

(1980) 08 KAR CK 0045
In the Karnataka High Court
Case No : WP 15364/80

Obli Granite

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 20-08-1980

Acts Referred:

Citation : (1980) 2 KarLJ 394

Hon'ble Judges : K. S. Puttaswamy, J

Judgement

1. In this petition under Art. 226 of the Constitution, the petitioner has challenged the directions issued by respondent No. 1, conveyed by its officers directing it to stop the quarrying operations with immediate effect.

2. On 20-8-1979, the Government of Karnataka in exercise of the powers conferred on it by the Karnataka Minor Mineral Concession Rules, 1969 (hereinafter referred to as the Rules) accorded sanction for quarrying on an extent of 4 acres in the forest area called Pachamalai Forest Area, M.M. Range in favour of the petitioner. In pursuance of the said grant, a lease deed was also executed on 18-9-1979 specifying the exact area granted to the petitioner. On 3-10-1979, the Divisional Forest Officer, Kollegal, (hereinafter referred to as the D.F.O.) by his order No. EXP. G1. 2513/77-78 dated 3-10-1979 (Annexure-B) permitted the petitioner to exploit the mineral available on the area leased to the petitioner, from which day it has been exploiting the mineral in the said area. On a petition made by one Hind Nippon Rural Industries (P) Ltd., Government and its subordinate officers by a telegram dated 2-7-1980 directed the petitioner to stop the quarrying operations in the area leased to it, in these terms: "Stop the work being done by M/s. Obli granite in the area forthwith."

3. On receipt of the aforesaid direction the petitioner presented a petition on 29-7-1980 before the Government (Annexure-D), inter alia undertaking to exploit the mineral and stare the same in the area pending adjudication of the complaint made by Hind Nippon Rural Industries (P) Ltd. On an examination of that representation, Government made an order on 31-7-1980 lifting the ban on

the terms and conditions stipulated in that order. Among others, the said order directed that the petitioner should not remove the quarried material from the site and that it should execute a suitable bond to that effect, with which the petitioner complied and commenced quarrying operations. On a further complaint made by Hind Nippon Rural Industries (P) Ltd., Government on 8-8-1980 has directed its officers to stop quarrying operations carried on by the petitioner and on that basis the Range Forest Officer has issued a communication on the next day (Annexure-F).

4. Sri B.R.G.K. Achar, learned counsel for the petitioner contends that the orders made by Government directing the stoppage of quarrying operations, assuming that the dispute raised required to be decided, was wholly unauthorised and is manifestly illegal.

5. Sri R.G. Devadar, learned High Court Government Pleader appearing for the respondents, supported the impugned orders and actions.

6. Earlier, I have noticed that the State Government has granted a lease and has also executed a lease deed specifying the area granted to the petitioner. When a lease is granted and lease deed is executed, the licensee or the lessee is entitled to exploit the mineral found in the area on the terms and conditions of the licence and lease granted thereto. The Mines and Minerals (Regulation and Development) Act of 1957 or the Rules framed under the said Act, do not authorise the State Government or any of its officers to interfere with the working of the mines in the manner that has been done from time to time. An authority, however high it may be, must exercise its powers in conformity with the provisions of the Constitution and the Laws made and cannot exercise its power in an arbitrary manner. Whatever may be the dispute raised by Hind Nippon Rural Industries (P) Ltd., Government cannot exercise its power in an arbitrary manner. Sri Devadar has not been able to point out any provision of the Act or the Rules enabling the State Government to stop the quarrying operations from time to time. In my opinion the criticism of Sri Achar that the powers exercised by the State Government besides being arbitrary, is wholly unauthorised and is liable to be interfered with by this Court is well founded. I am pained to observe that Government had exercised its power in a casual manner without any regard to the rights of the petitioner and the injury that would be caused to it.

7. In the normal circumstances the petitioner is entitled to the reliefs sought by it without imposing any conditions. But, it is not entitled to the same having regard to the undertaking given by it before Government.

8. When the petitioner had agreed for certain terms and conditions, it would not be proper for this Court to ignore them as also the order thereto by Government.

9. Sri Achar seeks for a direction to the respondents to decide the dispute with utmost expedition and in any event within one week from this day, Sri Devadar prays for 15 days time to determine the dispute and pass final orders thereto. In

my opinion the time sought by Sri Devadar is reasonable.

10. In the light of my above discussion I declare that the directions issued by the State Government on 8-8-1980 to its subordinate officers by telegram and written communication on the basis of which the subordinate officers have prohibited the petitioner from quarrying on the area are inoperative and unenforceable and the petitioner is entitled to quarry on the area granted to it by the quarry lease deed dated 18-9-1979 on the terms and conditions imposed by the State Government in its letter dated 31-7-1980 (Annexure E) for a period of 15 days from this day and that if the dispute raised by Hind Nippon Rural Industries (P) Ltd., is not decided by that time, it can quarry on the area granted thereafter in terms of the lease granted to it.

11. Rule issued is made absolute.

12. In the circumstances of the case, I direct the parties to bear their own costs.

13. Let a copy of this order be communicated to the respondents within four days from this day. Let mother copy of the order be furnished to Sri R.G. Devadar, learned High Court Government Pleader within the same time.