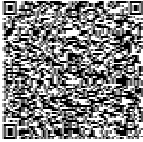


2024:PHHC:080044-DB



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

202

CWP-14475-2024 (O&M).
Date of Decision: 14.06.2024.

M/S YODHA MINES AND MINERALS

.. Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Narender Hooda, Sr. Advocate, with
Mr. Amit Khatkr, Advocate,
for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the impugned notice cum order dated 05.06.2024 (Annexure P-7) whereby the respondent-Department has demanded the outstanding amount from the petitioner along with proposing suspension of the mining operations of the petitioner.

2 Learned Senior counsel appearing on behalf of the petitioner contends that owing to a dispute with respect to the area for which the

2024:PHHC:080044-DB



mining rights had been handed over to the petitioner, a batch of writ petitions had been filed before this Court which were disposed of vide order dated 04.04.2019 in terms of the judgment passed in **CWP-1772 of 2018 titled as M/s Sangam Infra Estate Pvt. Ltd. Vs. State of Haryana and others, decided on 30.11.2018**. As per the operative part of the said judgment, the respondent-State was required to recalculate the amount proportionate to the mining operations and mining area available to the contractors. The above said judgment is a subject matter of challenge before the Hon'ble Supreme Court wherein an order of *status quo* had been passed on 28.02.2020. He contends that the said SLP is still pending before the Hon'ble Supreme Court and that in the meanwhile, as a demand was being raised against the petitioner, CWP No.15499 of 2019 was filed by the petitioner wherein an interim order was passed on 30.05.2019 directing the petitioner to pay a sum of Rs.25 Lakhs per month which has been complied. He draws the attention of this Court to the order dated 11.10.2023 endorsed on 20.10.2023 passed by the Director Mines and Geology, Haryana, whereby he had directed the Mining Officer, Sonipat to re-calculate the amount payable by the petitioner @ Rs.25 Lakhs per month including R&R and DMF in accordance with the order passed by the Hon'ble High Court on 30.05.2019 in the above said CWP No.15499 of 2019.

3 It is further submitted that the petitioner has now been communicated an order dated 05.06.2024 bearing Memo No.Mining/SNP/Jainpur-2 Sand Unit/2015/2234 which makes a reference

2024:PHHC:080044-DB



endorsed on 20.10.2023 passed by the Director, Mines and Geology, Haryana and a fresh calculation has been demanded by the Assistant Mining Engineer from the petitioner. Further, it has been communicated that in the event of the petitioner failing to clear the entire outstanding amount within 07 days from the date of the notice, further action would be initiated. Aggrieved thereof, the present writ petition has been filed.

- 4 It is, inter alia, argued on behalf of the petitioner as under:-
- (i) That the petitioner Company was not in default of the dues as calculated and directed by the Director General, Mines and Geology, Haryana, vide his order endorsed on 20.10.2023'
 - (ii) That the Director General, Mines and Geology, Haryana, vide order dated 05.06.2024 rescinded the order endorsed on 20.10.2023, however, no copy of the said order rescinding the earlier order has been supplied to the petitioner nor any opportunity of hearing was extended so as to enable the petitioner to submit its response.
 - (iii) That the order endorsed on 30.05.2019 is still in force and any demand made in violation of the said order would be in direct conflict with the said order. Further, the recalculation, as per the mandate of the Division Bench judgment dated **30.11.2018** **passed in the batch of writ petitions bearing CWP No.1772 of 2018 titled as M/s Sangam Infra Estate Pvt. Ltd. Vs. State of Haryana and others**, is yet to be done. The Hon'ble Supreme Court has directed maintenance of status quo with

2024:PHHC:080044-DB



respect to the earlier demand raised from the petitioner and that the *inter se* rights and liabilities of the respective parties are yet to be determined.

- (iv) It is further submitted that there are two companies/firms that have been granted mining operation rights and that even though both the companies are identically situated, however, the impugned order has been passed only with respect to the petitioner so as to give a walk over to the competitor.
- (v) That a 07 days' notice for arrears has been given even though law provides for a maximum 30 days notice.
- (vi) The order having been passed behind back and without complying with principles of natural justice and in violation of order passed by this Court is bad and liable to be set aside.
- (vii) On an objection raised by the respondent-State that the said order is appealable, learned Senior counsel for the petitioner contends that the said position is legally and factually not in dispute, however, the order having been passed in non-compliance of the principles of natural justice, which are explicit, the same can be challenged before this Court. Further, there is a condition of mandatory pre-deposit of 50% of amount in advance for entertaining an appeal and as the arbitrary action of the respondent-Department is explicit and evident, the petitioner had to approach this Court for raising a challenge to the said order.

2024:PHHC:080044-DB



6 Learned State counsel made an attempt to defend the impugned order and contended that the petitioner is in default of the amount as conveyed in para no.11 of the said order and that time has accordingly been granted to the petitioner to clear the dues. She contended that the second contractor has deposited the amount @ Rs.25 Lakhs per month + 10% enhancement thereof.

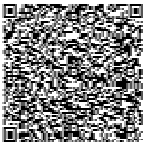
7 On a pointed query, learned State Counsel could not dispute that no notice or any opportunity of hearing was extended to the petitioner before passing the order dated 05.06.2024 by the Director General, Mining and Geology, Haryana, bearing Memo No.DMG/HY/Jainpur Unit-2/Cont. Money/2742 and that no demand had been conveyed to the petitioner at par with what is being claimed from the other contractor.

8 Faced with the above, learned State counsel, on instructions from Ms. Madhavi Gupta, State Mining Engineer, Sonipat, submits that the respondent Department shall pass a fresh order in accordance with law after granting an opportunity of hearing to the petitioner.

9 A copy of order dated 05.06.2024 passed by the DGMG rescinding the order endorsed on 20.10.2023 has also been handed over to the assisting counsel for the petitioner, today in the Court.

10 Without going into the controversy any further and taking into consideration the statement on instructions, made by the learned State counsel, the impugned notice cum order dated 05.06.2024 (Annexure P-7) conveyed by the Assistant Mining Engineer, Mines and Geology

2024:PHHC:080044-DB



DGMG are set aside for reconsideration. The parties are directed to appear before the Director General, Mines and Geology, Haryana on 24.06.2024 for appropriate proceedings.

11 The present writ petition stands disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

June 14, 2024.
raj arora

(VIKRAM AGGARWAL)
JUDGE

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