
(1970) 01 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1253 of 1969

Raghu Nath

APPELLANT

Vs

The State of Punjab and other

RESPONDENT

Date of Decision : 08-01-1970

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 19

Citation : (1970) 01 P&H CK 0012

Hon'ble Judges : Balraj Tuli, J

Bench : Single Bench

Advocate : S.P. Goyal, for the Appellant; M.R. Sharma, D.A.G. Punjab with Mr. Sukhdev Khanna Mr. B.K. Jhingan and Mr. Bhagirath Dass, for Respondent No. 3. Mr. K.L. Sachdev, for the Respondent

Final Decision : Dismissed

Judgement

B.R. Tuli, J.—This judgment will dispose of Civil Writ No. 1253 of 1969, Raghu Nath v. The State of Punjab and others, Civil Writ No. 1259 of 1969, Ram Chand v. The State of Punjab and others, and Civil Writ No. 1694 of 1969, M/s. Ved Parkash and Sons v. The State of Punjab and others as common question of law are involved in all these writ petitions.

2. The Petitioners took leases of lands from various land owners for winning saltpetre therefrom. In the case of Ram Chand there were eight leases. out of which six have expired by now while two are subsisting. In the other two cases, all the leases have since expired.

3. The Punjab Government issued notification No. 1916 51B-II-69/ 10643, dated March 12, 1969, which was published in the Punjab Government Gazette dated March 14, 1969. The notification reads as under:-

In exercise of the powers conferred by Sub-rule 2 of Rule 5 of the Punjab Minor Mineral Concession Rules, 1964 published with Punjab Government notification No. - GSR/123/CA-67/57/60/15/64, dated the 2nd May 1964 and all other

powers enabling him in this behalf, the Governor of Punjab is pleased to reserve provisionally for a period of one year from the date of issue of this notification all the saltpetre deposits in in the State of Punjab for use by the Punjab Industrial Development Corporation Ltd. to set up developed salt petre industry in the State.

The Punjab Industrial Development Corporation will pay the State Government royalty on the extraction of saltpetre at a rate whichever is determined and notified by the Punjab Government. The total amount of royalty in no case will be less than Rs. 60,000/-per annum. The compensation for the loss of crops or damage done to the land will be paid by the Punjab Industrial Development Corporation to the local bodies, land-owners etc. to which settlement Government will not be a party. Further the Punjab Industrial Development Corporation will be bound to accept the other terms and conditions to be determined by the Government which will be notified subsequently.

The period of lease is renewable after one year, if the Government so desire on the same or revised rates, terms and conditions." On the basis of this notification the Managing Director of the Punjab State Industrial Development Corporation Limited issued letter No. PIDC/2696, dated April 7, 1969. to the President, Punjab Saltpetre Manufacturers Association, Ferozepore City, on the subject of "Exploi tation of saltpetre deposits" and the contents of the letter are as under: -
" The Punjab Government have provisionally reserved for a period of one year all the saltpetre deposits in the State of Punjab for use by this Corporation vide notification No. 1916-51B-II 69/10643, dated 12th March, 1969.

We therefore, hereby authorise the Punjab Saltpetre Manufactures Association having their Head Office at Ferozepore City, to exploit the saltpetre deposits in the State of Punjab, on our behalf, in terms of the agreement entered into between the following parties.

(a) Punjab State Industrial Development Corporation Limited.

(b) Punjab Saltpetre Manufacturers Association, Ferozepore. (c) Punjab Saltpetre Refinery Pvt. Limited.

