

ORISSA HIGH COURT: CUTTACK

W.P.(C) NO. 20995 OF 2021

In the matter of an application under Articles 226 and 227 of the Constitution of India.

AFR

Shaswata Pratika Pradhan Petitioner

-Versus-

State of Odisha and others Opp. Parties

For Petitioner : M/s M.K. Mohanty and
M.R. Pradhan, Advocates

For Opp. Parties : Mr. T. Pattnaik,
Addl. Standing Counsel
[O.P. No.1 to 3]

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
HONOURABLE MISS JUSTICE SAVITRI RATHO**

Date of hearing and judgment: 02.05.2022

DR. B.R. SARANGI, J. The petitioner, by means of this writ petition, seeks to quash the letter no.719 dated

09.03.2021 under Annexure-9 issued by the Tahasildar, Bonai-opposite party no.3 cancelling the bid process of Baliatota Sand Bed under Tahasildar, Bonai in the district of Sundargarh, and to issue direction to opposite party no.3 to forward the documents under Annexure-10, along with the relevant documents and certificates mentioned at serial nos.6, 7 and 8 of the list for environmental clearance, for execution of the lease deed in his favour.

2. The factual matrix of the case, in brief, is that in order to lease out for a period of five years from 2019-20 to 2023-24, Baliatota Sand Bed, in river Brahmani, was put to auction. The petitioner submitted his application in Form-M in triplicate for the said sand quarry in sealed cover offering his bid. He paid the application fee of Rs.1,000/-, earnest money and other dues for making the application. The application of the petitioner was found complete in all respect and was taken into consideration by the competent authority. As the petitioner was found to be the highest bidder, the

Tahasildar, Bonai, vide letter no.106 dated 16.01.2020, intimated the petitioner in Form-F that he was selected as successful bidder for grant of sand quarry on lease for five years and accepted Rs.15/- towards royalty per cubic meter of sand. It was further intimated that the mining plan and environment clearance for the said lease had not been obtained. The petitioner was also directed to convey the acceptance of the terms and conditions and to deposit the security amount. In response thereto, the petitioner conveyed the acceptance of terms and conditions of the quarry lease and deposited Rs.2,00,000/- towards security deposit through Banker's cheque and on further calculation the petitioner also deposited another Rs.45,000/- on 06.02.2020.

2.1 As per Rule-28 of the Odisha Minor Mineral Concession Rules, 2016, the mining plan was to be prepared and approved by the competent authority. As the competent authority failed to do so, vide letter no.244 dated 03.02.2020, Tahasildar, Bonai intimated

the petitioner for obtaining the mining plan and environment clearance from the authorized officers at his own expenditure at an early date. After receipt of the letter dated 03.02.2020 under Annexure-3 from the Tahasildar, Bonai, with regard to getting approval of mining plan and environment clearance, the petitioner immediately prepared the mining plan from the authorized agency and submitted the same before the Dy. Director of Mines, Koira. In response to the same, the Dy. Director of Mines, Koira visited the sand bed on 21.03.2020 for final survey. But due to COVID-19, all activities in respect of mining and sand quarries were stopped due to lock-down and shut-down. Thereafter, the petitioner intimated the Tahasildar, Bonai, on 07.07.2020, that due to lock-down and shut-down he was unable to obtain the mining plan and environment clearance and to give some more time to submit the same. After lifting of lock-down and shut-down, the petitioner got the mining plan approved on 01.10.2020 from the Dy. Director of Mines, Koira. As per the

estimation of mining plan, the petitioner was to lift 21,179 cubic meter of sand from the said sand quarry. The approved mining plan was submitted by the petitioner before the Tahasildar on 29.10.2020 and the Tahasildar on the very same day, vide order dated 29.10.2020, directed the petitioner for obtaining the environmental clearance from the authorized officer at his own expenditure as an early date.

