



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6257-2025

Date of decision: 12.03.2025

Ajitpal Singh Gill

.... Petitioner

Vs.

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Nitin Kaushal, Advocate,  
for the petitioner.

ARUN PALLI, J (Oral)

The petitioner (Ajitpal Singh Gill) has prayed for the following substantive relief:

*“Civil Writ Petition under Article 226/227 of the Constitution of India praying for issuance of an appropriate writ, order or direction, especially a writ in the nature of Certiorari for quashing the orders dated 10.09.2024 and 11.12.2024, passed by the Secretary, Mines and Geology, Punjab (ANNEXURE P-24 & ANNEXURE P-26), whereby the second appeal filed by the petitioner has been dismissed for non-prosecution.*

AND/OR

*Further prayed for issuance of a writ in the nature of Certiorari for quashing the order dated 25.01.2024 passed by the Director, Department of Mines and Geology, Punjab (ANNEXURE P-20), only to the extent that reliance has wrongly been placed on the Justice Narang Commission report while forfeiting the EMD amount deposited by the Contractor/Petitioner.*

AND/OR

*It is further prayed that this Hon'ble Court may be pleased to remand the matter to the Secretary, Department of Mining & Geology, Government of Punjab for deciding the matter on*



*merits after granting an opportunity of hearing to the petitioner.”*

Learned counsel for the petitioner submits that vide E-auction dated May 03, 2017, 102 minor mineral mines of sand and gravel were auctioned in 14 districts under the Punjab Minor Mineral Rules, 2013 (2013 Rules). The petitioner submitted the highest bid (Rs.23,41,84,848/-) for the mine Behloor Khurd, District S.B.S. Nagar, which was provisionally accepted vide letter dated May 22, 2017 (P-5). Accordingly, he remitted Rs.7,61,616/- as an earnest money (EMD). Whereafter, he deposited the first installment (Rs.5,85,46,212/-) and Rs.5,85,46,212/- as security. However, vide order dated January 25, 2024, passed by the Director, Department of Mines & Geology, Punjab, the provisional allotment letter (*ibid*) was cancelled and Rs.7,61,616/- (EMD) were also forfeited. Being aggrieved, the petitioner filed an appeal before the Secretary, Mines and Geology, Punjab (respondent No.1), under Rule 44 of the 2013 Rules. Which, however, was dismissed vide order dated September 10, 2024 (P-24), for non prosecution, for neither did the power of attorney holder of the petitioner, nor his counsel appeared to pursue the matter on the dates fixed i.e. July 08, 2024 and August 28, 2024. Whereupon, it is submitted that the petitioner moved an application seeking re-calling of the said order, but that too was dismissed on December 11, 2024. Thus, this petition.

Learned counsel for the petitioner, as always, fairly concedes that the matter was fixed before the Appellate Authority on **July 16, 2024**, **August 01, 2024**, and **August 07, 2024**, at 3:30 PM. But, since the counsel for the petitioner was held up in the Court proceedings before this Court, he could not appear and pursue the matter before the Appellate Authority. Though, the Appellate Authority was duly informed and apprised of the difficulty, learned counsel for the petitioner was faced with. Resultantly, vide e-mail dated August 09, 2024, the petitioner was informed of the next date fixed for personal hearing i.e. August 28, 2024 at 3:30 PM. It is urged, for owing to a family emergency, learned counsel for the petitioner was to go out of station from August 28, 2024 to September 02, 2024, on the same day (August 09, 2024), he, vide e-mail requested the Appellate Authority to post



the matter for any date after September 02, 2024. It is submitted that neither the petitioner nor his counsel received any response thereafter, in this regard. But, he fairly concedes, as nobody appeared on behalf of the petitioner on August 28, 2024, the Appellate Authority dismissed the appeal for non-prosecution. He submits that, in the event, the petitioner is not granted an opportunity to appear and argue the appeal on merits, he shall suffer an irreparable loss and injury.

Served with the advance copy of the petition, Mr. Saurav Verma, learned Additional Advocate General, Punjab, is present in Court on behalf of the respondents. He submits that the petitioner has been negligent in pursuing his cause as despite repeated opportunities, he failed to appear and argue the matter. Therefore, the Appellate Authority was choice-less but to dismiss the appeal for non-prosecution. However, he, on instructions from Mr. Kunal Sharma, ADO, Head Quarter, Mining, submits that, this Court may, to secure the ends of justice, grant another opportunity to the petitioner to enable the Appellate Authority to determine the lis on merits.

We have heard learned counsel for the parties and perused the records.

*Ex facie*, the petitioner had filed an appeal against the order dated January 25, 2024 (*ibid*) to protect his rights and interest. And, even if it is assumed that the petitioner was remiss in pursuing his cause, in the right earnest, the fact remains that, in the given circumstances, the Appellate Authority, could still defer the proceedings, subject to costs or other appropriate measures. Particularly when this was/is not the case of the respondents either that owing to pendency of the appeal or, for the matter was not argued on certain occasions on behalf of the appellant (petitioner herein), the interest of the respondents suffered in any manner. Rather, to the contrary, if the petitioner is deprived of an opportunity to argue and have his rights determined on merits, it may lead to miscarriage of justice.

Accordingly, in the wake of the position sketched out above, and in terms of the statement made by learned counsel for the parties, the impugned orders dated September 10, 2024 (P-24) and December 11, 2024 (P-26) are set aside. The matter is remitted to respondent No.1 to hear and decide the appeal on merits, in accordance with law. The petitioner shall



render due cooperation/assistance to the Appellate Authority so that the matter is decided without any further delay. The Appellate Authority shall fix a suitable date and notify it to the parties to appear and argue the matter.

The petition is disposed of, in the above terms.

**(ARUN PALLI)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

12.03.2025

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No