

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4288 OF 2016

[Vidarbha Sand Ghat Owners Association .vs. Union of India and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.S. Kukday, counsel for the petitioner,
Mrs. Mugdha Chandurkar, counsel for respondent no.1,
Shri N.R. Rode, AGP for respondent nos.2 to 6.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : AUGUST 09, 2016.

By this writ petition, the petitioner challenges the imposition of the condition in the office memorandum issued by the Government of India, Ministry of Environment and Forests, dated 24.12.2013, providing that the mining activities in respect of mining of sand should be done manually.

Shri Kukday, the learned counsel for the petitioner, states that the said condition cannot be imposed by the Government of India by the office memorandum, dated 24.12.2013. It is stated that if there is no condition in the Mines and Minerals (Regulation and Development) Act, 1957 and the rules framed thereunder that the mining activity should be conducted manually, the Central Government, through its department of environment and forests, cannot direct that the mining activity should be done manually.

We do not find any merit whatsoever in the submissions made on behalf of the petitioner for challenging the condition in the office memorandum, dated 24.12.2013. We do not find that the condition is either arbitrary or discriminatory. At least, nothing has been pointed out on behalf of the petitioner to show, in what manner the said condition is unconstitutional. It appears

that with a view to save the environment, specially the river beds and beds of other water bodies, clause (iii) has been inserted in the office memorandum, dated 24.12.2013 that the mining activity shall be done manually and the depth of mining shall be restricted to 3 meter/water level, whichever is less. The said policy further provides that while carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out. The policy further provides that no in stream mining shall be allowed. We find on a reading of the office memorandum that the said conditions have been inserted by the Ministry of Environment and Forests in the office memorandum with a view to ensure that the river and water beds are protected and mining activities are not carried out indiscriminately. Merely because there is no provision in the Act or the Rules for carrying out the mining activity only manually, it cannot be said that the circular is contrary to the provisions of the Act or the Rules. If the Act or the Rules would have provided for mining activity by other means, apart from manual mining, then the petitioner may have had an occasion to submit that the condition in the circular is contrary to the provisions of the Central Act. Since nothing has been pointed out on behalf of the petitioner to show that the policy is either arbitrary or discriminatory and violative of the provisions of the Constitution of India, we are not inclined to interfere with the policy of the Central Government.

In the result, the writ petition fails and is dismissed, with no order as to costs.

JUDGE

JUDGE

CERTIFICATE

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