2.2 As per Rule-29, environment clearance is to be obtained for operation of sand quarry. Rule-29(2) provides that the competent authority may apply for and obtain the environment clearance. But the Tahasildar, vide Annexure-6 dated 29.10.2020, directed the petitioner to obtain environment clearance from the authorized officer at his own expenditure. Rule-29(3) provides that in case environment clearance under sub-rule (2) is not obtained by the competent authority, the selected bidder shall obtain the same before executing the lease deed. The petitioner had already obtained the mining plan approved on 29.10.2020, and he deposited

the documents to obtain environment clearance before the Tahasildar for countersignature immediately after receiving the letter under Annexure-6, on 01.11.2020. But the relevant documents for obtaining the environment clearance were not countersigned by the Tahasildar, Bonai nor did he grant certificate to the effect that there were no other mines located within 500 mtrs. from the periphery of the proposed mines lease area as per the DSR report in the area. The Tahasildar was to issue a certificate indicating the distance of boundary of mining lease from river bridge, railway bridge, river embankment and electric high transmission line and was also to issue the location map/trace map of all leases (existing/operating) around 1 km. area of the project site. The Tahasildar, being the competent authority, was to issue a forwarding letter for environmental clearance. But he did not counter sign the documents for issuance of certificate, though the petitioner made several requests.

2.3 The countersign having not been done, finding no other way out, the petitioner had approached this Court by filing W.P.(C) No.10449 of 2021 with a prayer to issue direction to the Tahasildar, Bonai to countersign the documents required for environmental clearance for execution of the lease deed. On 18.03.2021, on instruction received from the Tahasildar, Bonai, learned Addl. Government Advocate submitted that the Tahasildar has not received the documents for countersignature for environmental clearance from the petitioner and on the basis of such instructions, this Court, vide order dated 18.03.2021, disposed of the said writ petition directing the petitioner to appear in person before the Tahasildar, Bonai at 11 AM on 22.03.2021 and give another set of documents properly dated and signed for the purpose of countersignature for environmental clearance. This Court further directed that after examining the documents, the Tahasildar will inform the petitioner and if he is not prepared to countersign, the reasons

therefor not later than 30.03.2021. If the petitioner is aggrieved by such decision, it will be open to him to seek appropriate remedies in accordance with law. In compliance of the said direction, the petitioner physically presented himself before the Tahasildar, Bonai at 11 AM on 22.03.2021 and submitted another set of documents for environmental clearance and relevant certificates required for the said clearance. But the Tahasildar, before countersigning the said documents, served a copy of letter no.719 dated 09.03.2021 to the petitioner on the very same day in which the Tahasildar had cancelled the bid and forfeited the security amount of Rs.2,45,000/-, which is subject matter of challenge in this writ petition. As such, the Tahasildar, after serving the letter dated 09.03.2021, countersigned the documents and handed over the said documents for environmental clearance without the certificates mentioned at serial nos.6, 7 and 8, which are mandatory documents to be submitted for

environmental clearance and also the forwarding letter for the said clearance. Hence this application.

3. Mr. M.K. Mohanty, learned counsel for the petitioner contended that the action of the Tahasildar cancelling the bid and forfeiting the security amount, vide letter dated 09.03.2021, is in gross violation of the order passed by this Court. It is contended that if the Tahsildar had passed order on 09.03.2021 with regard to cancellation of lease, such fact should have been brought to the notice of the Court when the order was passed on 18.03.2021 in W.P.(C) No.10449 of 2021, on the basis of instructions received by the State Counsel from the Tahsildar. Thereby, the order impugned so passed by the Tahasildar under Annexure-9 antedating to 09.03.2021, cannot sustain in the eye of law. It is further contended that though the Tahasildar denied to have received the documents for environment clearance from the petitioner for countersignature, but the petitioner had submitted the same on 01.11.2020. Therefore, without entering into the controversy, this

Court, vide order dated 18.03.2021, while disposing of W.P.(C) No.10449 of 2021, directed the petitioner to appear in person before the Tahasildar at 11 A.M. on 22.03.2021 and give another set of documents for environmental clearance properly dated and signed for the purpose of countersignature. Pursuant to such direction, though the petitioner complied the same on 22.03.2021 by producing relevant documents for countersignature, but the Tahasildar served on him the order dated 09.03.2021 under Annexure-9, by which the lease was cancelled and the security amount was forfeited, which is in utter disregard to the order dated 18.03.2021 passed by this Court in W.P.(C) No. 10449 of 2021. It is further contended that the bid of the petitioner was not cancelled till 18.03.2021 and also the security amount was not forfeited. But when the order was passed by this Court and after receipt of the order passed by this Court for countersignature, the Tahasildar became vindictive and passed the order impugned antedating to 09.03.2021 and served the

same on the petitioner on 22.03.2021. As such, if the Tahasildar was not prepared to countersign, the reasons thereof should have been informed to the petitioner not later than 30.03.2021. Thereby, the Tahasildar has acted arbitrarily, unreasonably and contrary to the rules by passing the order impugned. Accordingly, he seeks for interference of this Court in exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

To substantiate his contention, he has placed reliance on the judgments of the apex Court in the cases of ***Dr. Smt. Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya, Sitapur (U.P.)***, AIR 1987 SC 2186; ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai***, AIR 1999 SC 22; ***Godrej Sara Lee Limited v. Assistant Commissioner (AA)***, (2009) 14 SCC 338; and ***Uttar Pradesh Power Transmission Corporation Limited v. CG Power and Industrial Solutions Limited***, (2021) 6 SCC 15.

