

ITEM NO.43

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.4164/2022

M/S HIMALAYA STONE INDUSTRY & ORS.

Appellant(s)

VERSUS

TEJINDER KUMAR JOLLY & ORS.

Respondent(s)

(IA No.77993/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.77996/2022-EX-PARTE STAY and IA No.77994/2022-EXEMPTION FROM FILING O.T.)

Date : 22-07-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. Shyam Divan, Sr. Adv.
Mr. Siddharth Dave, Sr. Adv.
Mr. Vivek Gupta, AOR
Mr. Ankit Verma, Adv.
Ms. Vidhi Thaker, Adv.

For Respondent(s) Mr. V K Shukla, Adv.
Mr. Sugam Mishra, Adv.
Ms. Pooja Aggarwal, Adv.
Mr. Sujeet Kumar, Adv.
Mr. SPM Tripathi, Adv.
Mr. Abhaya Nath Das, Adv.
Mr. N D Kaushik, Adv.
Mr. Ankit Verma, Adv.
Ms. Archana Kumari, Adv.
Mr. Rahul Gupta, Adv.
Mr. Shashank Sharma, Adv.
Ms. Riya Soni, Adv.
Mr. S S Bandyopadhyay, Adv.
Mr. Satish Kumar, AOR

Mr. Mukesh Verma, Adv.
Mr. Pawan Kumar Shukla, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. Shashank Singh, AOR

Mr. Sanjeev Uniyal, Addl.AG
Mr. Vishwa Pal Singh, AOR

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

After hearing the learned counsel for the parties, we would think that the appellants have made out a case for grant of stay of the impugned order. In this regard, we cannot be unmindful of the fact that the appellant Units were established in the year 1985/1987 respectively. The policy enunciated by the State of Uttarakhand in the year 2020 appears to exempt previously approved/established Stone Crusher, inter alia, from the duty to comply with the distance parameters which have been provided in the State Policy.

"2. OPERATION OF PRE-EXISTING STONE CRUSHER/SCREENING PLANT ESTABLISHED UNDER PREVIOUS POLICY:

The Previously approved/established Stone Crusher/Screening Plants have to comply with all norms of the policy within 3 months from promulgation of the policy, except provisions provided in Chapter-I, Point-3 regarding Distance parameters and provisions under Chapter-I, Point-7, Sub-Clause 3 (A & B).

But at the time of renewal, such established units shall fulfill all the prescribed norms except the parameters of distance."

As far as the Regulation as to noise level to be observed by Stone Crushers, inter alia, we notice the following:-

B. The Stone Crusher/Screening Plant established after declaration of this policy, shall install such equipment which comply with the following rules of Noise Pollution (Regulation & Control) Rules, 2000:-

Area Code	Category or Area/Zone	Limits in db(A) Leq	
		Day Time	Night Time
(A)	Industrial Area	75	70
(B)	Commercial Area	65	55
(C)	Residential Area	55	45
(D)	Silence Area	50	40

Note:- Day time shall mean time from 06:00 A.M. to 10:00 P.M. Night time shall mean time from 10:00 P.M. to 06:00 A.M. Stone Crusher/Screening Plant established before the notification of the policy will have to comply with the same standard.

In regard to the appellant Units being noise pollution compliant, our attention is also drawn to the joint inspection report on the hands of the joint inspection team which, inter alia, reported as follow:-

"XXI. The unit has provided tin shed in jaw crusher, Cone crusher, vibrating screen to control noise and fugitive emission. During inspection, noise monitoring was carried out at different locations of the stone crushers. Noise level was observed as 61.7, 69.1, 70.3, 69.0, 56.5, 51.8, and 58.2 which is meeting the stipulated norms.

No doubt, in answer to our query to the learned counsel for the *Uttarakhand Pollution Control Board* as to whether these observations have been made on the basis of the criteria fixed at page 258, namely, as to whether the area where the appellant Units are located within any of the area/zones, the response is that it appears to be a

mixed zone. Clarity in this regard, undoubtedly required. At the same time, as things stand, the position taken by the *Uttarakhand Pollution Control Board* is that the noise level observed during inspection is in conformity with the stipulated norms.

We are prima facie convinced that, the distance norms which have been proclaimed in the policy of 2020 cannot be made applicable to the appellant Units. We are also equally convinced that the appellant Units must comply with all the other criteria in regard to the environment and pollution.

In such circumstances, we pass the following order:-

There will be a stay of the impugned order and the appellant Nos. 1 and 2 are permitted to operate the Units. The operation of the Units by the appellant Nos. 1 and 2 will be strictly in accordance with all the norms which are applicable. These include and are not confined to the observance of the applicable limits as to noise and the drawing of the underground water.

We further direct that the Official(s) from the *Uttarakhand Pollution Control Board* will make frequent visits as are possible to ensure that the appellant Units are working strictly in conformity with all the applicable norms.

We direct that the *Uttarakhand Pollution Control Board* will at any rate make four peremptory and what is more important, surprise inspections to see that under the present order the appellants do not in any manner violate

any of the applicable norms. Still further, weekly reports will be sent to this Court, disclosing its observations/findings about the functioning of the appellant units. Since the learned counsel for the respondent, complains about the impact of the drawing of underground water, we deem it necessary to have assistance from the concerned Authority, namely, *Government of India, Ministry of Jal Shakti, Department of Water Resources, River Development & Ganga Rejuvenation, Central Ground Water Authority*.

Accordingly, we *Suo Motu* implead *Government of India, Ministry of Jal Shakti, Department of Water Resources, River Development & Ganga Rejuvenation, Central Ground Water Authority* which will be additional respondent. The appellants will serve a copy of the appeal and the papers on the said respondent within a period of two weeks.

The *State of Uttarakhand and Uttarakhand Pollution Control Board* will file affidavits and indicate as to how the area in which the appellant Units are functioning is to be categorised for the purpose of noise pollution. Such affidavits shall be filed within a period of three weeks from today.

The appellants will take all necessary steps to ensure that noise emitted is in strict conformity with the norms.

We record the submission of the *Uttarakhand Pollution*

Control Board that it will take all necessary steps for installing equipment to ensure that the appellant Units emit noise as is permitted in law.

Interim order to continue till the next date of hearing.

List the matter on 22.08.2022.

(JAGDISH KUMAR)
COURT MASTER (SH)

(RENU KAPOOR)
ASSISTANT REGISTRAR