

MOHAMMED HAROON ANSARI AND ANR.

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v.

THE DISTRICT COLLECTOR, RANGA REDDY DISTRICT, A.P.

DECEMBER 12, 2003

[S. RAJENDRA BABU AND G.P. MATHUR, JJ.]

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Environment :

Pollution—Mining activities—In residential locality—Impact on Ground Level Service Reservoir (GLSR)—Safe distance—Maintaining of—Expert Committee appointed by High Court recommended a safe distance of 1 KM—However, High Court extended it to 2 KM—On appeal, Supreme Court appointed an Expert Committee—Accepting the Committee's report, Held : 1 KM is a safe distance between the site of the quarry leases and residential locality or GLSR.

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A Petition in the nature of a public interest litigation was filed in the High Court praying for a direction to the respondents to take action against the illegal blasting and crushing of granite stones as it was causing dust pollution in the residential areas. The expert committee appointed by the High Court recommended that mining activities could take place beyond a safe distance of 1 KM. However, the High Court directed that no quarry lease should be granted within a distance of 2 KM from the residential locality or Ground Level Service Reservoir.

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On appeal, this Court appointed an expert committee, which also recommended a safe distance of 1 KM.

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Disposing of the appeal, the Court

HELD : 1.1. It is unnecessary to impose a condition that the distance of 1 KM for carrying out the quarry activities should be converted to 2 KM. The affidavit of Pollution Control Board indicates that if proper safeguards are adopted as indicated in the said affidavit, it will not cause any air, water or noise pollution, much less, dust particles affect the water supply system in Ground Level Service Reservoir (GLSR). [722-F-G]

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A 2. It is, therefore, directed that the order made by the High Court be modified by directing that the distance of 1 KM is a safe distance between the site of the quarry leascs and the residential localities or GLSR. [722-G-H]

B CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1907-1908 of 2000.

From the Judgment and Order dated 17.10.97 of the Andhra Pradesh High Court in W.P. No. 7326/97 and Order dated 2.12.97 in W.P.M.P. No. 33976 of 1997.

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WITH

C.A. Nos. 1909-1910, 1911-1912 and 1913-1914 of 2000.

D K.N. Rawal, Solicitor General, (A.C.), R. Mohan, P. Niroop, R. Chandrashekhar Reddy, Pavan Kumar, Hari Shankar K., A.T.M. Sampath, V. Balaji, G. Ramakrishna Prasad, Md. Wasay Khan, K.C. Sudarshan, D. Mahesh Babu, Nikhil Nayyar, Mrs. Urmila Sirur, T.V. Ratnam, K. Subba Rao, Anil Tandale and Guntur Prabhakar for the appearing Parties.

E The Judgment of the Court was delivered by

F **RAJENDRA BABU, J.** : On the basis of a letter sent to the Chief Justice of the High Court of Andhra Pradesh, a petition in the nature of public interest litigation was entertained to direct the respondents to take action against the illegal blasting and crushing of granite for concrete metal in the areas of the Goldodi, Nanakramguda, hills of Khanapur and Kokapet in Rangareddy District as a result of which a lot of fine granite silica dust is entering into the atmosphere which causes a disease called 'Silicosis' to the residents nearby. Two writ petitions were filed by the appellants in Civil Appeal Nos. 1907-1908/2000 calling for records of proceedings

G before the Assistant Director of Mines and Geology, Hyderabad in respect of grant of lease over an extent of 5 acres in survey No. 239 of Kokapet village, Rangareddy District, for quashing the same and for granting appropriate consequential reliefs. Similarly, certain other persons also filed writ petitions challenging the action of the Government in stopping

H the mining operations in different areas of Kokapet village.

The High Court called for a report from the Assistant Director of Mines and Geology. The said Report revealed that there are four quarry leases and three stone crushers in Kokapet village, Rajendranagar Mandal; that the quarries and crushers are at a distance of 2 kms to the South of Kokapet village and 20 kms from Hyderabad; that the ground level water reservoir of Hyderabad Metropolitan Water Works and Sewerage Board is located at a distance of 1 km from the stone quarry, which supplies water to the city of Hyderabad; that the Osmansagar lake is also located at about 3 kms South West of these quarries and crushers. After receipt of the Report of the Assistant Director of Mines and Geology, the High Court impleaded 17 stone industries and also directed issue of notice to the Government of Andhra Pradesh to appoint a Committee of Experts to examine whether quarrying, crushing and blasting activities close to Osmansagar lake and the ground level water reservoir of Hyderabad Metropolitan Water Works and Sewerage Board are *endangered by such operations* and submit a report of the said Committee to the High Court.

A Committee, consisting of Shri T. Chattarjee, Member Secretary, A.P. Pollution Control Board, Shri K.P. Chandrasekhar Rao, Director (Technical), Hyderabad Metropolitan Water Works and Sewerage Board, Shri K.V. Rao, Shri T.V. Chowdary, Director of Mines and Geology, Hyderabad and Shri P. Babu Rao, Director, Ground Water Department, submitted its report on 4.8.1997. Conclusions and recommendations of the Committee are as under :-

“(1) As a result of blasting in the quarries, within a radius of 1 k.m. the shock waves which are generated, pass through the joints especially the horizontal joints and create vibrations in the nearby areas. The reservoir which is close by is also within the range of its impact. Higher than present intensities of blasting will definitely cause damage to the reservoir structure. Thus, blasting and quarrying within a range of 1 k.m., already prohibited, must not be permitted.

