

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11866 of 2019

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M/s IDIO Construction of Industries (India) Ltd. through its Managing Director Smt. Renu Singh (Female-aged about 58 years), wife of Sri K.N. Singh R/o road No. 23, Building No. 176, Krishna Nagar, P.S.- Budha Colony, Distt.- Patna

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Mines, Govt. of India, New Delhi
2. Secretary Ministry of Mines, Govt. of India, New Delhi
3. Indian Bureau of Mines thorough Regional Controller of Mines, Govt. of India, Ashok Nagar, Ranchi-834002
4. Regional Controller of Mines Govt. of India, Ashok Nagar, Ranchi-834002
5. Principal Secretary Department of Mines and Geology, Govt. of Bihar, Patna
6. District Mining Officer Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Lalan Kumar, Advocate.
For the Union of India	:	Mr. S.D. Sanjay (Additional S.G.)
		Mr. Rajesh Kumar Verma (A.S.G.)
For the State	:	Mr. Naresh Dikshit, Spl. P.P. Mines.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
C.A.V. JUDGMENT

Date : 09-08-2019

1. This writ petition has been filed on behalf of the petitioner seeking direction/directions for the following reliefs:

I) In the nature of certiorari for setting aside the order as contained in Memo No. RAN/LKS/Qtz-Qtzt/MP-03/2019-20 dated 24.5.2019 (Annexure-18) by which the Respondent No. 3 i.e. Indian Bureau of Mines through Regional Controller of Mines, Govt. of India, Ashok Nagar, Ranchi-834 002 has refused to approve the Mining Plan of the petitioner.



ii) For issuance of direction commanding the IBM, Ranchi, to approve the Mining Plan submitted by the petitioner which has been returned despite direction of Govt. of India, Ministry of Mines as contained in Memo No. 16/106/2015-M.VI dated 12.7.2017.

iii) In the nature of mandamus directing the respondent State Government to recommend the Indian Bureau of Mines (hereinafter referred to as 'IBM') or any other agency to approve the Mining Plan with respect to direction of Govt. of India, Ministry of Mines as contained in Memo No. 16/106/2015 M.VI dated 12.7.2017.

2. Heard Mr. Lalan Kumar, learned counsel for the petitioner, Mr. S.D. Sanjay, Addl. Solicitor General, appearing on behalf of the Union of India and Mr. Naresh Dikshit, Spl. P.P. Mines for the State.

3. Counsel for the petitioner submits that company of the petitioner is registered company named and style as "M/s. IDIO Construction and Industries India Ltd", a company registered under the Companies Act, 1956, having its registered office at Road No. 23, Building No. 176, Krishna Nagar, Patna. The petitioner's Company entered into an agreement with the State of Bihar on 24th August, 2001 for mining lease of Quartz-Quartzite (Silica Stone) in respect of land situated at Bishunpur, in the



District of Lakhisarai, for a period of 30 years. The Photocopy of aforesaid lease agreement dated 24.8.2001 has been enclosed as Annexure-1 to the writ petition.

4. Counsel for the petitioner further submits that petitioner continued mining in the said area of lease agreement, but suddenly, in the year 2008, the same was stayed by the Govt. authorities and restored on 1.10.2011 after protracted litigation. Photocopy of the letter dated 111 dated 19.7.2012 has been enclosed as Annexure-2 to the writ petition.

5. The State of Bihar, Department of Mines and Geology, vide its letter No. 3836 dated 20.10.2014 issued under the signature of Joint Secretary, directed the District Magistrate, Lakhisarai, that illegal mining is being carried out by the petitioner's company as they have not obtained the Environmental clearance certificate. The Mines Development Officer, Lakhisarai, directed the petitioner's company to obtain the Environmental Clearance. The said communication was made vide letter No. 466 dated 5.11.2014 (Annexure-4).