4. Mr. T. Pattnaik, learned Addl. Standing Counsel for the State-opposite parties contended that as per Rule-28 of OMMC Rules, 2016, only the competent authority is responsible for preparation and approval of the mining plan. As per sub-rule (3) of Rule-28, in the event approval under sub-rule (2) is not obtained by the competent authority, the selected bidder shall get a mining plan prepared from a recognized person and approved by the authorized officer. It is contended that since approval under sub-rule (3) was not obtained, it is the petitioner who is responsible for preparation of the mining plan. It is further contended that due to COVID-19, the government work was not hampered and, as such, the petitioner was given sufficient time to submit the mining plan considering his time petition received on 07.07.2020. But the petitioner failed to submit the mining plan as well as the environmental clearance within the time period, whereas during the same period other bidders submitted their mining plan and got

approved from the recognized authorities and also got the environmental clearance in the year 2020. Thereby, the petitioner was guilty of delay and laches in getting the mining plan and the environmental clearance approved within time. It is also contended that the petitioner had not submitted any document before the Tahasildar for countersignature for obtaining environmental clearance till 09.03.2021, thereby, providing the ancillary certificate, such as, the documents mentioned in sl.nos.6, 7 and 8 does not arise. It is further contended that the order for cancellation of lease though was passed on 09.03.2021, but the same was not brought to the notice of the Court, while the order dated 18.03.2021 was passed. It is further contended that as the Tahasildar is the competent authority under Rule-27(13) of the OMMC Rules, 2016 for issuance of impugned order dated 09.03.2021, no illegality or irregularity has been committed by issuing the same and accordingly he seeks dismissal of the writ petition. It is further

contended that since there is availability of alternative remedy under Rule-46 of OMMC Rules, 2016, against cancellation of lease, by preferring appeal before the higher forum, the writ petition otherwise also is not maintainable before this Court.

5. This Court heard Mr. M.K. Mohanty learned counsel for the petitioner and Mr. T. Pattnaik, learned Addl. Standing Counsel for the State-opposite parties by hybrid mode. Pleadings having been exchanged between the parties, with the consent of learned counsel for the parties this writ petition is being disposed of finally at the stage of admission.

6. On the basis of factual matrix, as delineated above, and the rival submissions, as recorded above, it is emerged that till 18.03.2021, though the petitioner had submitted the documents for countersignature for grant of environmental clearance, no action was taken at the level of the Tahasildar. That is why, the petitioner approached this Court by filing W.P.(C) No.10449 of

2021 seeking direction to the Tahasildar to countersign the documents required for environment clearance. The said writ petition was disposed of on 18.03.2021 with the following orders:-

"1. Heard Mr. M.K.Mohanty, learned counsel for the Petitioner and Mr. Nanda, learned Additional Government Advocate for the State-Opposite Parties.

2. The grievance of the Petitioner is that the counter- signature of the Tahasildar, Bonai on the documents submitted by the Petitioner for environment clearance is not being appended despite the Petitioner having submitted the documents way back in November, 2020.

3. On instruction, Mr. Nanda states that according to the Tahasildar, he has not received those documents yet.

4. To avoid any further controversy on this score, the Court directs that the Petitioner will appear in person before the Tahasildar at 11 a.m. on 22nd March, 2021 and give another set of documents properly dated and signed for the purpose of counter signature for environment clearance.

5. After examining the documents, the Tahasildar will inform the Petitioner, if he is not prepared to counter sign, the reasons thereof not later than 30th March, 2021. If the petitioner is aggrieved by such decision, it will be open to him to seek appropriate remedies in accordance with law.

6. The writ petition is disposed of in the above terms.

7. An urgent certified copy of this order be issued as per rules and also be communicated directly to the Tahasildar, Bonai for compliance."

