

Rural Litigation & Entitlementkendra, ... vs State Of U.P. & Ors on 30 September, 1985

Equivalent citations: 1985 SCALE (2)906

Author: Amarendra Nath Sen

Bench: Amarendra Nath Sen

PETITIONER:

RURAL LITIGATION & ENTITLEMENTKENDRA, DEHRADUN

Vs.

RESPONDENT:

STATE OF U.P. & ORS.

DATE OF JUDGMENT30/09/1985

BENCH:

SEN, AMARENDRA NATH (J)

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SEN, AMARENDRA NATH (J)

CITATION:

1985 SCALE (2)906

ACT:

Conflict between development and conservation--Need for reconciling the two in the larger interest of the country--Quarrying and excavation of lime stone deposits--Directions issued.

HEADNOTE:

These Writ Petitions relate to the mining of lime stone quarries in Dehradun mining area. During the pendency of the Writ Petitions, the Court appointed a Committee known as Bhargav Committee for the purpose of inspecting the lime stone quarries mentioned in the Writ Petitions. The Government of India had also appointed a working Group headed by the same, Shri D.N. Bhargav, who was a member of the Bhargav Committee appointed by the Court, on the mining of lime stone quarries in Dehradun-Mussoorie area, some time in 1983. After the hearing was over, the Court passed a detailed order on 12th March, 1985 [1985) 3 SCR 169] giving various directions and observing that the reasons for the order will be set out in the judgment to follow later.

Hon'ble Mr. Justice A.N. Sen, one of the members of the Bench who heard these petitions before his retirement, speaking for himself,

OBSERVED: I. It is not necessary to give any further reasons than those which are already stated in the order made by the Court on 12th March, 1985 because the broad reasons have been adequately set out in that order and it would be an unnecessary exercise to elaborate them. [639C]

2. Industrial development is necessary for economic growth of the country. If, however, industrial growth is sought to be achieved by haphazard and reckless working of the mines resulting in loss of life, loss of property, loss of basic amenities like supply of water and creation of ecological imbalance, there may ultimately be no real economic growth and no real prosperity. It is necessary to strike a proper balance. Appropriate authorities at the time of granting leases should take all these facts into consideration and also provide for adequate safeguards. [640D-F]
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JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition No. 8209 & 882 1 of 1983.

(Under Article 32 of the Constitution of India.) M.A. Krishnamoorthy, Pramod Dayal, Rishi Kesh, R.B. Mehrotra, M.G. Ramachandran, C.M. Nayyar, M. Karanjawala, S.A. Sayed, Sushil Kumar Jain, S. Dikshit, P.P. Juneja, P.K. Jain, K.N. Bhatt, D.N. Misra, I. Makwana, A. Subba Rao, Harjinder Singh, B.P. Singh, Parijat Sinha, C.P. Lal, Shri Narain, S.K. Gupta, K.R. Nambiar, S.S. Khanduja, K.K. Jain, C.M. Nargolkar, Kapil Sibal, R. Ramachandran, Miss A. Subha- shini for the Appearing Parties and Devi Ditta Mal, Petitioner-in-person.

The Judgment was delivered by AMARENDRA NATH SEN, J: We disposed of these two writ petitions by an order made on 12th March, 1985 by which we directed that the lime stone quarries classified in category C in the Bhargava Committee Report should not be allowed to be operated and the same direction of closing down the lime stone quarries should also apply to the lime stone quarries in the Sahasdhara Block even though they, are placed in category B by the Bhargava Committee. We also directed by our order that so far as the other lime stone quarries classified as category B in the Bhargava Committee Report and category 2 in the Working Group Report are concerned, they should not be allowed to continue nor should they be closed down permanently without further inquiry and we accordingly appointed a high powered committee consisting of several officers to examine any scheme or schemes which may be submitted by the lessees of these lime stone quarries and submit report to' this Court on the question whether in its opinion a particular 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. We gave the same directions also in regard to the lime stone quarries Classified as category A in Bhargava Committee Report and for category 1 in the Working Group Report and falling within

