



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3776 OF 2020

DHRUVA ENTERPRISES

...APPELLANT(S)

VERSUS

C. SRINIVASULU AND OTHERS

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. The appellant has approached this Court being aggrieved by the impugned judgment and order dated 17th January 2020, passed by the National Green Tribunal, Principal Bench, Delhi, thereby allowing the appeal filed by respondent Nos. 1 to 3 and directing the Ministry of Environment & Forest and Climate Change to conduct Environment Impact Assessment Appraisal in terms of EIA Notification 2006, and subsequent amendments

thereunder and also to conduct public hearing and impose whatever conditions they may find necessary and appropriate for carrying out mining operation. By the impugned judgment and order, the Tribunal has further directed suspension of the mining operations until the completion of the said exercise.

2. Facts in brief giving rise to filing of the present appeal are as under:-

The appellant had applied on 28th July 2016 for Mining Lease for Quartz and Feldspar mining over 29 hectares of land in Sy. No. 330/1, Kalwakole Village, Peddakothapally Mandal, Mahabubnagar District, State of Telangana. The total land in the said survey number was 109 Acres and 08 Guntas (approximately 44 hectares), out of which the appellant had applied for 29 hectares. In the application submitted by the appellant, it was stated that the nearest human habitation was Yenambetla, existing at a distance of about 1.6 km from the applied area. It was further stated in the application that the

nearest water body was at a distance of 0.25 km named as Singotham Lake.

3. The application of the appellant was processed at various stages including the Revenue Divisional Officer (hereinafter referred to as the “RDO”), Nagarkurnool, Assistant Director of Mines and Geology, Mahabubnagar and Director of Mines and Geology, Hyderabad, Government of Telangana. Vide communication dated 7th September 2016, the Director of Mines and Geology, Hyderabad, Government of Telangana informed the appellant that after careful examination of the proposal submitted by the appellant, the Assistant Director of Mines and Geology, Mahabubnagar had recommended for grant of Quarry Lease in favour of the appellant for Quartz and Feldspar over an area of 24 hectares in Sy. No. 330/1, Kalwakole Village, Peddakothapally Mandal, Mahabubnagar District, Telangana. The appellant was directed to submit a Mining Plan approved by Joint Director of Mines and Geology, Hyderabad for the proposed area within a period of six months

from the date of the said communication. The appellant was directed to submit Consent from the Telangana State Pollution Control Board and also Environmental Clearance (hereinafter referred to as “EC”) from the Ministry of Environment & Forest (hereinafter referred to as the “MoEF”) as per the Environment Impact Assessment Notification (hereinafter referred to as the “EIA Notification 2006) dated 14th September 2006 and 15th January 2016. It was also stated in the said communication that if the appellant fails to submit the Approved Mining Plan within the stipulated period, it will be presumed that the appellant was not interested in getting the Quarry Lease for the said area and further course of action will be initiated in accordance with law. Thereafter, the State Environment Impact Assessment Authority, Telangana (hereinafter referred to as the “SEIAA”) examined the said proposal in accordance with EIA Notification 2006 and the subsequent amendments thereof and exempted the same from the process of public hearing as the mining lease area was less than 25 hectares. The SEIAA

accorded EC on 11th April 2017, with specific and general conditions.

4. Challenging the same, the respondent Nos. 1 to 3 filed an appeal under Section 16 read with Section 18(1) and Section 15 of the National Green Tribunal Act, 2010 (hereinafter referred to as the “said Act”) before the National Green Tribunal, Southern Zone, Chennai being Appeal No. 582 of 2017 (SZ), which was transferred to National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as the “Tribunal”) being Appeal No. 24 of 2018, wherein a two-fold challenge was made by the respondent Nos. 1 to 3: first, that the area was reduced from 29 hectares to 24 hectares only in order to avoid the rigours of public hearing and second, that the Singotham Lake was in close proximity of the proposed mining area and as such, the EC granted, was not correct in law.

5. In the said proceedings, the learned Tribunal had passed an interim order on 24th April 2018, thereby staying the order challenged in the appeal. Being aggrieved thereby, the

appellant had approached this Court being Civil Appeal No. 8130 of 2019. This Court vide its order dated 8th November 2019, requested the learned Tribunal to hear the matter on 22nd November 2019. Accordingly, the learned Tribunal after hearing the counsel for the parties, found favour with both the grounds raised by respondent Nos. 1 to 3 and allowed the appeal by passing the order as aforesaid. Being aggrieved thereby, the appellant has approached this Court.

