

(2014) 10 RAJ CK 0031

In the Rajasthan High Court

Case No : Civil Writ (P.I.L.) Petition No. 12598 of 2013

Nathu Ram and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2015) 5 FLT 53

Hon'ble Judges : Prakash Gupta, J; Govind Mathur, J

Bench : Division Bench

Advocate : Muktesh Maheshwari and Vandana Bhansali, Advocates for the Appellant; P.S. Bhati, Addl. Advocate General and Sajjan Singh Rathore, Advocates for the Respondent

Judgement

Govind Mathur and Prakash Gupta, JJ.—The residents of Village Banjakuri, Tehsil Jaitaran, District Pali have preferred this petition for writ to have directions as under:--

"(i) by an appropriate writ, order or directions, the respondents be directed to stop illegal mining in the river bed area in-question of Lilri river bearing khasra No. 191/1100, 263/1102, 310/1103, 896, 9011 and 1069 situated in Village Banjakuri, Tehsil Jaitaran, District Pali.

(ii) by an appropriate writ, order or directions, the respondent-Mining Department be directed to formulate law for the State of Rajasthan as per the directions given by Hon''ble Supreme Court and regulate the mining in the river bed area in question as well as for the entire Rajasthan and not to permit the mining more than the depth of 3 meters in such areas.

(iii) by an appropriate writ, order or directions, the respondent-Mining Department be directed to regulate the mining in the river bed area in question and not to permit the mining through the use of machines.

(iv) by an appropriate writ, order or directions, the respondents be directed to

take appropriate action against the persons who are indulged in illegal mining over the land in question.

(v) by an appropriate writ, order or directions, the respondent State be directed to make appropriate laws and regulations to safeguard the river bed and cattle grazing area in Village Banjakuri and entire Rajasthan."

A reply to the writ petition has been filed on behalf of respondents stating therein that all the mining leases granted in the river bed of river Lilri have already been cancelled by the State Government. The averments made in reply to writ petition is supported by giving necessary details of the orders passed in this regard. It is also submitted by Dr. P.S. Bhati, learned Additional Advocate General that in pursuance to the directions given by the Hon"ble Supreme Court in SLP Nos. 19628-19629 of 2009 necessary amendments too have been introduced in the Minor Mineral Concession Rules, 1986 (hereinafter referred to as "the Rules of 1986"). Suffice to mention here that the Hon"ble Supreme Court in the case of Deepak Kumar v.. State of Haryana (SLP Nos. 19628- 19629 of 2009) made certain key recommendations as advised by Ministry of Environment and Forest. The recommendation so made reads as under:

"(1) Minimum size of mine lease should be 5 ha.

(2) Minimum period of mine lease should be 5 years.

(3) A cluster approach to mines should be taken in case of smaller mines leases operating currently.

(4) Mine plans should be made mandatory for minor minerals as well.

(5) A separate corpus should be created for reclamation and rehabilitation of mined out areas.

(6) Hydro-geological reports should be prepared for mining proposed below ground water table.

(7) For river bed mining, leases should be granted stretch wise, depth may be restricted to 3 m/water level, whichever is less, and safety zones should be worked out.

(8) The present classification of minerals into major and minor categories should be re-examined by the Ministry of Mines in consultation with the States."

2. To execute recommendations, the Hon"ble Supreme Court directed the State Governments/Union Territories to give due weightage to the same by framing norms in relation to mining in river beds.

3. As already stated, necessary amendments in the Rules of 1986 have already been made and Rule 16 of the Rules of 1986 has now been substituted by the expression "Mining lease except lease for mineral Bajri may be granted". The amendment introduced in Rule 16 in specific term indicates that the mineral "Bajri" has now been excluded from the grant of mining lease under Rule 16 of

the Rules of 1986. Looking to the factual background noticed above, we are of the considered opinion that whatever relief prayed by the petitioners have already been granted, thus, nothing survives in this petition for writ. The same, therefore, is disposed of in terms of the reliefs already granted by the respondents as averred in reply to the writ petition.