

Rural Litigation And Entitlement ... vs State Of U.P. And Ors. on 13 May, 1985

Equivalent citations: AIR1985SC1259, 1985(2)SCALE119, (1985)3SCC614, 1985(17)UJ642(SC), AIR 1985 SUPREME COURT 1259, 1985 UJ (SC) 642 1985 (3) SCC 614, 1985 (3) SCC 614

Bench: Amarendra Nath Sen, P.N. Bhagwati, Ranganath Misra

ORDER

1. There are several applications which have been filed before us by one party or the other following upon the order made by us in these writ petitions on 12th March, 1985. Some of the applications have already been disposed of by an order made by us on 3rd May 1985 and the remaining applications are being disposed of by this order.

2. We will first take up civil miscellaneous petition No. 17895 of 1985. This application relates to the limestone quarry leased out to one C.G. Gujaral under lease No. 101. It is pointed out by C.G. Gujaral in this application that the limestone quarry forming the subject matter of lease No. 101 is outside the City Board of Mussoorie and is about 18 Kms away from Mussoorie and 35 Kms away from Dehradun and it has not been considered either by the Bhargav Committee or by the Working Group appointed by the Government of India headed by Shri D.N. Bhargav. The result is that it is not possible to say whether this limestone quarry falls within category A, B or C of the Bhargav Committee Report or within category I or II of the Working Group Report. C.G. Gujaral has therefore submitted in this application that he should be permitted to carry on mining operation in this limestone quarry forming the subject matter of lease No. 101. It is true and this is not disputed by the petitioner or by the Union of India or the State of Uttar Pradesh, that the limestone quarry forming the subject matter of lease No. 101 has not received consideration at the hands of the Bhargava Committee or the Working Group and it is therefore not possible to say in which category it falls. But for that reason alone, we cannot permit C.G. Gujaral to carry on mining operations in this limestone quarry. It will have to be ascertained as to in which category this limestone quarry falls in order to decide what treatment it should receive at our hands. We would therefore request the Bhargava Committee consisting of Shri D.N. Bhargav, Shri M.S. Kahlon and Col. P. Misra to visit this lime stone quarry for the purpose of determining in which of the three categories specified in its earlier reports namely A, B or C this lime stone quarry falls so that appropriate directions may be given by us as to whether mining should be allowed to be carried on in this lime stone quarry or not. We would request the Bhargav Committee to submit its report to us within three weeks from the date of receipt of this order. The District Administration as well as C.G. Gujaral will afford all possible assistance to the Bhargav Committee in inspecting this lime stone quarry for the purpose of making its report. We need not add that while making its report in regard to the category in which this lime stone quarry falls, the Bhargav Committee will take into account the various factors which have already been set out by us in our earlier order dated 11th August, 1983 made by us. But until further no mining operations shall be carried on in this lime stone quarry.

3. That takes us to Civil Miscellaneous Petition No. 16683 of 1985. This application has been made by M/s. Anand Bros and it relates to the lime stone quarry forming the subject matter of lease No. 67. This lime stone quarry falls within category A of the Bhargav Committee Report, but so far as the report of the Working Group is concerned, it has been placed in category II. When we made our order dated 12th March 1985 we were under the impression that "the lime stone quarries comprised in Category A of the Bhargav Committee Report were the same lime stone quarries which were classified in category 1 by the Working Group." But we are now informed that this impression created in our mind was erroneous, since the lime stone quarry comprised in lease No. 67 is placed in category A by the Bhargav Committee, but it falls in category II of the Working Group Report. Since this lime stone quarry, though falling within category A of the Bhargav Committee Report, is not placed in category 1 by the Working Group, we cannot allow mining operations to be carried on by M/s. Anand Bros, in this lime stone quarry and we must treat it on the same basis as the lime stone quarries classified as category B in the Bhargav Committee Report. We would accordingly direct that M/s. Anand Bros, should not be allowed to carry on mining operations in this lime stone quarry but they should be at liberty to submit a full and detailed scheme for mining this lime stone quarry to the Bandyopadhyay Committee and if any such scheme is submitted, the Bandyopadhyay Committee will proceed to examine the same without any unnecessary delay and submit its report to the court whether in its opinion this lime stone quarry can be allowed to be operated in accordance with the scheme and if so, subject to what conditions and if it cannot be allowed to be operated, the reasons for taking that view. The Bandyopadhyay Committee in making its report will take into account the various aspects which we have directed it to take into account while examining the scheme or schemes which may be submitted in respect of lime stone quarries classified in category B in the Bhargav Committee Report.

