

SUPREME COURT OF INDIA

PRP Exports

Vs.

The Chief Secretary, Govt. of T.N.

S.L.P.(Civil.)No.18662-18663 of 2013

(K.S. Radhakrishnan and A.K. Sikri, JJ.)

13.12.2013

JUDGMENT

K.S. Radhakrishnan, J.

1. These Special Leave Petitions arise out of a common judgment and order dated 15.2.2013 passed by the High Court of Judicature at Madras in W.A. (MD) Nos.906 and 907 of 2012. The Petitioner is a registered partnership firm, engaged in the manufacture of dimensional granite blocks, slabs, tiles, monuments etc. and has set up its factory for cutting and polishing of granite in Therkkutheru Village, Madurai District. The Petitioner firm, it is stated, is 100% export oriented unit, recognized by the Madras Export Processing Zone. The Petitioner firm is having 55 granite quarries leased in the Madurai District measuring about 584.83 acres.

2. Alleging that the Petitioner firm had indulged in unauthorized quarrying, the Respondent officials as well as the District Collector and Superintendent of Police took steps to seal the Petitioners' factory premises, vehicles and instruments so as to suspend the quarrying operations in respect of the above-mentioned quarries. The Petitioners, therefore, approached the Madras High Court by filing W.P. (MD) Nos.12441 and 12442 of 2012, which were heard by a learned Single Judge.

3. Before the learned Single Judge, the State also took up the stand that the order of sealing dated 9.8.2012 was illegal and could not be supported in law. Taking note of the stand taken by the State, the learned Single Judge observed as follows:-

“124. It is also admitted case of the respondents, that till date, even show cause notice with regard to cancellation of licences granted in favour of the petitioner has not been issued, therefore, there is absolutely no justification with the respondents, to stop the mining operation of the petitioner over the mines leased out to the petitioner, and thereby taking the right of livelihood of thousands of employees working in the firm.”

4. After hearing all the parties, the learned Single Judge disposed of the writ petitions on 2.11.2012. The operative portion of the judgment reads as follows:

“130. However, at the same time, the fact cannot be lost sight off that there are number of cases registered against the partners of the petitioner firm, and there are serious allegations of illegal mining worth of crores of rupees. Furthermore, in the writ petitions, the positive stand of the writ petitioner is, that the petitioners are willing to co-operate with the investigation of criminal cases in respect of furnishing all documents, records, books of accounts which are sealed by the authorities in their presence, and has further undertaken not to tamper with any records, and will not destroy any evidence whatsoever. The petitioner has also undertaken not to threat any witnesses in the investigation. Therefore, a blanket order to be passed in favour of the petitioner may hamper the investigation, which cannot be permissible in law.

131. Therefore, in order to settle equity, these writ petitions are disposed of with the following directions:-

1. The respondents shall permit the petitioner to continue the quarry operations over the leased property strictly in terms of the lease, which is admittedly in force. It shall be, however, open to the respondents to take appropriate action by following due process of law under The Mines & Minerals (Development & Regulation) Act, 1957 and the Rules framed there under, if so advised ;

2. The respondents shall henceforth release the bank accounts and to allow the petitioner to carry on his business in accordance with law. However, it shall be the duty of the petitioners to submit fortnightly Statement of Accounts to the Investigating Officer;

3. That the order restraining the export and import by the Investigating Officer is ordered to be quashed and it is directed that the respondents shall not interfere in the export and import on valid documents by the petitioner.

4. That the seal of the administrative building be opened, after the Investigating

Officer takes in possession of the documents, the computers, hard discs, etc., required for investigation. (As agreed between the parties, the petitioner is directed to depute two persons along with an expert, if so advised to be present at the administrative building on 07.11.2012 (Wednesday) at 10.00 a.m., for handing over the computers, hard discs, documents, available in the sealed building, after transferring the data from computers and making copies of the documents, which are required for running of business). It is made clear that the petitioner will be entitled to get copies of the documents lying within the premises and permit the Investigating Officer to take away the Computers, Hard discs and other documents, which are required for the Investigation. This process shall be completed in three days and it should be completed on or before 09.11.2012 (Friday).

