

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-493-2021 (O&M)

Date of decision : 01.07.2021

M/s L.R. Energy Pvt. Ltd.

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA**

Present: Mr.Abhimanyu Bhandari, Advocate;
Mr.Sangram Singh Saron, Advocate;
Ms.Roohina Dua, Advocate
for the appellant.

Mr.Raman Sharma, Addl.A.G. Haryana.

Mr.Arun Khatri, Advocate
for respondent no.3.

(Proceedings through Video Conferencing)

AUGUSTINE GEORGE MASIH, J.(ORAL)

The present appeal has been preferred challenging the order dated 06.05.2021 passed by the learned Single Judge, whereby directions were issued as follows:-

“Learned State counsel submits that as per instructions received from Mr. Manish Phogat, SDO(C)-cum- SDM Tosham, District Bhiwani report / recommendations of the committee constituted by respondent No.4 could not be furnished due to the reason that one of the member of the committee was found positive for Covid-19 and, hence, was

quarantined. Learned counsel for the respondent submits that as per instructions, the report/recommendations of the committee will be submitted to respondent No.4 within a period of four weeks from today.

Learned Senior counsel appearing for the petitioner submits that the statement of the learned State counsel satisfies the grievance of the petitioner, at this stage and he does not press the writ petition any further.

Learned Senior counsel appearing for respondent No.3 submits that respondent No.3 has also raised objections qua formation and jurisdiction of the committee so constituted by respondent No.4 before the respondent No.4, which objections are also pending as of now.

Be that as it may, this Court is not opining on the merits of the case, at this stage, and leave the question of objections raised by respondent No.3 open as of now to be decided by the competent authority in accordance with law by following due process as envisaged under law.

The petition stands disposed of.”

Learned counsel for the appellant submits that despite taking note of the fact that the appellant has objected to the constitution of the Committee by the District Magistrate and other aspects connected thereto, nothing has been stated about the said representation except that the said

objection has been filed / submitted to the District Magistrate. Perusal of the impugned order indicates that the complaint/representation was submitted by M/s. Dynex Explosives pointing out to the District Magistrate that the project which has sought to be installed / erected by the appellant M/s. L.R Energy Pvt. Ltd. is not possible to be so permitted as according to the petitioner before the learned Single Judge it would be dangerous to the public at large being too close to the area where the petitioner is storing explosive material. On the basis of the said complaint / representation, a Committee was constituted by the Deputy Commissioner-respondent No. 4. The said committee was to inspect the site before making its recommendations. Association of the petitioner before the learned Single Judge as well as the appellant herein was also conceived. The appellant had objected to the jurisdiction / power of the constitution of the committee by the Deputy Commissioner-respondent No. 4, apart from the other aspect relating to the jurisdiction itself of taking note of the representation/complaint submitted by the petitioner. Legal objections were also taken with regard to the other aspects based upon the statutory provision. Therefore, the grievance of the appellant is that without taking a call with regard to the objections which have been raised by the appellant in case the District Magistrate seems to decide or take a decision on the report of the Committee, the same would be violating the right of the petitioner for projecting their legal objection to such steps being taken by the District Magistrate.

Learned counsel for the State as well as counsel for respondent no.3 have objected to what has been said by counsel for the appellant and they assert that the order which has been passed by the learned Single Judge

is itself clear and specific and do not require any interference. It has been asserted that the learned Single Judge has in its order itself mentioned that the competent authority will take a call on the objections which have been raised in accordance with law by following due process as envisaged under law.

We have considered the submissions made by counsel for the parties and keeping in view the fact that the basic jurisdiction of the District Magistrate for constituting a Committee has been questioned by the appellant, it would be essential that a decision is taken by the District Magistrate on the objections prior to proceeding and considering the report of the Committee to be submitted. In case the District Magistrate comes to a conclusion that indeed the objections which have been raised by the appellant are to sustain, obviously the report of the Committee cannot be acted upon. However, if the District Magistrate comes to a conclusion otherwise, the consequences thereof would follow. It may be added here that the decision with regard to the objections which has been raised by the appellant shall be considered and decided by the District Magistrate prior to the decision is taken with regard to acceptance or otherwise of the report of the Committee.

With these observations, the present appeal as well as other miscellaneous applications stand disposed of.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

July 01, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No