

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 3085 of 2023
Reserved on : 6.10.2023
Date of Decision: 18.10.2023**

Gram Panchayat Kheri Battar

.....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. R.A.Sheoran, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Puneet Bali, Senior Advocate with
Mr. Surjeet Bhadu, Advocate and
Mr. Veer Singh, Advocate
for respondent No. 5.

Mr. Arun Kumar Gupta, Additional Chief Secretary (Mines),
Government of Haryana in person.

SURESHWAR THAKUR, J.

1. Through the instant petition, the petitioner claims the hereinafter reliefs-

(a) A mandamus being made, upon respondent No. 5 to make payment of royalty to Gram Panchayat, Kheri Battar in terms of the agreements upto 1.5.2020, and, from 1.5.2020 till date with interest.

(b) A direction being issued, upon respondent No. 5 to enter and execute the agreement with Gram Panchayat, Kheri Battar,

and, make the payment of royalty with interest with effect from 10.2.2022 till date.

(c) A mandamus being made, upon co-respondent No. 4 to send reference to respondent No. 3 to fix the fair market rent in respect of the land of the Gram Panchayat concerned, as per Rules 63, 63-A and 64(3) of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 (for short 'the Rules of 2012').

(d) A direction being issued, upon respondents No. 1 to 4 to take corrective action against respondent No. 5, till the payment by respondent No. 5 with interest.

2. It is not in dispute amongst the contesting litigants, that co-respondent No. 5, has been allotted a mining block, by the respondent concerned, for making excavation(s) therefrom of minor minerals concerned. Moreover, it is not in dispute, that an agreement Annexure P-1, became executed inter se the Gram Panchayat concerned, and, co-respondent No. 5, whereby co-respondent No. 5 agreed to pay royalty to the Gram Panchayat concerned, for two years w.e.f. 1.5.2016 to 1.5.2018 at the rate of 5% to be paid every month. In addition, there is also no dispute amongst the contesting litigants concerned, that through Annexure P-2, co-respondent No. 5 agreed to pay the royalty @ 5% to the Gram Panchayat concerned, w.e.f. 1.5.2018 to 1.5.2020.

3. Since the above agreements become breached at the instance of co-respondent No. 5, therefore, a mandamus is asked to be made, upon the said respondent, to comply with the said agreements.

4. At the outset, the relief (supra) relating to the making of the said mandamus, is outside the scope of the writ jurisdiction, as any privately entered into agreement inter se the Gram Panchayat concerned, and, co-respondent No. 5, unless on an evident breach thereof emerging besides the same being actionable through enforcing a relevant statutory provision against respondent No. 5, rather thus cannot become enforced through the aegis of the writ Court. Though in the said situation, thus this Court may have proceeded to make the above asked for mandamus, upon, the enforcing authority, to ensure the releases being made by co-respondent No. 5, vis-a-vis, the amount mentioned in the above annexure, rather vis-a-vis respondent No. 5.

5. However, in the wake of the above lack of provision(s), in the Rules (supra), thus thereby the enforcement of the above agreements rather can be made only through the institution of a civil suit, at the instance of the present petitioner against the derelict respondent No. 5.

6. In addition, since the prayer asked for in the instant petition, relating to corrective coercive action, being drawn by the official respondent concerned, against respondent No. 5, has also arisen from breach, being made, to the said agreements, thus the same also cannot be rendered by this Court. The reason is but simple, that no statutory provision(s) exists, thus in the Rules (supra) whereby, a pre-emptory duty becomes cast, upon the official respondent concerned, that in the wake of non-realizations of amount, as mentioned in the agreements (supra), thereby the excavation of minor minerals from the mining block by co-respondent No. 5, thus being illegal, and, that thereby the said respondent be restrained from excavating the minor minerals concerned, from the mining block concerned. In the

above situation too, the remedy is through the institution of a suit for injunction before the Civil Court of competent jurisdiction.

7. In reply on affidavit, furnished to the instant writ petition by official respondents concerned, it is contended, that vide order dated 28.5.2020, as became passed under Section 10-A of the Punjab Village Common Lands (Regulation) Act, 1961, the Assistant Collector Ist Grade, Charkhi Dadri, after examining the record, and, after hearing the parties, made a conclusion, that co-respondent No. 5, had in collusion with the then Sarpanch of the Gram Panchayat concerned, made agreements of contract amounts rather lesser than the prescribed minimum thereof. Moreover, it is also mentioned therein, that the dead rent royalty actually paid by the concessionaire concerned, to the government was less than the one which was required to be paid, and, thereby huge financial loss accrued to the Gram Panchayat, Kheri Battar.

