



In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 12107 of 2018 (O&M)

Reserved On: 19.11.2024

Pronounced On: 29.11.2024

M/s Ambala Stone Crushers and Others

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Shailendra Jain, Senior Advocate
with Ms. Richa Sharma, Advocate
for the petitioner(s) (In CWP-11305-2019).

Ms. Bhagyashri, and Mr. Shivam Sharma, Advocates
for the petitioner(s) (In CWP-19945-2020, CWP-12107-2018,
CWP-30125-2018 and CWP-20595-2021).

Mr. Sanjeev Sharma, Senior Advocate
with Mr. Sandeep Singh and Mr. Jugansh Goyal, Advocates
for the petitioner(s) (In CWP-27094-2017).

Mr. Chetan Slathia, Advocate
for the petitioner(s) (In CWP-11209-2019).

Mr. Tarun Gupta, Advocate,
for the petitioner (s) (In CWP-9374-2021, CWP-11694-2020,
CWP-15981-2021 and CWP-19538-2020).

Mr. Rajinder S.Rana, Advocate,
for the petitioner(s) (In CWP-12771-2019 and CWP-10871-
2019).

Mr. Raj Kumar Gupta, Advocate,
for the petitioner(s) (In CWP-5101-2021 and CWP-5103-2021).

Mr. Vijayveer Singh, Advocate
for Mr. Akshay Jindal, Advocate,
for the petitioner(s) (In CWP-15299-2020).

Mr. D.S.Patwalia, Senior Advocate
with Mr.Abhishek Singh, Advocate,
for the petitioner(s) (In CWP-9577-2019, CWP-11163-2019
and CWP-3992-2020).

Mr. Surender Dhull, Advocate,
for the petitioner(s) (In CWP-12683-2019).

Mr. Pankaj Gupta and Mr. Paras Jain, Advocates
for the petitioner(s) (In CWP-1012-2021).

Mr. Deepak Basatia, Advocate
for the petitioner(s) (In CWP-11204-2019, CWP-12636-2019,
CWP-13526-2019, CWP-5796-2020 and CWP-5666-2020).

Mr. Surender Dhull, Advocate,
for the petitioner(s) (In CWP-12683-2019).

Mr. Abhishek Singh, Advocate
for the petitioner(s) (In CWP-17483-2020).

Mr. Himanshu Arora, Advocate
for the petitioner(s) (In CWP-9713-2019).

Mr. Amandeep Singh Talwar and Mr. Abishai Alfred George,
Advocates, for the petitioner(s) (In CWP-3286-2021).

Mr. Ankur Mittal, Additional Advocate General, Haryana
with Mr. Saurabh Magu, Deputy Advocate, General, Haryana
and Mr. Karan Jindal, AAG, Haryana, for State of Haryana.

Mr. Ankur Mittal, Mr. Deepak Sabharwal, Ms. Kushaldeep
Kaur, Mr. Siddhanth Arora and Ms. Saanvi Singla, Advocates
for the Haryana State Pollution Control Board.

Anil Kshetarpal, J.

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1. **Factual Background**

1.1 With the consent of the learned counsel representing the parties, 28 connected writ petitions, detail whereof is given at the foot of the judgment, shall stand disposed of by this common judgment. In all these writ petitions, the petitioners have assailed the State Government’s final notification issued on 11.05.2016 and the amended notification issued on 04.04.2019 laying down the norms for location of stone crushers in the State.

1.2 In order to comprehend the issues involved, the relevant facts, in brief, are required to be noticed. Under Sections 3 and 5 of the Environment (Protection) Act, 1986 (hereinafter referred to as “the 1986 Act”), the Central Government has power to take measures to protect and improve the environment while regulating the areas where certain operations, industries, or processes shall not be carried out or shall be carried out subject to certain safeguards. Section 5 enables the Central Government

including the closure, prohibition or regulation of any industry, operation or process. Section 23 enables the Central Government to delegate its powers and functions under the 1986 Act to any officer, State Government or any other authority except the enabling power to constitute an authority under sub-section (3) of Section 3 and to make rules under Section 25.