6. The petitioner submitted its paper for Environmental Clearance (hereinafter called as 'EC') but the same remained hanging as the department itself was not in position to assert that whether the EC was required for mining of Quartz-quartzite which



is apparent from the fact that District Magistrate, Lakhisarai, vide his letter dated 29.1.2015 sought a clarification from the Department of Mines and Geology, Govt. of Bihar, to the effect that whether EC is necessary for the company or not. Photocopy of the aforesaid letter dated 29.1.2015 has been enclosed as Annexure-5 to the writ petition.

7. Learned counsel for the petitioner further submits that while the issue of EC was pending, the Union of India came out with Gazette Notification vide S.O 423(E) dated 10.2.2015 whereby Quartz & Quartzite have been brought into the ambit of minor minerals. The photocopy of Gazette Notification dated 10.2.2015 has been enclosed as Annexure-6 to the writ petition. After issuance of aforesaid Gazette notification by the Government of India, Ministry of Mines, the plan submitted by the petitioner before IBM for EC was sought to be withdrawn. The IBM vide letter No. RAN/18(14)/Gen-FA/2008-09 dated 10.9.2015 returned the Bank Guarantee of the petitioner.

8. Learned counsel for the petitioner submits that after issuance of aforesaid Gazette Notification, some States faced problem for scrutinizing and appraising the Mining Plan in respect of minerals. The Respondents made request with the Union of India that officials of IBM may be authorized to approve Mining



Plan and schemes. But due to delegation of power for grant of concession of minor mineral to the State Govt. in terms of Section 15 of MMDR Act, the State Government were needed to modify the same by including the IBM as the approving agency. Hence, till the said amendment is not carried out, the Govt. of India, made a provision vide letter dated 27.7.2015 (letter No. 16/106/2015) that IBM shall be approving agency till further period of two years on or after 10.2.2015.

9. In the meanwhile, Govt. of India, vide its letter No. 16/106/2015-M.VI dated 12.7.2017 enhanced the transitory concession of approving the Mining Plan of mining leases of newly notified 31 minor minerals for a further period of two years, i.e. up to 25.5.2019. Xerox copy of aforesaid letter dated 12.7.2017 has been enclosed as Annexure-10 to the writ petition.

10. The petitioner with the plan reached the office of IBM with request to approve the same in view of letter issued by Govt. of India, dated 27.7.2015. The IBM refused to accept the same stating therein that till amendment is not carried out, they cannot accept the same. Therefore, the Mining Plan was forwarded by speed post to the IBM on 7.3.2019. The petitioner's company was waiting for approval, but the IBM (Respondent No. 3) vide letter No. RAN/LKS/Qtzt/MP-03/2019-20 dated 7.5.2019 refused



to approve the Mining Plan of petitioner due to reason assigned therein that since the State of Bihar has notified Bihar Minor Mineral Rules, 2017 and the District Magistrate has been authorized to approve the Mining Plan for Minor Minerals under Rule 19, the same cannot be approved by the IBM. The Mining Plan was returned unapproved. Photocopy of the aforesaid letter dated 7.5.2019 has been enclosed as Annexure-15 to the writ petition.

11. The petitioner again moved before this Court against the order as contained in Annexure-15 to the writ petition dated 7.5.2019 by filing CWJC No. 10970 of 2019. This Court after hearing the submission of the learned Additional Solicitor General to the effect that IBM has the authority in terms of Annexure-10 to approve the Mining Plan of Mining lease of newly notified 31 Minor and Minerals including Quartz-Quartzite (Silica stone) for a further period of two years up to 25.5.2019, disposed off CWJC No. 10970 of 2019, with direction to the petitioner to file a fresh representation along with copy of orders of the Hon'ble High Court and Hon'ble Supreme Court before the IBM for approval of the Mining Plan and IBM will pass appropriate order in accordance with law within a period of one week of filing of



such representation by the petitioner after giving opportunity of hearing to him.

