

RESERVED ON 12TH AUGUST 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO. 777 OF 2025 (GM-MM-S)

BETWEEN:

1. SRI N. SHAIK SAB
S/O. LATE N. YAMNUR SAB
AGED ABOUT 71 YEARS
R/AT 4TH CROSS, 9TH WARD
SIDDALINGAPPA CHOWKI
HOSPETE - 583 201
BELLARY DISTRICT

...PETITIONER

(BY SRI NAGESH P, SENIOR ADVOCATE FOR
SMT. NAYANA TARA B.G., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF COMMERCE AND INDUSTRY
VIKASA SOUDHA
BANGALORE - 560 001
2. DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NO.49, KHANIJA BHAVAN
RACE COURSE ROAD
BANGALORE - 560 001
3. DEPUTY DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN

RACE COURSE ROAD
BANGALORE - 560 001

4. SENIOR GEOLOGIST
DEPARTMENT OF MINES AND GEOLOGY
OPP. 2ND RAILWAY GATE
CANTONMENT
BELLARY - 583 104

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT, DIRECTION, OR ORDER OF SIMILAR NATURE QUASHING THE ORDER DATED 10/10/2023 PASSED BY THE RESPONDENT NO.2 PRODUCED AT ANNEXURE-A & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

C.A.V. JUDGMENT

PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The petitioner has filed the present petition impugning an order dated 10.10.2023 [**impugned order**] passed by respondent No.2 (Director, Department of Mines and Geology), whereby respondent No.4 (Senior Geologist) was directed to ascertain, levy and collect the penalty for 54,120 MT of iron ore under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957

[**MMDR Act**] at the rates published by the Indian Bureau of Mines [**IBM**] for the respective grade of ores for the month of April, 2010.

2. The petitioner also impugns the consequent demand notice dated 02/05.12.2023 [**impugned demand notice**], which calls upon the petitioner to pay ₹13,85,38,423/- (Rupees Thirteen Crore Eighty Five Lakh Thirty Eight Thousand Four Hundred and Twenty Three only) within seven days of receipt of the said demand notice. The said demand was computed pursuant to the impugned order dated 10.10.2023.

3. The principal allegation against the petitioner is that he mined and removed iron ore from the mining lease granted to him without paying royalty. The penalty demanded from the petitioner is computed under Section 21(5) of the MMDR Act. The principal controversy to be addressed in the present petition is whether the petitioner is liable to pay the penalty under Section 21(5) of the MMDR Act; and whether the penalty and royalty payable by the petitioner in respect of the minerals is liable to be computed on the basis that the grade of iron ore was 65% and above, which is the grade with the highest average sale price and consequently, attracts the maximum rate of royalty.

PREFATORY FACTS

4. The petitioner was granted a mining lease over an area measuring 15 hectares in Siddapura Village, Sandur Taluk, Ballari District, for extracting iron ore. The Mining Lease (ML 2572) was granted for a term of twenty years with effect from 05.01.2008.

5. The petitioner had worked the mine and extracted iron ore during the year 2010. He had applied for and was granted the following bulk work permits to transport the mineral raised;

“a. Permit No.286 dated 21.4.2010 for Iron Ore Fines of Grade 40-62 for 1000 MT at royalty of Rs.7,61,260;

b. Permit No.287 dated 21.4.2010 for Iron Ore Fines of Grade 40-62 for 24992 MT at royalty of Rs.19,02,516;

c. Permit No.305 dated 22.4.2010 for Iron Ore Lume Grade 0-60 for 7392 MT at royalty of Rs.3,95,472.”

6. The petitioner paid the applicable royalty against the said permits in advance. Subsequently, the petitioner surrendered the permits for 21,504 MT of material. The petitioner claims that he is entitled to a refund of the sum of ₹16,36,884/- ,which was paid as royalty for the mineral that was not transported. However, during the inspection no mineral was found at the site.

7. In the aforesaid background, the petitioner was issued a show-cause notice dated 30.09.2014 under Rule 27(5) of the

Mineral Concession Rules, 1960 Act alleging theft of 54,120 MT of iron ore and demanding a penalty for the same under Section 21(5) of the MMDR Act.

