

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-737 of 2020

Present:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Petitioner: Ghulam Nabi Sirohi & Shahmir Sirohi,
Through Mr. A.R Faruq Pirzada, Advocate

Respondents 1 to 8: Province of Sindh and others
Through Mr. Ali Raza Baloch, Additional Advocate General Sindh

Respondent No.9. Amir Muhammad through Mr. Tariq Gul Mangi, Advocate.

Date of hearing: **12.08.2025**
Date of decision: **20.08.2025**

O R D E R

Nisar Ahmed Bhanbhro, J: Petitioners, Ghulam Nabi and Shahmir are aggrieved of the Notification dated 24.05.2011 through which the Director General, Mines and Minerals Development Department, Government of Sindh had granted the mining permit of an area of 232.91 Acres to Respondent No.9.

2. It is the claim of the Petitioners that the mining permit in favour of Respondent No.9 was issued without conducting proper survey and the permit fell in the houses, Otaq, Masjid, agricultural lands of the petitioners and others and portion of Nara Canal banks. The petitioners approached the Director General, Mines and Minerals Development Department by moving applications and complaints which were assigned for Inquiry and demarcation to the Assistant Director, Mines and Minerals. The area was demarcated and revised map was issued and it was submitted to the Deputy Commissioner, Sukkur who directed Mukhtiarkar Taluka Rohri for visiting the site. Both the parties agreed to get the map revised from Mines and Mineral Department within one month and Respondent No.9 was restrained not to interfere with the lands near the houses and agricultural lands. The efforts for resolution of dispute through alternate methods of conciliation were made by Mines and Mineral Department but to no effect, hence this Petition seeking cancellation of mining permit in favour of Respondent No.9.

3. On notice, Respondents No.1 and 2 / Secretary and Director General, Mines and Minerals Development Department, Government of Sindh filed a joint reply wherein in para-3 it was admitted that the lower portion of the mining permit area of Mr. Ameer Muhammad / Respondent No.9 falls in different small villages, agricultural lands, which may be retrieved per clause 31 of offer letter and it is observed that matter may be resolved in terms of the Sindh Mining Concession Rules, 2002.

4. Respondent No.9 in his Counter-affidavit stated that the mining permit of Limestone, for an area of 232.91 Acres near Rohri Cement Industries was granted to him vide permit dated 24.05.2011 for a period of one year. The permit area was physically demarcated by the Deputy Director, Mines and Minerals Department, Sukkur. The grant / permit was further renewed for period of 10 years vide Notification dated 24.08.2012 up to 23.05.2022 and renewed for another period of 10 years until 2032. It is averred that the mining permit of Petitioner No.2 had expired and the Petitioner No.1 was illegally and unlawfully lifting Limestone from the permit area of Respondent No.9 and in order to take the unauthorized Limestone, the instant Constitutional Petition was filed, which merits no consideration and liable to be dismissed with costs.

5. Mr. A R. Faruq Pirzada, learned Counsel for the Petitioners contended that the mining permit cannot be granted against the agricultural lands and the village site area. He argued that per record mining permit in favour of Respondent No.9 falls within the village site so also the agricultural lands. He argued that embankment of Nara Canal were also affected by the mining permit, therefore, the mining permit in favour of Respondent No.9 was not sustainable under the law and liable to be cancelled. He contended that under the Sindh Mines and Minerals Governance Act, 2021 the operation of law already in the field viz. The Regulation of Mines and Oil Fields and Mineral Development Act, 1948 stands repealed and under the Provisions of 2021 Act, the lease or permit cannot be renewed or extended. He contended that the extension of the lease period of Respondent No.9 was illegal and without lawful authority as no auction proceedings were held, therefore, the same may be cancelled and set-aside.

6. Mr. Tariq Gul Mangi, learned Counsel representing Respondent No.9 contended that the lease in favour of Respondent No.9 Ameer Muhammad was granted after a proper survey and the same has been extended by exercising the powers conferred to the authority under the Sindh Mines Concession Rules, 2002. He contended that the Petitioners have disputed the grant on the ground that there is a village and human settlement close to the mining field, such question can not be addressed without recording evidence, he argued that the petition was misconceived, contained disputed questions of fact, which cannot be agitated under writ jurisdiction of this Court. He prayed for dismissal of the petition.