8. Though, the Assistant Collector, Ist Grade, Charkhi Dadri, vide order (supra), had also directed respondent No. 5 to deposit the annual rent, and, compensation amount at the rate of 10% of the contract money, within one month from the passing of the order, besides in case of non-deposit of the said amount, it was declared therein, that departmental action be taken against the mining company concerned. The said order is attached to the reply, as Annexure R-1. Though, the reply on affidavit, furnished to the instant petition, on behalf of respondents No. 1 and 3, does display, that some action has become drawn, at the instance of the said replying respondent, but unless statutory provisions, also did occur, in the Rules (supra), whereby the said order can become enforced, and/or, unless the said authority became bestowed with the jurisdictional competence to make

them, and, to enforce them, thereupon this Court would relent from making the asked for mandamus, upon, the respondent concerned. The relevant statute, however, does not confer the jurisdiction, as becomes exercised by the authority, who made Annexure R-1. Therefore too, yet the ill acts of respondent No. 5, were actionable or remediable only through the institution of an apposite suit but before the Civil Court of competent jurisdiction.

9. After making detailed study of the relevant provisions, as relate to the vestment of the able jurisdiction in the statutory authority, contemplated in the Rules (supra), thus to enforce the agreements, as drawn amongst the concerned. Moreover, after making a detailed/incisive study of the relevant provisions, it does emerge, that in the Rules (supra), there apparently occurs rather no mandate upon the authority, contemplated in the Rules (supra), thus to either cancel the lease deed, as a measure of enforcing the above agreements, nor there occurs any rule that, in the event of breach being made of the agreements (supra), thereby the authority under the Rules (supra), becoming empowered to draw punitive action against the errant mineral concessionaire concerned. Therefore, also this Court relents from making the asked for mandamus, upon, the respondent concerned.

10. Nonetheless, since the mineral wealth occurring within the privately owned lands, thus also belongs to the State, thereupon the said principle has led to enactment of the Rules (supra). However, as stated (supra), the Rules (supra) are completely reticent, and/or are silent with respect to the statutory action takings, being made by the authorities, contemplated therein, inasmuch as, qua rather upon, relevant breach(es), being made by the mineral concessionaire concerned, thus thereby the said breach(es) can become punitively enforced. The above silence is but *casus*

omissus. Therefore, as declared in the verdicts pronounced by the Hon'ble Apex Court in ***Padma Sundara Rao versus State of Tamil Nadu***, reported in **2002(3) SCC 533**, besides in case titled as ***Raghunath Rai Bareja versus Punjab National Bank*** reported in **2007(2) SCC 230**, and, in case titled as ***Shiv Shakti Coop. Housing Society, Nagpur versus M/s Swaraj Developer and others*** reported in **(2003) 6 SCC 659**, that the Courts of law can only interpret the laws but cannot legislate. Resultantly, any *casus omissus* or any deficiency existing in the Rules (supra), thus relating to the non-speakingings therein, about the statutory measures for enforcing the agreements of the genre (supra), thereby this Court cannot interpose in the statute (supra) such a mechanism, which becomes not spoken or becomes not included therein. If the above is done, thereupon, this Court would be breaching the jurisdictionally assigned function to it, inasmuch as, its interpreting laws and not legislating.

11. Though, through notification No. S.O.22/C.A/67/1957/Ss 15 and 23 C/2021 dated 3.5.2021, after Rule 63 of the Rules 2012, Rule 63-A of the Rules 2012, became inserted dealing with fixation of annual rent, and, compensation by the Government, in case where no agreement is reached by way of mutual agreement. However, yet the said inserted provision is also completely silent qua the enforcement of the said agreements by the statutory authorities, and/or, is also silent with respect to the drawing of corrective penal action against the errant concerned.

12. Therefore, in respect of the above, the remedy available to the aggrieved is through accessing the Civil Court of competent jurisdiction.

