

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP no.20081 of 2016 (O&M)  
Date of Decision : 30.01.2018

Prem Singh and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR JUSTICE RAJBIR SEHRAWAT

Present : None for the petitioner(s)  
Ms. Anu Pal, AAG, Punjab

**MAHESH GROVER, J.(ORAL)**

This writ petition has been filed by the petitioner seeking issuance of a writ in the nature of Certiorari quashing notice dated 21.10.2014 (Annexure P-6) and certificate (Annexure P-7) raising a demand of more than Rs.70 lacs and seeking to recover it as arrears of land revenue. The petitioners are owners of the land which was identified by the State as fit for mining minerals for which e-auction was done and contract awarded to respondent no.3 - Sh. Prashant Joshi.

The respondents then issued notice to the petitioners and raised a demand of more than Rs. 70 lacs which is in question before us.

The State justifies the demand.

During the course of hearing, we have appraised the grievance of the petitioners who state that the report of the Sub Divisional Mining Officer Jagraon was cryptic and was prepared without associating the petitioners. It is not even suggestive of the fact that owners were in any way responsible for the illegal mining allegedly carried out. Apart from this

grievance was that they were not even heard before the assessment was made on the previous auction.

We have granted time to the State to seek instructions as to whether they were willing to withdraw the impugned notices and pass fresh order after hearing the petitioners in accordance with principles of natural justice but learned counsel for the State has not come up with any such instructions and rather insisted on hearing of the matter on merits. She was however, unable to justify the passing of the impugned orders without associating the petitioners which fact manifests itself from perusal of the report of the Sub Divisional Magistrate. Reliance was placed on Rule 85(5) of the Punjab Minor Mineral Rules, 2013 which is extracted herebelow:-

**Rule 85 Assessment of royalty**

(1) xxx

(2) xxx

(3) xxx

(4) xxx

(5) If upon information, which has come into his possession the assessing authority is satisfied that any person has raised, without any lawful authority, any minor mineral from any land and has not paid the royalty due therein to the Government, the assessing authority shall within three years after the expiry of the period during which the land was occupied by such person serve on such person a notice in Form 'R' and after giving such person a reasonable opportunity of being heard, proceed to assess to the best of his judgment the amount of royalty due from him. The assessing authority may also pass an order for recovery from such person of the minor

minerals so raised or where such minor mineral has already been disposed of, the price thereof.”

A perusal of the above indicates that if the assessing authority is satisfied that any person has raised without any lawful authority any minor mineral from the land and has not paid the royalty to the Government such authority shall within 3 years after the expiry of the period during which land was occupied by such person serve on such person a notice in form 'R' and after giving such person a reasonable opportunity of hearing proceed to assess to the best of his judgment the amount of royalty due from him.

Evidently, the word 'such person' appearing in Rule 85(5) would mean a person to whom mining contract had been awarded. Under no circumstances would it include the owner who has been divested of his control pursuant to the notification issued by the State and consequent auction in favour of a person.

No material has been shown to us to suggest that the petitioners who were owners were ever associated with the exercise of assessment. We are thus of the opinion that not only the principles of law but principles of natural justice have also been violated by the respondents. We, therefore, accept the petition and set aside the impugned orders. Ordered accordingly.

**(Mahesh Grover)**  
**Judge**

30.01.2018

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

**(Rajbir Sehrawat)**  
**Judge**