A RURAL LITIGATION & ENTITLEMENT KENDRA

v.

STATE OF U.P.

AUGUST 30, 1988

B [RANGANATH MISRA AND MURARI MOHON DUTT, JJ.]

Constitution of India, 1950: Article 32—Limestone quarries—Dehradun Mussoorie belt—Public interest litigation against pollution—High Powered Committee to be set up to look after re-afforestation, mining activities and bring about natural normalcy in the Doon Valley.

C *Forest (Conservation) Act 1980: Limestone quarries in Doon Valley—Continuance of mining activity—Impermissibility of.*

Public Interest Litigation: Procedural laws apply but every technicality in procedural laws not available in matters of grave public D *importance.*

A letter-petition, and an application, containing allegations of unauthorised and illegal mining in the Mussoorie-Dehradun belt, affecting adversely the ecology and environmental order of the area, were directed to be registrered as writ petitions under public interest E **litigation. Apart from the Governments of the Union and of Uttar Pradesh, several governmental agencies and mining lessees appeared in the proceedings. A number of committees and working groups were set up both by the Court and the Central Government to look into the various aspects of the problem, their reports received and several comprehensive interlocutory directions issued.**

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One of the Committees, referred to as the Bhargava Committee, classified the mines into three groups, being A, B, C. On the basis of the recommendations of the Bhargava Committee Report and other material, the Court directed, by its order dated 12th March, 1985, that C category mines of the Bhargava Committee Report should be closed G **down permanently. Similar order was made in regard to B category mines situated in the shasradhara block. The Court further directed A category mines located within the Mussoorie municipal limits and the remaining B category mines to submit their mining scheme for scrutiny of the Bandyopadhyay Committee. The Court, however, allowed A category mines located outside the city limits to operate.**

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Some of the mines which were ordered to be closed down had earlier been refused renewal of their mining licences. These mines, however, continued to operate under the orders of various courts which had granted extension of their leases pending the final orders of the courts. This Court, in its order dated 12th March, 1985 had therefore, directed that if any mining lessee of a mine, which had been ordered to be closed down, was running under the first grant or under Court's orders after its expiry, it would not be entitled to take advantage of that position.

In its order dated 16th December, 1986 this Court recognised the need to strike a balance between preservation and utilisation of deposits, and urged the Government to take a policy decision in the matter. The Government thereupon set up another committee to examine the working of the limestone mining operations in the Doon valley. This Committee inspected six mines which were operating. Three of these mines were operating under valid mining leases and the other three, whose leases had expired in December 1982, were operating under orders of different courts.

Keeping in view the reports of the committee and the submissions at the Bar, the Court passed further orders.

On behalf of the lessees it was contended: (1) decision of this Court dated 12th March, 1985 was final in certain aspects including the release of the A category mines outside the city limits from the proceedings, and in view of such finality it is not open to this Court in the same proceedings at a later stage to direct differently in regard to what has been decided earlier; (2) during the pendency of these writ petitions, the Environment Protection Act of 1986 has come into force and since that Statute and the Rules made thereunder provide detailed procedure to deal with the situations that arise in these cases, this Could should no more deal with the matter and leave it to be looked into by the authorities under the Act, and (3) there would be a total stalemate in the manufacture of drugs and sugar, as also steel, in case mining activity is stopped.

Disposing of the writ petition, this Court,

HELD: (1) "Forest" was initially a State subject covered by Entry 19 in List II of the Seventh Schedule. In 1976, under the 42nd Amendment the Entry was deleted and Entry 17-A in the concurrent List was inserted. The change from the State List to the Concurrent List was

A brought about following the realisation of the Central Government that 'forests' were of national importance and should be placed in the Concurrent List to enable the Central Government to deal with the matter. The same amendment of the Constitution brought in Article 48-A and Article 51A(g) in Part IVA. [713H; 714A-B]

B (2) The Forest (Conservation) Act, 1980 does not permit mining in the forest area. If mining activity even to a limited extent is permitted in future, it would be not congenial to ecology and environment, and the natural calm and peace which is a special feature of this area in its normal condition shall not be restored. This tourist zone in its natural setting would certainly be at its best if its serenity is restored in the C fullest way. [710E-F]

(3) By the Court's order of 12th March, 1985, the A category mining leases outside the city limits were only exempted from further scrutiny and not released from the proceedings. If the court really intended to release the A category mines outside the city limits, it could D very well pronounce that in clear terms. [706E-H]

(4) The examination by this Court when it made the order of 12th March, 1985, omitted to consider the impact of the Forest (Conservation) Act, 1980 which was then a statute in force. If the provision of the Conservation Act had been noticed and impact thereof for the con- E tinuance of mining activity had been considered, perhaps the Court would have made no exemptions and no mining may have been permitted. [706G]

(5) The writ petitions are not inter-party disputes and have been raised by way of public interest litigation, and the controversy before F the Court is as to whether for safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. The Court may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time, it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public impor- G tance is for consideration before the Court. Even if it is said that there was a final order, in a dispute of this type it would be difficult to entertain the plea of *res judicata*. Leaving the question open for examination in future would lead to unnecessary multiplicity of proceedings and would be against the interest of society. [707B-D]

H (6) These writ petitions were filed more than three years before

the Environment (Protection) Act, 1986 came into force. This Court appointed several expert commitees, received their reports and made directions. The several parties and their counsel have been heard for days together on different issues during the three and a quarter years of the pendency of the proceedings. The Environment (Protection) Act does not purport to—and perhaps could not—take away the jurisdiction of this Court to deal with a case of this type. In consideration of these facts, there is no justification to decline the exercise of jurisdiction at this stage. [707E-G] A B

(7) Ordinarily, the Court would not entertain a dispute for the adjudication of which a special provision has been made by law but that rule is not attracted in the present situation in these cases. Besides it is a rule of practice and prudence and not one of jurisdiction. [707H] C

(8) The Forest (Conservation) Act, 1980 applies to renewals as well and even if there was a provision for renewal in the lease agreement on exercise of lessee's option, the requirements of 1980 Act had to be satisfied before such renewal could be granted. [717G-H] D

Ambica Quarry Works v. *State of Gujarat & Ors.*, [1987] 1 SCC 213; *State of Rajasthan* v. *Hari Shankar Rajindra Pal*, [1965] 3 SCR 402 and *State of Bihar* v. *Banshi Ram Modi*, [1985] 3 SCC 643, referred to.

(9) It is clear from the directions contained in the order of 12th March, 1985, as also the ratio of the judgment in the *Ambica Quarry Works* case, that even if there has been an order of the Court and no challenge is raised against such order, this Court could invoke its jurisdiction to nullify the direction or order, and if any order, direction or decree has been passed ignoring the provisions of the Conservation Act of 1980 the same would not be binding. [718B-C] E F

(10) Parties have been heard on various aspects. An order made by this Court to nullify the decrees in such circumstances would not be violative of the principles of natural justice. [718F]

(11) If any decree or order has already been obtained from any court relating to renewal of these leases, the same shall stand vacated, and similarly any appeal or other proceeding taken to obtain a renewal or against orders/decrees granting renewal shall also become nonest. [718G-H] G

(12) Most of these mines are either within reserved forests or in forest lands, as covered by the U.P. Amendment of the Forest Act. To H

A these areas the Forest Conservation Act applies and to allow mining in these areas even under strictest control as a permanent feature would not only be violative of the provisions of Forest (Conservation) Act but would be detrimental to restoration of the forest growth in a natural way in this area. Once the importance of forests is realised and as a matter of national policy and in the interests of the community, B preservation of forests is accepted as the goal, nothing which would detract from that end should be permitted. In such circumstances, mining activity in this valley must be completely stopped. But such a situation will be available only after the original leases of the working mines are over. [726G-H; 727A]

C (13) The court accepts the position that manufacture of drugs and sugar, as also steel, would be hard-hit if mining activity in this area is stopped all of a sudden. With the pressing demand in the market and discovery of useful limestone deposits in other parts of the country, apart from what has been indicated in the second affidavit of the Union of India, the trade would adjust itself as every economic activity does. D However, the position should be monitored and the switch-over from the present position to a total ban should be spread over a period and not be sudden. [727D-E]

(14) In the circumstances, allowing the three on-going mines to operate for their initial period of lease is the most appropriate direction E that can be given during the switch over from the present position to one of complete closing down of mining operation. [730G-H]

(15) There is no dispute that continuance of mining operations effects environment and ecology adversely and at the same time creates a prejudicial situation against conservation of forests. It is, therefore, F necessary that each of these working mines shall have to work with an undertaking given to the Monitoring Committee that all care and attention shall be bestowed to preserve ecological and environmental balance while carrying on mining operations. [731D-E]

(16) The Court ordered the setting up of the Monitoring Commit- G tee to look after reafforestation, mining activities and all other aspects necessary to bring about natural normalcy in the Doon Valley. The Court also issued directions regarding the finances, powers and duties of the Monitoring Committee. [733E]

(17) The Court has no other option but to close down the mining H activity in the broad interests of the community. This, however, does

not mean that the displaced mine owners should not be provided with alternative occupation. Pious observation or even a direction in that regard may not be adequate. What is necessary is a time frame functioning if rehabilitation is to be made effective. It is, therefore, necessary that a Committee should be set up to oversee the rehabilitation of the displaced mine owners. [732B-C]

ORIGINAL JURISDICTION: Writ Petition (Civil) Nos. 8209 and 8821 of 1983.

(Under Article 32 of the Constitution of India).

