

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

***WRIT PETITION NOS. 606, 644/2014, 176, 183, 507,
571/2015 & 516, 517/2019.***

WRIT PETITION NO. 606 OF 2014

1. Fomento Resources Private Limited,
having its registered office at
Casa Del Sol, Casa 3-325, next to
Goa Mariott, Miramar,
Panaji, Goa 403 001 (substituted
pursuant to order dated 10/2/2015
by deleting (Prime Mineral Exports
Private Limited, having its registered office at
F1, First floor, Oceanic Apartments,
behind Hanuman Temple, Miramar,
represented herein by its Director
Dileep Verlekar, Resident of
Kamat Royale, Caranzalem-Goa)

2. Dileep Verlekar,
aged 58 years, r/o.
Kamat Royale, Caranzalem-Goa,
Indian national, a Director of the
Petitioner No.1)

..... Petitioners.

Versus

1. Union of India,
Ministry of Mines,
through its Secretary,
Shastri Bhavan, New Delhi,

2. State of Goa,
through its Chief Secretary,
having office at Secretariat,

Porvorim, Goa.

3. The Director,
Directorate of Mines & Geology,
Govt. of Goa, Udyog Bhawan,
Panaji, Goa.

..... Respondents.

Mr. Rafiq Dada, Senior Advocate with Mr. Parag Rao, and Ms. Swati Kamat, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent No.1.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent Nos. 2 & 3.

WRIT PETITION NO. 644 OF 2014

1. M/s. Timblo Enterprises,
Partnership Firm, registered under the
Indian Partnership Act, 1932,
having its Principal place of business
at Kadar Manzil, Margao, Goa

2. Mrs. Radha Satish Timblo,
Partner of Petitioner No.1
aged 60 years, Indian National,
Resident behind Hotel Neo Majestic,
Porvorim, Bardez, Goa.

.... Petitioners.

Versus

1. Union of India,
through its Secretary (Mines),
Shastri Bhavan, New Delhi,

2. Ministry of Finance,
through its Secretary,

North Block, New Delhi.

3. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Bardez, Goa.

4. Director of Mines and Geology,
Directorate of Mines & Geology,
Institute Menezes Braganza,
Panaji, Goa.

..... Respondents.

Mr. Nitin Sardesai, Senior Advocate with Ms. Gautami Kamat and
Mr. Parikshit Sawant, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent Nos.1 & 2.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent
Nos. 3 & 4.

WRIT PETITION NO. 176 OF 2015

1. M/s. V.M. Salgaocar Sales International
a registered Partnership Firm
having its Registered Office at
Salgaocar House, Dr. F.L. Gomes Road,
Vasco-Da-Gama, Goa by
Mr. Zelukas A. Braganca, major of age,
constituted attorney.

2. Mr. Shivanand V. Salgaocar,
Partner of Petitioner No.1
Salgaocar House, Dr. F.L. Gomes Road,
Vasco-Da-Gama, Goa
major in age.

.... Petitioners.

Versus

1. Union of India,
by the Secretary (Mines),
Ministry of Mines,
Government of India,
Shastri Bhavan, New Delhi 110 001

2. State of Goa,
by its Chief Secretary,
Secretariat,
Porvorim, Goa.

3. Director of Mines and Geology,
Government of Goa,
Directorate of Mines & Geology,
Menezes Braganza Institute,
Panaji, Goa.

..... Respondents.

Mr. A.F. Diniz, with Mr. Ryan da Piedade Menezes, Gina Almeida,
and Nigel Fernandes, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent No.1.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent
Nos. 2 & 3.

WRIT PETITION NO. 183 OF 2015

1. V.M. Salgaocar & Brother Pvt. Ltd.
a Company set up under the
Companies Act, 1956 with its
Registered Office at
Salgaocar House, Dr. F.L. Gomes Road,
Vasco-Da-Gama, Goa by its duly
authorised Dy. General Manager – Legal,
Mr. Ashwyn Kumar R. Nayak, major in age,

2. Mr. Shivanand V. Salgaocar,
Shareholder of Petitioner No.1 Company
Residing at “Hira Vihar” Airport Road,
Chicalim, Goa 403 711
major in age.

.... Petitioners.