4. We now proceed to consider Civil Miscellaneous Petition No. 16757 of 1985. This application has been made by M/s. U.P. Minerals and it related to the lime stone quarry forming the subject matter of lease No. 8. The position in regard to this lime stone quarry is the same as that in regard to the lime stone quarry forming the subject matter of lease No. 67 to which we have referred in the preceding paragraph. It falls within category A of the Bhargav Committee Report but it is classified in Category II by the Working Group. Moreover it is situate within the limits of the City Board of Mussoorie. We would therefore give the same direction in regard to this lime stone quarry as we have given in regard to the lime stone quarry forming the subject matter lease No. 67.

5. We may add that so far as the lime stone quarries forming the subject matter of leases Nos. 67 and 8 are concerned, it is necessary to extend the time for them to submit their scheme or schemes to the Bandyopadhyay Committee. The Bandyopadhyay Committee has fixed 30th June 1985 as the limit of time within which scheme or schemes should be submitted by those covered by our order dated 12th March, 1985. Since some doubt was felt on a reading of our order dated 12th March 1985 whether the lessees of the lime stone quarries forming the subject matter of leases No. 67 and 8 were permitted to carry on mining operations without any further inquiry or whether their mining operations were directed to be stopped subject to approval of any scheme or schemes which may be submitted by them to the Bandyopadhyay Committee, they were not given notice by the Bandyopadhyay Committee for submitting their scheme or schemes, and they could not therefore go ahead with the preparation of their respective schemes. We would consequently grant to the

lessees of these two lime stone quarries time upto 31st July 1985 for submitting their scheme or schemes to the Bandyopadhyay Committee in terms of our order dated 12th March 1985 read with the present order.

6. We must then proceed to consider Civil Miscellaneous Petition No. 16437 of 1985. This application has been made by M/s. Punjab Lime and Limestone Company for clarification of our order dated 12th March, 1985 in so far as it refers to the limestone quarry forming the subject matter of lease No. 96. This limestone quarry lies in between the limestone quarry forming the subject matter of lease no. 14(i) and the limestone quarry forming the subject matter of lease No. 14(ii). There is no dispute that so far as limestone quarry comprised in lease no. 14(ii) is concerned, it falls within category A of the Bhargav Committee Report and category 1 of the Working Group Report and under our order dated 12th March 1985, M/s. Punjab Lime and Limestone Company has been permitted by us to carry on mining operations in this limestone quarry. The question is whether the limestone quarry forming the subject matter of lease no. 96 also falls within the same category. It is clear that the limestone quarry comprised in lease no. 96 has been placed in category 1 by the Working Group and on a proper reading of the Bhargav Committee Report, we have no doubt that it has been classified as category A by the Bhargav Committee. We would therefore hold that M/s. Punjab Lime and Limestone Company are entitled to carry on mining operations in this limestone quarry falling within lease no. 96 in the same manner in which they are permitted to carry on mining operations in the limestone quarry comprised in lease No. 14(ii). But for the purpose of carrying on mining operations in the limestone quarry falling within lease no. 96. M/s. Punjab Lime and Limestone Company will not have any approach through the limestone quarry falling within lease no. 14(i). The limestone quarry comprised in lease no. 96 will be operated independently without any approach being made to it through the limestone quarry falling within lease no. 14(i). So far as the limestone quarry falling within lease no. 14(i) is concerned, we would direct that M/s. Punjab Lime and Limestone Company should not be allowed to carry on mining operations in this limestone quarry, but they should be at liberty to submit a full and detailed scheme for mining this limestone quarry to the Bandyopadhyay Committee and the Bandyopadhyay Committee will proceed to examine the same and submit its report to the Court whether this limestone quarry can be allowed to be operated, in accordance with the scheme and if so subject to what conditions, and if it cannot be allowed to be operated, the reasons for taking that view. The Bandyopadhyay Committee in making its report will take into account the same aspects which we have directed it to take into account while examining the scheme or schemes which may be submitted in respect of limestone quarries classified in category B in the Bhargav Committee Report. The time for M/s. Punjab Lime and Limestone quarry to submit their scheme or schemes in respect of the limestone quarry falling within lease No. 14(i) will stand extended upto 31st July, 1985.

