

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Case: WP NO. 3339/2024 with I.A. No.4/2024**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[SRI C.G. KUMAR VS. STATE OF KARNATAKA AND OTHERS]

19.11.2024

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR JUSTICE K. V. ARAVIND

**ORAL ORDER ON I.A NO.7 OF 2024 AND
I.A NO.8 OF 2024 IN WRIT PETITION NO.19835 OF 2023
AND I.A No.4 OF 2024
IN WRIT PETITION No.3339 OF 2024**

(PER: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N. V. ANJARIA)

This common order will dispose of I.A No.7 of 2024 and I.A No.8 of 2024 in Writ Petition No.19835 of 2024 and I.A No.4 of 2024 in Writ Petition No.3339 of 2024.

2. Heard learned Advocate General Mr. K. Shashi Kiran Shetty assisted by learned Additional Government Advocate Smt. Niloufer Akbar for the applicant in I.A No.8 of 2024 filed in Writ Petition No.19835 of 2024 as well as for the respective respondents in the other petition/interim applications, learned Senior Advocate and Amicus Curiae Mr. Aditya Sondhi, learned Senior Advocate Mr. S.S. Nagananda for the applicant in I.A

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

No.4 of 2024 in Writ Petition No.3339 of 2024 and learned advocate Ms. Kusuma R. Prasad for learned advocate Mr.Lakamapurmath Chidanandayya for the petitioner in Writ Petition No.19835 of 2023.

3. The underlining controversy in all these cases is whether the petitioners which are the quarrying units and/or crushing units could be allowed to operate within 20 kms. radius from the Krishna Raja Sagar dam. The ground vibration which are generated because of the operations carried out by the units are seen as danger to the safety of the dam.

3.1 Writ Petition No.19835 of 2023 was filed by the petitioner, the case was that though it was located within 20 kms. of periphery of the dam, the petitioner had been carrying out only crushing activity and no quarrying activity was involved. The petitioner was aggrieved by condition No.8 in the Office Memorandum dated 15.05.2023 which provided that the order of deemed conversion of the land of the petitioner, would come into force only after trial blast is conducted by the Cauvery Neeravari Nigama Limited.

3.1.1 In view of the importance of the ultimate issue involved in the subject matter and its ramifications, this Court by the

WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024

order dated 08.01.2024 treated the petition as public interest petition. A detailed order dated 08.01.2024 came to be passed, wherein the Court observed, *inter alia*, that looking to the enormity of public interest involved, the request of the petitioners and like lease/quarry holders to hold their mining activities without blasting would not be acceded to unless further expert examination is undertaken, since the dam is a public property and the Court is the custodian.

3.1.2 This Court stated, extracting from paragraph 7,

"... We do not concede to the submission of learned counsel appearing for the Petitioner that his client should be permitted to carry on the mining activity sans blasting. Admittedly, Petitioner's mining area is within a radius of 20 kms from the Dam site. His submission that in several similar cases, the Authorities have accorded mining permission/licence and that this Court too has granted relief to the miners in the very same region, may be true. However, all those cases had arisen before the enactment of 2021 Act. Even otherwise, being the custodian of public property, the constitutional courts cannot turn a Nelson's Eye to the possible danger/damage posed to the Dam of this size. We need to take all steps that are required to prevent the possible damage because of mining activities. The enormity of public interest involved in this Petition filed by an individual for a private relief does not come in the way of we treating the same as a PIL Petition vide **STATE OF UTTAR PRADESH vs NEERAJ CHAUBEY, (2010) 10 SCC 320.**"

WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024

3.1.3 Recording the submission of learned *Amicus Curiae*, the Court issued following directions in the said order, reproducing paragraph 9,

“Mr. Sondhi was justified in submitting that the material placed before this court indicates that the statutory Committee conducted only one meeting in the year 2023, whereas the statutory requirement is minimum two meetings, annually. This does not accord with the policy content of the Act, to say the least. In matters of safety of huge Dams like this, such lapses are not condonable. We hope and trust that the Committee would convene meetings at least twice a year, if not more.”

3.1.4 Thereafter, Interim Application No.7 of 2024 came to be filed in the proceedings of Writ Petition No.19835 of 2023. The case of the applicant of the said interim application was that the applicant did not employ the use of blasting as a mode of quarrying and crushing. It was therefore submitted that the order dated 08.01.2024 could not be applied to the applicant and required to be modified to the effect that the applicant who was using non-blasting methods was entitled to continue the quarrying operations.

3.1.5 The Interim Application Nos.2 of 2024, 3 of 2024 and 6 of 2024 came to be filed by the respective applicants who made similar prayers for impleadment and permitting them to carry

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

out the quarrying/crushing operations on the ground that they are not conducting any blasting. In the order dated 05.03.2024, the Court noted that the State Level Dam Safety Committee was constituted, which was arrayed as respondent No.5 and that the said Committee was seized of the entire controversy.

