

(2012) 03 JH CK 0015

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3949 of 2011 alongwith W.P. (C) No's. 6166, 4896 and 3772 of 2011

M/s. Ganpati Metallica

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

Citation : (2012) 2 EFLT 786

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Advocate : Sumeet Gadodia, A.K. Pasari and N.K. Pasari, for the Appellant; Anil Kumar Sinha for the State, M. Khan, ASG for the Union of India and A.K. Pandey for the JSPCB, for the Respondent

Judgement

Mrs. Poonam Srivastav, J.—When the writ petition was taken up for final hearing, the petitioner's Counsel prayed for time to file a rejoinder-affidavit, which was vehemently opposed by the Counsel appearing on behalf of the contesting respondents. Affidavits have been exchanged between the parties. As agreed between the respective Counsel on behalf of the petitioners. Advocate General, Counsel appearing on behalf of the State Pollution Control Board and the Central Pollution Control Board, this writ petition is being decided finally.

2. In certain cases, there was an objection raised by the Forest Department that the crushers are installed within the prohibited area of the Forest and, therefore, running of Iron Ore Crushers cannot be allowed.

3. Submission is that No. Objection Certificate is already granted in favour of the units and, therefore, they are also liable to be allowed to function after fulfilling the conditions imposed on similarly placed iron ore crushers. An undertaking has already been given in the form of affidavits filed by the petitioners.

4. In the circumstances, I am of the opinion that the order passed in M/s. Shree Ram Metallic v. Union of India and others alongwith the other writ petitions are

squarely applicable to the facts of the present case and, therefore, the petitioners are entitled to run their crushers on the same terms and conditions.

5. The State Government imposed restriction and cancelled the consent from further running of the Iron Ore Crushers because of pollution of the environment. Restrictions were imposed by the Central Pollution Control Board. The crusher owners approached this Court by filing writ petitions. Interim orders were granted by this Court on the basis of which Iron Ore Crushers continued to function. During the pendency of the writ petitions, the Central Pollution Control Board issued notification whereby certain conditions were imposed for adopting safety measures subject to which the Iron Ore Crushers could be granted permission to function provided they were operating since before. An order was passed on 19.10.2011 requiring the petitioners to file an affidavit to the effect that they would take steps to fulfill the conditions imposed by the Central Pollution Control Board to ensure that running of Iron Ore Crusher do not cause any health hazard. The conditions are enumerated here in below :

- (i) Providing permanent boundary wall is constructed all around the iron ore crushing units.
- (ii) Paved internal roads and roads around units are made.
- (iii) Comprehensive enclosures of crusher and screen units with vent attached with P.C.Ds. are installed.
- (iv) Submission of information to J.S.P.C.B. on source of raw material, quantity processed daily, dispatched and destination on monthly basis to keep vigil on illegal mining is submitted.

6. The condition No. 1, providing permanent boundary wall is constructed all around the iron ore crushing units, Condition No. 2, Paved internal roads and roads around units are made and Condition No. 4, submission of information to J.P.S.C.B. on source of raw material, quantity processed daily, dispatched and destination on monthly basis to keep vigil on illegal mining shall be complied with by the respective petitioners latest by 30.6.2012. So far the Condition No. 3 regarding P.C.Ds. attached with the screen units with vents to the crusher is concerned, the petitioners are required to approach the manufacturers within 10 days as per the approved specification of the P.C.Ds. The manufacturers shall endeavour to provide P.C.Ds. within a period of one month which shall be produced before the appropriate authority for grant of approval. The concerned authority shall complete the formalities within two weeks thereafter and installation will be made within two weeks from the date of grant of approval. Thus, compliance of Condition No. 3 shall be completed within 2-1/2 months to ensure that all the precautions for control of pollution as provided by the Central Pollution Control Board will be completed within a period of 2-1/2 months.

Period of two months provided for complying Condition Nos. 1, 2 and 4 will be concurrent with the period provided to the petitioners to take steps for

compliance of Condition No. 3.

7. In the event compliance is made of the aforesaid condition by the Iron Ore Crushers, N.O.C. granted by the State Pollution Control Board will not be withdrawn by the respondents.

8. During the intervening period while the petitioners complete the requirements of the notification within the time frame fixed hereinabove, the crushers will continue to function for a period of three months from today. With these observations, all the writ petitions stand disposed of.