1.3 The Central Government vide the notification issued on 10.02.1988 delegated the powers vested in it under Section 5 to the State Governments of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Sikkim and Tamil Nadu. In view of the delegated powers, the State Governments have been issuing directions including laying down the norms for location of the various industries which cause pollution to provide healthy environment for the residents and to maintain ecological balance. The State of Haryana on 21.10.2015 invited objections while issuing a draft notification proposing to lay down the norms for location of the stone crushers. During the hearing, the Government Counsel has disclosed that 22 objections were received, which were considered and eventually final notification was issued on 11.05.2016 giving three years' period to the existing stone crushers to shift while making a provision for grant of extension for a period of one more year after the expiry of initial period of three years.

2. Arguments put forth by the learned counsel representing the parties

2.1 The learned counsel representing the parties have been heard at

length and their respective synopsis/notes of submissions have also been

considered.

2.2 Mr. Shailendra Jain, Senior Advocate, the petitioners' counsel has submitted that the final notification issued on 11.05.2016 by the State of Haryana is notified under a wrong provision of law i.e. Section 5 and 7 of the 1986 Act read with Rule 4 of the Environment (Protection) Rules, 1986 (hereinafter referred to as "the 1986 Rules"). In other words, the submission is that vide the notification dated 10.02.1988 the Central Government has not delegated its powers under Section 3(2)(v). Hence, the State of Haryana has no jurisdiction to lay down norms for location of stone crushers. It has further been submitted that the directions in Section 5 of the 1986 Act pertain to closure, prohibition or regulation of any industry whereas the impugned notifications relate to siting parameters and Section 3(2)(v) of the 1986 Act confers the said power. It has been asserted by the learned counsel that the only power vested with the State Government vide the notification issued on 10.02.1988 is under Section 5 of the 1986 Act. Moreover, the procedure as laid down in Rule 5 of the 1986 Rules has not been followed by the State Government.

2.3 The learned counsel argues that the notification dated 11.05.2016 is violative of both substantive as well as the procedural provisions contained in the 1986 Act and the 1986 Rules. He asserts that the introduction of item No. III of Schedule-II of the impugned notification has been made only to help those stone crushing units which are lying closed since 2012 in order to give them a new lease of life initially for a period of three years.

2.4 The learned counsel also submits that under the rule of estoppel, respondents No. 4 and 5 cannot refuse to renew/grant consent to operate without any omission and commission on the petitioner's part after allowing them to operate their stone crushers continuously from 19 to 22 years particularly when the petitioners have made their huge investments in erection and installation of the stone crushers. Furthermore, the petitioners will suffer grave injuries if their stone crushers are closed due to the issuance of the impugned notifications as it will not only cause loss of employment to hundreds of employees but will also result in loss of capital investment made by the petitioners for establishment of the stone crushers.

2.5 In the end, it has been argued that the crushing zones as proposed in villages Doewala and Balewala, District Yamuna Nagar, can be expanded to include all the stone crushers located around the proposed crusher zones as it will solve the problem efficaciously.

2.6 Finally, it has been argued that the notification infringes upon the petitioners' fundamental rights of practice any profession, to carry out any occupation, trade or business as guaranteed to all the citizens under Article 19 (1)(g) of the Constitution of India and the petitioners hold the licenses to operate their stone crushers for the period upto 31.03.2022.

2.7 Mr. D.S.Patwalia, Senior Advocate, while drawing the attention of the Court to Clause (ii) of the policy, submits that exemption from shifting has been granted to the existing stone crushers located in the notified approved crushing zones which is discriminatory and arbitrary, as all the stone crushing units which are not in consonance with the location

criteria prescribed have been directed to shift within three years from the date of issuance of the impugned notification.

2.8 Mr. Sanjeev Sharma, Senior Advocate, has contended that the notification is arbitrary because the minimum distance is to be calculated from the boundary of the stone crushing unit irrespective of the size of plot. He also asserts that the State Government has failed to make a provision to calculate the distance of place where the machines are installed for crushing the stone vis-a-vis the size of the plot or area.

2.9 Mr. Vaibhav Jain, Advocate, has sent a written note of his submissions drawing the attention of the Court to the litigation which was decided by the National Green Tribunal on 09.01.2014. It is submitted that the petitioner herein set up their stone crushers in accordance with the prevalent policy decisions from time to time. The learned counsel has submitted that the method of measurement used in the impugned notification is unfair in comparison with the notifications issued in the year 1992/1997.

