

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15070 of 2016 (O&M)
DATE OF DECISION:03.04.2018

M/s Luxmi Screening Plant

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Dr. Surya Parkash, Advocate
for the petitioner.

Ms. Reeta Kohli, Senior Advocate with
Mr. Rahul Sharma, Advocate
for respondents No.2 and 3.

Mr. Jagmohan S. Ghuman, Deputy Advocate General, Punjab.

ANUPINDER SINGH GREWAL, J.

1. The petitioner has impugned the notice dated 24.07.2014 (Annexure P-6) issued under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 and notice dated 24.07.2014 (Annexure P-7) issued under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 vide which the petitioner has been directed to close down the operation of the industry and remove the entire plant and machinery. It has further challenged the order dated 04.03.2015 (Annexure P-9) whereby it has been directed to comply with the directions issued by the Board and the order dated 19.05.2016 (Annexure P-11) whereby the appeal of the petitioner has been dismissed by the Appellate

Authority.

2. The petitioner is stated to be in the business of Screening-Cum-Washing of gravel and has set up the industry at killa Nos.35//23/2(4-16), 24(3-11), total measuring 8K-7M (Brani) land, in the year 2008. It is stated that the unit of the petitioner after complying with all the norms and conditions has been functioning since the year 2008 and the respondents have arbitrarily and illegally directed it to be shut down.

3. Learned counsel for the petitioner has contended that the unit of the petitioner is complying with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred as 'Water Act') and Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred as 'Air Act'). He has drawn the attention of this Court to the report of the Superintending Engineer and Executive Engineer, Department of Drainage dated 14.12.2015 wherein the distance of the petitioner unit from the river bank was found to be over 300 feet and hence it was permissible for the petitioner to run the unit.

4. Learned counsel for the respondents has contended that as the unit of the petitioner fell within the embankment of river Ghaggar, it has rightly been directed to be closed.

5. We have heard learned counsel for the parties.

6. A perusal of the order passed by the Appellate Authority shows that the unit of the petitioner fell within the embankment of river Ghaggar. The unit of the petitioner was inspected by a Committee comprising Officers of various departments i.e. Sub Divisional Magistrate, General Manager, DIC-cum-mining officer Ajitgarh (Mohali), Environmental Engineer, Punjab Pollution Control Board, Ajitgarh (Mohali), Environmental

Engineer, Punjab Pollution Control Board, Ajitgarh (Mohali), Executive Engineer, Drainage Division, Department of Irrigation, Ajitgarh (Mohali), Divisional Forest Officer, Ajitgarh (Mohali) and District Town Planner, Ajitgarh (Mohali) and it was found to be falling in the river bed. The Committee is stated to have been constituted by the Deputy Commissioner, SAS Nagar, Mohali in terms of the order passed on 13.08.2013 in CWP No.21899 of 2012 titled as Surmukh Singh Vs. State of Punjab and others. This Committee had visited stone-crusher/screening-cum-washing plants located within jurisdiction of SAS Nagar, District Mohali. In the report, the unit of the appellant was shown at Serial No.84. It, therefore, fell in the Flood Protection Embankment and was in violation of the Act.

7. The Appellate Authority has disregarded the report of the Superintending Engineer and Executive Engineer, Department of Drainage Patiala dated 14.12.2015 on the ground that although in the report it is stated that there is no guide bank on the outer side of the plant of the appellant, but the site plan enclosed with the report of the drainage department clearly depicts a guide bank on the side of the site of the industry, thereby showing the site of the industry where the water will be guided by the guide bank. It is also mentioned that the specific purpose of the Flood Protection Embankment is to restrict the flood water and the unit of the appellant as per the report of the Site Appraisal Committee is situated within the Flood Protection Embankment of river Ghaggar. This report is also signed by the Executive Engineer of Drainage Department.

8. It is, thus, patent that as per the report of the Committee the unit of the petitioner falls within the embankment of river Ghaggar.

Therefore, we do not find any manifest illegality in the impugned orders

which would warrant interference in writ jurisdiction. Consequently, the petition stands dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

April 03, 2018
jt

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No