Versus

1. Union of India,
by the Secretary (Mines),
Ministry of Mines,
Government of India,
Shastri Bhavan, New Delhi 110 001

2. State of Goa,
by its Chief Secretary,
Secretariat,
Porvorim, Goa.

3. Director of Mines and Geology,
Government of Goa,
Directorate of Mines & Geology,
Menezes Braganza Institute,
Panaji, Goa.

..... Respondents.

Mr. A.F. Diniz, with Mr. Ryan da Piedade Menezes, Gina Almeida,
and Nigel Fernandes, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent No.1.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent
Nos. 2 & 3.

WRIT PETITION NO. 507 OF 2015

1. Timblo Private Limited,
A Company incorporated under the

Companies Act, 1956,
having its Registered Office
at Kadar Manzil, Margao, Goa 403 601.

2. Mr. Varun Vishwas Vaigankar,
Son of Vishwas Vaigankar,
major in age, residing at
Rami, near Football Ground
Betim, Bardez, Goa.

.... Petitioners.

Versus

1. Union of India,
through its Secretary (Mines),
Shastri Bhavan, New Delhi,

2. Ministry of Finance,
through its Secretary,
North Block, New Delhi.

3. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Bardez, Goa.

4. Director of Mines and Geology,
Directorate of Mines & Geology,
Institute Menezes Braganza,
Panaji, Goa.

..... Respondents.

Mr. Nitin Sardesai, Senior Advocate with Ms. Gautami Kamat and
Mr. Parikshit Sawant, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent Nos.1 & 2.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent

Nos. 3 & 4.

WRIT PETITION NO. 571 OF 2015

1. Sociedade de Fomento
Industrial Private Limited,
having its registered
Office at Vila Flores de Silva
Erasmus Carvalho Street,
Margao, Goa, represented herein
by its Director
Francisco Lume Pereira,
residing at 33/212,
Senaulim, Verna, Goa 403 722,

2. Mr. Auduth Timblo,
Son of late Modu Timblo,
r/o. La-Marvel Colony, Dona Paula,
Goa, represented by his POA holder
Francisco Lume Pereira,
residing at 33/212,
Senaulim, Verna, Goa 403 722

.... Petitioners.

Versus

1. Union of India,
Ministry of Mines,
through its Secretary,
Shastri Bhavan, New Delhi,

2. Ministry of Finance,
Department of Revenue,
through its Secretary,
Govt. of India,
North Block, New Delhi 110 001,

3. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa.

4. The Director,
Directorate of Mines & Geology,
Govt. of Goa,
Udyog Bhawan,
Panaji, Goa.

..... Respondents.

Mr. Rafiq Dada, Senior Advocate with Mr. Parag Rao, and Ms. Swati Kamat, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent Nos.1 & 2.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent Nos. 3 & 4.

WRIT PETITION NO. 516 OF 2019

1. Rajaram Bandekar (Sirigao)
Mines Pvt. Ltd.
a company set up under the
Companies Act, 1956, having
its registered Office at 601,
6th Floor, Dr. Ozler Forum,
near St. Andrews' Church,
Vasco-Da-Gama, Goa 403802,
represented herein by its duly
authorised General Manager,
Felix Fernandes, major, having his
Office at 601,
6th Floor, Dr. Ozler Forum,
near St. Andrews' Church,

2. Mr. Narayan R. Bandekar,

major of age, businessman,
Shareholder & Managing Director
of Petitioner No.1, resident of
Bandekar Mansion,
Vasco da Gama, Goa 403 711.

.... Petitioners.

Versus

1. Union of India,
by the Secretary (Mines),
Ministry of Mines,
Government of India,
Shastri Bhavan, New Delhi 110 001

2. State of Goa,
by its Chief Secretary,
Secretariat,
Alto Porvorim, Bardez, Goa.

3. Director of Mines and Geology,
Government of Goa,
Directorate of Mines & Geology,
Udyog Bhavan, 2nd Floor,
Panaji, Goa.

..... Respondents.

Mr. A.F. Diniz, with Mr. Ryan da Piedade Menezes, Gina Almeida,
and Nigel Fernandes, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent No.1.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent
Nos. 2 & 3.

