
(2020) 01 CHH CK 0049
In the Chhattisgarh High Court
Case No : Writ Appeal No. 625 Of 2019

C.G. Environment Conservation Board	APPELLANT
Vs	
RSPL Limited And Anr	RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Constitution Of India, 1950 — Article 226
Chhattisgarh High Court (Appeal To Division Bench) Act, 2006 — Section 2(1)

Citation : (2020) 01 CHH CK 0049

Hon'ble Judges : P.R. Ramachandra Menon, J; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Animesh Tiwari

Final Decision : Dismissed

Judgement

P.R. Ramachandra Menon, CJ

1. The Petitioner Environment Conservation Board, who was a Respondent in Writ Petition (C) No. 3646 of 2019 has moved this Court by way of appeal against an order dated 04.10.2019 passed by the learned Single Judge, whereby an interim order of stay has been passed against the Appellant herein.
2. Heard Shri Animesh Tiwari, the learned counsel appearing for the Appellant at length.
3. The crux of the case projected before this Court is that, because of the adverse circumstances noted in causing pollution to the environment by the Respondent herein, appropriate steps were taken in accordance with law by issuing Annexure P/1 show cause notice, particularly, in the context of resulting in water pollution.
4. After submitting a cursory reply, the Respondent herein rushed to this Court by filing Writ Petition (C) No. 3646 of 2019, challenging the show cause notice, wherein Annexure A/1 order was passed on 04.10.2019, directing that no

coercive steps shall be taken against the Petitioner, though further proceedings could be continued pursuant to the show cause notice. This order, allegedly having finality (as the Appellant is virtually prohibited from taking appropriate action against the wrongdoers) is under challenge.

5. The learned counsel for the Appellant submits that the challenge against the show cause notice is not maintainable and the proceedings are premature. After considering the reply, it is for the competent authority to pass an appropriate order in accordance with law and if the party is aggrieved, it is open for him to file a statutory appeal before the National Greens Tribunal. It is to circumvene the said proceeding, that a shortcut method has been worked out by the writ Petitioner/Respondent by filing the writ petition, where the interim order has been passed. It is also pointed out that, though the matter was ordered to be listed after four weeks, it has not been posted thereafter and by virtue of the interim order, the proceedings have come to stand still and hence the grievance.

6. During the course of hearing, it is also brought to the notice of this Court by the learned counsel that exactly similar grievance was projected by another aggrieved party by filing Writ Petition (C) No. 4677 of 2019, which came up for consideration before a learned Single Judge of this Court and as per judgment dated 17.12.2019 (i.e. after passing an interim order, impugned in the present appeal), the relevant provisions were taken note of and a clear verdict was pronounced on that day, holding that writ petition under Article 226 of the Constitution of India will not be maintainable and that, it is for the aggrieved party to pursue the statutory remedy by approaching the National Greens Tribunal.

7. After hearing and after perusal of the materials on record, this Court is of the view that the order dated 04.10.2019 is only an 'interim order', which was to have life only till the next date of hearing, unless ordered otherwise. The right of appeal is governed by specific provisions under the statute and particular, by virtue of Section 2(1) Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. Proviso to Section 2(1) clearly provides that no appeal will lie against an interim order. Whether the proviso is an absolute one came to be considered by a Full Bench of this Court, pursuant to the reference made in this regard. As per judgment dated 25.01.2017 in Writ Appeal No. 255 of 2016, it has been made clear by a Full Bench of this Court, no appeal will lie, unless the interim order is having a final effect. We are of the view, that Annexure A/1, is not liable to be branded as a final order and as such, present appeal is not maintainable.

8. However, since the matter was not listed after four weeks' as ordered by the learned Single Judge on 04.10.2019, the Registry is directed to list the matter immediately, particularly, in view of the ruling rendered by the learned Single Judge in Writ Petition (C) No. 4677 of 2019.

9. The appeal as well as the application for condonation of delay are dismissed accordingly.