
(1969) 10 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 907 of 1969

Budh Ram

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 08-10-1969

Acts Referred:

Citation : (1969) 10 P&H CK 0014

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Advocate : Lalit Mohan Suri and Mr. Ravindra Mohan suri, for the Appellant; D.S. Tewatia, Advocate Genearl (Haryana) and Mr. Jaswant jain, for the Respondent

Judgement

Bal Raj Tuli, J.

1.The Petitioner is a manufacturer of crude saltpetre in the For this purpose he takes on lease areas bearing saltpetre earth owned by private proprietors or vested in the Panchayats in the various villages of the State. These leases are either from year to year or for several years depending upon the conditions prevailing in individual areas. By a notification No. GI/ HY/143/68, dated 8.10.1968, published in the Haryana Government Gazette Extraordinary, dated 10.10.1968, the Director of Industries, Haryana Government, had advertised that auction of saltpetre area in different villages of the Districts of Rohtak and Karnal would be held on 11.11.1968 and 12 .11.1968, including villages Singhpura Khurd, Atil, Sambli. Mohri, Iharana and Dabarpur. This notification was challenged by Messrs Punjab Haryana Shora Factory. Gohana and others by means of Civil Writ No. 3405 of 1968 in this Court which was admitted by the Motion Bench and the auction was stayed. The said writ petition was finally dismissed by a Division Bench of this Court consisting of P. C. Pandit and H. R. Sodhi, JJ. Thereafter, by notification No. GTG/HY/143/69/1812, dated 11.02.1969, the Director of Industries, Haryana, notified in the Haryana Government Gazette, dated 11.02.1969 that the auction of saltpetre bearing land in the districts of Karnal, Rohtak and Gurgaon would be held on 17.02.1969, 18.02.1969 and 19.02.1969.

An auction in pursuance of that notification was held and Respondents 6 to 10 made the bids at those auctions. The Petitioner has filed the present writ petition., challenging the said notification dated 11.02.1969. No return has been filed by the Respondents but the learned Advocate General for the State of Haryana has argued on behalf of Respondents 1 to 4.

2. Without doing into the other matters raised in the petition, the impugned notification is liable to be Set aside on the ground that it has not been issued in accordance with Rule 30 of the Punjab Minor Mineral Concession Rules, 1964. That rule read as under:

30. Period of contract.

(1) each contract will ordinarily be auctioned for a period of three years unless the period is specifically stated

The successful bidder will be informed of the auction in his favour.

(i) on the notice board of Director, Mining Officers and at least in one newspaper having wide circulation in the locality nearest to the area in question, in the original language.

(ii) in the Punjab Government Gazette by publishing the auction notice at least 80 days before the date of auction and it shall mention the terms and conditions of the auction notice shall be sent to the local authority having jurisdiction over the area in question for giving wide publicity in the area ;

(iii) the terms and conditions and description of the contract shall be read out to the intending bidders at the time of auction. The intending bidders shall deposit such earnest money as may be fixed by the Director. In each case such amount shall be notified in the Government Gazette.

(iv) no bid shall be regarded as accepted, unless confirmed by Government. On completion of the auction the result will be announced and provisional selected bidder shall immediately deposit 25 per cent amount of bid for one year and Anr. 25 per cent as security for due observance of the terms and conditions of the contract ;

(v) the earnest money shall be refunded immediately at the completion of the auction to all excepting the person whose bid is provisionally accepted. The earnest money shall be adjusted against the security under Clause (iv) ;

(vi) misbehaviour by any bidder during auction can be punished by forfeiting his earnest money or removal or, if necessary, by debarring him for a period of three years from any future auction under these rules, at the discretion of the Presiding Officer.

The impugned notification reads as under:

It is hereby notified for the information of the general public that the saltpetre deposits in the districts of Karnal, Rohtak and Gurgaon which were notified for

auction, vide notification No. GI/ HY/143/68, dated 10.10.1968, but were not auctioned due to the stay orders of High Court now will be put to auction as per pro gramme given below:

(i) District Karnal-17t.02.1969 and 18.02.1969.

(ii) District Rohtak-18.02.1969 and 19.02.1969.

(iii) District Gurgaon-20.02.1969

Any person who has obtained rights for extracting saltpetre in any particular area from the Gram Panchayat of private parties should apply to the Director of Industries alongwith necessary documentary proof for establishing his claim in this behalf and allowing him to work for the unexpired period of contract/lease." From the perusal of the notification, it is clear that the notification was not published 30 days before the date of auction. It was published only 6 days before the first date of auction and was, therefore, not in accordance with Rule 30. It also does not mention the terms and conditions of auction nor does it mention the place where the auction was to take place. The name of the officer who was to hold the auctions is also not mentioned. In the circumstances the grievance of the Petitioner is genuine that he did not come to know of this notification and, therefore, was not able to offer bids at those auctions. He is engaged in the business of manufacturing salteptre and his piece of the shamlat land in village Singhpura Khurd has been affected by this notification and the auction held in pursuance thereof. Since the notification is contrary to the provisions of Rule 30, it is liable to be quashed and with the quashing of the notification, the auctions held in pursuance thereof also fail.

3. For the reasons given above, this petition is accepted to the extent that the impugned notification dated 11.02.1969 (copy Annexure "C" to the writ petition) and the auctions held in pursuance thereof are quashed. The Petitioner will be entitled to his costs of the writ petition from Respondents 1 to 4. Counsel's fee Rs. 100/-.