

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) .11463 OF 2014  
(@SLP(C) No.16753/2011)

HIMALAYA STONE CRUSHER PVT.LTD.& ANR. APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND & ORS. RESPONDENT(S)

O R D E R

Synopsis of submission and list of dates on behalf of respondent no. 5 has been handed over in the Court. The same shall be taken on record.

Leave granted.

The Division Bench of the High Court of Uttarakhand at Nainital in Special Appeal No. 3 of 2011, while examining the legality and validity of the interim order passed by the learned Single Judge in the writ petition, wherein the order of closure passed by the District Magistrate to close down the appellant's stone crushing unit was in challenge, has vacated the

interim order passed in the writ petition by allowing the special appeal filed by respondent No. 5. The Division Bench, while vacating the interim order has also dismissed the writ petition by recording reasons. This order is challenged by the appellants before this Court urging various grounds.

We do not want to interfere with the order passed by the Division Bench vacating the interim order of stay passed by the learned Single Judge, as the District Magistrate recorded sufficient reasons in his closure order in respect of the appellant's stone crusher and thereafter passed the order of closure of the crushing unit of the appellant herein.

It is the contention urged by the learned senior counsel appearing for the appellant herein that the Division Bench instead of confining itself to examine the correctness of the interim order of stay passed by the learned Single Judge in the writ petition filed by the appellants, has gone into the merits of the case and dismissed it on certain conjectures by recording its reasons. He further contended that that portion of the order could not have been passed by the Division Bench of the High Court without examining the merits of the case which are urged in the writ petition.

Therefore, the submission made in this regard on behalf of the appellants may be correct.

For the aforesaid reasons, we quash that portion of the order impugned in dismissing the writ petition on merits without hearing the appellants, which approach of the Division Bench is not correct. The Division Bench of the High Court could not have passed the order on the merits of the writ petition, when the writ petition was pending before the learned Single Judge with regard to the closure order passed by the District Magistrate. Therefore, the order dismissing the writ petition by the Division Bench is set aside and the writ petition is restored to its original number on the file. The appeal is allowed to the aforesaid extent.

We request the learned Single Judge, Uttarakhand High Court to examine the claim made by the appellants in the writ petition strictly confining to the site in respect of which crushing unit is closed by the District Magistrate and examine the claims and counter claims of the parties keeping in view the environmental issues in the locality with reference to the provisions of Water Pollution Control Act, 1974, The Environment Protection Act, 1986, The Air Pollution Control Act,

1981, The Uttar Pradesh Urban Planning and Development Act, 1973, Haridwar Master Plan, 1985-2001, Haridwar Master Plan, 2025, The Noise Pollution (Regulation and Control) Rules, 2000 and the Ministry of Environment & Forest Notification, New Delhi dated 20.02.2009 and the new policy framed by the State of Uttaranchal and also the law laid down by this Court in catena of decisions such as M.C. Mehta vs. Union of India & Ors., (1992) 3 SCC 256, M.C. Mehta vs. Union of India, (1992) Supp.2 SCC 86, M.C. Mehta (Badkal Lake & Surajkund Matter) vs. Union of India, (1996) 8 SCC 462, M.C. Mehta vs. Union of India, (1997) 3 SCC 715 and M.C. Mehta vs. Kamal Nath & Ors., (1997) 1 SCC 388.

The learned senior counsel for the appellant also submitted at the Bar that he will not press his claim for considering the grant of licence in relation to other new site which has been purchased by him after the order of closure is passed by the District Magistrate. His submission is taken on record. The learned Single Judge shall decide the case on its own merits in the light of the observations made by this Court indicated in this order and uninfluenced by the observation made by the Division Bench in its judgment and order.

The writ petition shall be disposed of by the High

Court after hearing all the concerned parties.

The appeal is allowed to the aforesaid extent with the aforesaid observation, but no costs are imposed.

.....J.  
(V. GOPALA GOWDA)

.....J.  
(C. NAGAPPAN)

NEW DELHI,  
DECEMBER 16, 2014

ITEM NO.2

COURT NO.11

SECTION X

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 (C) No(s). 16753/2011

HIMALAYA STONE CRUSHER PVT.LTD.& ANR.

Petitioner(s)

VERSUS

STATE OF UTTARAKHAND & ORS.

Respondent(s)

(with interim relief and office report)

Date : 16/12/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

Mr. C.U. Singh, Sr. Adv.

Mr. R.K. Raizada, Sr. Adv.

Mr. Vivek Gupta, Adv.

Mr. Deep Ranjan Mahapatra, Adv.

For Respondent(s)

Mr. U.K. Uniyal, Sr. Adv./AAG

Dr. Abhishek Atrey, Adv.

Mr. Sumit R., Adv.

Mr. M.C. Mehta, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(VINOD KR.JHA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)