

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

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**CWP-11135-2021
Decided on : 23.06.2021**

M/s Aahana Infratech

... Petitioner

Versus

State of Haryana & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE RAJESH BHARDWAJ**

Present: Mr.Alok Mittal, Advocate, for the petitioner.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J.

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order dated 08.01.2020 (Annexure P-5) whereby the application of the petitioner for grant of Mineral Dealer Licence (MDL) for stocking of river sand in Village Jainpur has been rejected by respondent No.2. Challenge has also been raised to the order dated 13.07.2020 (Annexure P-7) whereby the appeal of the petitioner was dismissed by respondent No.1 and the consequential auction notice for auctioning the quantity of sand of 34646 metric tons at the reserve price of Rs.1,21,26,100/- on 28.06.2021 (Annexure P-12).

The argument raised by counsel for the petitioner is that the ground for rejecting the case was that the petitioner had stacked sand at the proposed site without MDL which was at 700-800 meters from the mineral site as per the report of the Assistant Mining Engineer, Sonapat, which now has been found to be incorrect vide the report dated 30.12.2020 (Annexure P-10) wherein the site has been found at 1002 meters and 1098 meters. It is, thus, submitted that vide order dated 27.11.2020 (Annexure P-9), directions had been issued by respondent No.2 to measure and verify the exact distance between the site of the stocking and the source of the mineral and on this account, the impugned orders are sought to be challenged.

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A perusal of the record would go on to show that vide application dated 16.05.2019 (Annexure P-1), petitioner had applied for the MDL. An adverse report was given on 26.06.2019 by respondent No.3 regarding the location of the proposed site which was stated to be 700-800 meters from the mineral site and the fact that the applicant had already stacked the sand at the proposed site. Rule 82 of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (for short, the '2012 Rules') bars any such grant of licence within 1 km from the source of such mineral for which the licence is sought.

The petitioner, on 07.08.2019 (Annexure P-3), apprehending the said disqualification, alleged that his site was at a distance of 1400 meters from the local mineral source and also objected that there was no provision for measuring the distance of storage of the stock from the mineral source through crow-fly method. The said application was not favourably considered and keeping in view the earlier report, his request had been rejected, keeping in view the statutory disqualification vide the impugned order dated 08.01.2020 (Annexure P-5). The same has, thus, been upheld by the Appellate Authority by noticing that as per Rule 97 read along with Rule 104 of the 2012 Rules, the liability has also incurred upon the petitioner.

The provisions of Rule 97(4) further provide that if any person is found storing any mineral or its products in contravention of the provisions of the said Rules, the Authority has the power to seize the mineral and also renders the person liable for punishment under Rule 104. Rule 104 further provides the method to tackle the menace of unauthorized mining.

The Authorities, thus, have acted within the provisions of the 2012 Rules. Merely because the petitioner had filed a review application which was dismissed by the Appellate Authority on 28.12.2020 (Annexure P-8) on account of the fact that there was no provision of review, the counsel for the petitioner is in a position to argue that there was a re-measurement done by virtue of the order dated 27.11.2020 (Annexure P-9).

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It is, thus, pertinent to notice that the proceedings rather had come to an end by the dismissal of the appeal on 13.07.2020 (Annexure P-7) and any subsequent orders for measurement of the distance would not take the petitioner a long way. The petitioner rather never chose to agitate for his grievances after the dismissal of the appeal on 13.07.2020 before the Court and even after the dismissal of the review application on 28.12.2020 and rather had accepted the said fact. It is only on account of the auction notice dated 28.06.2021 (Annexure P-12) which has now been issued in the month of June, 2021, he has sought to revive his cause of action by way of filing the present writ petition on 21.06.2020. Thus, in the facts and circumstances, having accepted the impugned orders for almost a period of 6 months, he cannot now raise any dispute to the same only on account of the alleged re-measurement of the site which was done after the proceedings had concluded.

In such circumstances, this Court is of the opinion that there is no ground to interfere in the well reasoned orders passed by the Authorities. The present writ petition is, accordingly, dismissed in limine.

**(G.S. SANDHAWALIA)
JUDGE**

JUNE 23, 2021

sailesh

**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No