
(1999) 12 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5976 of 1999

Karnail Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 09-12-1999

Acts Referred:

Citation : (2000) 126 PLR 461 : (2000) 2 RCR(Civil) 533

Hon'ble Judges : Jawahar Lal Gupta, J;A.S. Garg, J

Bench : Division Bench

Advocate : S.K. Pipat and D.D. Sharma, for the Appellant; A.G. Masih, A.A.G. for the Respondent Nos. 1 to 4, Sarabjit Singh, for the Respondent No. 5 and B.S. Guliani, for the Respondent No. 6, for the Respondent

Judgement

Jawahar Lal Gupta, J.—On February 2, 1999, the Director of Industries, Punjab published a notice regarding the auction of quarries in Districts Gurdaspur and Amritsar for extraction of minor minerals. The petitioner was one of the bidders for the quarry named "Beri Bujrag" in Hadbast No. 217. He gave the highest bid. It was accepted. The auction was confirmed by the State Government on April 15, 1999. A formal agreement was executed between the petitioner and the State Government on April 22, 1999. 2. Despite the above mentioned facts, the Village Panchayat of Beri Bujrag conducted an auction of the area which was also comprised in Hadbast No. 217 on April 10, 1999. It sold the right to extract minor minerals for a sum of Rs. 30,500/- in favour of respondent No. 6. In pursuance to this auction, respondent No. 6 also started the extraction.

3. Since the rights of the petitioner were adversely affected, he has filed this petition with the prayer that the auction conducted by the Panchayat on April 10, 1999 may be set aside and that he may be allowed to continue the extraction in accordance with the terms of the agreement.

4. Counsel for the parties have been heard.

5. Mr. S.K. Papit, counsel for the petitioner has submitted that the right of

extraction had been purchased at a cost of Rs. 4,61,000/-. Still further, another condition for deposit of Rs. 1,53,700/- was also imposed. This was the compensation which had to be paid to the land owners. That having happened, the Panchayat had no jurisdiction to auction any minor mineral which fell exclusively within the jurisdiction of the State Government. Still further, it has also been submitted that the auction by the Panchayat for a paltry sum of Rs. 30,500/- was, in fact, a sham transaction as it was getting more than Rs. 50,000/- per year by way of compensation.

6. The claim made on behalf of the petitioner has been controverted by counsel for respondent No. 6. He maintains that the 6th respondent was the highest bidder and that his offer had been rightly accepted.

7. Mr. Masih has placed before us a photocopy of the communication along with the proceedings of the meeting dated November 15, 1999, received by the A.G. Punjab from the Director, Rural Development and Panchayats. The document is taken on record as Mark "A". Mr. Masih has made a very fair statement. He states that the auction conducted by the Department of Industries was legal and valid. The auction conducted by the Panchayat was not in conformity with law. Thus, the petitioner shall be allowed to continue to extract in accordance with the terms of the agreement. He also points out that the 6th respondent has already continued the extraction work for almost nine months. Mr. Masih and Mr. Guliani are agreed that a compensation of Rs. 8,000/- may be paid to the 6th respondent by the Panchayat. He will not be entitled to carry out any extraction for the remaining period.

8. In view of the above undertaking, the writ petition is disposed of with a direction that the petitioner shall be allowed to continue the extraction in accordance with the terms of the agreement, executed between him and the State Government. Respondents No. 4 to 6 shall not interfere with the operation. The amount of Rs. 8000/- shall be paid to respondent No. 6 by the Gram Panchayat.