

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21728-2020 (O&M)

Date of Decision : 20.11.2023

Sumit Taneja

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Atul Lakhanpal, Sr. Advocate with
Ms. Shikha Charak, Advocate for the petitioner.

Mr. Maninder Singh, DAG Punjab.

-. -

SURESHWAR THAKUR, J. (Oral)

1. In the instant petition, a challenge is made to the order dated 10.12.2020 (Annexure P-20). The said order has been passed on an application moved by the petitioner seeking exemption from imposition of levies, thus from the period commencing from 27.01.2020, and lasting upto 08.12.2020.

2. Learned Senior counsel for the petitioner contends, that through the impugned order, the relevant exemptions have been restricted, only from 27.01.2020 upto 14.10.2020, whereas, the period of exemption was to also upto 08.12.2020.

3. The directions passed by this Court on 23.02.2021, relevant portion whereof becomes extracted hereinafter, rather require an allusion thereto, thus for deciding the instant controversy.

“On the last date of hearing, following order was passed:-

"Learned counsel for the respondent has referred to the communication dated 18.12.2020, Annexure R-11, 10 contend that the petitioner had to appear before the Executive Engineer-cum-District Mining Officer, Jalandhar respondent No.2. for sorting out the issue involved in the present case, including the aspect of the period from 14.10.2020 till 10.12.2020, when the petitioner was allowed to run the mining.

Counsel for the petitioner accepts the offer and states that the petitioner would approach respondent No.2 on 19.01.2021.

List on 23.02.2021.

Interim order to continue till the next date of hearing."

Learned senior counsel for the petitioner informs the Court that pursuance to the order dated 12.01.2021, the matter has been considered and a decision thereon has been taken.

Counsel for the State prays for a short adjournment to place the aid decision on record.

Let the same be placed on record with advance copy to the counsel for the petitioner.

List for consideration on 17.03.2021.

Interim order to continue till the next date of hearing.”

4. Learned senior counsel appearing for the petitioner, submits that though, the petitioner had been summoned by the officer, who drew the impugned annexure, and had also on the relevant date, submitted documents, suggestive that the Mineral Concessionaire concerned, had not undertaken mining operation upto 08.12.2020, but yet the said documents remained not considered.

5. On the other hand, the learned counsel appearing for the respondent-State has vigorously argued before this Court, that this Court in the earlier writ petition filed by the present petitioner, bearing CWP No.1325 of 2020, had thereons 14.10.2020, passed the hereinafter the directions, upon, the respondents extracted :-

“ In view of the inspection report submitted by the Committee and the undertaking given by the petitioner, order dated 30.12.2019 (Annexure P-6), whereby, the passage over the Dhusi Dam on Satluj River was stopped, is set aside. Respondents No.3 and 4 are directed to allow the petitioner to use that passage for mining subject to conditions as mentioned in the undertaking (Annexure P-10).

Therefore, he submits that since the passage for the relevant purpose became ordered to be opened, thereby the present petitioner had continued to undertake mining operations, at the mining site concerned, and that, he was not required to be exempted from the imposition of levyies/penalties, upon, him.

6. Learned Senior counsel for the petitioner contests, the above fact and his contest is centered upon certain documents, which he submits did come to be placed before the Authority concerned, suggestive of the fact that no mining activity became undertaken by the Mineral Concessionaire, concerned, rather upto 08.12.2020, and, that thereby the espoused exemption was required to be granted to the present petitioner, thus upto

08.12.2020. The impugned annexure does not refer to any such document, becoming adduced, but since the learned senior counsel for the petitioner, vehemently submits, that as a matter of fact such documents were filed, thereupon, they were required to be verified, and, only thereafter the claim of the petitioner for exemption being granted upto 08.12.2020, rather was required to be adjudicated upon.

7. Therefore, the writ petition is disposed of, with a direction, to the Authority, who drew the impugned Annexure, to enable the petitioner, if he has not already adduced documents suggestive of the above, to hence file such documents, whereupon, the authority concerned shall proceed to in accordance with law, but within three weeks' from today, and after hearing the present petitioner, thus make a decision whether the present petitioner is entitled to be sanctioned the exemption rather lasting upto 08.12.2020.

8. Pending applications, if any, also stand disposed off.

(SURESHWAR THAKUR)
JUDGE

November 20, 2023
tripti

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No