5. The Investigating Officer shall permit the petitioner to carry on their business.

6. With regard to the vehicles, equipments and other accessories seized by the authorities under the Motor Vehicles Act, or in criminal cases, it shall be open to the petitioner to take appropriate remedy in accordance with law for reasons thereof.

No costs.”

5. The State, aggrieved by the judgment of the learned Single Judge, preferred Writ Appeal (MD) Nos. 906 and 907 of 2012 before the Division Bench of the Madras High Court. While dealing with various directions given by the learned Single Judge, the State represented by the learned Advocate General, pointed out that, during the pendency of the writ appeals, suspension orders dated 14.12.2012 were issued under Section 19(2) of the Granite Conservation and Development Rules, 1999 as well as Show Cause Notices dated 14.12.2012 were issued to the writ petitioners. Further, it was also pointed out that the departmental proceedings as well as the criminal proceedings initiated against the petitioners could not be hampered by granting permission to them to carry on quarrying operations in their 56 quarries. The prayer made by the Advocate General was opposed by counsel appearing for the writ petitioners stating that any action taken by the Government subsequent to the passing of the order by the learned Single Judge could not be the basis for testing the correctness, or otherwise, of the directions given by the learned Single Judge. In support of that contention, reliance was placed on the judgment of this Court in *Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi & Ors*¹.

6. The Division Bench of the Madras High Court formulated two questions which read as follows:

“(1) Whether the appellants can place reliance on the subsequent events, viz., passing of the suspension orders dated 14.12.2012 and the issuance of the show cause notice dated 14.12.2012 to the respondents/writ petitioners firm? and (2) Whether the provisions under the Special Law viz. The Mines and Minerals

(Development and Regulation, 1957 and other Rules, can override the General Law, viz., the penal provisions under the Indian Penal Code and the provisions under the Code of Criminal Procedure in respect of the initiation of parallel proceedings, viz., departmental proceedings and criminal proceedings?”

7. Shri Harish Salve, learned senior counsel appearing for the Petitioner, submitted that he is more concerned with the first question and arguments were advanced by him as well as Shri C. Sundaram, learned senior counsel appearing for the State, on that point. In our view, the Division Bench of the High Court is right in examining the subsequent events as well in a case where larger public interest is involved. This Court in *All India Railway Recruitment Board vs. K. Shyam Kumar*² distinguished Mohinder Singh Gill's case (supra), stating when a larger public interest is involved; the Court can always look into the subsequent events. Relevant paragraph of the judgment is extracted herein below:-

“45. We are of the view that the decision-maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in *Madhyamic Shiksha Mandal, M.P. vs. Abhilash Shiksha Prasar Samiti* found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in Mohinder Singh Gill case is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained.”

8. The Government and the District Administration received lot of complaints with regard to illegal quarrying in the Madurai District, which led the State Government directing the District Administration to verify the complaints. The District Collector inspected various quarries and submitted a preliminary report dated 19.5.2012. Subsequent to the preliminary report, the District Administration decided to conduct a comprehensive and scientific survey in all the 175 granite quarries functioning in the Madurai District. Considering the vast area involved, the District Administration requested the Commissioner of Geology and Mining to depute officers from their department for carrying on the inspection. Consequently, the Commissioner of Geology and Mining vide proceedings dated 4.8.2012 deputed six Assistant Geologists, two Surveyors and two Sub Inspectors of Survey from various other Districts to assist the inspection team constituted by the District Administration. After conducting a comprehensive and scientific survey, the Deputy Director and the Assistant Director of Geology and Mining submitted an Evaluation Report on 23.11.2012 on 88 granite quarries. Among them, 16 quarries belonged to the Petitioner. The inspection could not be carried out in 22 granite quarries due to water logging and among that 18 quarries belonged to the Petitioner.