M.K. Banerjee, Solicitor General, M.K. Ramamurthy, A.K. Ganguli, A.K. Sen, R.K. Jain, Kapil Sibbal, B.D. Agarwal, O.P. Rana, F.S. Nariman, Tapas Ray, Dr. L.M. Singhvi, Rajendra Sachhar, Yogeshwar Prasad, G.L. Sanghi, V.C. Mahajan, G.A. Shah, M.A. Krishnamurthy, R.P. Srivastava, Ms. A. Subhashini, Ravi Prakash Gupta, Mrs. Shobha Dikshit, Badri Dass Sharma, Arunesh-war Gupta, Inderbir Singh, Arun Jaitley, Ms. Bina Gupta, Atul Tewari, Raju Ramachandran, M.V. Goswami, S.K. Jain, E.C. Agarwal, S. Atreya, Ravi P. Wadhwani, M.G. Ramachandran, Mrs. Rachna Gupta, Dr. S.R. Srivastava, Pramod Dayal, Rishi Kesh, R.B. Mehrotra, C.M. Nayar, Mrs. M. Karanjawala, S.A. Syed, P.P. Juneja, P.K. Jain, K.N. Bhatt, D.N. Mishra, Ms. Indra Makwana, A. Subba Rao, Harjinder Singh, Parijat Sinha, C.P. Lal, Shri Narain, S.K. Gupta, K.R. Nambiar, S.S. Khanduja, K.K. Jain, D.M. Nargolkar, Devi Ditta Mal-In-person, A.K. Panda, Ranjit Kumar, A.K. Shrivastava, A.K. Jain, A.D. Sanger, Pramod Dayal, R.S. Hedge, K.R. Nagaraja, P.K. Rao, M.N. Shroff, N.N. Keshwani, R.N. Keshwani, Prashant Bhushan and Ms. Neeva Gupta Advocates for the appearing parties.

The Judgment of the Court was delivered by

RANGANATH MISRA, J. On July 14, 1983, a letter received from the Rural Litigation and Entitlement Kendera, Dehradun, bearing the date July 2, 1983, was directed to be registered as a writ petition under Article 32 of the Constitution and notice was ordered to the State of Uttar Pradesh and the Collector of Dehradun. Allegations of unauthorised and illegal mining in the Mussoorie—Dehradun belt which adversely affected the ecology of the area and led to environmental disorder were made. Later on another application with similar allegations was directed to be tagged with the earlier one. That is how

A these two writ petitions were both in the registry of this Court in a very innocuous manner as public interest litigation. The number of parties inflated both under the orders of the Court and on application to be added. Apart from the Governments of the Union and of Uttar Pradesh, several governmental agencies and mining lessees appeared in the proceedings. What initially appeared to be two simple applica-
B tions for limited relief got expanded into a comprehensive litigation requiring appointment of committees, inspection and reports in them from time to time, serious exercises on the part of the mine owners before the committees, filing of affidavits both original and further, and lengthy arguments at the Bar. These also necessitated several comprehensive interlocutory directions and orders. These two writ
C petitions are being disposed of by this common judgment.

On August 11, 1983, this Court appointed a Committee for inspection of the mines with a view to securing assistance in the determination as to whether safety standards laid down in the Mines Act of 1952 and the Rules made thereunder have been followed and
D whether there was any danger of land-slide on account of quarrying operations particularly during the rainy season, and if there was any other hazard to any individual, cattle or agricultural lands on account of carrying of the mining operations. At the preliminary stage this Court directed total stopping of blasting operations which, however, was modified later. The said Committee, referred to as the Bhargava
E Committee after its Chairman, classified the mines which it inspected into three groups, being A, B and C. It took note of the fact that earlier an Expert Committee known as the Working Group had been set up by the Union Government which had also inspected these mines. The Bhargava Committee was of the view that the C Group mines should be totally stopped; in the A Group mines, quarrying
F could be carried on after ensuring that there was no ecological or environmental hazard; and in regard to the B Group mines, the Committee opined that those may not be closed down permanently but the matter should be probed further.

A three-Judge Bench of this Court by an order dated March 12,
G 1985 (1985 3 SCR 169) directed closure of the C category mines as also certain B category mines on permanent basis and gave directions in regard to further action to be taken by the Bhargava Committee. While making the order the Court specifically stated that the reasons for the order would follow. One of the learned Judges constituting the three-Judge Bench retired from the Court on September 30, 1985, and
H the said learned Judge (A.N. Sen, J.) expressed his views in a short

order dated 30th September, 1985. The working Group appointed by the Union Government was also headed by the same Mr. Bhargava and had five other members. The examination by the two Committees appeared to be with the same object, namely, as to whether the mining was being properly done and whether such activity should be carried on in this area. The Working Group and classified the mines into two categories being I and II. They put those mines which according to them were suitable for continuing operation under Category I and the mines which in their opinion were unsuitable for further mining under Category II. An interesting feature in these two Reports seems to be that almost the same lime stone quarries which have been put by the Bhargava Committee under Category A feature in Category I of the Working Group. This Court in its order of March 12, 1985, referred to those aspects and pointed out:

> "It will thus be seen that both the Bhargav Committee and the Working Group were unanimous in their view that the lime stone quarries classified in category A by the Bhargav Committee Report and category I by the Working Group were suitable for continuance of mining operations. So far as the lime stone quarries in category C of the Bhargav Committee Report are concerned, they were regarded by both the Bhargav Committee and the Working Group as unsuitable for continuance of mining operations and both were of the view that they should be closed down. The only difference between the Bhargav Committee and the Working Group was in regard to lime stone quarries classified in category B."

This Court had also appointed an Expert Committee consisting of Prof. K.S. Valdia, Mr. Hukum Singh and Mr. D.N. Kaul to enquire and investigate into the question of disturbance of ecology and pollution and affectation of air, water and environment by reason of quarrying operations or stone crushers and setting up of lime stone kilns. Mr. Kaul and Mr. Hukum Singh submitted a joint report with reference to various aspects indicated in their order of appointment while Prof. Valdia submitted a separate report. In the order of March 12, 1985, this Court took note of the position that Prof. Valdia's report was confined largely to the geological aspect and considerable reliance on the Main Boundary Thrust (MBT) had been placed by him in making of the report and he had taken the view that the lime stone quarries which were dangerously close to the MBT should be closed down inasmuch as that was a sensitive and vulnerable belt. This Court then

took the view that not much importance could be placed to Dr. Valdia's report for this litigation. The joint report submitted by Mr. Kaul and Mr. Hukum Singh had been taken into account by this Court in making interim directions and for the making of the final order no specific reference is called for.

In the order of March 12, 1985, this Court directed that the C Category mines of the Bhargav Committee Report should be closed down permanently and if any mining lessee of such a mine was running under the first grant or under Court's orders after its expiry, it would not be entitled to take advantage of the position. Similar order was made in regard to the B category mines situated in the Shasradhara block. This Court directed A category mines located within the Mussoorie municipal limits and the remaining B category mines to submit schemes subjected to further enquiry and ordered:

> "We accordingly appoint a high powered Committee consisting of Mr. D. Bandyopadhyay, Secretary, Ministry of Rural Development as Chairman, and Shri H.S. Ahuja, Director General, Mines Safety, Dhanbad, Bihar, Shri D.N. Bhargav, Controller General, Indian Bureau of Mines, New Secretariat Building, Nagpur and two experts to be nominated by the Department of Environment, Government of India within four weeks from the date of this Order. The lessees of the lime stone quarries classified as category A in Bhargav Committee Report and for Category I in the Working Group Report and falling within the city limits of Mussoorie as also the lessees of the lime stone quarries classified as category B in the Bhargav Committee Report will be at liberty to submit a full and detailed scheme for mining their lime stone quarries to this Committee (hereinafter called the Bandyopadhyay Committee) and if any such scheme or schemes are submitted the Bandyopadhyay Committee will proceed to examine the same without any unnecessary delay and submit a report to this Court whether in its opinion the particular lime stone quarry can be allowed to be operated in accordance with the scheme and if so, subject to what conditions and if it cannot be allowed to be operated, the reasons for taking that view. The Bandyopadhyay Committee in making its report will take into account the various aspects which we had directed the Bhargav Committee and the Kaul Committee to consider while making their reports including the

circumstances that the particular lime stone quarry may or may not be within the city limits of Mussoorie and also give an opportunity to the concerned lessee to be heard, even though it be briefly." A

Several mining lessees submitted their schemes which were examined by the Committee but none of them was cleared. Objections against rejection of the schemes had been filed before this Court by many of the aggrieved lessees. It was directed in the aforesaid order of 12th March, 1985, that until the Bandyopadhyay Committee cleared the particular mines for operation, mining activity in regard to all mines covered within the purview of examination by that Committee would stop. This Court, however, allowed A category mines located outside the city limits to operate. While directing closure of the Shasradhara area B category mines and all the C category mines, as also A and B category mines within the municipal limits, this Court made it clear that the ban indicated by it would supersede any order of any other court. The Court observed: B C D

"The consequence of this Order made by us would be that the lessees of lime stone quarries which have been directed to be closed down permanently under this Order or which may be directed to be closed down permanently after consideration of the report of the Bandyopadhyay Committee, would be thrown out of business in which they have invested large sums of money and expanded considerable time and effort. This would undoubtedly cause hardship to them but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affectation of air, water and environment." E F

The Order of 12th March, 1985, did not refer to the Forest (Conservation) Act of 1980 when it permitted the A category lime stone quarries located outside the city limits to operate. G

This Court made several orders relating to specific aspects after the order of 12th March, 1985. One such order was made on 30th May, 1985, (1985 (3) SCC 614), another on 18th December, 1986, (1986 Suppl. SCC 517) where reasons for the order of 12th March, 1985, were given, and yet another order was made on 19th October, 1987 H

(AIR 1987 SC 2426). We shall refer to the last of these orders in a later part of this Judgment. In the order of 16th December, 1986, when the reasonings for the order dated 12th March, 1985 were given, this Court had stated:

> "It is for the Government and the Nation—and not for the Court to—decide whether the deposits should be exploited at the cost of ecology and environmental considerations or the industrial requirement should be otherwise satisfied. It may be perhaps possible to exercise greater control and vigil over the operation and strike a balance between preservation and utilisation; that would indeed be a matter for an expert body to examine and on the basis of appropriate advice, Government should take a policy decision and firmly implement the same."

The Court had also indicated in its earlier order that it should be ensured that the low grade cilica content lime stone is specifically utilised only in special industries having regard to its quality and should not be wasted by being utilised for purposes for which this special grade lime stone is not required.

