

Writ Petition No.55800 of 2023

Muhammad Tariq Sahi

Govt. of Punjab and others

20.12.2023

Mr. Imran Raza Chadhar, Advocate for the petitioner.
Mr. Muhammad Osman Khan, Assistant Advocate General,
Punjab with Mr. Rashid Bhatti, Law Officer and Farooq
Sultan, Deputy Director Mines.

The petitioner is aggrieved of enhancement of reserve
price of auction of Block No.116-A South District Sargodha
for the purpose of mining by Government of the Punjab.

2. It is case of the petitioner that 500% increase in the
reserve price is without lawful authority and tainted with
mala fide only to prevent the petitioner from participating in
the bid.

3. The report and parawise comments have been filed on
behalf of respondents No.1 to 4, *inter alia*, stating therein that
sandstone Block No.116-A comprising of an area of 226.03
acres District Sargodha was granted to the petitioner against a
bid of Rs.7,02,70,000/- for period of 03 years w.e.f
21.12.2019 to 20.12.2022; that before expiry of lease period
of the Block in question, a meeting of the Special Experts
Committee was held on 02.11.2022 at Mines & Minerals
Head Quarter Office, Lahore to determine the Reserve Prices
of several mining leases/blocks/zones, which were vacant or
likely to be vacant till 30.01.2023 throughout the Province of
Punjab; that the notification dated 24.10.2022 specifically
provides that the Special Expert Committee shall determine
the reserve price of the blocks/zones of Minor Minerals by
majority decision of members including Chairperson of the

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Committee under the rules; that in the said meeting, the minor minerals blocks/zones of District Sargodha including Block in question were also discussed, and the Special Experts Committee determined reserve price of Block in question as Rs. 40,00,00,000/- by majority decision for up-coming auction plan as per schedule, keeping in view market forces/trend, such as the fixed reserve prices of the surrounding blocks and bid moneys received thereon in the best public interest; that the Block in question has more area in acres as compared to the surrounding sandstone blocks which are granted against much higher bids, the relevant details whereof are as follows:

Sr. No.	Block/Lease No.	Acreage	Status	Reserve Price (Rs.)	Total Bid Money (Rs.)
1.	ML-SRG-Sand Stone (4-A+4-B)/116	64.08	Granted since 04.10.2021	60,00,00,000	60,05,00,000
2.	ML-SRG-Sand Stone (5)/116	78.09	Granted since 30.0.2022	35,00,00,000	59,50,00,000
3.	ML-SRG-Sand Stone (6)/116	53.07	Granted since 06.02.2021	24,10,00,000	65,07,02,000
4.	ML-SRG-Sand Stone (A)/116 (Block in question)	226.03	Vacant Since 21.09.2023	40,00,00,000	

It is further stated in the comments that as per order of respondent No.1 the petitioner has fully enjoyed by excavating sand stone from the said leased area under Rule 228 of the Punjab Mining Concession Rules, 2002. Now, the leases of minor mineral (Sand Stone & Ordinary Sand), which are vacant or likely to be vacant upto 15.12.2023, have been advertised for open auction against the fixed reserve prices of each block/ zone in newspaper through "Daily Express" dated 20.08.2023 under Rule 198 of the Punjab Mining Concession Rules, 2002. As per said advertisement, open auction of leases of minor minerals of District Sargodha, including the Block in question was scheduled to be held on 11.09.2023, 02.10.2023 and 01.11.2023 respectively.

4. Learned Assistant Advocate General, Punjab contends that to sabotage the legitimate auction process, the petitioner has filed the instant petition with mala-fide intention. The instant case revolves around the fixation of reserve price of the Block in question to the tune of Rs.40,00,00,000/-, vide decision of Special Experts Committee taken in its meeting dated 02.11.2022. The Special Experts Committee has determined the reserve price of the Block in question keeping in view the different factors, especially the market trend. The petitioner, in connivance with other existing lease holders, just wants to maintain regional monopoly over the business of sand stone that is why he has involved the Mines Department in an uncalled for litigation. His action point to his wish that the general public do not participate in the auction proceedings and offer bids for the Blocks of the sand stone, which is against the fundamental right of other citizens as envisaged in Article 18 of the Constitution of Pakistan.

5. In rebuttal, learned counsel for the petitioner contends that despite several times, auction of Block No.116-A subject matter of this petition could not be carried out successfully on account of exorbitant reserve price. According to him, if an auction fails for such number of times, the matter is to be sent back to the Special Experts Committee for review of the reserve price.

6. Fixation of reserve price is prerogative of the concerned government department and in this regard, neither any existing lessee nor any prospective bidder can seek fixation of the reserve price of his own choice. There is no cavil to the proposition that while fixing reserve price, the exercise of discretion by the public authority must be just, fair and reasonable and any arbitrary, whimsical and capricious exercise of such authority is amenable to judicial scrutiny, however, the scope of jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 in that regard is very limited. For such a challenge to succeed in writ jurisdiction, it is imperative for the petitioner to establish that the reserve price fixed by the public functionaries is so unreasonable that no authority

with prudent mind could have fixed the same. This is also known as the *wednesbury principle*. Reliance in this regard has been placed on the cases of Messrs 3N-Lifemed Pharmaceuticals Vs. Government of Punjab through Secretary Primary and Secondary Healthcare Department and others (2023 CLC 948) and Hajj Organizers Association of Pakistan through Authorised Officer and 11 others Vs. Federation of Pakistan through Secretary Ministry of Religious Affairs and Interfaith Harmony, Islamabad and 2 others (PLD 2020 Sindh 42)

7. In the instant case, as emphasized by the respondents in their parawise comments, the reserve price of Rs.40,00,00,000/- for Block No.116-A has been prescribed by the Special Experts Committee in the public interest keeping in view the market forces/trend, such as the fixed reserved prices of the surrounding blocks and corresponding bids received therein, a chart whereof has been reproduced in Paragraph No.3 herein above. The above explanation provides sufficient justification for the exercise of restraint in the matter and no case of arbitrary or unreasonable exercise of authority warranting interference has been established by the petitioner. Needless to observe that case auction for the Block in question fails to fetch bids for and above the reserve price advertised, as per directive/instruction dated 26.05.2021, the matter shall be referred to the Committee of Special Experts for review of the reserve price.

8. This writ petition is *disposed of* accordingly.

(**RAHEEL KAMRAN**)
JUDGE