(2) To prevent unauthorised quarrying, it is suggested that the approach road must be closed after the gateway of the GLSR and all activities of unauthorised quarrying must be stopped forthwith. Security staff can be contracted for the purpose by the GLSR authorities.

A (3) The authorised quarry and crusher company will lose approach and can be permitted to build another approach to their facilities from the Eastern side.

B (4) The quarries on the northern flanks of the hill range at a distance of 1 km from the reservoir will not have any impact on the reservoir as the joint patterns/systems in the areas. The GLSR is on one side of the dispersion point, the authorised quarries are on the other side of it. However, as a precautionary measure, the intensity of blasting must be kept at the minimum by fixing the limit of number holes, depth of hole and quantity of explosive per blasting.

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(5) There is no impact on Osmansagar lake due to blasting beyond 1 km radius.”

D However, the High Court, after noticing various aspects attributed to in the Report, held as follows :-

E “The distance of 1 kilometre, according to expert committee is a safe distance between the site under quarry lease and the residential locality or GLSR. In fact, the distance between them is not only to be safe, but it should be safer. As the residents of the village situated nearby are experiencing tremors as well as dust pollution, it is always better that no quarry lease should be granted within a distance of 2 kilometers in future. Therefore, respondents 7 to 23 cannot operate quarry leases and stone crushers. It is, however, open to them to apply for areas for quarry lease beyond 2 kilometers from residential areas and GLSR.”

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G On the basis of this conclusion, the High Court set aside the leases granted in favour of 17 respondents, including the appellants in these appeals before us. The order of the High Court is in challenge in these appeals.

H When the matter came up before this Court, by an order made on 17.2.1998, this Court stayed the order of the High Court in so far as the appellants before this Court is concerned and restrained the appellants from carrying on any mining and stone crushing operations within a distance of

1 kilometer from the lake or service reservoir and 500 meters from human habitation. Subsequently, this Court granted leave in all these matters and, by an order made on 4.3.2003, asked the parties to get a report from a competent institution or organisation which has experience in the field to make a proper assessment as to the impact on the GLSR in relation to the activities carried on by the stone crushers and quarries and file a report. The said Report has been made by Center of Mining Environment, Indian School of Mines, Dhanbad making an assessment of the impacts of stone quarries and stone crushers on the ground level service reservoir on the banks of Osmansagar lake on the outskirts of Hyderabad city. The said Committee consisted of Prof. N.C. Saxena, Professor and Dean who was a mining engineer and mining environment expert having over 35 years experience, Prof. Gurdeep Singh, Head, Center of Mining Environment who was an expert on environmental pollution having over 20 years experience, Dr. (Mrs.) Rekha Ghosh, Asst. Prof. who was environmental geologist and hydrogeologist having over 35 years experience and Dr. A.K. Pal, Asst. Prof. who was an expert in environmental pollution having 20 years experience. The Committee, after studying the area, nature of mining activities, change in land use, topography, ground vibrations due to blasting, air quality assessment, water quality assessment, noise quality assessment, concluded as follows :-

"Impacts on Ground Level Service Reservoir (GLSR)

- As seen in Fig. 1a the GLSR lies on the opposite flank of the hill with respect of the sites of the quarries of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries at an aerial distance of about 1.2 km.
- The blast vibration studies at the site of GLSR indicated that the level of the vibrations for the nature of blasting done at the quarries was such that it was below the lowest detectable limit of the instrument (0.51 mm/sec) and hence below the permissible limit (10 mm/sec for dominant frequency >25 Hz) for the objects of historic importance and sensitive structures. Therefore, the GLSR is not likely to be affected by blasting at the quarries of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries.

A • It is observed from the wind-rose diagram in Fig. 8 that the predominant wind direction in the area was from the side of the GLSR towards the quarries and crusher sites of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries. The concentrations of SPM, RPM, Ox and SO₂ in the air were well within the permissible limits of 200 ug/m³, 100 ug/m³, 80 ug/m³ and 80 ug/m³ respectively for residential areas. The concentration of PBS in the ambient air was below the detectable limit of <0.6 mg/m³. Hence, the activities at the quarries and the stone crushers were not causing any air pollution at the site of GLSR.

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C • The drainage/watershed (Fig. 2) study indicates that the GLSR and the quarries and stone crushers of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries lie in two different watersheds. Hence, the run-off from the quarries and stone crushers cannot reach the site of the GLSR. Thus, there is no question of water at GLSR getting polluted due to the activities at these quarries and crushers.