2.10 It has also been submitted that when the stone crushers were established, the adjoining land was not notified as a forest area because in the jamabandi, the forest area has been recorded for the first time in the year 2007-08 hence the petitioners who had set up their units much before the declaration of Forest, should not be forced to shift. In the end, it has been contended that the petitioners' vested rights cannot be taken away by issuing the executive instructions.

2.11 Additionally, Mr. Tarun Gupta, Advocate, has also challenged the correctness of the amended notification issued on 04.04.2019 which lays

down the requirement of 500 meters distance between the educational institutions and the stone crushers. He further submits that the school in the vicinity was constructed subsequently where the stone crusher had already been established. Hence, a direction to the stone crushers to shift cannot be issued as they were established prior in point of time and the educational institution came into existence subsequently. Apart from that the learned counsel representing the petitioners in various other writ petitions have adopted the arguments of the learned senior counsels.

2.12 Per contra, Mr. Ankur Mittal, Additional Advocate General, Haryana, has submitted that the requirement of protecting the environment cannot be static and the environment can be protected by a dynamic approach and keeping in view the directive principles of State policy as envisaged in the Constitution, the State is bound to make efforts for maintaining delicate balance between the requirement of healthy environment and industrialization.

2.13 The learned counsel while referring to the various notifications issued from time to time, submitted that the norms for location of the crushing units have been laid down from time to time as per the need of the hour. He has submitted that Section 5 of the 1986 Act must be read in conjunction with Section 3 of the Act for harmonious construction of the statutory provisions. He has also submitted that same notification issued on 10.02.1988 was the subject matter of adjudication before the Supreme Court in *A.P. Pollution Control Board II v. Prof. M.V. Nayudu (Retd.) and*

Others (2001) 2 SCC 62. He further submitted that sufficient time/period of

three years' time has been given to the existing units to shift which is extendable by another year in the identified safe zones. He also submitted that exemption to units existing in already notified crushing zones have been granted only in those areas where sufficient safety measures were possible and the procedure as prescribed under Rules 4 and 5 of the 1986 Rules has been followed.

2.14 Mr. Deepak Sabharwal, Advocate, has submitted that the stone crushers cause air pollution and they are harmful for the environment.

3. Analysis and Discussion

I Harmonious interpretation of Section 3, 5 and 23 of the 1986 Act for effective environmental protection.

3.1 Before adjudicating upon the merits of the case, it is significant to note that the 1986 Act was enacted to protect and prevent environment from further degradation while making efforts to improve in order to make it healthier and livable in accordance with the decision taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. As per Section 2(a), the word "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings.

3.2 Section 3 of the 1986 Act enables the Central Government with expansive powers including the measures enlisted in Section 3(2) of the 1986 Act. Section 3(2) uses the word "include" to give a wider/extensive construction.

3.3 Section 5 enables the Central Government to issue directions in

exercise of its powers and performance of its functions under the Act. In substance, Sections 3 and 5 enable the Central Government to issue directions and take such measures to protect and improve environment.

3.4 Section 23 is non-obstante provision which enables the Central Government to delegate all its powers and functions under the 1986 Act to any officer, State Government or any other authority except the power to constitute authority under Section 3(3) of the Act and to make rules under Section 25. In other words, the Central Government is entitled to delegate all its powers and functions except as provided under Section 3(3) and the rule making power under Section 25 to achieve the goals of protecting and improving the environment. It is in that context, the notification issued on 10.02.1988 is required to be construed which is extracted as under:-

“In exercise of the powers conferred by section 23 of the Environment (Protection) Act, 1986 the Central Government hereby delegates the powers vested in it under section 5 of the Act to the State Governments of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Sikkim and Tamil Nadu subject to the condition that the Central Government may revoke such delegation of powers in respect of all or any one or more of the State Governments or may itself invoke the provisions of section 5 of the Act, if in the opinion of the Central Government such a course of action is necessary in public interest.”

3.5 The first argument of Mr. Shailendra Jain, Senior Advocate, lacks substance because Sections 3 and 5 are required to be read in conjunction with each other to enable the appropriate authority to take steps

for protecting the environment. The enabling power under Section 3(2)(v) to restrict the areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out cannot be read in isolation of the enabling power of giving directions.

