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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No.101 of 2016**

Dhananjay Pathak S/o Shri Upendra Nath Pathak, aged about 39 years, R/o Chakradhar Nagar, Chowk, Kaserpara, Thana Chakradhar Nagar, Post and Tehsil Raigarh, District Raigarh (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Revenue and Disaster Management, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
2. Collector, Raigarh, District Raigarh, Chhattisgarh
3. Sub Divisional Officer (Revenue), Gharghoda, District Raigarh (Chhattisgarh)
4. Tehsildar, Tamnar, Chhattisgarh
5. M/s HINDALCO Industries Limited, Through: Its Managing Director, Village Milupara, Thana and Tahsil Temnar, District Raigarh (Chhattisgarh)
6. Jaiswal Neco Industries Limited, Through : Its Managing Director Siltara, Growth Centre, Siltara, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	: Mr.Mahendra Dubey, Advocate
For Res.No.1 to 4	: Mr.Y.S.Thakur, Additional Advocate General, on advance copy

Hon'ble Shri Pritinker Diwaker, Acting Chief Justice**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****Sanjay K. Agrawal, J.****02/03/2017**

1. Sole petitioner-Dhananjay Pathak has filed this writ petition (PIL) against the official respondents as well as private respondents-M/s HINDALCO Industries Limited and Jaiswal Neco Industries Limited claiming the following reliefs:-

“10.1 That this Hon'ble Court may kindly be pleased to call for the entire record of case relating to subject matter of the instant writ petition.

10.2 That this Hon'ble Court may kindly be pleased to direct the State of Chhattisgarh or other agency to hold and complete a high level enquiry into the matter within a given period and enquiry may kindly be monitored by this Hon'ble Court so that the every constitutional, fundamental and legal rights of affected villagers and land owners may be protected and they may be given the proper and suitable compensation and other benefits as per the terms and conditions of the Rehabilitation Policy 2007 and 2013 and compliance of applicable law be done in respect of each and every affected land owners and formers of the area.

10.3 That any other writ/direction/order which may deem proper and fit under the facts and circumstances of the case also be issued by the Hon'ble Court.”

2. The focused perusal of the reliefs sought would show that main relief claimed in the shape of 10.2 of the writ petition is extremely vague.
3. The petitioner is simply seeking a direction to hold an enquiry to protect the constitutional, fundamental and legal rights of the affected villagers and land owners and for payment of proper and suitable compensation in terms and conditions of the Rehabilitation Policy 2007 and 2013 without specifying the details of land-owners who have not been given the just and proper compensation.

4. The State Government has granted lease to respondent No.6 on 13.4.2006 for carrying out the mining activities and Memorandum of Understanding has been signed by respondent No.1 and respondent No.6 on 17.3.2011 in terms of Rehabilitation Policy 2007 and surface right was granted by order dated 19.4.2012 by respondent No.2 and it has been stated that on the basis of order of the Supreme Court, all the rights and liabilities arising out of the lease deed and surface right in favour of respondent No.6 has been transferred to respondent No.5.
5. Reference may be made herein to the judgment of the Supreme Court in the matter of D.N. Jeevaraj Vs. Chief Secretary, Government of Karnataka and others¹, wherein Their Lordships of the Supreme Court held as under:-

“36. A Considerable amount has been said about public interest litigation in R & M Trust² and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.

37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this Court held in Union of India Vs. S.B. Vohra³ that:-

1 (2016) 2 SCC 653

2 R&M Trust v. Koramangala Residents Vigilance Group, (2005) 3 SCC 91

3 (2004) 2 SCC 150

“12. Mandamus literally means a command. The essence of mandamus in England was that it was royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.

13. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted.”

6. Since the petitioner is not affected party and third party interest has already been created long back in the year between 2006 to 2013, the affected parties/land-owners are free to approach appropriate authority for enforcement of their legal and constitutional rights. We not find that any element of public interest is involved in this writ petition. Accordingly, the writ petition (PIL) deserves to be and is hereby dismissed at the stage of admission itself without noticing to the other side.

Sd/-

(Pritinker Diwaker)
Ag.Chief Justice

Sd/-

(Sanjay K.Agrawal)
Judge