12. The petitioner has submitted all the required documents along with request letter dated 17.5.2019 and copy of order of this Hon'ble Court, but the respondent authority despite undertaking given by the counsel for the Union of India that IBM has the power to approve the Mining Plan up to 25.5.2019, refused to approve the Mining Plan and the same was returned by its letter dated 24.5.2019 (Annexure-18) which is under challenge in the instant writ petition.

13. Counsel for the petitioner submits that action of Respondent No. 3 is arbitrary, illegal and even to the extent contemptuous since they have refused to approve the Mining Plan knowing fully well that Bihar Minor Mineral Rules, 2017 has been stayed by this Hon'ble Court vide order dated 27.11.2017 passed in CWJC No. 15965 of 2017 and the said Rule is no more in operation. The said case is still pending for adjudication. The stay has been upheld by the Hon'ble Apex Court in SLP (Civil) No. 33129 of 2017 vide order dated 15.12.2017. Copy of the aforesaid order of this Hon'ble Court and the Hon'ble Apex Court have been enclosed as Annexure 19 and 20 to the writ petition. He further submits that rejection order passed by the IBM is bad in law. The



contention of respondent No. 3 to the effect that now the Mining Plan of the petitioner need to be approved by the learned Collector in terms of Bihar Minor Mineral Rules, 2017, is not in accordance with law.

14. Counsel for the petitioner submits that in terms of letter dated 27.7.2015 (Annexure-8) and letter dated 12.7.2017 (Annexure-10), it is only the IBM which can approve the Mining Plan of the petitioner.

15. Prayer has been made to direct the Respondent No. 3 to approve the Mining Plan of the petitioner, or the State Government be directed to appoint the agency who can approve the aforesaid Mining Plan as very survival of petitioner is under threat. The petitioner is suffering since long.

16. Counter affidavit has been filed on behalf of Respondent No. 5 and Respondent Nos. 1 to 4 separately.

17. The Respondent No. 5 has submitted in the counter affidavit that after notification of the silica stone as minor mineral in the year, 2015, the State Government had come out with Bihar Minor Mineral Rules, 2017 wherein Department was given power to approve the Mining Plan in such matters. However, this Rule, 2017 got stayed vide order dated 27.11.2017 passed in CWJC No. 15965 of 2017 and other batch cases. There is no provision in the



Bihar Minor Mineral Concession Rules, 1972 regarding sanction of Mining Plan in case of silica stone and therefore, the State Government is not competent to approve the Mining Plan till any such provision is enacted by the legislature.

18. The Respondent Nos. 1 to 4 have submitted in the counter affidavit that IBM has not refused to approve the submitted Mining Plan of petitioner. The petitioner was directed to submit fresh representation by order dated 15.5.2019 passed by this Court in CWJC No. 10970 of 2019 along with Mining Plan for approval and also directed the Indian Bureau of Mines to pass appropriate order in accordance with law within a period of one week of such representation filed by the petitioner after giving opportunity of hearing to him.

19. The representation along with the Mining Plan was submitted by the petitioner in the office of the Answering Respondent for approving the documents as submitted by the petitioner. The IBM after granting personal hearing on 23.5.2019, in terms of the direction of this Hon'ble Court passed reasoned order as contained in letter dated 24.5.2019.

20. Counsel for the Respondent Nos. 1 to 4 has submitted in the counter affidavit that Quartz and Quartzite have been notified as "Minor Minerals" as per Gazette Notification S.O.



423(E) dated 10.2.2015. Therefore, the same does not fall under the domain of Indian Bureau of Mines (hereinafter referred to as IBM). It is the State Government who is competent to approve Mining Plan and Mining lease with respect to minor minerals. Photocopy of the Gazette Notification dated 10.2.2015 has been enclosed as Annexure-R/B.

