

(2021) 06 CHH CK 0142

In the Chhattisgarh High Court

Case No : Writ Petition (Civil) No. 2277 Of 2021

Ashok Mishra

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 29-06-2021

Acts Referred:

Chhattisgarh Minor Mineral Rules, 2015 — Rule 73

Citation : (2021) 06 CHH CK 0142

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Mayank Chandrakar, Alok Bakshi

Final Decision : Disposed Of

Judgement

1. Heard.

2. Learned counsel for the petitioner would submit that respondent No.6 was granted the quarry lease of sand and the environmental clearance was

subject to certain conditions. It is stated that the condition engrafts that the lessee would implant the trees to a particular number and the excavation of

the sand should be done manually and no machinery would be used. He would further submit that condition further lays down that the excavation of

the sand should have been done over a limited earmarked area at the river bed and particular distance of excavation from the river bank was also

required to be maintained. He would further submit that the environmental clearance also engrafts that the particular species of plant to be implanted

at the bank of the river numbering to 2500 and 1200 trees should be implanted towards the approach road of mining and in absence thereof the

environmental clearance would be automatically deemed to be canceled. He would further submit that the respondents has not implanted a single plant

till date and the mechanical heavy vehicles are used for excavation of the sand which is against the environmental clearance and further excavating

the sand from other than earmarked area of lease.

3. He would refer to the photographs to support his submission and would submit that under these circumstances the petitioner and the other villagers

have made a complaint to the Collector, Durg but the Collector has not taken any cognizance thereof. He would further submit that when the lessee

has failed to abide by the terms, the quarry lease should be suspended especially when the environmental clearance norms have been flouted. He

refers to the the law laid down by the Supreme Court in the case of Deepak Kumar and others Versus State of Haryana and others {(2012) 4 SCC

629} and would submit that the environmental protection when is flouted damaging the environment and the river then the mining of such nature

should immediately be stopped. Reference is also made to Rule 73 of the Chhattisgarh Minor Mineral Rules, 2015 (for short 'the Rules, 2015') and

would submit that the Collector may be directed to decide the application of the petitioner and other villagers within a stipulated time since no

cognizance has been taken by the Collector, therefore, the instant petition.

4. Perusal of the environmental clearance given on 15.06.2021 contains the conditions and few of the conditions are reproduced hereinbelow:-

5. The petitioner has also placed certain photographs to show that instead of manually excavating the sand, huge JCB/mechanical methods are being

used. The petitioner has filed certain documents to show that the application was filed before the Collector, Durg on 12.03.2021 and subsequently on

17.03.2021 vide Annexure P-2 & P-3 but the same has not been decided till date.

6. Rule 73 of the Rules, 2015 reads as under:-

73. Suspension of quarrying operations. - The Director/District Collector or any other officer authorised by the Director, in this behalf, shall prohibit

Prospecting/Quarrying Operation and seize minerals, equipment, tools and vehicles in case the Prospecting/Mining Operations are being carried out in

contravention of the terms and conditions of the Prospecting Licence, Quarry Lease or Quarry Permit granted under these rules or without any lease

or permit irrespective of minerals, tools, equipment and vehicles lying at site or in transit:

Provided that an opportunity of hearing shall be given before prohibiting the

Prospecting/Quarrying Operation.

7. If the applications of like nature are filed and serious allegations have been leveled which have direct nexus with the environment then it cannot be

shelved and needs immediate attention. The Supreme Court in the case of Deepak Kumar and others Versus State of Haryana and others {(2012) 4

SCC 629} has laid down the importance of the environment and certain guidelines have been issued which are required to be strictly followed when

the complaint of like nature are made with an allegation that trees are not implanted on different places, the same can be verified at spot. Further the

excavation of sand other than specified area can be examined too along with fact that whether manual excavation is done or not. Therefore, under

these circumstances, since the lease is for the limited period, the Collector, Durg is directed to decide the application of the petitioner Annexure P-2 &

P-3 within a further period of 30 days from the date of receipt of the copy of this order and if environmental clearance conditions are not fulfilled then

further damage can be arrested. The Collector after hearing the parties shall pass the order and shall record the specific finding that whether the

activities carried out by the respondent No.6 amounts to breach of terms and conditions of the environmental clearance or not? The petitioner shall

also be given fair opportunity to place facts in support of the complaint.

8. With the aforesaid observation, the writ petition stands disposed of.