13. Though Rules 56 and 59, as occur in the Rules of 2012, and, in chapter 8 thereof, deal with default in payment of due installment of dead

rent, royalty, contract money, or contribution to the Mines and Mineral Development Fund. However, the said provisions are not applicable for determination of the rent, and, compensation to the land owner, as the said facet, is covered in Chapter 9 of the Rules of 2012. Nonetheless, if breach is evidently made to the provisions contained in Section 56 of the Rule of 2012, by co-respondent No. 5, therefore, in terms of the said statutory provisions, the action takings, as contemplated therein, may in accordance with law, be drawn against co-respondent No. 5. Even otherwise, the said provisions relate to liquidation of liabilities vis-a-vis the Government, and, do not relate to liquidation of liabilities vis-a-vis the land owner concerned, on whose land the mineral does exist.

14. In the instant case, we are concerned with a lis engaging the Gram Panchayat concerned, and, co-respondent No. 5. Therefore, since the Gram Panchayat concerned, is the owner of the leased lands, resultantly, the petitioner-Gram Panchayat concerned, became well enabled to, in terms of Chapter 9 of the Rules of 2012, seek determination or settlement of rent, and, compensation for the land used for mining. It is in the wake of the petitioner-Gram Panchayat concerned, executing the above agreements with co-respondent No. 5, and, the said agreements becoming breached, that thereby the mandate borne in Chapter 9 of the Rules of 2012, specifically appertaining to the rights of the land owners against the mineral concessionaire concerned, thus become sparked into action.

15. The earlier thereto Chapter 9, relates to the liabilities encumbered, upon the mineral concessionaire concerned, vis-a-vis the Government department concerned. Moreover, the said Chapter 8 relates to, in the event of breach being made vis-a-vis financial encumbrances, as,

made upon the mineral concessionaire concerned, thus requiring action takings, as mentioned therein, becoming embarked upon by the authority concerned.

16. Therefore, as stated (supra), there is a contra-distinction inter se Chapter 8, and, Chapter 9. Moreover, as stated (supra), Chapter 9 is specific insofar as the land owner, is concerned, who is the petitioner herein, and, who seeks the enforcement of the agreements (supra), besides seeks a reference being made to the authority concerned, thus to fix a fair compensation. Thus, this Court would proceed to make deep deliberations of the provisions, carried in Rules 62, 63, 64 and 65 of the Rules of 2012, provisions whereof respectively, relate to mining over the land falling to the ownership of the third parties, to mutual settlement of rent, to compensation for the land used for mining, to determination of fair market rent, if not mutually settled between the parties, to determination of compensation, and, to recovery of government dues, as arrears of land revenue. The said provisions become extracted hereinafter.

62. Mining over land in the ownership of third parties.-

(1) Where a mineral concession is granted under these rules over any land in respect of which minor mineral rights vest in the State Government, the rights of the landowner shall be subordinate to that of the State Government for extraction of the mineral, access to the quarry/mine, stacking of minerals and other subsidiary purposes. The landowner is entitled to a fair rent and compensation for such use of the land and any damage or injury caused to such land.

(2) A mineral concession holder, who is granted the mineral concession under these rules, is entitled to use the land/ area for extraction of mineral in respect of which the said concession is granted. The mineral concession holder shall be liable to pay-

(a) the annual rent in respect of the land area blocked under the concession but not being operated, and

(b) the rent plus compensation in respect of the area

used for actual mining operations.

(3) In case the landowner is allowed to use part of the area granted under the mineral concession for his normal operations for which it was being used prior to the grant of mineral concession, concurrent with the concession grant, no rent shall be payable in respect of such portion of land which is not being used for actual mining operations for such period as it remains available to the landowner for his normal use. In cases where the mineral concession holder blocks the entire concession area as a result of which the landowner is not able to use such land or part thereof for his normal operations, the rent shall be payable in respect of the entire blocked area.

63. Mutual settlement of rent and compensation for the land used for mining.- *The amount of annual rent and the compensation shall be settled mutually between the landowner and the mineral concession holder.*

64. Determination of fair market rent, if not mutually settled between the parties.-

(1) Where no agreement is reached by way of mutual settlement between the landowner and the mineral concession holder regarding the rate of rent, the mineral concession holder shall offer to pay rent equal to the amount of Annuity, as applicable from time to time, as payable under the R & R Policy of the Government in cases of land acquisition.

(2) Where the land owner is not agreeable for a mutual settlement under rule 63 and is also not satisfied with the rent offered to be paid under sub-rule (1) above, the landowner or the concession holder may apply to the officer-in-charge of the concerned district to make a reference to the District Collector for determination of the fair rent payable in respect of such land.