Keeping these aspects in view, the Government of India in the Ministry of Environment and Forests, Department of Environment, Forests and wildlife, constituted a Committee to examine the working of the lime stone mining operations in the Doon Valley by its memorandum No. J-20012/48/86-1A, dated 30th of December, 1986, which was also called the Working Group. Shri D.N. Bhargava was nominated as Chairman and the Committee had three other members, namely, Shri V.C. Verma, Director General, Mines Safety, Dhanbad; Prof. B.B. Dhar, Department of Mining Engineering of the Banaras Hindu University, Varanasi; and Shri R. Mehta, Principal Scientific Officer, Department of Environment, Forest and Wildlife, New Delhi. Shri Verma was substituted by Shri N. Mishra, Deputy Director General, Northern Zone. The terms of reference of the Committee were:

> (i). Whether the operations are being carried out on scientific lines?
>
> (ii) Whether the limestone quarried is being supplied to end-users as stipulated by the Supreme Court?; and
>
> (iii) The extent to which the mining operations are contributing to environmental damage?

This Committee visited the six mines which are operating and indicated:

> "The limestone deposits of Dehradun—Mussoorie area are highly valuable mineral resource now essentially required by the steel industry and it would be necessary to exploit them, of course, in a very planned and systematic manner.'

The Committee addressed itself to two aspects, namely,—

> (i) those which were considered suitable for mining operations, and
>
> (ii) those which were considered unsuitable for further mining.

The Committee whose entire report has been made available to us came to the following conclusions in regard to each of the six operating mines.

(i) *Lambidhar Limestone Mine* of M/s Uttar Pradesh State Mineral Development Corporation Ltd. (UPSMDC) is a State Undertaking and holds a mining lease of 97 hectares covering the Lambidhar Hills and the lease is valid up to 10th March, 1996. The Committee found that 36% of its production was supplied to steel and chemical industries, 12% to sugar, 6% to cement and other miscellaneous industries and 46% to chips and lime kilns industries and disapproved this position. It further found that while colour limestone which is a metamarphose is being recorded as a minor mineral whereas it was learnt that it was being used for despatch as major mineral. The arrangement for classification of the lime stone also was not acceptable to the Committee. It further found:

> "The hill slopes and the river/nallah base are covered by scree generated both during road construction as well as subsequent mining operations. This is the result of allowing the excavated material to roll down the slopes. The Committee is of the opinion that road making may be done with front-end loader instead of bulldozer as with latter equipment excavated materials roll down the hill slope uncontrolably. The vegetation cover along the slopes has been damaged by the rolling material as well as the excava-

A tion made for the road making and the hills present an ugly look. Hydro-seeding may be done to improve looks of hill slopes. Deposition of debris/scree in the nullahs specially in Betarli is the cause of concern because it happens to be one of the main steams which is source of water supply to the villages as well as Dehradun city. The approach road has B reached the top and mining operations have been started but not work on reclamation of mined out area has yet commenced. A proper disposal yard for stocking debris must be provided so that the present practice of disposing it near the camp office on the bank of the rivulet is prevented. Details of arrangements for controlling dust both in mining and crushing operations are not available."

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UPSMDC is the largest of the working mines and apart from the fact that it belongs to the Government of Uttar Pradesh, it has also the largest of investment. It has been claimed before us on its behalf that it operates most scientifically and satisfies all the requirements appro-
D priate for ecological and environmental safeguards. The Report of the Committee, extracted above, negatives all these claims.

(ii) We shall now refer to M/S Punjab Lime and Limestone Company which has two mines both of which are working. Lease No. 14 covers 44.5 hectares and is a lease for 20 years from 1966; as such it
E has already expired. Lease No. 96 is for 28.92 hectares and would expire in December, 1989. Lease No. 14 had two areas and this Court disallowed mining in the Northern block. The Committee found that 16.4 hectares equal to 41 acres, out of lease No. 96 comprised of thick forest and the lessee had surrendered the forest area. The mining operation is being carried on in lease No. 14 under orders of the Court
F and the residual portion of lease No. 96. The Committee found that the scheme which had been offered to the Bandyopadhyay Committee was in regard to the mining in the northern block of lease No. 14 which has since been abandoned. It further transpires that about 27% of its output during 1986 was supplied for the steel industry. The report indicates that there is little generation of scree. As there is sparse
G growth of trees in the area covered by the mines, no significant deforestation is involved. Disposal of overburden is not significant. Check dams have been set up in the lower reaches which are on the right bank of Bhitarli river and no significant fall of the scree into the river was apprehended.

H (iii) Next is lease No. 72 of Shri R.K. Oberai which would expire

on 10th of April, 1994. It has an area of 15.91 hectares. The Committee found that this mine lies in the upper reaches of the Song river. Thick forest growth is seen close to the mine and the Committee gathered that the forest authorities have declined permission to extend the mine workings beyond RL 1280. The Committee found that the lessee has undertaken to carry out afforestation and has also started compensatory forestory in the adjacent areas. There was no apprehension of spreading of scree and future mining operations are not likely to involve any significant deforestation. The Committee also has opined that there is no apprehension of choking of the water-ways due to mining operations as the Song river flows about 400 mts. away.

Apart from these three mines which are operating under valid mining leases, the Committee inspected the mines corresponding to lease Nos. 16, 17 and 76, belonging to Ved Pal Singh Chaudhary, Seth Ram Avtar and Shri C.G. Gujral respectively. All these leases have expired in December, 1982, and under orders of different courts mining is being carried on.

Bhitarli Kalan Limestone Mines of Shri Ved Pal Singh Chaudhary was a lease for 38.8 hectares and expired on 29th December, 1982. This Court has already directed closure of mining operation in a small area on the left bank of Bhitarli river.

Seth Ram Avtar has a lease of 14.18 hectares on the left bank of Bhitarli river and the lease expired on 2nd December, 1982. The Committee found that he had no environment management plan. The working plan submitted by the lessee did not show any plantation area.

The last of the working mines which the Committee visited is that of Shri C.G. Gujaral. The lease was for 24.16 hectares and expired on 17th December, 1982. The Committee found that the lease area contained very good forest. The rolling of scree/debris along the slopes had left not only ugly scars but also resulted in destruction of the green cover. The debris flow has also choked the Sansaru nullah which once used to be a perennial stream. There was no environmental management plan. In fact the Committee came to the conclusion that the working of this mine was not conducive to the environmental conservation.

We have in another part of this judgment indicated our conclusion that mining activity as a whole should be stopped in the Doon Valley area but for the reasons indicated therein, we have also come to

A the conclusion that the three mining lessees who have been operating under valid lease may be permitted to work subject to such conditions as have been indicated. Keeping the report of the Working Group in view and for the reasons we have elsewhere indicated, we direct that mining operations in lease Nos. 16, 17 and 76 where the respective leases have expired and mining operation is being carried on under B Court's Orders, shall stop and the several orders of the courts enabling mining activity shall stand superseded.

This Court in its order dated 19th of October, 1987, (AIR 1987 SC 2426) came to the clear conclusion:

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> "We are of the view that the stone quarrying in the Doon Valley area should generally be stopped and reasons therefor we shall provide in due course."

In another part of this judgment, reasons in support of that conclusion have been provided. The direction to close down the three D operating mines where the period of lease has expired is to bring the position in accord with that conclusion.

One of the submissions advanced at the Bar is that the decision of this Court dated 12th March, 1985, was final in certain aspects including the release of the A category mines outside the city limits of E Mussoorie from the proceedings and in view of such finality it is not open to this Court in the same proceedings at a latter stage to direct differently in regard to what has been decided earlier. Connected with this submission is the contention that during the pendency of these writ petitions, the Environmental (Protection) Act of 1986 has come into force and since that Statute and the Rules made thereunder provide F detailed procedure to deal with the situations that arise in these cases, this Court should no more deal with the matter and leave it to be looked into by the authorities under the Act. Counsel have relied upon what was stated by this Court while giving reasons in support of the order of March 12, 1985, namely, "it is for the Government and the Nation—and not for the Court—to decide whether the deposits should G be exploited at the cost of ecology and environmental considerations." In the order of 12th March, 1985, this Court had pointed out:

> "So far as the lime stone quarries classified as category A in the Bhargav Committee Report and/or category 1 in the Working Group Report are concerned, we would H divide them into two classes, one class consisting of those

lime stone quarries which are within the city limits of Mussoorie and the other consisting of those which are outside the city limits. We take the view that the lime stone quarries falling within category A of the Bhargav Committee Report and/or category 1 of the Working Group Report and falling outside the city limits of Mussoorie, should be allowed to be operated subject, of course, to the observance of the requirements of the Mines Act, 1952, the Metalliferous Mines Regulations, 1961 and other relevant statutes, rules and regulations. Of course when we say this, we must make it clear that we are not holding that if the leases in respect of these lime stone quarries have expired and suits or writ petitions for renewal of the leases are pending in the courts, such leases should be automatically renewed. It will be for the appropriate courts to decide whether such leases should be renewed or not having regard to the law and facts of each case. So far as the lime stone quarries classified in category A in the Bhargav Committee Report and category 1 in the Working Group Report and falling within the city limits of Mussoorie are concerned, we would give the same direction which we are giving in the next succeeding paragraph in regard to the lime stone quarries classified as category B in the Bhargav Committee Report."

The argument that A category mines outside the city limits had been cleared is based upon what has been indicated above. Dealing with this part of the direction, this Court in its order of 19th October, 1987, stated:

"Consciousness regarding environmental upkeep is of recent origin. Cognizance of ecological importance has entered into governmental activity only in this decade. Everyday that consciousness as also the sense of social obligation in this regard are on the increase. It has been pointed out to us in course of hearing of the objections that the classification of the A category lime stone quarries on the basis of their location—within the municipal limits and outside—was indeed not a real one. We have been shown and it seems to be factually true that some of the lime stone quarries said to be outside the city limits are closer to the heart of the city of Mussoorie that others located within the city limits. If the real purpose of the order made by this

A Court was not to permit mining within the city limits without further scrutiny as in the case of B category stone quarries, we really do not see any justification as to why these stone quarries located outside the city limits but close to the heart of the city should not have been subjected to such scrutiny. Since the writ petitions have not been finally disB posed of and the order made in regard to the A category quarries located outside the city limits by the judgment referred to above only exempted them from further scrutiny as was directed in respect of the other quarries, we see no impediment in the matter of giving a re-look at the matter even with reference to the A category quarries C located outside the city limits.

In this connection it is relevant to take note of the fact that the State Government has already formed an improvement programme of the area by constituting a combined body for Mussoorie and Dehradun. The considerations D which had weighed with the Court on the basis of municipal limits has indeed to be extended not to the entire area covered by the new scheme. We are, therefore, of the view that the A category stone quarries in this area irrespective of location within or outside city limits should be subjected to further order of this Court and there is no legal impediE ment for this Court to do the same."

We reiterate our opinion that by the order of 12th March, 1985, the A category mining leases outside the city limits were only exempted from further scrutiny and not released from the proceedings. Our order of 18th December, 1986, left certain aspects to be considered by F the State and immediately the Central Government responded by appointing the second Working Group. We would like to reiterate what we have already said in the order of 19th of October, 1987, that the examination by this Court when it made the order of 12th March, 1985, omitted to consider the impact of the Forest (Conservation) Act of 1980 which was then a statute in force. If the provisions of the G Conservation Act had been noticed and impact thereof for the continuance of mining activity had been considered, perhaps the Court would have made no exemptions and no mining may have been permitted. Besides, if the Court really intended to release the A category mines outside the city limits, it could very well pronounce that in clear terms.

H

In view of what we have indicated above, it is difficult to accept the stand taken by some of the lessees and by Mr. Nariman appearing for the intervener that a final order has been by this Court in regard to the A category mines outside the city limits of Mussoorie.

The writ petitions before us are not inter-party disputes and have been raised by way of public interest litigation and the controversy before the Court is as to whether the social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the Court. Even if it is said that there was a final order, in a dispute of this type it would be difficult to entertain the plea of *res judicata*. As we have already pointed out when the order of 12th March, 1985, was made, no reference to the Forest (Conservation) Act of 1980 had been done. We are of the view that leaving the question open for examination in future would lead to unnecessary multiplicity of proceedings and would be against the interests of society. It is mete and proper as also in the interest of the parties that the entire question is taken into account at this stage.

Undoubtedly, the Environment (Protection) Act, 1986 (29 of 1986) has come into force with effect from 19th November, 1986. Under this Act power is vested in the Central Government to take measures to protect and improve the environment. These writ petitions were filed as early as 1983—more than three years before the Act came into force. This Court appointed several expert Committees, received their reports and on the basis of materials placed before it, made directions, partly final and partly interlocutory, in regard to certain mines in the area. Several directions from time to time have been made by this Court. As many as four reportable orders have been given. The several parties and their counsel have been heard for days together on different issues during the three and a quarter years of the pendency of the proceedings. The Act does not purport to—and perhaps could not—take away the jurisdiction of this Court to deal with a case of this type. In consideration of these facts, we do not think there is any justification to decline the exercise of jurisdiction at this stage. Ordinarily the Court would not entertain a dispute for the adjudication of which a special provision has been made by law but that rule is not attracted in the present situation in these cases. Besides it is a rule of practice and prudence and not one of jurisdiction. The

A contention against exercise of jurisdiction advanced by Mr. Nariman for the intervener and reiterated by some of the lessees before this Court must stand overruled.

We shall now briefly indicate reasons in support of our conclusion mentioned in the order of October 19, 1987, that mining in this area B should be stopped.

Kalidas, the greatest of the Indian poets, sang the praises of the Himalayas in '*Meghadoot*' by describing it as the loftiest mountain on earth surface located on the north of the country. The Himalayan ranges apart from operating as a natural seal on the northern border against intruders, have influenced the climate, culture, ecology and C environment of the sub continent. These are the ranges from where originate several perennial rivers like the Ganges and the Yamuna. These two rivers which mingle at Allahabad and later flow into the Bay of Bengal as one river have built up what is known as the gangetic belt—the most fertile part of India. The legendary tradition of our D culture is deeply associated with these two rivers. Apart from providing succour to millions of people who inhabit this belt, Yamuna is said to have provided the backdrop of *Krishna Leela*. The catchment area of this river is spread over the Mussoorie Hills—otherwise known as the Doon Valley with which we are concerned. Before a quarter of a century, Yamuna was having adequate water flow through-out the E year. Unlike the Ganges which has her main tributaries originating from the snow-clad regions of the mountain range and melting snow in summer helping the tributaries to be perennial, the Yamuna used to receive the bulk of her water from the streams joining her in the lower regions. The Doon Valley used to receive sumptuous rains during the season; the tree roots helped the water to be stored; the lime stone F mines operated as aquifers. The stored water was released in a continuous process and the streams even without the support of melting snow, provided perennial supply to the Yamuna. Assured of such supply, the twin cities of Mussoorie and Dehradun grew up. Lower down, hundreds of villages and small towns had also sprung up.

G Lime stone mining operations in the Doon Valley became widespread during the decade between 1955 and 1965 and many of the leases were granted in 1962. In the decade after 1965, the depredations of mining began to be felt. Peace and tranquillity of the Valley was gone. Trees were felled at random and lush green forests disappeared. Blasting affected and shook up the hills. Rocks and scree rolled down H and killed or injured the cattle, damaged the cultivable lands and

adversely affected the villagers. The natural beauty of the Queen of the hill stations was no more to be seen. With the felling of the forests, rains became less, with the trees gone and the lime stone dug out, the aquifers ceased to exist. The streams got blocked by scree and stones and the flow of water was substantially reduced. Tourist traffic was adversely affected. Irrigation was no more possible. The tributaries no longer fed the Yamuna sufficiently. Dehradun experienced scarcity of even drinking water. These led to the despatch of the letter in July, 1983, to this Court.

The Doon Valley lime stone deposits are a gift of Nature to mankind. Underneath the soil cover there is an unseen store house of bountry almost everywhere. Similarly forests provide the green belt and are a bequest of the past generations to the present. Lime stone deposits if excavated and utilised get exhausted while if forests are exploited, there can be regeneration provided reafforestation is undertaken. Trees, however, take time to grow and ordinarily a 15 to 25 year period is necessary for such purpose.

We have already indicated that several expert Committees appointed by this Court have opined generally against continuing the mining activity in the Valley. The Second Working Group found in as late as 1987 that limited mining in the on-going mines was not congenial to ecological and environmental discipline. This Court by its order on October 19, 1987, (AIR 1987 SC 2426) called upon the Union of India:

> "..... to place before the Court on affidavit the minimum total requirement of this grade of lime stone for manufacture of quality steel and defence armaments. The affidavit should also specify as to how much of high grade ore is being imported into the country and as to whether other indigenous sources are available to meet such requirement. This Court would also require an affidavit from responsible authorities of the Union of India as to whether keeping the principles of ecology, environmental protection and safeguards and anti-pollution measures, it is in the interest of the Society that the requirements should be met by import or by taking other alternate indigenous sources or mining activity in this area should be permitted to a limited extent. The Court expects the Union of India to balance these two aspects and place on record its stand not as a party to the litigation but as a protector of the environ-

A ment in discharge of its statutory and social obligation for the purpose of consideration of the Court ....."

The two affidavits filed on behalf of the Union of India have been dealt with elsewhere in the judgment and it would be sufficient for the instant aspect to extract from the affidavit of Mr. Seshan, Secretary to
B the Government in the Ministry of Environment and Forests, where he has stated:

> "5.1 Union of India submits that from the point of view of protection of the environment in the unique Doon Valley, it would be desirable that lime stone mining operations in the Valley are stopped completely."
C

Mr. Nariman questioned the value of this statement in view of the indication in the affidavit that it was the department's submission to the Court. We do not think that the Ministry Secretary's affidavit can be brushed aside that way. Read in the background of the directions in
D the Order of 19th October, 1987, and in the sequence of the first affidavit not having been accepted by the Court as compliance, we must assume that Mr. Seshan has disclosed the stand of the Union of India with full authority and with the intention of binding the Union of India by his statement.

E We are separately dealing with the Forest (Conservation) Act and its bearing and effect on this aspect. It is sufficient to note that the Act does not permit mining in the forest area. We are also satisfied that if mining activity even to a limited extent is permitted in future, it would be not congenial to ecology and environment and the natural calm and peace which is a special feature of this area in its normal
F condition shall not be restored. This tourist zone in its natural setting would certainly be at its best if its serenity is restored in the fullest way. We are of the considered opinion that mining activity in this Valley must be completely stopped but as indicated in another part of this judgment such a situation will be available only after the original leases of the working mines are over.

G

It is time to turn to the contention relating to forests. Air and water are the most indispensable gifts of Nature for preservation of life. Abundant sun-shine together with adequate rain keeps Nature's generating force at work. Human habitations all through the Ages have thrived on river banks and in close proximity of water sources.
H Forests have natural growth of herbs which provide cure for diseases.

Our ancestors knew that trees were friends of mankind and forests were necessary for human existence and civilization to thrive. It is these forests that provided shelter for the *'Rishies'* and accommodated the ancient *'Gurukulas'*. They too provided food and sport for our forefathers living in the State of Nature. That is why there is copious reference to forests in the Vedas and the ancient literature of ours. In ancient times trees were worshiped as gods and prayers for up-keep of forests were offered to the Divine. In the Artharva Veda (5.30.6) it has been said:

> "Man's paradise is on earth;
> This living world is the beloved place of all;
> It has the blessings of Nature's bounties;
> Live in a lovely spirit."

In due course civilization developed and men came to live away from forests. Yet the human community depended heavily upon the forests which caused rains and provided timber, fruits, herbs and sports. With sufficient sun-shine and water there was luxuriant growth of forests in the tropical and semi-tropical zones all over the globe. Then came the age of science and outburst of human population. Man required more of space for living as also for cultivation as well as more of timber. In that pursuit the forests were cleared and exploitation was arbitrary and excessive; the deep forests were depleted; consequently rainfall got reduced; soil erosion took place. The earth crust was washed away and places like Cherapunji in Assam which used to receive an average annual rainfall of 500 inches suffered occasional drought.