6. We have heard Mr. K.V. Viswanathan, learned Senior Counsel appearing on behalf of the appellant, Mr. Sandeep Singh, learned counsel appearing on behalf of respondent Nos. 1 to 3, Ms. Aishwarya Bhati, learned ASG appearing on behalf of respondent No.4-Union of India and Mr. Dhananjay Baijal, learned counsel appearing on behalf of respondent No.9-State Pollution Control Board, Telangana.

7. Mr. Viswanathan, learned Senior Counsel submitted that the learned Tribunal has grossly erred in coming to the conclusion that the area was reduced by the appellant from 29

hectares to 24 hectares only in order to avoid the rigours of public hearing. He submitted that the appellant had no role to play in such a reduction. As a matter of fact, the appellant had applied for an area admeasuring 29 hectares. It was only the authorities which had reduced the area. He further submitted that the ground with regard to Singotham Lake being in the close proximity to the proposed mining area, is also totally erroneous. The learned Senior Counsel, relying on the Google Maps as well as photographs, would submit that the distance between the proposed mining area and the Singotham Lake is 0.25 km. It is therefore submitted that the said distance is in accordance with the requirements of law.

8. Mr. Viswanathan took us through various documents to show that while granting EC, the entire procedure required to be followed under EIA Notification 2006 was followed. The proposal underwent scrutiny at various stages and only thereafter, the SEIAA had granted EC in favour of the appellant.

9. Mr. Sandeep Singh, learned counsel appearing on behalf of respondent Nos.1 to 3 submitted that if the distance between the proposed mining area and the water body is more than 0.25 km, the said respondents would not have any objection of permitting mining activities. The learned counsel for the State as well as the State Pollution Control Board also supported the case of the appellant.

10. In view of the concession granted by respondent Nos. 1 to 3, we could have very well disposed of the appeal. However, since the issue involved is with regard to environment, we have considered the appeal on merits.

11. As per the guidelines framed by the Government of Telangana dated 19th January 2015, for land admeasuring between 15 hectares to 30 hectares, the competent authority, for issue of 'No Objection Certificate' (hereinafter referred to as the "NOC"), for Mining Lease and Quarry Lease in respect of Government/Patta Lands, is with the RDO/Sub-Collector. After the application was made by the appellant for grant of Mining

Lease, a letter was addressed by the Assistant Director of Mines and Geology, Mahabubnagar to RDO, Nagarkurnool, Mahabubnagar on 28th July 2016. Vide the said letter, the RDO was instructed to consider the following aspects while issuing NOC:-

1. "Extent of Land.
2. Classification of Land.
3. Proximity to Forest, Tank, Lake or Irrigation Source.
4. Proximity to habitation.
5. Whether mining will affect habitation.
6. Whether mining will affect agriculture in neighbouring lands."

12. The RDO was required to submit its report within 30 days from the date of receipt of the said letter. It further appears that on 6th August 2016, the Tahsildar, Peddakothapally, after personally inspecting the site along with the Assistant Revenue Inspector, Peddakothapally, submitted its report to RDO. The relevant part of the said report reads thus:-

"In view of the above myself and ARI of Peddakothapally Mandal have been proceeded to the Sy No. 330/1, and found that the said land Sy No. 330/1 of Kalwakole is a Govt. land (P.P) covered by hillrock to an extent of Ac 109.08 gts and there is no objection for allotting the said part of land to

M/s Dhruva Enterprises. Further submitted that the Mandal surveyor has been prepared sketch and the extract of Khasra 1954-55, pahani for the year 2015-16 and same are enclosed herewith. The detailed report is as follows:-

- | | | |
|---|---|--|
| 1. Extent of Land | : | AC 109.08
gts. |
| 2. Classification of Land | : | Govt. Land
(P.P) |
| 3. Proximity to Forest, Tank,
Lake of Irrigation Source | : | The canal is
situated 1.00
Km for away
from the said
Sy. No. |
| 4. Proximity to habitation | : | There is no
habitation
nearby. |
| 5. Whether mining will affect
habitation | : | Not affected
to the
habitation |
| 6. Whether mining will affect
agriculture in
neighbouring lands | : | No, not
affecting to
the
Agriculture
lands |

I, therefore, request you to kindly lease may be granted in favour of M/s Dhruva Enterprises, rep by S. Venkateshwar Rao over the Sy No. 330/1 an extent 109.08 gts situated within the limits of Peddakothapally mandal is feasible to lease the land.”

