

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8477-2019

Date of Decision: 28.5.2020

M/s Sant Crushers

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJAN GUPTA.
HON'BLE MR. JUSTICE KARAMJIT SINGH.**

PRESENT: Mr. Gurminder Singh, Senior Advocate with
Mr. RPS Bara, Advocate for the petitioner,
in CWP-8477, 8422 and 8436-2019.

Mr. Gagandeep Singh Bajwa, Advocate with
Mr. Arvind Seth, Advocate for the petitioner,
in CWP-7917 and 7922-2019.

Mr. Dinesh Mahajan, Advocate for the petitioners,
in CWP-10872 and 14287-2019.

Mr. Kanwardeep Singh, Advocate for
Mr. S.S. Narula, Advocate for the petitioners,
in CWP-9695-2019.

Mr. Sahil Sharma, DAG, Punjab.

Mr. Surveer Sheokand, Advocate for respondents No.1 to 4,
in CWP-7917, 7922, 8422, 8436, 8477 and 10872-2019.

Mr. Rahul K. Sharma, Advocate for
Ms. Rita Kohli, Advocate for respondents No.1 to 4,
in CWP-9695 and 14287-2019.

RAJAN GUPTA, J.

This order shall dispose of a bunch of eight petitions bearing
CWP-8477, 7917, 7922, 8422, 8436, 9695, 10872 and 14287-2019 as
according to learned counsel for the parties similar questions of law and
facts are involved therein.

The petitioners, who are running stone crushers, have prayed for a direction to the respondents not to take coercive action against them. Fresh survey be conducted in order to find out existing position on the spot and to allow the petitioners to continue processing of mines and minerals.

It was vehemently contended by learned counsel for the petitioners that their stone crushers are not located in the choe/river bed and were processing 50 metre away from the *gair mumkin nandhi*, yet the respondents intended to take coercive action to stop their operations.

It was refuted by the learned State counsel. As per stand of the learned State counsel, the sites in question have been inspected several times. It has been found that on right side of river Ravi, surface being very low, there were chances of flooding in view of continuing stone crushing activity. The parties were given hearing by the appellate authority in presence of engineering experts of the Department of Water Resources and District Town Planner. Specific reports were also referred to and stone crushing activity was found to be in violation of notification dated 30.7.2013. State also raised a preliminary objection that the petitioners have remedy of appeal before the National Green Tribunal (NGT) against the order passed by the appellate authority.

We have heard learned counsel for the parties and considered the matter at length.

It is evident that the petitions involve disputed questions of fact as regards the location of the stone crushers. Only mechanism available to ascertain the same was to seek reports from the State authorities. The appellate authority also sought reports from the Deputy Commissioners time and again to ascertain whether stone crushers were located near the flood

protection embankment. All such reports were, however, against the petitioners and it was found that their stone crushers were not confirming to the criteria as laid down in the notification dated 30.7.2013 issued by the Government of Punjab. In view of these reports, the court has no option but to accept the stand of the State. No useful purpose would be served by seeking fresh reports in this regard as disputed questions of fact cannot be decided in the writ jurisdiction.

As regards, the objection of the State that the petitioners have remedy of appeal before the NGT, we leave it to the petitioners to avail such remedy, if available.

In these circumstances, we do not find any ground to interfere in the writ jurisdiction. Writ petitions are dismissed. State authorities shall, thus, be at liberty to stop operations of stone crushers which endanger the embankment in order to avoid flooding of the area where they are located as well as to protect environment.

(RAJAN GUPTA)
JUDGE

May 28, 2020
gbs

(KARAMJIT SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No