

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Petition (C) No. 2690 of 2019

Deepak Kerma, Age about 42 years, S/o Late Shri Mahendra Kerma,
 R/o Mandir Para, Dantewada, Tahsil - Dantewada, District- South
 Bastar, Dantewada, (C.G.).

---- **Petitioner**

Versus

1. State of Chhattisgarh Through its Secretary, Mineral Resources Department, New Mantralaya, Mahanadi Bhavan, Village-Rakhi, District-Raipur (C.G.).
2. Director, Director of Geology & Mining, Indravati Bhavan, New Raipur, Village- Rakhi, District - Raipur (C.G.).
3. The Collector (Mining Section) Dantewada, South Bastar (C.G.).

---- **Respondents**

For Petitioner	: Mr. Yogesh Pandey, Advocate
For Respondent/State	: Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order On Board

05/08/2019

1. This writ petition has been filed by petitioner Under Article 226 of the Constitution of India challenging the legality, validity and propriety of impugned order dated 04/08/2017 passed by Secretary, Mineral Resources Department, Raipur (C.G.) in Appeal No.F-4-1/2017/12.
2. The case of the petitioner is that the Collector, South Bastar, Dantewada had allowed the application dated 14/02/2011 for grant of lease vide its order dated 27/05/2011 for a period of ten years. The order of granting lease has been cancelled on 06/08/2015 for non-compliance of the Rule 26 of the Chhattisgarh Minor Mineral Rules, prevailing at that time on the ground that the petitioner failed to

execute lease agreement. The said order was challenged by the petitioner before the Appellate Authority i.e. the Director, which was dismissed vide order dated 21/09/2016 holding that the petitioner failed to execute lease agreement within a period of three months.

3. Against the order passed by Director, petitioner preferred appeal before the State Government and the State Government dismissed the second appeal holding that the order dated 06/08/2015 has not been challenged before the Appellate Authority.
4. After arguing for sometime, learned counsel for the petitioner submits as the order of Director, who is the Appellate Authority itself very specifically mentions that order impugned therein is 06/08/2015, but in the impugned order, State Government arrived at a conclusion that order dated 06/08/2015 has not been made to challenge before any Appellate Authority, which is contrary to the pleadings made in the memo of appeal presented before the Director as well as Annexure P-9 order passed by Director in first appeal.
5. In view of above, learned counsel for the petitioner seeks to withdraw this writ petition with liberty to file a review application before the Appellate Authority as provided under Rule 79 of the Chhattisgarh Minor Mineral Rules, 2015.
6. The prayer made by learned counsel for petitioner is allowed. The writ petition is dismissed as withdrawn with the aforesaid liberty.
7. However, if the petitioner files any review application against the impugned order, then the competent authority shall decide the review

application on its own merits strictly in accordance with law. It is made clear that this Court has not expressed any opinion on the merit of the case or any other issue to be decided by the said authority.

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh