IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 6429 of 2023

Bijay Krishna Sahay, aged about 76 Years, Son of Late Maharaj Sahay at present residing at Shastri Nagar, Giridih, P.O.-Giridih, P.S.- Giridih, District-Giridih, Jharkhand. Jharkhand. **... Petitioner**

Versus

1. The State of Jharkhand.

2. The Secretary, Department of Mines and Geology, Govt. of Jharkhand, Nepal House, Doranda, P.O. and P.S.- Doranda, District-Ranchi.

3. Mines Commissioner, Department of Mines and Geology, Government of Jharkhand, having its office at Nepal House, Doranda, P.O. and P.S. Doranda, District Ranchi.

4. The Deputy Commissioner, Giridih, P.O. and P.S. Giridih, District Giridih.

5. District Mining Officer, Giridih, P.O. and P.S. Giridih, District Giridih..

6. Assistant Mining Officer, Giridih, P.O. and P.S. Giridih, District Giridih. **... Respondents**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner : Mr. R.N. Sahay, Sr. Advocate
Mr. Sumir Prasad, Advocate
Mr. Kirtivardhan, Advocate
Mr. Ritesh Singh, Advocate
Mr. Aditya Amahi, Advocate

For the Respondents : Mr. Mohan Kumar Dubey, AC to AG

CAV on 28/11/2025 **Pronounced on 12/12/2025**

Per Sujit Narayan Prasad, J:

Prayer

1. The instant writ petition has been filed, under Article 226 of the Constitution of India, for the relief as quoted as under:

> *"For issuance of an appropriate writ(s)/order (s) direction(s) particularly in the nature of certiorari for quashing of the order dated-31.01.2023 communicated vide Memo NO.-267, dated-03.02.2023 (Annexure-13) passed in Revision Case No.-55 of 2015 by the respondent no.-3 by which without considering the entire material available on the record dismissed the revision application preferred against the cancellation of lease vide Letter No.-594, dated-26.06.2003 and for quashing the order as contained in Memo No.-594, dated-26.06.2003 (Annexure-4) by the respondent no.-4 (Deputy Commissioner, Giridih) duly communicated by the Respondent No.-5 (District Mining Officer) by which without any notice or show cause the lease granted on 04.02.1997 for the purpose of mining lease of stone for the area 1.50 acre situated at Mouza-Chachaghara under district-Giridih has been cancelled.*
>
> *And*
>
> *For issuance of an appropriate writ(s)/order(s) direction(s) particularly in the nature of mandamus commanding upon the respondents to allow to carrying on the business on the lease hold area for the none working period which has*

illegally been closed vide order dated-.26.06.2003 by extending the period for which the petitioner is entitled in terms of the agreement and lease granted by the State Govt. to him for which the petitioner has already paid all the legal dues and in absence of none working material stones are being stolen away by regularly and further the respondents be directed to pay the compensation to the tune of Rs. 1.34 crores for the period of 3 years 8 months i.e. approximately Rs. 10,000/-per day in lieu of the none working for illegal closure inspite of paying all the dues as the petitioner has suffered lot and for that he has suffered medically for inaction on the part of the respondents."

Factual Aspect:

2. The brief facts of the case, as per the pleadings made in the writ petition, which requires to be enumerated, reads as under:

3. The petitioner has applied for mining lease for stone in terms of the Bihar Minor Mineral Concession Rules in respect of area constituted in village Chachdhera, Plot No. 547 (P) for an area of 1.5 acres in the district of Giridih. It is stated that after following all the procedure and enquiry, the mining lease for stone was granted for ten years with certain term(s) and condition(s) and to that effect an agreement was entered vide agreement dated 04.02.1997 for the period of ten years (04.02.1997 to February 2007). Accordingly, the

petitioner started the work and paid all the royalties and rents etc.

4. However, all of a sudden, one Munna Hazam disputed with regard to the lease hold area claiming that the land belongs to him and not the State Government property. Therefore, the work was stopped on 11.01.2000 by the petitioner and till January, 2010, no dues were there as the petitioner has paid the royalty and Dead Rent etc. in terms of the Agreement.

5. Since the private person has disputed the matter with regard to the land in question, hence the petitioner filed application before respondent no.-3 which was instituted as Miscellaneous Case No. 15/2001 in which the petitioner has prayed for providing protection for doing the work on the leased hold area. Thereafter the matter was enquired into by the Deputy Commissioner time to time and proceeding has been continued since long and the respondents themselves stated that the work in the lease hold area is stopped for last 2-3 years, as it will be evident from the letter dated 09.07.2003.

6. In the meantime, notice was issued by respondent no.-5 for depositing the dead rent from 2001 and another notice dated 31.07.2002 was also issued allegedly contrary to the terms and conditions of the lease agreement dated

04.02.1997 wherein it has specifically been averred that payment of surface rent and dead rent is not to be paid if the mining lease is closed, as would be evident from clause 4 of the agreement.

7. But without considering the aforesaid averments and documents, the respondents-authorities issued impugned order dated 03.09.2003 by which it was directed to make payment of dead rent and interest thereupon of the lease hold area and a certificate proceeding being Certificate Case No. 6/2003-04 dated 24.10.2003 was also initiated before respondent no. 3. The petitioner thereafter filed objection under Section 9 of the Bihar & Orissa Public Demand Recovery Act, 1914 [in short 'Act, 1914'].

8. It is stated that during pendency of the certificate case, even enquiry was done by the respondent upon the order of respondent no. 3 in which report was submitted on 03.07.2004 in Misc. Case No. 15 of 2001 specifically mentioning therein the fact that the private person on the basis of forged paper stopped the work and tried to grab the government land.