13. After the report of the Tahsildar was received, the RDO, Nagarkurnool granted 'NOC' vide communication dated 8th August 2016. The relevant part of the said communication reads thus:-

“In this regard, the Tahsildar Peddakothapally has reported that the Sy. No. 330/1, and found that the said land Sy. No. 330/1 of Kalwakole is a Government land (P.P) covered by hillrock to an extent of Ac. 109.08 gts and there is no objection for allotting the said part of land to M/s Dhruva Enterprises. Further, it is submitted that the Mandal Surveyor has been prepared sketch and the extract of Khasra 1954-55, Pahani for the year 2015-16 and same are enclosed here with. The detailed report is as follows:

1.Extent of Land	:	Ac. 109.08 gts.
2. Classification of Land	:	Government Land (P.P)
3. Proximity to Forest, Tank, Lake of Irrigation Source	:	The canal is situated 1.00 KM for away from the said Sy. No.
4. Proximity to habitation	:	There is no habitation near by, but existing 1 KM away.
5. Whether mining will affect habitation	:	Not affected to the

6. Whether mining will affect agriculture in neighbouring lands	:	habitation No, agriculture lands are existing 500 Mts. Away from the site.
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Therefore, the Assistant Director of Mines & Geology, Mahaboobnagar is requested to grant lease permission in favour of M/s Dhruva Enterprises, rep. by S. Venkateshwar Rao over the above Sy. No. to an extent of Ac. 109.08 gts situated within the limits of Kalwakole Village of Peddakothapally Mandal as per rules.”

14. Vide communication dated 7th September 2016, the Director of Mines and Geology, Hyderabad, Government of Telangana granted ‘in-principle’ approval for a Quarry Lease for Quartz and Feldspar over an extent of 24 hectares. While doing so, the Director of Mines and Geology, Hyderabad directed the appellant to submit a Mining Plan approved by the Joint Director of Mines and Geology, Hyderabad, Government of Telangana within six months from the date of issue of the notice. It was also directed to submit the Consent from the State Pollution Control Board, Telangana and EC from MoEF, as per EIA Notification 2006 and subsequent amendments

thereof. The relevant part of the said communication reads thus:-

“After careful examination of the proposals of the Asst. Director of Mines & Geology, Mahabubnagar in principle, it has been decided to grant a Quarry Lease for Quartz and Feldspar over an extent of 24.00 Hect. in Sy. No. 330/1 of Kalwakole Village, Peddakothapally Mandal, Mahabubnagar District in favour of M/s Dhruva Enterprises, Rep: by Sri S. Venkateshwar Rao for a period of 20 years subject to submission of Approved Mining Plan within a period of (6) months from the date of issue of this notice as per Rule 12(5)(c) of T.S. Minor Mineral Concession Rules, 1966 alongwith CFE from ESPCB and Environmental Clearance from MoEF.

However, the approved mining plan shall also reflect the restriction to be adopted by the applicant while conducting quarry operations due to the existence of structures, like temples railway line, roads, water bodies such as river, lake etc., and the stipulated distances as per the various Regulations prescribed under Mines & Metalliferous Regulations, 1961. The safety measures to be taken are also to be incorporated.

In view of the above, M/s. Dhruva Enterprises, Rep: by Sri S. Venkateshwar Rao is hereby requested to submit Mining Plan approved by Joint Director of Mines & Geology, Hyderabad for the proposed precise area within a period of (6) months from the date of issue of this notice and also along with the Consent for Establishment from T.S. Pollution Control Board and Environmental Clearance from Ministry of Environment and

Forests as per Environment Impact Assessment Notification through S.O. 1533, dt: 14.09.2006 read with S.O. No. 141(E), dated 15.01.2016 to consider for grant of Quarry lease for Quartz and Feldspar in the subject area. If the applicant fails to submit the Approved Mining Plan within the stipulated period, it will be presumed that the applicant is not interested in getting the Quarry lease over the subject area and further course of action will be initiated as per Rules. A copy of the Surveyed sketch showing the precise area of 24.00 Hect. in Sy. No. 330/1 proposed for grant of Quarry Lease for Quartz and Feldspar in the subject area in favour of the applicant is enclosed herewith.”

