

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-16376-2015

Date of decision:- 10.08.2015

Tirath Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Swapan Shorey, Advocate,
for the petitioner.

* * * *

S.J. VAZIFDAR, A.C.J. (ORAL)

The petitioner seeks a writ of certiorari to quash a communication dated 03.06.2015. The petitioner has also sought a writ of mandamus for declaring the proviso added to Rule 34 (1) of the Punjab Minor Mineral Rules, 2013 inserted by the Punjab Minor Mineral (Amendment) Rules, 2014 as per a notification dated 18.03.2015 as violative of Articles 14 and 19(g) read with Article 31-A of the Constitution of India and also the provisions contained in Section 17A of the Mines and Minerals (Development & Regulation) Act, 1957 (in short the said Act). The petitioner contends the same is beyond the Rule making power conferred under the said Act.

2. It is not necessary to consider the challenge to the aforesaid provisions at this stage.

3. The petitioner had by an application dated 12.03.2015 (Annexure P3) addressed to the Deputy Commissioner, Gurdaspur stated that his land situated next to the river Ravi had been adversely affected due to the floods; that the said land was his only asset and source of income and

that all his family members were dependent on him. The petitioner, therefore, requested permission for mining sand from his land.

4. The impugned communication from the Deputy Commissioner, Gurdaspur dated 03.06.2015 (Annexure P5) reads as under:-

“In regard to above said subject of your application dated 12.03.2015 which was given by you to Deputy Commissioner, Gurdaspur on 17.03.2015.

2. Report on the referenced application is taken from General Manager, District Industrial Centre, Batala. He has stated in his report that if the applicant wants to excavate the sand from his land then he has to give the list of Khasra numbers to his office. Case will be forwarded to government by him after getting approval from Site Appraisal Committee for mining of sand from these Khasra numbers. After getting approval from government, this gorge will be auctioned in which the applicant can take part. If the applicant does not succeed in auction then he will be given compensation as per rules.

*Sd/-
For Deputy Commissioner,
Gurdaspur.”*

5. In view of the urgency expressed in the matter, we intend disposing of this writ petition without issuing notice of motion as this order does not adversely affect the respondents.

6. The impugned communication does not indicate any reasons as to why the petitioner's application dated 12.03.2015 was rejected. Nor does it state the provisions under which the petitioner would be bound to participate in the auction. Moreover, the impugned communication states that the case would be forwarded to the government by him i.e. the petitioner after getting approval from the Site Appraisal Committee for mining sand. The approval from the Site Appraisal Committee has neither been sought, nor obtained.

Thus, prima-facie at least the matter cannot go to auction at this stage. The

petitioner, however, ought not to be made to wait indefinitely. The petitioner at this stage merely seeks a reasoned order so that he knows exactly where he stands. The request is justified.

7. In these circumstances, the writ petition is disposed of by directing the Deputy Commissioner, Gurdaspur to deal with the petitioner's application dated 12.03.2015 with a detailed and reasoned order. Considering the urgency, we would request the Deputy Commissioner, Gurdaspur to pass the order after affording the petitioner an opportunity of being heard by 31.08.2015.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

10.08.2015
Amodh