

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

P.I.L.No.327 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.D.Prakash Reddy, learned senior counsel for the petitioner and Mr.P.Krishna Prakash, learned Special Government Pleader for respondents 1 to 8 and 10.

In the instant Public Interest Litigation, the petitioner prays for the following relief:

.....this Hon'ble Court may be pleased to issue,
a Writ, Order or Direction, one more particularly in the nature
of Writ of Mandamus, declaring the action of the
Respondents in not taking any action to curb the illegal mining and transportation of sand from
Thandava River, East Godavari District, in spite of receiving several complaints/ representations as
arbitrary, illegal and contrary to A.P. Minor Mineral Concession Rules notified in G.O.Ms.No.95, dated
28.8.2014 and consequently, direct the Respondents to
forth with stop illegal sand mining on the banks of Thandava River, East Godavari District and pass
such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the
case”.

On 16.11.2015, this Court has passed the following order:

“Learned Government Pleader, in pursuance of the order passed in the morning, did not act promptly the way we were expecting. At 12.30 p.m., we again granted him further time to inform all concerned including police to attach and seize vehicles and machinery at the site. Now, he informs the Court that since May, 2015 few trucks and some other machinery have been seized. As a matter of fact, we never asked for such information.

We fail to understand why the learned Government Pleader did not inform the way we wanted him to inform the concerned authorities to go to the site and attach the vehicles and machinery.

Sri D.Prakash Reddy, learned Senior Counsel, was also told in the morning to instruct his client to take photographs of the machinery and vehicles at the site.

He, accordingly, states that the photographs were taken and forwarded to the instructing advocate through Whatsapp and that those photographs show that the machinery and vehicle were at the site in the morning.

Now, at 4.15 p.m., learned Government Pleader informs the Court that at the site there are no vehicles and machinery. The manner in which learned Government Pleader has acted, we are totally disappointed. We keep this matter after one week.

We request the learned Additional Advocate General, for the State of Andhra Pradesh to entrust this PIL to some other Government Pleader. He assured us that either he would appear or he would ask some other Government Pleader to appear on behalf of respondent Nos.2, 3 and 10.

We direct respondent Nos.2, 3 and 10 to see that no sand extraction takes place at the site in dispute. It is open to the petitioner to take photographs if any extraction of sand takes place and produce for our perusal on the next date.

Stand over to 23.11.2015”.

On 30.11.2015, as no counter affidavit was filed on behalf of the respondent, the following order was passed:

“Sri P.Krishna Prakash, learned Government Pleader, seeks further two weeks time to file counter affidavit.

Stand over to 14.12.2015 as a last chance.

It is made clear that if counter affidavit is not filed before the next date, the concerned Officer shall deposit Rs.3,000/- (Rupees three thousand only) by way of costs with the High Court Legal Services Committee”.

The contesting respondents filed counter affidavit together with photographs and CD showing that illegal and unauthorized quarrying of sand from subject reach is stopped. Learned senior counsel appearing for the petitioner admits that pursuant to the interim order of this Court, the unauthorized and illegal quarrying of sand is stopped. The statements of the counsel are accepted and placed on record. Learned Special Government Pleader draws the attention of the Court to the averments in paragraph 13 of the counter affidavit filed by 2nd respondent, which reads thus:

“I submit that having regard to the above facts and circumstances it is humbly prayed that this Hon'ble Court may be pleased to modify the order dated 16.11.2015 to the extent of permitting legal/permitted excavation of sand so that the local requirement of sand may be catered to and dismiss the Public Interest Litigation and pass such order or order as this Hon'ble Court may deem fit and proper in the circumstances of the case”.

Mr.P.Krishna Prakash submits that as unauthorized and illegal sand quarrying since has been stopped, the authorities may be permitted for legal excavation of sand to meet the local requirements. The request of learned Special Government Pleader is not opposed by the petitioner, for according to petitioner, the complaint is against the unauthorized and illegal excavation of sand from the subject reach, but not lawful acts.

Having regard to the developments that have taken place during the pendency of the writ petition and the prayer of 2nd respondent, we are satisfied that the instant PIL can be disposed of by this order.

“The respondents shall take all steps to prevent unauthorized/ illegal excavation of sand from the subject reach. The 2nd respondent is permitted to pass appropriate orders either for excavation of sand or utilization of sand already excavated from the subject reach on case to case basis and ensures that while passing the orders for excavation or utilization, the permits are not misused by the allottees”.

The PIL is, accordingly, disposed of with the above directions.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 18.01.2016
Lrkm