

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 15TH DAY OF JANUARY, 2013

PRESENT

THE HON'BLE MR.K.SREEDHAR RAO, ACTING CHIEF JUSTICE AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

W.P.Nos.2013-2033/2013 (GM-MM-S).

BETWEEN :

1.M/S SIDDAROODHA STONE CRUSHING,
UGGINKERI VILLAGE TQ:KALAGHATAGI,
DIST:DHARWAD, BY ITS PROPRIETOR,
SMT.ROOPA S.GOKUL-580001.

2.M/S NARTHI STONE CRUSHER,
MUTHAGI POST, TQ:KALGATAGI,
DIST:DHARWAD, BY ITS PROPRIETOR,
SRI.H.F.MUDAKANNAVAR-580001.

3.M/S AMARESHWARA STONE CRUSHER,
YEMELLI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI GANDHAR.B.HIREMATH-580001.

4.M/S PADMAVATI STONE CRUSHER,
UGGENKERI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.SUHAS.J.VARUR-580001.

5.M/S KANAKANAVAR STONE CRUSHING INDUSTRIES,
UGGENKERI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.HARISH P.KANAKANAVAR-580001.

6.M/S CHANNABASAVESHWARA STONE CRUSHER,
UGNIKERI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.BASAVANNEPPA TIPPANNA GOKUL-580001.

7.M/S SHRI SHIDHAROODHA STONE CRUSHER,
UGGENKERI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.SIDDAPPA.S.VALIKAR-580001.

8.M/S MAHALAXMI STONE CRUSHING WORKS,
HULLAMBI VILLAGE TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.ASHOK.V.NINGARADDI-580001.

9.M/S SHRI LAXMI STONE CRUSHER,
AT POST:UGGENKERI TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.ASHOK.T.PAWAR-580001.

10.M/S SRI GAJANANA STONE CRUSHER,
ANNIGERI POST:TQ:NAVALGUND DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.SURESH.P.GAIKWAD-580001.

11.M/S NOBLE STONE CRUSHER,
UGGINKERI VILLAGE TQ:KALGATAGE DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.HANUMANTHAGUDA.B.PATIL-580001.

12.M/S VEERABHADRESHWAR STONE CRUSHER,
UGGINKERI VILLAGE TQ:KALGATAGE DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.ASHOK MAHADEVAPPA GOKUL-580001.

13.M/S RAGHAVENDRA STONE CRUSHER,
JODALLI TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.UMESH.C.KOTI-580001.

14.M/S ULAVI CHANNABASAWARA STONE
CRUSHING INDUSTRIES,
UGGIKERI TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.RAVI.Y.ALLAPUR-580001.

15.M/S BASAVESHWARA STONE CRUSHER,
UGGINAKERI TQ:KALGATAGI DIST:DHARWAD,

BY ITS PROPRIETOR,
SRI.YALLAPPA.C.ALLAPUR-580001.

16.M/S BALAGI BASAVESHWARA STONE
CRUSHING INDUSTRIES,
UGGINAKERI VILLAGE TQ:KALGATAGI,
DIST:DHARWAD, BY ITS PROPRIETOR,
SRI.N.B.GOKUL-580001.

17.M/S SRI KASHINATH STONE CRUSHING
INDUSTRY, UGGINAKERI TQ:KALGATAGI,
DIST: DHARWAD, BY ITS PROPRIETOR,
SRI.M.G.PATIL-580001.

18.M/S MANJUNATH STONE CRUSHER,
UGGINAKERI TQ:KALGATAGI DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.G.C.ULLAGADDI-580001.

19.M/S M.S.NAIDU STONE CRUSHER,
KADANKOPPA VILLAGE TQ:KALGATAGI,
DIST:DHARWAD, BY ITS PROPRIETOR,
SRI.M.SUBRAHMANYAM NAIDU-580001.

20.M/S ASWAD STONE CRUSHING INDUSTRIES,
TQ: DIST: DHARWAD, BY ITS PROPRIETOR,
SRI.AVESH.M.BEEDIKAR-580001.