3.6 In para 43 of *A.P. Pollution Control Board's case (supra)* the Supreme Court held that as per notification dated 10.02.1988, Andhra Pradesh Government, as delegatee of the Central Government is entitled to lay down the norms for establishment operation and continuance of the industries. Though the main question involved in the aforesaid judgment was different, however, the Court interpreted same notification in Para 43, which reads as under:-

“43. Under Section 3(2)(v) above extracted, the Central Government or the State Government as its delegate, could issue directions as permitted by Section 5. Now Section 3(2)(v) permits restriction specifying "areas" in which industrial operations or processes shall not be carried out or shall be carried out subject to certain safeguards. The notification issued by the State Government in GO 111 dated 8.3.96 falls within the first part i.e. where industries shall not be carried out. This is a total prohibition within 10 KM of the two reservoirs. When such a prohibition was in force, the State Government could not obviously grant any exemption to a specified industry like the seventh respondent, located within the 'area'. Nor was it permissible for the State to direct the appellant-Board to prescribe conditions for grant of NOC.”

3.7 Moreover, Sections 3 and 5 of the 1986 Act are part of the same scheme and series. The right to life is higher than the right to carry business

as provided under Article 19 of the Constitution of India. The notification being environment centric is not required to be interfered with unless it is totally arbitrary or the authority issuing it lacks power.

II. Lack of specificity in allegations regarding violation of notification and Rules of the 1986 Act

3.8 The petitioner has, in para 24(d) of the writ petition, made vague assertion that the notification dated 11.05.2016 is violative of both substantial and procedural law without any further elaboration. Even during hearing, the petitioners' counsel made no efforts to draw the attention of the Court to any substantive violation which may have impact on the validity of the notification. Rule 4 of the 1986 Rules provides for an opportunity to file the objections. However, the petitioner has not alleged that an opportunity to file objections was not given. Moreover, an opportunity was granted to all the stake holders to file their objections.

3.9 Rule 4 of the 1986 Rules provides that before issuing proposed direction a notice of 15 days shall be required to be served while giving him an opportunity to file objections. Though the petitioner in Civil Writ Petition No. 11305 of 2019 has not disclosed about the draft notification dated 21.10.2015, however, in Civil Writ Petition No. 9577 of 2019, the same has been annexed as Annexure P16. It is evident that while issuing the draft notification, fifteen days period was given to all stake holders to file objections before the Additional Chief Secretary to Government of Haryana, Environment Department. It has been stated by the learned State counsel that 22 objections were received which were considered and decided after

3.10 While alleging infringement of the procedure, the petitioner is required to make specific averments while elaborating the infringement so alleged. In the absence thereof the Court cannot be expected to decide. The onus lies on the petitioner to clearly outline and substantiate the infringement for the Court to adjudicate effectively.

III. Unsubstantiated claims regarding revival of closed stone crushers under the impugned notification

3.11 With regard to the argument based on item No. III of Schedule-II of the notification, it is evident that all the stone crushing units that are not located within the location parameters laid down as per Schedule I are required to be shifted within a period of three years from the date of notification which is extendable for a period of one year. The learned counsel representing the petitioners have failed to elaborate as to how already closed crushers will get new lease of life.

IV. Doctrine of Estoppel and Government Obligations

3.12 Clause (ii) of notification exempts the existing stone crushers from shifting if they are located in the notified approved crushing zones. The stone crushers that are neither located in the approved crushing zones nor fulfill the new guidelines for location of the stone crushers have been asked to shift their location as per new policy. It is clear that the government never made a promise that the location parameters shall never change.

3.13 The argument put forth by the learned counsel representing the petitioner is without merit, as the earlier notification did not establish any binding promise between the government and the petitioner. Furthermore,

under the 1986 Act, if it determines, in the interest of the public, that such actions are necessary. Undoubtedly, the doctrine of estoppel binds the government in cases of contracts and promises. However, it is a well settled principle that estoppel cannot be invoked against the government if the action is taken to prevent it from acting in public interest or fulfilling its statutory duties. The Supreme Court has outlined exceptions regarding the applicability of the rule of estoppel. Reliance in this regard can be placed on ***Kasinka Trading and Another v. Union of India and Another AIR 1995 (SC) 874***, the relevant paras are extracted hereunder:-

“12. The doctrine of promissory estoppel or equitable estoppel is well established in the administrative law of the country. To put it simply, the doctrine represents a principle evolved by equity to avoid injustice. The basis of the doctrine is that where any party has by his word or conduct made to the other party an unequivocal promise or representation by word or conduct, which is intended to create legal relations or effect a legal relationship to arise in the future, knowing as well as intending that the representation, assurance or the promise would be acted upon by the other party to whom it has been made and has in fact been so acted upon by the other party, the promise, assurance or representation should be binding on the party making it and that party should not be permitted to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings, which have taken place or are intended

to take place between the parties.

