

**(2012) 12 KAR CK 0069**

**In the Karnataka High Court**

**Case No :** Writ Petition No's. 50741-50742 of 2012 (G M-MMS)

M/s. Kamadhenu Stone Crushers

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 14-12-2012

**Acts Referred:**

Karnataka Regulation of Stone Crushers Act, 2011 — Section 3 (3), 3 (4), 6 (9)

**Citation :** (2012) 12 KAR CK 0069

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

**Bench :** Division Bench

**Advocate :** Nalina Mayegowda, for the Appellant; R.G. Kolle, AGA for R. 1, 3 and 6, Sri D. Nagaraj, for R.2 and Sri N. Krishnananda Gupta, for R. 4 and 5, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

Vikramajit Sen, C.J.—Sri. R.G. Kolle, AGA accepts notice on behalf of respondent nos. 1, 3 and 6.

Sri. D. Nagaraj, Advocate accepts notice for respondent no. 2.

Sri. N. Krishnananda Gupta, Advocate accepts notice for respondent nos. 4 and 5.

It is not in dispute that the question which arises for consideration in these petitions is covered on all fours by the order dated 21.11.2012 in WP No. 41069/2012. 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 Stones 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 license 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 up to 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 30.06.2012. 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 license 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.

2. In these circumstances Annexure-A is quashed. As indicated in the aforesaid order, similar directions would apply in these cases also.

Writ petitions are allowed. No costs.