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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13811-2023

Date of decision: 13.07.2023

M/S DEVELOPMENT STRATEGIES INDIA PVT. LTD.

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

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

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. Notice of motion.
2. Mr. Ankur Mittal, Addl. AG Haryana with Mr. Saurabh Mago, DAG, Haryana, waives service of notice on behalf of respondents.
3. Through an order drawn on 26.08.2022 by the Director, Mines & Geology, Haryana (Annexure P-3), the latter proceeded to terminate the contract granted in favour of the petitioner, and as became executed for extraction of sand/ minor mineral from the 'Pobari Block/YNR B-11' of district Yamuna Nagar.
4. The said Annexure P-3 became challenged by the aggrieved therefrom. The Appellate Authority-cum-Additional Chief Secretary to the Government of Haryana, Mines & Geology Department, through an order made on 13.12.2022, on the apposite statutory appeal, thus proceeded to, in a

paragraph existing at page No.39, thus on imposition of certain conditions upon the petitioner herein, rather rescind (Annexure P-3).

5. Therefore, the learned counsel for the petitioner contends before this Court, that since Annexure P-2, as became drawn by the Competent Appellate Authority, has annulled Annexure P-3, and, thereby the concluding part of the order existing at page No.39, portion whereof becomes extracted hereinafter, but with a reference therein to an order made by the NGT (National Greens Tribunal), relevant portion whereof is also becomes extracted hereinafter, whereby a prohibition became cast, against the project proponents in making excavation of the relevant minor mineral, from the disputed lands, rather does not have any effect as such. In other words, he submits that the concluding portion of the order occurring at page No.39 of the paperbook, does not yet prohibit, the present petitioner from engaging itself in excavating minor minerals from the lands concerned.

“The orders were reserved on the last date of hearing on 17.11.2022 to be pronounced later. In the meanwhile, the department has brought to notice an order passed by hon’ble NGT on 18.11.2022 (received on 30.11.2022) in OA no.150/2021 Anish vs. UOI in which the orders are to the effect that the project proponents are not to be allowed to undertake further mining. These orders read with Chapter III of the NGT Act, 2010 dictate that no further action is required in this mater and the appeal is liable to be dismissed and is hereby ordered to be dismissed.”

ORDER OF NGT

“The utilization may be ensured as far as possible within six months. If the PPs fail to pay the amount, it will be open to the authorities to take coercive measures including blacklisting, recovery from deposits of the PPs, if any available with the State, or otherwise. The PPs may not be allowed to undertake further mining in view of serious violations already committed.”

6. The learned counsel for the petitioner, has also vehemently argued before this Court, that since the present petitioner raised Civil Appeal bearing No.7382/2023 (Annexure P-5) before the Hon'ble Apex Court, and, thereons with the Hon'ble Apex Court, making the hereinafter extracted order, thereby even if assumingly, the concluding part of the order of the Appellate Authority, did restrain, the present petitioner from engaging itself, in excavating minor minerals, from the lands concerned, yet the hereinafter extracted portion of the order, as, made by the Hon'ble Apex Court on the above Civil Appeal, does *prima-facie* relieve or mitigate the prohibitive effect, if any, of the concluding portion of the order drawn by the Competent Appellate Authority.

“Delay condoned.

Issue notice.

Notices would be served by all modes, including dasti.

Tag with Civil Appeal No.319 of 2023 titled “M/s Delhi Royalty Company vs. Union of India & Ors.”

Notice is accepted on behalf of respondent no.13, who is at liberty to file a counter affidavit/reply within a period of six weeks.

In the meanwhile, subject to the appellant – M/s Development Strategies India P. Ltd. Depositing 60% of the penalty amount of Rs. 2.5 Crores, and M/s Mubarikpur Royalty Company depositing Rs.4 Crores with the authorities within a period of six weeks' from today, there would be a stay on the recovery of the further amount.”

7. The above made submissions before this Court by the learned counsel for the petitioner are not amenable to be accepted by this Court, thus, this Court is constrained to reject the same.

8. The reason for making the above conclusion, ensues from the factum, that there is a candid echoing in the order as became drawn by the Competent Appellate Authority concerned, and, which but plainly speaks about an order drawn by the NGT, whereby a prohibition becomes cast, against the

present petitioner, engaging itself in excavating minor minerals from the disputed lands, yet the said part of the said order, has not been spoken by the Hon'ble Apex Court in Annexure P-5 to be not holding any operation. Therefore, it cannot be argued by the learned counsel for the petitioner, that the hereinabove extracted portion of the order drawn by the Hon'ble Apex Court did *prima-facie*, thus stay the operation of the concluding portion, of the order, as, became drawn by the Competent Appellate Authority concerned, wherein there is a reference to an order made by the NGT, thus restraining the present petitioner from engaging itself in excavating minor minerals from the disputed lands.

9. Hence, dismissed.

(SURESHWAR THAKUR)
JUDGE

13.07.2023

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

(KULDEEP TIWARI)
JUDGE