

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

CWP 10521 of 2020 (O&M)

Date of Decision: August 27, 2020

M/s Ultra Tech Cement LimitedPetitioner
Versus
State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Manish Jain, Advocate
for the petitioner.

Mr. Shireesh Gupta, Sr. DAG, Punjab
for respondents No. 1 to 4.

Mr. Naveen Batra, Advocate
for respondent No.5.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through
video-conferencing on account of outbreak of pandemic COVID-
19.

M/s Ultra Cement Limited (in short '**the Company**')
has filed this petition under Article 226 read with Article 227 of
the Constitution of India seeking prayer by way of writ of

mandamus directing respondents No. 1 to 4 to forthwith take necessary steps to protect the life and liberty of the employees of the Company as well as plant machinery and so its business due to illegal action of respondent No.5.

Further prayer has been sought by way of writ of *mandamus* seeking directions to respondent 4 to remove the blockade created by respondent No. 5 and to ensure smooth passage of their vehicles carrying goods/materials from the State of Punjab to Himachal Pradesh and vice versa.

The averments of the petitioner, in brief, are that the Company is running the business of manufacturing cement and has manufacturing plants throughout the country including the one at Baga District Solan Himachal Pradesh with grinding units at Bagheri District Solan Himachal Pradesh. It is claim of the Company that in the plant at Bagheri they have 650 employees and the units is located on the border of Punjab and Himachal Pradesh with the road leading from Punjab to the State of Himachal Pradesh. The Company contends that to facilitate transportation of clinker and other material, trucks often transported the goods between these above detailed places and claimed that unit at Baga District Solan, Himachal Pradesh was being earlier run by M/s Jaiprakash Associates Ltd who used to have business with respondent No.5 but the Company has no role to play therein. The bone of contention is that on account of

economic slump business has deteriorated and that respondent No.5 are compelling the Company that they be provided full working as was being allowed in the year 2017. As a consequence of this inability of the Company, to satisfy their unjust demands members of respondent No. 5 had started making demonstrations blocking the road between Punjab and Himachal Pradesh which caters to the needs of the Company's unit and have been threatening them resulting in threat to the safety of the employees, goods as well as plant whose functioning is further hampered by the irresponsible and illegal conduct of the respondent No. 5. It is in the light of this, the present petition has come about.

Respondents No. 1 to 4 in their tersely worded reply besides taking usual preliminary objections over lack of jurisdiction, cause of action and non-joinder of necessary parties have taken the plea totally denying the contentions of the Company and absolving themselves of any mis-management on their part. The answering respondents have claimed that there is no violation of any law and order or undue harassment by respondent No. 5 within the jurisdiction of the State of Punjab which could be a matter of concern for the Company. The respondents have denied each and every claim of the Company claiming that their patrol is patrolling the area and, thus, there is no cause for concern.

In their reply on behalf of the contesting respondent No.5 besides taking preliminary objections of “Corporate Social Responsibility”, the respondents have sought to highlight the plight of the people of the vicinity of the factory whose lands have been acquired and in spite of assurances they have not been provided with adequate livelihood and took plea of promissory estoppel qua the petitioner.

On merits, the respondent denied each and every averment of the Company taking plea that no doubt the petitioner-company has taken over from the erstwhile company M/s Jaiprakash Associates Ltd. but an agreement was executed between the villagers, transporters and the erstwhile Company for which they have placed reliance on Annexure R-5/1, R5/2 and R5/T. The respondent has termed the claim of the Company to be highly malafide and malicious and sought dismissal of the petition.

Heard Mr. Manish Jain, Advocate for the petitioner, Mr. Shireesh Gupta, Sr. DAG, Punjab and Mr. Naveen Batra, Advocate for respondent No. 5. and perused the records.

The contentions of Sh. Manish Jain for the petitioner that private respondents cannot use force and resort to intimidatory tactics to hamper the business operations of the Company though has sought to be controverted by Sh. Navin Batra for the private respondents on the grounds that an agreement Annexure R5/2 was executed between the parties in

consequence of which the petitioners were to contribute towards corporate social responsibility (CSR) by providing employment, avocation to the private respondents. No doubt the residents of surroundings villages were given assurance by erstwhile Co. i.e. M/s Jaiparkash Associates Ltd. for opportunities of employment and to respondent No.5 the Kiratpur Sahib Truck Operators Cooperative Society through Agreement Annexure R5/2 assurance of providing trade for transporting clinker to clinker feeding yard at village Dehani (Ropar-Punjab) and its further transportation to grinding units at Rorkee (Uttara Khand) and Panipat (Haryana) and whose validity was for only 05 years w.e.f. 21.04.2010 and which in the absence of any renewal stands expired and unenforceable. More so, as is the contention of the petitioner's counsel on account of world-wide economic slowdown accompanied by COVID-19 pandemic there is a plea of **“force-majeure”** on account of unforeseeable circumstances that prevents the Company to create work for the members of respondent No. 5 and even by that score these submissions of respondents fall to the ground. Even otherwise the respondent No.5 have a recourse to law in terms of this Annexure R5/2 and can by no means be allowed to resort to criminal force by blocking the access to the premises of the Company, threaten and intimidate their workforce by any means whatsoever. In case respondent No. 5 resort to any such means within the State of Punjab it is the bounden duty of official respondents to

ensure strict action as per law and create faith and confidence of the Company in the system. Since the roads lead from Punjab and part of the premises of the Company is located in Punjab, official respondents cannot escape from their responsibility in implementing law and try to be servile at the behest of political figures for election motive.

Article 19(1)(d) of the Constitution ensures free movement to the citizens throughout the territory of the country and read conjointly with Article 14 ensures that “Rule of Law” is the basic rule of governance of any civilized society. Article 14 ensures any person natural or artificial is entitled to its protection. There is nothing illustrative of non-implementation of CSR by the Company in case of job opportunities for the villagers which could be violative of Article 16. No doubt Article 21 embodies action in case of deprivation of life or personal liberty and the respondent No.5 could not highlight how there is denial of their fundamental right by denying them business by the Company. Rather giving an extended meaning and interpretation of Article 21 in **A.K. Gopalan Vs. State of Madras (AIR 19550 SC 27)**, the Apex Court has held it to mean “freedom from physical restraint” by any means whatsoever including denying access to the work place, carrying on legitimate business etc. Thus, the act and conduct of the Transport Society/Respondent No.5 certainly tantamounts to this violation of the fundamental rights of the Company which

the official respondents being sentinels of law and order need to protect by all means.

Thus, in light of the unrefuted claim and stand of the Company and to ensure safety of its workforce, business establishment and that the product of the Company is of vital developmental importance as well as source of economic contribution impels this Court to allow the instant petition thereby directing the respondents No. 1 to 4 to strictly enforce law and order in the area and ensure there is free and unhindered movement of the goods, vehicles, work force etc. of the Company and as well as to protect the plant, machinery, goods, employees of the Company and that the same is not in any manner threatened by the illegal acts of the private respondents or their agents, cohorts who are acting at their behest and to act immediately on the complaint of the Company against anyone found guilty as per law.

Allowed.

August 27, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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