

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

203

CWP-21976-2015
Date of Decision: 15.12.2022

KABUL SINGH

... Petitioner

VERSUS

STATE OF HARYANA AND ORS.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana
for respondents No.1 to 4.

Mr. Abhay Gupta, Advocate for
Mr. Amar Virk, Advocate
for respondent No.5.

Mr. Rohit Khanna, Advocate for
Mr. Saurabh Gautam, Advocate
for respondent No.7.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Certiorari seeking quashing of the order dated 03.03.2014 (Annexure P-4) passed by the Addl. Chief Secretary to the Government of Haryana and also for seeking injunction on the action against respondent No.7-Unit on a premise that the activities/functions of the said Unit are causing pollution in the locality.

The impugned order has been perused with the assistance of the learned counsel for the petitioner. The operative part of the said order reads thus:

“8. Findings:

It emerges from the foregoing that:

8.1 *M/s Lafarge India Private Limited, which is a wholly owned subsidiary of a French Multinational engaged in this activity for more than 100 years, purchased the subject land from the landowners through private negotiations for establishment of their Cement Processing Unit, which comprises of a Blending and Packaging Unit. The main consideration for setting up the said Plant at this location was its proximity to the Thermal Power Plant from where it was sourcing the fly ash, as a raw material for the product;*

8.2 *The land of the Unit, situated in Rectangle Nos. 102, 113, 112, 132 and 143 of village Chidiya, is situated outside any Controlled Area/ Urban area and the Plant management obtained the NOC from the Town & Country Planning Department qua the location before setting-up the said industrial unit. Thus the location of the said Industrial Unit was free from any restrictions under the law;*

8.3 *The Lafarge management had obtained all the statutory clearances from the Environment Authorities and established a state-of-the-art Blending and Packaging Unit, with sufficient environmental safeguards using the latest technology;*

8.4 *The local community, as stated by the Sarpanch of the village and a few others, had no grievances qua the management of the Unit or its operations or any environmental concerns arising from its operations, rather, the villagers seemed to be supporting the Industry/Unit as it has generated employment opportunities for the villagers.*

8.5 *The complainant had not raised his grievance with the Pollution Control Board or got any tests conducted qua the adverse effect on his crops from any dust emissions from the said Unit. His contention about obstruction created by the Unit in getting access to irrigation water from the Irrigation channel does not hold any merit in view of the facts stated in para 6.5 above.*

9. Conclusion:

It is clear from the facts stated above that the said Cement Unit has been set up in, accordance with law and after obtaining all the statutory clearances, The allegations of Pollution caused by the Cement Plant, as raised by the complainant, are without any basis as is made out from the entire manufacturing/ blending/ packaging process. But then it also raises a question as to why or how Sh. Kabul Singh was so agitated qua M/s Lafarge that he decided to directly approach the Hon'ble High Court to get his grievance redressed. As a matter of fact, he even objected to the statements of the Village Sarpanch and a few other villagers in favour of M/s Lafarge stating that if he knew that these people would be coming for the hearing, he could also bring a few villagers to give their statements in his favour. As far as I could understand after interacting with all the persons during the course of hearing, the Complainant's real grievances were rooted in something beyond his allegations. These could lie in either (i) that he wanted M/s Lafarge to buy his land also, which they did not as it was not contiguous to their land and they did not require the same, or (ii) that, he had not been provided employment in the said Unit. Unlike the traditional plain speaking villagers, those present during the hearing neither confirmed nor denied these possibilities and these apprehensions were simply laughed away. Be that as it may, this forum cannot be allowed to be used to settle any personal scores. There is no case made out for grant of any relief to the complainant petitioner on merits. Therefore, the representation of Sh. Kabul Singh son of Sh. Chhotu Ram, resident of village Chidiya, tehsil Charkhi Dadri, district Bhiwani, is hereby rejected.”

It is evident from the perusal of the above that the respondent No.7-Unit has been established after obtaining all statutory approvals. There is also no evidence on record to suggest that any of the activities undertaken by

the respondent No.7-Unit is in violation of the norms prescribed by the concerned Agencies/Instrumentalities of the State.

Learned counsel for the petitioner contends that since the land of the petitioner is adjacent to the factory premises established by respondent No.7-Unit, he is suffering loss on account of the damaged being caused to his land as a result of industrial activity undertaken by the said Unit. He, however, does not controvert the fact that the said issue is a disputed question of fact for which not only the liability is to be ascertained but also the quantum of damage needs to be computed and determined.

Learned counsel for petitioner thus seeks to withdraw the present petition with liberty to take recourse to the alternative remedies, if any, in accordance with law.

Disposed of as withdrawn with the liberty as aforesaid.

15.12.2022.
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No