

W.P.No.17452 of 2015
and
W.M.P.No.20735 and 20736 of 2018

S.MANIKUMAR, J.
and
SUBRAMONIUM PRASAD, J.

(Order of the Court was made by S.MANIKUMAR, J.)

By placing reliance on Office Memorandum No.J11013/41/2006-IA.II(I)(part), dated 30.03.2015, issued by the Government of India, Ministry of Environment, Forest and Climate Change, IA Division, New Delhi, learned counsel for the petitioner submitted that the contention of the petitioner that Office Memorandum F.No.J-11013/41/2006IA-II(I)(part), dated 20.08.2014, has been superceded, is substantiated.

2. Referring to the procedure in Office Memorandum No.J11013/41/2006-IA.II(I), dated 02.12.2009, issued by Government of India, Ministry of Environment and Forests, Mr.A.Yogeshwaran, learned counsel for the petitioner submitted that environmental clearance is subject to their obtaining clearance from the forestry and wildlife angle including clearance from the Standing Committee of the National Board for wildlife as applicable and therefore, there must be a specific approval from National Board for Wild-life, if Karaivetti Bird Sanctuary, is located within 10 kilometers from the mining site.

distance of 10 kilometers, Mr. Vijay Narayan, learned Advocate General, submitted that as on today, there are no materials available to indicate as to whether Karaivetti Bird Sanctuary, Ariyalur District, is located within 10 kilometers from the quarry site and therefore, suggested that Wildlife Board can be directed to submit a status report on the distance aspect.

4. Hon'ble Supreme Court in *Goa Foundation vs. Union of India* (W.P.No.460 of 2004, dated 04.12.2006), held that till the Government specifies the sanctuary suggested zone, in case of each bird/animal sanctuary or wild life/national park, a distance of 10 kilometers, should be taken, as a sanctuary zone, wherein commercial mining should be restricted.

5. Learned Advocate General submitted that in a draft notification dated 14.09.2006, wherein it is stated that any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 kilometers from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

6. In view of the fact that draft notification has to be taken note of and the

extraordinary zone mentioned in draft, in which case the judgement of the Hon'ble Supreme Court in Goa Foundation vs. Union of India, would apply and hence 10 kilometers from Karaivetti Bird Sanctuary, should be taken as National Park/Wildlife Sanctuary.

7. In view of the above, Chief Wild Life Warden, Forest Department, Tamil Nadu, is directed to measure the distance of the quarrying sites from the Karaivetti Bird Sanctuary and the same is directed to be done within one week from today.

8. Ministry of Environment and Forest, Government of India, is also directed to verify as to whether the draft Notification dated 14.09.2006, has been finalized and a notification is issued in respect of Karaivetti Bird Sanctuary for fixing notified eco-sensitive areas.

9. Post on 08.04.2019.

[S.M.K.,J.] [S.P.,J.]
01.04.2019

dm

Note:

Issue order copy on 02.04.2019.

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