

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4441 of 2016
Date of decision: 17.4.2017

Rasmuddin

.... Petitioner

Versus

State of Haryana & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON,
HON'BLE MR. JUSTICE DARSHAN SINGH.

Present: Mr. Arjun Atri, Advocate for the petitioner.

Mr. S.S. Pannu, DAG, Haryana for the State – respondents No.1 & 2.

Mr. Randhir Singh, Advocate for the respondents No.3 & 4 – Haryana State Pollution Control Board.

None for respondent No.5.

S.S. Saron, J.

The petitioner Rasmuddin by way of the present petition under Articles 226 and 227 seeks an appropriate writ, order or direction especially in the nature of prohibition restraining M/s Yadav Stone Crusher, Village Shilkho, Tehsil Taoru, District Mewat (respondent No.5) from running its crusher without getting it registered with the Industries Centre Mewat which it is stated is evident from letter dated 25.5.2015 (Annexure P-2).

According to the petitioner, the stone crusher i.e. M/s Yadav Stone Crusher (respondent No.5) is running without fulfilling the terms and conditions for grant of license by the Haryana State Pollution Control Board ('Board' - for short) (respondent No.3). In consequence thereof, it is stated that the people in the area/village were suffering from serious illness but the respondents despite the complaints/representations had not taken any action against M/s Yadav Stone Crusher (respondent No.5). In the alternative, it is prayed that an appropriate direction be issued to the Board (respondent No.2) to decide the complaint dated 13.10.2005 (Annexure P-6) filed by the petitioner without any delay and take strict action against M/s Yadav Stone Crusher (respondent No.5) on the ground that the unit i.e. M/s Yadav Stone Crusher (i) is creating air and noise pollution, (ii) is not

complying with the guidelines issued by the Hon'ble Tribunal and various Government notifications, (iii) it is operating within residential area of the village without using safety devices, (iv) it is operating without constructing the wall as per terms and conditions, (v) operating within 50 mts of residential area of the village which is in clear cut violation of the policy, (vi) it is causing blast during the night and creating noise pollution and for most of the time, the habitants are under a fear due to these blasts and (vii) due to these blasts a lot of dust spreads over the village which causes various lungs diseases and other diseases like skin.

The petitioner has thus urged various shortcomings in functioning of M/s Yadav Stone Crusher (respondent No.5). A complaint dated 13.10.2015 (Annexure P-6) in this regard, it is stated, has also been filed before the Board on which no action has been taken.

Reply has been filed by Sh. Bhupinder Singh, Regional Officer of the Board (respondent No.3). It is submitted that the present case was listed for hearing on 21.4.2016 on which date the learned Counsel for the petitioner submitted that he had filed a complaint dated 13.10.2015 (Annexure P-6) before the Board, however, no action had been taken on the same. Accordingly, notice of motion was issued to the Regional Officer of the Board (respondent No.3) for the present.

It is submitted that the Govt. of Haryana, Department of Environment issued notifications dated 18.12.1997 and 30.10.1998 for regulating the stone crushing units to maintain ecological balance in the State to prevent environment degradation and to avoid traffic and human health hazards. The stone crushing unit i.e. M/s Yadav Stone Crushing Company (respondent No.5), it is mentioned, is installed as per notification dated 18.12.1997 after obtaining permission from the Board. The Unit is operating since 1984. It is regularly taking consent to operate from the Board from time to time. The last consent to operate has been granted on 15.1.2015, which is upto 31.3.2017.

It is also submitted that the said unit i.e. M/s Yadav Stone Crusher (respondent No.5) had installed Air Pollution Control Measures (APCM) as per notification dated 18.12.1997. The Unit was inspected by the Board on 04.08.2016 and as per inspection report dated 18.12.1997 (Annexure R-3/1), there was no

violation found and at the time of inspection, besides, the unit was closed due to repair and maintenance work. It is further submitted that in compliance to the order of this Court, the complainant has again been intimated vide letter dated 17.08.2016 (Annexure R-3/2) by the Regional Officer of the Board (respondent No.3) in response to complaint dated 13.10.2015 (Annexure P-6).

The Chairman of the Board in compliance to the order of this Court, it is submitted, constituted a Committee of different departments concerned with the complaint vide order dated 12.08.2016 (Annexure R-3/3). The Committee after inspection informed that no such violation was observed as alleged in the complaint. It was further stated that the crusher unit i.e. M/s Yadav Stone Crusher (respondent No.5) was found closed for the last five months from 08.09.2016 i.e. the date of inspection. The petitioner was again informed vide letter dated 23.01.2017 (Annexure R-3/4) that M/s Yadav Stone Crusher (respondent No.5) had not violated any condition of NOC.

It is submitted that the stone crushing unit i.e. M/s Yadav Stone Crusher (respondent No.5) above mentioned has been installed as per notification dated 18.12.1997, after obtaining permission from the Board. The Unit i.e. M/s Yadav Stone Crusher (respondent No.5) is operation since 1984. It is regularly taking consent to operate from the Board and had been granted fresh consent on 15.1.2015 to operate upto 31.3.2017. Further Air Pollution Control Measures (APCM) as per notification dated 18.12.1997 had been installed. No such violation was found as alleged in the complaint (Annexure P-6). Besides, the stone crusher was lying closed temporarily for the last six months since June 2016 on its own due to shortage of raw material. The Unit had been granted time to shift to the new site within three years as per notification dated 11.05.2016. As the Unit is complying with all terms and conditions of the notification dated 18.12.2017, no action is required against it. Even as per latest notification dated 11.05.2016 regarding installation/operation of stone crushers issued by the Department of Environment, Govt. of Haryana relaxation to those units which were not complying with the sitting norms had been provided for a period of three years from the date of notification with specific terms and conditions. Accordingly, the request of the unit i.e. M/s Yadav Stone Crusher (respondent No.5) which had been duly

submitted with all relevant documents was considered for the grant of consent to operate by the Board with the condition that the Unit would shift itself after identifying a suitable site meeting the sitting norms of the notification before the expiry of three years of the date of notification.

Therefore, according to the reply that has been filed there is no violation of any conditions of license and even otherwise, the consent to operate to M/s Yadav Stone Crusher (respondent No.5) was upto 31.03.2017. Thereafter, it has been given times to shift itself after identifying a suitable site meeting the sitting norms of the notification dated 11.05.2016 issued by the Department of Environment, Govt. of Haryana before the expiry of three years of the date of notification.

In view of the aforesaid position, nothing survives in the present petition. However, in case the petitioner is aggrieved against the action of the Board, it has its remedy before the Appellate Authority in the first instance.

Learned State Counsel has placed on record three orders dated 14.4.2017 passed in terms of Section 28 (1) (2) of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31 (1) (2) of the Air (Prevention and Control of Pollution) Act, 1981 as also sub Rule 19 of the Bio Medical (Waste Management & Handling), Rules, 1998 whereby Appellate Authorities have been constituted and Members have been appointed.

In view of the above, the petitioner may, if so advised, approach the Appellate Authority for redressal of his grievances in accordance with law.

The writ petition stands disposed of accordingly.

(S.S. Saron)
Judge

(Darshan Singh)
Judge

17.4.2017
amit

Note:

1. Whether the order is speaking/reasoned: Yes.
2. Whether the order is reportable : No.