



**107+208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-30704-2024

Date of Decision: 16.09.2025

POONAM AGARWALA ...PETITIONER

STATE OF PUNJAB AND OTHERS ...RESPONDENTS

CWP-22616-2018 (O&M)

POONAM AGARWALA ...PETITIONER

STATE OF PUNJAB AND OTHERS ...RESPONDENTS

CWP-18801-2024

POONAM AGARWALA ...PETITIONER

STATE OF PUNJAB AND OTHERS ...RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present:- Mr. N. S. Boparai, Advocate with
Mr. Yogesh, Advocate and
Mr. Ankit Jangra, Advocate
for the petitioner.

Mr. Maninder Singh, Addl. AG, Punjab.

ASHWANI KUMAR MISHRA, J. (ORAL)

1. These three writ petitions are by the same petitioner and in respect of grievance which is inter-linked to each other.

2. It is not in issue that the petitioner was granted a mining lease by the State of Punjab pursuant to e-Auction notice for extracting

minor minerals from Lalewal Mine situated in S.B.S Nagar. The auction ultimately crystallized in issuance of mining permit in favour of the petitioner for a period of five years beginning from 04.10.2017 to 03.10.2022. The terms of contract required the petitioner to deposit royalty by way of quarterly stocks. The petitioner deposited the first 02 installments but thereafter defaulted in payment of installment for the quarter beginning from the month of March to June, 2018.

3. Since recovery proceedings were initiated against the petitioner on account of non-deposit of installment money for the quarter March to June, 2018, as such, the petitioner has approached this Court by filing writ petition being CWP-18801-2024. In CWP-22616-2018, an interim order came to be passed staying the recovery for that period subject to the petitioner depositing 50% of the royalty.

4. For the subsequent installments for the month of June to September and October to November was apparently defaulted by the petitioner on account of which the mining contract itself was cancelled on 23.04.2019. It is worth noticing that the petitioner otherwise submitted an application for surrendering the mining lease on 24.12.2018. Since the surrender application was not considered, the petitioner came to this Court by filing the writ petition being CWP-18801-2024. In this writ petition, a direction has been issued to the State authorities to consider petitioner's surrender application. The petitioner had also filed an appeal challenging the recovery proceedings as also the cancellation of mining licence *vide* order dated 23.04.2019 as well as the recovery certificate

dated 20.11.2020.

5. This Court issued a direction to the State authorities to consider the petitioner's composite appeal where the recovery proceedings as well as the cancellation of mining contract was put to challenge. Simultaneously, a direction was issued to consider the surrender application.

6. Pursuant to such direction issued, the competent authority has passed an order on 30.10.2024 rejecting the surrender application of the petitioner. This order records that in fact the petitioner had defaulted in payment of dues and therefore, the surrender application under Rule 39 of the Punjab Minor Mineral Rules, 2013 (*for short, 'Rules of 2013'*) could not be considered. Reliance is placed upon Rule 39 of the Rules of 2013 for the purpose which is reproduced hereinafter:-

“Rule 39: Surrender of Contract:

The Government may accept the contractor's request for surrender of a contract or part thereof, in cases where it is established that it has not been found feasible to operate the contract granted for whatsoever reasons subject to the condition that the contractor:

(i) the as Has been regular in furnishing production returns required in terms of the contract agreement;

(ii) Has been taking the requisite steps for the progressive mine closure plan as per the conditions granted; of the contract

(iii) Is not in default of payment of any dues of the Government as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in cash in advance or by way of adjustment of the security or both.

Provided that in case the contractor makes an application for surrender of part of the contract area, it shall not result in any prorated reduction of the contract money and the rate of contract amount payable and applicable for the entire area at the time of making such application shall remain intact”

7. The order dated 30.10.2024 is challenged in CWP-30704-2024.

8. Response of the State has been filed in all the writ petitions.

9. We have heard Shri N. S. Boparai, learned counsel for the petitioner and Mr. Maninder Singh, Additional Advocate General, Punjab and have perused the materials on record.

