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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-21482-2023

Date of decision:16.10.2023

JOGINDER SINGH AND ANR.

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Jaspreet Singh Brar, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The Executive Engineer-cum-District Mining Officer, Faridkot, Drg. Const. Division, Faridkot, raised a demand (Annexure P-2), upon the present petitioners.

2. The present petitioners became aggrieved from Annexure P-2, and, raised an appeal thereagainst before the learned Appellate Authority concerned. However, since in terms of Rule 87(2), 3 of Punjab Minor Mineral Rules, the ordained pre-deposit was not made before the Appellate Authority concerned, thereby the appeal was but on the above ground, thus dismissed.

3. The petitioners aggrieved from the drawing of Annexure P-2, have challenged the same through theirs constituting the instant writ petition before this Court.

4. For the reason to be assigned hereinafter till the preferment of the apposite appeal, thereupto the warrants for making recovery(ies) of the demand notice (Annexure P-4), be not enforced.

5. The reason for permitting the present petitioners to yet make an appeal against Annexure P-2 arises from the fact that, though an apposite appeal become raised before the Appellate Authority concerned, but the said appeal became dismissed simpliciter on the ground, that the requisite pre deposit was not made before the Appellate Authority concerned. If so, the Appellate Authority concerned, may have granted an opportunity to the present petitioners to make the said pre deposit within a reasonable time or to lawfully exempt the petitioners from making the pre deposit. However, the Appellate Authority concerned, without assigning the above opportunity to the present petitioners, has summarily dismissed the appeal, through the drawing of Annexure P-5.

6. It is but the above hasty, and, slipshod manner, besides the ill-informed manner of making of Annexure P-5, that this Court is constrained to interfere with Annexure P-5. Resultantly, after quashing Annexure P-5, the present petitioners are permitted to re-raise an apposite appeal, before the Appellate Authority concerned, and, thereupon the Appellate Authority may grant some period of time to the present petitioners to make the pre deposit, or on an application becoming preferred before it, for exemption to make the pre deposit, but if permissible under law the said exemption, may be granted, and, thereafter within a period of 3 months, the Appellate Authority shall make a speaking decision, on the merits of the said appeal, but after hearing all affected persons concerned.

7. The said appeal be positively instituted within 2 weeks from today, and, till the institution of the appeal, the enforcement of Annexure P-5 shall remain stayed.
8. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

16.10.2023

(KULDEEP TIWARI)
JUDGE

Ithlesh

Whether speaking/reasoned:-

Whether reportable:

Yes/No

Yes/No