


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

S.B. Civil Writ Petition No. 19724/2023

M/s Sura Construction Company, Through Its Proprietor Jag Pravesh Sura S/o Late Daljeet Singh Sura, Aged About 59 Years, Resident Of House No.1323, Sector 13, Hisar (Haryana)

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary To The Government, Department Of Mines And Petroleum, Government Of Rajasthan, Secretariat, Jaipur
2. Director, Directorate Of Mines And Geology Department, Rajasthan, Udaipur
3. Director General, State Directorate Of Revenue Intelligence, Rajasthan, Jaipur
4. Mining Engineer, Department Of Mines And Geology, Hanumangarh
5. Assistant Mining Engineer, Mines And Geology Department, Hanumangarh
6. Assistant Collector, A.G. II Grade, Hisar (Haryana).

-----Respondents

For Petitioner(s) : Mr. Sudhir Sarupuria

HON'BLE DR. JUSTICE NUPUR BHATI

Order

08/01/2024

1. Learned counsel for the petitioner submits that in similar controversy, a Co-ordinate Bench in Writ Petition No.1233/2023 had granted interim order on 20.01.2023 and the same is reproduced hereunder:-

“Heard learned Senior Counsel for the petitioner.

Learned Senior Counsel for the petitioner submits that the petitioner is involved in the construction work as well as in the trading of hard stone. He submits that the petitioner is not involved in the mining operations. He submits that in

pursuance of a Circular issued by the State Government on 06.10.2008, all persons including the petitioner who are dealing in the hard stones were required to take a short term permit. He further submits that this Circular dated 06.10.2008 was challenged before this Court by way of filing D.B. Special Appeal (Writ) No.359/2009 and vide judgment dated 17.01.2011, the said Circular was quashed by the Division Bench of this Court.

Against the order of the Division Bench dated 17.01.2011, a Special Leave Petition was filed before the Hon'ble Supreme Court and although no interim order was passed in the same, however, the Special Leave Petition preferred by the State was allowed vide order dated 26.02.2016. Learned Senior Counsel further submits that petitioner was involved in the trading of the ballast stones in the year 2011 and 2012. He submits that since the Circular dated 06.10.2008 was quashed by this Court, the State issued two more Notifications dated 15.11.2011 and 30.10.2012. Learned Senior Counsel submits that as per the Notifications dated 15.11.2011 and 30.08.2012, the petitioner conducted his business by paying the requisite fees, taxes and royalty etc. He submits that at that point of time, the condition for obtaining the short term permit was not insisted upon by the competent authorities of the respondent-Department. The No Dues Certificates by the respective departments for which the petitioner has performed his contractual obligation have also been issued. He submits that although in the year 2014 certain show cause notices were issued which were duly replied by him and no final order was issued in those cases, however, in the year 2022, the respondent-authorities of the State Government have started the proceedings for recovery of the penalty amounts.

Matter requires consideration.

Issue notice to the respondents, returnable on 22.02.2023. Issue notice of stay application also.

Meanwhile and till the next date of hearing, no recovery shall be effected from the petitioner in pursuance of the letters dated 26.12.2022 (Annex.P/11) and 30.12.2022 (Annex.P/12).”

2. Learned counsel for the petitioner submits that delay in filing the present writ petition is on the ground that the respondents had assured the petitioner that he would be extended the benefit of ongoing Amnesty Scheme and in respect of the same, the petitioner deposit the challan on 13.09.2023 (Annexure-12) but the respondent have not extended the benefit in favour of the petitioner and thus, the petitioner has no other remedy available but to file the present writ petition.

3. Issue notice. Issue notice of the stay application also. Rule is made returnable on 09.02.2024.

4. In the meanwhile and till next date, no recovery shall be effected from the petitioner in pursuance of the letters dated 18.07.2021 (Annexure-8) and 28.11.2022 (Annexure-10).

(DR.NUPUR BHATI),J