7. That takes us to Civil Miscellaneous Petition No. 17896/85. This application has been made by L.D. Gujaral for extension of time for removal of the balance of the mined lease minerals which are still lying at the site of the limestone quarry forming the subject matter of lease no. 24. The claim of L.D. Gujaral is that he has already removed a large quantity of mined lease minerals at the site pursuant to our order dated 12th March, 1985 but still a small quantity remains to be removed and he has therefore prayed that the time for removal of the same should be extended. Similar applications for extension of time for removal of the remaining mined lease minerals have also been

made on behalf of M/s. B.K. Industries, M/s. Modern Minerals and Chemicals. V.P. Rajwanshi whom we have prohibited from removing any mined lease minerals from the site of his limestone quarry by our order dated 3rd May, 1985 has also reiterated his application for permission to remove the balance of the mined lease minerals lying at the site of his limestone quarry. We do not think that we can grant any extension of time to L.D. Gujaral, M/s. B.K. Industries and M/s. Modern Minerals and Chemicals. They were given sufficient time to remove the mined lease minerals lying at the site of their respective limestone quarries and they ought to have removed such mined lease minerals : within the time allowed to them. No further extension of time can be granted to them. The case of V.P. Rajwanshi is still worst because he has been prohibited by us from removing any mined lease minerals on account of clandestine illegal mining operations which he was found to be carrying on despite the closure of his limestone quarry by us. There can therefore be no question of granting any extension of time to him. Since, however, mined lease minerals are lying at the sites of these limestone quarries and they form part of the national wealth we would direct that so far as these four limestone quarries forming the subject matters of leases No. 24, 69, 70 and 71 are concerned the eco-task force shall take charge of these four limestone quarries and allow removal of the mined lease minerals lying at the sites of these limestone quarries by the respective lessees in the order in which they think fit. The lessees of these four limestone quarries will supply the necessary trucks and labour for removal of the mined lease minerals lying at the sites of their respective limestone quarries in accordance with the directions which may be issued from time to time by the officer in charge of the eco-task force. The responsibility for ensuring that the removal of the mined lease minerals takes place in accordance with this order shall be that of the officer in charge of the eco-task force and until the officer of the eco-task force gives directions to the lessees of these four limestone quarries for supplying trucks and labour for removal, none of these lessees shall be permitted even to visit his respective limestone quarry. These four limestone quarries shall remain in exclusive charge of the eco-task force and they shall be out of bounds for these lessees and their representatives until directions are given to them by the officer in charge of the eco-task force for sending their trucks and labour for removal of the mined lease minerals and such removal shall also take place under the strict and close supervision of the eco-task force. The time for removal to be granted by the officer in charge of the eco-task force shall not be more than 10 days from the point of time when directions are issued to the respective lessee for supply of trucks and labour. If any of these lessees does not remove the mined lease minerals lying at the site of his respective limestone quarry within a period of 10 days from the time when directions are issued to him to provide trucks and labour, the eco-task force shall be entitled to deal with such mined lease minerals in the manner they think fit and the lessees shall not be entitled to make any claim against the eco-task force or the State of Uttar Pradesh or the Union of India in respect of such mined lease minerals. We are informed by the learned counsel appearing on behalf of M/s. B.K. Industries that they also have a ropeway in their limestone quarry forming the subject matter of lease no. 69. The eco-task force will permit access to M/s. B.K. Industries for the purpose of removing such ropeway but such removal shall also be under the supervision of the eco-task force and shall be carried out in accordance with such directions as may be issued by the officer in charge of the eco-task force.

8. That leaves out only the question in regard to the mined lease minerals which are lying stacked on plots away from the limestone quarries from which they are mined and which are situated at places where there are no adjoining limestone quarries. The lessees of limestone quarries forming the

subject matter of lease nos. 8, 24, 31 and 67 have applied to us that there should be no time limit set by us for removal of the mined lease minerals lying stacked at such plots. We are inclined to accede to this application since the plots on which mined lease minerals are said to be stacked are away from the limestone quarries and there is no danger or apprehension of the lessees clandestinely carrying on mining operations under the guise of the removal of the mined lease minerals if no time limit is set by us. We would therefore direct that if any mined lease minerals are lying stacked on plots in the vicinity of any limestone quarries, the lessees who have stacked mined lease minerals on such plots shall be permitted to remove the same without any specific time limit provided of course they make an application to the District Magistrate, Dehradun for permission to remove and such permission is granted by the District Magistrate, Dehradun. The District Magistrate, Dehradun shall have the right to assess the quantities of mined lease minerals lying on the plots within 2 weeks from the time when the application for permission for removal is made to him. The District Magistrate, Dehradun shall not make any unreasonable delay in the granting of such permission. But we may make it clear that if the District Magistrate, Dehradun is satisfied that something illegal or contrary to the orders of this Court is being done by any of the lessees, it will be open to him to refuse to grant such permission to the concerned lessee. This, however, does not apply to stacked mineral away from the mines as aforesaid.