

(2008) 11 AP CK 0011

Andhra Pradesh High Court

Case No: Writ Petition No"s. 23989 and 8104 of 2008

Velpula Parmeshwar Rao

APPELLANT

Vs

The District Collector and Others

 The Field Labour

Co-operative Society Vs

RESPONDENT

Government of Andhra Pradesh

and Others

Date of Decision: Nov. 11, 2008

Citation: (2009) 5 ALD 63

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: K. Ramakanth Reddy, for the Appellant; GP, for Panchayat Raj for Respondent Nos. 1 to 3 in W.P. No. 23989 of 2008, GP, for Respondent Nos. 4 and 5 in W.P. No. 23989 of 2008, for Respondent Nos. 1 to 6 in Writ Petition No. 8104 of 2008 and for Respondent Nos. 1 to 4 in Writ Petition No. 6095 of 2008, V. Subrahmanyam, S.C. for Respondent No. 6 in W.P. No. 23989 of 2008, R. Raghunandan, for Respondent Nos. 7 and 8 in Writ Petition No. 8104 of 2008 and for Respondent Nos. 5 and 9 in Writ Petition No. 6095 of 2008, P. Nagendra Reddy, for Respondent Nos. 6 and 7 in Writ Petition No. 6095 of 2008, P. Prabhakar Rao, in Writ Petition No. 6095 of 2008 and M. Srinivasa Rao, for Respondent No. 10 in Writ Petition No. 6095 of 2008, for the Respondent

Judgement

L. Narasimha Reddy, J.

In the recent past, exploitation of different kinds of minerals in the State, has steeply increased. Sand, which is classified as minor mineral, has become a source of lucrative and flourishing business. Since the quarrying of sand does not require any technical expertise, or much investment on machinery or expenditure, in excavations, many individuals and Societies are after it. The indiscriminate removal of sand would have its impact upon the ground water levels of the surrounding area. The public-spirited citizens and agencies have initiated various steps and in some cases, approached this Court also, for regulatory measures. In certain cases,

directions were issued, to protect the ground water levels, wherever the sand quarries are being operated.

Instances are not lacking, where the business rivals are also wearing the mantle of protectors of public interest, and in many cases, it is becoming difficult to differentiate between the genuine and fake.

2. The A.P. Minor Mineral Concession Rules, (for short "the Rules") were amended, from time to time, prescribing the procedure for granting leases, to quarry sand. Up to some time, the District Level Committees were conferred with powers to grant leases. At present, the Department of Mines and Geology is the agency, to grant such leases. The Assistant Director of Mines and Geology, Nandigama, Krishna District, issued tender notice dated 07-03-2008, inviting tenders for 9 Reaches on the Krishna River, within the limits of various Gram Panchayats.

3. Petitioner in W.P. No. 6095 of 2008 is a member of Zilla Parishad Territorial Constituency from Chandarlapadu Mandal, and member of District Planning and Finance Committee. He challenges the tender notification, in respect of four Reaches, in Chandarlapadu Mandal, viz., Eturu, Pokkunuru, Popuru and Kodavathikallu. His main grievance appears to be that large number of heavy vehicles would be engaged to transport sand from the Reaches, and the roads in the nearby villages would be badly damaged. He states that the roads in the Mandal were laid and maintained by incurring an expenditure of Rs. 10 crores and all the roads would be damaged, up to a stage of not being used by the villagers. He alleges that the ground water levels will deplete, if sand quarrying is permitted. On coming to know that the tender notification was issued, he made a representation dated 16-03-2008, to the District Collector, with a request to cancel the tenders. His grievance is that, no steps were taken thereon.

4. The petitioner in W.P. No. 8104 of 2008 is a Field Labour Cooperative Society of Konuru Village, Achampet Mandal, Guntur District. They also challenge the tender notice dated 07-03-2008. The members of the Society are said to be doing agriculture, in an area of about 700 acres, of Konuru Village of Achampet Mandal, Guntur District. Their grievance is that, the removal of sand would lead to several anomalies and difficulties, such as, inundation and flooding of their lands, depletion of ground water, and pollution related diseases, on account of plying of large number of vehicles and that the lift irrigation projects would be adversely affected.

5. While issuing notice before admission, in these two writ petitions, this Court directed stay of confirmation of auction. Therefore, no steps could be taken. The Assistant Director of Mines and Geology, Nandigama, at Krishna, passed the orders dated 01-11-2008, granting temporary permission to the A.P. Mineral Development Corporation (for short "the Corporation"), for a period of 60 days. W.P. No. 23989 of 2008 is filed by the petitioner in W.P. No. 6095 of 2008, challenging the proceedings dated 01-11-2008.

6. In the first two writ petitions, the various individuals, who have submitted their tenders, in response to the notification, got themselves impleaded.