21.M/S RAICHUR STONE CRUSHING INDUSTRIES,
KALAGERI CROSS, GOA ROAD,
MUGAD VILLAGE TQ:DIST:DHARWAD,
BY ITS PROPRIETOR,
SRI.FAROOQ.A.SOUDAGAR-580001. ... PETITIONERS

(BY SRI: HANUMANTHAREDDY SAHUKAR, ADV.)

AND:

1.THE STATE OF KARNATAKA,
DEPT. OF MINES AND GEOLOGY,
KANIJA BHAVAN RACE COURSE ROAD,
BANGALORE-560 009,
BY ITS DIRECTOR.

2.THE KARNATAKA STATE POLLUTION
CONTROL BOARD,
PARISARA BHAVAN 4TH AND 5TH FLOOR,
NO.49, CHRUCH STREET,
BANGALORE-560 009,
BY ITS CHAIRMAN.

3.THE DEPUTY COMMISSIONER,
DHARWAD DIST.,
DHARWAD-580001.

4.THE SENIOR GEOLOGIST,
MINES AND GEOLOGY DEPARTMENT,
DHARWAD, DIST:DHARWAD-580001.

5.THE MANAGING DIRECTOR,
HUBLI ELECTRICITY SUPPLY COMPANY,
HUBLI, DIST: DHARWAD-580001.

6.THE EXECUTIVE ENGINEER,
HUBLI ELECTRICITY SUPPLY COMPANY,
DHARWAD RURAL DIVISION, VIDHYAGERI,
DHARWAD-580001.

7.THE ASSISTANT EXECUTIVE ENGINEER,
HUBLI ELECTRICITY SUPPLY COMPANY,
KALAGHATAGI DIST:DHARWAD-580001.

8.THE ASSISTANT EXECUTIVE ENGINEER,
HUBLI ELECTRICITY SUPPLY COMPANY,
NAVALGUND,
DIST: DHARWAD-580001.

... RESPONDENTS

(BY SRI: R.G.KOLLE, AGA FOR R1, R3 & R4, SRI.GURURAJ
JOSHI, ADV. FOR R2, SRI.N.K.GUPTA, ADV. FOR R-5 to 8)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES
226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
QUASH THE ORDER DATED 3.9.12 PASSED BY THE R2 VIDE
ANNX-B TO B-20 RESPECTIVELY AND ETC.,

-: 5 :-

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING, THIS DAY, **NAGARATHNA J.,** MADE THE FOLLOWING:

ORDER

NAGARATHNA J.,

Sri R.G.Kolle, learned AGA accepts notice on behalf of Respondent Nos.1, 3 and 4. Sri Gururaj Joshi, learned Advocate accepts notice for Respondent No.2 and Sri N.Krishnananda Gupta, learned Advocate accepts notice for Respondent Nos.5 to 8.

2. In these writ petitions, the petitioners have assailed the orders dated 3/09/2012, passed by the respondent No.2 [Annexure "B to B-20"].

3. We have heard the learned counsel on both sides. They state in unison that this writ petition could be disposed of in terms of the orders dated 21/11/2012 passed in W.P.No.41069/2012 and W.P.Nos.41515-528/2012. 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 Stones Crushers Act, 2011 (for 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 license 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 up to 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 30.06.2012. 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 license to relocate a safer zone, conditions under Section 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."

4. In the circumstances, the respondent – authorities are directed to consider the petitioners applications Annexure "C to C-20" dated 17/10/2012, 19/10/2012, 09/11/2012, 17/12/2012 and 08/01/2013, as the Safer Zone has been notified for certain Taluks of Dharwad District on 11.10.2012 in accordance with law. The petitioners are permitted to continue the stone crushing units in the present location till the disposal of their applications. Accordingly, the impugned orders dated 03/09/2012 (Annexure "B to B-20") are quashed. Writ petitions are allowed in the aforesaid terms.

Sd/-
ACTING CHIEF JUSTICE

Sd/-
JUDGE

*mvs
Index: Y/N