7. Mr. Ali Raza Baloch, learned Additional Advocate General Sindh submitted that there is no concept of the renewal of the lease under the Sindh Mines and Minerals Governance Act, 2021 as the old law has been repealed and new rules have been framed, therefore, the licensing authority is required to issue license or permit after wide publication in the Newspapers through auction.

8. We have heard the parties and perused the material available on record. The core issue involved in the present petition is that the mining permit granted to Respondent No.9 falls in village area, agricultural lands and Nara Canal embankments, thus was liable to be rectified and revised. On careful scanning of the material made available to this Court by the parties, it revealed that on the applications of the Petitioners, the mining area granted to Mr. Ameer Muhammad/ Respondent No 9 was inspected by the Officers of the Mines and Minerals

Department on 10.09.2020 in presence of both the parties. The detailed report was prepared. The concluding para of the report reads as under:

- i. *On the basis of sketch plan prepared by Mr. Abid Ali Surveyor in view of visit on 10th September, 2020, near Rohri, District Sukkur, it has been observed that Mining permits of lime stone of both parties (Mr. Ameer Muhammad and Mr. Ghulam Nabi Sirohi) free from overlapping and adjacent each other.*
- ii. *Mr. Amir Muhammad and Mr. Ghulam Nabi Sirohi may work in their respective jurisdiction as per agreement before Mukhtiarkar, Rohri, District Sukkur and revised map may be issued.*
- iii. *The lower portion of mining permit area of Mr Amir Muhammad falls in different small villages; agriculture land may be retrieved as per clause (31) of offer letter, therefore a revised map is required to be issued.*
- iv. *No any physically damages of houses /villages are affected and any person who was affected from blasting seen by Mr. Muhammad Hassan Sirohi during the site visit.*
- v. *The permit for hill sand granted to Mr. Mohammad Hassan is not used for mining purpose, therefore, matter may be resolved as per Sindh Mining Concession Rules, 2002.*
- vi. *The matter is already pending in Honourable High Court, Sukkur under C.P No.737/2020 filed by Mr. Ghulam Nabi Sirohi against Mines and Mineral Department and others.*

9. Since during the demarcation proceedings, it was observed that the mining permit in favour of Respondent No.9 falls within the village area, which substantiated the stance of the Petitioners. The Respondent No 9 has not converted the findings arrived at by the Mines and Minerals Development Department, he has only disputed the locus standi of the Petitioners to challenge his grant.

10. As far as, the question of renewal of the grant is concerned, Sindh Mines and Mineral Governance Act 2021 did not provide for extension of the permit once granted. It provides for grant of the mining permit through mining Committee. Learned Division Bench of this Court in the case of Rindz Mari and others Versus Province of Sindh and others reported as 2021 CLD 1195 has already settled this issue. It has been that;-

- vii. *The Mines Department is directed to allocate the surface minerals mining permits to prospective mine and quarry operators for surface minerals by auction while all those mining permits for stone quarries and mines pertaining to any sorts of surface minerals should be cancelled, if not allocated to mines and quarry operators without any open auction or bid.*
- viii. *The Mines department is directed to get the area of Mines and Quarries of surface mining demarcate with the help and assistance of Revenue department while Deputy Commissioners are directed to make sure that no mine or quarry operator is allowed to operate beyond allocated area.*

11. For what has been discussed herein above, the petitioners have succeeded in making out a case for indulgence of this Court to exercise the powers of judicial review under article 199 of the Constitution. Consequently, this Petition is allowed and Mining Permit in favour of Respondent No.9 granted through order dated 24.05.2011 and subsequently extended until 2032 is set-aside / cancelled and the Respondents-Mines and Minerals Development Department, Government of Sindh is directed to initiate proceedings for fresh lease / permit / grant through auction in accordance with the law after excluding the village site, agricultural lands and Canals out of the mining concession area. The Respondent No.9 and other persons interested in the grant of mining permit shall be at liberty to participate in the auction proceedings.

The Petition stands disposed of.

Judge

Judge

ARBROH/PS