State of Haryana and State of Rajasthan were directed to ensure that no mining activity in the Aravalli hills is carried out, especially in that part which has been regarded as Forest Area or protected under the Environment (Protection) Act.

20. On consideration of the report of Central Empowered Committee dated December 14, 2002, we issue the following further directions:

“(1) Mining may be permitted in Forest Areas where specific prior approval under Section 2 of the *Forest (Conservation) Act, 1980* has been accorded by the Ministry of Environment and Forest, Government of India. However, in view of this Court's order dated 14.2.2000 passed in I.A.No. 548 no mining activity is permitted within areas which are notified as Sanctuary, National Park under Sections 18, 35 of the *Wild Life (Protection) Act, 1972* or any Sanctuary, National Park or Game Reserve declared under any other Act or Rules made thereunder even if prior approval have been obtained from the MOEF under the F.C. Act in such an area.

(2) Under Notification dated 29th November, 1999 issued under Section 23 of the Environment (Protection) Act for certain Districts including Gurgaon District in the State of Haryana, the Ministry has delegated power to grant approval for mining purposes to the State. The mining activities are being regulated under the Notification dated 7th May, 1992 issued by the Ministry of Environment and Forest (Annexure A-1 in IA No.833). We direct that, for the time being, no mining shall be permitted within the areas of Gurgaon District in the State of Haryana where mining is regulated under the Notification dated 7.5.1992 issued under Section 3 of the Environment (Protection) Act, pursuant to permission granted after 29 November, 1999. Meanwhile, the Central Empowered Committee which is examining the matter will give its suggestions within a period of six weeks. On the receipt of those suggestions, the prayers made by the applicants for modification of the order dated 29/30.10.2002 insofar as the Gurgaon District is concerned will be considered. (3) No mining activity would be permitted in respect of areas where there is a dispute of applicability of F.C. Act, till such time the dispute is resolved or approval under the FC Act is accorded, in addition to order already passed in Writ Petition No. 4677/1985.”

21. For the present, no mining will be permitted in the areas for which notification under Sections 4 and 5 of the Punjab Land Preservation Act 1900 have been issued for regulating the breaking up of the land etc. and such lands are or were recorded as "Forest" in Government records even if the notification period has expired, unless there is approval under the FC Act.

22. Learned Attorney General and Solicitor General will assist the Court on the aforesaid aspects on the next date of hearing.

23. In respect of suggestion 7 and 8, the Union of India will respond on the next date of hearing.

24. The order dated 29/30th October, prohibiting and banning the mining activity in Aravalli hills from Haryana to Rajasthan is modified insofar as the State of Rajasthan is concerned to the following effect:

25. Wherever requisite approval/sanctions in the said State have been obtained under FC Act and EP Act, and the the mining is not prohibited under the applicable Acts or notifications or orders of the Court, mining can continue and to such mining the order aforesaid will not apply.

26. This order will be applicable to non-forest land covered for the period prior to the date of modification of the order dated 29th November 1999 in the State of Haryana.

27. This variation will not apply to the area in the Alampur District in the State of Haryana.

28. List the matter on 7th February, 2003 at 2 O'Clock. WP(C) Nos. 672/1998 & 603/2000.

29. Adjourned to 7th February, 2003.