201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-16166-2023 (O&M)
Date of Decision:05.05.2026

KAMALJEET SINGH .....PETITIONER(S)

VERSUS

STATE OF PUNJAB AND OTHERS ....RESPONDENT(S)

CORAM:- HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Gurminder Singh, Senior Advocate assisted by
Mr. R. P. S. Bara, Advocate and
Mr. Opinderpal Singh Walia, Advocate
for the petitioner.

Ms. Ambika Chaudhary, AAG, Punjab assisted by
Mr. Anuj Tomar, Junior Engineer, Mohali.

Mr. Satya Pal Jain, Addl., Solicitor General of India with
Mr. Ashish Rawal, Senior Panel Counsel
for respondent No.7-Union of India.

Mr. Aditya Pratap Duggal, Advocate
for respondent No.8.

Mr. Lokesh Chander Aggarwal, Advocate
(through video conferencing)
for respondent No.10.

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ASHWANI KUMAR MISHRA, J. *(Oral)*

1. This writ petition seeks to challenge an order dated 07.11.2022 (Annexure P-24), whereby the petitioner's statutory appeal has been dismissed, *inter alia*, on the ground that the directions given by this Court in CWP No.1216 of 2021, decided on 30.09.2021, have been given a go-by. It is also submitted that the recovery notice issued to the petitioner in Form-M dated 16.11.2020 as also the assessment order dated 31.01.2019 are passed in violation of the statutory scheme only with an intent to harass the petitioner. The petitioner has also challenged the

speaking order dated 11.12.2018 and the recovery notice dated 06.12.2018, whereby a sum of Rs.4,24,39,405/- is proposed to be recovered.

2. The undisputed facts of the case are that in the year 2015, State of Punjab invited a tender for auction of mines situated at different places including the mine situated at village Mubairkpur, District SAS Nagar. An open auction was conducted by the Industries Department of the State, wherein the petitioner was found to be the highest successful bidder. Annual royalty was assessed at Rs.17,00,010/- for a period of five years to excavate 56667 metric tons annually. The total area of mine was 27.78 hectares The sale price was fixed at Rs.126/- per ton. The petitioner had to pay Rs.50/- per ton also as compensation to the landowner as well as 10% Environmental Performance Guarantee and Environment Clearance Charges. After the Environmental Clearance (*EC*) was issued in favour of the petitioner, the petitioner commenced actual mining on the allotted site *w.e.f.* 03.06.2016. According to the petitioner, the actual extraction of minerals commenced in January, 2017. According to petitioner, in the year 2017, a change in policy occurred on account of which a lessor amount of royalty was to be paid for extracting minerals. The change was also incorporated in the conditions of quarries already allotted to others including the petitioner. The petitioner was asked to surrender the quarry even though the period of mining was subsisting. The petitioner approached this Court by filing CWP No.12664 of 2017, whereby the challenge laid to the directions issued to the petitioner to

surrender the quarry was dismissed. The Division Bench judgment of this Court was then assailed before the Hon'ble Supreme Court of India in SLP No.1798 of 2018. The Supreme Court disposed of the matter *vide* following orders passed on 10.05.2018:-

> *"Upon hearing the counsel the Court made the following*
>
> *ORDER*
>
> *An affidavit has been filed by the respondents which is slightly at variance with the order passed by this Court on 07.05.2018.*
>
> *It is now stated by learned counsel appearing for the State of Punjab that within a week from today i.e. on or before 18.05.2018, the necessary calculations and assessment will be made with regard to each petitioner and the quantum that is required to be paid. The petitioners will, of course, cooperate in making the calculations.*
>
> *Within a week thereafter i.e. on or before 25.05.2018, necessary cheques for the payment will be made by the State of Punjab.*
>
> *In the meanwhile, the petitioner will stop mining activities w.e.f. today (10.05.2018) and will also take away their machinery on or before 18.05.2018.*
>
> *If any amount is required to be refunded to the petitioners, the State of Punjab will look into it and any delay in calculating the refundable amount will not come in the way of the implementation of the above orders.*
>
> *The special leave petitions stand disposed of in view of the above.*
>
> *Pending applications are disposed of."*

3. The petitioner thereafter pressed his claim for various benefits in terms of the decision of the Supreme Court. At this stage, the

authorities passed the impugned order dated 11.12.2018, holding the petitioner liable for various amounts on account of alleged excess/illegal mining undertaken by him. The order of the concerned authority was preceded by a notice under Rule 85(5) of the Punjab Minor Mineral Rules, 2018. The petitioner responded to the notice, stating that in terms of Rule 85 of the Punjab Minor Mineral Rules, 2013 (for short, '***Rules of 2013***'), he had been submitting his returns from time to time, on which no objections were raised. It is submitted that the returns were impliedly accepted, and only when the petitioner stated his claim for appropriate financial relief in terms of the order of the Supreme Court that the order impugned came to be passed only with the intent to avoid the State's liability to pay the amount in terms of the orders passed by the Supreme Court.

4. On the last date when the matter was heard, learned Senior Counsel for the petitioner had placed reliance upon Annexure P-9, which would reveal that for the period between 03.06.2016 to 02.06.2017, the mined material was 25953 metric tons against the only permissible quantity of 56657 metric tons. It is also shown that from 03.06.2017 to 20.10.2018, the similar mining limit was specified as per the returns.

5. Learned Senior Counsel for the petitioner states that till the end of April 2018, the quantity of mined mineral was as per the return, and only for a period of ten days in the month of May 2018 the figures of mined mineral enhanced to 2,32,175, whereas the yearly mining in the previous period was found to be less than 26,000 metric tons. It is

submitted that the demand, based on alleged illegal mining for a period of ten days to the tune of nearly ten times the previous mining, is wholly arbitrary and is not based on any material brought on record.