21. A letter dated 12.7.2017 issued by the Government of India pertains to the enhancement of transitory concession of approving the Mining Plan of Mining leases of newly notified 31 minor minerals by IBM for further period of two years up to 25.5.2019. The letters dated 27.7.2015 and 12.7.2017 are complementary to each other. They are not be read in isolation. Photocopy of the aforesaid letters have been enclosed as Annexure R/C and R/D respectively of the counter affidavit and is Annxure 8 and 10 to the writ petition.

22. The Indian Bureau of Mines cannot approve the Mining Plan as the State Authority has not modified Bihar Minor Mineral Concession Rules, 1972, to the extent of including a provision authorizing IBM to approve Mining Plan under Section 15 of Minor and Minerals (Development & Regulation) Act, 1957.

23. It is mentioned in the counter affidavit filed on behalf of Respondent Nos. 1 to 4 that in the instant case the



authority to approve Mining Plan rests with the State Government in accordance with Section 22(1) of Bihar Minor Mineral Concession Rules, 1972 framed under Section 15 of MMDR Act 1957.

24. The Respondents submitted that IBM never refused to accept the Mining Plan of the petitioner rather it was returned clarifying that IBM is not authorized to approve the Mining Plan.

25. A fresh representation along with the Mining Plan was submitted by the petitioner on 17.5.2019 which was examined in the office of the Answering Respondent to approve the documents and personal hearing was provided on 23.5.2019. As per direction of Hon'ble Patna High Court, the Answering Respondent after giving opportunity of personal hearing to the petitioner, passed reasoned order vide letter dated 24.5.2019.

26. The IBM has the power to approve the Mining Plan up to 25.5.2019 for the limited period as per letter dated 27.7.2015. It further stipulate modifications in the minor minerals rules to be enacted by the State Government under Section 15 of the MMDR Act, 1957, modified to the extent of including a provision authorizing IBM to approve Mining Plans/scheme of mining/modify Mining Plans for minerals notified as "minor minerals" on or after 10.2.2015 in the light of provisions contained



under Section 15 of MMDR Act, 1957. The Indian Bureau of Mines had authority to approve Mining Plan of Minor Minerals for the prescribed period provided fulfillment of conditions as stipulated in letter of Ministry of Mines dated 27.7.2015. The validity of the letter issued by the Ministry vide letters dated 27.7.2015 and 12.7.2017 was up to 25.5.2019 only.

27. After hearing the learned counsel for the petitioner, submission made in the writ petition and the counter affidavit filed by the Respondents, this Court finds that Section 15 of Mines and Minerals (Development and Regulation) Act, 1957, provides power to State Government to make rules in respect of Minor Minerals.

28. In terms of Rule 22 (1) of Bihar Minor Mineral Concession Rules, 1972, *“no mining lease/settlement/permit shall be granted by the State Government unless there is a Mining Plan duly approved by the State Government or any person authorized in this behalf by the State Government”*

xx xx xx

29. The Indian Bureau of Mines is authorized to approve the Mining Plan of Major Minerals under Section 5(2)(b) of MMDR Act, 1957 and rules made there under. In accordance with Section 14 of MMDR Act, 1957, “The provision of Sections



5-13 (inclusive) shall not apply to the quarry leases, mining leases or other mineral concessions in respect of minor minerals”.

30. Section 3(e) of Mines and Minerals (Development and Regulation) Act, 1957 defines minor minerals which is quoted below:

“minor minerals” means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, any other mineral which the Central Government may, by notification in the Official Gazette declare to be minor mineral.”

31. In terms of Gazette Notification S.O.423(E) dated 10.2.2015, Quartz and Quartzite have also been notified as “Minor Minerals”.

32. A letter dated 12.7.2017 (Annexure-10) issued by the Government of India pertains to enhancement of transitory concession of approving the Mining Plan of newly notified 31 Minors Minerals by IBM for further period of two years up to 25.5.2019, subject to condition stipulated in the letter dated 27.7.2015, issued by the Government of India. Both the issued letters are complementary to each other and are not to be read in isolation.