10. During the course of arguments, learned counsel for the petitioner has invited our attention to the response filed by the State in Writ Petition No.30704-2024 to contend that the appeal filed by the petitioner has not been adjudicated on merits and no order passed therein has been placed on record. Only a communication of 09.12.2024 has been annexed along with the reply of the respondent which records that the appeal of the petitioner has been filed. It is submitted that the factual issues raised in the matter have not been accorded consideration by the

competent authority.

11. Faced with the above contention, we called upon the counsel for the respondent(s)-State to apprise the Court as to whether any reasoned order has been passed in the appeal or not.

12. Shri Maninder Singh, Additional Advocate General, Punjab on instructions received in the matter from Executive Engineer, Mining, S.B.S. Nagar informs the Court that, in fact, the appeal was belated and has been rejected only on such ground. He further informs the Court that no specific order, as such, has been passed or communicated to the petitioner in that regard.

13. Having heard the counsel for the respective parties, we find that the issue raised in this bunch of petition is primarily with regard to the liability of the petitioner to deposit the amount of royalty till the date of filing of the surrender application.

14. According to petitioner, various interruptions in mining came to be caused on account of orders and action of the respondents and therefore, for such period of interruption, no royalty could not have been charged from the petitioner by the State. It is also submitted that, at best, the royalty for the dead end alone could have been charged as per the applicable provisions. The petitioners also submitted that even for subsequent periods, the liability to pay royalty would not arise as no mining activity was actually undertaken by the petitioner. It is further contended that even otherwise no mining activity was undertaken after December, 2018.

15. Learned counsel for the respondent(s)-State disputes the factual submissions urged on behalf of the petitioner.

16. It is, however, undisputed that the factual issues raised by the petitioner by filing appeal have not been examined on merits.

17. The a factual issues with regard to liability of the petitioner to deposit the amount of royalty, in view of alleged interruptions caused by the respondents, would require ascertainment of facts by the competent authority. This issue could have been examined by the Appellate Authority.

18. In the facts of the present case, we find that the Appellate Authority has not accorded any consideration to petitioner's claim on merits. In such view of the matter, we are not inclined to embark upon the factual dispute with regard to liability of the petitioner to pay the installments towards royalty, from time to time. We are also of the view that the decision with regard to acceptance or otherwise of the surrender application would have a direct bearing upon the question urged in the appeal with regard to liability of the petitioner to pay the royalty amount.

19. Accordingly, all the writ petitions are disposed of with a direction upon the Appellate Authority to entertain the petitioner's appeal on merits and to pass an appropriate order on the factual issues raised by the petitioner with regard to her liability to pay the royalty amount. The Appellate Authority shall fix a date for hearing within a period of three weeks from the date of receipt of certified copy of this order. An appropriate decision would be taken by the Appellate Authority after

considering the factual issues raised by the petitioner and after affording opportunity of hearing to the petitioner by passing a reasoned order within a period of three months. The consequential action, in the form of fresh decision, with regard to acceptance or otherwise of the surrender application would also be taken by the Competent Authority.

20. The amount deposited under the interim orders shall remain subject to the appropriate orders passed by the Competent Authority.

21. The petitioner shall also be at liberty to supplement the pleas raised in the appeal by filing an application togetherwith a copy of this order within a week from today before the Appellate Authority.

22. The orders impugned in the writ petitions shall abide by the outcome of the order passed in appeal.

23. Pending miscellaneous applications, if any, stand(s) disposed of.

24. Photocopy of this order be placed on the file(s) of connected case(s).

**[ASHWANI KUMAR MISHRA]
JUDGE**

**[ROHIT KAPOOR]
JUDGE**

SEPTEMBER 16th, 2025

Rahul Joshi

1. Whether Speaking/reasoned	Yes/No
2. Whether Reportable	Yes/No