

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

CWP-10337-2021 (O&M)
Date of decision:- 12.07.2021

Shree Balaji Grit Udyog and others

...Petitioner (s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Nidesh Gupta, Senior Advocate,
with Ms. Pallavi Singh, Advocate,
for the petitioners.

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for respondents No. 1 and 2.

Mr. Ankur Mittal, Advocate,
and Ms. Khushaldeep Kaur, Advocate,
for respondent No. 3.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court)

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RAVI SHANKER JHA, C.J. (ORAL)

This petition has been filed by the petitioners being aggrieved by the order dated 12.05.2021 (Annexure P-1) passed by the respondent-authorities based on the notification dated 11.05.2016 (Annexure P-14) issued under Sections 5 and 7 of the Environment (Protection) Act, 1986 and Section 19 of the Air (Prevention and Control of Pollution) Act, 1981 (Central Act 14 of 1981) and rules framed thereunder directing the petitioners/stone-crushers to stop their operations.

In the instant case, the petitioners have alleged that the National Green Tribunal while passing orders on 03.12.2020 in the matters that are pending before it had constituted a Joint Committee directing it to take further steps in terms of its order dated 24.07.2019 regarding compliance of environmental norms in the light of the carrying capacity of the area and the health impact of the operation of stone crushers on the inhabitants. The committee was directed to close all illegal and polluting stone crushers in terms of the environmental norms including the air quality, illegal water extraction etc., except the issue of validity of the siting criteria, prescribed by the notification dated 11.05.2016, which is a subject matter of various writ

petitions that are pending before this Court. The National Green Tribunal is still in seisin of the matter, which is posted for 10.08.2021.

Learned senior counsel appearing for the petitioners submits that the respondent-authorities without examining the issue of the carrying capacity of the area as directed by the National Green Tribunal and totally ignoring the fact that the petitioners/stone-crushers had in fact been established subsequent to the notification dated 11.05.2016 and after three reports were submitted by the revenue authorities that the stone crushers were established beyond the distance of 1 km have still ordered its closure only on the ground that the same is situated within the prescribed distance of 1 km. In such circumstances, it is submitted that the petitioners have assailed the impugned order dated 12.05.2021 as well as the notification dated 11.05.2016 prescribing the siting criteria.

Learned counsel appearing for respondent No. 3 submits that this Court has dismissed several writ petitions filed by the persons who had established the stone-crushers post 11.05.2016 relegating them to file appeals as prescribed under law. He submits that even in respect of those persons who have established their stone-crushers prior to 11.05.2016, this Court has dismissed their writ petitions on the ground of delay and laches and, therefore, the present petition as far as it relates to challenging the notification dated 11.05.2016 deserves to be dismissed. He, however, does not dispute the fact that pursuant to the impugned orders passed by the authorities, no consequential proceedings have been initiated against the petitioners till date in view of the order dated 11.06.2021 passed by this Court granting interim relief to the petitioners that no further steps in the consequential proceedings shall be initiated against the petitioners by the authorities. He also fairly concedes that the present situation still continues in view of the interim order of this Court dated 11.06.2021.

Having heard learned counsel for the parties, it is observed that as far as the factual issue raised by the petitioners whether the petitioners/stone-crushers are within 1 km of the village phirni or beyond, the same is required to be taken up by the petitioners before the concerned authority i.e. either the appellate authority or the National Green Tribunal. It is also observed that the petitioners had accepted the notification on 11.05.2016 since its very inception for the stone crusher of the petitioner unit is situated beyond the prohibited limit of 1 km as prescribed thereunder and above all three reports in that regard were submitted by the revenue authorities. Therefore, their grievance that arises today is only on account of the subsequent report dated 23.07.2019 vide which

the petitioners/stone-crushers are allowed to be situated within the prohibited limit of 1 km.

In the circumstances, we are of the considered opinion that the factual issues raised in respect of the distance at which the stone crushers are situated; the carrying capacity are all required to be taken up and dealt with either by the appellate authority or the National Green Tribunal, and therefore this Court is not required to examine these aspects, at this stage. As the competent authority is already looking into the aforesaid aspects, the petitioners would be at liberty to take all objections in that regard before the authority concerned.

As far as the challenge to the notification dated 11.05.2016 is concerned, we are of the considered opinion that in view of the orders passed by this Court in similar matters, we do not propose to entertain the same.

In the circumstances, the petition filed by the petitioners is disposed of granting liberty to the petitioners to take up all the issues in respect of the factual aspects regarding the distance at which the petitioners/stone crushers are situated as well as the carrying capacity before the appellate authority or the National Green Tribunal. It is also observed that in view of the fact that a Co-ordinate Bench had granted stay in the matter on 11.06.2021, which is continuing till date, therefore, it is ordered that the said interim order dated 11.06.2021 shall continue for a further period of four weeks.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

12.07.2021
Amodh

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