

Supreme Court of India

T.N. Godavarman Thirumulpad vs Union Of India (Uoi) And Ors. on 23 January, 1998

Equivalent citations: JT 1998 (7) SC 29 a, (1998) 9 SCC 672

Bench: A Anand, B Kirpal, V Khare

ORDER

1. The District Magistrate, Mirzapur has submitted a report regarding the seizure of illegally mined minerals, vehicles etc. A perusal of the report shows that large-scale illegal mining activities has taken place. The seized materials shall remain in the custody of the District Magistrate till further orders.

2. In the affidavit filed on 22-1-1998 by the Secretary, State of Uttar Pradesh, Department of Industrial Development, action taken between 14-1-1998 and 21-1-1998 has been indicated. In paragraph 4 of the affidavit it has been stated that in case Crime No. 6 of 1998, out of 11 persons, against whom the case had been registered, four were arrested and 6 had surrendered in the Court. That so far as Mr Manvendra Bahadur Singh is concerned, it is stated that the police teams were sent to apprehend him in Lucknow, Mirzapur, Allahabad and number of other places but he was not found. It is further stated in the affidavit that Mr Manvendra Bahadur Singh filed a Criminal Writ Petition No. 132 of 1998 in the High Court of Allahabad on 19-1-1998 and an order came to be made thereon by the High Court on 20-1-1998.

3. Mr Manvendra Bahadur Singh has voluntarily appeared in this Court today and has filed an affidavit. Mr G.L. Sanghi, learned Senior Counsel appears for him. We have perused the copy of the writ petition filed in the High Court which was made available to us by Mr Sanghi and find that there is conspicuous silence in the writ petition about the proceedings pending in this Court as well as various orders made by this Court from time to time. From a perusal of the order made in the writ petition by the High Court on 20-1-1998, it appears that Additional Government Advocate was present in the Court on behalf of the State. Presumably, the pendency of the proceedings in this Court and various orders made from time to time were not within his knowledge and were, therefore, not brought to the notice of the High Court. Learned counsel for the State submits that the State Government will immediately bring facts regarding the pendency of the proceedings in this Court and various orders made by this Court to the notice of the High Court at Allahabad.

4. Learned amicus curiae has drawn our attention to the complaint filed by one Vijay Singh, son of Jagdish Singh regarding illicit mining activities being carried out in Banjari Kalan. A perusal of that complaint shows that besides other persons named therein, the name of Manvendra Bahadur Singh has been specifically mentioned. This complaint is dated 20-12-1997. According to Mr Goel, learned counsel for the State of Uttar Pradesh, FIR No. 5 of 1998 was registered on the basis of that complaint but we are surprised to find that the name of Manvendra Bahadur Singh does not figure in that FIR. The submission of Mr Salve that his name appears to have been deliberately left out cannot be said to be far-fetched. The SHO concerned from Mirzapur, who registered the FIR on the basis of that complaint, shall file an affidavit in this Court and explain the omission. The needful shall be done by him within two weeks. Learned State counsel shall communicate this order to the SHO concerned. The State of Uttar Pradesh is also directed to file an affidavit of a competent police

officer to disclose when and where search was made for apprehending Manvendra Bahadur Singh in connection with Crime Case No. 6 of 1998. The affidavit shall be filed in two weeks.

5. Learned counsel appearing for the State of Uttar Pradesh submits that enquiry report of the Commissioner, Varanasi Division has been received with regard to illegal mining activities. He shall file a copy of that report together with its translation within two weeks. This Court shall also be informed by the next date as to what further action, if any, has been taken against Mr Das, the Mining Officer. The State of Uttar Pradesh shall further state on an affidavit of a competent officer not below the rank of Secretary to the Government an up-to-date position regarding outstanding mining leases or quarry licences which have been issued by the State of Uttar Pradesh throughout the State together with the details of the names of the parties. The same shall be filed within six weeks, as prayed for by learned counsel for the State. Since, it is stated in the action taken report by the State of Uttar Pradesh that directions have been issued to immediately stop mining activities, we expect that the State shall take appropriate steps to see that those directions are carried out in letter and in spirit. IA No. 278 of 1998

6. We have heard learned counsel for the State of Uttar Pradesh, learned Attorney General and the learned amicus curiae. In view of the difficulties explained in the application, in modification of our order dated 12-12-1997 and subsequent orders, we clarify that the local residents of Uttarakhand (8 districts) shall be permitted to avail the rights and concessions in respect of forest produce meant for the bona fide personal use of local population in the regions which are located 1000 metres or more above the sea level. 32,000 cubic metres of forest produce may be so utilised by them subject to the procedure as detailed in paragraph 4 of the application which reads thus: "To ensure that forest produce meant for bona fide personal use alone is used, there have always been inbuilt safeguards in the rules and practice followed by the Forest Department. As per the practice, indent comes through the Village Headman and is examined by the DFO who issues orders for marking of the forest produce to be granted/permitted for a particular village. After the marking, the collection of forest produce is overseen by government instrumentalities. The existing safeguard is working properly and check posts also exist to ensure that no misuse takes place."

7. Care shall be taken to ensure that grant of rights to local populace of the hill areas does not adversely affect forest conservation in Uttarakhand area of the State of Uttar Pradesh.

8. IA stands disposed of.

IA No....of 1998

9. The application for direction is taken on board.

10. Issue notice to the State of Jammu and Kashmir through the standing counsel. Notice shall be made returnable by 27-1-1998.

11. List on 28-1-1998 at 3.30 p.m. IAs Nos. 254-257 of 1998.

12. Issue notice to the State.

13. Mr Sanghi, learned counsel appearing for the State of Madhya Pradesh accepts notice and prays for two weeks' time to file objections. His prayer is allowed.

14. List after two weeks.

Court Masters