

110

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

CWP-12706-2022

Date of decision:25.08.2023

SIKANDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Harinder Sharma, Advocate
for the petitioner.

SURESHWAR THAKUR, J. (ORAL)

1. Notice of motion.
2. Mr. Maninder Singh, DAG, Punjab, waives service of notice on behalf of respondents-State.
3. The present petitioner is aggrieved from the drawing of Annexure P-18 by the Authority concerned. The grievance as is nursed by the present petitioner against the above impugned annexure, stems from the factum, that despite in terms of Clause 3 existing in the notification issued on 18.03.2015, clause whereof, is extracted hereinafter, the petitioner bonafidely excavating the minor minerals from his fields, and, also the said excavation being made for his personal requirements, yet no discussion in respect thereof being made in the impugned annexure.

“3. Exemptions.-

(1) Notwithstanding anything contained in these rules, no rent, royalty or permit fee shall be charged or no permit/weightment slip shall be required for-

(i) extraction of ordinary clay and ordinary sand by hereditary 'Ghumiards', who prepare earthen pots on a cottage industry basis, whose turnover during a year does not exceed two lac rupees;

(ii) leveling of any agricultural fields by the land owner or possessor, as the case may be and disposal of any excess minor mineral accumulated in such activity;

(iii) for removal of any minor mineral by the land owner or the possessor/Panchayat as the case may be, from the land in their possession for meeting land-filling requirements either in another agricultural field owned or possessed by them or for meeting their bona-fide/personal requirements including Religious and developmental activities."

3. Therefore, the learned counsel for the petitioner argues, that the instant petition be allowed, and, after quashing the impugned order Annexure P-18, the matter be remanded to the Authority concerned, to make a detailed discussion on the applicability of the said exemption clause to the disputed lands.

4. Learned State counsel does not oppose the said prayer. Consequently, the instant petition is allowed, and, the impugned Annexure P-18 is quashed, and, set aside. The lis is remanded to the Authority concerned, who drew Annexure P-18 to, on the above submission addressed before this Court, make a detailed discussion, and, also return a valid speaking finding thereons.

5. Disposed of.

(SURESHWAR THAKUR)
JUDGE

25.08.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No