(3) Where either of the parties prefer a reference to the District Collector under sub-rule (2) above, the officer-in-charge of the concerned district shall forward the reference to the District Collector for determination of the fair market rent in respect of such land. The mining officer-in-charge of the district shall also require the mineral concession holder to deposit the rent for one year as prescribed under sub-rule (1) above as a tentative compensation with the Collector. Upon so doing, the mineral concession holder shall be entitled to commence mining operations over the said land area.

(4) Upon a reference from the mining officer-in-charge of the district concerned, the District Collector may call upon the parties to furnish the details of their claims and counter claims,

inter alia, containing information on the parameters prescribed under sub-rule (5) of this rule and afford an opportunity of hearing to the parties.

(5) (I) Pursuant to the hearing granted to the parties to the reference, the District Collector shall determine the fair market rent of the land keeping in view the following:

- (i) nature/ character of the land i.e. arable (single crop or multiple crop) or barani or banjar;*
- (ii) use to which such land was being put immediately before the grant of mineral concession;*
- (iii) annual net income that the landowner was able to derive/ earn from such land use;*
- (iv) normal increase in the income level that would have taken place in such net income during the intervening period;*
- (v) amount so worked out shall be added an amount equal to thirty percent in lieu of compulsory use of the land;*
- (II) While determining the fair market rent, the collector shall also decide the rate at which such rent would be increased on year-to-year basis during the currency of the mineral concession.*

(6) Notwithstanding the parameters prescribed for determining the fair market rent under sub-rule (5) above, Collector shall not determine the rent at a rate lesser than the amount of annuity payable under the R&R Policy.

(7) The District Collector shall order parties and the mineral concession holder to pay such rent to the landowner from time to time, as determined by him.

(8) Any appeal against the order of the District Collector shall lie with the Government.

65. Determination of Compensation.-

(1) In addition to the rent settled between the parties under rule 63 or determined and payable under rule 64, the landowner would also be entitled to payment of a fair and reasonable compensation for any damage caused to such land in respect of the area under actual mining operations.

(2) In cases where the amount of compensation is not mutually settled between the parties under rule 63, the tentative amount of compensation shall be equal to 10% of the annual contract money, dead rent/ royalty actually paid by the mineral concession holder to the Government, less the amount of rent settled or determined.

(3) Where the landowner or the mineral concession holder is not agreeable to accept the amount of compensation prescribed

under sub-rule (2) above, either of them may seek a reference through mining officer-in-charge to the District Collector for determination of fair and reasonable compensation with reference to the damage or injury caused to such land. Pending a decision by the District Collector on such reference by either of the parties, the mineral concession holder shall deposit the tentative compensation amount for one year with the District Collector in accordance with sub-rule (2) above, where after the concession holder shall be entitled to operate the area.

(4) Upon a reference from the officer-in-charge, of the district concerned, the District Collector shall proceed to determine the fair compensation amount on account of any damage likely to be caused to such land on account of the mining operations. The Collector shall invite claims and counter claims and afford an opportunity of hearing to the parties before determining the compensation amount.

(5) (I) The Collector shall determine the fair compensation for the damage or injury caused to such land keeping in view the following:

- (i) nature or character of the land i.e. arable (single crop or multiple crop) or barani or banjar;*
- (ii) economic activity for which such land was being used immediately before the grant of mineral concession;*
- (iii) nature and extent of damage caused and as to whether such land is fully or partially reclaimable after closure of the mining operations or the damage is irreversible;*
- (iv) economic activity for which such land can be used after mine closure, with or without any investment, and the kind of returns it is capable of yielding after such restoration.*
- (v) extent of efforts and expenditure proposed to be made by the mineral concession holder for restoration or reclamation or rehabilitation of the land as per the mine closure plan for its eventual use by the landowner;*

(II) While determining the compensation amount, the Collector shall keep in view the total rent and the estimated compensation amount payable to the landowner throughout the concession period. In case the sum total of the rent and the compensation amount assessed is more than the prevailing market value of land, the mineral concession holder may be given an option to buy the land at such rates subject to the landowner agreeing to the

same. Alternatively, the Collector may determine the compensation amount keeping in view that the landowner would continue to retain the ownership of land after the closure of mining operations.

