

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.132

CWP-13772-2023 (O&M)
Date of decision : 03.07.2023

Vishal

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. A.S. Talwar, Advocate, for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The present writ petition has been filed seeking to challenge notice dated 30.05.2023 (Annexure P-8), whereby, mining rights for the excavation of minor minerals of District Yamuna Nagar are sought to be auctioned.

Learned Senior Advocate appearing on behalf of the petitioner along with Mr. A.S. Talwar, Advocate would urge that as per the Notifications dated 15.01.2016 (Annexure P-2) and 25.07.2018 (Annexure P-5) as issued by the Ministry of Environment, Forest & Climate Change, it is mandatory for prior environmental clearance to be obtained for mining of minor minerals in terms of judgment rendered by the Supreme Court in SLP (c) Nos. 19628-19629 of 2009 titled as Deepak Kumar etc. Vs. State of Haryana and others. The application for environmental clearance is to be based upon a District Survey Report (DSR) which is to be prepared after

every five years by the State. Counsel would further urge that the last report prepared was in the year 2017 and that the auction which is proposed to be held is in violation of the notifications as the DSR has not been prepared as on date. He would further submit that there is a procedure for preparing the DSR and for finalizing it. On the preparation of DSR, objections are invited by putting up the report on public domain and any objections, if received, are to be decided within a period of 15 days. Thereafter, on dealing with the objections and finalization of the same, the DSR is thereafter uploaded.

Mr. Akshay Bhan, Sr. Advocate therefore, prays for stay of the auction proceedings as the auction being conducted is in violation of the notifications.

Notice of motion.

Ms. Tanisha Peshawaria, DAG, Haryana, accepts notice on behalf of the respondent-State.

Learned State counsel on instructions from Mr. Sanjay Sabharwal, Mining Engineer, Department of Mines & Geology would fairly submit that as on date, the DSR has not been finalized though it is under preparation. She would argue that the auction has been conducted on the basis of a ground-truthing report. She would rely upon page No.248 of Enforcement & Monitoring Guidelines for Sand Mining which specifies that District Survey Report for sand mining shall be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LOI) by Mining department or the department dealing the mining activity in respective States. She would argue that even though the District Survey Report has not

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been uploaded as yet, there is no bar to conduct an auction, since the Letter of Intent will be issued after the DSR has been uploaded.

I have heard the learned counsels for the parties and in view of the fact that the notifications as relied upon by learned Senior Advocate, clearly mandate that DSR is to be prepared which is to be relied upon by any auction bidder while applying for environmental clearance. He would be put to jeopardy in case the auction is finalized today. On the statement given by learned counsel, appearing on behalf of the State on instructions received, that LOI would only be issued after the DSR is uploaded. This Court deems it appropriate to dispose of the writ petition with a direction that the auction being held currently to continue, however, the auction will not be finalized nor will any LOI be issued till such time as the DSR is prepared, objections invited and dealt with and the final DSR uploaded on the public domain. This Court draws strength from the order dated 28.06.2023, as passed by the Supreme Court, in **Civil Appeal No.319/2023 titled as M/s Delhi Royalty Company Vs. Union of India and others**, where under similar circumstances the court has directed that the process pursuant to the auction notice to the extent to which the applicant was earlier granted the lease and is the subject matter herein, shall not be finalised even if the bidding process is held and concluded.

(JAISHREE THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

03.07.2023
Ramandeep Singh
Whether speaking / reasoned
Whether Reportable