

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19282-2019
Reserved on: 12.10.2023
Date of decision:18.10.2023

RANJU CHAHAL AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. G.S. Dhaliwal, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant writ petition, the writ petitioners claim the hereinafter reliefs:

“a) Issue a writ, order or direction especially in the nature of certiorari for quashing e-auction notice No.2231 dated 30.5.2019 (Annexure P-1) and the new Mining Policy dated 26.10.2018 (Annexure P-2) as the same are illegal, arbitrary and discriminatory and are violative of the Constitution of India and the fundamental rights of the petitioners.

b) a writ in the nature of mandamus directing the respondents to amend the policy and incorporate the necessary changes to redress the grievance of the petitioners.”

2. The challenge as made to the e-auction notice No.2231 of 30.05.2019 (Annexure P-1) is an unsuccessful challenge thereto. The reason

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becomes comprised in the factum, that the petitioners are estopped from making any challenge either to the mining policy, and, to the e-auction notice (supra), as they have consented for including their lands in the e-auction notice. The said consent is embodied in Annexure R-1.

3. Though the learned counsel for the petitioners has argued, that the respondents were dis-empowered to issue the e-auction notice, as thereby there is unjust expropriation of the petitioners' lands. However, the said contention is also rejected.

4. The reason for forming the above conclusion, becomes garnered from the factum, that Section 93 of the Punjab Minor Mineral Rules, 2013, provisions whereof, becomes extracted hereinafter, do assign permissibility to the State Government, to even without the consent of the landowners rather make an e-auction notice, thus for inviting bids for excavations, being made of the minor minerals, as occur thereons. However, the rights which are conferred on the landowners concerned, are qua compensation in respect of their lands, thus becoming determined. The said determination of compensation but is to be fair and reasonable, and, if so thereupon the government, can direct the landowners concerned, to allow the lessee to enter upon their lands, and, to also carry out the mining activities thereons.

“93. Acquisition of land of third parties and compensation thereof. - In case the occupier or Mineral Concession Holder of a land in respect of which minor minerals rights vest in the Government, refuses his consent to the exercise of the right and powers, reserved to the Government and demised to the lessees or contractors, as the case may be, the lessees or contractors shall report to the Government and shall deposit with it the amount offered as compensation and if the Government is satisfied that the amount of compensation offered is fair and reasonable or if it is not so satisfied and the

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lessee shall have deposited with it such further amount as the Government shall consider fair and reasonable, the Government shall order the occupier to allow the lessee to enter the land and to carry out such operations as may be necessary for the purposes of this lease. In assessing the amount of such compensation, the Government shall be guided by the principles of the Land Acquisition Act, 1894.”

5. The fair and just compensation which became assessed vis-a-vis the landowners concerned, is the one embodied in Annexure R-3, and, if the said amount has been determined vis-a-vis the landowners concerned, thereby the minor concessionaire, is enjoined to forthwith disburse, the same to the petitioners along with upto date interest accrued thereons.

6. In so far as, the further relief, as, claimed in the writ petition relating to a challenge to the vires of the mining policy, yet even the said relief cannot be granted to the petitioners, as this Court in a judgment made, on CWP-31002-2018, has declared the said mining policy to be *intra vires* the Constitution.

7. An additional reason for declining the espoused reliefs to the writ petitioners ensues from the factum, that the writ petitioners had earlier challenged the e-auction notice, before the National Green Tribunal, and, on the relevant motion, the NGT vide order dated 03.05.2019 had refused to stay the e-auction notice concerned. The order (supra), as made by the NGT becomes annexed, as Annexure R-5 to the reply furnished to the writ petition by the present petitioners.

8. Since the petitioners have already suffered an adverse verdict on their earlier motion before the NGT concerned, therefore the instant alike therewith motion is also required to be suffering an alike fate.

FINAL ORDER

9. Consequently, this Court finds no merit in the instant writ petition, and, is constrained to dismiss it. Accordingly, the instant petition is dismissed. In aftermath, the e-auction notice No.2231 of 30.05.2019 (Annexure P-1), is upheld besides, mining policy, of 26.10.2018 (Annexure P-2) is declared *intra vires* the Constitution. However, just and fair compensation, if determined in terms of Annexure R-3, be forthwith disbursed to the landowners concerned, but with upto date interest accrued thereons.

(SURESHWAR THAKUR)
JUDGE

18.10.2023

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(KULDEEP TIWARI)
JUDGE

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