

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2620 of 2020**

Chinmay Mohapatra S/o D. S. Mohapatra, Aged About 42 Years,
Residence Of Village Saraitola, Tahsil Tamnar, District Raigarh,
Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through Secretary / Member Secretary Environment, Forest And Climate Change, (Coal Mining) Government Of India, (MOEF & CC), Indira Paryavaran Bhawan, Jor Bag Road, Aliganj, New Delhi 11003
2. State Of Chhattisgarh Through Secretary, Chhattisgarh Environment Conservation Department Paryavas Bhawan, Sector 19, North Block, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh
3. Chhattisgarh Environment Conservation Board Through Member Secretary, Paryavas Bhawan, North Block, Sector 19, Atal Nagar, New Raipur, District Raipur, Chhattisgarh
4. The Collector Raigarh, District Raigarh, Chhattisgarh
5. The Regional Officer, Environment Conservation Board, Regional Office, TV Road Raigarh, District Raigarh, Chhattisgarh
6. The Chief General Manager, Maharashtra State Power Generation Co. Ltd., HDIL Towers, 4th Floor, Prof. A.K. Marg, Bandra (E) Mumbai 400051

---- Respondents

For Petitioner	:	Mr. Vineet Kumar Pandey, Advocate
For Respondent no.1	:	Mr. Ramakant Mishra, ASG
For Respondents 2 & 4	:	Mr. Sudeep Verma, Dy. Govt. Advocate
For Respondents 3 & 5	:	Mr. Animesh Tiwari, Advocate
For Respondent no.6	:	Dr. N. K. Shukla, Senior Advocate with Mr. Shailendra Shukla & Mr. Arjit Tiwari, Advocates

Hon'ble Shri Justice P. Sam Koshy
Order On Board

02.11.2020

1. The present writ petition has been filed seeking the following relief:

“10.2. The Hon'ble Court may kindly be pleased to issue appropriate writ/order/direction towards the respondent no.1 to consider and decide the representation/objection raised by the petitioner prior making any order in the opinion of expert appraisal committee dated 28.09.2020 with regard to the environment clearance for the coal mining project constitute under the notification 2005 for Gare Pelma Section II Coal Block (Mines) located in Mand, Tahsil Tamnar, Raigarh, District Raigarh (CG) (Annexure P-8) in accordance with law and stipulated period.”

2. The limited relief that the petitioner has sought, is for a direction to the respondent no.1 to consider the representation/objection which the petitioner has filed before the respondent no.1.
3. The contention of the petitioner is that his representation/objection should be considered by the respondent no.1 before granting permission to the respondent no.6 for obtaining mining lease for extraction of coal at Tamnar, District Raigarh.
4. At this juncture, learned senior counsel appearing for the respondent no.6 took an objection in respect of the maintainability of the writ petition on the ground that the issue is already subjudice before the Division Bench of this Court vide WP(PIL) No.92/2019. According to the senior counsel, the said PIL is also in respect of the same issue by the same petitioner, therefore, the subsequent writ petition now is not maintainable.

5. It would be relevant at this juncture to refer to 10.2 of the relief clause in the said PIL filed by the petitioner which for ready reference is reproduced hereinunder:

“10.2 This Hon’ble Court may be kind enough to direct the respondent no.4 not to proceed with the application for grant of environmental clearance to the respondent no.7.”

6. The aspect which needs consideration is that the said PIL was filed as early as in the year 2019 and is still pending consideration before the Division Bench of this Court. There does not appear to be any interim protection granted by the Division Bench.
7. Learned counsel for the petitioner tried to contend that the grievance of the petitioner in the present writ petition is an individual grievance and therefore, the present writ petition is maintainable.
8. That on close scrutiny of the objection which the petitioner has raised in his representation before the respondent no.1 in the present Writ petition and the purpose for which the PIL has been filed seem to be the same where the objection primarily seems to be the alleged non-compliance or violation of the statutory provisions framed by the Govt. which are otherwise mandatorily required for obtaining mining lease for extraction of coal.
9. That on due consideration of the objection that the petitioner has in the present writ petition and the representation that he has made before the respondent no.1 and also on due consideration of the purpose and object behind filing of the PIL, this Court has no hesitation in reaching to the conclusion that both the matters are for one and the same reason, purpose and ground except for the slight cosmetic changes to the words, wordings and terminology used in the two petitions.
10. Given the facts, this Court is of the view that the present writ

petition would not be maintainable and the relief that the petitioner is seeking in the present writ petition can very well be claimed by him by moving appropriate interlocutory application (I.A.) in the said PIL itself, and for which a separate writ petition would not be maintainable.

- 11.** Reserving the right of the petitioner for availing appropriate relief, if he so wants, by moving an interlocutory application in the PIL, the present writ petition in its present form stands dismissed.

**Sd/-
P. Sam Koshy
Judge**