

IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Writ Petition (C)

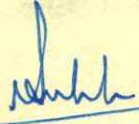
.....No. 1 of 2006

Pratap Singh Rai

Petitioner / Appellant

Versus

State of Sikkim through Principal
Secretary-cum-Chief Conservator of
Forests Respondent s

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	21.01.2006	<p>Petitioner filed the present writ petition along with two Civil Misc. Applications, one for stay of the operation of the impugned license being Ref.No.1962/FTS dated 22.11.2005 (Annexure P/6) and the other for urgent hearing of the petition.</p> <p>Heard Mr. A. K. Upadhyaya, learned Senior Counsel assisted by Miss Sapna Rai, learned counsel for the petitioner and Mr. Karma Thinlay, learned Government Advocate for the respondent Nos. 1 and 2.</p> <p>No formal notice is called for in respect of the respondent Nos. 1 and 2 as Mr. Karma Thinlay, learned Government Advocate accepts notice on behalf of the respondent Nos.1 and 2.</p> <p>Issue notice to the respondent No.3. The petitioner shall supply one set of requisites for service of notice to the respondent No.3 during the course of the day. Notice is made returnable on 8.3.2006. In the meantime, the respondents shall be at liberty to file counter-affidavit.</p> <p>This is a Division Bench matter. This may be placed before the Hon'ble Chief Justice for passing appropriate orders on reopening of the Court after the ongoing winter vacation.</p> <p style="text-align: right;"> (A. P. Subba) <u>Judge</u></p>	<p>Office Note as to action (if any) taken on Order</p> <p style="text-align: right;"><i>Requisite filed on 21-1-2006 notice issued upon reqd no 3 on 23-1-2006</i> <i>Subba</i> <i>23/1/2006</i></p>



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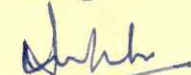
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C.M.A.No.1/2006

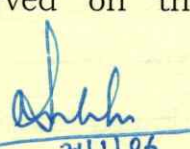
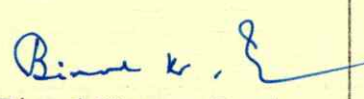
Heard Mr. A. K. Upadhyaya, learned Senior Counsel assisted by Miss Sapna Rai, learned counsel for the petitioner and Mr. Karma Thinlay, learned Government Advocate for the respondent Nos. 1 and 2.

Learned counsel for the petitioner submitted that the writ petitioner had been operating a quarry at Bardang, East Sikkim under a license granted to him by the respondent No.2 since 1998. Since no specific period for operating the quarry was specified in the approval, the license was being renewed at the end of every year. Accordingly, at the end of the year 2005, the petitioner applied for renewal of his quarry license and pursuant to his application, necessary field enquiry was conducted and a report was submitted as at Annexure P/5, duly recommending the case of the petitioner. However, instead of renewing his license as usual, the respondent No.2 granted license in respect of the same quarry to the respondent No.3 on 22.11.2005 behind the back of the petitioner. The petitioner came to know about the issue of license in favour of respondent No.3 only on 16.01.2006. It is stated that the respondent No.3 has not yet started operating the quarry in question till ~~date~~. However, he has completed all preparations and is going to start operating the quarry at any time now. Hence, the present petition praying for restraining the respondents from giving further effect to the impugned quarry license till the final hearing of the matter.



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3.	8.3.06	<p>Upon hearing Mr. A.K. Upadhyaya, learned senior counsel assisted by Ms. Sapna Rai, learned counsel for the petitioner as well as Mr. S.P. Wangdi, learned Advocate General assisted by Mr. J.B. Pradhan and Mr. Karma Thinlay, learned Government Advocates for the State-respondents at some length. Mr. A.K. Upadhyaya, learned senior counsel in his usual frankness submitted that the petitioner desires to withdraw this petition with a direction to the respondents-authority to dispose of the representation dated 14th December 2005 submitted by the petitioner to the authority concerned, as in Annexure P-3, as early as possible.</p> <p>In our considered view the prayer is reasonable and accordingly, it is allowed, thus closing the writ petition as withdrawn, with a direction to the concerned authority to dispose of the representation dated 14th December 2005 submitted by the petitioner, as in Annexure P-3 to this writ petition, by a speaking order and communicate the result of it to the petitioner within a period of one month from the date of receipt of this order for which the petitioner is at liberty to obtain a certified copy of this order and communicate the same to the authority concerned for doing the needful in the matter.</p> <p>There shall be no order as to cost.</p> <p style="text-align: right;">  (N.S. Singh) Judge </p> <p style="text-align: right;">  (A.P. Subba) Judge </p>	



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		<p>Considered.</p> <p>In the facts and circumstances of the case, the parties are directed to maintain status quo as on the date of issue of the impugned license dated 22.11.2005, Annexure P/6 until further orders.</p> <p>A copy of this order be served on the respondents.</p> <p style="text-align: center;">  (A. P. Subba) Judge </p>	
2.	27-2-2006	<p>It is agreed by all learned counsel that in terms of the order passed by the learned vacation Judge, the writ petition be listed for its disposal on merit on 8-3-2006. It is ordered accordingly. The petition filed by Respondent No.3 stands disposed of accordingly.</p> <p style="text-align: center;">  (Binod Kumar Roy) Chief Justice </p>	<p>Counter filed by the respondent nos. 2 and 3. <i>by hand</i> 7/3/06</p> <p>As directed the matter to be listed before D.B. on 8.3.2006 <i>by hand</i> 7.3.06.</p>