8. The show-cause notice, which was issued by respondent No.2 [Director, Department of Mines and Geology], stated that the Lokayukta had recommended action to be taken against persons involved in illegal mining activity. In this context, the petitioner was called upon to show cause as to why the mining lease granted in his favour should not be cancelled.

9. The petitioner responded to the said notice by letter dated 14.11.2014. Thereafter, respondent No.2 issued a final demand notice dated 18.04.2015, calling upon the petitioner to pay ₹67.65 crores, being five times the value of 54,120 MT of iron ore allegedly stolen or illegally removed. Pursuant to the said notice, by communication dated 05.06.2015, the Deputy Commissioner, Ballari, was directed to recover ₹67.65 crores from the petitioner as arrears of land revenue. The Deputy Commissioner, in turn, directed the Tahsildar to recover the said amount. Consequently, notices were issued to recover the same amount.

10. Aggrieved by the same, the petitioner preferred writ petitions, being W.P No.25561/2017 and 26089/2017 (GM-MM-S) impugning the demand notice dated 18.04.2015 and a communication dated 05.06.2015. This court found that the demand was bereft of any reasons and had been passed without considering the petitioner's objections. Accordingly, this court quashed the demand notice and directed respondent No.2 to adjudicate the matter afresh after issuing a fresh notice. The aforementioned writ petitions were disposed of with the aforesaid directions.

11. Pursuant to the order dated 20.06.2017 passed by this court in the aforementioned writ petitions, respondent No.2 considered the matter afresh and passed an order dated 31.12.2018 raising a fresh demand. Aggrieved by the same, the petitioner filed a writ petition, being W.P No.14987/2021 (GM-MM-S). However, during the course of the said proceedings the order dated 31.12.2018 was withdrawn by the respondents vide communication dated 30.05.2022. Consequentially, the writ petition (W.P No.14987/2021) was dismissed by an order dated 31.05.2022 as having become infructuous.

12. Thereafter, respondent No.2 conducted an enquiry and passed the impugned order dated 10.10.2023. The impugned order

sets out adverse observations made in the Lokayukta's report dated 27.07.2011. The report refers to a joint inspection of the mine granted to the petitioner (ML-2572) conducted in 2011 by a team comprising the Director of Mines and Geology, the Deputy Director of Mines, Hospet, Sri Basavaraj, the then Assistant Engineer, and other officials of the Mines and Forest Departments. During the inspection, the team found that no stock was available at the mine head. After examining the records, the team concluded that 54,120 MT of iron ore had been removed or consumed by the petitioner out of 75,000 MT of ore reported by Sri Basavaraj, the then Assistant Engineer, in the office of the Deputy Director, Department of Mines and Geology, Hospet. Accordingly, the team recommended recovery of the value of the mineral at the rate of ₹2,500/- per MT, with a penalty of five times, amounting to ₹67.65 crores.

13. The petitioner contested the said proceedings. He claimed that permits for only 42,384 MT had been issued, out of which dispatch permits for 21,504 MT of ore were surrendered. The petitioner contended that the issue was, thus, confined to the said quantity. The petitioner claimed that he had not carried on any unlawful mining and, therefore, Section 21(5) of the MMDR Act was

inapplicable. However, respondent No.2 did not accept the said contention.

14. As stated above, the Senior Geologist computed the total amount of ₹13,85,38,423/- and issued the impugned demand notice, which is also the subject matter of challenge in the present petition.

REASONS AND CONCLUSIONS

15. At the outset, it is relevant to note that initially Mr P.Nagesh, learned Senior Counsel, who appeared for the petitioner, had contended that the assumption that 75,000 MT of iron ore had been raised from the mine in question was without basis. He also contended that the assumption that the mineral raised was missing was erroneous. He contended that a *mahazar* dated 05.03.2018 had been prepared showing that the stock of iron ore was physically available at the mine head. However, he later conceded that the records indicated that 75,000 MT of iron ore had been mined during the material period and that, during inspections, no stock of iron ore was found at the mine.