Scientists came to realise that forests play a vital role in maintaining the balance of the ecological system. They came to know that forests preserve the soil and heavy humus acts as a porous reservoir for retaining water and gradually releasing it in a sustained flow. The trees in the forests draw water from the bowls of the earth and release the same into the atmosphere by the process of transpiration and the same is received back by way of rain as a result of condensation of clouds formed out of the atmospheric moisture. Forests thus help the cycle to be completed. Trees are responsible to purify the air by releasing oxygen into the atmosphere through the process of photosynthesis. It has, therefore, been rightly said that there is a balance on earth between air, water, soil and plant. Forests hold up the mountains, cushion the rains and they discipline the rivers and control the floods. They sustain the springs; they break the winds; they foster the bulks; they

keep the air cool and clean. Forests also prevent erosion by wind and water and preserve the carpet of the soil.

In the second half of the 19th Century felling of trees came to be regulated. In 1858, the Department of Forestry was set up and in 1864 the first Inspector General of Forests was appointed. In the following year the first Indian Forest Act came into the Statute Book to be followed by another Act in 1878 and yet another in 1927 which is still in force providing measures of regulation. This Act has been amended in the various States and presently reference shall be made to the relevant amendments in Uttar Pradesh.

Laying the railway track and providing sleepers therefor required clearing of forest areas and cutting down of trees. During the Second World War Indian forests were very badly mauled for various defence purposes. By the time India became independent it had about 2 per cent of the earth's land area, 1 per cent of productive forest area, 15 per cent of world's population and 10 per cent of world's animal life—a situation indicative of the fact that there was acute deficit of forest area. The Government of India declared its National Forest Policy in 1952 which laid down that forests should occupy 33 per cent of the land surface as against 23 per cent then attention was intended to be bestowed for expansion of forests in each of the Five-Year Plans that followed with a view to rehabilitating the forests. The demand occasioned by the growing population and the spread of economic development and consequent demand of timber as raw material as also feul led to excessive exploitation of the forests and consequent clearing of forest areas notwithstanding the declared of National Forest Policy.

It is interesting to note that the national per capita average of forest area works out to 0.11 hectare as against an international average of 1.5 hectare. State-wise, Arunachal Pradesh has per capita forest of 8.21 hectares which is the maximum and Haryana has the minimum being 0.01 hectare (figures based on Census Report of 1981 and the report of the Central Forestry Commission). While some of the advanced countries like Australia, Canada, Germany, Japan and United States have forest cover of higher area, on account of want of regulation and appropriate care and attention, this unhappy situation has arisen in India.

The Birla Institute of Scientific Research in its Report on Social Forestry in India: Problems and Prospects (1986) has indicated:

'The treeless expense of land provides an environment least conductive to healthy living. Tree leaves recharge the atmosphere with life giving oxygen, take away excess carbondioxide and transmit moisture to the atmosphere by way of transpiration. It is estimated that one hectare of woodland consumes 3.7tonnes of carbondioxide and gives out 2 tonnes of oxygen per year. Denied these beneficial processes, life becomes lead heavy. A tree-covered environment is much healthier to live and work in. Amongst the immediately perceptible effects of loss of vegetative protection are soil erosion, floods and droughts. If trees and other vegetations are present, they bear the burnt of winds, heat, cold and rain water, first in their crowns and foliage. The soil remains covered by humus, decomposing litter and freshly fallen leaves which protect it from direct action of the adverse natural forces. In a wooded area the flow of rain water gets regulated through the leaves and the spongy material overlying the soil; but in a barren, unprotected surface the rain drops hit the soil directly and the water flows torrentially, dislodging and carrying with it the soil participles which have taken hundreds of years to form. This results in disastrous floods in lower areas causing damage to life and property. Fast running water also causes landslides and other calamities en route. With all the rain water having run away in the form of floods the land surface losses its resiliance to drier spells and severe droughts are caused. The removal of soil by water produces fertility and the productive capacity of the up-lands to a considerable degree.

It is estimated that nearly 6,000 million tonnes of soil is washed away every year in floods. With that go 6.0 million tonnes of nutrients—more than the amount that is applied in the form of fertilisers."

We shall now deal with legislative measures to preserve the forests and impact of such provisions on mining after briefly referring to the legislative power in regard to forests.

"Forest" was initially a State subject covered by Entry 19 in List II of the Seventh Schedule. In 1976, under the 42nd Amendment the entry was deleted and entry 17-A in the Concurrent List was inserted. The change from the State List to the Concurrent List was brought

about following the realisation of the Central Government that forests were of national importance and should be placed in the Concurrent List to enable the Central Government to deal with the matter. The same amendment of the Constitution brought in Article 48-A in Part IV providing thus:

> "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country."

Article 51-A in Part IV-A of the Constitution inserted by the same amendment provided a set of fundamental duties and clause (g) runs thus:

> "It shall be the duty of every citizen of India—
>
> .....
>
> (g) to protect and improve the natural environment including *forests*, lakes, rivers and wild life and to have compassion for living creatures."

1972 marks a watershed in the history of environmental management so far as India is concerned. The National Committee of Environment and Planning and Coordination was set up and various steps were taken to implement the recommendations already made and to be made thereafter. The National Commission on Agricultural in 1976 noticed the inadequate implementation of the 1952 National Forest Policy and proposed the following amendments:

> (i) Provision for prior approval of the Central Government before taking steps for dereservation or diversion of forest lands to non-forest use.
>
> (ii) Preventing and evicting encroachment of forest lands.
>
> (iii) Safeguarding against monoculture practices in raising forest plantations so that preservation of habitats for natural flora and fauna is ensured.
>
> (iv) Encouraging large scale industrial plantation to foster growth of forest industries.

The problem of forest preservation and protection was no more to be separated from the life style of tribals. The approach required a shift from the dependence on law and executive implementation to dependence on the conscious and voluntary participation of the masses. This required educating the masses as well as appropriate education of the departmental employees. In this background the Forest (Conservation) Act of 1980 was enacted with which we propose presently to deal after noticing certain provisions of the Indian Forest Act of 1927.

The Forest Act of 1927 deals with four categories of forests, namely—

1. Reserved Forests in Chapter II
2. Village Forests in Chapter III
3. Protected Forests in Chapter IV
4. Non-Government Forests in Chapter V.

The first three categories deal with forests which are Government property while the last refers to control over forests and lands which are not Government property. Most of the private forests covered under the fourth category were earlier parts of estates which have now been abolished and thus such forests have also become Government property. In Uttar Pradesh there have been several amendments of the Forest Act and Chapter V-A has been incorporated which provides for control over forests of claimants. Detailed procedure has been laid in Chapter II in respect of reserved forests. Section 3 vests power in the State Government to reserve forests. The process for reservation of forests starts with section 4 and ends up with the final declaration under section 20. Section 27 vests power in the State Government to declare a forest to be no longer reserved.

As noticed earlier, notwithstanding the regulatory provisions in the Forest Act of 1927 and the Government's National Forest Policy of 1952, forests generally got rapidly depleted. To meet this alarming situation the Forest (Conservation) Ordinance of 1980 was promulgated by the President and the Ordinance was followed by the Forest (Conservation) Act of 1980. The statement of objects and reasons, as far as relevant, point out:

A "Deforestation causes ecological imbalance and leads to environmental deterioration. Deforestation had been taking place on a large scale in the country and it had caused widespread concern.

With a view to checking further deforestation the B President promulgated on the 25th October, 1980, the Forest (Conservation) Ordinance, 1980. The Ordinance made the prior approval of the Central Government necessary for dereservation of forests and for use of forest land for non-forest purposes. The Ordinance also provided for the constitution of an advisory committee to advice the C Central Government with regard to grant of such approval."

Section 2 of the Act which is relevant provides:

"Notwithstanding anything contained in any other D law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

(i) that any reserved forest (within the meaning of the expression reserved forest) in any law for the time E being in force in that State or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose.

F *Explanation*— For the purposes of this section *non-forest purpose* means breaking up or clearing of any forest land or portion thereof for any purpose other than reafforestation."

Thus the power which was vested in the State Government under G section 27 of the Indian Forest Act of 1927 or any other law containing a similar provision is now exercisable subject to prior approval of the Central Government.

This Court dealt with the provisions of the 1980 Act in the case of *Ambica Quarry Works* v. *State of Gujarat & Ors.*, [1987] 1 SCC 213. H The question of renewal of mining leases in Gujarat came for consi-

deration in this case before the Court. At page 219 of the Reports, it was stated:

> "The rules dealt with a situation prior to the coming into operation of 1980 Act. '1980 Act' was an act in recognition of the awareness that deforestation and ecological imbalances as a result of deforestation have become social menaces and further deforestation and ecological imbalances should be prevented. That was the primary purpose *writ large* in the Act of 1980. Therefore, the concept that power coupled with the duty enjoined upon the respondents to renew the lease stands eroded by the mandate of the legislation as manifest in 1980 Act in the facts and circumstances of these cases. The primary duty was to the community and that duty took precedence, in our opinion, in these cases. The obligation to the society must predominate over the obligation to the individuals."

Again in paragraph 19, this Court observed:

> "In the instant appeals the situation is entirely different. The appellants are asking for a renewal of the quarry leases. It will lead to further deforestation or at least it will not help reclaiming back the areas where deforestations have taken place. In that view of the matter, in the facts and circumstances of the case, in our opinion, the ratio of the said decision *State of Bihar* v. *Banshi Ram Modi,* [1985] 3 SCC 643 cannot be made applicable to support the appellants' demands in these cases because the facts are entirely different here. The primary purpose of the Act which must subserve the interpretation in order to implement the Act is to prevent further deforestation. The Central Government has not granted approval ....."

The ratio of the decision of this Court in *State of Rajasthan* v. *Hari Shankar Rajindra Pal,* [1965] 3 SCR 402 has obviously no application to the facts of this case. In *Banshi Ram Modi'* case (supra) what was being considered was extension of the leases for another mineral which was found while exploitation, under the existing mining lease was undertaken. We agree with the view expressed by Brother Mukharji that the Conservation Act of 1980 applies to renewals as well and even if there was a provision for renewal in the lease agreement on exercise of lessee's option, the requirements of 1980 Act had to be satisfied before such renewal could be granted.

Many of these leases, as already indicated by us, expired in 1982.