WRIT PETITION NO. 517 OF 2019

1. Rajaram N.S. Bandekar & Co.
Pvt. Ltd., a company set up under the

Companies Act, 1956, having
its registered Office at 601,
6th Floor, Dr. Ozler Forum,
near St. Andrews' Church,
Vasco-Da-Gama, Goa 403802,
(through its duly authorised Group
General Manager,
Felix Fernandes, major, having his
Office at 601, 6th Floor,
Dr. Ozler Forum,
near St. Andrews' Church,
Vasco da Gama, Goa.)

2. Mr. Narayan R. Bandekar,
major of age, businessman,
Shareholder & Managing Director
of Petitioner No.1, resident of
Bandekar Mansion,
Vasco da Gama, Goa 403 711
(through his lawful attorney
Felix Fernandes, major, having his
Office at 601, 6th Floor,
Dr. Ozler Forum,
near St. Andrews' Church,
Vasco da Gama, Goa.).

.... Petitioners.

Versus

1. Union of India,
by the Secretary (Mines),
Ministry of Mines,
Government of India,
Shastri Bhavan, New Delhi 110 001

2. State of Goa,
by its Chief Secretary,

Secretariat,
Alto Porvorim, Bardez, Goa.

3. Director of Mines and Geology,
Government of Goa,
Directorate of Mines & Geology,
Udyog Bhavan, 2nd Floor,
Panaji, Goa.

..... Respondents.

Mr. A.F. Diniz, with Mr. Ryan da Piedade Menezes, Gina Almeida,
and Nigel Fernandes, Advocates for the Petitioners.

Mr. Mahesh Amonkar, Standing Counsel for Respondent No.1.

Mr. Pravin Faldessai, Additional Govt. Advocate for Respondent
Nos. 2 & 3.

***Coram : S.C. Gupte &
Nutan D. Sardesai, JJ.***

Date : 2nd July, 2019.

ORAL JUDGMENT : (Per S.C. Gupte, J.)

This group of petitions challenges a commission of inquiry report called “The Third Report dated 14 October 2013 under the Commission of Inquiry Act of Mr. Justice M.B. Shah (Retired)”, in so far as it relates to purported findings and recommendations in it *vis-a-vis* the Petitioners. The petitions also seek a writ of mandamus, commanding the Respondents-State, Respondent No.1 being the Union and Respondent No.2 the State of Goa, not to act in any manner in furtherance of the Shah Commission Report.

2. The Petitions contain allegations of more or less similar nature, though individual facts and particulars concerning each of the Petitioners may be different. The thrust of their contentions, however, is the same. All the Petitioners complain of serious violation of principles of natural justice, particularly having regard to the procedure required to be followed by the Commission and, in particular, Section 8-B and 8-C of the Commission of Inquiry Act, 1952. These latter provisions mandate that persons, who are likely to be prejudicially affected by the proceedings or report of the Commission, have to be heard and should also have the right of cross examination and representation by a legal practitioner. It is the grievance of all the Petitioners that prejudicial findings, which tend to affect their reputation, have been rendered by the Commission against them without following these mandatory provisions. Considering the nature of the Petitioners' grievance, Writ Petition No.606/2014 is taken as the lead Petition, the facts and averments in which are set out and discussed in the order below as representative facts. Petitioner No.1 in Writ Petition No.606/2014 is said to be a trader and exporter of iron ore/coal/coke, etc. Petitioner No.2 is its director.

3. In view of reports received from various State Governments of widespread mining of iron ore and manganese ore

in contravention of various laws, the Central Government, sometime in November 2010, appointed a Commission of Inquiry under the Chairmanship of Shri Justice M.B. Shah (Retired) ('Commission'). The Commission was appointed under Section 3 of the Commission of Inquiry Act, 1952 ('Act'). The terms of reference of the Commission included inquiry into, and determination of, the nature and extent of mining, trade and transportation of iron ore and manganese ore done illegally or without lawful authority and the losses arising therefrom, as also identification of, as far as possible, the persons responsible, and of the extent to which the regulatory and monitoring systems had failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore done illegally or without lawful authority and the persons responsible for the same. The Commission was expected to also recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority.

4. The Commission appears to have prepared its report into three parts, two of which were already before the Supreme Court of India and considered by it when a matter was carried by Goa Foundation in a Public Interest Petition before the Supreme Court under Article 32 of the Constitution of India, on the basis of the Commission report, praying *inter alia* for directions to the Union of India as well as State of Goa to take steps for termination of mining

leases issued in the State in violation of various laws and for incidental and consequential reliefs. These two parts of the report are not the subject matter of the present petitions.

