

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 446 of 2019**

*{Arising out of order dated 26.02.2019 passed by the learned Single Judge in Writ
Petition No. 177 of 2005}*

1. M/s Chhattisgarh Minerals and Smelting Limited, a company Through Shri K. Gopalarathnam, S/o Late Shri K. Narshimarao, aged about 58 years, at present Executive Director of M/s Chhattisgarh Minerals Raipur, Chhattisgarh having its registered office at Plot No. 5, Urla Industrial Area Post Office Birgaon.
2. K. Gopalarathnam, S/o Late Shri K. Narshimarao, aged about 58 years, at present Executive Director of M/s Chhattisgarh Minerals and Smelting Limited, R/o D-4, 2nd Floor, Ekatma Parsar, Raipur (C.G.)

---- Appellants**Versus**

1. State of Chhattisgarh, Through – The Secretary, Department of Mineral Resources, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. The Chhattisgarh Mineral Development Corporation Limited 27/520, New Shanti Nagar, Shankar Nagar Road, Raipur (C.G.)

---- Respondents

For Appellants	:	Shri A.S. Rajput, Advocate.
For Respondent No.1/State:	:	Shri Vikram Sharma, Deputy Government Advocate.
For Respondent No. 2	:	Shri Yogesh Pandey, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board**Per P. R. Ramachandra Menon, Chief Justice****21.11.2019**

1. The writ petition is filed with the following prayers:

“1. Petitioners seek quashing of the notice dated 23.10.2002 without which the petitioner claims for the main relief have no meaning on the grounds that it is contrary to the provisions of M.P. State Re-Organisation Act 2000 agreement as well as on the grounds of malice and arbitrariness and based upon non-est. Grounds.

2. Therefore it is Prayed that this Hon'ble Court be pleased to hold that Non-issuance of mining lease and non-renewal of prospective licence is violative to his fundamental rights guaranteed under Article 14, 19 (i) (g) and 21 of the Constitution of India and further be pleased to issue appropriate write of order:-

(a) To the respondents so that mining lease may be granted to the respondent no. 2 for the benefit of the petitioner so that the petitioner may get uninterrupted supply of raw material for its plant.

(b) Appropriate writ or order to the respondents so that prospecting license may be renewed.

3. Therefore it is Prayed by this Hon'ble Court that the respondents may be directed by appropriate writ or direction or order to assign/transfer its leased-hold rights for mining of tin-ore and other minerals and further be pleased to direct to assign/transfer of leasehold rights to Joint Venture Company for a minimum period of 20 years, with rights of successive renewal.

4. It is also submitted that despite the all efforts made by the petitioner, for nomination of new nominated Directors, in place of the Directors who resigned, the Respondent No. 2 did not nominate any person in their place and therefore the respondent no. 2 be directed by appropriate writ to nominate two directors in petitioner company.

5. Therefore it is prayed that this Hon'ble Court be pleased direct the respondent no. 2 to provide all available data with it or State Government without cost.

6. That, the petitioner shall suffer irreparable loss if the areas earmarked for mining of tin ore allowed to be used either by respondents or any other company, and loss so sustained cannot be compensated by way of money.

7. Any other relief which this Hon'ble Court deems fit and proper may also be awarded in favour of the present petitioner."

2. The case of the Petitioners/Appellants was considered by learned Single Judge and the grievance projected with reference to the termination of Joint Venture agreement for obtaining a prospecting licence, as per the proceedings dated 23.10.2002 issued by 2nd Respondent without notice to the Petitioners, was declined to be acted upon, for the delay and laches on the part of the Petitioners and for such other reasons as dealt with in paragraph 9 of the verdict which is reproduced below:

“In the case in hand, no explanation has been offered by the petitioner for the delay in filing to this petition. The main grievance of the petitioner is with respect to non-issuance of mining lease and non-renewal of prospective licence. The contract between the petitioner and M.P. State Mining Corporation had been of dated 28.10.1996. This agreement was for exploration and exploitation of tin-ore from the notified mining areas and it was the responsibility of M.P. Mining Corporation to provide for the lease and mining rights to another company in the JVC. The prospective licence was issued to M.P. State Mining Corporation. This prospective licence was not issued in favour of the petitioner and neither there is anything on record to show that the rights for exploration and exploitation were transferred to JVC, as agreed in the agreement dated 28.10.1996 in the last line of Clause-2, that later on whole rights shall be given to JVC for a minimum period of 20 years which were never transferred to petitioner. Therefore, it cannot be said that the grievance of petitioner arose for the first time on issuance of the notice dated 28.10.2002. Under these circumstances it appears that the petitioner has failed to raise the dispute and seek redressal of his grievance in the appropriate time. Hence, in view of the decision in the matter of State of Uttranchal's case (supra) and other judgments referred in this order, it is found that on account of delay on the part of the petitioner, this petition is not maintainable.”

It is against the said verdict that the present appeal has been preferred.

3. Heard Shri A.S. Rajput, the learned counsel for the Appellants, Shri Vikram Sharma, Deputy Government Advocate for the State and Shri Yogesh Pandey, the learned counsel appearing for the Respondent No. 2.
4. It is brought to the notice of this Court that, a prospecting mining licence was sought for, on the strength of joint venture agreement entered into between the Petitioner and the State Mining Corporation Limited. Because of the circumstances, which were found not palatable to the 2nd Respondent, the joint venture agreement was put an end to by the said Respondent, as per the proceedings dated 23.10.2002.
5. The learned counsel for the Appellants submits that various representations were preferred on 30.11.2002, 02.02.2004, 05.02.2001, 24.04.2004 and

03.07.2004 to have the grievance considered and redressed. Since no positive response was forthcoming, the Appellants were constrained to move this Court by filing writ petition with the prayers as mentioned above.

6. After hearing both the sides and after considering the reasoning given by the learned Single Judge, we do not find it as a fit case to call for interference. If the Appellants are aggrieved in any manner, because of the course of action pursued by the 2nd Respondent, it is always open for them to pursue other appropriate remedy in accordance with law. Without prejudice to such rights and liberties, if sustainable as per the relevant provisions of law, interference is declined. The writ appeal stands dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge