

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-28205 of 2023

Date of Decision:15.12.2023

M/s Vijay Laxmi Grit Udyog

....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. HPS Rahi, Advocate, and
Mr. Khalid Tauru, Advocate,
for the petitioner.

Mr. Saurabh Mago, DAG, Haryana

Mr. Vivek Dahiya, Advocate, for
Dr. P.K. Sekhon, Advocate,
for respondent No.4.

SURESHWAR THAKUR, J. (Oral)

1. In the instant writ petition, the petitioner seeks the quashing of notices (Annexure P-10 and P-11), as became respectively issued, on 09.11.2023, and, on 24.11.2023, whereby a direction was made, upon, the petitioner, to pay a sum of Rs.96,44,373/-.

2. The further prayer made in the writ petition, is, for the quashing of the order dated 26.09.2023 (Annexure P-7), whereby, the e-Rawaana Portal, as issued to the petitioner, thus became rescinded by the respondent concerned.

3. Furthermore, the petitioner also seeks relief from this Court for staying of the operation of the order dated 26.09.2023 (Annexure P-7), and of notices dated 09.11.2023 and 24.11.2023 (Annexure P-10 and P-11).

4. Undisputedly, the present petitioner is a mineral concessionaire *viz a viz* the relevant mining sites. However, the present mineral concessionaire, *prima facie*, was found by the respondent concerned, to indulge in abuse and misuse of the e-Rawaana Portal, as became assigned to him by the respondents concerned, inasmuch as, its proceeding to not, from the stock maintained by it, after its making excavations of the minor mineral concerned, but from the mining site allotted to it, transport the said excavated minor mineral concerned, rather its proceeding to untenably, from far fetched mining sites, as detailed *ad nauseam*, in the order dated 26.09.2023 (Annexure P-7), thus collecting therefrom, thus the minor mineral concerned, and, thereafter its proceeding to transport them. Resultantly, thereby it appears that the petitioner made false entries in the e-Rawaana Portal, inasmuch as, the transportations as revealed therein, being falsely represented therein, to be made from excavations of minor minerals from the site allotted to the petitioner.

5. Be that as it may, preceeding the issuance of order (Annexure P-7), on 22.09.2023, the respondent concerned, had issued Annexure P-5, whereby the e-Rawaana Portal, as became assigned to the present mineral concessionaire became suspended, thus on the ground supra. Moreover,

therebys a show cause notice also became issued upon the present mineral concessionaire, to explain, its position within seven days. In pursuance to making Annexure P-5, the present mineral concessionaire, attempted to furnish an explanation *qua* it purportedly not abusing or misusing the e-Rawaana Portal, as became assigned to it, by the respondent Department concerned.

6. However, the said explanation did not find favour to the authority concerned, rather resulted in the drawing of Annexures P-7, and, of P-8. After closure of the e-Rawaana Portal, as issued to the present mineral concessionaire, subsequently through Annexures P-10, and, P-11, a demand/fine, comprised in the sum of Rs.96,44,373/- was made upon the present petitioner. Furthermore, through Annexures P-10, and, P-11, a direction was made upon the present mineral concessionaire, to deposit, the above imposed amount of fine/penalty/royalty, as arising from the detailed discussion made in Annexure P-7.

7. Learned counsel for the petitioner though concedes, that there is a remedy alternate to the instant writ petition, but he submits that, the explanation, which he furnished to Annexure P-5, became rejected, in a criptic and slipshod manner, therefore the instant writ petition is maintainable.

8. In sequel, the learned counsel for the petitioner submits, that there was no abuse or misuse on the instance of the e-Rawaana Portal, and, further submits, that on account of the said purported misuse and abuse of e-Rawaana Portal, by the present petitioner, there was no cogent material

with the respondent department, to conclude that thereby, the liability as became imposed upon the present mineral concessionaire, thus was through Annexures P-10 and P-11, rather fastenable upon it.

9. All the above submissions before this Court involve disputed questions of fact, inasmuch as, it becomes contrarily contended, before this Court by the learned counsel for the petitioner, and, by the learned State counsel, that there was no abuse or misuse of the e-Rawaana Portal, and, that there was such purported misuse and abuse of the e-Rawaana Portal. Consequently, the above disputed questions of fact are not amenable to be decided merely on exchange of affidavits before this writ Court.

10. On the other hand, the said disputed questions of fact, are amenable to become rested only by the appellate authority concerned, wherebefore whom, the contesting litigants adduce such evidence but candidly revealing, that there was either no gross abuse or misuse of the e-Rawaana Portal, and, or that there was such gross misuse and abuse, of the e-Rawaana Portal, and, or that thereby, there was no necessity or there was a necessity of imposition of the demand notice, upon, the present petitioner.

11. For all the reasons stated hereinabove, this Court at this stage does not find any merit in the instant writ petition, therefore, is constrained to dismiss the same but with liberty to the petitioner to avail the alternate remedy of making an appeal against the impugned annexures. The said remedy of appeal be positively availed within a week hereafter, and, thereons the learned Appellate Authority concerned, shall make a lawful decision, but after permitting all the litigants concerned, to adduce such

evidence, as deemed necessary under law.

12. Furthermore, it is also clarified that in case the said statutory appeal is time barred, thereupon on an application filed under Section 14 of the Limitation Act, 1963 becoming appended therewith, a prompt lawful order shall be made thereons, and, subsequently the statutory appeal shall be lawfully decided by a speaking order becoming made thereons, but within a period of three months thereafter.

13. All pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 15, 2023
dinesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No