9. The Deputy Director and the Assistant Director of Geology and Mining in their

Evaluation Report dated 23.11.2012 reported that the Petitioner firm has not carried out the quarrying operations as per their mining plan and encroached upon the adjoining roads, tanks, channels and water bodies and illicitly quarried granites in the adjacent non-leasehold areas also. Further, it was also pointed out that there is a vast difference between the quantity permitted by the District Mines office and the quantity quarried by the Petitioner firm. Consequently, it was pointed out that they have violated Section 4-(1) and 4-(1A) of the Mines and Minerals (Development and Regulation) Act, 1957. Further, it was also pointed out that they have not maintained the boundary stones and the safety distance and thus violated the Rules 36(4) and 36(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959. It was also pointed out that the Petitioner has not submitted the Scheme of Mining as per Rules 15 and 18 of the Granite Conservation and Development Rules, 1999 and has not stored the over burden and waste materials as earmarked. Various other violations have also been pointed out.

10. The District Administration then forwarded the Inspection cum Evaluation Report dated 23.11.2012 to the Commissioner of Geology and Mining on 4.12.2012 and pointed out that the lessees have not submitted the scheme of mining as required under sub-rules (2) and (3) of Rule 18 of the Granite Conservation and Development Rules, 1999 and that the lessees have carried out large scale unauthorized quarrying in the leasehold area and the adjoining non-leasehold area. The Commissioner of Geology and Mining vide its letter dated 6.12.2012 also recommended for further action. Consequently, under Sub-Rule (2) of Rule 19 of the Granite Conservation and Development Rules, 1999, the Government suspended the mining operations in respect of 78 granite quarries of Madurai District and, among the same, 20 quarries belong to the Petitioner firm were suspended on 14.12.2012 and the copies of the suspension orders were issued to the Petitioner firm.

11. Shri Harish Salve, learned senior counsel appearing for the Petitioners submitted that the Petitioner has already challenged the suspension orders in the Madras High Court in W.P. (MD) No.3829 of 2013 and the connected writ petitions and the Court has granted stay of the suspension orders and hence the Respondents should have permitted the Petitioners to operate the granite quarries in the leasehold area. Shri Salve also submitted that the show cause notices dated 25.2.2013 issued to the Petitioners are also under challenge in W.P. (MD) No.3012 of 2013 and other connected cases before the Madurai Bench of the Madras High Court and the Court has issued an interim order directing the District Collector not to pass final orders, pursuant to the suspension orders. The Court also has reserved its judgment. Learned senior counsel also submitted that a series of writ petitions are also pending challenging the deemed lapse notices. In such circumstances, learned senior counsel prayed that the Petitioners may be allowed to operate the quarries in accordance with the licences already granted.

12. We find it difficult to accede to that request made by the senior counsel, at this stage, especially in the wake of the report of the District Collector dated 19.5.2012 as well as the report of the Deputy Director of Geology and Mining dated 23.11.2012. In the affidavit filed by the third respondent, it is pointed out, that the volume of illegal transportation

from the petitioners' 16 quarries is around 1207863.164 Cubic Meters and show cause notices have been issued to the Petitioner firm under Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 for recovery of the cost. It is stated that the value of the illicit quarry in the 16 quarries alone comes around 4124.14 crores. Further, it was also pointed out that other quarry operators have also indulged in similar illegal quarry operations and the total volume of illegal operations is estimated around Rs.12390.460 crores. Further, it was also pointed out that several criminal cases are also pending for carrying on illegal quarrying operations in the government land.

13. We are of the view that, since several writ petitions are pending consideration before the High Court, at this stage, it would not be appropriate to pronounce upon the various contentions raised by learned senior counsel on either side on merits of the case, especially in the light of the materials leading to the issuance of the suspension orders dated 14.12.2012 and the show cause notices dated Nil.12.2012. We also notice that the Division Bench of the High Court has issued some equitable directions taking into consideration the interest of the workers and also for honoring some statutory obligations of the petitioner firm. We, therefore, find no reason to interfere with the impugned judgment dated 15.2.2013 and the special leave petitions filed against those orders stand dismissed.

Judgment referred

¹1978 (1) SCC 0405

²2010 (6) SCC 6014