33. It is mentioned in Clause, 3, 4, 5, 6 and 7 of letter dated 27.7.2015 issued by Government of India, Ministry of Mines (Annexure R/D) that;

“There is no provision in the MMDR Act or the rules whereby the Central Govt. (through the IBM) can accord approval for Mining Plans of minor minerals as the statutory provisions with regard to requiring an approved Mining Plan for mining operations are contained in the MCR, 1960 which has been framed under Section 13 of MMDR Act; and provisions of sections 5-13 of the MMDR Act do not apply to minor minerals.

Powers of regulation for grant of concessions for minor minerals and for purposes connected therewith have been delegated to the State Governments as per section 15 of the MMDR Act, whereby State Governments have framed their own minor mineral concession rules.

State Government which are facing a problem in this regard may have their respective minor mineral concession rules, framed under section 15 of the MMDR Act, modified to the extent of including a provision authorizing IBM to (i) approve Mining Plans/scheme of mining; (ii) modify Mining Plan/scheme of mining, for minerals



notified as “minor minerals” on or after 10th February, 2015.

It may kindly be ensured that this would be a transitory provision only for a period of two years (i.e. till two years from the date of issue of this letter) in which time the state governments should build up the capacity of their respective DMGs for approving Mining Plans for all minerals notified as ‘minor minerals’.

In this regard IBM has been authorized only to the extent of approving the Mining Plans/scheme of mining; (ii) modify Mining Plan/scheme of mining, for minerals notified as “minor minerals” on or after 10th February, 2015”.

34. Clause 2 of letter dated 12.7.2017 (Annexure-10) prescribes that;

“To resolve the above said problem, as a transitory provision only for a period of two years (w.e.f. 27.7.2015 to 26.7.2017), the Ministry vide its letter dated 27.7.2015 had authorized Indian Bureau of Mines (IBM) to (i) approve the Mining Plans scheme of mining; (ii) modify Mining Plan/scheme of mining, for minerals notified as ‘minor minerals’ on or after 10th February, 2015”.



35. Clause 5 of the aforesaid letter speaks that IBM shall also continue to approve the Mining Plans of mining leases of newly notified 31 minerals for a further period of two years up to 25.5.2019.

36. The Respondent No. 5 has stated in the counter affidavit that after notification of the silica stone as minor mineral in the year 2015, the State Government had come out with Bihar Minor Mineral Rules, 2017 wherein Department was given power to approve the Mining Plan in such matters. However, this Rule, 2017 got stayed vide order dated 27.11.2017 passed in CWJC No. 15965 of 2017 and other batch cases. There is no provision in the Bihar Minor Mineral Concession Rules, 1972 regarding sanction of Mining Plan in case of silica stone and therefore, the State Government is not competent to approve the Mining Plan till any such provision is enacted by the legislature.

37. This Court finds that Hon'ble High Court vide order dated 27.11.2017 passed in CWJC No. 15965 of 2017 and its batch cases (Annexure-19) has stayed the new Bihar Minor Mineral Rules, 2017 in its totality until further orders. The Hon'ble High Court has further observed in the aforesaid order that in view of the stay of the New Rules, i.e. Bihar Minor Mineral



Rules, 2017, the other existing Rules will come into force for the time being.

38. The State of Bihar had gone in the SLP before Hon'ble Supreme Court against the aforesaid order vide Special Leave to Appeal (C) No. 33129 of 2017 (Annexure-20) wherein the Hon'ble Supreme Court has held that; "Both the parties have also agreed that without prejudice to their rights and contentions, the Bihar Minor Mineral Concession Rules, 1972 [hereinafter referred to 'the 1972 Rules'] would be applicable until the decision of the petitions pending before the High Court along with lease conditions".