16. In view of the above, it is not necessary to examine respondent No.2's finding that 75,000 MT of ore had been raised

and no stock was available at the time of inspection, as these facts are no longer contested. That said, we may also note that the *mahazar* dated 05.03.2018 indicates that no stock of iron ore (fines and lumps) was found at the mine. The said *mahazar* also records that the Hon'ble Supreme Court had issued an order dated 29.07.2011, whereby all iron ore mining activities and transportation was prohibited in Ballari District. The monthly report furnished for the month of July 2011 reported a stock of 17,608 MT of 60-62% of grade iron ore lumps and 36,512 MT of 60-62% iron ore powder (fines). Thus, the total stock of 54,120 MT was declared as iron ore stock in the IBM monthly report. We may also note the observations made in the Lokayukta report. The same indicates that during the investigation regarding the issue of bulk permits for Mining Lease No.2572 of the petitioner, it was found that Sri Basavaraj, Assistant Engineer from the office of Deputy Director, Hospet had submitted a stock report on 20.04.2010 to the office of the Deputy Director, Mines and Geology, Hospet stating that 25,000 MT of iron ore lumps and 50,000 MT of iron ore fines were available at the mining lease area on 18.04.2010. In view of the above, the Deputy Director had issued the following bulk permits:

"(i) Permit No.305 dated 22.04.2010 for 7,392 MT of iron ore lumps;

(ii) Permit No.287 dated 21.04.2010 for 24,992 MT of iron ore fines; and

(iii) Permit No.286 dated 21.04.2010 for 10,000 MT of iron ore"

17. The trip sheets for 21,504 MT were later surrendered on 21.05.2010. The trip sheets were received in the office of Deputy Director, Mines, Hospet on 21.06.2010. The analysis of the iron ore produced and dispatched indicate that the total stock of 54,120 MT (17,608 lumps and 36,512 fines) should be available at the mining head. However, during the joint inspection, it was found that no stock was available in the leased area.

18. The impugned order sets out a tabular statement regarding the stock of iron ore raised, the permits issued, stock dispatched and the stock that ought to be available at the site. The said tabular statement is set out below:

Sl. No.	Stock of iron ore as per AE report in MT	Permit issued for MT	Dispatch MT	Stock to be available at mines MT
1.	25000 Lumps	7392	7392	17608
2.	50000 Fines	34992	13488	36512
Total	75,000	42384	20882	54120

19. As apparent from the above, the stock of 75,000 MT of iron ore comprises both 25,000 MT of iron ore lumps and 50,000 MT of iron ore fines.

20. We note from the above set out tabular statement that the entire quantity of iron ore lumps for which permits were issued was dispatched. Undisputedly, the petitioner had procured permits for dispatch of 7,392 MT of iron ore lumps and the said ore was dispatched.

21. Insofar as the iron ore fines are concerned, permits for 34,992 MT of iron ore fines (10,000 + 24,992) were issued of the grade 40% to 62%. Out of the aforesaid, permits for 21,504 MT of iron ore fines of the grade 40 to 62% were surrendered. No permits had been issued for 17,608 MT of iron ore lumps and 36,512 MT of iron ore fines.

22. In this backdrop, the principal question is whether the petitioner is liable to pay the value of the mineral and the penalty under Section 21(5) of the MMDR Act.

23. Section 21 of the MMDR Act as in force at the material time read as under:

"21. Penalties.—

(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1-A) of Section 4 shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty-five thousand rupees, or with both.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(3) Where any person trespasses into any land in contravention of the provisions of sub-section (1) of Section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

(4-A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may

be, for the period during which the land was occupied by such person without any lawful authority.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence under sub-section (1) shall be cognizable."

24. Section 25(1) of the MMDR Act is also relevant and is set out below:

"25. Recovery of certain sums as arrears of land revenue

(1) Any rent, royalty, tax, fee or other sum due to the government under this Act or the rules made thereunder or under the terms and conditions of any mineral concession may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as an arrear of land revenue."

