

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. 3795 of 2022
(Arising out of SLP (C) No.16549 of 2021)**

M/s Haryana Mining Company Appellant(s)

Versus

State of Haryana & Ors.Respondent(s)

J U D G M E N T

L. NAGESWARA RAO, J.

Leave granted.

1. This Appeal has been filed against the judgment of the Punjab and Haryana High Court dated 06.09.2021 dismissing the writ petition filed by the Appellant, which sought to challenge the order dated 10.01.2020 whereby the mining lease granted to it was terminated by the Director General, Mines and Geology, Haryana (hereinafter, the “**Termination Order**”) and the order

dated 11.08.2021 by which the appeal filed against the Termination Order was dismissed by the Appellate Authority (hereinafter, the “**Appellate Order**”).

2. The facts necessary for disposal of this Appeal are detailed hereinafter. The Appellant participated in an e-auction conducted by the State Government for grant of mining lease of “stone along with associated minor minerals” in an area of 6.70 hectares, falling in Khasra No. 7, Village Garhi, District Mahendargarh. The bid of the Appellant was accepted and a Letter of Intent dated 24.07.2015 was issued to the Appellant. Pursuant to this, a lease deed was executed between the Appellant and the State Government on 11.04.2016. The Appellant commenced mining operations on 15.06.2016, after the mining area was demarcated on 11.05.2016. Demarcation of the mining area was further conducted on 23.02.2017 and 21.08.2018. On 17.12.2018, another demarcation of the mining area was done in view of certain complaints against the Appellant of illegal mining conducted by exceeding the permitted area of mining.

3. Thereafter, a complaint was preferred by the Sarpanch of Village Khudana, adjoining Village Garhi, by way of resolution dated 08.01.2019, alleging illegal mining being carried out by the Appellant on a hillock next to the mining area leased to the Appellant. On 04.02.2019, the District Mining Officer submitted a letter to the Director, Mines and Geology, bringing to his notice the earlier complaint filed against the Appellant in October, 2018 and the subsequent complaints preferred by the Sarpanch of Village Khudana on 08.01.2019 and 25.01.2019, alleging illegal mining by the Appellant beyond the leased area. An enquiry was conducted by the Additional Deputy Commissioner-cum-Nodal Officer, District Illegal Mining Observation Team, Narnaul. A report was submitted by the said team on 25.02.2019 (hereinafter, the "**ADC Report**"), in which it was observed that illegal mining was found to have taken place in Khasra Nos. 366-367 in the Aravali Forest area. However, it could not be proved as to who committed the said excavation.

4. On 13.03.2019, the Director, Mines and Geology issued a notice directing the Appellant to show cause as to why the mining lease not be terminated prematurely for having breached the terms and conditions of the lease. On 27.03.2019, a reply was submitted by the Appellant to the said show-cause notice denying the allegations. The mining operations of the Appellant were suspended by the Assistant Mining Engineer on 13.12.2019, even before a decision was taken pursuant to the said show-cause notice, on account of non-payment of dead rent and other sums. A fresh demarcation was conducted by a team led by the Mining Officer, Narnaul on 15.11.2019, who observed in his report that there was some mining outside the leased area. He also recorded the statements of the villagers and representatives of the Appellant present during the demarcation, who stated that this mining had been done by earlier contractors.

5. By an order dated 10.01.2020, the Director General, Mines and Geology, terminated the mining lease of the Appellant, aggrieved by which an appeal was filed. The

Appellate Authority dismissed the appeal on 07.05.2021. Challenging the order of the Appellate Authority, the Appellant filed a writ petition before the Punjab & Haryana High Court, which was disposed of on 03.08.2021 setting aside the order of the Appellate Authority dated 07.05.2021 and directing the Appellate Authority to decide the matter afresh, after affording an opportunity of hearing to the Appellant. Later, by order dated 11.08.2021, the appeal filed by the Appellant was dismissed. Challenging the Termination Order and the Appellate Order, the Appellant filed a writ petition in the Punjab and Haryana High Court, which was dismissed by the impugned order dated 06.09.2021. Hence, this Appeal.

6. The High Court dismissed the writ petition by placing reliance on a memo dated 04.02.2019 from the Mining Officer, Narnaul, who, according to the High Court, found the Appellant indulging in illegal mining outside the leased area, even after the demarcation conducted on 17.12.2018. The contention of the Appellant that illegal mining was carried out by M/s Hari

Har Mining Company was rejected by the High Court as mines of M/s Hari Har Mining Company were lying closed in the period from 01.05.2018 to 05.02.2019 on account of suspension and subsequent termination of their mining lease. Further, the High Court took note of the statement of the counsel appearing for the Appellant before the Appellate Authority, who, on being questioned, had replied that there was no other approach to the area alleged to be under illegal mining except through the area leased to the Appellant. The High Court was of the opinion that the scope of judicial review of orders passed by quasi-judicial authorities is limited and findings of fact cannot be interfered with.

7. Mr. Nidhesh Gupta, learned Senior Counsel appearing for the Appellant, submitted that the Termination Order suffers from complete non-application of mind. Even the Appellate Authority has not considered the contention of the Appellant that there is absolutely no material to implicate the Appellant for undertaking illegal mining operations outside the leased area. On the other hand, he argued that the reports

placed on record were totally inconclusive and there are no findings recorded in any demarcation report that the Appellant was responsible for any illegal mining outside the leased area. Our attention was drawn to the ADC Report, which records that the representative of the Sarpanch, Village Khudana had, in the enquiry proceeding on 12.02.2019, made a statement to the effect that the Appellant was carrying out mining in its allocated area whereas M/s Hari Har Mining Company was carrying out illegal mining in Garhi area. Further, the ADC Report notes that in the enquiry proceeding on 25.02.2019, the Sarpanch, Village Khudana deposed that he had filed the complaint on the basis of complaints moved by residents of the village and he did not have any sound proof on the allegation. The learned Senior Counsel submitted that the High Court committed a serious error in not allowing the writ petition, in spite of absence of any evidence of illegal mining on the part of the Appellant.

8. Ms. Noopur Singhal, learned counsel appearing for the Respondent, supported the findings recorded by the

High Court in the impugned judgment by arguing that there were several complaints preferred by villagers pertaining to illegal mining by the Appellant outside the leased area. The report dated 04.02.2019 of the Mining Officer, Narnaul would show that the Appellant is guilty of illegal mining. She further argued that the Appellant cannot shift his liability to M/s Hari Har Mining Company, who had completely stopped mining operations in that period. As the Termination Order was passed after giving sufficient opportunity to the Appellant and also after taking into account the material on record, the High Court was justified in not interfering with the said orders.

9. We note that the Termination Order refers to a demarcation report of 17.12.2018 for the purpose of reaching the conclusion that the Appellant was indulging in illegal mining. A perusal of the said demarcation report would show that there was nothing mentioned therein about illegal mining carried out by the Appellant. According to the said report dated 17.12.2018, the Field Kanungo conducted the demarcation proceedings in the presence of the members of the Gram Panchayat and

after perusing the revenue records. The Surveyor, with the help of the Differential Global Positioning System machine, verified the marking stones and flags at each corner and side and found them to be correct. The ADC Report, referred to in the Termination Order, concludes that it could not ascertain as to who was involved in the illegal mining in Khasra Nos. 366 and 367. There is also a reference in the Termination Order to a memo dated 20.11.2019 of the Mining Officer, Narnaul, by which a fresh demarcation report dated 15.11.2019 was sent. In the said demarcation report, it has been categorically stated that "*no fresh mining was found beyond the pillar*". This has also been recorded in the Termination Order. There is no other reference to either a demarcation report or any other enquiry report of any officer from the Department of Mines and Geology or the Department of Forest, that would indicate any illegal mining conducted by the Appellant beyond the leased area.

10. It is relevant to refer to a report submitted by the Divisional Forest Officer (DFO), Regional Division, Forest

Complex, Mahendargarh on 15.10.2019 to the Forest Conservator, Gurugram. An enquiry was conducted by the DFO pursuant to a complaint made against the Appellant to the National Green Tribunal, which directed the Principal Chief Conservator of Forest of Haryana to look into the matter and take appropriate action, by an order dated 16.04.2019. In the said report, the DFO held that the alleged mining was not proved. After referring to the ADC Report, a letter sent by the Sarpanch, Gram Panchayat, Village Garhi to the Deputy Commissioner, Narnaul to the effect that the Appellant was never involved in illegal mining and the written statement of the Sarpanch, Gram Panchayat, Village Khudana to the effect that he had no sound proof with respect to his complaint against the Appellant, the DFO concluded that the allegation of illegal mining against the Appellant is not proved. Curiously, we find that there is no reference to this report submitted by the DFO dated 15.10.2019 in the Termination Order.

11. As stated above, the High Court set aside the order passed by the Appellate Authority dated 26.04.2021 and

remanded the matter back for fresh consideration. In the order dated 11.08.2021, the Appellate Authority referred to the report from the Mining Officer dated 04.02.2019 to conclude that there were clear signs of fresh mining from the photographs sent along with the report. According to the Appellate Authority, illegal mining by the Appellant was established from the demarcation report dated 17.12.2018 and was evidenced even after the ADC Report. The Appellate Authority dismissed the Appeal on the ground that the alleged illegal mining was carried out in an area adjacent to the leased area of the Appellant and in a period where mining by M/s Hari Har Mining Company was shut. The statement made on behalf of the Appellant that M/s Hari Har Mining Company was carrying out illegal mining operations was considered by the Appellate Authority as an attempt to create confusion.

12. We have already referred to the demarcation report dated 17.12.2018 and the report of the Mining Officer dated 04.02.2019, on the basis of which no conclusion can be reached about the Appellant indulging in any

illegal mining operations. The Termination Order and the Appellate Order are arbitrary and suffer from the vice of unreasonableness. Relevant material has not been taken into consideration before the Termination Order was passed. There is no mention of the DFO's report dated 15.10.2019, which considered the reports relied on by the Director General, Mines and Geology and absolved the Appellant of indulging in any illegal mining activity on the ground that no evidence was found against the Appellant. There is no other material against the Appellant in support of the allegation that the Appellant was engaged in illegal mining in the area adjacent to the leased site. In our view, the High Court committee an error in dismissing the writ petition without examining as to whether there was an iota of evidence to justify the Termination Order. We are aware that constitutional courts, in exercise of their power of judicial review, would not examine sufficiency of evidence. At the same time, it is well-settled that interference is warranted if it is found that the weight of the evidence was opposed to the conclusion recorded or

there was no evidence at all, rendering the conclusion *ex-facie* erroneous or perverse¹.

13. For the aforementioned reasons, we set aside the order dated 10.01.2020 passed by the Director General, Mines and Geology, Haryana, the order dated 11.08.2021 passed by the Appellate Authority and the impugned judgment of the High Court dated 06.09.2021.

14. The Appeal is allowed.

.....J.
[L. NAGESWARA RAO]

.....
[B.R. GAVAI]

**New Delhi,
May 9, 2022.**

¹ Apparel Export Promotion Council v. A.K. Chopra (1999) 1 SCC 759; High Court of A.P. v. Nirmala K.R. Dayavathi (2015) 15 SCC 681