4. The case of the Petitioners is that in view of the notification of the Punjab Government dated March 12, 1969, they have been deprived of their right to carry on their trade of winning saltpetre by taking leasts of lands bearing saltpetre deposits and a monopoly has been created in favour of Respondent No. 2, the Punjab State Industrial Development Corporation Limited. As a result of the said notification, the Petitioners were asked to desist from extracting or winning the saltpetre from the lands taken on lease by them, otherwise legal action would be taken against them. This threat on behalf of Respondent No. 2 led(sic) to the filing of these writ petitions. In the returns filed to the writ petitions it has been stated that the leases in favour of the Petitioners were void u/s 19 of the Mines and Mineral- (Regulation and Development) Act. 1957 (hereinafter called the Act) as they were taken by the Petitioners from the land-

owners in contravention of the provisions of the Act and the rules framed thereunder by the State Government styled as the Punjab Minor Mineral Concession Rules, 1964 (hereinafter called the Rules), It is then submitted that the Petitioners Were not eligible to apply for the prospecting licences or for mining leases as they did not posses certificate of approval under Rule 6 of the Rules ft is further submitted on behalf of the Respondents that the saltpetre in the lands taken on lease by the Petitioners vested in the Government and in order to obtain a mining lease with regard there to an application had to be made in form "C" to the Director of Industries as is provided in Rule 7 and the mining leases could be granted in accordance with the Rules contained in Part A of Chapter II of the Rules The Petitioners admittely did not follow that procedure. Even under Chapter III of the Rules, which deals with the grant of mineral concessions in respect of minor minerals in respest of the land in which minor minerals vest in a person other than the Government, the landowners did not have the right to grant the mining leases to the peti-oners without complying with the rules contained in that Chapter These leases could be granted in accordance with the Rules contained in the said Chapter III and in order to obtain a mining lease under this Chapter the person seeking the lease must hold a certificate of approval in form "B" from the Government which the Petitioners did not hold. It has, therefore, been strenuously argued by the learned Deputy Advocate General for the State of Punjab on behalf of the Respondents that the Petitioners have no right to obtain the mining leases and, therefore, have no right to maintain the present petitions. I find force in this submission of the learned Deputy Advocate General. I may point out that for the purposes of the decision of these petitions the learned Counsel for the Petitioners has not disputed the fact that the saltpetre in the lands taken on lease by them vested in the Government. On that basis it is also admitted that the Petitioners did not comply with the Rules contained in Part "A" of Chapter II of the Rules, which leads to the conclusion that the leases in favour of the Petitioners were void u/s 19 of the Act. If the leases are void, the Petitioners have no right to extract and take away the saltpetre out of the lands leased out to them They have also no right to maintain these petitions for the purpose of getting the notification of the Punjab Government dated March 12, 1969, quashed because they are not the persons who are qualified to make the applications for mining leases or prospecting licences and are thus not affected by the notification Rule 5(2) of the Rules gives the authority to the Government not to grant any mining lease in respect of any such minor mineral as the Government may notify in this respect. Such notification may be for the whole of Punjab or any part thereof- The impugned notification has been issued in exercise of this power. Sub rule (3) of Rule 5 provides that no mining lease shall be granted to a person who does not hold a certificate of approval from the Director. It is thus clear that no right of the Petitioners to carry on their trade or business has been infringed by the impugned notification. The Petitioners do not possess the certificate of approval the possession of which alone entitles a person to obtain a mining lease. They have never applied to the Director of Industries for such certificate. There is.

therefore, no course of action in favour of the Petitioners which entitles them to maintain the present petitions for quashing of the impugned notification. They have not been in any way affected by the said notification as the mining leases already obtained by them from the land-owners were void and on their own showing they are not eligible till today to apply for any mining lease under the Rules.

5. The Petitioners are also not entitled to the quashing of the impugned notification because under Article 19(6) of the Constitution the State can make any law for the carrying on by the State, or by a Corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or others. Such a law made by the State shall not be deemed to have infringed the fundamental right guaranteed to the citizens under Article 19(1)(g) of the Constitution. It has been stated by the Respondents and not denied by the Petitioners that Respondent No. 2 is a Corporation wholly owned and controlled by the Punjab Government. The impugned notification, being for its benefit and to enable it to carry on its business, cannot be struck down as infringing the right of the Petitioners to carry on their occupation, trade or business.

6. For all these reasons, I hold that the impugned notification is not violative of any right of the Petitioners as claimed by them and cannot be struck down at their instance. I accordingly, dismiss these petitions but without any order as to costs as the Petitioners had taken these leases prior to the notification of the Central Government including saltpetre amongst the minor minerals under the Act and have now been deprived of those leases.