

ITEM NO.4

COURT NO.4

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2011

(CC 5462/2011)

(From the judgement and order dated 04/03/2011 in CM No. 20624/2010
in CWP No. 4758/2008 of The HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH)

MATSYA EDUCATION & RURAL DEVT.TRUST

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for permission to file SLP and with prayer for
interim relief and office report)

WITH S.L.P.(C)...CC NO. 5491 of 2011

(With appln(s) for permission to file SLP and with prayer for
interim relief and office report)

Date: 20/05/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
(VACATION BENCH)

For Petitioner(s) Mr.P.S.Patwalia, Sr.Adv.
 Mr.Mukul Rohatgi, Sr.Adv.
 Mr. Jitendra Mohan Sharma,Adv.
 Mr.Aneesh Kumar Sharma, Adv.

For Respondent(s) Mr.J.L.Gupta, Sr.Adv.
 Ms.Nidhi Gupta, Adv.
 Ms. S. Janani,Adv.

Mr.Narender Hooda, Sr.AAG
Mr.Manjit Singh, AAG

Mr.Rakesh K.Khanna, Sr.Adv.
Mr.Aseem Mehrotra, Adv.
Ms.Seema Rao, Adv.
Mr.Rajesh Prasad Singh, Adv.
(for the applicants)

Mr.K.B.Rohtagi, Adv.

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UPON hearing counsel the Court made the following
O R D E R

By this order, we are disposing of I.A.No...../2011 filed by
respondent No.6 for vacating interim order dated 18.03.2011 and two
applications filed by Ravi Stone Crushing Mills and another for
permission to intervene in the proceedings of SLP(CC) No. 5462 of
2011 and for vacating order dated 18.3.2011.

Shri J.L. Gupta, learned senior counsel appearing for respondent 6, Shri Rakesh K.Khanna, learned senior counsel appearing for Ravi Stone Crushing Mills and another and Shri Narender Hooda, learned Senior Additional Advocate General made strenuous efforts to convince us that interim order dated 18.3.2011 should be vacated because stopping of mining operations in Shivalik Hills will not only adversely affect revenue of the State but will also render a large number of persons jobless and affect their livelihood, but we have not felt impressed. Rather, we are

inclined to agree with Shri P.S.Patwalia and Shri Mukul Rohatgi, learned senior counsels appearing for the petitioner that interim order passed by this Court is in larger public interest and the State Government should not be allowed to grant mining leases even on temporary basis without getting clearance from the expert bodies constituted under the Environment Protection Act, 1986 and the Rules framed thereunder.

We have considered the respective submissions. In our view, the High Court was not at all justified in entertaining the miscellaneous application filed for modification of order dated

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15.05.2009 passed in Writ Petition No. 4758 of 2008 and permitting the State of Haryana to grant short term mining contracts/permits for a period upto 31.7.2011 as one time measure.

It is not in dispute that order dated 15.5.2009 of which modification was sought by filing miscellaneous application before the High Court is under challenge in SLP(C) Nos. 9671-72 of 2009 and 19628-29 of 2009. It is also not in dispute that State of Haryana had filed CM No. 20624 of 2010 in CWP No. 4758 of 2008 for issue of a direction to Expert Appraisal Committee/Ministry of Environment and Forest to comply with the High Court's direction and prepare the EIAs/EMPs for the State of Haryana in terms of order dated 15.5.2009 and also to direct Expert Appraisal Committee and Ministry of Environment and Forest to consider the application for the district as one unit rather than a separate application for each site but the same was not pressed.

The record of the case further shows that State of Haryana filed I.A. Nos. 4-5 of 2010 in SLP(C) No. 19628-29 of 2009 but after some time another un-numbered I.A. for permission to withdraw I.A. Nos. 4-5 of 2010.

From what has been mentioned above, it is clear that after the State Government made aborted attempt to get order dated 15.5.2009 modified, respondent No.6 - Chandi Mandir Stone Crusher Consumer Company succeeded in persuading the High Court to entertain the miscellaneous application filed in a decided case and modify the order which is already under challenge before this Court.

What is more surprising is that while entertaining the miscellaneous application, the High Court ignored the adverse observations made by the expert bodies constituted under Environment Protection Act, 1986 had not granted approval to the proposal of the State Government to allow mining operations and accepted the prayer made by a private body for permission to undertake mining activities in Shivalik Hills.

In our view, grant of permission to the private parties to milk the Shivalik Hills in the name of revenue of the State or providing employment to some persons would be wholly against public interest.

Order dated 10.1.2011 passed by this Court in SLP(C)... of 2010(CC No.20308 of 2010) Union of India v. Pratap Singh Sandhu and others as also order dated 15.2.2011 passed by the High Court in CWP No. 13706 of 2009 on which reliance was placed by learned counsel for the applicants and the learned Senior Additional Advocate General, Haryana, do not have any bearing on this case and the Division Bench of the High Court committed serious error by relying upon the same for entertaining the miscellaneous application.

In the result, the applications are dismissed. Interim order

dated 18.03.2011 is made absolute to last till the disposal of the special leave petitions.

The oral prayer made by Shri Narender Hooda, learned Senior Additional Advocate General for permission to file a similar application on behalf of the State of Haryana is rejected.

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(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master