13. *It has been settled by this Court that the doctrine of promissory estoppel is applicable against the Government also particularly where it is necessary to prevent fraud or manifest injustice. The doctrine, however, cannot be pressed into aid to compel the Government or the public authority "to carry out a representation or promise which is contrary to law or which was outside the authority or power of the officer of the Government or of the public authority to make". There is preponderance of judicial opinion that to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and that bald expressions, without any supporting material, to the effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. In our opinion, the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the courts have to do equity and the fundamental principles of equity must for ever be present to the mind of the court, while considering the applicability of the doctrine. The doctrine must yield when the*

equity so demands if it can be shown having regard to the facts and circumstances of the case that it would be inequitable to hold the Government or the public authority to its promise, assurance or representation.

14. 13. *The ambit, scope and amplitude of the doctrine of promissory estoppel has been evolved in this country over the last quarter of a century through successive decisions of this Court starting with Union of India v. Anglo Afghan Agencies Pvt. Limited. References in this connection may be made with advantage to Century Spinning & Manufacturing Co. Ltd. and Anr. v. The Ulhasnagar Municipal Council and Anr. : Motilal Padampat Sugar Mills Co. (P) Ltd. v. State of UP and Ors. : Jit Ram Shiv Kumar and Ors. Etc. v. State of Haryana and Anr. : Union of India v. Godfrey Philips India Ltd. : Indian Express Newspaper (Bom) Pvt. Ltd. and Ors. v. Union of India and Ors. : Pournami Oil Mills and Ors. v. State of Kerala and Anr. [1986] Supp. SCC 728 : Bakul Oil Industries and Anr. v. State of Gujarat and Anr. : Asstt. Commissioner of Commercial Taxes and Ors. v. Dharmendra Trading Co. and Ors. : Amrit Banaspati Co. Ltd. And Anr. v. State of Punjab and Anr. and Union of India and Ors. v. Hindustan Development Corporation and Ors. [1993] 3 JT SC 15. In Godfrey Philips India Ltd., this Court opined: (SCC p. 388, para 13)*

estoppel being an equitable doctrine, it must yield when the equity so requires; if it can be shown by the Government or public authority that having regard to the facts as they have transpired, it would be inequitable to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favour of the person to whom the promise or representation is made and enforce the promise or representation against the Government or public authority. The doctrine of promissory estoppel would be displaced in such a case, because on the facts, equity would not require that the Government or public authority should be held bound by the promise or representation made by it."

3.14 Environmental laws prioritize public interest as a result the government must act in alignment to the requirements of time. It is significant to note that public interest must over-ride any consideration of private loss and gain. The principle of promissory estoppel is not rigid; as an equitable doctrine, it must be adapted to fit the specific circumstances of each case. The applicability of doctrine of estoppel against the government depends upon balancing equity and public interest. The government must be permitted to modify its stance if overriding public interest demands it. In situations where public interest prevails, the principle of estoppel cannot be enforced in a rigid manner.

3.15 Under Article 48A of the Constitution of India, it is the responsibility of the governments to protect and improve environment. The petitioners may have established their stone crushers pursuant to the earlier policy decisions. However, the environmental requirements are not static, as they must be dynamic. With the development in the area, the priority of the government is to maintain ecological balance as a part of its responsibility to ensure sustainable development, environmental protection and welfare of its citizens. The government holds a unique and critical role in maintaining ecological balance through policies, enforcement and taking proactive and ethical responsibility for the environment to ensure balance between development and conservation.

3.16 Right to life is higher than the rights flowing from Article 19 i.e. to carry business. The business of stone crushers is considered *res extra commercium* and is, therefore, subject to stringent regulation. The pollution caused by the stone crushers is inherently injurious to the health of all living beings including humans, wildlife, rivers and plants. The efforts made to maintain delicate ecological balance which is the need of the hour particularly in view of rising pollution is not required to be interfered with.