3.1.6 It was stated in paragraph 5 of the said order,

“It is noticed by the court that a committee called ‘The State Level Dam Safety Committee’ is constituted. The said Committee is arrayed as respondent No.5 in the writ petition. The Committee is seized with the entire controversy pursuant to the aforesaid directions issued by this court in the order dated 08.01.2024. The committee has been examining the issues involved in the controversy and the attendant aspects. The Committee has been giving hearing to the interested parties and has been also taking into account all other relevant considerations.”

3.2 It was given out on behalf of the State Government that the report would be submitted by the Committee, inviting further attention of the Court that the process of trial blasting was underway and that it would take about four months time to complete. The Court observed that the different stages were exhausted and that the exercise should be completed within ten weeks having regard to the importance of the subject matter.

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

It was observed that the impleading applicants shall be entitled to approach respondent No.5-Dam Safety Committee, put forward their respective cases and the Committee in turn shall decide.

3.3 The proceedings then witnessed order dated 31.07.2024, in which it was observed that the Committee had been examining the issue in respect of the controversy as well as the related aspects, has been giving hearing to the interested parties and that the report shall be thereafter submitted. The Minutes of the Committee produced before the Court reflected that the Committee was wary to observe the directions of this Court on the spacious ground that the final decision was to be taken by the Court.

3.4 The above aspect was noted by the Court to reiterate that the Committee could proceed to consider the applications of different stakeholders-the quarrying units, issuing time bound directions and to place the decision on record of the Court. Paras 4 to 6.5 of order dated 31.07.2024 are quoted hereinunder,

"4. Today, when the proceedings came up for consideration before the Court, learned Government Advocate produced along with

WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024

memo dated 30.07.2024, the Minutes of the proceedings of the 3rd Meeting of the State Committee on Dam Safety held on 12.07.2024. The Minutes records the steps taken and proposed to be taken in respect of the safety issues of Krishna Raja Sagar Dam by the Committee. Learned Government Advocate took the Court through the contents of the Minutes of the Meeting.

5. What is to be noticed is that the Committee in the hind part of its report has noted that in connection with the issue involved, certain individual representations were received where the permission to carry on the mining operations was sought for. Having noted about the said representations, the Committee observed thus,

“Prof. Muddu Shekhar, IISc and member, SCDS expressed his opinion regarding above representations that as the matter is under trial in Hon’ble High Court, this committee has limitations to comment till a verdict is passed in the Court. All other members consented to the opinion of Prof. Muddu Shekhar.”

6. Thus, the Committee took the view that since the present proceedings are pending, the representations of the private parties could not be considered.

6.1 It is to be observed and clarified in the above regard that the pendency of the present petition shall not come in the way of the Committee to deal with and decide the individual representations which may be received by the Committee. On the contrary, the Committee is expected to go into the individual cases and take its own decision, to be intimated and to place on record of the Court such decision.

WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024

6.2 The order dated 28.03.2024 passed by the Division Bench of this Court in **Sri Manchammadevi Stone Crusher Vs. State of Karnataka and others** in Writ Petition No.5990 of 2024 is brought to the notice of the Committee in which also the Court has made observations and required the Committee to take into consideration the various aspects which may be raised by the private parties and take its decision.

6.3 It is again clarified that if any individual case or application is put before the Committee, the Committee shall go to the facts of such case individually and take decision.

6.4 Such decision however, shall be placed on record of the present proceedings, before it could take effect.

6.5 The decision which may be taken by the Committee in respect of individual cases shall take effect only after approval of this Court.”

3.5 The petitioner in Writ Petition No.29420 of 2024 is an applicant of I.A. No.2 of 2024 filed in Writ Petition No.19835 of 2024, who approached the Committee seeking permission to continue the quarrying activity, but the Committee refused to consider his application despite Court's order as mentioned above. The Dam Safety Committee in its meeting on 21st August 2024 discussed the issue and consequential endorsement was issued as under,

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

“However, since the work of reviewing permission of mining does not come under the purview of Water Resource Department, if there is no blasting activity in their quarry activity, they should submit a report to the relevant competent authority and convince them to obtain permission for their activity.”

3.5.1 After the aforesaid directions, whereby the cases were referred to the Dam Safety Committee, the development which took place gave raise to the captioned interim applications and in the process, other connected petitions are also taken up for hearing at the request of learned advocates.

3.6 Writ Petition No.3358 of 2024 was filed on 29.01.2024. The petitioner happened to be the owner of the land bearing Survey No.116/2 and 117/2 *admeasuring* 2 Acres situated at Alaphalli Village, Pandavapura *Taluka*, Mandya District which is situated around 7.5 kms. away from the dam site. It is the case of the petitioner that it was not carrying on any quarrying activity, nor using any blasting material but, it was a crusher unit only. The prayer in the petition was against the notice dated 20.01.2024. The said notice dated 20.01.2024 had reference of the order of this Court dated 08.01.224 passed in Writ Petition No.19835 of 2023. On the basis of the same, the petitioner was directed to temporarily suspend all the crushing

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

activities in its *patta* land bearing Survey Nos.116/2, 117/2 at the place in question.

