

Vikram Kumar & ors. vs. State of H.P & ors.

CWP No.8445/2022

6.12.2022 Present: Mr. Rajnish Maniktala, Sr. Advocate with Mr. Naresh Verma, Advocate, for the petitioners.
Mr. Rajinder Dogra, Sr. Addl. AG, Mr. Vinod Thakur, Addl. AG, Mr. Bhupinder Thakur, Dy. Advocate General and Mr. Rajat Chauhan, Law Officer, for respondents No.1 to 4.
Mr. Balram Sharma, Dy. Solicitor General of India, for respondent No.6.

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Notice confined to respondent Nos.1 to 4 and 6 only.

Mr. Bhupinder Thakur, learned Deputy Advocate General and Balram Sharma, learned Deputy Solicitor General of India, appear and waive service of notice on behalf of respondent Nos. 1 to 4 and 6, respectively.

The instant petition has been filed for grant of the following substantive reliefs:

a) That the notice inviting tender for putting the village Common Land in reserve pool as incorporation in Khata No.19 min, Khatauni No.120 min, Khasra No.355, situated at Mohal-Har Dogri, Gram Panchayat, Kohlapur, Tehsil Rakkar, District Kangra, H.P as per jamabandi for the year 2018-19 and acceptance of highest bid pursuant to notice inviting tender, may be quashed and set aside.

b) That the contract entered pursuant the notice inviting tender Annexure P-4 (colly) between respondents No.1 to 4 and respondent No.5 allotting the land bearing Khata No.19 min, Khatauni No.120 min, Khasra No.355, situated at Mohal-Har Dogri Gram Panchayat Kohlapur, Tehsil Rakkar, District Kangra, H.P to respondent No.5 may also be quashed and set aside.

c) That the respondent Nos.1 to 4 may be restrained from allotting the land in Khata No.19 min, Khatauni No.120 min, Khasra No.355, situated at Mohal Har Dogri, Gram Panchayat Kohlapur, Tehsil Rakkar, District Kangra, H.P to respondent No.5 for the purposes of mining.

d) That respondent No.5 may be restrained from using the land bearing Khata No.19 min, Khatauni No.120 min, Khasra No.355, situated at Mohal Har Dogri, Gram Panchayat Kohlapur, Tehsil Rakkar, District Kangra, H.P for mining purposes contrary to the provisions of Himachal Pradesh Village Common Land Vesting Utilization Act, 1974.

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e) That respondent No.6 may be restrained from granting environmental clearance to respondent No.5 since in law the land cannot be used for mining purposes and if granted, may be quashed."

According to the petitioner, the issue in question is no longer *res integra* in view of the judgment rendered by this Court in CWP No.1077/2006 titled ***Khatri Ram vs. State of H.P*** alongwith CWPIL No.15 of 2019, case titled ***Him Parivesh vs. State of H.P***, wherein it has been clearly held that the land reserved for common purposes and forming part of the common pool cannot be allotted for the purpose of mining.

Confronted with this, learned Deputy Advocate General prays for and is granted one week's time to obtain instructions.

List on 13th December, 2022. Registry is directed to reflect the name of Mr. Balram Sharma, Deputy Solicitor General of India, in the cause list, henceforth on behalf of respondent No.6.

CMP No.17042/2022

The application is disposed of with a direction to the applicants-petitioners to file translated copies of documents, annexed with the petition, within a period of four weeks.

**(Tarlok Singh Chauhan)
Judge**

**(Virender Singh)
Judge**

6th December, 2022
(CS)