39. In this manner, the contention of the State Government (Respondent No. 5) as made in the counter affidavit that after stay of Bihar Minor Mineral Rules, 2017 by this Hon'ble Court, there is no provision in the Bihar Minor Mineral Concession Rules, 1972 regarding sanction of Mining Plan in case of silica stone is not sustainable in the eye of law.

40. This Hon'ble Court in CWJC No. 15965 of 2017 (Annexure-19) has clearly stated that in view of the stay of the New Bihar Minor Mineral Rules, 2017, the other existing Rules will come into force for the time being.



41. Similarly, the Hon'ble Supreme Court in SLP(C) No. 331 of 2017 has stated that *“both the parties have agreed and without prejudice to the rights and contentions, the Bihar Minor Mineral Concession Rules, 1972 (hereinafter referred to ‘the 1972 Rules’)* would be applicable until the decision on the petitions pending before the High Court along with lease conditions”.

42. This Court finds that State Government has not modified the Rules 15 of MMDR Act, 1957 authorizing the Indian Bureau of Mines, to approve the Mining Plan of State Government.

43. It is evident from Annexure-15 which is letter issued by Government of India, Indian Bureau of Mines, dated 7.5.2019, that Mining Plan submitted by the petitioner for approval was returned on the ground that Indian Bureau of Mines has been authorized to approve the Mining Plan under Section 5(2)(b) of MMDR Act, 1957 and rules made there under which is not applicable in the instant case.

44. The State Government has notified Bihar Minor Mineral Rules, 2017 vide letter dated 27.7.2017 and 12.7.2017. As per Bihar Minor Mineral Rules, 2017, the Collector has been



authorized to approve the Mining Plan for minor minerals under Rule 19 of the said Rules.

45. The Indian Bureau of Mines has refused to entertain the petition of the petitioner for approval of Mining Plan on the ground that as per Bihar Minor Mineral Rules, 2017, the IBM is not authorized to approve the Mining Plan in the instant case.

46. Thereafter, the fresh application was filed by the petitioner for approving the Mining Plan on 25.2.2019 of Jalwa Quartz & Quartzite mine (area-19.80 hec) which was returned by the IBM on the following grounds.

“As per letter No. 16/106/2015-M.VI dated 27th July, 2015 issued by the Ministry of Mines, Govt. of India, to the Principal Secretaries i/c. of Mines Departments of all the States Governments/UTs, State Governments which are facing problems in approval of Mining Plan may have their respective Minor Mineral Concession Rules framed under Section 15 of the MMDR Act, modified to the extent of including a provision authorizing Indian Bureau of Mines to (i) approve Mining Plans/scheme of mining, (ii) modify Mining Plan/scheme of mining, for minerals notified as minor minerals on or after 10th February, 2015



In the submitted Review of Mining Plan, there is no mention about the aforesaid modification made by the concerned State Government of Bihar. As per the information available in this office, Indian Bureau of Mines (IBM) has not been authorized to approve Mining Plans/schemes of mining of minor minerals (notified on 10.2.2015) in the State of Bihar, Jharkhand and West Bengal, So far”.

47. Thereafter, the petitioner again filed application for approval of Mining Plan in compliance of the order of this Court dated 18.4.2019 passed in CWJC No. 8363 of 2019.

48. The aforesaid representation submitted by the petitioner before the IBM was returned by letter dated 24.5.2019 issued by Govt. of India, Ministry of Mines (Indian Bureau of Mines) as contained in Annexure 18. The IBM has given mainly two reasons for returning the representation of the petitioner as mentioned in Clause 2 and 3 of the aforesaid letter which are as follows:

“The Indian Bureau of Mines is authorized to approve the Mining Plan of Major Minerals under Section 5(2)(b) of MMDR Act, 1957 and rules made there under. In accordance with Section 14 of



MMDR Act, 1957, “The provision of Sections 5-13 (inclusive) shall not apply to the quarry leases, mining leases of other mineral concessions in respect of minor minerals”