5. What is challenged in the present petitions is the Third Report of the Commission, prepared sometime in October, 2013. The Commission has made various observations and recommendations in this report. These pertain to (i) quantities of ore extracted beyond annual permitted quantities without authority of law, and extracted and transported without paying royalty; (ii) illegal exports, particularly by means of under-invoicing; (iii) illegal transportation of mineral ores without obtaining requisite permits, etc. Based on the report, Respondent No.1-Union has prepared a memorandum of action taken. The Petitioners are aggrieved by the adverse remarks in the Third Report concerning their business, particularly involving allegations of under-invoicing in export of iron ore by the Petitioners, as also actions, particularly on the part of Union of India, based on such adverse remarks.

6. In particular, it is submitted by the Petitioners that the Third Report makes adverse remarks against the them, alleging under-invoicing, evasion of payment of export duty, etc. by erroneously considering some stray material available in public realm, without giving any notice to the Petitioners and without allowing

them to explain this material. By way of examples, various instances have been cited by the Petitioners. It is submitted that the Commission, by considering shipping bills and their dates (erroneously) alone and without reference to the contracts of sale and their dates, has concluded that the export prices disclosed by the Petitioners were less than those charged by other exporters, and this indicated under-invoicing. For arriving at this finding, the Commission has taken into account shipping bills of the same dates of other exporters, again without reference to the dates of the respective contracts of sale and arithmetically compared FOB prices. In the first place, for this analysis, the Commission has used material called from various departments such as Customs, Captain of Ports, Goa Minerals Ores Export Association, etc. without allowing the Petitioners to explain the material to the Commission. It is submitted that for comparing FOB prices of different exporters, the Commission has laid emphasis primarily on criteria such as the Fe grade of the ore exported, dates of shipping bills, etc. It is submitted that Fe grade by itself is not determinative of the price of the ore; there could be impurities such as alumina, silica, etc., which would have a bearing on the price. Even the quantity of iron ore may have a material bearing on the FOB prices. So also, there could be important factors such as market conditions, reputation of the concerned exporter, nature of the contract – whether long term or short term, financial status of the counter- parties, etc. which may

have a substantial bearing on the export price. The Petitioners have referred to the tables and annexures forming part of the Commission report in this behalf and contrasted them with indices, such as Platt's price index, to buttress their submissions. It is submitted that even well-known international price indices would indicate a price difference of as much as \$ 4 for the same Fe grade. It is submitted that the price of ore thus depends not merely on the Fe grade of its contents, but also several other factors indicated above. It is submitted that the Commission has also failed to appreciate that it is the date of the contract of sale which is relevant for fixation of price and not the date of shipping of the export goods. It is submitted that the Commission has not considered at all the dates of the contracts whilst arriving at its findings on under-invoicing. Various other infirmities in the analysis of the Commission have also been pointed out. In other words, the comparison made by the Commission is said to be essentially between incomparables.

7. Mr. Dada, learned Senior Counsel appearing for the Petitioners, submits that the Act makes several provisions concerning the procedure to be followed by a Commission of Inquiry. In particular, he draws our attention to Sections 8-A, 8-B and 8-C of the Act. Section 8-B provides for opportunity to be given to a person of being heard in the inquiry and to produce evidence in his defence, if the Commission, at any stage of the inquiry, considers it necessary to

inquire into the conduct of such person, or is of the opinion that his reputation is likely to be prejudicially affected by the inquiry. Section 8-C reserves unto such person the right to cross-examine witnesses other than the one/s produced by him. It allows the noticee to address the Commission and be represented before it by a legal practitioner or with the permission of the Commission, by any other person. Mr. Dada relies on several judgments, including the judgments in the cases of *State of Bihar vs. L.K. Advani*, reported in 2003 (8) SCC 361, and *Kiran Bedi vs. Committee of Inquiry and another*, reported in 1989 (1) SCC 494. Relying on these judgments, it is submitted that notice to a person, whose conduct is being inquired into or who is likely to be prejudicially affected by the inquiry, is a *sine qua non* for such inquiry and any failure to comply with this requirement, contained in Section 8-B, would render the inquiry and its findings non-est. Learned Counsel submits that right to representation has been held to be an important part of the fundamental right to life and liberty, and hence, the right of an individual to be heard, before being adversely remarked by the Commission of Inquiry, is statutorily recognized in Section 8-B. He submits that the Commission not only ought to have noticed the Petitioners for showing cause, but allowed them to even cross examine witnesses and be represented by a legal practitioner as is mandated by Section 8-C of the Act. Learned Counsel submits that since these mandatory provisions were not complied with, the

findings and recommendations of the Commission, so far as the Petitioners are concerned, are illegal, null and void, and ought to be quashed and set aside.