25. In the present case, the allegation against the petitioner is that he had unlawfully removed the ore in contravention of the relevant Act and rules. The fact that the ore raised was not found at the site establishes that it was removed. Since only 20,880 MT of ore was dispatched under bulk permits, the balance 54,120 MT of ore was removed unlawfully and in contravention of the relevant Act and rules.

26. Sub-section (1) of Section 21 of the MMDR Act provides for penalties for contravention of the provisions of Sub-section (1A) of Section 4 of the MMDR Act, which reads as under:

“(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.”

27. It follows that the provisions of Sub-section (1) of Section 21 may be applicable in case minerals are not transported in accordance with the provisions of the MMDR Act and the rules made thereunder. However, in the present case, the penalty has been computed under Sub-section (5) of Section 21 of the MMDR Act. The said penalty is attracted only where any person raises mineral from any land without “*any lawful authority*”. In such an eventuality, the offender is liable to account for the mineral raised. The same would be recovered from him. If the mineral mined has been disposed of, the offender would be liable to pay the value of the mineral in addition to royalty. This amount is payable in addition to any penal action that may be taken.

28. The rationale of Sub-section (5) of Section 21 of the MMDR Act is apparent. Since the offender does not have any lawful authority to mine any mineral from the land, it would be necessary for him to either surrender the mineral or pay the price thereof. Additionally, the State is also entitled to recover the royalty on the

said mineral, which is also payable on mineral mined by a person who has the lawful authority to extract the mineral.

29. The following observations made by the Supreme Court in **Karnataka Rare Earth and another vs. Senior Geologist, Department of Mines and Geology and Another¹**, are relevant:

"7. In our opinion, the demand by the State of Karnataka of the price of the mineral cannot be said to be levy of penalty or a penal action. The marginal note of the Section 'Penalties', creates a wrong impression. A reading of Section 21 shows that it deals with a variety of situations. Sub-Sections (1), (2), (4), (4A) and (6) are in the realm of criminal law. Sub-Section (3) empowers the State Government or any authority authorized in this behalf to summarily evict a trespasser. Sub-Section (5) empowers the State Government to recover rent, royalty or tax from the person who has raised the mineral from any land without any lawful authority and also empowers the State Government to recover the price thereof where such mineral has already been disposed of inasmuch as the same would not be available for seizure and confiscation. The provision as to recovery of price is in the nature of recovering the compensation and not penalty so also the power of the State Government to recover rent, royalty or tax in respect of any mineral raised without any lawful authority can also not be called a penal action. The underlying principle of sub-Section (5) is that a person acting without any lawful authority must not find himself placed in a position more advantageous than a person raising minerals with lawful authority."

30. In the present case, there is no dispute that the petitioner had a mining lease for iron ore over the area from where the ore

¹ (2004) 2 SCC 783

was raised. Thus, given the allegation made in the present case, we cannot accept that the penalty under Section 21(5) of the MMDR Act can be levied. The allegation is not that the petitioner raised the ore by carrying on mining activity without authority of law; rather, the allegation is that he removed the ore unlawfully from his mine, which the Lokayukta termed as a theft of iron ore. Given the allegation, the penalty under Section 21(1) of the MMDR Act may be applicable for violation of Section 4(1A) of the MMDR Act; that is, for transportation of mineral otherwise than in accordance with law, but the provisions of Section 21(5) of the MMDR Act for recovery of the value of mineral are not attracted.

31. Mr. K.S.Harish, learned Government Advocate appearing for the State, had referred to the decision of the Supreme Court in **Common Cause vs. Union of India and others**² and submitted that Section 21(5) of the MMDR Act is not confined to violations committed outside the mining lease area, but also includes violations committed by the lessee within the mining lease area as well.

² (2017) 9 SCC 499

32. There is no cavil with the said proposition. If a person raises minerals without lawful authority, the provisions of Section 21(5) of the MMDR Act would be applicable. The fact whether the said person had raised the same from within the leased area or outside the leased area would not be relevant for the purpose of Section 21(5) of the MMDR Act. However, it must be established that the person has raised the ore without authority of law. Illustratively, there may be cases where there is a limit imposed on the quantum of ore that is permitted to be raised from the leased area and the lessee exceeds the said limit. Plainly, that could be considered as a case of raising the ore without authority of law.