7. In Compliance of the aforesaid order, when the petitioner appeared before the Tahasildar, Bonai on 22.03.2021 at 11.00 AM and handed over the documents for countersignature, instead of complying the order of this Court passed on 18.03.2021, the petitioner was served with order dated 09.03.2021 with regard to cancellation of the lease and forfeiture of the security amount vide Annexure-9. When instructions were received from the Tahasildar and the matter was placed before this Court on 18.03.2021, the State Counsel could have apprised the Court with regard to the order passed on 09.03.2021. Therefore, this Court, instead of entering into the controversy, disposed of the said writ petition, vide order dated 18.03.2021, directing the petitioner to submit the documents before the Tahasildar on 22.03.2021 at 11.00 AM for countersignature. As such, when the petitioner produced the documents for countersignature on 22.03.2021, though such documents were received and countersigned, but subsequently the order dated

09.03.2021 was served on the petitioner, which clearly indicates that the Tahasildar has acted malafidely in order to cause harassment to the petitioner, as he had approached this Court against the inaction of the Tahasildar in countersigning the documents produced before him for grant of environmental clearance. Though power has been vested on the Tahasildar under Rule-27(13) of the OMMC Rules, 2016 to do so, but fact remains, the order dated 09.03.2021 has been antedated only to frustrate the claim of the petitioner in pursuance of the order passed by this Court on 18.03.2021. Therefore, the conduct of the Tahsildar is tell tale, that he has tried his level best not to carry out the order dated 18.03.2021 passed by this Court. If he was so fair, he could have brought to the notice of this Court when the writ petition was disposed of on 18.03.2021, that he has already passed order of cancellation and forfeited the security amount vide order dated 09.03.2021. This fact having not been brought to the notice of this Court, it is presumed that

the Tahasildar has acted with mala fide intention not to allow the petitioner to operate the quarry by hook or by crook. Such action of the Tahasildar-opposite party no.3, is also in gross violation of the order dated 18.03.2021.

8. For just and proper adjudication of the case, relevant provisions of Odisha Minor Minerals Concession Rules, 2016 are extracted hereunder:-

“27. GRANT OF QUARRY LEASES

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(13) The selected bidder shall be required to execute quarry lease in Form-N within three weeks from the date of intimation of his selection, if the approval of the mining plan and environment clearance has been obtained before auction, and in other cases, three months from the date of intimation, failing which, the intimation shall stand cancelled and the security deposit shall stand forfeited:

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28. Mining plan as a pre-requisite to the grant of quarry lease:— No quarry lease shall be granted by the Competent Authority unless there is a mining plan prepared by the recognized person and duly approved by the authorized officer for the development of the mineral deposits in the area concerned.

Provided that the recognized person shall not charge any amount in excess of the ceiling on fees specified by the Director.

(2) The Competent Authority may cause the mining plan to be prepared and approved.

(3) In case the approval under sub-rule (2) has not been obtained by the Competent Authority, the selected bidder shall cause a mining plan to be prepared from a recognized person and approved by the authorized officer having jurisdiction.

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43. Execution and registration of license or lease:—

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(3) If no deed for prospecting license-cum-mining lease or mining lease or quarry lease is executed within the time specified, due to any default on the part of the selected bidder, the Controlling Authority may revoke the grant order and forfeit the security deposit, if any.

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46. Procedure for filing appeal:— (1) Any person aggrieved by an order of the Competent Authority, may, within one month from the date of communication of the order, prefer an appeal in Form-X against such order, to the Sub-Collector, if the order is passed by the Tahasildar, to the Collector, if the order is passed by the Sub-Collector, to the Revenue Divisional Commissioner, if the order is passed by the Collector, to the Conservator of Forests, if the order is passed by the Divisional Forest Officer, to the Joint Director, if the order is passed by the Mining Officer or Deputy Director, to the Director, if the order is passed by the Joint Director and to the State Government in the Department of Steel and Mines, if the order is passed by the Director: Provided that in case of matters related to specified minor minerals, the State Government may review its order on receipt of review petition from any aggrieved person or

suo moto within ninety days of communication of such order and correct or modify their order.

(2) No appeal shall be admitted unless the amount, if any, assessed in accordance with the provisions of these rules as per the orders, has been deposited.

(3) The Appellate Authority mentioned under sub-rule(1) may call for relevant records and other information from the concerned authority and may, if considered necessary, stay the operation of the order of the authority in any particular case till the appeal is finally disposed or until further orders are passed, as the case may be.

