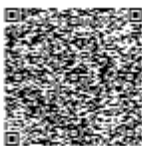


2024:PHHC:117186-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CWP-22452-2024

Decided on: 06.09.2024

M/s Malwa Stone Crusher & another

.....Petitioner (s)

Versus

State of Haryana & others

....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Rahul Sharma, Advocate, for the petitioner (s).

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

G.S. Sandhawalia, J. (Oral) :

1. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India, is to the e-auction noticed published on 16.07.2024 (Annexure P-11) and the consequent auction proceedings conducted on 24.07.2024.

2. Mr.Sharma has minutely taken us through the paperbook to submit that the petitioners were part of the rehabilitation scheme and initially, the stone crushers were leased out for a period of 5 years in the year 1995 under the Rehabilitation Policy, in view of the orders passed by the Courts which was further extended for 20 years. It is submitted that prior to the expiry of the said period of 20 years, the Gram Panchayat has also passed a resolution in favour of petitioner No.1 that it should continue with the lease. Inspite of that, the e-auction notice dated 16.07.2024 (Annexure P-11) had been issued and 14 stone crushers were e-auctioned

situated at Village Burj Kotian.

3. It is submitted that the petitioners had taken part in the said auction and there was no extension period fixed and the private-respondents had stolen a march at the last moment by bidding higher than what the petitioners had bid and the auction proceedings culminated without giving them chance to bid higher. Reference is made to Annexures P-13 & P-15 to demonstrate the said fact that the petitioner No.1 had bid at 12:59:29 and had offered Rs.4 lakhs whereas the other petitioner at 12:59:17 and had offered Rs.4.6 lakhs and Rs.5 lakhs, respectively and their bids had been accepted. It is further submitted that the auction was on 'as is where is' basis and heavy machinery was standing at the site.

4. We have gone through the paperbook and are of the considered opinion that the petitioners have no indefeasible right to continue for all times to come. They have been rehabilitated for 25 years and taken part willingly in the e-auction proceedings and had never approached or given any representation to the authorities at an earlier point of time. Apparently, writ petition bearing CWP-18800-2024 was dismissed as infructuous on 06.08.2024 while noting that out of the petitioners, there were 2 successful bidders and the other 4 remained unsuccessful in the auction proceedings. The petitioners had taken a chance in the bidding and now, are stopped to challenge the terms and conditions of the auction notice. It is settled principle that once a person participates in a bidding process having accepted the terms and conditions of the same, he cannot turn around and say that the said conditions were onerous in any manner.

5. On the basis of the same, the petitioners had approached this Court on an earlier occasion since in the auction proceedings, the

publication was done on 16.07.2024 and the auction had started on 24.07.2024 between 10 AM to 1 PM by way of e-auction. At that point of time, having failed to challenge the terms and conditions, the petitioners cannot, now, turn around and say that the said terms and conditions are bad since the stone-crushers sites were on 'As is what it is and As on where is' basis as per clause I.

6. The argument raised that the 15 days' period was not provided before the auction proceedings closure, as per Rule 6 of the Punjab Village Common Lands (Regulation) Rules, 1964, does not cut much ice, since the petitioners themselves being well aware of the auction notice had willingly participating in the auction, had taken a chance and therefore, now, cannot claim that the 15 days' period was not granted, on the principle of estoppel and acquiescence. Even otherwise, no prejudice has been caused to them on fixing a lesser number of days. The factum of the bidding aspect has to be noticed that apparently the petitioners bided at the last moment and in the absence of any terms and conditions that if there is an increase just prior to the closure date, the e-auction would be extended, no such exception can be taken to the same. It is also apparent that the petitioners themselves had taken a chance and at the fag end of the closure, had put in their bid, even less than a minute earlier and therefore, now cannot come forward over someone else who has stolen a march over them. In sum and substance, the petitioners themselves are now estopped from challenging the auction proceedings.

7. During the course of arguments, we have been informed that out of the 12 persons, who had been rehabilitated in pursuance of the earlier displacement, 6 are successful bidders. Thus, in the absence of any

patent illegality and the transparency which had been adopted by the State, as much as 50% of the bidders have secured their rights for another 20 years and therefore, this Court is loath to interfere upon the rights which have accrued to the private-respondents. However, the only relief which we are inclined to give is that for the heavy machinery installed at the site, the petitioners shall be entitled to remove the same within a period of 21 days and the State shall ensure that there is no impediment in the removal of the same.

8. With the above-said directions, the present writ petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

06.09.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No