

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1863 of 2017 (O&M)
in CWP No.19813 of 2011
Date of decision: 15.03.2018

Parlad Singh Appellant
Versus

State of Punjab and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.**

Present: Mr. Brijeshwar Singh Bhalla, Advocate for the appellant.

B.S. Walia, J.

[1] Intra-court appeal has been filed against order dated 18.09.2017 dismissing the writ petition seeking quashing of orders Annexures P-10 and P-12 dated 11.07.2007 and 15.07.2011 respectively issued by respondent No. 3 requiring appellant to deposit payment and also requiring respondent No. 2 to cancel the "No Objection Certificate" issued to the appellant.

[2] Learned counsel contended that necessary permissions had been taken and although some trees had been cut, yet, penalty had been imposed for the same, besides said trees had been sold by the Forest Department, therefore, the amount in question was liable to be deducted from the penalty amount but the aforementioned aspect of the matter was concealed by the Forest Department. Learned counsel further contended that the Writ Court failed to take into account that there was no violation by the appellant

respondents but the respondents had illegally raised the demand to ₹ 10,06,840/- by adding 10 times Penal Compensatory Afforestation cost which could not have been added since Compulsory Afforestation Scheme had not been framed.

[3] We have heard learned counsel and for the reasons recorded hereunder, we are of the view that the appeal is bereft of merit, consequently liable to be dismissed.

[4] Admittedly, the appellant was ready and willing to pay ₹ 4,19,200/- i.e. Net Price Value and Compensatory Afforestation's cost but not ₹ 10,06,840/- on account of addition of penal Compensatory Afforestation cost of ₹ 8,30,000/- on the ground that the 10 times Compensatory Afforestation Scheme had yet not been prepared. The Writ Court negated the aforesaid plea in view of letter dated 16.02.2006 whereby the Government of India had directed the State Government that in addition to the normal Compensatory Afforestation, 10 times Penal Compensatory Afforestation cost was to be charged from the user agency.

[5] Affidavit filed by Baljeet Singh, PFS, Divisional Forest Officer, Sri Muktsar Sahib pursuant to order dated 25.07.2017 passed by this Court, reveals that the appellant had installed the petrol pump of Hindustan Petroleum Corporation Ltd without getting permission from the respondents on account of which penalty/fine was imposed on the appellant/user agency vide orders dated 11.07.2007 (Annexure P-10) and 15.07.2011 (Annexure P-12) respectively on account of the appellant/user agency having illegally and malafidely cut trees of the Forest Department besides illegally occupying land/area of the Forest Department even prior to the issuance of No Objection Certificate by the District Magistrate, Moga as conditional No

Objection Certificate was issued on 14.01.2005 whereas the trees were cut

down and area occupied on 18.10.2004. No doubt, initially ₹ 4,19,200/- was fixed as Total Financial Outlay for Net Present Value (NPV) and Compensatory Afforestation Scheme but in view of letter dated 16.02.2006 issued by the Deputy Conservator of Forest (C) Government of India, Ministry of Environment and Forests Northern Regional Office, Chandigarh case for proposal of the State Government was examined in view of letter of Government of Punjab dated 20.07.2005 and Nodal Officer's letter dated 06.02.2006. Accordingly, the total penalty payable was enhanced to ₹ 10,06,840/-.

[6] Moreover, preliminary objection No. 1 and paragraph No. 6 of the reply on merits filed on behalf of respondent Nos.1, 3 and 4, reveals that No Objection Certificate (NOC) was required to be obtained from the Forest Department before setting up of the petrol pump but the same was not obtained by the appellant as per rules and regulations and the appellant set up the petrol pump without getting the requisite permission on account of which the penalty was imposed upon the appellant vide orders Annexure P-10 dated 11.07.2007 and Annexure P-12 dated 15.07.2011 as per letter of Government of India, Ministry of Environment and Forest Northern Regional Office File No.9-PBB392/2005-CHA/639 dated 16.02.2006.

[7] Even as per reply filed by respondent No.2, conditional No Objection Certificate was issued to the Hindustan Petroleum Corporation vide Annexure R-1 dated 14.01.2005 for setting up of the petrol pump while making it clear therein that the Corporation was required to furnish No Objection Certificate from the Divisional Forest Officer, Faridkot Forest Division, Muktsar as well as XEN, Central Works, Ferozepur within six months from the date of issue failing which the No Objection Certificate

would automatically stand cancelled and that on receipt of a notice from the Divisional Forest Officer, Faridkot Forest Division, Muktsar vide letter dated 21.03.2005, No Objection Certificate issued vide No.113/Reader dated 14.01.2005 was cancelled vide letter No.748/Reader dated 29.03.2005 and M/s Hindustan Petroleum Corporation Ltd, was directed to stop the functioning of the petrol pump immediately as the same was running without No Objection Certificate.

[8] Since, the installation of the petrol pump by the appellant was without getting permission/NOC from the respondents as a consequence of which the NOC was cancelled vide letter dated 29.03.2005 (Annexure R-2/T) in view of violation of Sections 2, 3A, 3B of the Forest Conservation Act, 1980 and orders Annexure P-10 dated 11.07.2007 and Annexure P-12 dated 15.07.2011 were passed, trees of the Forest Department were illegally cut and land of the Forest Department was illegally occupied on 18.10.2004 i.e. prior to issuance of conditional No Objection Certificate on 14.01.2005, we find no infirmity with the order passed by the Writ Court.

[9] Accordingly, the appeal being bereft of merit is dismissed in limine.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

15.03.2018
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| 1. | Whether speaking/reasoned | : | Yes/No. |
| 2. | Whether reportable | : | Yes/No. |