

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

CWP-10636-2023 (O&M)
Date of decision:- 16.05.2023

Jubilant Software Services Ltd.

...Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Gaurav Chopra, Senior Advocate,
with Mr. Ajiteshwar Singh, Advocate,
Ms. Meghna Nagpal Garg, Advocate,
and Mr. Akshit Navaney, Advocate,
for the petitioner.

Mr. Ashish Rawal, Advocate,
for respondent No. 1 – UOI.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

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RAVI SHANKER JHA, C.J. (ORAL)

This writ petition has been filed by the petitioner being aggrieved by an order dated 31.03.2023 (Annexure P-17), whereby respondent No. 3 – State Environment Impact Assessment Authority (SEIAA), Haryana, has imposed a penalty of Rs. 24.78 crores on it.

The petitioner has also impugned the notice dated 03.05.2023 (Annexure P-18) issued by respondent No. 3 - SEIAA, whereby the proceedings for recovery and in the alternative for demolition have been initiated against the petitioner.

Learned senior counsel for the petitioner submits that the petitioner has raised several issues including the issue of the fact that it possesses an environmental clearance for 1,72,872 sq. meters area for constructing sixteen towers which was given by the Ministry of Environment, Forests & Climate Change (MoEF&CC), Government of India vide letter dated 08.10.2014 (Annexure P-7) and which has also been accepted by respondent No. 3 – SEIAA, Haryana, vide its letter dated 17.12.2014 (Annexure P-8). He further submits that the procedure for imposing penalty, as prescribed in the Standard Operating Procedure (SoP) dated 07.07.2021 (Annexure P-11) issued by the MoEF&CC has also not been followed and that the MoEF&CC has taken note of this fact that respondent No. 3 – SEIAA, Haryana, is deliberately violating the said SoP and has issued a subsequent

letter dated 25.04.2023 directing SEIAA, Haryana, to strictly follow the SoP. He further submits that in such circumstances, there is no violation by the petitioner. He, however, concedes that the proceedings for hearing on the notice dated 03.05.2023 are going on and the next date of hearing before the authorities concerned is 17.05.2023.

Mr. Deepak Balyan, learned Additional Advocate General, Haryana, on instructions, submits that the petitioner only possesses an environmental clearance certificate for 1,12,843 sq. meters and not for 1,72,872 sq. meters of built up area and that the respondent-authorities are taking action strictly in accordance with the directions issued by the National Green Tribunal, Principal Bench, New Delhi vide order dated 24.04.2023 passed in M.A. No. 28/2023 in Original Application No. 215/2022 titled as *Aashish Sardana Vs M/s Vatika Ltd. and another*. Learned State counsel, taking us through paragraph 4 of the said order, states that while the exercise for coming up with the revised uniform formula has been issued, all the concerned project proponents including ones like the petitioner have been directed to be put to notice and informed about the proceedings before the National Green Tribunal. He further submits that the matter is now listed on 01.08.2023 before the National Green Tribunal and in such circumstances, the petitioner is required to approach the National Green Tribunal, in case of any grievance, as all the steps being taken by the authorities are in compliance of the directions issued by the National Green Tribunal. He further submits that the National Green Tribunal has directed strict enforcement and taking of strict coercive measures as well in cases of violation of the environmental laws and has asked the State of Haryana to submit a report in this regard.

We have heard learned counsel for the parties at length.

Though various contradictory issues have been raised by the parties, it is, however, observed that further hearing on the notice dated 03.05.2023 is now fixed before respondent No. 3 – SEIAA, Haryana on 17.05.2023. In the circumstances, without entering into the merits, the writ petition is disposed of in view of the statement made by learned senior counsel for the petitioner that he would deposit 50% of the penalty amount within a week before the authorities concerned i.e. latest by 24.05.2023 with a request that they may grant the petitioner opportunity of hearing and consider all the issues raised by it.

To this, learned State counsel submits that in case the petitioner deposits a sum of Rs. 1 crore by tomorrow i.e. 17.05.2023 and thereafter 50% of the penalty amount on or before 24.05.2023, the authorities concerned would

consider all the issues raised by the petitioner and thereafter pass a reasoned order on the notice dated 03.05.2023.

The parties agree that since the matter is seized of by the National Green Tribunal and as the report is to be submitted there and as in view of the directions issued by the National Green Tribunal, all the project proponents including the petitioner have been put to notice by the Pollution Control Board, therefore, in case either of the party is aggrieved with the proceedings or the decision taken thereon, they would be at liberty to approach the National Green Tribunal for mitigation of their grievance.

It is made clear that we have not expressed any opinion on the merits of the case and, therefore, the authorities would be at liberty to examine the matter keeping all facts and facets into consideration and thereafter accept or reject the same in accordance with law.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.05.2023
Amodh Sharma

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