

Supreme Court of India

Tarun Bharat Sangh, Alwar vs Union Of India (Uoi) And Ors. on 12 April, 1994

Equivalent citations: JT 1994 (3) SC 248, 1994 (2) SCALE 516, 1994 Supp (2) SCC 342

Bench: B J Reddy, N Venkatachala

ORDER

1. These review petitions are filed by M/s. Starke and Company Private Limited which holds certain mining leases in the area covered by our order dated April 8, 1993. At the insistent request of Sri M.C. Bhandare, we directed these review petitions to be posted for hearing in court. Accordingly, we have heard Sri Bhandare at some length.

2. The main contention of the review-petitioner is that the mines in respect of which it holds leases are not within the protected forest area notified in the Notification dated 1.1.1975 issued by the Government of Rajasthan under Section 29 of the Rajasthan Forest Act. It is submitted that the Jain Committee Report is wrong insofar as it holds that the review-petitioner's mines fall within the protected forest area.

3. In our opinion, there are a number of reasons why these review petitions cannot be allowed:

(1) Before determining the protected forest area, Justice Jain Committee heard all the concerned parties. It is admitted fact that the review-petitioner was represented before the Jain Committee and a plea had been put forward on its behalf (through Sri Bhupendra Consul) that its mines are outside the Survey No. 145. The review-petitioner, however, chose not to represent itself in subsequent hearings before the committee and also did not care to produce any material in support of its plea that its mines are situated outside the protected forest area.

(2) The case of review-petitioner itself is that it is one of those 57 mines which were closed by the Government of Rajasthan even in the month of February, 1993. It is said that it then approached this Court by way of an application but no such application was placed before us at the hearing of the matter in March/April, 1993 or at any time before the orders dated April 8, 1993 were pronounced. Even today, no such application is placed before us. Only an assertion is made that such an application was filed but that it was not placed before the court. The allegation has remained unestablished. This shows that the petitioner was not vigilant and has been sleeping over his rights, if any. The petitioner cannot say that it was not aware of all that was going on in this Court or that it was not aware of the proceedings of the committee. An oral assertion is made that the committee told the petitioner that it is enquiring into the Notification dated 1.1.1975 and that it will take up 1966 Notification later. On the basis of the said intimation, the petitioner says, it kept quiet and did not participate in the proceedings before the committee. This oral assertion cannot be accepted. No material has been produced in support of the same.

(3) The report of the Justice Jain Committee shows (Vide page 434 of the record) that the committee has not only considered the Notification dated 1.1.1975 but also the Notification of 1966 and it is on that basis that it has determined the protected areas in the concerned villages including in Nangalheri, which is the village concerned herein. The list of mines (Appendix-A enclosed to the

Report) clearly mentions at Sl. Nos. 37-38 that the mines of the review-petitioner are situated within the protected forest area. In spite of this, the review-petitioner chose to remain quiet and did not take any proceedings at the appropriate time, it has to blame itself, if indeed it is suffering any prejudice on account of the orders of this Court dated April 8, 1993.

4. For the above reasons, the review petitions fail and are dismissed. Consequently, Interlocutory Application No. 29 of 1993 is also dismissed.