

113

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-9613-2023 (O & M)

Date of Decision : 25.09.2023

PREMDEEP SINGH SHERGILL

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Navjot Singh, Advocate and
Mr. Amarbir Singh Shergill, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Ashish Rawal, Advocate
for respondent-Union of India.

SURESHWAR THAKUR, J. (Oral)

CM-16086-CWP-2023

1. The application for early hearing is allowed and the main case is taken up for hearing today itself.

Main case

2. The present petitioner participated in an e-auction bid, as became made by the respondent concerned, in respect of the petition lands.

3. The said e-auction bid was held on 19.02.2018. Since the present petitioner was a successful bidder thereby he was issued a provisional acceptance letter on 20.02.2018 (Annexure P-2).

4. Though in terms of the Punjab Minor Mineral Rules, 2013

after all the requisite formalities being complied with, the present petitioner was assigned a letter of intent, as embodied in Annexure P-7. However, in terms of the relevant statutory provision, an imperative condition became cast therein, whereby the present petitioner was entailed with an obligation to ensure, that the environmental impact assessment clearance, is granted to the project concerned by the Committee concerned. However, the said condition is un-contestedly breached at the instance of the present petitioner. Therefore, the present petitioner makes an argument before this Court that it may proceed to make a mandamus, upon, the respondent concerned, to, yet proceed to execute through its State Geologist, thus a mining lease vis-a-vis the present petitioner.

5. The above asked for mandamus cannot be granted, as admittedly a breach became caused to the condition existing in the letter of intent (Annexure P-7), casting thereby an imperative obligation, upon, the present petitioner, to ensure that all the requisite formalities rather are ensured to be completed within the time as stipulated therein.

6. The above condition remained evidently un-complied within the time frame as stipulated therein. Therefore, any environmental imperative assessment clearance becoming granted to the petitioner, thus beyond the period of time, as, prescribed in the letter of intent, thus is completely insignificant nor this Court can proceed to make any mandamus, upon, the respondent concerned, to thus through its State Geologist, execute a mining lease in favour of the present petitioner.

7. The further ground which constrains this Court to not allow the present writ petition is groved in the factum, that it is stated at the bar by the learned State counsel, on instructions imparted to him by the officer

concerned that in view of the direction(s) passed by this Court in CWP-22567-2012 titled as '*Gurbir Singh Pannu Vs. Union of India*', the State Government has issued instruction(s), that the excavation of the minor minerals, in case they are to be mined in a area, which is within five kilometers from the International Border with Pakistan, thereupon such minings will be permitted only after obtaining NOC from the Local Military Authority concerned.

8. The learned State counsel also further submits, that the Army Authorities concerned, have declined to issue NOC, since the lease of lands to the present petitioner, in an e-auction are within the prohibited zone. Consequently, thereby this Court does not find any merit in the writ petition and is constrained to dismiss the same.

9. The writ petition is accordingly dismissed.

10. However, the fine imposed, if any, upon the present petitioner be not insisted to be recovered from the present petitioner. Moreover, any deposits of auction bid amounts before the authority concerned, by the present petitioner, be also forthwith refunded to the present petitioner.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

25.09.2023

kavneet singh

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