

Surendra Kumar Singh & Others vs The State Of Bihar And Others on 7 January, 1991

Equivalent citations: AIR1991SC1042, 1991SUPP(2)SCC628, AIR 1991 SUPREME COURT 1042, 1991 AIR SCW 274, 1991 (2) SCC(SUPP) 628, (1991) 2 PAT LJR 41

Bench: M.N. Venkatachaliah, R.M. Sahai

ORDER

1. Heard learned Counsel for the parties. Delay condoned.
2. The petitioners seek special leave to appeal to this Court from the two orders dated 15-12-1989 and 6-2-1990 respectively of the Patna High Court in M.J.C. No. 435 of 1989. Those orders were interlocutory in character by which the High Court, in substance, directed that as the three Hills - Ramshilla, Prethilla and Brahmyoni - had been declared protected monuments no stone crushing industry should be allowed to be located within a distance of 1/2 kilometer from the area so declared and any stone crushing industries located within such 1/2 kilometer area should be, shifted. This measure was intended to prevent illegal quarrying on and consequent desecration of the Hills. Petitioners urge that their stone crushing establishment, admittedly, not being within the protected-area, they should not be asked to move further away by the artificial extension of the area brought about by the High Court's orders which petitioners say are without jurisdiction. The State of Bihar seeks to support the directions of the High Court on the ground that such directions were issued to effectuate the purpose of the notifications and prevent their violation.
3. The present special leave petition, as stated earlier, is against these interlocutory directions. But the High Court has since passed a final order dated 14-5-1990 disposing of the main matter itself. In regard to petitioners 8 and 10 in their SLPs who were interveners in the proceedings before the High Court, the High Court in the course of its final order provided :

...So far as intervenors are concerned, they should have no further grievance as to the loss of business in view of earmarking of 5.85 acres of land as stated in the affidavit aforementioned. They, if so advised, may apply to the District Magistrate-cum-Collector, Gaya, for settlement of such land and such area thereof which may be equivalent to the land upon which their crushers were operated. The Collector shall be obliged, in view of the statement made therein to honour the commitment of the State of Bihar and accordingly enter into fresh agreements with such persons subject to such terms and conditions which may be found necessary particularly with reference to the maintenance and preservation of the hill aforementioned....

4. At the out-set, there is one thing that requires to be set-right. There are 10 petitioners in this Special Leave Petition. Only two of them, namely petitioners Nos. 8 and 10, were intervenors before the High Court and High Court issued certain directions for the protection of their interests in the course of the final order dated 14-5-1990. So far as the rest of the petitioners are concerned, we are afraid, we cannot investigate their claims here. We do not know whether they were also carrying on the stone crushing operations in the vicinity of the three protected Hills and whether they are also the intended beneficiaries of the extent of 5.85 acres said to have been earmarked for the rehabilitation of stone crushing industries affected by the orders of the High Court. We, accordingly, confine this order to petitioners Nos. 8 and 10. The special leave petition so far as all other petitioners are concerned is dismissed with liberty to them to approach the High Court if so advised.

5. We were told that the area of 5.85 acres stated to have been set apart for the location of the Stone Crushing Industries is within about a Kilometre from the area of the protected Hills. Petitioners 8 and 10 say that they are willing to shift to places to be provided to them if facilities for shifting of the electric supply are made available at new sites. Sri Mahabir Singh, learned Counsel for the State of Bihar, submitted that this is an administrative matter for Electricity Board and that Government would afford such help as the petitioners may require to secure the shifting of their power installations. Indeed, if after petitioners shift their establishments to a new location, the power installation is not also shifted the contemplated arrangements would be to no purpose. Therefore, we direct the authorities of the State Electricity Board to act in aid of the assurance given by the Government and provide facilities for shifting of the electrical installation of petitioners 8 and 10 to the place allotted to them for their stone crushing operations. With these directions, the Special Leave Petition of petitioners 8 and 10 is disposed of. So far as the rest of the petitioners are concerned, the Special Leave Petition is dismissed.