

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2021

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 18080 OF 2021(GM-MM-S)

BETWEEN:

SRI S R BELLARY
S/O LATE RUDRAPPA
AGED 49 YEARS
R/AT MUTEBENNUR VILLAGE
MUTEBENNUR HOBLI, BYADAGI TQ
HAVERI DIST - 581110

...PETITIONER

(BY SRI.G.S.KANNUR, SR.ADVOCATE FOR
SRI.P.M.SIDDAMALLAPPA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA, BANGALORE 560001

2. THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE, BELLARY 583101

3. THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG-582101

4. SENIOR GEOLOGIST (ORE)
MINES AND GEOLOGY DEPARTMENT
GADAG DISTRICT
GADAG-583101

5. THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN, RACE COURSE ROAD,
BANGALORE 560 001

6. THE DISTRICT TASK FORCE COMMITTEE (MINES)
GADAG DISTRICT
GADAG 583101
RERPESENTED BY ITS CHAIRMAN

7. THE INSPECTOR OF POLICE
SHIRAHATTI/MUNDARGI CIRCLE
SHIRAHATTI, GADAG DISTRICT-582120

...RESPONDENTS

(BY SRI.S.S.MAHENDRA, AGA FOR R1 TO R7)

THIS PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO 1.ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE IMPUGNED RESOLUTION DATED 13.07.2021 PASSED BY DISTRICT TASK FORCE COMMITTEE (MINES), GADAG DISTRICT PASSED UNDER THE CHAIRMANSHIP OF THE DEPUTY COMMISSIONER, GADAG DISTRICT, AS PER ANNEXURE - C AND THE OFFICIAL LETTER DATED 18.08.2021 ADDRESSED TO THE INSPECTOR OF POLICE AND MINERALS DEPARTMENT, DEPUTY COMMISSIONERS BUILDING, GADAG VIDE REFERENCE NO. HI.BHU.VI / GA. BHU. E / GA. GI. KHA / KA. GA. GU /2021-22 /818-821 AS PER ANNEXURE-F AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, **SACHIN SHANKAR MAGADUM J.,** MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed questioning the order dated 13.7.2021 passed by the District Task Force Committee(Mines), Gadag District, as per Annexure-C and official letter dated 18.8.2021 addressed to the Inspector of Police, Shirahatti by Senior Geologist, Mines and Minerals Department, Deputy Commissioners Building, Gadag.

2. The facts leading to the case are as under:

The petitioner claims that the authorities have granted licence for building stone quarrying for a period of 20 years. The respondent No.4 by order dated 21.11.2020 directed the present petitioner to stop the mining activity in the leased area on the ground that the mining activities are within one kilometer from the boundary of Kappathagudda Wildlife sanctuary. The petitioner feeling aggrieved questioned the same before this Court in W.P.3296/2021. This Court was

pleased to quash the said order. This Court also observed that the District Task Force Committee or the State Government cannot prevent the mining activities where there is a valid and subsisting lease.

3. The grievance of the petitioner before this Court is that inspite of there being a direction by this Court in W.P.No.3296/2021, the respondent No.6-Committee has again passed the impugned resolution as per Annexure-C calling upon the petitioner to stop mining activities and based on the said resolution, respondent No.4 has issued notice to the petitioner and consequently has also addressed an official letter to the Inspector of Police, Shirahatti, as per Annexure-F to stop the mining activities of the petitioner.

4. The learned Senior Counsel reiterating the grounds urged in the writ petition would vehemently argue and contend before this Court that based on the resolution of respondent No.6, the notice issued by respondent No.4 is

contrary to the judgment rendered by this Court as per Annexure-B. The learned Senior Counsel would submit to this Court that the petitioner has given a suitable reply to the said notice. The 4th respondent-authority without considering the reply submitted by the petitioner has addressed an official letter to the Inspector of police, Shirahatti, to stop the mining activities of the petitioner. The learned Senior Counsel would vehemently argue and contend before us that the mining activities are carried out only after obtaining environmental clearance from the competent authorities. He would submit to this Court that the impugned resolution is based on a draft eco-sensitive notification and therefore contends that the impugned resolution is premature. On these set of grounds, learned Senior Counsel would contend that the impugned resolution as per Annexure-'C' and consequent letter addressed to the Police Inspector, Shirahatti, as per Annexure-'F' are one without jurisdiction and the same are liable to be quashed by this Court.

5. Per contra, learned Additional Government Advocate reiterating the defence set up in the statement of objections would submit to this Court that the petitioner has sent a reply to the show-cause notice and the same is under consideration before the Senior Geologist, Gadag and therefore, would contend that the present writ petition is premature and is liable to be dismissed. He would also contend that the Senior Geologist, though is a Member of the District Task Force Committee is vested with power to take decision on cancellation of lease. Learned Additional Government Advocate would further lay emphasis on the draft eco-sensitive notification and would further contend that as per the table, the mining activities stand prohibited and therefore, the resolution under challenge as per Annexure-C is perfectly legal and would not warrant interference at the hands of this Court.

6. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Government Advocate appearing for the State.

7. We have gone through the rival contentions of the parties. The respondent No.6 by the impugned resolution has called upon the petitioner to stop the mining activities and based on the said resolution, respondent No.4 has also issued a show-cause notice to the petitioner. It is not in dispute that the petitioner has submitted a reply. At para 6 of the statement of objections, the respondents have taken a contention that the authorities are yet to take a decision on the reply submitted by the petitioner. In the earlier round of litigation, the Additional Government Advocate on instructions submitted that all the leases are valid and subsisting. The Co-ordinate Bench of this Court having taken judicial note of the statement made by the Additional Government Advocate held that the District Task Force Committee or the State Government have no power to close the activities of mining

and so long as the lease granted to the petitioner is valid and subsisting, the same cannot be prevented or stopped by the authorities.

8. If the impugned resolution is examined, there is no change in factual matrix. In the earlier round of litigation also a similar contention was taken that the mining activities are within one kilometer from the boundary of Kappathagudda Wildlife Sanctuary. In the present case, the respondent-authorities have come up with a case that the respondent-State has issued a draft eco-sensitive zone notification. It is not in dispute that the draft notification is yet to be approved by the Central Government. Therefore, it is incumbent on the part of the authority who has issued the show-cause notice to examine the reply and pass appropriate orders. It is needless to say that unless the concerned authority examine the reply and pass appropriate orders and unless there is an adjudication in regard to the licence granted in favour of the petitioner, the respondent-authorities have no power and

authority to stop the mining activities when the lease is valid and subsisting.

9. For the reasons stated supra, we pass the following:

ORDER

(i)The writ petition is allowed.

(ii)The respondent-authorities are directed to examine the reply submitted by the petitioner and pass appropriate orders in accordance with law after affording an opportunity to the petitioner herein.

(iii)It is made clear that till the authorities examine the reply and pass appropriate orders, they shall not insist for stopping the mining activities.

(iv)It will be always open for the respondents to initiate proceedings for cancellation of lease in accordance with law.

No order as to costs.

The pending interlocutory applications, if any, stand disposed of.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

*Alb/-