

CWP-19069-2023

2023:PHHC:114366-DB

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19069-2023

Date of Decision : August 31, 2023

GOVARDHAN MINES AND MINERALS

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: Mr. K.S.Khehar, Advocate,
Mr. Vijay Pal, Advocate and
Mr. Ishan Bhardwaj, Advocate
for the petitioner.

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

SURESHWAR THAKUR. J.(Oral)

1. The present petitioner through the instant writ petition is asking for the quashing of the order made on 9.9.2022 (Annexure P-26), and, as became passed by the competent Appellate Authority concerned.

2. The only ground which is contended before this Court to thus constrain this Court to make a writ of certiorari, for thereby quashing the said order is rested upon the factum, that the Appellate Authority concerned, was not empowered to, in terms of Clause 1 of Rule 75 of the Haryana Mining Rules, 2012, provisions whereof becomes extracted hereinafter, to proceed to make the relevant determinations, in respect of the mining activity, being carried by the petitioner over the leased land:-

“75. (1) A breach of any of the conditions of grant of a mineral concession or violation of any of the conditions relating to permission or clearance to undertake mining by any authority shall be dealt as under:-

(i) the Director shall, upon inspection by himself or any officer of the department or on reporting of any violation amounting to breach by any other competent authority, issue a notice to the mineral concession holder to show cause within the period specified therein as to why the mineral concession be not prematurely terminated along with forfeiture of the amount of security, in full or part thereof, and forfeiture of the mineral already excavated while undertaking said operations; ”

3. In the above endeavor, it is necessary to extract the operative paragraph 8 of Annexure P-26, which becomes extracted hereinafter:-

“In the light of primary observation and to avoid any complication in the related matter, the orders dated 10.8.2022 of Director, Mines and Geology is hereby quashed. The matter will be adjudicated afresh by giving opportunity of hearing to M/s Govardhan Mines and Minerals, they are directed to appear before Additional Chief Secretary to Govt. Haryana, Mines and Geology on 12.90.2022 at 11.00 AM. The lease holder firm is also directed to deposit the amount of interim environmental compensation as per orders of the Hon'ble NGT and other dues already pending.”

4. A reading of the above extracted paragraph reveals, that the Appellate Authority after quashing the impugned order, as made on 10.8.2022 by the Director, Mines and Geology, had thereafter proceeded

to direct the litigants to appear before him on 12.9.2022 at 11.00 AM. Further-more, another direction was made upon the lease holders concerned, to deposit the amount of interim environmental compensation thus in terms of the orders made by the Hon'ble NGT, as well as, to deposit the other assessed dues upon the present petitioner.

5. The learned counsel appearing for the petitioner has argued that after thus quashing of the impugned order by the Appellate Authority, rather the *lis* became terminated, and thereafter unless there was sufficient material available before the Appellate Authority, to make the relevant determinations, as such, there was no necessity for the Appellate Authority, to yet make a direction upon the litigants concerned, to for the relevant determinations being made, thus appear before him on 12.9.2022. He further-more submits that there was no empowered jurisdiction in the Appellate Authority, to insist upon the lease holder concerned, to deposit the amounts appertaining to interim environmental compensation in terms of the orders made by the Hon'ble NGT, and, also to insist upon the other unliquidated assessed dues, thus becoming deposited.

6. The above made submissions would have vigor, only if no cogent material rather existed before the Appellate Authority concerned, thus to make the relevant determinations. However, for the reasons assigned hereinafter, there was sufficient material available on record before the Appellate Authority concerned, to even after its proceeding to quash the orders impugned before it, thus proceed to make the relevant

determinations.

7. Be that as it may, though the learned counsel for the petitioner has yet argued that after the quashing of the impugned order, the Appellate Authority was to be making an order of remand of the *lis* to the Director, Mines and Geology concerned, and was not to make the relevant determinations. However, even in the above regard, since there is an *ad nauseam* discussion in Annexure P-26, upon, the untenability of the order drawn on 10.8.2022, whereby the earlier imposed amounts upon the present petitioner rather become reduced. Therefore, when *prima facie* the order drawn on 2.5.2022 was, thus made on the report of the apposite Committee, with speakings therein, that there was deficient excavations of the minor minerals, thereby, thus a necessity arose for interfering with the penalty carried in amounts lesser than the one as became imposed, upon, the petitioner, through an order made on 2.5.2022. The said made reduced assessment or the said reduced quantum of penalty, through an order made on 10.8.2022, from the earlier imposed royalty through an order made on 2.5.2022, has been also discussed to cause breach and transgression qua the report of the Joint Committee constituted, under the Chairmanship of Justice Pritam Pal, retired Judge of this Court, thus through an order made on 2.5.2022.

8. It is further spoken in the impugned Annexure, that the relevant assessment, as made through a order drawn on 10.8.2022, which became impugned before the Appellate Authority concerned, which drew the impugned Annexure, rather became planked on an assumptions rested

at the bench mark level of a surface plan, prepared by the current lease holders in the year 2018 and submitted in the year 2019. Therefore, the author of Annexure P-26 drew a conclusion whereby it doubted the authenticity of the same, and also deemed it not fit to assign any sacrosanct value thereto. Necessarily, the above was done bearing in mind, the report of the Joint Committee headed by Justice Pritam Pal, which, however, after making satellite imagery of different periods or of the relevant times, thus relating to the leased lands assigned for minings, rather had made certain remarks. Therefore, the said satellite imagery did prima facie constitute the relevant material, for the assessment as became determined through an order made on 2.5.2022. It appears that on the basis of the said report, the subsequent order drawn on 10.8.2022 by the Director General, Mines and Geology Department concerned, became quashed and set-aside. Apparently there is no material on record suggestive that the satellite imagery as done by the Committee (supra), was lacking in authenticity, thereupon reliance, as placed thereon by the author of Annexure P-26 does prima facie appears to be a well made reliance thereon. Resultantly, the apposite determinations can become well rested thereon.

9. The stark fact which restrains this Court from annulling the impugned order, is apart from the above made observations, thus also hinged, upon the trite factum, that the said satellite imagery, as appertaining to the lease land(s), is yet required to be insightfully analyzed, which however cannot be done by this Court. Therefore, the

author of Annexure P-26, may seek the assistance of experts, for making analyses of the said satellite imagery, and, may thereafter also proceed to determine the quantum of penalty or other dues, as are required to be imposed upon the present petitioner. Therefore, with the above material available on record, thus there was no occasion for the Appellate Authority to even after quashing the relevant impugned order, to remand the *lis* to the authority below it. Conspicuously since the relevant assessment(s) can prima facie become well anchored thereon(s). Reiteratedly, the relevant assessments, as, imposable upon the petitioner thus can be made besides, the author of Annexure P-26 in terms of the order of the NGT can also make the relevant imposition, upon the petitioner.

10. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

August 31, 2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No