

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

(1) Sukhwinder Singh

CWP No.17533 of 2018

...Petitioner

Vs.

State of Punjab & others

...Respondents

(2)

CWP No.18328 of 2018

Ranjan Aggarwal

...Petitioner

Vs.

State of Punjab & others

...Respondents

(3)

CWP No.19113 of 2018

Hecate Power Generation Limited

...Petitioner

Vs.

State of Punjab & others

...Respondents

(4)

CWP No.19215 of 2018

Salwinder Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

(5)

CWP No.18920 of 2018

M/s Neel Kanth & Company

...Petitioner

Vs.

CWP No.17533 of 2018 & other connected cases

:2:

State of Punjab & others

...Respondents

(6)

CWP No.18956 of 2018(O&M)

Hecate Power Distributors Limited

...Petitioner

Vs.

State of Punjab & others

...Respondents

(7)

CWP No.19093 of 2018(O&M)

Nawanshahar Friends Company

...Petitioner

Vs.

State of Punjab & others

...Respondents

DATE OF DECISION:25.02.2019

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

Present: Mr. Gurminder Singh, Senior Advocate with
Mr. RPS Bara, Advocate,
Mr. Girish Agnihotri, Senior Advocate with
Mr. Bhuvan Vats, Advocate,
Mr. R.V.S. Chugh, Advocate and
Mr. Nihit Lomis, Advocate,
Mr. Aman Pal, Advocate,
Mr. Mansur Ali, Advocate and
Mr. Tushar Madaan, Advocate
for the petitioner(s).

Mr. Ayush Sarna, AAG, Punjab.

MAHESH GROVER, J. (Oral)

**CM No.16993 of 2018 in
CWP No.18956 of 2018 &**

CM No.2824 of 2019 in
CWP No.19093 of 2018

Applications are allowed as prayed for.

Main cases

This order will dispose of above numbered seven writ petitions as they are interconnected.

On 01.02.2019, we had passed the following order noticing the statement made by learned Advocate General, on instructions from the Principal Secretary to Government of Punjab who was present in the Court.

“Affidavit of Sarvjit Singh, Principal Secretary to Government of Punjab, Deptt. Of Mines & Geology, Punjab Chandigarh on behalf of respondents No.1 to 4 filed in the Court today is taken on record.

Learned Advocate General states that they are willing to refund the amount of the petitioner(s) subject to their furnishing an undertaking that they would indemnify the State in the event of the decision of the Hon'ble Supreme Court wherein the issue likely to impact the claim of the petitioner(s) is being debated.

Learned counsel for the petitioners contend that in view of the fact they would like to have instructions.

Adjourned to 25.02.2019.

A photocopy of this order be placed on the files of aforesaid connected cases.”

The prayer made in these petitions for refund of the amount which is lying with the respondents on account of a mining contract for which the petitioners were declared successful in open bids. There seems to have been a policy change in the manner of auction of mining contracts.

The petitioners have stated before this Court that they were not permitted to mine the areas for different reasons. In all these petitions the common thread that runs through them is that State Environmental Impact Assessment Authority declined clearance to each of the petitioners on different grounds implying thereby that the area offered by the State was not fit for mining. Even today during the course of proceedings Sukhwinder Singh, State Geologist Mines & Geology Department who is present in Court has refused to bind himself to a statement that the area offered for mining was conducive.

As noticed above the learned Advocate General had clearly stated that the amount shall be refunded to the petitioners within a period of eight weeks from the date of passing of the order. No justifiable reason has been given for non-compliance of the statement made to the Court and it has been asserted before us by learned counsel representing the State that an SLP has been preferred where notice has been issued.

Learned counsel for the petitioners inform us that SLP has been filed against the orders of the National Green Tribunal upholding the cancellation orders passed by the Environmental Impact Assessment Authority.

We are of the opinion that this itself may not be a good ground to deny the refund particularly when the learned Advocate General made a categorical statement to that effect. Indeed the State can secure its interest, if any, but prima facie we do not find any justification for the State to withhold the money deposited by the petitioners in the hope of

executing a contract which has been rendered illusory.

We do not find any moral or lawful authority with the State to claim this amount particularly when its own assessment regarding the mines being conducive for mining was negated by the National Green Tribunal and the State Environmental Impact Assessment Authority. The petitioners in turn are willing to say that in case an area is offered for mining again they will not bid for it. We will not comment on this aspect. They also state that they are willing to furnish an undertaking to the State that in case some orders are passed by the Hon'ble Supreme Court with any direction emanating therefrom they would readily bind themselves to restitution.

Having regard to the aforesaid, we deem it appropriate to dispose of these petitions with a direction to the State to refund the amount of the petitioners forthwith preferably within a period of four weeks from today. In case the petitioners have any surviving grievance they are at liberty to avail the alternate remedies available to them in law.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

25.02.2019
rimpal

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