6. It appears that against the determination made by the competent authority, the petitioner preferred an appeal. During the pendency of the appeal, an Expert Committee was constituted to look into the quantum of actual excess mining undertaken by the petitioner. This Committee submitted its report which recorded as under:-

> *"…..After inquiring above mentioned facts the issues raised by the contractor in his appeal seems to be true because in the report of old Committee, no benchmark or level is available in the record for Mubarikpur quarry prior to auction and after the contract period, from which it can be ascertained that during which period and by whom the Mining has been done."*

7. It is submitted that in view of the aforesaid report, the matter was remitted for fresh consideration. However, the authority concerned did not take into account the report submitted by the Expert Committee and relying on no evidence, proceeded to reiterate the earlier demand raised against the petitioner.

8. Having heard the learned Senior Counsel for the petitioner, we had called upon the respondents to explain as to how there could be a massive demand of nearly eight times the annual mining in the area when no other records were available.

9. This Court proceeded to observe as under on 27.11.2025:-

> *"Arguments have been substantially advanced on behalf of*

the learned counsel for the petitioner. It is submitted that the fact finding report invited by the Appellate Authority clearly indicates that the levels of mining since were not ascertained, therefore, the actual liability or the alleged illegal mining cannot be asserted. It is submitted that this aspect was earlier highlighted before this Court, on account of which the matter was remitted to the authorities by this Court vide order dated 30.09.2021 passed in CWP-1216-2021. It is submitted that even after remand, there is no proper consideration on this aspect of the matter.

Learned State counsel seeks adjournment by a day in order to respond.

List on 28.11.2025.

The matter shall be taken up after the urgent list."

10. On 28.11.2025, following orders were passed by this Court:-

"After arguing for some time, learned Additional Advocate General comes up with the prayer to adjourn the matter as he intends to go through the original records and furnish basis for computation of the Department's claim of excess mining on part of the petitioner.

List on 08.12.2025."

11. Though the matter has remained pending and repeatedly adjourned but the respondents have not been able to place on record any record on the basis of which the impugned demand could be justified by the petitioner. When the matter is taken up today, learned State counsel submits that the determination of liability of the petitioner is referable to Rule 85(7) of the Rules of 2013 which reads as under:-

"If in consequence of definite information which has come into his possession the assessing authority discovers that an assessee has been under assessed or escaped assessment of

> *royalty in any year, the assessing authority may, at any time within three years after the expiry of that year re-assess the royalty in Form 'O' after giving the assessee a reasonable opportunity of being heard."*

12. Learned Senior Counsel for the petitioner submits that Rule 85 of the Rules of 2013 refers to the '*Assessment of Royalty*'. Our attention has been invited to Rule 85(1), (2), and (8) of the Rules of 2013 to demonstrate that the mining concessionaire is required to submit its return regarding the actual excavation of the mining mineral from the designated area on a monthly basis. The Rule permits the State authorities to examine such a return and if it is found that return filed is not correct then after notice to the concessionaire the competent authority can proceed further in accordance with law.

13. It is pointed out that in the facts of the instant case, the returns submitted by the petitioner from time to time were never disputed. No proceedings were ever initiated against the petitioner for having submitted false return(s). It is therefore contended that when the mining undertaken by the petitioner as per the return was not doubted and the total mining in a year was to the tune of less than 30,000 metric tons, it is unbelievable that within a period of ten days, the mineral extracted could be alleged to be almost 08-10 times of the yearly figures.

14. We have perused the records and it is apparent from the material brought before us that the periodical returns in respect of extracted mineral has not been disputed or challenged by the State authorities. Though the mining licence was for a period of five years but

as per the new policy of the State, the previous mining policy itself was disbanded. It is in the context of challenge to such discontinuance of the previous policy and the contract in favour of the petitioner that the matter travelled to the Supreme Court where directions were issued to compensate the miners.

15. Pursuant to such order of the Supreme Court, the petitioner had also lodged its claim. It is immediately thereafter that the impugned demand notice has been issued alleging that petitioner had indulged in excess mining to the tune of 2,08,036 metric tons.

16. In the statutory scheme, we find that once the returns were duly submitted before the competent authority, the course open for the competent authority would be to examine the returns and if the figures mentioned in the returns are found to be deficient that appropriate notices can be issued and the concessionaire can be proceeded with in accordance with law. This clearly reflected from the scheme of Rule 85.

17. In the facts of the instant case, neither the returns submitted by the petitioner were doubted/disputed nor any action permissible in law had been initiated against the petitioner so as to determine its liability to pay additional sum as has been demanded vide order impugned.

18. We find force in the contention of the learned Senior Counsel for the petitioner that once the petitioner had raised its claim for an appropriate amount under the orders of the Supreme Court, the authorities woke up from their deep slumber and with an apparent intent to dispute the petitioner’s claim, raised a huge demand without any basis

against the petitioner.

19. Despite the matter being repeatedly adjourned, the State counsel has not been able to place any material on record on the strength of which it could be said that the petitioner had indulged in excess mining or that it was liable to pay additional amount.

20. The report of the Expert Committee also indicates that no such record was available. In the absence of any findings by the appellate authority and any material placed before the Court, the demand raised against the petitioner cannot be sustained.

21. For the reasons recorded above, this petition succeeds and is accordingly ***allowed***. The order(s) impugned are accordingly quashed.

22. All pending misc. application(s), if any, also stand disposed of.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

MAY 05, 2026
Rahul Joshi

1. Whether Speaking/reasoned Yes/No
2. Whether Reportable Yes/No