

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.25432 OF 2008

ORDER:

Heard Smt.Jyothi Eswar Gogineni for petitioners, the Assistant Government Pleader (Mines and Geology) for respondent Nos.1 and 2, Sri Pannala Srinivas for respondent Nos. 3, 4 and 6 and Sri B.Narayana Reddy for respondent No.5.

On 07.02.2017, this Court directed the 5th respondent to comply with the order passed by this Court on 23.06.2016 and place before the Court the report of inspection of the subject quarry. The 5th respondent has placed on record the report dated 11.03.2009 of Deputy Director, Mines Safety, Hyderabad Region-1. The copies of the report are made available to petitioners as well as respondent Nos.3, 4 and 6. The learned counsel having regard to the conclusions recorded by 5th respondent and also the pendency of request of 6th respondent for renewal of subject lease, have confined their submissions to direct respondent No.2 to take note of every aspect of the matter while considering the request of 6th respondent for renewal of lease and pass appropriate orders. The circumstances relevant for the disposal of writ petition are as follows:

The petitioners pray for Mandamus declaring the action of 1st and 2nd respondents in not taking action against 3rd and 4th respondents as illegal, arbitrary, contrary to A.P.M.M.C. Rules,1960 and unconstitutional.

The 6th respondent claims to be a transferee of quarry lease from respondent Nos. 3 and 4 and it is further stated that the transfer in favour of 6th respondent is accepted by the Department as well.

Therefore, the inaction, if any, of the official respondents is to be examined on the application filed by 6th respondent for renewal of lease.

Sri Pannala Srinivas submits that on 04.05.2015, the quarry lease period expired and the 6th respondent has applied for renewal of quarry lease. The same is pending with the 2nd respondent. The 5th respondent on detailed inspection, survey and analysis of the complaint canvassed before this Court by the petitioners has observed as follows:

“5.10 If blasting is done in accordance with the Regulation 164(1)(B) of the Metalliferous Mines Regulations, 1961 with the adoption of controlled blasting techniques with the approvals of prior permission from the Chief Inspector Mines or Regional Inspector of Mines, prevention of damage to the tomato crop will be obtained as no blasting flying projectiles reach to the petitioner's land. However, Mine Owner not obtained any permission under Reg.164(1)(B) of the Metalliferous Mines Regulations, 1961 to adopt blasting with controlled blasting techniques from the Chief Inspector of Mines and Regional Inspector of Mines.

5.11 It was informed that blasting operation were carried out by an outside agency who do not have any knowledge of blasting operations and dangers associated with it.

6.0 Conclusion: As per the inspection, circumstantial evidences and plan prepared showing the area of said mine and land belonging to the petitioner, I am of the opinion that since land Survey No.543, 544 belonging to the petitioner having tomato crop was situated within the danger zone of blasting operation (i.e.193m to 227m), if blasting operations are conducted, such mining activity may cause damage to tomato crop and also endanger the safety of persons present.”

From the above, it is clear that the land of petitioners is within the danger zone from the quarry. Therefore, 5th respondent

recommended for strict compliance of Regulation 164 (1) (B) of Metalliferous Mines Regulations, 1961 for operating the quarry. Having regard to the stage of consideration pending in the Department, the petitioners are given liberty to file representation by enclosing a copy of the report dated 11.03.2009 to 2nd respondent, and the 2nd respondent is directed to prepare a note on the complaint of the petitioners, safeguards required to be followed for operating the quarry and forward the same to the Deputy Director of Mines and Geology, Guntur for final decision on the renewal application. The Deputy Director, Mines and Geology, Guntur is directed to afford opportunity of hearing to petitioners as well as 6th respondent and pass orders on the application pending for renewal of lease. The 2nd respondent and the Deputy Director, Mines and Geology, Guntur are directed to ensure that the recommendation of 5th respondent is given due weight and all safeguards necessary for preventing damage to life and property in the neighbourhood are taken care and conditions are incorporated, if favourable order is passed in favour of 6th respondent. The said exercise shall be undertaken and completed within two weeks from the date of representation filed by the petitioners.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:02.03.2017
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