

(2013) 02 KAR CK 0136

In the Karnataka High Court

Case No : Writ Petition No's. 9627 to 9629 of 2013 (GM-MM-S)

Sri Jambulingeshwara Stone Crushing Industries and Others	APPELLANT
Vs	
State of Karnataka and Others	RESPONDENT

Date of Decision : 28-02-2013

Acts Referred:

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

Citation : (2013) 4 KarLJ 219

Hon'ble Judges : K. Sreedhar Rao, Acting C.J.; S. Abdul Nazeer, J

Bench : Division Bench

Advocate : Hanumanthareddy Sahukar, for the Appellant; D. Vijay Kumar, Additional Government Advocate, Gururaj Joshi and N.K. Gupta, for the Respondent

Final Decision : Allowed

Judgement

K. Sreedhar Rao, Actg. C.J.

1. Sri D. Vijaya Kumar, AGA accepts notice on behalf of respondents 1, 3 and 4. Sri Gururaj Joshi, Advocate accepts notice for respondent 2. Sri N.K. Gupta, Advocate accepts notice for respondents 5 to 8. In these writ petitions, the petitioners have assailed the orders dated 3-9-2012, 3-9-2012 and 13-2-2013 passed by respondent 2 vide Annexures-B, B1 and B2 respectively.

2. We have heard the learned Counsel on both sides. They state in unison that these writ petitions could be disposed of in terms of the order dated 21-11-2012 passed in W.P. No. 41069 of 2012 Shree Channabasaveshwara Stone Crusher Vs. State of Karnataka and Others, and W.P. Nos. 41515 to 41528 of 2012, dated 11-12-2012 A.B. Reshmi and Others Vs. Government of Karnataka and Others, The submission of the learned Counsel is placed on record. The order dated 21-11-2012 reads as under: 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 Stone Crushers Act, 20sfor 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 licence 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 upto 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 30-6-2012. 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 licence 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.

In the circumstances, the respondent-authorities are directed to consider the petitioners applications dated 12-2-2013, 25-10-2012 and 22-1-2013 vide Annexures-C, C1 and C2 respectively in accordance with law, as the safer zone for Dharwad District is notified on 11-10-2012 vide Annexure-A. The petitioners are permitted to continue the stone crushing unit in the present location till the disposal of the applications. Accordingly, the impugned order dated 3-9-2012, 3-9-2012 and 13-2-2013 vide Annexures-B, B1 and B2 are quashed. Writ petitions are allowed in the aforesaid terms.