

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

CWP No.27711 of 2018  
DATE OF DECISION:18.01.2019

Pritpal Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

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

Present: Mr. Girish Agnihotri, Senior Advocate with  
Mr. Bhuvan Vats, Advocate  
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab.

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

This petition has been filed under article 226 of the Constitution of India where the petitioner prays that his amount be refunded as he has been unable to mine the area for which he had made a successful bid on account of the hindrances. Environment Impact Assessment Authority observed as below:-

*“The Government of Punjab, Directorate of Mining of Industry and Commerce Department issued E-auction notification dated 15.01.2018 as per which the auction of quarry Rail Bramad hadbast No.420, land measuring 4.63 hectare for extraction of sand measuring 30915 ton per annum District Shaheed Bhagat Singh Nagar was conducted on 19.02.2018 and in e-auction Pritpal Singh,*

*House No.284, Sector 33-A, Chandigarh gave the highest bid of Rs.3,43,08,690/- per annum and which was provisionally approved by Government letter no.GLG/G-1/1085/2018/1/459-A dated 02.02.2018, the above stated contractor has deposited the concerned amount with the department. (DEIAA) SBS Nagar has to transfer the Environmental clearance in the name of the contractor, but Tehsildar, Balachaur has received the report of Halqua Patwari in the office of GM-Cum Mining Officer, Nawanshahar, in which Halqua Patwari has written that in the approved area of mining quarry Rail Bramad/420, the water is instream continuously and so the demarcation of the approved area cannot be conducted in the flowing water. It has also been attested that the demarcation can only be conducted if the water changes its course or the same should dry. It has also been clarified here that after the issuance of provisional approval of the above stated quarry the patwari has visited the spot a number of times for conducting the demarcation, but every time the water is instream of Satluj River, the water has changed the course and for that reason it is flowing in the approved area. So, the demarcation of the above stated cannot be conducted. So, the committee(DEIAA) SBS Nagar has given its recommendation to the government through letter regarding the proceedings so that further proceedings can be initiated.”*

Thereafter, on 11.10.2018 the sub Divisional Magistrate noticed as below:-

*“Regarding the above stated subject, it is being written that in the presence of the Site Appraisal Committee and Tehsildar Balachaur alongwith field staff, the spot inspection of quarry Bramad Rail District SBS Nagar was conducted. At the spot in Khasra numbers 17/1 (3-12) 23 (8-*

*0), 24(8-0), 44//3 (8-0), 4 (8-0), 58 (8-0), 7 (8-0), 8 (8-0) 13 (8-0), 14 (8-0) 17, (8-0), 18 (8-0), the water is instream at the spot. In this area the extraction of sand is not possible at the spot. The report is being sent to you for further necessary.”*

The petitioner contends that for more than one year his amount of Rs.2 crores is lying deposited with the respondents and he has been unable to operate the mine on account of constraints i.e. proper identification of land.

We had issued notice of motion on 30.10.2018, noticing the grievance of the petitioner and despite opportunities, the reply has not been filed even though it has been verbally stated before us that inspection by the environmental team is going on.

After hearing the learned counsel for the petitioner and noticing that there has been a complete default by the respondents in responding to the petition and also noticing that the respondents themselves have expressed their inability to demarcate the area intended for mining which has prevented the petitioner from carrying out any activity despite the fact that he has made a successful bid in open auction, there would be no justification with the respondents to offer a mine which is incapable of being operational. The State cannot abdicate its responsibility in identifying proper area to offer it to the prospective bidders for mining purposes, there would be no moral authority with the State to retain the amount deposited by a person in the hope of successfully executing the contract which continues to be hindered on account of default of the State agencies who have failed to identify the area

and its availability to the bidder. Consequently, we dispose of the petition with a direction to the respondents to refund the amount of the petitioner preferably within a period of three months from the date of receipt of certified copy of the order.

**(MAHESH GROVER)**  
**JUDGE**

**(LALIT BATRA)**  
**JUDGE**

**18.01.2019**

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