



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 3744/2022

1. Narayan Singh S/o Shri Lakh Singh, Aged About 28 Years, By Caste Rajput, R/o Rajputon Ki Dhani, Village Khirja Fateh Singh, Tehsil Shergarh, Distt. Jodhpur.
2. Bairisaal Singh S/o Shri Pujraj Singh, Aged About 26 Years, By Caste Rajput, R/o Rajputon Ki Dhani, Village Khirja Fateh Singh, Tehsil Shergarh, Distt. Jodhpur.

----Petitioners

Versus

1. State Of Rajasthan, Through The Additional Chief Secretary, Mines And Petroleum Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Of Mines And Geology Department, Udaipur.
3. The Additional Director (Mines), Headqurter, Udaipur.
4. The Superintendent Mining Engineer, Mines And Geology Department, Jodhpur.
5. The Assistant Mining Engineer, Mines And Geology Department, Balesar, Jodhpur.
6. Gram Panchayat Khirja Fateh Singh, Panchat Samiti Shekhala, Tehsil Shergarh, Jodhpur.
7. The District Collector, Jodhpur.
8. The Sub Divisional Officer, Shergarh, Jodhpur.
9. The Regional Officer, Pollution Control Department, Jodhpur.

----Respondents

For Petitioner(s) : None present.

For Respondent No.1 : Mr. Sandeep Shah, AAG with Ms. to 5 Akshiti Singhvi.

**HON'BLE THE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE KULDEEP MATHUR**

Order

21/03/2023

The counsel for the petitioners is not appearing as apparently he is abstaining from work pursuant to the call given by the office bearers of the Bar Association. Such non-appearance is clearly illegal and in breach of the order passed by the Hon'ble Supreme



Court in the case of **Ex. Capt. Harish Uppal Vs. Union of India & Anr. [2003 (2) SCC 45]**.

This petition styled as public interest litigation has been filed by the petitioners assailing the auction proceedings vide e-auction notice dated 09.02.2022 issued by the second respondent inviting application for issuing quarry licences for mining activities in Khasra No.320 of village Khirja Fatehsingh, Tehsil Shergarh, District Jodhpur.

In the writ petition, it has been stated that the proceedings drawn by the respondents for grant of quarry licences on the subject land are against public interest as it would adversely affect the flow of rainy water and will also affect the catchment area of various small ponds on which the people and cattle are dependent. It has been stated in the petition that on accepting the demand of villagers of village Khirja Tibna, the State Government sanctioned construction of a model pond in the year 2017-18. It followed construction of small ponds under MANREGA scheme. Further statement was made by way of affidavit in the petition is that after issuance of e-auction notice, the authorities were requested to keep tree plantation, water flow area and catchment area from mining activities and grant quarry licence after making proper demarcation of the land allotted to Suzlon Wind Energy for the land of village Khirja Fatehsingh. Several representations were made, which were filed collectively as Annex-9. On such pleadings and grounds, challenge to auction proceedings towards grant of quarry licences is made.

In the reply filed by the respondents, it has been stated that e-auction proceedings for quarry licences have been undertaken



strictly in accordance with law and after ensuring due compliance of all the requirements including environmental clearance. Prior to grant of quarry licences, a joint demarcation was carried out by the Patwari Tibna, Shergarh and the Mines Foreman-II. The auction plots, as per the report, fall in Khasra No.320 of village Khirja Fatehsingh and, as per the revenue record, the nature of the land is *Gair Mumkin Magra* in the name of the Government. Further, there is no abadi, public place, public road, *oran/devvan/pavitra-van* in the area. Neither there is any catchment area or water reservoir within 45 meters of the area. Thus, the location of the quarry licences is in accordance with the Rule 28 of the Rajasthan Minor Mineral Concession Rules, 2017. A copy of the joint demarcation report dated 14.09.2021 has also been annexed with the reply along the relevant Jamabandi has been placed on record. A map was prepared in respect of the area of 62 quarry licences having total area of 64.645 hectare and super-imposed map showing the delineated quarry licence was also prepared and approved by the patwari concerned and placed on record. Khasra trace map is also placed on record. No objection was obtained from the Deputy Conservator of Forest, Jodhpur vide communication dated 25.10.2021, and according to which, it is reflected that the land of Khasra No.320 does not fall within the forest area. Mineral availability report was also obtained from the Superintending Geologist, Department of Mines and Geology, Jodhpur. The proposed area is reported to be appropriate for delineation for mineral sandstone. As an electricity line was passing through, a report was called from the JVVN Ltd., Shergarh, regarding shifting or displacement of the same. NoC