3.17 Although stone crushers are a vital sector from a socio-economic perspective, but they generate significant amounts of fine fugitive dust. The dust poses serious health risk to workers and nearby communities, contributing to respiratory illnesses. Additionally, it diminishes visibility, inhibits vegetation growth, and negatively impacts the area's aesthetics. To mitigate or control these emissions, measures must be implemented. Stone

crushers are critical to infrastructure and construction industries but they also pose significant environmental and health challenges. The Court must balance socio-economic development with environmental protection, ensuring that activities like stone crushing are conducted sustainably and within the legal framework.

3.18 Therefore, the petitioners contention regarding the applicability of rule of Estoppel lacks merit. The rule of Estoppel is not applicable to the facts of the present case.

V. Potential impact of the impugned notification on worker's employment

3.19 Similarly, there is no substance in the argument of the learned counsel that the impugned notification will cause loss of employment because the workers can shift to new crushing zones as and when the stone crushers are set up in the allowed areas.

VI. Court's lack of technical know-how and limited jurisdiction

3.20 Likewise, there is no substance in the submission that the crushing zones as proposed in villages Deowala and Balewala, District Yamuna Nagar, can be expanded. This Court, in the absence of any technical know-how, is unable to make any suggestions particularly when the scope of jurisdiction in exercise of power of judicial review is limited. In the absence of material to show that the policy decision is fundamentally flawed, the Court is not expected to interfere.

VII. Challenge to Item-III of Schedule-II of notification as arbitrary and discriminatory

Clause (ii) exempts the existing stone crushers from shifting if

they are located in the new notified approved crushing zones as the government will take adequate safety measures to fulfill the requirements of co-existence so as to maintain delicate balance between ecology and the requirement of industrialization. Hence, this argument is insubstantial as the exempted stone crushers will not operate without strict regulations. The classification and differential treatment accorded to the stone crushers are neither arbitrary nor discriminatory. They are rooted in reasonable grounds, with a clear objective of balancing industrial activity and environmental sustainability. Units that have demonstrated adherence to pollution control regulations, posed minimal risk to public health, or are located in areas with negligible environment impact have been exempted. The State has assured the Court that strict regulatory measures shall be implemented to ensure that the exempted units comply with applicable environmental and safety standards

VIII. Adequate time provided for alternative arrangements

3.22 The next argument of the learned counsel also has no substance because the government has granted three years' time to all the polluting stone crushing units to shift which is extendable by another year. Hence, sufficient time has been granted to the stone crushers to make alternative arrangements.

IX. Consideration of distance calculation provision in policy context

3.23 Similarly, the provision for calculating distance from the nearest boundary of the plot in which the stone crushers are installed to the

learned counsel has tried to impress upon the Court that the machine which crushes the stones may be located in the inner side or on the rear side of the plot. The Court is not expected to decide the validity of the notification only on assumptions. No concrete evidence has been given to show prejudice caused. Moreover, it is a policy decision taken by the competent authority keeping in view the environmental requirement.

3.24 With reference to the orders dated 09.01.2014 passed by the National Green Tribunal, it would be noticed that the location parameters have been notified subsequently, hence, the aforesaid order is not applicable to the facts of the present case.

3.25 As already noticed, the requirement to protect the environment and prevent further degradation evolves over time and cannot remain static. While some of the petitioners may have established their units in compliance with notification issued in the years 1992 and 1997, however, to protect the living beings on the mother earth, the regulatory measures are required to be taken.

X. Area declared as 'Forest' after establishment of stone crushers

3.26 Similarly, there is no substance in the argument that when the stone crushers were set up the land was not notified as a Forest. On this ground, the policy cannot be quashed. Moreover, it is the State which being the guardian is required to take tough decisions to make the earth livable. As already noticed, the petitioners do not have any vested right to continue to operate from the area which has become injurious to health of living beings

XI. Validity of 2019 Amendment and its implications

3.27 As already noticed, the State Government vide notification dated 11.05.2016, laid down the norms for location of the stone crushers in order to prevent further damage to all the living beings in the area. For the same reasons, which have already been recorded, this Court does not find that the stone crushers can be permitted to exist within the periphery of 500 meters from the educational institutions even if the schools came into existence subsequently.