33. In **Common Cause vs Union of India** (*supra*), the Supreme Court considered raising without the necessary environmental clearance as raising of the mineral without authority of law. We may also refer to the following extract of the said decision:

“**148.** In conclusion, it is reiterated by the Union of India on affidavit as follows:

“55. That considering all the above, the Ministry would like to submit that the provisions of sub-section (5) of Section 21 would apply to all minerals raised without any lawful authority, be it forest clearances or environment clearances or any other such legal requirements.

56. That penalties would arise under Section 21(5) of the MMDR Act, 1957, in respect of any form of mining activity without lawful authority.

Mining outside lease area would on the face of it amount to mining without lawful authority and would attract the provisions of Section 21(5); and, in addition, *all forms of mining without lawful authority including that in breach of the limits imposed by the environmental clearance carried out within the lease area would also invite penalties under Section 21(5).*”

150. We are in agreement with the view expressed by the learned Attorney General and Shri Dwivedi as also the view expressed in *Karnataka Rare Earth*. The decision in *Khemka & Co.* is not at all apposite. There is no ambiguity in Section 21(5) of the MMDR Act or in its application. We are also of the opinion that though Section 21(1) of the MMDR Act might be in the realm of criminal liability, Section 21(5) of the MMDR Act is certainly not within that realm.

151. In our opinion, Section 21(5) of the MMDR Act is applicable when any person raises, without any lawful authority, any mineral from *any land*. In that event, the State Government is entitled to recover from such person the mineral so raised or where the mineral has already been disposed of, the price thereof as compensation. The words “any land” are not confined to the mining lease area. As far as the mining lease area is concerned, extraction of a mineral over and above what is permissible under the mining plan or under the EC undoubtedly attracts the provisions of Section 21(5) of the MMDR Act being extraction without lawful authority. It would also attract Section 21(1) of the MMDR Act. In any event, Section 21(5) of the Act is certainly attracted and is not limited to a violation committed by a person only outside the mining lease area — it includes a violation committed even within the mining lease area. This is also because the MMDR Act is intended, among other things, to penalise illegal or unlawful mining on any land including mining lease land and also preserve and protect the environment. Action under the EPA or the MCR could be the primary action required to be taken with reference to the MCR and Rule 2(ii-a) thereof read with the Explanation but that cannot

preclude compensation to the State under Section 21(5) of the MMDR Act. The MCR cannot be read to govern the MMDR Act.”

34. Thus, where any mineral is raised in contravention of any law, including without the necessary environmental clearances, within the leased area, a penalty under Section 21(5) of the MMDR Act may apply. The principal condition to attract the rigour of Section 21(5) of the MMDR Act is that there has to be an infraction of law in raising the ore. In the present case, there is no allegation that the petitioner had unlawfully raised 75,000 MT of iron ore, which was allegedly removed without permits and payment of royalty.

35. In view of the above, the impugned order to the extent it provides for imposition of penalty under Section 21(5) of the MMDR Act, is unsustainable.

ROYALTY AND THE GRADE OF ORE

36. Having stated the above, there is no cavil that the petitioner is required to pay royalty on the iron ore in accordance with Section 9 of the MMDR Act. Undisputedly, under Section 9 of the MMDR Act, royalty is payable in respect of any mineral removed or consumed from the leased area. In the present case, it is

established that the iron ore has been removed without valid dispatch permits. Therefore, notwithstanding any other penalty that may be imposed for such infraction, the petitioner would be liable to pay royalty on the 75,000 MT of iron ore which was raised but was not found on the site. There is no dispute that out of the aforesaid quantity, 20,880 MT iron ore had been dispatched on valid permits and advance royalty was paid on the said mineral. Thus, the petitioner would be liable to pay royalty for the balance 54,120 MT of iron ore – 17,608 MT of lumps and 36,512 MT of fines.

37. The impugned demand has been raised on the basis that the average sale value of iron ore fines is ₹2,020/- and the average sale value of iron lumps is ₹2,951/-. The said average sale values were published for the month of April 2010 for iron ore of the grade Fe 65% and above, for fines and lumps, respectively.

