

**Veeramma and ors. Vs. A.P. Pollution Control Board and ors.**

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**Court :** Andhra Pradesh

**Decided On :** Jul-25-2002

**Reported in :** 2002(5)ALT568

**Judge :** AR. Lakshmanan, C.J. and ;Ghulam Mohammed, J.

**Acts :** Air (Prevention and Control of Pollution) Act, 1981 - Sections 31A; Air (Prevention and Control Pollution) (Amendment) Act, 1987 - Sections 31A; Environment (Protection) Act, 1986

**Appeal No. :** Writ Petition No. 1198 of 2001

**Appellant :** Veeramma and ors.

**Respondent :** A.P. Pollution Control Board and ors.

**Advocate for Def. :** S.V. Bhatt, S.C. for Respondent No. 1, ;G.P. for Irrigation and Command Area Development for Respondent Nos. 2 to 5 and ;B.V. Rammohan Rao, Adv. for Respondent No. 6

**Advocate for Pet/Ap. :** S. Satyam Reddy, Adv.

**Disposition :** Petition dismissed

**Judgement :**

AR. Lakshmanan, C.J.

1. Heard Shri Satyam Reddy, learned counsel for the petitioner, Shri Bhatt, learned Counsel appearing on behalf of the Andhra Pradesh Pollution Control Board, the first respondent herein, Shri B.V. Rama Mohana Rao, learned Counsel for the 6th respondent and the learned Government Pleader for Irrigation and Command Area Development.

2. The petitioners were the owners and possessors of agricultural lands admeasuring Ac. 14.36 gts. situated in S.No. 172, Ac, 9.16 gts. in S.No. 17/1 and Ac. 9.27 gts. in S.No. 165 situated at Sangam Kalan village, Tandur Mandal, Rangareddy District. Adjacent to the lands of the petitioners, a cement industry by name Visaka Cement Industry Ltd. was established which is now taken over by M/s. India Cements Limited, the 6th respondent herein. The petitioners filed the present writ petition for the following reliefs:

(a) Declaring the action of the first respondent in not taking any steps to prevent the air pollution caused by the 6th respondent as failure to discharge their legal obligations and consequently direct the first respondent to take such steps as are necessary to stop and contain the blasting and the resultant air pollution caused by the 6th respondent;

(b) Declaring the action of the 6th respondent in undertaking the blasting operations adjacent to the lands of the petitioners in S.Nos. 172, 17/1 and 165 situated at Sangam Kalan village, Tandur Mandal, Rangareddy District and causing damage to their agricultural operations and crops and endangering the lives of the petitioners as arbitrary and illegal and consequently direct the respondents to stop their blasting operations and pay compensation in a sum of Rs. 2,00,000/- to the petitioners; and

(c) Declaring the action of the respondents in not taking any steps on the petitions filed by the petitioners as arbitrary and illegal and consequently direct them to protect the lives and the crops of the petitioners.

3. The case of the petitioners, as could be noticed from the averments made in Para 3 of the affidavit is that due to the blasting operations conducted by the 6th respondent-company, the entire area is engulfed with thick layers of dust and they

are not in a position to lead a normal life. It is also their case that they have represented to the respondents about this on 6-1-2001 during Janmabhoomi Programme, but so far no remedial measures have been taken by the respondents. According to the petitioners, the 6th respondent cannot do blasting activity by endangering their lives. They also stated that the Village Administrative Officer had inspected their lands on 25-12-2000 and certified that their crop was destroyed and that the whole area was full of dust. It is further stated that the petitioners had spent about Rs. 85,000/- for their agricultural operations apart from putting in their own labour but on account of the blasting activities being carried out by the 6th respondent, they are forced to lose their livelihood apart from the amounts spent by them. It is also stated that the Assistant Director of Agriculture, Tandur had vide his letter dated 3-1-2001 requested the first respondent to inspect the factory and take steps to stop the pollution, but so far no action has been taken. It is also stated that they are filing the photographs of the crops clearly showing therein the dust layers on account of which, the entire crop is wasted. It is further stated that since the problem is cropping, up time and again, the petitioners are constrained to approach this Court for justice and for appropriate directions.