Ministry of Mines vide its letter No. 16/106/2015-MVI, dated 27th July, 2015 followed by letter No. 16/106/2015-MVI, dated 12th July, 2017 issued directions in line with the statute to facilitate the approval of Mining Plans for 31 minor minerals published in Gazette of India S.O. 423(E), dated 10th February 2015) for limited period, which in turn stipulate the modifications in the Minor Minerals Rules to be enacted by the State Government under section 15 of the MMDR Act, modified to the extent of including a provision authorizing IBM to approve Mining Plans/scheme of mining/modify Mining Plans for minerals notified as “minor minerals” on or after 10th February, 2015, in the light of provisions contained under section 14 of MMDR Act, 1957.

As per Rule 22(1) of Bihar Minor Mineral Concession Rules 1972 (amended in 2014) State Government or any person authorized in this behalf by the State Government is authorized to approve Mining Plan for minor minerals, therefore the



authority of approving Mining Plan of minor mineral exists with the State Government of Bihar not with Indian Bureau of Mines”.

49. As mentioned above, this Hon’ble Court in CWJC No. 15965 of 2017 (Annexure-19) and Hon’ble Supreme Court in SLP (C) No. 33129 of 2017 (Annexure-20) have held that Bihar Minor Mineral Concession Rules, 1972 would not be applicable until the decision on the petitions pending before the Hon’ble High Court.

50. The Mineral in question i.e. Quartz & Quartzite have been notified as “Minor Minerals” as per Gazette Notification S.O. 423(E) dated 10.2.2015 (Annexure-6) to the writ petition.

51. Therefore, this Court is of the view that the State Government in terms of Rule 22 (1) of Bihar Minor Mineral Concession Rules 1972 or any person authorized in this behalf by the State Government, is authorized to approve Mining Plan for minor minerals. The authority of approving Mining Plan of minor mineral exists with the State Government of Bihar and not with Indian Bureau of Mines.

52. The IBM is not authorized to approve the Mining Plan for minor minerals unless the State Authority makes necessary modification in Bihar Minor Mineral Concession



Rules to the extent of including provisions of approving Mining Plan by IBM under Section 15 of the MMDR Act.

53. The IBM will get necessary power to approve Mining Plan of Newly notified 31 minor minerals only after modification made by the State Government in Section 22(1) of Bihar Minor Minerals Concession Rules, 1972, authorizing IBM to approve the Mining Plan by exercising power under Section 15 of MMDR Act.

54. The Government of India, Ministry of Mines has stated in clause 5 of its letter dated 27.5.2015 (Annexure-8) that the State Governments which are facing problem in this regard may have their respective minor mineral concession rules, framed under Section 15 of the MMDR Act, modified to the extent of including a provision authorizing IBM to (i) approve Mining Plan/scheme of mining (ii) modify Mining Plan/scheme of mining of minerals notified as “minor Minerals” on or after 10th February, 2015.

55. Therefore, this Court does not find any illegality in the impugned order dated 24.5.2019 passed by the Indian Bureau of Mines by which it has returned the Mining Plan of the petitioner.



56. In the facts and circumstances stated above, the authority for approving Mining Plan of Mining leases of Quartz & Quartzite which has been declared to be ‘minor minerals’ as per Gazette Notification S.O.423(E) dated 10.2.2015 (Annexure-6) is with the State Government.

57. The State Government is authorized to approve the Mining Plan of Quartz & Quartzite (Silica Stone) in terms of Rule 22(1) of Bihar Minor Mineral Concession Rules, 1972.

58. The Respondent No. 5 is directed to take immediate step for approving the Mining Plan of petitioner in terms of Rule 22(1) of Bihar Minor Mineral Concession Rules, 1972 and pass appropriate order in accordance with law within a period of one month from the date of receipt/production of copy of this order.

59. This writ application is accordingly disposed off.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	30/07/2019
Uploading Date	17/08/2019
Transmission Date	

