

In the High Court of Punjab and Haryana at Chandigarh

[120]

CWP-3851-2024
Date of Decision: 20.02.2024

MANOJ KUMAR AND OTHERS

..... PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Irshaan Singh Kakar, Advocate and
Mr.Kunal Thapa, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. A.G. Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Rajesh K. Sheoran, Advocate for respondent No.9.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners are dependent upon the public amenities purveyed to them by the Department of Irrigation & Water Resources Department, Govt. of Haryana, and, also by the Electricity Department concerned. They motion this Court, as the feeder avenues, do purportedly become endangered through the mineral concessionaire concerned, arrayed as co-respondent No.9, rather making blasting at the site concerned, whereby thus, imminent endangerments ensue to the feeder avenues concerned.
2. Consequently whereby, the writ petitioners have a well *locus standi* to maintain the present writ petition before this Court. Resultantly, they may seek the passing of a mandamus upon the competent authority concerned, to draw action against the co-respondent No.9, given despite repeated communications becoming addressed in different Annexures P-13 to P-27, as appended with this petition, yet theirs being unyeilding.

3. Though, the learned counsel appearing for co-respondent No.9 submits that all the requisite NOCs have been obtained from all the departments concerned, thereby, the writ petition with the above prayer is rather not maintainable. However, for the reasons to be assigned hereinafter, the said argument is at this stage inconsequential. The writ petition becomes embodied in the factum that, even if, any NOC becomes granted to the mineral concessionaire concerned, thereby, the said NOCs, do not purvey any empowerment to the said mineral concessionaire concerned, to proceed to make excavation of the minor minerals concerned, through its undertaking blastings at the relevant site. The sequel thereof is that, thus, therefrom, *prima facie*, as unfolded in the Annexures (supra), there arises an imminent endangerment in terms of sub-Rule 11 of Rule 56 of the *Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules 2012* (hereinafter referred to as “*the Haryana Minor Minerals Rules, 2012*”), provisions whereof become extracted hereinafter, to the safety of the relevant feeder channels concerned, wherefrom basic amenities become purveyed to the present petitioners. The provisions of sub-Rule 11 of Rule 56 of the *Haryana Minor Minerals Rules, 2012*, read as follows:-

“11. Where the continuance of mining operations in any area, in the opinion of the State Government, is likely to endanger the safety of any national or state highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private building, or any other public interest or in the interest of environment/ecology of the area, the Government may suspend the operations in the entire concession area or part thereof with immediate effect by communicating the reasons thereof in writing. The Government may, wherever so warranted, terminate such mining lease/contract over entire area or part thereof after giving sixty days notice to the concession holder in this behalf and the grant of such mineral concession shall stand terminated from the date specified in the said notice.”

4. The NOCs concerned, do enjoy a limited play, but do not yet leverage the co-respondent No.2, to cause breach to the mandate of sub Rule 11 of Rule 56 of the *Haryana Minor Minerals Rules, 2012*, and, if *prima facie* endangerment is caused to the relevant feeding avenues, thereby, the affected therefroms, can well recourse the remedies, as prescribed thereunders, as become espoused through unattended communications(supra), becoming addressed to the authorities concerned.

5. In sequel, the authorities concerned seized with above annexures, are directed to forthwith ensure that within the terms of sub Rule 11 of the Rules 56 of the Haryana Minor Minerals Rules, 2012, thus, a show-cause-notice becomes issued upon co-respondent No.11, to answer whether the blastings made at the mining site concerned, are endangering the safety of the water system/power system, and, thereby, are also ultimately affecting the purveyings of the basic amenities therefroms to the present petitioners. The said show-cause-notice be issued within a week to co-respondent No.9, and, after a reply thereto becoming invited from co-respondent No.9, besides, after lawfully considering the said reply, and also through deployments of all the scientific wherewithals, the authority concerned shall proceed to draw such action as deemed fit, in terms of sub Rule 11 of Rule 56 of the *Haryana Minor Minerals Rules, 2012*, thus against the errant concerned. The said decision be made positively within a period of one month from today.

6. Disposed of, accordingly.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

February 20, 2024