

(2012) 12 KAR CK 0103

In the Karnataka High Court

Case No : Writ Petition No's. 41515 to 41528 of 2012 (GM-MMS)

A.B. Reshmi and Others

APPELLANT

Vs

Government of Karnataka and Others

RESPONDENT

Date of Decision : 11-12-2012

Acts Referred:

Karnataka Regulation of Stone Crushers Act, 2011 — Section 3(4), 7

Citation : (2013) 4 KarLJ 216

Hon'ble Judges : Vikramajit Sen, C.J.;B.V. Nagarathna, J

Bench : Division Bench

Advocate : Brijesh Patil, for the Appellant; R.G. Kollé, Additional Government Advocate, D. Nagaraj and N. Krishnananda Gupta, for the Respondent

Final Decision : Disposed Off

Judgement

Vikramajit Sen, C.J.—Sri R.G. Kollé, AGA accepts notice on behalf of respondents 1, 2 and 5.

Sri D. Nagaraj, Advocate accepts notice for R3.

Sri N. Krishnananda Gupta, Advocate accepts notice for R4.

At the threshold Sri R.G. Kollé, learned AGA submits that the petitioners are not entitled to the relief granted to other petitioners in W.P. No. 41069 of 2012 Shree Channabasaveshwara Stone Crusher Vs. State of Karnataka and Others, for the reason that they have challenged the vires of Section 7 of Karnataka Regulation of Stone Crushers Act, 2011.

2. Learned Counsel for the petitioners states that the challenge to the vires of the said section may be deemed to have been withdrawn. It is prayed that the orders passed in favour of other petitioners in W.P. No. 41069 of 2012 be also passed on the basis of the application dated 3-9-2012. Sri R.G. Kollé, learned AGA states that it is not in the prescribed form.

3. The petitioners are directed to apply in the prescribed form within seven days

from the date of receipt of the certified copy of this order. If so done, the directions contained in order dated 21-11-2012 in W.P. No. 41069 of 2012 shall apply in favour of the present petitioners also. For facility of reference it is reproduced below: In the present case, by Gazette Notification dated 14-8-2012 safer zones in Haveri had been duly notified to the public. Section 3(3) of the Karnataka Regulation of Stone Crushers Act, 2011 (for short, "the Act") permits a period of three months to existing Stone Crusher Units to trans locate themselves to safer zones. In this regard an application has to be filed with the Licensing Authority within a reasonable time. Unfortunately, the Act does not prescribe this period. In the present case, the petitioner applied to the Licensing Authority on 24-9-2012. It is not disputed that consequent upon the petitioner's application, the Licensing Authority till date has neither granted or refused the licence under the provisions of the said Act. Since Section 3(4) of the Act prescribes an outer limit of six months for shifting from the date of grant, it could be inferred that the application has to be made within three months of the requisite Gazetting of the safer zones.

2. In these circumstances, the petition is allowed by directing the respondents to permit the operation of the petitioner at the present site upto 23-12-2012 or till such time the application is considered and disposed of by the Licensing Authority.

3. Learned Counsel for the Karnataka State Pollution Control Board (for short, "the Board") submits that the petitioner did not apply for the consent of the Board on the expiry of the previous consent on 30-6-2012. In normal circumstances, the contention would be well-founded since no one is permitted to operate without a current permission or consent.

4. In the circumstances of the present case however, a piquant situation has arisen, inasmuch as the Pollution Control Board cannot grant permission to the petitioner to operate in its present site, since it must statutorily relocate to a safer zone as identified by the State. Needless to add that if and when the petitioner is granted a licence to relocate a safer zone, conditions u/s 6(9) of the Act will have to be complied with as also the permission would have to be obtained from the Board.

5. With these observations, the petition is allowed and Annexure-H, dated 5-9-2012 is quashed.

In these circumstances Annexures-G, G.1 to G.37 are quashed provided applications in the prescribed forms are filed within seven days from the date of receipt of the certified copy of this order and as indicated in the aforesaid order, similar directions would apply in these cases also. Writ petitions are disposed of.