A Renewal had been applied for and in many of these cases the request for renewal was rejected. On the plea that the State had no right to reject the request for first renewal, the aggrieved lessees went before different courts and obtained decrees or interim orders. We have already pointed out that in the order of 12th March, 1985, this Court vacated such orders or decrees regarding all C category and some B B category mines. It is clear from the directions contained in the order of 12th March, 1985, as also the ratio of the judgment in the *Ambica Quarry Works* case (supra) that even if there has been an order of the Court and no challenge is raised against such order this Court could invoke its jurisdiction to nullify the direction or order and if any order, direction or decree has been passed ignoring the provisions of the C Conservation Act of 1980 the same would not be binding. We have been given to understand during the hearing of these cases that appeals have been preferred by the State of Uttar Pradesh where decrees have been passed directing renewal. When this Court left the litigations to be continued, the Conservation Act of 1980 had not been noticed. Therefore, liberty had been granted to agitate the disputes D arising out of refusal to renew. In view of the provisions in the Conservation Act and the opinion expressed in *Ambica Quarry Works* case (supra), with which we are in agreement, the decrees also would not be sustainable where prior approval of the Central Government has not been obtained. We agree with Brother Mukharji that whether it is a case of first grant or renewal following exercise of option by the lessee, E the compliance of section 2 of the Conservation Act is necessary as a condition precedent. No useful purpose would be served by allowing the litigations to be continued in different courts, particularly when keeping the broad interest of society with reference to ecology and environment, we have come to the conclusion that mining in this area has to be stopped. Notice has to be taken of the situation that the F entire dispute has been before this Court and the scope of the dispute is comprehensive. All parties are before this Court. Parties have also been heard on various aspects at different times. An order made by this Court to nullify the decrees in such circumstances would not be violative of the principles of natural justice. Apart from the notice contained in the Court's Order of 19th October, 1987, where it had G been specifically stated that this Court was of the view that mining in the Doon Valley area should be totally stopped, the position was also made clear to different parties in course of the hearing which continued for several weeks. We, therefore, hold that if any decree or order has already been obtained from any court relating to renewal of these leases, the same shall stand vacated and similarly any appeal or H other proceeding taken to obtain a renewal or against orders/decrees granting renewal shall also become nonest.

We shall now turn our attention to the consideration as to whether mining should be totally stopped outright or in a phrased manner.

In our order dated 19th October, 1987, we had categorically indicated that mining in this area has to be stopped but instead of outright closing down total mining operations we were of the view that mining activity may have to be permitted to the extent it was necessary in the interest of defence of the country as also by way of the safeguarding of the foreign exchange position. Pursuant to our direction in the said order (AIR 1987 SC 2426) the Union of India filed an affidavit on 18th November, 1987, through Dr. S. Maudgal, Director in the Department of Environment, Forests & Wildlife in the Ministry of Environment and Forests. That affidavit *inter alia* stated:

> "3.1 The Ministry of Defence do not require any high-grade low silica limestone over and above what is needed for production of steel. Therefore, the limestone requirement of the Defence Ministry are fully covered in the requirement of the steel industry in the country.
>
> 3.2 High-grade limestone with low silica content is required in steel production only in the units which are operating on the LD process. As of today, only Bhilai, Rourkela, Bokaro and TISCO, Jamshedpur are operating on the LD process. The requirement of low-silica limestone in 1986-87 as provided by the Steel Authority of India Ltd. for its plants at 2,20,550 tonnes with the break-up given in Table-I.

TABLE I

Source	*Quantity received 1986-87*	*Planned 1987-88*
UPSMDC, Dehradun	18,300	100,000
RSMDC (Gotann/Jaisalmer)	183,000	200,000
Imported	19,250	100,000
	220,550	400,000

3.3 In addition to these steel plants, Durgapur Steel Plant & IISCO, Burnpur Plant is also expected to switch over to the LD process by 1994-95. The requirement of low silica limestone for the steel plants as projected in the report of the Steel and Mines, Department of Steel in March, 1987 is given in Table-II.

Plant	*1989-90*	*1994-95*	*1999-2000*
Bhilai Steel Plant	600	800	1,700
Durgapur Steel Plant	—	540	890
Rourkela Steel Plant	340	580	920
Bokaro Steel Plant	1,360	1,530	1,800
Indian Iron & Steel Co. Ltd.	—	330	610
SAIL TOTAL	2,300	3,780	5,990
Tata Iron & Steel Co. Ltd.	480	810	810
Vizag Steel Plant	300	550	750
Mini Steel Plants	50	100	200
TOTAL REQUIREMENTS	3,130	5,240	7,750

3.4 The occurrence of LD grade limestone deposits has been identified at Lambidhar, Barkot (Distt. Dehra Dun) in U.P., Gotan and Jaisalmer in Rajasthan, Solan in Himachal Pradesh and Khorram in Meghalaya. The deposits outside U.P. have not, however, been prospected/ explored in detail. Detailed exploration of these deposits is necessary for the preparation of mining and environmental manageemnt plants before definite assessment of the extent of production of LD-grade from these deposits can be determined. Jaisalmer being the most favoured deposit

should be explored on priority. All the same, *prima facie* availability pattern of the LD-grade limestone from various deposits is as given in Table-III.

TABLE III (000 tonnes)

Location	*1989-90*	*1994-95*	*1999-2000*
Gotan	400	800	800
Jaisalmer*	200	800	1,000
Lambidhar	240	450	450
Barkot	—	—	1,000
Solan	—	500	1,000
Meghalya	—	200	500
Katni/Satna	2,000	2,500	3,000
Total	2,840	5,250	7,750
Requirement	3,130	5,240	7,750
Surplus/Deficit	(-)290	—	—

*(Subject to broad gauge link with Jaisalmer)

3.5 Data furnished by the six mine owners whose quarries are operating shows that a total of 1,73,768 tonnes has been supplied to the steel plants from Dehradun-Mussoorie area during 1986 which is approximately 25% of their limestone production. In this context, the State Government of U.P. have brought the following facts to our notice:

> "It has to be pointed out that the Dehradun Mussoorie limestone belt also meets the requirements of our sugar industry, and the units set up for the manufacture of chemicals and paper. The following Table indicates the approximate short and long term requirements of industries that are dependent upon limestone from this belt:

	Short term	*(In tonnes) Long term)*
Sugar Industry	1,50,000	2,00,000
Chemicals & Paper Industry	3,00,000	4,00,000

There are over 90 sugar factories in the State which are traditionally dependent on limestone from Dehradun for use in the process of manufacture. Sugar industry in our State is a key agriculture based industry on which the economy of farmers of nearly 40 out of 57 districts depends. The limestone needs of this industry are, therefore, important for its survival. The chemical and paper industry further set up in Western and Northern U.P. with large investments, is also dependent upon Dehradun limestone for their existence. Mini cement plants located in Western U.P. and in the Doon Valley (M/s Venus Cements) utilise offgrade limestone generated from the mines consequent to their operations. This, in effect, helps with the control of pollution that would have occurred from mine wastes if dumped or allowed to roll into depressions, Valleys or stream beds; it also helps with conservation and maximum utilisation of the resource mined."

Adverting to the question as to whether mining activity in this area should be permitted to a limited extent, keeping the principles of ecology in view, the affidavit stated:

"The Union Government has all along taken the stand that the Doon Valley is a fragile eco-system and is endowed by nature with perennial water streams, lush green forests and scenic beauty. All these factors have contributed to Mussoorie being called the queen of hill stations and Dehradun becoming an important place of tourist atraction as well as centre of education. The unscientific and uncontrolled limestone quarrying operations spread over the entire 40 km. belt on the Mussoorie slopes however, endangered the delicate ecological balance resulting in ugly scars, excessive debris flow, drying up of water streams and perennial streams and rivulets and deforestation.

Taking note of the disastrous ecological conse-

quences, the technical group constituted by the State and Union Governments since 1979 have consistently recommended only controlled mining in this area. The Technical Expert Committee constituted by the Honourable Supreme Court under the Chairmanship of Shri D.N. Bhargav examined all the operating quarries and came to the conclusion that all of them, to a larger of smaller extent, have violated the statutory provisions relating to mines. Conditions in some of the mines were considered to be so bad that 20 of these were closed immediately in 1983. The Committee, under the Chairmanship of Shri D. Bandyopadhyaya examined the Mining and Environmental Management Plans prepared by parties and came to the unanimous conclusions that none of these plans are satisfactory. Therefore, the Bandyopadhyaya Committee strongly recommended that none of the mines reviewed by it should be allowed to operate. It is relevant to reiterate here that closure of these mines has been recommended by the Bandyopadhyaya Committee not just on the ground that they are located within the Mussoorie city limits but after due consideration of the environmental implications, status of preparedness of mining and Environmental Management Plans and capability of the lessee to undertake mining operations on a scientific basis so that the damage to life and property, apart from environmental degradation, is avoided. None of the mines already closed is, therefore, fit to be considered for operation.

A B C D E

It is the view of Government that to prevent any further degradation of the ecology and environment in the area and to allow for rejuvenation, it is essential that limestone mining operations, if they are to continue, should be on a limited scale and completely regulated to ensure that they are done in an entirely scientific manner consistent with the imperatives of preservation and restoration of the ecology and environment in this area. In order to meet the essential requirements of steel industry, it would be necessary to maintain supply of low silica limestone from the Dehradun Mussoorie area. The State Government of U.P. also has brought to our notice that certain other vital industrial and agricultural operations are dependant on limestone supplies from this area. In view of these considerations, it is felt that limestone mining on a limited scale may have to continue under strict regulation."