15. Accordingly, the appellant submitted a detailed Mining Plan on 20th October 2016. The relevant part of the said Mining Plan reads thus:-

“(ii) Infrastructure and Communication:

Water: Sufficient quantity of drinking water is available in the nearby villages from bore wells and opens wells.

Electricity: Electricity is available at a distance of about 800 m from the applied lease area.

Rail Head: The nearest Railway station is Mahabubnagar about 100 Km from the applied Lease area.

River Head: No river a located in the vicinity of the Lease area. Singotam Lake is located at a distance of about 250 m from the applied area. Numerous tanks and bore wells constitute the main source of water in the area.

Communication: Telephonic Communication, Post Office, Bank, is available in Kalwakole and Peddakothapally.

Road: Road to the quarry is accessible throughout the year. Four-wheelers, two-wheelers, buses and autos ply on the road.”

16. In the meeting held on 30th December 2016 of the State Expert Appraisal Committee (hereinafter referred to as the “SEAC”), the proposal of the appellant came to be considered. The relevant part of the said Minutes of the Meeting reads thus:-

Agenda Item: 01	24.00 Ha. Quartz and Feldspar Mine of M/s. Dhruva Enterprises, Sy. Nos. 330/1, Kalwakole (V), Peddakothapally (M), Mahabubnagar District – Environmental Clearance – Reg.
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The representative of the project propone Sri Dr. S. Venkateshwar Rao; and Sri M. Venkatesh of M/s. Global Enviro Labs & Consultants, Hyderabad attended and made a presentation before the SEAC.

It is noted that the mine lease area is 24.00 Ha. which is less than 25.0 Ha. The project is

considered under B1 Category as per the guidelines of the MoEF & CC, GoI. The proponent submitted Approved Mining Plan & EMP report.

It is noted from the Notice dt. 07.09.2016 of DMG, Hyderabad that the proponent obtained in principle grant of quarry lease for a period of 20 years. It is further noted that the quarry lease is not granted prior to 09.09.2013. hence, it has to be ascertained whether any other Mines are located surrounding 500m as Cluster, as per S.O. 2269(E), dt. 01.07.2016 issued by the MoEF & CC, GoI.

The proponent stated that there are no mining activities existing within 500m from the periphery of project.

The nearest village to the proposed site is Yenambetla (V) which is existing at a distance of 1.6 Km and Singotham Lake exists at a distance of 0.25 Km from the boundary of the site.”

17. After a detailed discussion, the project was recommended for grant of EC. Thereafter, the SEIAA, in its meeting held on 11th April 2017, considered the said proposal and granted EC to the project of the appellant. The relevant part of the said Minutes of the Meeting reads thus:-

“I. This has reference to your application submitted online on 14.11.2016 (proposal No. SIA/TG/MIN/60426/2016) received on 23.11.2016, seeking Environment Clearance for the proposed **Quartz & Feldspar Mine** in favour of **M/s. Dhruva Enterprises, Sy. Nos. 330/1, Kalwakole (V),**

Peddakothapally (M), Mahabubnagar District. It was reported that the nearest human habitation viz., Yenambetla (V) exists at a distance of about 1.6 Km from the mine lease area. It was also reported that Singotham Lake which is existing at a distance of 0.25 Km from the mine lease area. It was noted that the capital investment of the project is **Rs. 2.1 Crores** and maximum capacity of the project is as follows:

Mining of Quartz – 4,05,842 TPA

II. It is a semi-mechanized opencast quarry. The Blocks are cut by using jack hammer drilling, wedge-cutting and excavation. The separated blocks are dressed manually. It is reported that the life of the Mine is estimated as 18 years. The total mine lease area is 24.00 Ha.

III. The proposal has been examined and processed in accordance with EIA Notification, 2006 and its amendments thereof. The State Level Expert Appraisal Committee (SEAC) examined the application, in its meeting held on 30.12.2016 & 22.02.2017. The project is considered under B2 category and exempted from the process of public hearing as the mining lease area is less than 25 Ha., as per provisions laid under EIA Notification, 2006 & its subsequent amendments. Based on the information furnished, presentation made by the proponent and the consultant M/s. Global Enviro Labs, Hyderabad; In-principle grant of quarry lease by the DMG, Hyderabad Notice Dt. 07.09.2016 for a period of 20 years; Approved Mining Plan; Lr. dt. 12.01.2017 of ADMG: Nagarkurnol informing that there are no mines surrounding 500 mtrs as Cluster, the Committee considered the project and recommended for issue of EC. The State Level

Environment Impact Assessment Authority (SEIAA), in its meeting held on 14.03.2017 & 18.03.2017 examined the proposal and recommendations of SEAC, Telangana for issue of Environmental Clearance. Accordingly, after discussions in the matter and considering the recommendations of the SEAC, Telangana, **the SEIAA, Telangana hereby accords prior Environmental Clearance to the project** as mentioned at Para no. I under the provisions of EIA Notification 2006 and its subsequent amendments issued under Environment (Protection) Act, 1986 subject to implementation of the following specific and general conditions.”