(III) In case the mineral concession holder and the landowner(s) are able to settle the compensation mutually in respect of a portion of the land required for actual mining operations, compensation for such portion of the land shall not be a subject for settlement. However, the amount of compensation already settled in respect of part of the operating area shall be kept in view while settling the compensation for the disputed area.

(6) Notwithstanding the determination of compensation on the considerations stated under sub-rule (5) above, the annual rent and the compensation amount put together shall not be less than 10% of the amount of contract money/ dead rent/ royalty actually paid by the mineral concession holder to the government with reference to such portion of land in accordance with sub-rule (2) above.

(7) The compensation amount determined by the District Collector shall be final and binding on the parties and the mineral concession holder shall be liable to pay such compensation amount to the landowner annually during the currency of the mineral concession.

(8) An appeal against the order of the Collector shall lie with the Government.”

17. After making an incisive study of the above extracted provisions, it appears, that though in Rule 62 of the Rule of 2012, a privilege is bestowed, upon the mineral concessionaire concerned, to make excavation of the mines and minerals from the land, owned by the land owner concerned. However, the said privilege bestowed, upon the mineral concessionaire concerned, is subject to his paying (a) the annual rent in respect of the land area blocked under the concession but not being operated, (b) the rent plus compensation in respect of the area used for actual mining operations. However, the said imposed financial liabilities are not candidly spoken therein to be compulsorily dischargeable but at the inception of undertakings of mining operations, by the mineral concessionaire concerned,

vis-a-vis, the mining block concerned. The above is an anomaly, and, is required to be rectified, thus through an amendment being made to the said Rule, to the extent that, the mineral concessionaire concerned, shall be liable to pay in advance the above financial encumbrance(s).

18. Moreover, though Rule 63 of the Rules of 2012, speaks about mutual settlement of rent and compensation for the land used for mining. It appears, that in terms of the said Rule, an agreement (supra) became drawn between the concerned. However, it may yet happen, that despite an affirmative recourse being made to the said statutory Rule, yet the discharging liability created, upon the mineral concessionaire concerned, may not become liquidated. Therefore, even the above is an anomaly, and, is required to be rectified in the hereinafter manner.

19. (a) That on commencement of the mining lease, the mineral concessionaire concerned, shall not be permitted to commence the mining activity, unless the settled amount of annual rent, and, compensation, as the case may be, is paid in advance to the land owner. (b) That the mineral concessionaire concerned, shall pay the annual rent, and, compensation, as the case may be in advance 30 days before the starting of each consecutive year, and, in the event of failure to make the advance payment, the mining operations shall be liable to be suspended.

20. Moreover, though apart from the above provision, relating to mutual settlement, Rule 64 of the Rules of 2012 also enshrines determination of fair market rent, in the event of Rule 63 of the Rules of 2012, rather becoming not affirmatively recoured. Though, there is a mandate therein about, in the wake of no agreement or mutual settlement being arrived at, in terms of Rule 63 of the Rules of 2012, thereupon the land

owner or the mineral concessionaire concerned, making an application to the officer-in-charge of the District Collector, thus for determination of fair rent hence payable in respect of the said land. In addition, though sub-Rule (3) of Rule 64 of the Rules of 2012, speaks about the District Collector becoming invested with the jurisdiction to make the relevant fixations. Furthermore, the mining officer concerned, becomes also encumbered with the duty, that the mineral concession holder, makes the deposit of the rent for one year as envisaged in sub-Rule (1) of the Rule 64 of the Rules of 2012. Moreover, on such tentative rent being liquidated before the Collector, seized with the relevant reference, thus it is spoken in sub-Rule (3) of the Rule (supra), that thereupon the mineral concession holder rather shall be entitled to commence mining operations over the said land.

21. However, it appears that neither there is any mandatory time bound stipulation(s) vis-a-vis the forwarding authority, thus forwarding the relevant reference, nor any pre-emptory mandate becomes cast upon the Collector concerned, to decide the forwarded to him reference, rather in a time bound manner. Therefore, in the wake of the above, the forwarding authority may omit to make the relevant reference to the District Collector concerned, thereby facilitating the mineral concessionaire concerned, to proceed to make excavations of minor minerals from the mining block, and, that too without his making any payment to the land owner concerned.

