

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 3216 of 2019

Bharat Aluminum Company Limited, A Company Incorporated under the Companies Act, 1956, Having Its Registered Office at Aluminum Sadan, Core-6, Scope Office Complex, 7 Lodhi Road, New Delhi- 110003 And Plant At Balco Nagar, Korba and Mines At Balco Mainpat Sarguja, Through Its Authorized Signatory Gaurav Saini, AGM(Legal).

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Secretary Revenue and Disaster Management Department, Mahanadi Bhawan, Atal Nagar, Raipur.
2. Collector, District Sarguja (Mineral Department), Ambikapur.
3. Deputy Director (Mining) and Mining Officer, Sarguja Ambikapur.

---- Respondents

AND

W.P.(C) No. 3961 of 2019

Ultratech Cement Limited (Hirmi Cement Works) A Company registered under the provisions of the Companies Act, 1956 and having its registered office at 'B' Wing, Ahura Centre, 2nd Floor, Mahakali Caves Road, Andheri, (East) Mumbai - 400093 (Maharashtra) and a Cement Plant/Unit at Hirmi Cement Works Hirmi, Pin 493195 District Baloda Bazar Bhatapara Chhattisgarh, Through Its Authorized Representative.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through : The Secretary, Department of Mineral Resources, Mantralaya, Mahanadi Bawhan, Atal Nagar, Naya Raipur Chhattisgarh.
2. Secretary Department of Revenue and Disaster Management Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh.

3. The Collector (Mining Branch), District Balodabazar Bhatapara Chhattisgarh.
4. The Mining Officer Collectorate, Balodabazar District Baloda Bazar Bhatapara Chhattisgarh.

---- Respondents

For Petitioner : Mr. Raja Sharma, Advocate
(In W.P.(C) No. 3216 of 2019)

For Petitioner : Mr. Ashish Shrivastava, Sr. Advocate
(In W.P.(C) No. 3961 of 2019) with Mr. Aman Pandey, Advocate

For Respondents-State : Mr. Rahul Jha, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/11/2021

1. Both the petitions are heard and decided together by this common order as the similar cause of action has been arisen in both the petitions.
2. W.P.(C) No. 3216 of 2019 has been brought with prayer to quash the impugned demand notice dated 24.06.2019 demanding surface rent for period of 2012 to 2019 being perverse, arbitrary and illegal and also for declaration that the notification F-6/36/Seven-1/2011 dated 27.12.2011 is non est in the eyes of law.
3. W.P.(C) No. 3961 of 2019 has been brought making prayer for quashing the impugned demand letter letter dated 03.06.2019 and 01.07.2019.
4. It is submitted by the learned counsels for the petitioners in both the cases that the erstwhile State of Madhya Pradesh on exercise of powers under Section 59, 60, 71 and 98 read with Section 258 (2) of the Land Revenue Code, 1959 (In Short 'the Code, 1959'), framed Madhya Pradesh Land Under Mining Leases Quarry Leases Assessment Rules, 1987 (hereinafter referred to as 'the Rules, 1987'). These rules were challenged before the Madhya Pradesh High Court in case of **Satna**

Stone and Lime Co. Ltd. & Ors. Vs. State of Madhya Pradesh & Ors, reported in **1988 M.P.L.J. 489**. The Division Bench of Madhya Pradesh High Court has in the judgment held the Rules, 1987 as unreasonable, invalid and violative of Article 14 of the Constitution of India. It was on this basis, this Court considered and granted interim relief by order dated 16.09.2019 and 07.11.2019 respectively.

5. It is further submitted that the respondents/State, then in an arbitrary manner made publication of notification dated 27.12.2011 making amendment in the Rules, 1987 regarding which, the decision in the case of **Satna Stone and Lime Co. Ltd. (supra)** is in force. Therefore, both the petitions were filed challenging the demand notices. It is submitted that in the later development, by the notification No. F-6-36/Seven-1/2011 dated 31.01.2020, the earlier notification dated 27.12.2011 has been repealed, hence, in such situation the demand notice, which are being challenged in both the petitions do not survive any more, hence, both the petitions be disposed off.
6. Learned State counsel submits that subsequent to the publication of notification dated 31.01.2020, the grievances of the petitioners stands redressed, therefore, the petitions do not survive, as both the petitions have become infructuous.
7. Considered on the submissions. The demand notices for recovery of surface rent was issued against the petitioners on the basis of the notification dated 27.12.2011, which was issued under the provisions of Rules, 1987. The Division Bench of Madhya Pradesh High Court has in case of **Satna Stone and Lime Co. Ltd. (supra)** already declared Rules, 1987 as ultra vires. In the subsequent development notification dated 27.12.2011 has been repealed by the notification dated 31.01.2020. Hence, the demand notice issued against the petitioners do not have any force or authority as there is no rule or law prevailing to

make such demand. Hence, these notices do not survive and no recovery can be made on the basis of the notices, which are under challenge in both the petitions. There appears to be no requirement of passing any orders.

8. With these observations, both the petitions are disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram