

2024 PHHC 168814-DB



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

CWP-31690-2024(O&M)

Reserved on: 05.12.2024

Pronounced on: 17.12.2024

M/s Maa Santoshi Khanij Uydog

...Petitioner

Vs.

**Haryana State Pollution Control Board
and others**

...Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Gurpreet Singh Kahlon, Advocate
for the petitioner.**

Mr. Deepak Balyan, Addl. A.G., Haryana.

ANIL KSHETARPAL, J.

1. Before reserving for orders, the submissions of petitioner's counsel with respect to admissibility of the writ petition were heard.
2. The petitioner-firm which operates a mine in village Musnota, District Mahendragarh, Haryana, has filed the present writ petition with the following substantive prayers:-

"a. Issue appropriate Writ, order or direction quashing the impugned order dated 29.10.2024 passed by the Respondent Haryana Pollution Control Board;

b. Issue an appropriate Writ, order or direction staying the operation of the order dated 29.10.2024 passed by the Respondent, Haryana Pollution Control Board;

c. In the alternative, to issue an appropriate Writ, order or direction to the Respondent Haryana State Pollution Control Board directing them to provide the Petitioner with another opportunity of hearing after providing them with all the reasons, grounds or evidence on the basis of which the impugned order dated 29.10.2024 was passed.”

3. Through the impugned order passed on 29.10.2024, the Haryana State Pollution Control Board (hereinafter referred to as ‘HSPCB’) has called upon the petitioner to pay Rs.22,66,000/- as Environmental Compensation in terms of the order passed by the National Green Tribunal (hereinafter referred to as ‘NGT’) on 02.02.2024.

4. The petitioner’s counsel submitted that impugned order suffers from patent illegality as the principle of natural justice has not been followed because copy of the Regional Officer’s (Mahendragarh) letter written on 18.03.2024 which was very basis of the impugned order has not been supplied before passing the order. Hence, the writ petition should be entertained.

5. This Court proceeds to analyze the matter. From the perusal of the paper-book, it is evident that the petitioner was issued notice on 21.11.2023, for closure under Section 23-A of Water (Prevention and Control of Pollution) Act, 1974 and for violation of Section 21/22 of Air (Prevention and Control of Pollution) Act, 1981 and imposition of environmental penalties as per amendments in the Jan Vishwas (Amendment of Provisions) Act, 2023 and as per HSPCB Policy on imposition of Environmental Compensation. Reply to

the said notice was submitted on 04.12.2023. On 02.02.2024, NGT disposed of two OA's, in the presence of petitioner with the following directions:-

“6. Since, appropriate action has already been initiated by the Haryana State PCB for imposition of EC and a fair statement has been made by the Learned Senior Counsel for the Project Proponent, for repairing the school building, hence, we dispose of the present OA by directing the HSPCB to conclude the proceeding relating to imposition of EC by following the principle of 'Natural Justice' and file action taken report before the Registrar General of the Tribunal within three months by e- mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF and if found necessary, the matter may be listed for consideration before the Bench.

7. In the connected OA No. 546/2023, similar allegation has been made and a similar report by the joint Committee has been filed. Therefore, the said OA is also disposed of on the same terms.”

6. In compliance with the aforesaid order, the petitioner has been granted multiple opportunities of hearing vide communication dated 12.07.2024, 14.08.2024 and 04.09.2024. On perusal of the NGT's order passed on 02.02.2024, it becomes evident that the petitioner has mined after encroaching upon an area of 15,648 Sq. ft. in Khasra No. 487 and 551 and quantity of excavated mineral is 24,812.50 M.T. The demand notice was also issued to the petitioner to deposit the penalty, royalty and price of mineral illegally excavated to the tune of Rs. 42,28,125/-, against which, an appeal has been preferred.

7. During the pendency of the matter before the NGT, where the petitioner was party, it was noticed that HSPCB has already initiated proceedings for imposition of Environmental Compensation. The petitioner also undertook to repair the school building which suffered damages on account of blasting in the area in order to extract minerals.
8. The HSPCB has only calculated Environmental Compensation in accordance with the directions issued by NGT. The petitioner’s counsel does not dispute about the aforesaid direction, however, he submits that he has not been supplied a copy of the Regional Officer’s letter issued on 18.03.2024.
9. On careful reading of the impugned order, it is evident that the Regional Officer had only sent calculation of Environmental Compensation, which was ultimately examined by the Environment Compensation Assessment Committee in the petitioner’s presence.
10. Keeping in view the aforesaid facts, in the opinion of the Bench, the remedy of the petitioner is either before the NGT or before the Supreme Court against the order of NGT. Hence, the petitioner is relegated to the alternative remedy.
11. The writ petition stands disposed of.
12. All the pending miscellaneous applications, if any, are also disposed of.

	(ANIL KSHETARPAL) JUDGE	(SHEEL NAGU) CHIEF JUSTICE
17.12.2024 neeraj	Whether speaking/reasoned :	Yes No
	Whether Reportable :	Yes No