Impacts on Osmansagar Lake

E • As seen in Fig. 1a Osmansagar lake lies on the opposite side of the hill from the sites of the quarries and stone crushers of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries at a distance of about 1.5 km. The dam of the lake is at a distance of about 4 km from the quarries. Also the lake lies in a different area/watershed as is evident from the drainage map of the area shown in Fig. 2. Hence, the run-off from the quarries and stone crushers can not reach the lake and pollute the water in the lake.

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G • The water quality studies for the lake water (samples W7 & W8) indicate that the quality of the water available in the lake was conforming to the potable water standards (IS-10.500)

H • The ground vibrations due to blasting at the quarries of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries would not reach the dam site of the lake as

its distance was about 4 km from the mines and the vibration observations at GLSR at a distance of about 1.2 km indicates that the level of the vibrations was below the measuring limit of the instrument. A

- In view of the above discussions Osmansagar lake is not likely to be affected in any manner due to mining and stone crushing activities of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries. B

Impacts on Kokapet Village

Kokapet village lies at a distance of about 2 km from the site of the quarries and stone crushers of M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries. The mining and stone crushing operations of these industries would not affect the village in any manner because of the following reasons : D

- The village being at a distance of about 2 km would not receive the blast vibrations to affect any building or structure because the level of the vibrations at a distance of 1.2 km at the site of the GLSR was below the detectable limit of the instrument. E

- The ambient air quality at the village was good as the concentrations of the SPM, RPM, Nox, So2 and Pb in the ambient air were well below the permissible limits for the residential areas (24 hour average). Hence, the quarrying and stone crushing activities at M/s Saleem Metal Industries, M/s Sulfi Metal Industries, and M/s Al-Hira Metal Industries were not causing any air pollution problem at the village. F

- The village would also not receive any run-off from the site of the quarries and the stone crushers because even if being in the same drainage system the run-off will be arrested in the water impoundment before the village.” G

We called upon the Pollution Control Board to respond to the Report submitted by the Center of Mining Environment, Dhanbad, but the H

A Pollution Control Board has not contradicted what has been stated in the said Report. On the other hand, it was averred by them that (a) the RSPM, SPM NOX and SO₂ are within the Ambient Air Quality Standards prescribed for residential zones, (b) Noise levels are also within the permissible limits at some crushers, (c) the run off from the stone crushers reaches in the downstream of Osmansagar lake, that is, Musi river as seen from the drainage map. Pollution Control Board further stated in their affidavit that :-

C “The impact studies done by the Indian School of Mines, Dhanbad concluded that there will not be any adverse impacts on GLSR or Osmansagar lake due to the mining and stone crushing activities of the three crushers which are located about 1.2 km away from GLSR. From this observation, it can also be concluded that there will not be any impact on GLSR or lake from any other existing crushers as they are further away from these three crushers on which studies are made by the ISM.”

D We may, at once, notice that the High Court was persuaded by public interest involved in the matter in initiating proceedings on the basis of a letter sent to it. The anxiety of the High Court was further exhibited by its concern in the matter in constituting an expert committee and although that Expert Committee stated that a distance of 1 km is a safe distance between the site under quarry lease and the residential locality or GLSR, but in order to be safer than what the Expert Committee observed, the High Court increased the distance by another 1 km. Particularly when the assessment made by the Center of Mining Environment, Indian School of Mines, Dhanbad, concluded that there is no impact by the quarry operations carried on by the appellants before us on the GLSR or Osmansagar lake or nearby residential locality, it is unnecessary to impose condition that the distance of 1 km for carrying out the quarry activities should be converted to 2 km. The affidavit of Pollution Control Board indicates that if proper safeguards are adopted as indicated in the said affidavit, it will not cause any air, water or noise pollution, much less dust articles affect the water supply system in GLSR or Osmansagar lake. We, therefore, direct that the order made by the High Court is modified by directing that the distance of 1 km is a safe distance between the site of the quarry leases and the residential localities or GLSR or Osmansagar lake. The guidelines

issued by the Andhra Pradesh Pollution Control Board specified 1 km to be safe distance between crusher and human habitation from 17.01.1997. Prior to that it was only 500 meters away from national Highway and 100 meters away from the State Highway, Major District roads and other roads. That is why this Court granted an interim order earlier and directed that no mining and stone crushing operations shall be carried on within a distance of 1 km from lake or reservoir and 500 meters from human habitations. This order will hold good in respect of all such mining leases which have been granted prior to 17.12.1996. It is not necessary to advert to any other details or arguments raised in the petitions filed before the High Court or in appeals before this Court. Suffice it to observe that the impugned order of the High Court shall stand modified only to the extent indicated by us and all other terms set out by the High Court in regard to the safeguards to be adopted in maintenance of environment shall remain intact. Further, it is certainly necessary that the appellants before carrying on any of the mining and stone crushing activities obtain necessary clearance from the Pollution Control Board and must comply by such conditions as may be imposed by the Pollution Control Board. It is open to the Pollution Control Board to take such action as may be necessary to enforce the conditions imposed by them under the relevant statutes.

The appeals shall stand disposed of accordingly. No costs.

V.S.S.

Appeals disposed of.