18. Thereafter, vide order dated 22nd April 2017, the Government of Telangana granted Quarry Lease for Quartz over an extent of 24.00 hectares in Sy. No. 330/1 of Kalwakole Village, Peddakothapally Mandal, Nagarkurnool (erstwhile Mahabubnagar) District in favour of the appellant.

19. A perusal of the aforesaid documents would reveal that the appellant, in fact, had applied for grant of Mining Lease for 29 hectares. It is, however, the authorities including the Tahsildar, the RDO, Assistant Director of Mining and Geology, Mahabubnagar, who had recommended grant of Quarry Lease

over 24 hectares. Insofar as the water body is concerned, the appellant, in his application as well as Mining Plan, has clearly mentioned that Singotham Lake is situated at a distance of 0.25 km. While processing the proposal of the appellant, the Tahsildar and the Assistant Revenue Inspector of the concerned area have physically carried out the inspection. Not only that, the Assistant Director of Mines and Geology had personally inspected the area on 11th August 2016, and the Surveyor had surveyed the applied area with the help of a GPS instrument. It is also revealed from the record that the area of 24 hectares in Sy. No. 330/1, which consists a larger area, was earmarked after leaving the safety distance of 0.25 km from Singotham Lake. In its report, the Surveyor had also reported that the demarcated area was not overlapping with the existing leases and there were no pending applications in that area.

20. It could thus be seen that prior to grant of 'in-principle' approval by the Director of Mines and Geology, Hyderabad, Government of Telangana, the proposed area was physically

inspected by the Tahsildar along with the Assistant Revenue Inspector. The Assistant Director of Mines and Geology, Mahabubnagar had independently inspected the area. The area was surveyed by the Official Surveyor with the GPS instrument and while earmarking the area, the distance of 0.25 km was also maintained.

21. After 'in-principle' approval was granted, the appellant submitted its Mining Plan on 20th October 2016. The proposal of the appellant was thereafter considered by the SEAC on 30th December 2016, wherein it was resolved to recommend the proposal of the appellant for grant of EC. Thereafter, the SEIAA, in its meeting dated 11^h April 2017, has granted its EC after considering all the aspects. Thereafter, Quarry Lease has been granted in favour of the appellant on 22nd April 2017.

22. It could thus be seen that the proposal of the appellant has undergone scrutiny at various stages. Only after it was found that it was in conformity with the provisions of law, the 'in-principle' approval and EC for Quarry Lease had been

granted. Thereafter, the appellant has submitted his Mining Plan which was again duly examined by various authorities. The proposal of the appellant was initially considered by SEAC and recommended for grant of EC. Thereafter, SEIAA, after considering all the aspects has granted EC to the project of the appellant. Only thereafter, the Quarry Lease had been granted in favour of the appellant.

23. Insofar as the finding of the learned Tribunal that the area was reduced to 24 hectares from 29 hectares only in order to avoid the rigours of public hearing, is totally erroneous. The appellant had no role to play in the same. It is the authorities who recommended approval in respect of only 24 hectares. Insofar as the mandatory distance from the water body is concerned, the authorities upon survey had found that the mandatory distance of 0.25 km is maintained.

24. In this view of matter, we find that the learned Tribunal has grossly erred in arriving at a finding that the appellant had reduced the area to 24 hectares only in order to avoid the

rigours of public hearing and further that there was no distance of 0.25 km between the proposed mining area and the Singotham Lake.

25. In the result, the appeal succeeds and the impugned judgment and order dated 17th January 2020, passed by the learned Tribunal is quashed and set aside. No costs.

.....**J.**
[L. NAGESWARA RAO]

.....**J.**
[B.R. GAVAI]

.....**J.**
[B.V. NAGARATHNA]

NEW DELHI;
SEPTEMBER 15, 2021.