F G H

This affidavit of Dr. Maudgal was not accepted by this Court as it did not fulfil the requirements of the directions given in this Court's order dated 19th October, 1987. Then came another affidavit dated 24th February, 1988, by Shri T.N. Seshan, Secretary in the Ministry of Environment and Forests. This affidavit indicated that 90 per cent of the low silica high grade limestone was supplied by the Rajasthan mines to the Steel Authority of India Ltd. and 10 per cent of supplies came from the Dehradun quarries. Tata Iron and Steel Company at Jamshedpur, however, received a sizeable supply from the Dehradun quarries. According to this affidavit, in 1986, the total production of high grade limestone in the Dehradun-Mussoorie area was 6.02 lakh tonnes. The affidavit indicated availability of such limestone in several other parts of the country. In regard to import of limestone and foreign exchange components, this affidavit indicated that as low silica high grade limestone is available from indigenous sources, import thereof could be dispensed with. In paragraph 5 of this affidavit, the question as to whether keeping in view the principles of ecology, mining activity in the Dehradun-Mussoorie area could be permitted to a limited extent, perhaps as pleaded in the earlier affidavit, has been dealt with. This affidavit stated:

> "5.2 Now that high grade low silica limestone is also available in the extensive deposits covering large areas in the State of Rajasthan which can meet the requirements of the steel industry which also includes Defence requirements, there is justification for discontinuance of the existing mining operations in the Dehradun-Mussoorie area and, in fact, complete closure of the said mines in this area."

It is a fact that while in the first affidavit, controlled and limited mining was suggested, in the second affidavit filed after a gap of about three months total stoppage of mining activity in this area has been stressed. Counsel appearing on behalf of the State of Uttar Pradesh and UPSMDC offered serious criticism against this changed stance and we were called upon to reject the second affidavit also. We do not find any justification in this plea for rejection of the affidavit. This Court in its order of 19th October, 1987, had in clear terms indicated what aspects were exactly required to be answered by the affidavit of the Union of India. Since the first affidavit did not answer those points it was rejected and a further affidavit was directed to be filed. There can be no two opinions that both the affidavits pleaded for banning of mining; but the first affidavit suggested controlled and limited mining in view

of the demands while the second affidavit, on consideration of the fact that alternate sources were available for supply of the limestone of the desired quality, asked for total stoppage of mining operations. As we have already indicated in another part of this judgment, awareness of the environmental problem has been gradually increasing and though in the first affidavit, the Union of India had expressed its view that limited and controlled mining could be permitted, on a reconsideration of the matter and taking into account the relevant aspects for reaching its conclusion, the Union of India has come to adopt the view that there should be no mining in this area. We can well gather why the UPSMDC would feel aggrieved by the second affidavit but so far as the State of Uttar Pradesh is concerned, we do not see any justification in its critical stand against the second affidavit on the plea that the stand accepted in the first affidavit has been given a go by. Maintenance of the environment and ecological balance is the obligation of the State and the Central Governments and unless there was any real objection to the opinion of the Union of India as to continuing or closing down of mining activity, it should have been taken in the proper light and the little modified stand adopted in the second affidavit should have been welcomed.

In another part of our judgment we have found that the entire area is more or less forest. Many portions are reserved while others constitute forest land. It is indisputable that mining operations are detrimental to forest growth. In fact the Union Government in the Ministry of Environment and Forest have on 31st of May, 1988, informed the Secretaries of all the State Governments in the Department of Forest that even mining area below the forests would affect the forests.

The variation of the stand in the second affidavit that mining activity should be totally stopped is certainly an improvement on the stand taken in the first affidavit but we do not think there is any inconsistency in the stand inasmuch as the justification in support of the plea of total closure has been indicated.

Even before any of these two affidavits was filed this Court in its order of 19th of October, 1987, had clearly indicated that mining activity in this area should be totally stopped. The view expressed in the second affidavit is in accord with what this Court has stated. On assessment of the factual position, we do not think there is any substance in the argument advanced on behalf of the Uttar Pradesh Government, UPSMDC or any other mine owner which would justify our rejecting

A the second affidavit. We would like to add that this is not a case of a somersault as contended on behalf of the State Government of Uttar Pradesh nor has it been occasioned by any illegitimate consideration.

The point which still remains to be dealt with is whether mining activity should be totally stopped immediately.

B

It is the accepted position by all parties that low silica content limestone is necessary for manufacturing class steel. The earlier LD process is being abandoned by new factories and even some are switching over to new methods but for quite some time there would be demand for low cilica content limestone for manufacture of steel by the LD process. The alternate source which has been indicated in these C two affidavits of the Union of India is not readily available to the fullest extent. The Gotan-Jaisalmer belt has to be worked out in full swing and that would take some time. The main difficulty for the Jaisalmer production to reach the consumers is the location of the mining area. It has no broad-gauge rail connection and admittedly the D location is in the interior. The consumer would immediately face transport difficulty until there is conversion of the railway track to broad-gauge and surface transport facility improves. Even if these facilities are made available, the distant location is bound to reflect itself in the cost factor.

E The question of foreign exchange component does not seem to be very material as the required type of mineral is indigenously available and import may not be necessary when the production in Rajasthan area increases. The fact that in the recent past the Tata Iron and Steel Company has made some import has indeed no real bearing on the question as that import has been necessitated on account of the F closure of the mines in this area and non-availability of the material from the alternate indigenous source.

We have already recorded a finding elsewhere in this judgment that most of these mines are either within reserved forests or in forest lands, as covered by the U.P. Amendment of the Forest Act. To these G areas the Forest Conservation Act applies and to allow mining in these areas even under strictest control as a permanent feature would not only be violative of the provisions of Forest (Conservation) Act but would be detrimental to restoration of the forest growth in a natural way in this area. Once the importance of forests is realised and as a matter of national policy and in the interests of the community, preser- H vation of forests is accepted as the goal, nothing which would detract

from that end should be permitted. In such circumstances we reiterate our conclusion that mining in this area has to be totally stopped.

There was some controversy as to whether some of the mines were located in the reserved forests. We have not made any attempt to resolve that controversy here as, in our opinion, whether the mines are within the reserved forests or, in other forest area, the provisions of the Conservation Act apply.

We do not agree with the submission advanced by Mr. Nariman for the intervener, Mr. Sibbal for the Uttar Pradesh Government, Mr. Yogeshwar Prasad for the UPSMDC, Dr. Singhvi for some of the mine owners and similar contentions advanced by other counsel of different mine lessees that there would be a total stalemate in the manufacture of drugs and sugar, as also steel, in case mining activity is stopped; yet we would accept this position that these would be hard-hit if mining activity in this area is stopped all of a sudden. With the pressing demand in the market and discovery of useful limestone deposits in other parts of the country apart from what has been indicated in the second affidavit of the Union of India the trade would adjust itself as every economic activity does. We are, however, of the view that the position should be monitored and the switch-over from the present position to a total ban should be spread over a period and not be sudden.

We have already taken note of the fact that for different reasons several mines are closed down and only six, as indicated in another part of this judgment, are working. Now that we have found that some mining activity for some more time in this area may be permitted under strict regulation, we have now to decide which of the mines may be permitted to work and for what period as also subject to what conditions.

Majority of the mining leases was granted in 1962. The lease period being 20 years, the original period of lease has expired in all such cases where the leases commenced from 1962. But following are the mines where the original grant is still valid and their date of expiry is separately indicated:

S. No.	Name of the lessee	Lease No.	Valid up-to
1.	U.P.S.M.D.C.	94	10.3.1996
2.	Sh. R.K. Oberai	72	10.4.1994
3.	Punjab Lime & Lime-stone Co.	96	12.12.1989

Apart from these three, there are four other mines which are also operating under decrees/orders of Courts as per the details below:

S. No.	Name of the lessee	Lease No.	Lease expired
1.	Punjab Lime & Stone Co.	14(ii)	2.12.82
2.	Ch. Ved Pal Singh	16	2.12.82
3.	Seth Ram Avtar	17	2.12.82
4.	Sh. C.G. Gujaral	76	15.12.82

In all these cases, the leases have expired and the lessor Government refused to renew them. The lessees have obtained orders from the Court and are working continuously. In view of what we have held, the orders or decrees become inoperative and are deemed to have been set aside by this judgment. Mining in these four leases must stop within one month from today.

Apart from the three working mines specified above where the Original Lease period is yet to expire, there are six other A category mines with valid leases which are not working now as per the particulars below:

S. No.	Name of the lessee	Lease No.	Valid up-to
1.	New Era Minerals	4	25.2.1990
2.	U.P. Minerals	8	10.4.1994
3.	Rajgiri Minerals	9	24.11.1992
4.	Anand Brothers	67	15.2.1992
5.	Uttrakhand Minerals	98	12.12.1989
6.	Vijayashree Minerals	99	20.3.1990

These mines are not operating at present for one reason or the other. On the 12th of May, 1985, the mines within the municipal limits of Mussoorie were directed to close down until they were cleared by the Bandyopadhyay Committee and that Committee did not clear any. So far as the first five mines are concerned, they are either within the municipal limits or within the forest area. We do not think it appropriate to allow them to operate until their lease periods lapse particularly when we have reached the conclusion that mining operation in this area should close down. An exception has to be made in the case of the mine being lease No. 99 where the lease period has to expire in 1990. The lease is of 15 acres of land and another 100 acres are from some private source. Mr. Jain appearing for the lessee had undertaken before us that over the 100 acres, there would be no mining operation and the lessee would immediately restore vegetation over the area and full forest growth will be available in regard to the 100 acres. The mine is neither within forest nor municipal area and minerals from this area would be removed not through the city limits. He has also assured us that immediately after the lease period is over, which would be about a year and half from now, the 15 acres would also be subject to reafforestation by the lessee. He has agreed to file a undertaking in this Court which we direct him to do within four weeks hence. On the undertaking being filed this mine, as a special case, shall be permitted to operate until the expiry of the lease. The Committee appointed under this order shall supervise the reafforestation programme undertaken by the lessee of lease No. 99 and in case it is of the view that the undertaking is not being properly worked out, on the report of the Committee to that effect, permission to work the lessee may be varied.

Mr. Jain appearng for another lessee and Mr. Pramod Dayal appearing for the lessee in respect of lease No. 67 had tried to make out specific cases. During the hearing of these cases we had felt impressed by what had been placed before us but since we have now taken a decision to close down mining activity in the area we do not think fresh mining operations where mining has already been stopped—whatever be the ground—should on principle be permitted. To make out a special case for a few lessees from amongst similarly placed mine owners on small differences for being permitted to work out stopped mines, in our opinion, would not be appropriate at this stage. On the other hand to treat them all as a class and subject them to a common order would be just and proper. We reiterate that the exception in the case of lease No. 99 is for testing the genuineness of the representation of the lessee and in consideration of the smallness of the area.

