

Mohinder Kumar and Surinder Kumar Vs. State of H.P. and anr.

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Court : Himachal Pradesh

Decided On : Apr-01-2010

Judge : Deepak Gupta and; Sanjay Karol, JJ.

Appellant : Mohinder Kumar and Surinder Kumar

Respondent : State of H.P. and anr.

Disposition : Petition dismissed

Judgement :

Deepak Gupta, J.

1. The parties do not dispute the fact that the present petitions are squarely covered by the judgment delivered in CWP No. 49 of 2010, titled as Ramesh Kumar Awasthi v. State of H.P. and Anr. and other connected matters.

2. The operative portion of the said judgment reads as follows:

As far as the last prayer of the petitioners that their cases should be considered sympathetically in view of the fact that they being small entrepreneurs will be deprived of their business and will be without any work is concerned, in view of what we have held above the remedy of the petitioners lies with the State and not before this Court. They may, if so advised, approach the State Government for taking into consideration their difficulties but we cannot superimpose our judgment

and make it a part of the policy of the State. This is something that the State may decide for itself. We have been told that the upset price for the auction(s) is likely to be fixed within three weeks and the auctions will be fixed thereafter. Therefore, while dismissing the writ petitions, we hold that it is open to the petitioners to make a representation to the State Government and in case any such representation(s) is made jointly or individually, on or before 5th April, 2010 the State Government shall make an endeavour to decide the same before the dates fixed for the auction(s).

Before parting with this case, we must observe that whether the right to extract minerals in the river/stream beds are granted by way of mining lease or by way of auction, the State must ensure that the policy guidelines are strictly enforced in letter and spirit. Even the slightest over extraction must be dealt with harshly. There are sufficient safeguards in the policy itself to ensure that no person who has been granted concession to extract minor minerals is permitted to over extract minerals or extract minerals from areas not granted to him. The State cannot abdicate its duties in this regard. Larger public interest, not only requires that revenue is earned by the State but also that the fragile ecology of the area is not damaged to such an extent that it can never be recouped. The State should always keep these observations in mind.

3. Both the writ petitions are dismissed in the aforesaid terms. No costs.

4. In view of the dismissal of the writ petitions, all the misc. applications are disposed of.

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