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

CWP No.8224 of 2020 (O&M)

Date of Decision : 18.06.2020

Gurvinder Singh Gill

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present :- Mr. Mansur Ali, Advocate
for the petitioner.

AJAY TEWARI, J. (ORAL)

This petition has been filed for the following prayer:

“i. Seeking quashing of Speaking Order (Annexure P-25) dated 29.1.2020 passed by respondent No.2.

ii. Seeking direction to the respondents to refund amount of Rs.2,82,13,728/- deposited by the petitioner in terms of Auction Notice (Annexure P-3) dated 13.06.2017 from the date of deposit till the date of realization alongwith interest.

Admittedly, the respondents had notified E-Auction of various

mining sites, condition No.13 of which is as follows:-

“13. The prospective bidder at his own level and expenses can visit the mines included in the notification for his satisfaction whether he can operate the mine or not.”

The petitioner bid for mining site situated at Village Kakrala on 07.05.2017. The petitioner being highest bidder was awarded the contract

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and at different stages he had raised different grievances with the respondents. The first one was representation dated 28.12.2017 (Annexure P-15) in which he stated as under:-

“.....thereafter I attempted to start mining from dated 25.10.2017 but in the mine the material in quantity as notified after the digging upto permissible level from surface and only sand is found.”

Thereafter, the petitioner gave another representation dated 29.01.2018 (Annexure P-16) in which he made the following complaint:-

“.....I attempted to start the mining work from dated 25.10.2017 but local village residents gathered and they stopped vehicles from going through the Government passage and finally on dated 21.11.2017 this mine was got shut down by them.”

Thereafter, at one stage the petitioner moved this Court by way of petition bearing CWP No.6477 of 2019 praying that he may be allowed to withdraw from the contract on the ground that he was '*induced on the basis of lapses and misrepresentation*'. That petition was disposed of vide order dated 20.03.2019 with the following observation:-

“We would, therefore, without commenting on the merits of the case, deem it appropriate to dispose of the present petition without issuing notice to the respondents at this stage but with a direction to respondent No.1 to decide the issue raised by the petitioner in the present petition by giving an opportunity of hearing as expeditiously as possible, preferably within a period of six weeks from the date of receipt of certified copy of the order. Ordered accordingly.”

Pursuant thereto, a speaking order (Annexure P-25) was passed in which it was mentioned that as regards the complaint that the access was being denied, the same had been sorted out and as regards the contention that there was neither sand or gravel at the site, the petitioner had entered into the contract with open eyes. It was also noticed that the petitioner had extracted about 800 Metric Tonnes minor minerals in the months of

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November and December, 2017 from the site.

Learned counsel for the petitioner has argued that as per report (Annexure P-20) an official team had certified that there was no sand or gravel available at the site and therefore prayed that the petitioner be allowed to rescind the contract and the amount of money which he deposited be also refunded.

In our considered opinion, these are all disputed questions of fact. Whether and to how much refund the petitioner is entitled has to be decided after obtaining evidence.

In the circumstances, we dismiss this petition with liberty to the petitioner to take recourse to any alternative remedy as available under law.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(JASGURPREET SINGH PURI)
JUDGE

June 18, 2020
ashish/anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No