(4) Every application for appeal shall be accompanied by a non-refundable fee of rupees one thousand.

(5) In the event of any dispute relating to the area, conditions, the dues payable or any other matters under the prospecting license-cum-mining lease or mining lease or quarry lease executed for the purpose, the suits or appeals shall be filed only in the civil courts in whose jurisdiction such area falls.”

9. As it appears, when the petitioner carried out the statutory obligation in terms of Rule-28(3), opposite party no.3 somehow or other did not want to comply with the same, thereby caused harassment to the petitioner. Therefore, the petitioner approached this Court by filing W.P.(C) No. 10449 of 2021. As such, for the purpose of grant of environmental clearance, the

documents which are mandatory, were placed in the check list at sl.nos.6, 7 and 8, which read as under:-

“6. Certificate from Tahasildar that there is no other mines located within 500m from the periphery of the proposed mine lease area as per DSR report in the area.

7. Certificate from Tahasildar indicating distance of boundary of mining lease from River Bridge, Railway Bridge, river embankment and Electric High Transmission Line (in case of sand mining).

8. Location map / Trace map from Tahasildar of all leases (existing & operating) around 1km area of the project site.”

10. Even though the petitioner appeared before opposite party no.3 on 22.03.2021 for countersignature of the documents for grant of environmental clearance, he was served with order dated 09.03.2021, whereby the lease was cancelled and the security amount was forfeited. This action of the opposite party no.3 is not appreciated and, as such, the Tahasildar had to act in compliance of the direction given by this Court. Instead of doing so, the Tahasildar had tried to overreach the order passed by this Court and taken a stand that the order of cancellation dated 09.03.2021 is appealable

one, which cannot sustain in the eye of law, in view of the fact that under Rule-43(3) it is the controlling authority, who can cancel the same in the event no deed for prospecting license-cum-mining lease or mining lease or quarry lease is executed within the time specified due to any default on the part of the selected bidder. The controlling authority has been defined under Rule-2(g), as mentioned in schedule-III, which has been substituted vide O.G.E. No.1211 dated 19.07.2017. On perusal of the schedule-III, it appears that it is the Collector of the district, who is the controlling authority. Thereby, if power has been vested with the Collector of the district, the Tahasildar, being a competent authority, cannot cancel the lease or forfeit the security amount. Thereby, the order of cancellation passed by the Tahasildar on 09.03.2021 is without jurisdiction.

11. It is apt to refer here the legal maxim "***Expressio Unius est exclusion alterius***" i.e. if a statute provides for a thing to be done in a particular

manner, then it has to be done in that manner and any other manner are barred.

12. In **Nazir Ahmed v. King Emperor**, AIR 1936 PC 253, law is well settled “where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.” The said principles have been followed subsequently in **State of Uttar Pradesh v. Singhara Singh**, AIR 1964 SC 358, **Dhananjay Reddy v. State of Karnataka**, AIR 2001 SC 1512, **Chandra Kishore Jha v. Mahabir Prasad**, AIR 1999 SC 3558, **Gujrat Urja Vikas Nigam Ltd. v. Essar Power Ltd.**, AIR 2008 SC 1921, **Ram Deen Maurya v. State of U.P.**, (2009) 6 SCC 735.

13. In **Subash Chandra Nayak v. Union of India**, 2016 (I) OLR 922, similar question had come up for consideration before this Court and this Court in paragraph-8 observed as follows:

“.....the statute prescribed a thing to be done in a particular manner, the same has to

adhered to in the same manner or not at all. The origin of the Rule is traceable to the decision in **Taylor v. Taylor**, (1875) LR I Ch D 426, which was subsequently followed by Lord Roche in **Nazir Ahmad v. King Emperor**, AIR 1936 PC 253(2). But the said principle has been well recognized and holds the field till today in **Babu Verghese v. Bar Council of Kerala** (1999) 3 SCC 422, and **Zuari Cement Limited v. Regional Director, Employees' State insurance Corporation, Hyderabad and others**, (2015) 7 SCC 690 and the said principles has been referred to by this Court in **Manguli Behera v. State of Odisha and others** (W.P.(C) No. 21999 of 2014 disposed of on 10.03.2016)".

Similar view has also been taken in **Rudra Prasad Sarangi v. State of Orissa and others**, 2021 (I) OLR 844 and **Bamadev Sahoo v. State of Orissa**, 132 (2021) CLT 927.