38. There is a dispute as to whether the iron ore from the said mining lease was of a grade of 65% Fe and above. It is contended on behalf of the petitioner that bulk permits for 21,504 MT of iron ore, which were surrendered, mentioned the mineral grade as “40% - 62% Fe”. Therefore, the mineral grade of the iron ore available must be assumed to be below 62%. The average sale

value for the same for the month of April 2010 was ₹1,538/- and therefore the royalty is payable on the said value. It is also contended that the permit for 7,392 MT of iron ores lumps also specified the mineral grade as 0-60 Fe and the average sale value of the iron ore lumps for the said grade for the month of April 2010 is ₹771/-. However, the State disputes that the mineral grade of iron ore from the mine could be assumed to be as set out in the dispatch permits. Mr. Harish submitted that insofar as the dispatch permits of iron ore lumps are concerned, the permits as issued had been utilised and there is no material for the petitioner to establish that the remaining iron ore lumps were of the same grade. He also referred to a certificate of analysis dated 03.09.1996 by an independent agency (SGS India Limited), which had analysed the chemical composition of a sample furnished by the petitioner. The same indicates that the iron content of the said sample was 67.58%. Thus, according to the State, the iron ore mined from the leased area would be of a mineral grade above Fe 65%.

39. Mr. Harish also argued that the petitioner is not entitled to the benefit of the doubt. The petitioner, having transported the mineral illegally, cannot now take advantage of the absence of the stock,

and therefore, the value of the stock ought to be assumed to be the average sale value of the iron ore of the grade Fe 65% and above.

40. We find considerable merit in the contention that the petitioner is not entitled to any benefit of assumption regarding the mineral grade of the missing ore. However, we note that the *mahazar* dated 05.03.2018, which the respondents rely upon records that the IBM monthly reports had reported a stock of 17,608 MT of 60-62% grade iron ore lumps and 36,512 MT of 60-62% iron ore powder (fines).

41. Mr. Harish submitted that the petitioner is responsible for accounting for the ore raised, and in the present case, it is established that the ore that was raised is missing. In his communication dated 24.02.2018, the petitioner acknowledged that the ore was missing for which no dispatch permits were sought.

42. Insofar as 21,504 MT of iron ore fines are concerned, the same were covered under the bulk permits that were surrendered. Under the permits, the mineral grade was specified as Fe 40 to 62%.

43. Mr. Harish also fairly conceded that the permits are usually issued after the grade of the mineral is ascertained. He, however,

stated that there are documents on record to show that lumps and fines had not been segregated at the material time. However, considering that the respondent authority had issued permits for dispatch of mineral grade of Fe 40% to 62%, there is material to establish that at least 21,504 MT of iron ore was of that grade.

44. In view of the above, absent any other material, the average sale values of the iron ore fines and lumps are required to be determined on the basis that the missing mineral was of the grade 60%-62% (as recorded in the IBM monthly reports). The average sale value of fines below Fe 62% for the month of April 2010 was declared as ₹1,538/-, and that of lumps as ₹905/-, and the royalty payable is required to be computed on that basis. It is also necessary to clarify that the royalty as computed would be payable along with applicable interest.

45. Before concluding, we may also note that the petitioner has also filed a rejoinder to the statement of objections stating that the petitioner had been acquitted in C.C No.2236/2019 which was based on a complaint by Gadiganuru Police Station for the alleged offences under Section 379 of the Indian Penal Code, 1860 read with Sections 4(1), 4(1A) and 21 (1) to 21 (6) of the MMDR Act. It is stated that the order dated 09.04.2025 acquitting the petitioner

had attained finality. We do not consider it necessary to express any opinion whether the petitioner would be liable for payment of penalty under Section 21(1) of the MMDR Act as the impugned order is not premised on the said basis. Needless to state that this judgment would not preclude the State from instituting any such proceedings, albeit in accordance with law.

46. The impugned order and the impugned demand notice are set aside with the aforesaid observations.

47. The petition is disposed of in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

AHB