A We would like to notice at this place the contention of Dr. Singvi that A Category mine owners should not suffer on account of this Court's order and similar treatment to all A category mine owners should be given. There can be no two opinions about the Court extending equal treatment to all equally placed parties before it. It is, however, not correct that the A category mines which are operating B and those that are closed down are similarly situate. In fact, when the Court made the earlier order asking for closing down, the distinction was noticed and on that basis orders involving different treatments had been made. It may be that we have not found the distinction to be a tenable one at a later stage. But in the peculiar situation emerging in this case we do not accept the submission of Dr. Singhvi that those A category mines which had stopped working should be permitted to C run. There are certain situations where in the interest of general benefit to the community, interests of individual citizens may be overlooked. We are satisfied that this situation attracts that principle to operate and even if some of the mine owners are worse affected than some others, permission to reopen the mines located in the forests and D within municipal limits cannot be granted with a view to compensating them for being placed at par with the less affected group.

It is perhaps necessary to indicate why these three on-going mines whose original lease period has not lapsed are being permitted to continue mining. We have already taken note of the position that E UPSMDC is a public sector undertaking of the State of Uttar Pradesh and there has been a huge investment by the State in this establishment. It gives sizeable output. Though certain defects have been pointed out in its activities by the Working Group, we are of the opinion that if appropriately controlled, mining activities can be regulated and simultaneously reafforestation can be activised. So far F as R.K. Oberai is concerned, the Working Group has found least objection against it. The lease of Punjab Lime & Limestone Company shall have life of a little more than one year. All these three mines are running their initial lease period. No additional exercises are necessary to make them operative. If any of these mines is closed down there would be problem of unemployment. In regard to the mines closed for G more than three years, we do not think the labour is sitting idle and the mine owner is paying them. They must have got employed elsewhere or they have lost their service and have taken to alternate engagement. In our opinion, therefore, allowing these three on-going mines to operate for their initial period of lease is the most appropriate direction that can be given during the switch over from the present position H to one of complete closing down of mining operation. We, therefore,

permit these three mines to continue mining operation subject to compliance with all legal requirements and the additional conditions which we shall hereafter indicate. A

The next aspect to be considered is as to under what conditions mining operation by these three lessees should be permitted. The objections raised by the Working Group against the UPSMDC are germane and legitimate. We shall require this lessee to meet all these objections within a period of four months from now. If by the end of December, 1988, the lessee fails to comply with this direction to the satisfaction of the Monitoring Committee which is being set up by this Judgment, the Monitoring Committee is empowered to direct closing down of the mine subject to any other direction of this Court. So far as the other two mines are concerned, whatever objections have been raised by the Working Committee shall also be removed within the same time limit and on failure of compliance, they too shall be visited with the same consequences. B C

There is no dispute that continuance of mining operations affects environment and ecology adversely and at the same time creates a prejudicial situation against conservation of forests. It is, therefore, necessary that each of these working mines shall have to work with an undertaking given to the Monitoring Committee that all care and attention shall be bestowed to preserve ecological and environmental balance while carrying on mining operations. 25% of the gross profits of these three mines shall be credited to the Fund Incharge of the Monitoring Committee in such manner as the Committee may direct and the Committee shall ensure maintenance of ecology and environment as also reafforestation in the area of mining by expending money from the fund. In the event of expenses exceeding the contribution by these three respective lessees, the Committee shall report to this Court for directions. On the expiry of their respective leases, they shall not be entitled to carry mining operation and by operation of this judgment shall have to wind up. No application for renewal shall be entertained from them. These three lessees as also any other lessee shall not be entitled to any compensation for closing down of the mines under orders of this Court. D E F G

In the Order of 12th March, 1985, a three-Judge Bench of this Court had indicated that the mine owners who had been displaced should be rehabilitated. There is no material on record if any alternate provision has been made either by the State of Uttar Pradesh or the Union of India. On-going leases have been terminated under orders of H

this Court without provision for compensation. Indisputably displacement has been suffered by these lessees and the sudden displacement must have up-set their activities and brought about substantial inconvenience to them. The Court has no other option but to close down the mining activity in the broad interests of the community. This, however, does not mean that the displaced mine owners should not be provided with alternative occupation. Pious observation or even a direction in that regard may not be adequate, what is necessary is a time frame functioning if rehabilitation is to be made effective. It is, therefore, necessary that a Committee should be set up to over-see the rehabilitation of the displaced mine owners. The Uttar Pradesh Government, as apprehended by many of these mine owners, by itself may not be able to meet the requirements of the situation. It may be that all the displaced mine owners may not find suitable placement within the State of Uttar Pradesh. It is, therefore, necessary to associate of some other States in the programme. Unless a High Powered Committee is set up wherein Union of India is also represented, the Committee to be constituted may not be effective and there may be lack of coordination. There is material that lime stone quarries are available in Rajasthan and Gujarat. It is, therefore, necessary that representatives of these State Governments are also on the Committee. We accordingly direct a Committee to be set up with representatives of the Union of India, the State Governments of Uttar Pradesh, Rajasthan and Gujarat. While effecting rehabilitation by giving alternate mining sites, ecology and environment will have to be considered. It is, therefore, necessary that on such Committee the Ministry of Environment should also be represented. Apart from them there should at least be two experts. We direct constitution of a Rehabilitation Committee with the following members:

1. Secretary, Department of Mines, Government of India—Chairman.

2. Secretary, Department of Environment and Forest, Government of India—Member.

3. Secretaries, Department of Mining of the States of Uttar Pradesh, Rajasthan and Gujarat—Members. Mr. Anil Agarwal of Centre for Science and Environment, G-92, Kalkaji, New Delhi, and Mr. Subrata Sinha, Senior Deputy Director General, Geological Survey of India, 27, Jawaharlal Nehru Road, Calcutta, are nominated as the expert members of this Committee. The Committee shall have an officer of the grade of Under Secretary to the Government of India as its Secre-

tary and the minimum skelton staff for carrying its activities. For convenience, the office may be located for the time being in the Ministry of Steel and Mines at New Delhi. The Ministry of Environment and Forest is directed to deposit a sum of Rs.3 Lacs in the Registry of this Court within four weeks from today to be transferred to the Committee for the purpose of the Committee subject to appropriate accounts to be rendered to the Ministry concerned. The Committee is directed to make an initial report on the problem and the manner it proposes to tackle it within eight weeks from today. On the basis of such report, further directions shall be made. The laws in force shall have to be kept in view and the above-named members are directed to extend full cooperation with zeal and a sense of understanding of the problems so that rehabilitation can be done as a part of the environmental programme.

The Court is of the view that a Monitoring Committee is necessary for reafforestation of the areas as also for over-seeing the running of the three mines. The State of Uttar Pradesh has already undertaken a reafforestation programme in the area. The record, however, does not indicate much of improvement yet. We have taken note of the position that the Uttar Pradesh Government has a Master Plan for the Doon Valley spread over a quarter of century beginning with 1986. Since the Court has stepped in to close down mining operation in this area except to a very limited extent, we are of the view that a High Powered Committee should be set up to look after reafforestation, mining activities and all other aspects necessary to bring about natural normalcy in the Doon Valley. Mr. K.P. Geetakrishnan, a Member of the Indian Administrative Service, now Secretary, Forest, Wild Life and Environment in the Central Government, in our opinion, should be made the Chairman of the Monitoring Committee. Mr. D. Bandyopadhyay, a member of the Indian Administrative Service, now Secretary, Department of Revenue in the Central Government, who had headed a Committee set up by this Court is aware of the problems of this area. We are of the opinion that he should be made a Member of the Monitoring Committee. The Head of the Indian Defence Academy, the Head of the Indian Forest Institute, the Head of the establishment of ONGC (all located at Dehradun), the Secretary, Forest Department of the Uttar Pradesh and the Chairmen of the Mussoorie and Dehradun municipalities, and two public spirited citizens—one belonging to Mussoorie and another to Dehradun area are to be the members of this Committee. The two non-official members shall be co-opted by the Committee. The Committee shall have its office at Dehradun in the accommodation to be provided either by the

A ONGC or the Forest Staff College. The Government of Uttar Pradesh is directed to deposit a sum of Rs.5 Lacs for creating the initial fund of the Monitoring Committee. The amount should be deposited in the Registry of this Court within four weeks from now. It shall be open to the Monitoring Committee to appoint a skelton staff with the suitable officers to run the establishment. We hope and expect that the con-
B cerned Governments will permit their officers to undertake the respective assignments in public interest and we expect the officers also to extend their whole-hearted support to work out the trust reposed in them. The Monitoring Committee shall have powers to over-see reafforestation in the area by the State of Uttar Pradesh and undertake an appropriate scheme of reafforestation. It shall ensure that mining
C activity by the three on-going mines is carried out in accordance with law and with appropriate safeguards from environment and ecology point of view. It shall also ensure that the scree is removed from the natural streams and the flow of water is maintained. After the Committee makes its initial report within eight weeks from now to the Registry further directions as necessary shall be given.

D

It is not our intention to continue control over these matters. Once this Court is satisfied that the Committees are operating on the right lines we shall consider whether it is any longer necessary for the Court to supervise their activity.

E

Before we part with the case, we must indicate our appreciation of services rendered by the petitioners and their counsel to the cause, the cooperation and understanding extended by the mine owners, their counsel, the Members of the several Committees constituted by the Court but for which these proceedings could not have come to termi-
F nate in the present manner. The records of the case have become unusually bulky and but for the continued assistance of Mr. Parmod Dayal, a member of the bar of this Court, it would indeed have been difficult for us as also parties and their advocates to handle the matter with ease. Mr. Parmod Dayal deserves our commendation for the labour he has put in. He was appearing for some of the lessees but he
G assisted the Court very willingly as and when called upon. We are of the view that he should be paid a total sum of Rs.5,000 (Rupees Five Thousand only) for the services rendered. We direct the Union of India to deposit the said amount with the Registry of this Court within two weeks from now. This amount when deposited shall be paid to Mr. Parmod Dayal.

H

The writ petitions are disposed of. There would be no order for costs. We direct that the reports of the two Committees, as and when received, shall be placed before this Court for directions. A

R.S.S.

Petitions disposed of. B