Counter-affidavits are filed by the officials of the Department, as well as the tenderers. The common ground urged in the counter-affidavits is, that the tender notice was issued, only after conducting ground water survey, which revealed that, the levels are satisfactory. They deny the allegation of the petitioners, as to the damage to the roads, or pollution of the air.

Sri K. Ramakanth Reddy, learned Counsel for the petitioner submits that time and again this Court intervened, to ensure that indiscriminate exploitation of sand does not result in depletion of ground water levels. He contends that apart from the threat to the levels of ground water, there is every likelihood of the roads, up to the Reaches, being damaged, due to large number of heavy vehicles plying on them. He further contends that air pollution and safety to the users of the road, and other similar factors were not taken into account.

7. Some persons got impleaded themselves as petitioners. They also complain that number of Lift Irrigation Schemes, functioning in the area would be adversely effected. Sri P. Prabhakar Rao, and Sri P. Nagendra Reddy, learned Counsel, have also advanced arguments on the same lines.

8. Learned Government Pleader for Mines and Geology, and Sri R. Raghunandan, learned Counsel appearing for the individuals, impleaded as respondents, on the other hand, submit that, as recently as in January 2008, a report was obtained from the Department of Ground Water, and only on finding that the ground water levels is at satisfactory level, steps were taken. They contend that excessive accumulation of sand would also pose problems to the villages on the bank, and removal up to a limited depth, would balance the menace. Learned Counsel submit that the plea of the petitioners that Rs. 10 crores was spent on laying or construction of roads in the Mandal is incorrect, and according to the information furnished to them, hardly Rs. 1 crore was spent. They plead that a substantial portion of the lease amount would be allocated to the Mandals and Gram Panchayats and the same would be utilized for up- keeping the roads. It is also stated that every possible step would be taken to ensure proper maintenance of roads, as well as safety to the residents of the villagers. So is the case with their apprehension about the effect of Lift Irrigation Schemes.

The prime concern of this Court in interfering, from time to time, in the matters of sand mining was, the depletion of ground water in the neighbouring areas. Reference in this context may be made, to the judgments of this Court in V. Bhaskar Vs. State of A.P. and Others, and D. Viswanatha Reddy and Company, Kurnool Vs. Government of Andhra Pradesh and Others. The petitioners have also made available, the literature, which had a bearing upon this aspect. The ground water department conducts survey in various areas and classifies them as critical,

semi-critical and safe. The sand mining is almost prohibited in the areas, classified as critical and semi-critical.

10. Obviously, to comply with the directions issued by this Court in the judgments, referred to above, the officials of the Mines and Geology Department have approached the Department of Ground Water, for conducting a survey in the area, where the leases were proposed to be granted. The survey was conducted on 13-12-2007 and 04-01-2008. It was observed that the ground water levels in the four villages, referred to above, are "safe". Classifications are issued to the effect that the thickness of sand is more than 8 metres in the area, and mining can be permitted up to the depth of one metre. Other precautions to be observed, are also indicated. For instance, the sand mining is prohibited within 500 metres from the existing lift irrigation schemes. Provisions of the River Conservation Act were directed to be followed. Therefore, the apprehension of the petitioners, that the quarrying of sand in the places mentioned in the tender notice would result in depletion of ground water; cannot be accepted.

11. There is a serious discrepancy, as to the amount spent on roads in the Mandal. That, however, is not so a significant aspect. The reason is that, whether or not, any quarry is operated, in the area, it is the obligation of the concerned authorities, viz., Gram Panchayat, Mandal Parishad, Zilla Parishad, or Roads and Buildings Department, to maintain the roads in motorable condition. The Mining Department is also under obligation to ensure that, areas are not excessively flooded with vehicles. Permits are to be issued in such a way, that no congestion of vehicles takes place. The Local Authorities are required to spend necessary amount for keeping up the roads.

12. The temporary permits came to be issued in favour of the Corporation, obviously, in view of the orders of stay granted by this Court, and to meet the demand for the mineral. This Court is of the view that, tender notice does not suffer from any factual or legal infirmity, and at the same time, the successful tenders have to operate the quarries in such a way, that the conditions imposed by the ground water department are implemented, no damage to the roads is caused, and the plying of the vehicles is regulated in such a manner, as not to cause any traffic congestion, or hardship to the local public.

13. For the foregoing reasons, the writ petitions are disposed of, directing that,

- a) it shall be open to the Department of Mines and Geology, to proceed with the further steps in pursuance of the tender notice dated 07-03-2008;
- b) it shall incorporate conditions in the respective lease deeds to enforce the recommendations, that are made by the Ground Water Department, in their proceedings dated 25-01-2008;

- c) the Local Authorities, which share the bid amount, shall allocate adequate funds for upkeep, or repair of the roads; and
- d) the Department of Mines and Geology shall regulate the issuance of permits, to avoid congestion of traffic, and hardship to the villagers.

There shall be no order as to costs.