

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5894 of 2017
Date of decision: 17.4.2017

Deepak Construction Company

.... Petitioner

Versus

Haryana State Pollution Control Board & Ors.

.... Respondents

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

Present: Mr. V.P. Sangwan, Advocate for the petitioner.
Mr. Randhir Singh, Advocate for the respondents No.1 and 2
- Haryana State Pollution control Board.
Mr. S.S. Pannu, DAG, Haryana for the State.

S.S. Saron, J.

The petitioner Deepak Construction Company has filed the present petition under Articles 226/227 of the Constitution of India seeking setting aside the closure order dated 13/19.5.2014 (Annexure P-11) and refusal of request to suspend the closure order No. HSPCB/ D/ 3/2016/1222 dated 01.09.2016 (Annexure P-18). A further prayer has been made for directing the respondents No.1 and 2 to reconsider the letter dated 26.7.2016 (Annexure P-16) for suspension of the closure order and to allow the petitioner to operate the stone crusher after complying with all the parameters.

The Haryana Government decided to lease out land measuring 4 bighas in khasra No.211 min. at village Narnaul District Mahendargarh. The land was leased to the father of the proprietor of the petitioner firm M/s Deepak Construction Co. by executing lease deed No.1198 dated 14.07.1983 (Annexure P-1) for establishing a stone crusher. The father of the proprietor of the firm established a stone crusher in 1984 on the land that was leased. A huge amount was invested, structures were raised and machines were installed. The lease was extended from time to time by enhancing the rent

of lease. The grievance of the petitioner now is against the impugned order dated 13/19/2014 (Annexure P-11) whereby the Haryana State Pollution Control Board (respondent No.1) has in exercise of powers conferred under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 ('Air Act' – for short) has ordered to close down the operation of the unit of the petitioner-firm by sealing the plant and machinery. The petitioner made a representation dated 26.07.2016 (Annexure P-16) for suspending the closure order and granting CTO to its unit so that it could be run in accordance with law. The representation has been rejected by the Haryana State Pollution Control Board (respondent No.1) by order dated 01.09.2016 (Annexure P-18).

It is not in dispute that the petitioner has the remedy of assailing the order before the Appellate Authority under the Water (Prevention and Control of Pollution) Act, 1974 ('Water Act' – for short) and the Air Act.

Learned State Counsel has placed on record three orders dated 14.4.2017 passed in terms of Section 28 (1) (2) of the Water Act and Section 31 (1) (2) of the Air Act 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 its grievances in accordance with law.

The writ petition stands disposed of accordingly.

(S.S. Saron)
Judge

17.4.2017
Amit

(Darshan Singh)
Judge

Note:

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