4. Along with the Writ Petition certain photographs and also a certificate issued by the Village Administrative Officer, Sangam Kalan Village were filed stating that the petitioners have raised Redgram and Jowar and due to the blasting operations carried on by the 6th respondent, the crop is damaged and the entire area is covered with dust and, therefore it is not fit for residing. A notice issued to the District Collector dated 27-7-2000 and the letter No. B1/5/2001 dated 2-1-01 issued by the Assistant Director of Agriculture, Tandur addressed to the A.P. Pollution Control Board requesting them to conduct inspection and take appropriate steps was also filed. Another letter dated 6-1-2001 addressed to the Nodal Officer, Tandur Mandal requesting them to conduct spot inspection has also been filed as an annexure.

5. A counter-affidavit was filed by the contesting 6th respondent dated 16-6-2001. In addition to this, an additional affidavit sworn to by the Assistant General Manager of the 6th respondent dated 24th September 2001 has also been filed. The Andhra Pradesh Pollution Control Board have also submitted its Status

Report dated 10-10-2001 as directed by this Court.

6. We have already noticed the averments made in the affidavit filed in support of the Writ Petition that due to the blasting operations, the entire area is engulfed with thick layers of dust, that the petitioners are not in a position to lead a normal life, that the 6th respondent ought not to have carried on the blasting activity by endangering the lives of the petitioners and that because of the blasting operations the entire crop is going waste. Since this is going to be a recurring affair, the petitioners were constrained to approach this Court.

7. The sixth respondent denied the averments made in the Writ Affidavit and in the additional counter-affidavit it is stated that a Writ Petition being W.P.No. 20835 of 2000 filed by Malkapur Sangam Kalan Farmers Welfare Association by way of Public Interest Litigation seeking for a Mandamus declaring the action of the respondents 1 to 4 therein in not taking any action against the 5th respondent therein viz., M/s. Visakha Cement Industry Limited as arbitrary and illegal and for other reliefs. In the said Writ Petition, the A.P. Pollution Control Board and M/s. Visakha Cement Industry Limited were arrayed as 2nd and 5th respondents respectively. The other respondents therein are the revenue authorities. During the hearing of the above writ petition it was stated by the learned counsel for the 2nd respondent that a show-cause notice dated 10-1-2001 was issued to the 5th respondent under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 to show cause as to why action should not be initiated against the 5th respondent-industry for causing pollution in the area. And in view of the said submission, this Court disposed of the said Writ Petition by its order dated 12-4-2001 directing the 2nd respondent therein to pass appropriate orders in the matter within a period of two months from the date of disposal of the writ petition. The said order reads as follows:

'In this public interest litigation, the petitioners herein have prayed for the following reliefs:

To issue a writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the respondents 1 to 4 herein in not taking any action against the 5th respondent herein for protecting the lives and agricultural

lands of the villagers and in not initiating any steps for closure of M/s. Visaka Cement Industries situated near Malkapur village, Tandur Mandal, R.R. District as highly illegal arbitrary and unconstitutional and with a consequential direction directing the respondents 1 to 4 herein to forthwith take steps for closure of M/s. Visakha Cement Industries situated near Malkapur Village, Tandur Mandal, Rangareedy District.'

'According to the learned Counsel for the petitioner, having regard to the industrial pollution caused by the 5th respondent herein, the petitioner and other agriculturists and residents of the area are suffering a lot. Mr. S.V. Bhatt, learned Counsel appearing on behalf of the A.P. Pollution Control Board (2nd respondent herein) on instructions states that a show cause notice dated 10-1-2001 under Section 31-A of the Air (Prevention and Control of) Pollution Act, 1981 was already issued against the said respondent. In this view of the matter, we are of the opinion that the Pollution Control Board may take such measures against the allegedly erring industrial unit in accordance with law as it may deem fit and proper. The Pollution Control Board may give an opportunity of hearing also to the petitioner. On completion of such a proceeding, the pollution Control Board is hereby directed to pass an appropriate order in accordance with law at an early date and preferably within a period of two months from date.