8. Learned Counsel in other petitions who followed Mr. Dada, also make similar submissions. Mr. Diniz, learned Counsel appearing for the Petitioners in Writ Petition Nos. 176/2015, 183/2015, 516/2019 and 517/2019, offers additional factual comments on the report, particularly concerning the insinuation therein of evasion of export duty on the part of his clients. Learned Counsel submits that there was no export duty in the case of exports made by his clients around the relevant time. Learned Counsel relies on the judgments of Punjab and Haryana High Court in the cases of *Manjinder Kaur vs. State of Punjab and anr.*, CWP No.1272 of 2018 dated 27.8.2018; and *Bhupinder Singh Hooda vs. State of Haryana and ors.*, reported in MANU/PH/0119/2019 in support of his submission that any report of a Commission of Inquiry made in contravention of Sections 8-B and 8-C of the Act ought to be treated as non est and quashed.

9. Mr. Faldessai, learned Additional Government Advocate appearing on behalf of the State of Goa, submits that when the first two parts of the report of the Commission were before the Supreme Court in the petition filed by Goa Foundation, the State of Goa

made a categorical assertion, which is recorded by the Supreme Court in paragraph 14 of its Judgment, to the effect that no action would be taken by the Government against mining lessees only on the basis of the findings in the report, without making its own assessment of facts and without first giving such lessees opportunity to produce evidence in their defence. Learned Addl. Govt. Advocate submits that the State adopts and takes the same stand in so far as the Third Report of the Commission is concerned. Learned Advocate submits that this statement holds good not only *vis a vis* mining lessees, but also traders and exporters of ore.

10. Mr. Amonkar, learned Standing Counsel appearing for Union of India, also makes a similar statement on the part of the Union. Learned Counsel submits that the Union would also not take any action against mining lessees or traders or exporters of ore only on the basis of the Commission's report, without making its own assessment of facts, and without first giving opportunity of hearing and to produce evidence to the affected parties.

11. The functions of the Commission, appointed under the Act, and inquiry made in pursuance of the terms of reference of its appointment, are a pure fact finding exercise. Facts found, as also conclusions drawn, by a Commission of Inquiry, are not judicial pronouncements. The report of the Commission neither constitutes

a binding judgment nor a definitive pronouncement. The Commission, as held by the Supreme Court in the case of ***State of Karnataka vs. Union of India***, reported in (1977) 4 SCC 608, is required to submit its report, which may or may not be accepted by the appointing authority. If it is not accepted, it has no legal consequences. The Commission, in other words, has no power to adjudicate in the sense of passing an order which can be enforced. What the Commission says is merely an expression of its opinion; it lacks both finality and authoritativeness.

12. In the present case, both Union of India and the State Government make it clear, at the very outset, that they do not propose to take any action against the individuals named in the report of the Commission only on the basis of the findings of the report. Both Union and State submit that they shall in every individual case make their own assessment of facts and give opportunity of hearing to affected parties in their defence, whenever an action is proposed against such affected parties. In view of these categorical assertions by the Union and the State, there is no tangible reason why this Court should take up the report of the Commission for a judicial scrutiny under Articles 226 and 227 of the Constitution of India.

13. In the case of ***Lal Krishna Advani and ors.*** (supra), the

mandate of the Commission was for inquiring into the facts and circumstances leading to the communal disturbances in the District of Bhagalpur and adjacent areas on 24/10/1989 and thereafter. The Commission was called upon, in particular, to inquire into whether those disturbances were pre-planned and if so, the elements responsible for the same; whether the measures taken by the district administration to prevent and deal with the disturbances were timely and adequate, and fixation of the responsibility for lapses, if any, in that behalf; and, finally, to generally recommend measures for preventing recurrence of such disturbances and other related matters. Whilst dealing with these matters, the Commission made some stray observations against Shri Lal Krishna Advani, who is a well known public figure. These remarks made in the report were, according to Patna High Court (when the matter was carried in a writ petition before it), were uncalled for and not necessary to be made looking to the terms of the reference. In any event, the Court was of the view that these remarks seriously impinged on his reputation as a public figure and adversely affected him in the eyes of people and these parts were liable to be expunged from the report. It is in connection with this part of the order of the High Court that the Supreme Court made the observations about commissions of inquiry and their mandate, particularly in reference to Sections 8-B and 8-C of the Act, which have been relied upon by Mr. Dada. In the backdrop of these facts, the Supreme Court said that the fact that the report is yet to be

