

(2012) 12 KAR CK 0008

In the Karnataka High Court

Case No : Writ Petition No's. 50262-75 of 2012 (GM-MM-S)

M/S Narendra Stone Crusher Amaradevaragudda and Others **APPELLANT**

Vs

The State of Karnataka and Others **RESPONDENT**

Date of Decision : 13-12-2012

Acts Referred:

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

Citation : (2013) 1 AKR 792

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

Bench : Division Bench

Advocate : Hanumanthareddy Sahukar, for the Appellant; R.G. Kolle, AGA, for R1 to R3, Sri D. Nagaraj, for R2 and Sri N.K. Gupta, for R4 and R5, for the Respondent

Final Decision : Allowed

Judgement

Vikramajit Sen, CJ

1. Sri R.G. Kolle, AGA, accepts notice on behalf of Respondent Nos. 1 & 3. Sri D. Nagaraj, Advocate, accepts notice for Respondent No. 2. Sri N.K. 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 W.P. 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 translocate 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, Annexures-C to C-13 are quashed. As indicated in the aforesaid order, similar directions would apply in these cases also.

Writ petitions are allowed. No costs.