14. It is well settled law laid down by the apex Court time and again that if power has been vested with a particular authority he has to exercise the same or not at all. Thereby, if the power has been vested with the controlling authority, namely, the Collector of the district, the same cannot be abrogated or misutilized by

the Tahasildar, who may be the competent authority under the Rules.

15. In **Dr. Smt. Kuntesh Gupta** (supra), the apex Court holding that the Vice-Chancellor in considering the question of approval of an order of dismissal of the Principal, acts as a quasi judicial authority and, as such, as per the provisions contained in Universities Act, 1973 or of the Statutes of the University do not confer any power of review on the Vice-Chancellor. Thereby, the Vice-Chancellor has acted wholly without jurisdiction in reviewing her order and, as such, the same is a nullity. If the order in question is nullity in the eye of law, availability of alternative remedy is not a bar to approach the Court by invoking extra ordinary jurisdiction under Article 226 of the Constitution of India. By holding so, in paragraph-12, of the said judgment, the apex Court held as under:

“The next question that falls for our consideration is whether the High Court was justified in dismissing the writ petition of the appellant on the ground of availability of an alternative remedy. It

is true that there was an alternative remedy for challenging the impugned order by referring the question to the Chancellor under Sec.68 of the U.P. State Universities Act. It is well established that an alternative remedy is not an absolute bar to the maintainability of a writ petition. When an authority has acted wholly without jurisdiction, the High Court should not refuse to exercise its jurisdiction under Art .226 of the Constitution on the ground of existence of an alternative remedy.”

16. In **Whirpool Corporation** (supra), the apex Court in paragraphs-20 and 21 of the said judgment, held as under:-

“20. Much water has since flown beneath the bridge , but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the of the High Court in entrance a writ petition under Article 226 of the Constitution. In spite of the alternative statutory remedies. Is not affected, specially in a case where the authority against whom the writ is field is shown to have has no jurisdiction or has purported to usurup jurisdiction without any legal foundation.

21. That being so, the High Court was not justified in dismissing the writ petition at the initial stage without examining the contention that the show cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in circumstances of the case, was not justified in acting as the “TRIBUNAL.”

17. In **Godrej Sara Lee Limited** (supra), the apex Court held that the question as to whether the

notification could have a retrospective effect or retroactive operation being a jurisdictional fact, should have been determined by the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India, as it is well known that when an order of an statutory authority is questioned on the ground that the same suffers from lack of jurisdiction, alternative remedy may not be a bar.

18. In **Uttar Pradesh Power Transmission Corporation Limited** (supra), the apex Court held as follows:-

“It is well settled that availability of an alternative remedy does not prohibit the High Court from entertaining a writ petition in an appropriate case. The High Court may entertain a writ petition, notwithstanding the availability of an alternative remedy, particularly: (i) where the writ petition seeks enforcement of a fundamental right; (ii) where there is failure of principles of natural justice or; (iii) where the impugned orders or proceedings are wholly without jurisdiction or; (iv) the vires of an Act is under challenge.”

19. Applying the above principles to the present case, this Court is of the considered view that the

impugned order of cancellation of lease and forfeiture of security amount, having been passed by the Tahasildar, suffers from jurisdictional error. More so, the same is without jurisdiction, as it is the controlling authority, which can pass the order in terms of Rule-43 (3) of OMMC Rules, 2016. Thereby, the order dated 09.03.2021 passed under Annexure-9 cancelling the lease and forfeiting the security amount, cannot sustain in the eye of law and the same is liable to be quashed and is hereby quashed. Otherwise also, the said order has been passed contrary to the direction issued by this Court in W.P.(C) No.10449 of 2021 disposed of on 18.03.2021.

20. In the above view of the matter, this Court directs opposite party no.3-Tahasildar, Bonai to provide the certificates, as mentioned in sl.nos.6, 7 and 8 under Annexure-10, to the petitioner for getting the environment clearance, since he has already countersigned the documents produced before him, in compliance of the order dated 18.03.2021 passed in

W.P.(C) No.10449 of 2021, as expeditiously as possible, preferably within a period of two weeks from the date of receipt of copy of this judgment.

21. In the result, the writ petition stands allowed.

However, there shall be no order as to costs.

SAVITRI RATHO, J.

I agree.

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DR. B.R. SARANGI,
JUDGE

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SAVITRI RATHO,
JUDGE

Orissa High Court, Cuttack
The 2nd May, 2022, Ashok/GDS