

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15201 of 2017 (O&M)

Date of Decision: 10.08.2017

Ram Kumar Shokeen and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.P. Dangi, Advocate
for the petitioners.

Mr. S.S. Pannu, DAG Haryana.

S.S. SARON,J.

Civil Writ Petition has been filed by the petitioners seeking directions for entrusting an inquiry into the matter of deep nexus between the authorities of various State Government Departments dealing with stone crushing units and owners of stone crushing units operating in villages Tanda, Chandimandir, Surajpur and Rampur Seuri within the limits of Municipal Corporation, Panchkula and within 1.5 kilometers of National Highway-22.

The grievance of the petitioners is that respondents No. 11 to 25, who are fifteen in number, are running stone crushing units in the aforesaid villages, which are a cause of health hazards.

Copy of the petition was given to the learned State counsel so as to enable him to seek instructions.

After hearing learned counsel for the parties and perusing the records, it is to be noticed that the Haryana Government published a notification dated 18.12.1997 (Annexure P-8) issuing directions for stone

crushing units in regard to siting criteria norms as per Schedule-I, Schedule-II, identification of zones and availability of sites as per Schedule-III and procedure for establishment and operation in identified zones as per Schedule-IV. The criteria for siting of Stone Crushing units in Haryana, as per Schedule-I, inter-alia, envisages that minimum distance required from the National Highway is to be 1.5 kilometers.

The case of the petitioners is that the said distance criteria in respect of the stone crushing units of respondents No. 11 to 25 has been infringed. However, learned counsel is unable to point out the exact distance of each specific Stone Crushing Units from the National Highway which can be said to be violative of the said criteria.

The State Government after issuing notification dated 18.12.1997 (Annexure P-8) issued a notification dated 30.10.1998 (Annexure P-9) making certain amendments in the aforesaid earlier notification. In Clause 'N' thereof, it was provided as follows:

"(N) In case of stone crushing units which have been in operation at any time for a continuous period of at least one year before the issue of this notification in respect of siting criteria infringement only in respect of distance from the village lal dora (Phirni where there is no lal dora), a structurally safe 50 meters long and 16 feet high wind breaking wall will have to be provided. However no relaxation will be allowed even with the addition of protecting wind breaking wall in respect of stone crushers coming within 400 meters or less of any village lal dora (Phirni where there is no village lal dora).

According to the above Clause 'N' in case of stone crushing units that had been in operation at any time for a continuous period of at least one year before the issuance of the notification in respect of the siting criteria infringement only in respect of distance from the village Lal Dora (Phirni where there is no Lal Dora), a structurally safe 50 meters long and 16 feet high wind breaking wall would have to be provided.

Learned counsel for the petitioner, however, submits that the stone crushing units (respondents No.11 to 25) were given licences after the issuance of the said notification dated 30.10.1998 (Annexure P-9). A reference has been made to the Information (Annexure P-17), received by him under the Right to Information Act, 2005. Question No.3 which was raised by the petitioner seeking information was to the following effect:

"Provide the details of all Stone Crushers of District Panchkula when they have applied first time for Mining License with application date/month/year."

The date of mining license, which was asked for, has been given in the reply and not the date when a licence was issued in terms of the Haryana Regulation and Control of Crusher Act, 1991, was issued.

Question No.5 therein, is to the following effect:

*"How many stone crushers in District Panchkula are in working/operating but with **expired mining license** till date with name and address of Stone Crushers?"*

Reply given is that no stone crusher was running without valid licence in District Panchkula. The grant of licenses for operating the stone crushers is to be seen from the date the licenses were granted to them under the Haryana Regulation and Control of Crusher Act, 1991.

The grievance of the petitioners, as already noticed, is that the stone crushing units i.e. respondents No.11 to 25 have been causing pollution and these are, therefore, liable to be shifted from the present areas of operations.

Learned State counsel has submitted that in fact the said grievance of the petitioners stands redressed with the issuance of notification dated 11.5.2016 (Annexure P-15). The said notification has been issued by the Environment Department of Haryana Government and certain directions for stone crushing units in regard to siting criteria norms as per Schedule-I, emission norms and pollution control measure requirements as per Schedule-II, already established stone crusher zones as per Schedule-III and procedure for establishment and operation in identified zones as per Schedule-IV, have been mentioned.

Amongst the directions that have been issued, item number III, relates to 'Non-complying units to be shifted'.

It is provided in terms of the item number III that all stone crushing units, which do not meet the siting criteria prescribed in the said notification, shall have to shift to a site meeting the siting parameters as per Schedule-I of the said notification or to identified zone depending on availability of vacant sites in the zone, within three years from the date of issuance of the said notification which is extendable for another one year provided that stone crushing unit procures the land for a site meeting the siting norms as per the said notification, before the expiry of three years and applies to Haryana State Pollution Control Board.

It is also informed by the learned State counsel that the said notification dated 11.05.2016 (Annexure P-15) has been challenged by

various stone crushing units in the case of *M/s Kaithal Stone Crusher and others Versus State of Haryana and others*, CWP No. 14258 of 2016, which is pending consideration before a Division Bench of this Court for 23.11.2017. It is also submitted that some residents of the area have filed a civil miscellaneous application for impleading them as a party in the said case.

Learned counsel for the petitioners has not been able to show as to when the stone crushing units (respondents No.11 to 25) started operations and as to what is the exact distance of the respective stone crushing units from the National Highway, besides, he has not been able to show as to how the siting criteria norms as per various notifications that have been issued, have been infringed and moreover he has not been able to show as to what is the dis-advantage that has been caused to the petitioners.

In the circumstances, no ground is made out to interfere in the matter, on the basis of the contentions as raised by learned counsel for the petitioners and the writ petition is, accordingly, dismissed.

(S.S. SARON)
JUDGE

(AVNEESH JHINGAN)
JUDGE

10.08.2017
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No