

(2021) 02 P&H CK 0417

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 35567 Of 2019 (O&M)

M/S. Jai Shree Gramoudyog Stone Crusher

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 26-02-2021

Acts Referred:

Mines & Minerals (Development & Regulation) Act, 1957 — Section 23C
Punjab Minor Mineral Rules, 2013 — Rule 74

Citation : (2021) 02 P&H CK 0417

Hon'ble Judges : Jaswant Singh, J; Ashok Kumar Verma, J

Bench : Division Bench

Advocate : Sumeet Mahajan, Saksham Mahajan, Dharam Vir Sharma, Tushar Sharma, Rameeza Hakeem

Final Decision : Disposed Of

Judgement

Jaswant Singh, J

Through this common order, we shall dispose of the aforementioned two writ petitions as challenge has been laid by the petitioners (who are

individuals in CWP No. 35567 of 2019 and a partnership firm in CWP No. 6813 of 2020 and both doing business of stone crushing in Himachal

Pradesh) to the memo/notification dated 11.10.2019 (Annexure P-1) issued by the State of Punjab whereby it has decided to set up check-posts at

State borders to stop movement of illegally mined sand and gravel.

[2] It is the contention of both the Ld. Senior Counsels that the actual purpose of the impugned notification/ Memo dated 11.10.2019 (P-1) is to

prevent free transportation of finished goods such as coarse sand and stone aggregate entering from neighbouring states such as Himachal Pradesh

with a mala fide intent, being at the behest of sand mining contractors of Punjab

so as to preserve and perpetuate the monopoly and to facilitate collection of gunda tax by them. It is submitted that this act of the State is wholly illegal and contrary to the provisions of Mines & Minerals

(Development & Regulation) Act, 1957 (for short the Act, 1957) as well as The Punjab Minor Mineral Rules, 2013 framed thereunder.

[3] On the other hand, learned State Counsel has argued that as per Section 23C of the Act, 1957, power has been given to the State Government to

make Rules for preventing illegal mining, transportation and storage of mineral. In pursuance to the above said Section, the State of Punjab has framed

the Punjab Minor Mineral Rules of 2013. Under Chapter-VII of Rules, 2013, Rule 74 provides for check post/ barrier/weighment, inspection of

minerals in transit and other measures. In the light of the above rules, the Government decided to setup check posts at State Border to stop movement

of illegally mined sand and gravels from adjoining areas.

Consequently, the impugned notification/memo dated 11.10.2019 (P-1) was issued by Secretary-cum-Director to the Deputy Commissioners of

Hoshiarpur, Pathankot, Gurdaspur and Ropar to set up check posts at the expense of respective mining contractors who have offered to fund the

weigh bridges. It is further submitted while referring to the affidavit filed by Mr. Kumar Rahul, Secretary-Cum-Director Mines and Geology

Department Punjab that the entire exercise is being done to protect the revenue of the State as illegally mined material coming into the State will

affect the viability of the mining operations in the State and none of private sand contractors are managing the check posts as alleged. Hence, prayer

has been made for dismissal of the writ petitions.

[4] We have heard learned counsel for the parties at length and have scrutinized the paper book.

[4.1] It is evident that the issues raised in the instant writ petitions, filed at the behest of owners of stone crushers based out of Himachal Pradesh, are

based more on apprehensions raised qua prevention of free transportation of minor minerals by setting up of illegal nakas to collect gunda tax and

create monopoly of local mining contractors, rather than on the wisdom of the State to issue such memo/notification. Further, the State Government

has already bound itself vis-à-vis placing a procedure which would prevent setting up of illegal nakas as well as a mechanism whereby any citizen

can file a complaint in case of any grievance related to Act, 1957 in a connected writ petition bearing CWP No. 31506 of 2019, titled as

â??Bachittar Singh Vs State of Punjab and othersâ? decided on 26.02.2021. Once that is so, no further orders are required to be passed in the

present cases as the Constitutional Courts exercise their power of judicial review with restraint to ensure that the authorities on whom the power is

entrusted under the rule of law, is discharged truly, objectively, expeditiously for the purpose for which substantive acts/results are intended.

[4.2] At this stage, nothing has been shown that would even remotely suggest that there is any other intent in issuing notification/memo dated

11.10.2019 (P-1) except to protect the revenue of the State as illegally mined material coming into the State will affect the viability of the mining

operations in the State.

[5] Consequently, the present writ petitions are disposed of and the State is bound-down by the written statement(s) filed by it in these cases.

Needless to say, the petitioners would be at liberty to take their appropriate remedies as per the amended grievance redressal mechanism proposed by

the Government, in case they are still aggrieved by any violation of law.

[5.1] Since the main petitions itself have been decided, no orders are required to be passed in the pending miscellaneous applications, if any, the same

stand(s) disposed of.