22. The above anomaly is required to be undone, through an amendment being made to the relevant Rules, whereby the officer-in-charge of the District, thus becomes mandatorily enjoined to forward the reference to the District Collector concerned, rather within 10 days of his receiving the said reference. Moreover, a relevant amendment is to be also

made to the Rule (supra) whereby the District Collector concerned, becomes enjoined to make a decision on the reference, but within 45 days of his receiving the said reference. The above is required to be done, as unless a statutorily prescribed period of time is earmarked rather for the District Collector, thus to decide the relevant reference, thereby the mineral concessionaire concerned, but only on his making deposit of the annual tentative rent in terms of sub-Rule (1), may thereafter choose to adopt dilatory tactics, and, thus may ensure, that without any final determination being made by the Collector concerned, that thereby he proceeds to engage himself in the mining activities, over the land owned by the land owners concerned, thereby causing loss to the land owners concerned.

23. Furthermore, the annual rent payable under sub-Rule (1), and, the annual tentative rent to be deposited under sub-Rule (3), may be deemed fit, through an amendment, thus being enjoined to be paid in advance, failing which the undertakings of mining operations, by the mineral concessionaire concerned, shall be forbidden. In addition, the amount appertaining to each consecutive year, may be through a suitable amendment, being made in the relevant rules, be contemplated to be paid not less than 30 days prior to the commencement of next year during the currency of mineral concession.

24. Be that as it may, a suitable amendment, be also made in the relevant rules, whereby in the event of non liquidation of the amount determined, shall entail penalty @ 10% of the agreed rate (mutually settled or otherwise) per annum, thus being imposed by the mining officer, for the period for which default continues, besides shall entail suspension of the mining operations. In addition, an amendment in the relevant rule be also made to the extent, that in case the default continues for three months, then

the mining operations shall be terminated after giving show cause notice. Moreover, suitable amendment be also made in the relevant rules, that in case the mineral concession holder files an appeal, he/it shall deposit the amount determined by the authority concerned, thus before his/its commencing the mining operations or his/its continuing with mining operations, as the case may be, as an interim measure, subject to the final decision of the appellate authority, which will relate back to the date of initial determination. In addition, in case the land owner files an appeal, thereupon also the mineral concession holder shall be liable to pay the amount determined by the authority concerned, subject to final decision of the appellate authority, which will relate back to the date of initial determination.

25. In addition, Rule 65 of the Rules of 2012 speaks about the determination of compensation. In sub-Rule (3) thereof, it becomes spoken qua, upon, the land owner or the mineral concession holder, being not agreeable to accept the amount of compensation, as prescribed under sub-Rule (2), thereupon either of them, may seek a reference through the mining officer-in-charge, to the District Collector rather for determination of fair, and, reasonable compensation but with reference to the evident damage or evident injury caused to the such land(s). However, there is no time bound stipulation in the forwarding of the said reference to the District Collector concerned. Therefore, in sub-Rule (3) a suitable amendment is to be made to the extent, that the above reference, shall be forwarded within 10 days of the receipt of the same, besides qua on receipt thereof, the same shall be decided within two months thereafter.

26. In addition sub-Rule (6) of the Rule (supra) speaks, that in case

the amount of final compensation, as determined by the Collector, works out to be more than the tentative amount of compensation, already deposited as per sub-Rule (2), thereupon the mineral concession holder shall deposit the additional amount of compensation within fifteen days. It is further detailed therein, that in case the amount of final compensation works out rather to be less than the amount already deposited by the contractor/lessee, thereupon the excess amount shall be refunded to him within fifteen days. However, an amendment be also made in the relevant rule, to the extent that the entire exercise by the District Collector shall be completed within a period of 45 days from the date of receipt of reference.

27. Moreover, a suitable amendment be also made in the relevant rule(s) to the extent, that the tentative amount of compensation, as determined under sub-Rule (2) and (3), would also be payable in advance failing which the mining operations on such land, would not be permitted to commence, thus by the mineral concession holder. Moreover, for each consecutive year, the amount of compensation shall be paid 30 days prior to the commencement of the next year.

28. In addition, an amendment be also made, that the non-payment of the determined amount, shall entail penalty @ 10% of the agreed rate (mutually settled or otherwise) per annum, thus being imposed by the mining officer for the period for which default continues, besides shall entail suspension of the mining operations. In addition, an amendment in the relevant rule be also made to the extent, that in case the default continues for three months, thereupon the mining operations shall be terminated after giving show cause notice.

