
(1992) 03 PAT CK 0004
In the Patna High Court
Case No : C.W.J.C. No. 6457 of 1991

Sone Valley Cement Ltd.

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-03-1992

Acts Referred:

Forest (Conservation) Rules, 1981 — Rule 4

Mines and Minerals (Development and Regulation) Act, 1957 — Section 30

Citation : (1995) 2 PLJR 50

Hon'ble Judges : S.C. Mookherji, J; Radha Mohan Pd., J

Bench : Division Bench

Judgement

1. Having heard the learned Counsel for the Petitioner and the learned Advocate General, we dispose of this application at the admission stage itself.

2. The controversy between the two Departments of State Government i.e. the Forest and Mines lies within a narrow compass. The Petitioner, a Cement Company, known as Sone Valley Cements Ltd., applied on 29.7.86 for renewal of the lease for lime stone over an area of 752.50 acres of village Rohal, Dhanwanti etc. in the district of Rohtas. When the State Government did not take any decision in the matter of renewal of the licence for a long time, the Central Government in exercise of their revisional powers u/s 30 of the Mines and Minerals (R and D) Act, 1957 directed the State Government to pass an appropriate order in that regard within a period of 200 days, as contained in Annexure "9". Subsequently, the State Govt. by Annexure 10 dated 25.4.91 issued a direction to allow the Petitioner-company to work the mining temporary till the renewal matter is disposed of with certain terms and conditions. One of the conditions is that the mining operation can only be done in the broken area and not in any other part of reserved forest. After that direction was issued, the Forest Department by Annexure "10" raised an objection stating, inter alia, that out of 752.50 acres of land, only 103.50 acres of forest area was broken area and but of that also 56.00 acres lie within the area of Kaimur Wild Life Sanctuary and therefore, any mining in that area is not permissible under law. A copy of

that letter was forwarded to the Petitioner directing it to stay further mining till disposal of their objection by the State Government.

3. The Petitioner is aggrieved by that order and it is submitted by Mr. Tarakant Jha, learned Senior Counsel that the Petitioner's industry was sick and after taking huge loan from different authorities, when it wanted to run it, it was not allowed to do so on various objections. Further, it is Stated that the Forest Department could not have raised the objection in view of the Government order (Annexure "10"). It is also submitted that as the mining operation in the leased area has been stopped the Petitioner is incurring heavy loss inasmuch as, their employees are out of job.

4. The learned Advocate General, on the other hand, submits that certain restrictions have been imposed in the matter of mining, particularly of the area which is protected for wild life and as regards the forest area also permission can not ordinarily be granted unless the same is concurred by the Central Government and that apart, certain other arrangements have also to be made if the Petitioner is permitted to do mining operation. He also submits that in any event, the area which was demarcated after scientific method and falling within wild life protection area, can not be permitted to be used for mining and for other area, it is for the State Government to take a decision in this regard after completing other formalities, as per requirements of the law.

5. On a consideration of the submissions made on behalf of the parties, we are of the view that when the Government by Annexure "10" have permitted the company-Petitioner to do mining in certain area, which is sitting idle for a long period and regard being had to all the facts and circumstances the Petitioner may be permitted to resume the mining work with respect to that area only which does not fall within protected area, meaning thereby, till renewal matter is finally disposed of by the authorities concerned, the mining operation should be confined to an area of 47.50 acres only which is a broken area and outside the protected area, as mentioned in Annexure 10 read with Annexure 12.

6. The State Government is accordingly directed to dispose of the renewal matter within three months from today. The authorities concerned may consider the desirability of sending a proposal to the Central Government in terms of Rule 4 of the Forest Conservation Rules so that there may not be any further complication in the matter.

7. We do not propose to pass any order with regard to other points raised by the Petitioner. It may also be recorded that this interim order is subject to the decision of the appropriate authorities concerned i.e. the State and the Central Government.

8. Let a copy of this order be handed over to the Learned Advocate General, for needful.