3.7 I.A No.4 of 2024 in Writ Petition No.3339 of 2024 was by the petitioner who held the quarry lease under Lease Deed No.764 dated 27.07.2016 over the land to the extent of 0.32 Acres in Survey No.200 of Marchahalli Village, K.R. Nagar Taluka, Mysuru District. What was prayed was to direct the respondents to permit the petitioner to continue with its quarrying activity which according to the case of the said petitioner, was carried out without any blasting in the area. It was by the order dated 02.04.2024 of the Coordinate Bench, that the said petition was disposed of relying on the order of Writ Petition No.5990 of 2024 which had similar set of facts. The Court noted that the Statutory Committee-the Dam Safety Committee was constituted under the Dam Safety Act, 2021 which could examine the request of the petitioner and submit the report.

3.7.1 This petitioner was directed to follow the same course by approaching the Dam Safety Committee. However, after the disposal of the petition, the petitioner had an occasion to file an interim application since the Dam Safety Committee rejected its

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

application for the very reason that the subject matter was not within its purview by passing the endorsement dated 12.09.2024 in that regard.

3.8 With the developments as above, the Dam Safety Committee refused to consider the directions of this Court to examine the issue and decide the application/representations of the respective applicants seeking permission to start the quarrying activity on the ground that they were not engaged in blasting. The State Government filed I.A. No.8 of 2024 seeking to recall the order dated 31.07.2024, all the cases were taken up together for hearing.

4. Learned *Amicus Curiae* as well as learned counsels representing the parties in different matters were heard. Learned Advocate General submitted that there are total 50 leases operating in the area, out of which, the lease period of 38 quarries has expired. Resultantly, there are 12 quarrying units which are operating effectively within the radius of 20 kms. from the Dam. It is stated that out of these 12, 4 quarrying units undertake the blasting operations, whereas 8 quarrying units claim that they do not use the blasting methods.

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

5. *Prima facie* could be seen that the functions of the State Committee on Dam Safety under Section 12 read with the Third Schedule, include all functions which are necessary to prevent Dam failure related disasters and the Schedule would include any other specific matter relating to dam safety. In that view, the stand of the Dam Safety Committee in refusing to carry out the directions of the Court to consider the applications as above, was appreciated.

5.1 Learned Advocate General however, was fair in his submission and statement that the Dam Safety Committee would consider the applications to examine the case of the applicants as to whether they could be permitted to continue the quarrying operations on the ground that they do not undertake any blasting operation, provided an expert officer/member from the Mining Department of the State Government becomes part of the decision making process along with the Dam Safety Committee. This submission is constructive.

5.2 In view of the above discussion, the Dam Safety Committee is directed to consider the applications of the petitioner of Writ Petition No.19835 of 2024, the applicant of

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

Interim Application No.7 of 2024 in Writ Petition No.19835 of 2024 and applicant of Interim Application No.4 of 2024 in Writ Petition No.3339 of 2024 after including an expert officer/member as part of the Committee for the purpose of deciding the applications representations of the above petitioners-applicants. Such expert officer/member from the Mining Department shall be nominated by the Chief Secretary, Government of Karnataka to the Committee.

6. The petitioner of Writ Petition No.19835 of 2024, the applicant of Interim Application No.7 of 2024 in Writ Petition No.19835 of 2024 and applicant of Interim Application No.4 of 2024 in Writ Petition No.3339 of 2024 shall appear before the Dam Safety Committee including the member as above on 21.11.2024 at 11.00 a.m.

6.1 The Dam Safety Committee as constituted above shall give hearing to the respective petitioner/applicant and examine the case put forward by them claiming they are undertaking only crushing operations.

6.2 The application/representation of the petitioner/applicant shall be decided by the Dam Safety Committee as above after factual examination in accordance with law and on merits.

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

6.3 Necessary decision shall be taken in each case on or before 30.11.2024 . The decision shall be communicated to the petitioner by Registered AD Post.

6.4 This Court has not expressed any opinion on the merits of the controversy.

7. I.A Nos.7 and 8 of 2024 filed by the respective applicants in Writ Petition No.19835 of 2023 as well as I.A No.4 of 2024 in Writ Petition No.3339 of 2024 are disposed of in the above terms.

At this stage, learned Advocate General requested that for considering the cases of the units who are engaged in the blasting process in course of the quarrying operations, as per the order dated 05.03.2024 this Court has granted time of four months to complete the exercise which time would be insufficient in view of nature of the investigation and the exercise to be carried out. The request of learned Advocate General is acceded to. The Dam Safety Committee is granted further time of six months to undertake and complete the necessary exercise and submit the report.

**WP NO. 19835/2023 with I.A. Nos.7 and 8 of 2024
Connected Cases: WP NO. 3339/2024 with I.A. No.4/2024**

Writ Petition No.19835 of 2023 shall be next listed on
28.02.2025.

**Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

AHB
List No.: 1 Sl Nos.: 12