considered from the point of view of taking any action on it, is no reason to deny opportunity to the affected party to contest the report. The Court observed that there may in fact be occasions where, after consideration of the report, the Government may decide not to take any action against the person concerned and yet the observations and remarks may be such as would play upon the reputation of the person concerned. The Court noted that this aspect of the matter had been fully taken care of by clause (b) of Section 8-B of the Act. The Court held that it was not, therefore, necessary that one must wait till a decision was taken by the Government to take action after consideration of the report. The Court, in the premises, did not accept the Respondent-State's case that the approach to the Court on the part of Shri Advani was at a premature stage. The judgment of Punjab and Haryana High Court cited by Mr. Diniz makes a similar point.

14. No doubt, these judgments make it clear that wherever the reputation of any person is likely to be prejudicially affected by an inquiry, an opportunity to such person of being heard in the inquiry is mandatory, and in its absence, it is open to such person to approach the Court challenging the report of the inquiry even if there is no action by the appointing authority on the report. We are not here on the jurisdiction of this Court to entertain the petitions or the locus or timing of the Petitioners in approaching this Court. What

we are presently considering is not whether we can, but whether we should, in the facts of the present case, entertain the challenge and quash the report to the extent suggested. In our case, the very terms of reference of the Commission require an inquiry and determination of the nature and extent of mining, trade and transportation of ore done illegally or without lawful authority, and the extent to which regulatory systems could be said to have failed to deter and detect these illegalities. The Commission was not inquiring into the acts of commission or omission of any particular individual, but had to go into the conceived illegalities in a broad-brush manner so as to report them and the approach of regulatory systems in response thereto. In fact, in its very opening statement, the Commission has made it clear that it was not in a position to finalise illegalities or irregularities with regard to the export of ores by individual lessees or their representatives or traders comprehensively due to time constraints. It, therefore, proceeded to focus its attention to some of the general aspects of the controversy. It noticed differences in the prices offered by different exporters upon comparison of various indices. As indicated above, this report is by no means a binding pronouncement either on facts or on law. It is not an adjudication; it is merely a fact finding exercise for the purpose of reporting to the appointing authority about the ground situation pertaining to mining of ore and its exports generally. The so called findings of the Commission, on the basis of facts culled out from material available in public domain,

are mere expressions of opinion on the part of the Commission. No doubt, some of the findings purportedly rendered by the Commission create a suspicion about the business tactics adopted by the concerned individuals and in that sense, may be said to be broadly derogatory. But, as we have noted above, the Commission itself has made it clear that it had not so much gone into individual illegalities or irregularities, but had made a broad assessment of the matters left for its investigation by the appointing authority. For making such assessment, the Commission was per force driven to consider export prices offered by different traders and exporters and, and name them and their prices in tables and annexures forming part of the report. Though an impression is thereby created that the individuals named in the report have indulged into deliberate under-pricing, there is no direct finding of any such under-pricing by any particular trader or exporter.

15. In the premises, in our view, the report of the Commission does not call for any interference in the writ jurisdiction of this Court. The grievance of the Petitioners is primarily of a possible illegal action based exclusively on the findings and recommendations of the Report. If these grievances are addressed in terms of the statements noted above of the Union and the State, there is no particular reason why this Court should still exercise its writ jurisdiction and quash and set aside the report.

16. Accordingly, the Petitions are disposed of by noting and accepting the statements made on behalf of the Union and the State as above. It is made clear that the only ground of challenge, which has really weighed with this Court and which we have considered in our judgment above, is denial of an opportunity to show cause to the Petitioners, in particular reference to Sections 8-B and 8-C of the Act. We have not gone into the merits of individual assertions either of the Commission or by the Petitioners. No order as to costs.

Nutan D. Sardesai, J.

S.C. Gupte, J.