The Writ Petition is disposed of accordingly. There shall be no order as to costs.'

8. Mr. S.V. Bhatt, learned Counsel appearing for the Andhra Pradesh Pollution Control Board also took us through the entire Status Report filed by the 1st respondent-Board and submitted that it is observed from the Analysis Reports that the stack emissions from the Cement Plant of the 6th respondent are within the standards prescribed by the Board which indicates that the effect of cement dust on adjacent fields is minimal. And that the Ambient Air Quality analysis report (Industry's premises and villages) indicates that the values of Respiratory Suspended Particulate Matter (RSPM) and Total Suspended Particulate matter (TSPM) are within the standards. It is also further observed that the fields of petitioners are located adjacent to the boundary of M/s. Visaka Cements Ltd., and are located very near to the mining area. Hence there is a possibility of limestone

dust falling on the fields during the short period (between 1 to 2 p.m.) of blasting operation depending upon local wind direction. In view of the above, it is submitted that a comprehensive Scientific study may be carried out by the District Administration so as to assess the impact of lime stone dust on crop yield and crop damage for further necessary action.

9. Mr. B.V. Rama Mohana Rao, learned counsel for the 6th respondent submitted that the survey numbers in which the lands are situated are at a radial distance of about 3 kilometres from the factory. The allegation that because of stone blasting operations there is heavy dust and that the dust is falling on the crops standing on their lands etc., is not correct. The learned counsel has also denied as equally untrue the statement that the lands are becoming unfit for agricultural cultivation purposes. It is submitted that the 6th respondent-company has more than 5 decades of professional experience in cement manufacture and has pioneering status in every process and also has several creditable achievements to its credit. It is ranked number 1 in South India. It is further submitted that the conventional blasting operations in mining area were started way back in 1998 but not in September/October, 2000 as stated by the appellants. It is denied that the entire crop is covered with dust layers and the plants are not growing properly due to lack of photosynthesis. It is further submitted that the limestone is the main raw material for production of clinker/cement. For this purpose Visaka Cement Industry Limited has taken two mining leases over an extent of Ac. 604-03 Guntas and that the limestone in the Leased area can only be fragmented by conventional method of drilling and blasting. To conduct blasting for rock fragmentation, optimum number of blast holes up to a depth of 7 to 8 metres are drilled and then the blast holes are filled up with 80% of Ammonium nitrate and 20% of permitted standard explosives. It is also stated that the 6th respondent is using mill-second delay detonators (electric) and resorting to sequential blasting techniques due to which the blasting vibrations and dust generation are greatly controlled and minimized.

10. We have carefully gone through the entire pleadings and analysed the Status Report submitted by the A.P. Pollution Control Board. It is to be seen from the averments made in the counter-affidavit filed by the 6th respondent that the blast vibrations (surface waves) propagate linearly over a short distance before

becoming feeble in less than 500 metres distance in such stratified/bedded rock substratum and that the little quantity of dust generated at the time of blasting settles down in the immediate vicinity of the blast site within the mine's area within a duration of minutes. Thus in view of the procedure being adopted by the 6th respondent, the allegation that petitioners' lands are unfit for further agricultural operations, appears to be untrue and baseless. It is also submitted that the drilling and blasting operations at the site were scientifically studied by expert Government Agency namely the Indian Bureau of Mines and their suggestions are being ritually followed for every blasting operation. The sixth respondent is also adhering to the safe methods of drilling and blasting as suggested by the Directorate General of Mines safety. That apart, the drilling and blasting operations carried on by the 6th respondent, as could be seen from the records placed before us, are periodically reviewed by the Governmental Authorities. All the required permissions from the State and the Central Government Authorities such as A.P. Pollution Control Board, Indian Bureau of Mines, and Director of Mines Safety, Controller of Explosives have been obtained and accordingly the mining operations are conducted as suggested by those authorities. Thus, it is seen that the 6th respondent is undertaking a very scientific method of drilling and blasting in their leased area and that in the process, the respondent has prepared a comprehensive mining plan and the same is ritually followed. It is also stated in the counter-affidavit that an air pollution monitoring instrument called 'High Volume Sampler' is deployed by the 6th respondent at their mines periphery to monitor the quantity of dust in the air and adequate precaution like water sprinkling is done to suppress the dust. This exercise is done regularly and the reports generated therefrom are submitted to State Government Authorities.

11. At the time of hearing, the learned counsel for respondent No. 6 Shri B.V. Rama Mohan drew our attention to the report submitted by the A.P. Pollution Control Board at pages 65, 66, 67, 68 to 70, 71 to 75, 76 to 82, 141 and 142. Page 65 of the report contains the show-cause notice dt. 10-1-2001 pointing out the observers' report prepared after the inspection of the premises of the 6th respondent-industry and the surrounding villages on 20-12-2000 and 21-2-2000. By the said notice, the 6th respondent was directed to show cause as to why action should not be initiated against it under Section 31-A of the Air (Prevention

and Control Pollution) Amendment Act, 1987 for causing air pollution in the area in question in the interests of public health and environment. The 6th respondent was also directed to appear for a legal hearing on 15-1-2001 at 11 p.m. with their reply in the chambers of the Member Secretary, A.P. Pollution Control Board, Maitrivanam, 2nd floor, HUDA Complex, S.R. Nagar, Hyderabad with all relevant information.

12. A reply was sent to the show-cause notice which is available at page 68 of the paper book wherein, after narrating all the details, it is mentioned that the 6th respondent-industry have covered material lying outside with tarpaulins to avoid fly dust due to wind. In view of the sluggish market, they were forced to have huge stock of clinker resulting in high inventory carrying cost and that it is also assured that they are committed to good environmental management activities in their plant. It is also stated in the reply that they would not spare any effort to maintain good environmental performance in their plant operation in meeting the norms specified by the A.P. Pollution Control Board.

13. The learned counsel for the 6th respondent invited our attention to Pages 71 to 75 of the paper book, which contain the Ambient Air Quality Monitoring and Analysis Report. Pages 76 to 82 of the book contain the Stack Emission Level Analysis Report. These reports pertain to the period March, 2001 and they are assessed by the Senior Environmental Scientist of the Central Laboratory of Andhra Pradesh Pollution Control Board. Our attention was also drawn to the Ambient Air Quality Data Report dated 14-6-2001 which contains the minute details such as date of sampling, time of monitoring, Total time of monitoring, Average flow rate, Respirable particulate matter concentration, Suspended particulate matter concentration, Sulphur Dioxide Concentration and Oxides of Nitrogen Concentration. This apart, our attention was also drawn to various other reports furnished by the 6th respondent to the A.P. Pollution Control Board through letters dated 18-7-2001, 4-8-2001, 3-9-2001 etc. Thus it can be seen that both the 6th respondent and the Andhra Pradesh Pollution Control Board have placed before us bundle of materials to show that the allegations made by the petitioners in the Writ Petition are not true and that they are not correct. We have closely read the entire reports which would only go to show that the blasting

operations carried on only within the parameters allowed by the Andhra Pradesh Pollution Control Board and as per the standards prescribed by the Union of India under the Environment (Protection) Act, 1986 and that the same are within the statutory limits. It is also brought to our notice by Mr. Bhatt during hearing of the writ petition that the 6th respondent-Industry has been included in the watch list and that it is under constant watch by the Andhra Pradesh Pollution Control Board. Mr. Bhatt also stated that the Board would take action immediately against the 6th respondent-industry if it has deviated from the statutory norms.

14. We can also take judicial notice of the fact that there are umpteen number of open cast slab quarries which have been in existence in the area in question since decades and that the mining operations of the respondents have been there since 1998 and that there is no complaint of any type by any one in the area against the 6th respondent-industry. It is stated in the counter-affidavit by the 6th respondent that the filing of the writ petition is one of the pressure tactics played by one Amarnath Goud for reinstatement who is facing departmental enquiry and for withdrawal of the complaint lodged against another person by name Narayana Goud. This apart, the 6th respondent-industry is situated in a backward area and it is providing direct and indirect employment to several villagers. It is also stated that infrastructural facility development as a consequence of this project is immense in the area and there is a visible change in the socio-economic levels. It is further stated that as a part of ongoing developmental activities in the surrounding villages, the 6th respondent has spent more than Rs. 25 lakhs towards developmental works like construction of school buildings, temples, conducting of Medical camps and drilling of borewells for drinking water purposes etc. In the light of the above stated committed vision for the surrounding environmental preservation and conservation methods adopted by the 6th respondent-company, we are of the view that filing of the present writ petition by the petitioners is not warranted. Above all, the Andhra Pradesh Pollution Control Board, which is the authority to protect and preserve the environment has come forward with the Status Report dated 10-10-2001 containing Analysis Reports of Stack monitoring, Ambient Air Quality monitoring in the industry, Ambient Air Quality in the villages etc. This apart, it is seen from the said Report that the industry has applied for Board's CFE for expansion of production capacity from

2100 T/day to 3000 T/day on 30-9-2000 and the Ministry of Environment and Forests, Government of India has requested the Board to examine the expansion proposal of the 6th respondent-industry. The industry was issued with Board's CFE by ZOH vide Order No. 64/PCB/2OH/CFE/2001-354 dated 21-6-2001 and that the industry has applied for Board's CFO for expanded capacity on 21-6-2001 and the inspection report was sent to ZOH. The CFO clearance Committee at Zonal Office, Hyderabad visited the industry and the CFO to the industry was issued. The District Collector, Rangareddy District and certain other officials have also visited the industry and also the affected villages to verify the complaints regarding air pollution and damage caused by blasting operations carried out in the mines of the industry on 25-1-2001 and the Inspection report was submitted to the District Collector for taking further action. The District Collector directed the Assistant Director, Agricultural Department and the Mandal Revenue Officer, Tandur Mandal to assess the crop damage and submit a Report. Ambient Air Quality Monitoring and Stack monitoring tests were conducted once again at different points in the industry on 28-9-2001 and the report has also been filed. During the inspection, the inspecting team of the Andhra Pradesh Pollution Control Board found that:

- (1) The industry was observed to be in operation during the inspection. This office has carried out stack and ambient air quality monitoring in industry and villages.
- (2) The industry has carried out blasting operation during inspection.
- (3) The industry has covered the clinker stockpiles and Cypsum stockpiles with tarpaulins. The industry has constructed windbreak wall around the clinker stockpile.
- (4) The industry has planted trees in mining area and factory premises.
- (5) The industry was regularly sprinkling water on the roads to control dust emission during truck movement.
- (6) The industry has provided different types of air pollution control equipment at different dust emission source points.

15. Thus, a careful consideration of the entire materials placed before us would only go to show that the stack emission from the 6th respondent-cement industry is within the standards prescribed by the Andhra Pradesh Pollution Control Board which indicates that the effect of cement dust on adjacent fields is minimal. The Ambient Air Quality Analysis at Industry's premises and villages indicates that the values of Respiratory Suspended Particulate Material (RSPM) and Total Suspended Particulate Material (TSPM) are within the standards.

16. For all the aforesaid reasons, we are of the opinion that there are absolutely no merits in the writ petition and that it is liable to be dismissed. Accordingly, we do so. There shall be no order as to costs.)

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