was also given for such shifting by JVVNL Ltd. As per the report of the Assistant Mining Engineer, Balesar, Jodhpur, the area was found fit for delineating of mineral sandstone. Apart from certain Babool plants, there was no plantation upon the land in question. It has also been stated that there is no nadi, nala, catchment area or water source within the prohibited area in question, which is supported from the report dated 21.10.2021 (Annex.R/1/9).

Upon receipt of direction from the Central Jal Shakti Ministry for allotment of quarry licence in Khirja Fatehgarh, site inspection was carried out on 08.03.2022 by SDO, Fatehgarh, Tehsildar Shergarh, Patwari Tibna, the Mining Engineer, Jodhpur and the Assistant Mining Engineer, Balesar. As per the report, there was no plantation found upon the land in question. No nadi, nala, talab or catchment area on the proposed land for grant of quarry licence were found as per the report. Upon verification of the location of *nadi* pointed out by the villagers, the same was found to be falling in khasara No.319 and was at a distance of 150 meters from the delineated area. Further, upon verification of the location of anicut pointed out by the villagers, the same was found in Khasra No.216 at a distance 250 meters from the delineated area. The plantation pointed out by the villagers was found to be in Khasra No.216 and the boundary of Khasra No.320 is at a distance of 135 meters from the delineated area. This is supported by inspection report dated 08.03.2022.

After completion of auction proceedings, letter of intent was issued to 45 successful applicants. At this stage, the learned Additional Advocate General would submit that later on, some more LoIs were issued and thus in total 56 LoIs were issued which



is reflected from the sur-rejoinder. The report dated 07.04.2022 of the Water Resources Department also indicates that within the delineated area of proposed quarry licences, there is no catchment area. It is also clear from the reply of the respondents that even environmental clearance was also granted. Indeed, it is a condition incorporated in the auction notice that environmental clearance will have to be obtained.

In the rejoinder, it is stated that the revenue records and the reports of various authorities are sought to be disputed on the basis of certificates issued by the Gram Panchayat. It is not known as to on what basis such certificates have been issued and the certificates of the Gram Panchayat are contrary to the revenue records, which is clear from the reports of various authorities.

From the sur-rejoinder filed by the respondents, it is clear that the petitioners' allegations as contained in the writ petition are not only factually incorrect but that are contrary to the revenue records and various reports.

We find that that in various representations which were made challenging the action of the respondents in holding e-auction proceedings in Annex.A/8, the villagers sought concession of 20% weightage in bid security. The petitioner No.1 Narayan Singh is one of the signatory. It would thus be seen that while raising objections to grant of quarry licences on the land for which auction was initiated, concession has also been sought, which shows that even the villagers including the petitioner No.1 were interested in getting the licences.



The reply of the State is that large number of illegal mining was going on in the area, and therefore, it was decided to grant quarry licence.

The petitioners have not even cared to implead those persons in whose favour quarry licences have been issued. Even the quarry licences issued have not been challenged. Thus, the present petition appears to be abuse of process of law.

Such petitions are rising to serve vested interest with oblique motive and without making proper research, the petitions are being filed.

The disclosures, which have been made by the respondents and various revenue records, copies of which have been placed on record, show that the petitioners withheld such information from the Court so as to mislead the Court.

In view of above, we are inclined to hold that the present petition is abuse of process of PIL forum.

Accordingly, this petition is dismissed with exemplary cost of Rs.50,000/- which shall be deposited in the registry of the High Court within a period of two months, failing which appropriate recovery proceedings will be drawn from each of the petitioners.

(KULDEEP MATHUR),J

(MANINDRA MOHAN SHRIVASTAVA),ACJ

1-a.asopa/-