

**212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.6366 of 2019
DATE OF DECISION:01.04.2019

M/s Gandhi Lime Trader

...Petitioner

Vs.

State of Haryana & others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. Girish Agnihotri, Senior Advocate with
Ms. Roja Agnihotri, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional A.G., Haryana.

MAHESH GROVER, J. (Oral)

The petitioner prays for issuance of a writ in the nature of mandamus directing respondent No.1 to consider his case for approval of the Term of References (TOR) submitted by the petitioner for preparation of Environment Impact Assessment Report for grant of Environment Clearance to the petitioner. This Court while entering upon this petition noticed the grievance of the petitioner regarding inaction of the respondents to take appropriate action in terms of letter dated 30.05.2018 appended to the petition as Annexure P-9.

A perusal of Annexure P-9 shows that it reflects the entire history of the endeavour of the petitioner with regard to the mining in

question which journey started in the year 1996 and after a lapse of 7 years, the petitioner succeeded in getting the letter of intent but only with the intervention of the Court. Finally, the lease was registered again after intense efforts on 21.02.2018, in fact as observed by us Annexure P-9 contains the entire history of the petitioner's struggle. Interestingly, the mandate which the petitioner seeks from the directions given by the Ministry of Environment also contains the brief facts affecting the claim of the petitioner and we would for the purpose of ready reference extract the same from there.

“The proponent mentioned that the application for the mining lease was made on 18.11.1983 and the state Government, after approval of the Central Government accorded sanction for the grant of “Letter of Intent” to M/s Gandhi Lime Traders favour. The sanction of the state Govt. was conveyed to M/s Gandhi Lime Traders vide memo no.Glg/Hy/E-918/7761 on dated 22.07.1999 wherein PP was directed to submit the copy of approved mining plan within 6 months. On submission of the approved mining plan, the sanction for grant of mining lease was conveyed to M/s Gandhi Lime Traders vide memo dated 30.01.2003. M/s Gandhi Lime Traders was directed to execute lease deed or model Form-K appended to Mineral Concession Rule,1960, first copy on non-judicial stamp papers worth 2,50, 000. However, M/s Gandhi Lime Traders failed to execute the lease deed on the plea that stamp duty was calculated on higher side. The state government on their failure to execute the lease deed, revoked the sanction of the mining lease was conveyed to them vide memo dated 11.11.2004. Aggrieved by revocation of sanction for the grant of mining lease, M/s Gandhi Lime Traders challenged the order of the state Govt. by filing a revision application as-per provision of the section 30 the Mines & Mineral (D&R) Act, 1957 read with rule 54 of the Mineral concession Rule, 1960 before the Govt. of India in the Ministry of Mines. The central Govt., vide their order dated 06.09.2010 set aside the order dated 11.11.2004 of the state Govt. and remanded the case to

the state Govt. for deciding the matter afresh, afforded them an opportunity of hearing. The Central Govt. observed that the State Govt. may give one more opportunity to M/s Gandhi Lime Traders to execute the lease deed at production rate of the Indian Bureau of mine approved Mining Plan. In light of above orders the matter was again considered by state Govt. and it has been decided that M/s Gandhi Lime traders may be given an opportunity to execute the lease deed for mining of Lime Stone on the basis of average production 21000 T/annum approved by the Indian Bureau of Mines, but M/s Gandhi Lime traders will be liable to pay Stamp duty on the sum calculation at the present rate of royalty on Lime Stone. The Central govt. made amended in the Mines and Minerals (D&R) Amendment Act, 1957 vide Ordinance dated 15.01.2015 which became an Act on 27.03.2015, has provided that the period of lease for mineral other than coal, lignite and atomic minerals, on and from the date of commencement of mines and Mineral (D&R) Amendment Act, 2015, so in view of this amendment in Act, the lease period for M/s Gandhi Lime Traders shall be 50 yrs, and accordingly the stamp duty will also be charged. After that M/s Gandhi Lime traders were directed to execute the lease deed prescribed form, first copy of Stamp Paper worth Rs. 8,40,000/- in respect of area of 33.215 ha in village Dostpur & Bhedanti in district Mahendergarh for mining of Lime Stone against the issued letter from Director, Mines & Geology, Haryana vide memo No.GIg/Hy/E-918/4508 on dated 8/8/2017. Further M/s Gandhi Lime Traders has been submitted form K registered vide letter no.1965 on dated 21.02.2018 by the District mining Officer, Mines & Geology Department Narnaul.”

In the background of the above the Ministry of Environment-

Government of India made the following recommendation:-

“The Proposal is considered in EAC Meeting held on May 14th-15th, 2018. The Committee deliberated on the proposal and documents submitted by PP as was of the view that as per section 10A(2) (c) MMDR, Act, 2015 “where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals

*(Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Act” but in the instant case the lease was executed after 11.01.2017. The Committee was of the view that before considering the proposal clarification from the State Government needs to be obtained in this regard. The Committee therefore **returned the proposal in the present form** and asked the Ministry to seek comments of state government in this regard and after receiving the comments of state government examine the proposal in the Ministry and accordingly communicate **the PP to apply afresh if lease is valid.**”*

The grievance of the petitioner is limited to enforcement/consideration of this recommendation of the Ministry of Environment. It is stated by the petitioner that despite all the efforts made since 1996, the petitioner has been unable to carry forward its mining activity and the entire project has been held up only on account of the inaction of the State Government.

Learned counsel for the State contended that a decision in this regard would be taken and forwarded to the Ministry of Environment within a period of one week.

This satisfies the petitioner who states that the petition be disposed of in terms of the statement made by learned State counsel on instructions from Mr. R. K. Sharma, Mining Engineer, Haryana. If the decision is taken and sent to the Ministry of environment-respondent No.2 then we direct respondent No.2 to take a decision by associating the petitioner and granting him an opportunity of being heard as expeditiously

as possible preferably within a period of four weeks from the date of receipt of certified copy of this order.

Disposed of.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

01.04.2019
rimpal

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