3.28 The learned counsel has also challenged the refusal of the State to grant 'consent to operate' to the petitioners in terms of the amended notification. As already noticed, the consent to operate itself cannot be granted particularly when the stone crushing unit does not fulfill the siting norms laid down by the State.

3.29 The reliance placed on the judgment passed in *Jayam & Company v. Assistant Commissioner and Another (2016) 15 SCC 125* is also wholly misplaced because the Court in the aforesaid judgment has examined the legality of a fiscal legislation. The same parameters cannot be applied to a notification which makes an attempt to preserve and protect all the living beings on the earth. Moreover, as already held, the stone crushing units and the schools cannot co-exist side by side because it would adversely impact the health of the children who are the future of the nation.

3.30 It is significant to note that protection of the environment is a dynamic and evolving responsibility that requires constant adaptation to address emerging challenges and prevent degradation. Activities that pose a

significant risk to ecological balance, such as the stone crushing operations, demand stringent regulatory oversight to safeguard natural resources and the well being of all living beings. Upholding these principles not only aligns with constitutional and legal obligations but also secures the planet’s health for future generations.

4. Decision

- 4.1 In view of the aforesaid discussion, the result is inevitable. The writ petitions lack merit and as a result are hereby dismissed.
- 4.2 The miscellaneous application(s) pending, if any, in all the writ petitions, shall stand disposed of.

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

November 29th, 2024
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No

Sr.No	Case No.	Petitioner's Name	Respondent's Name
1.	CWP-27094-2017	Shri Balaji Grit Udyog	State of Haryana and Others
2.	CWP-30125-2018	M/s Walia Stone Crushing Company	State of Haryana and Others
3.	CWP-9577-2019	M/s New Markanda Stone Crusher and Others	State of Haryana and Others
4.	CWP-9713-2019	M/s Haryana Stone Crusher and Others	State of Haryana and Others
5.	CWP-10871-2019	M/s Kaveri Stone Crusher and Others	State of Haryana and Others
6.	CWP-11163-2019	M/s Vasundhra Stone Crusher and Others	State of Haryana and Others
7.	CWP-11204-2019	M/s Shree Ganesh Stone Crusher	State of Haryana and Others
8.	CWP-11209-2019	M/s Diamond Crushing Plant and Others	State of Haryana and Others
9.	CWP-11305-2019	Kurukshetra Stone Crusher and Another	State of Haryana and Others
10.	CWP-12636-2019	M/s Angad Stone Crusher	State of Haryana and Others

11.	CWP-12683-2019	M/s Sneh Stone Crusher	State of Haryana and Others
12.	CWP-12771-2019	Kamboj Gram Udyog Mandal and Another	State of Haryana and Others
13.	CWP-13526-2019	M/s Shivalik Stone Crusher	State of Haryana and Others
14.	CWP-3992-2020	M/s New Markanda Stone Crusher and Others	State of Haryana and Others
15.	CWP-5666-2020	M/s Walia Stone Crushing Company	State of Haryana and Others
16.	CWP-5796-2020	M/s Parkash Stone Crusher	State of Haryana and Others
17.	CWP-15299-2020	M/s Om Sai Stone Crusher	State of Haryana and Others
18.	CWP-17483-2020	M/s Guru Kirpa Enterprises	State of Haryana and Others
19.	CWP-19945-2020	M/s Suraj Stone Crushing Co. and Others	State of Haryana and Others
20.	CWP-11694-2020	Shree Vinayak Stone Crusher	State of Haryana and Others
21.	CWP-1012-2021	M/s Prakash Stone Crusher and Another	State of Haryana and Others
22.	CWP-3286-2021	M/s Jewra Stone Crushing Mills and Others	State of Haryana and Others
23.	CWP-5101-2021	M/s Meenu Stone Crushing and Others	State of Haryana and Others
24.	CWP-5103-2021	M/s Capital Stone Crushing Mills and Others	State of Haryana and Others
25.	CWP-9374-2021	M/s Ksy Buildcon	State of Haryana and Others
26.	CWP-15981-2021	Jai Maa Kamakhya Industries	State of Haryana and Others
27.	CWP-20595-2021	M/s Chaudhary Stone Crusher and Another	State of Haryana and Others

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

November 29th, 2024
“DK”