the city limits of Mussoorie. We also directed by our order that the lime stone quarries placed in category 2 by the Working Group other than those which are placed in categories B and C by the Bhargava Committee should also not be allowed to be operated and should be closed down save and except for the lime stone quarries covered by Mining Leases Nos. 31, 36 and 37 for which we gave the same direction as in the case of lime stone quarries classified as category B in the Bhargava Committee Report. So far as lime stone quarries classified as category A in the Bhargava Committee Report and/or category 1 in the Working Group Report and falling outside the city limits of Mussoorie are concerned we directed that they should be allowed to be operated subject to the observance of the requirements of the Mines Act 1952, the Metalliferous Mines Regulations 1961 and other relevant statutes, rules and regulations. This order made by us was a detailed order and we stated at the time when we made this order that we shall proceed to give detailed reasons for the same in due course.

I do not think it necessary to give any further reasons than those which are already stated in the order made by us on 12th March, 1985. Speaking personally for myself I think that the broad reasons have been adequately set out in the order and it would be an unnecessary exercise to elaborate them. We have referred in the order to the reports of the Bhargava Committee and the Working Group and we have accepted these reports. The Bhargava Committee has classified the lime stone quarries into three categories namely, A, B and C while the Working Group has classified them into two categories, namely, 1 and 2. The lime stone quarries comprised in category A by the Bhargava Committee are the same as the lime stone quarries classified in category 1 by the Working Group and the lime stone quarries in categories B and C of the Bhargava Committee are classified in category 2 by the Working Group. Both the Bhargava Committee and the Working Group are unanimous in their view that the lime stone quarries classified in category A by the Bhargava Committee and category 1 by the Working Group are suitable for continuance of mining operations and they have given their reasons for taking this view. So far as the lime stone quarries in category C of the Bhargava Committee Report are concerned, they are regarded both by the Bhargava Committee and by the Working Group as unsuitable for continuance of mining operations and both are of the view that they should be closed down for reasons which they have given in their respective reports. I agree with the reasons given in the Reports of the Bhargava Committee and the Working Group. The only difference between the Bhargava Committee and the Working Group is in regard to lime stone quarries classified in category B where the Bhargava Committee has taken the view that these lime stone quarries need not be closed down while the Working Group has definitely taken the view that these lime stone quarries are not suitable for further mining. I have preferred not to take the extreme view of the Working Group so far as the lime stone quarries classified in category B by the Bhargava Committee are con-

cerned, but have instead given an opportunity to the lessees of those lime stone quarries to submit a scheme or schemes to the high powered committee constituted by us, so that if the high powered committee thinks that any particular lime stone quarry out of these can be allowed to be operated in accordance with such scheme or schemes, the court may allow such lime stone quarry to be operated subject to conditions which may be thought fit to be imposed. These are the reasons which have prevailed with me in making the order dated 12th March, 1985.

I wish to observe that though exploitation of mineral resources in the interest of industrial growth of the country is necessary, yet such mines should be so worked as not to disturb the ecology and not to affect the livelihood and the living conditions of a very large number of people. Advantage gained by working the mines for industrial growth and national development in a manner which may seriously prejudice the interests of a large number of human beings and disturb the ecological balance, may very much be outweighed by the serious consequences which are likely to follow. Industrial development is necessary for economic growth of the country in the larger interests of the nation. If, however, industrial growth is sought to be achieved by haphazard and reckless working of the mines resulting in loss of life, loss of property, loss of basic amenities like supply of water and creation of ecological imbalance, there may ultimately be no real economic growth and no real prosperity. It is necessary to strike a proper balance. In my opinion the appropriate authorities at the time of granting leases should take all these facts and factors into consideration and should while granting lease of mines for exploitation of mineral provide for adequate safeguards. Had appropriate safeguards been provided at the time of granting of leases, it would not, indeed, have been necessary for us to direct the closure of so many mines and to good deal of sufferings of the people of the locality would have been avoided.

A.P.J.