Final Order

29. In consequence, Rules 62, 63, 64 and 65 of the Rules of 2012, are proposed to be amended as under:-

Rule 62 of the Rules of 2012

(1) x x x x

(2) Sub Rule (2) be amended to the extent that *the mineral concession holder shall be liable to pay in advance the above financial encumbrance(s).*

(3) x x x x

Rule 63 of the Rules of 2012

(1) x x x x

(2) *That on commencement of the mining lease, the mineral concessionaire concerned, shall not be permitted to commence the mining activity unless the settled amount of annual rent, and, compensation, as the case may be, is paid in advance to the land owner.*

(3) *That the mineral concessionaire concerned, shall pay the annual rent, and, compensation, as the case may be in advance 30 days before the starting of each consecutive year, and, in the event of failure to make the advance payment, the mining operations shall be liable to be suspended.*

Rule 64 of the Rules of 2012

(1) x x x x

(2) x x x x

(3) Sub-rule (3) of the Rule (supra) be amended to the extent that *the officer-in-charge of the District becomes cast with a*

mandatory injunction to forward the reference to the District Collector concerned, rather within 10 days of his receiving the said reference.

(4) x x x x

(5) x x x x

(5A) *The District Collector concerned, becomes enjoined to make a decision on the reference, but within 45 days of his receiving the said reference.*

(6) x x x x

(7) x x x x

(8) x x x x

(9) *The annual rent payable under sub-Rule (1), and, the annual tentative rent to be deposited under sub-Rule (3), may be deemed fit to be paid in advance failing which the undertakings of mining operations, by the mineral concessionaire concerned, shall be forbidden.*

(10) *The amount appertaining to each consecutive year shall be paid not less than 30 days prior to the commencement of next year during the currency of mineral concession.*

(11) *In the event of non liquidation of the amount determined, shall entail penalty @ 10% of the agreed rate (mutually settled or otherwise) per annum, thus being imposed by the mining officer, for the period for which default continues, besides shall entail suspension of the mining operations. In case, the default continues for three months, then the mining operations shall be terminated after giving show cause notice.*

(12) *In case the mineral concession holder files an appeal,*

he/it shall deposit the amount determined by the authority concerned, thus before his/its commencing the mining operations or his/its continuing with mining operations, as the case may be, as an interim measure, subject to the final decision of the appellate authority, which will relate back to the date of initial determination.

In case the land owner files an appeal, thereupon also the mineral concession holder shall be liable to pay the amount determined by the authority concerned, subject to final decision of the appellate authority, which will relate back to the date of initial determination.

Rule 65 of the Rules of 2012

(1) x x x x

(2) x x x x

(3) In sub-Rule (3) a suitable amendment be made to the extent, that *the reference, shall be forwarded within 10 days of the receipt of the same, besides qua on receipt thereof, the same shall be decided within two months thereafter.*

(4) x x x x

(5) x x x x

(6) In addition sub-Rule (6) of the Rule (supra) speaks, that in case the amount of final compensation, as determined by the Collector, works out to be more than the tentative amount of compensation, already deposited as per sub-Rule (2), thereupon the mineral concession holder shall deposit the additional amount of compensation within fifteen days. It is further

detailed therein, that in case the amount of final compensation works out rather to be less than the amount already deposited by the contractor/lessee, the excess amount shall be refunded to him within fifteen days. However, an amendment be also made in the relevant rule, to the extent that *the entire exercise by the District Collector shall be completed within a period of 45 days from the date of receipt of reference.*

(7) x x x x

(8) x x x x

(9) Moreover, a suitable amendment be also made in the relevant rule(s) to the extent, that *the tentative amount of compensation, as determined under sub-Rule (2) and (3) would, also be payable in advance failing which the mining operations on such land, would not be permitted to commence, thus by the mineral concession holder. Moreover, for each consecutive year, the amount of compensation shall be paid 30 days prior to the commencement of the next year.*

(10) In addition, an amendment be also made that the *non-payment of the determined amount, shall entail penalty @ 10% of the agreed rate (mutually settled or otherwise) per annum, thus being imposed by the mining officer for the period for which default continues, besides shall entail suspension of the mining operations.* In addition, an amendment in the relevant rule be also made to the extent, that *in case the default continues for three months, thereupon the mining operations shall be terminated after giving show cause notice.*

30. For the reasons (supra), the asked for mandamus, to the petitioner, is declined. However, with the afore observations, and, recommendations, the instant petition stands disposed of.
31. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 18th, 2023
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No