9. It is the case of the petitioner that though such finding has been given in the enquiry conducted by the DCLR, Giridih in the Misc. Case No. 15 of 2001 but in the meantime impugned order vide Letter No. 594 dated

26.06.2003(Annexure-4) was passed mentioning therein that in terms of order dated 24.05.2003 passed by the Deputy Commissioner, Giridih, the lease has been cancelled for the remaining period though it is alleged that no order dated 26.06.2003 was communicated to the petitioner.

10. Aggrieved thereof, the petitioner approached this Court by filing writ petition being W.P.(C) No. 6174 of 2004, which was dismissed vide order dated 30.11.2004 with an observation that the petitioner may appear before the Certificate Officer and take all the points that may be available with him and consequently the Certificate Officer shall consider the objection and pass appropriate order.

11. Thereafter, the petitioner filed a detailed representation on 24.12.2004 and petition under Section 9 of the Act, 1914 denying his liability. The respondents-authorities also appeared before the Certificate Court and filed rejoinder to the petition filed by the petitioner.

12. Pursuant thereto, the Certificate Officer passed order dated 23.09.2005 denying the claim of the petitioner.

13. Aggrieved thereof, the petitioner again approached this Court by filing W.P.(C) No. 7300 of 2005, which was dismissed as withdrawn vide order dated 26.03.2015 with liberty to the petitioner to approach appellate authority.

14. Accordingly, the petitioner filed revision being Revision Case No. 55 of 2015, which is still pending.

15. However, the petitioner deposited the amount dues passed by the Certificate Officer to the tune of Rs. 47,098/- on 23.11.2015.

16. Thereafter the respondent no.2 passed order dated 02.03.2016 whereby it was directed to produce the royalty clearance certificate relating to certificate case and other statutory clearance.

17. Petitioner intimated by filing supplementary affidavit before respondent no. 3 but no order has been passed and the matter has been delayed for seven years, as such the petitioner suffered a lot for his no fault.

18. Petitioner deposited all the royalty dues without any work but since the matter is subjudiced and the materials are being stolen by unknown, as such the petitioner filed application on 20.02.2017 before respondent no. 5, which was inquired into and it was found that illegal mining of stones are being carried out by the unknown but no action was taken, therefore, the petitioner again approached this Court by filing W.P.(C) No. 2472 of 2018, which was disposed of vide order dated 28.01.2021 directing the concerned respondent to dispose of the revision case being

Revision Case No. 55 of 2015 within three months from the date of receipt/production of copy of the order.

19. Pursuant thereto, the petitioner filed representation before respondent no. 3 in Revision Case No. 55 of 2015 mentioning all points but the revision application was dismissed vide order dated 31.01.2023 which was communicated vide memo no. 267 dated 03.02.2023(Annexure-13).

20. Being aggrieved with the order passed by the revisional authority dated 31.01.2023 which was communicated vide memo no. 267 dated 03.02.2023(Annexure-13) and order contained in Memo No. 594 dated 26.06.2003(Annexure-4), the petitioner has again approached this Court, which is the subject matter of instant writ petition.

21. Thus, it is evident from the aforesaid factual aspect that the petitioner was initially granted mining lease over an area of 1.50 acres, Plot No. 547(P), in Mauza Chachaghara under Jamua P.S., Giridih for a period of ten years vide agreement dated 04.02.1997.

22. However, for alleged non-compliance of terms and conditions of the lease agreement, the Deputy Commissioner, Giridih vide letter dated 24.05.2003, which was communicated to him vide letter dated 26.06.2003(Annexure-4), pre-maturely terminated the said

lease agreement. The petitioner took the ground that impugned order of pre-mature termination was never communicated to him whereas the respondents-authorities have taken the ground that due legal notice and demand notices were served to him.

23. The Revisional authority considering the averment made by the parties dismissed the revision application vide order dated 03.02.2023(Annexure-13) declining to interfere with the order of termination of lease deed passed by the Deputy Commissioner, Giridih, which is impugned in the instant writ petition.

Submission of the Petitioner:

24. Mr. R.N. Sahay, learned senior counsel for the petitioner has submitted that the order of termination of lease deed is improper since the same has been passed without providing adequate opportunity of hearing to the petitioner.

25. Learned senior counsel for the petitioner has assailed the impugned order dated 26.06.2003 of pre-mature termination of lease deed wherein no consideration has been given with respect to the issue of providing opportunity of hearing to the petitioner. Further submission has been made that the lease was granted for a period of 10 years from 04.02.1997 to 03.02.2007 but the lease was pre-

maturely terminated due to which the petitioner has incurred huge amount of loss.

26. It has been contended that although in the counter affidavit reference of notices have been mentioned to be given to the petitioner but as a matter of fact these notices have never been served upon the petitioner and as such as per the requirement under the law i.e., as per Rule 24 (3) of the Bihar Minor Mineral Concession Rules, no such order is to be passed without providing effective opportunity of hearing.

27. Further submission has been made that the petitioner has moved before the revisional authority highlighting this point but without taking into consideration these facts merely on the ground that the terms and conditions of the lease deed has not been adhered to the revisional authority has declined to interfere with the decision taken by the Deputy Commissioner cancelling the lease deed.

28. Learned senior counsel for the petitioner on the basis of aforesaid ground has submitted that impugned order dated 31.01.2023 communicated vide memo no. 267 dated 03.02.2023(Annexure-13) in Revision Case No. 55 of 2015 and order dated 26.06.2003(Annexure-4) be quashed and set aside.

Submission on behalf of respondents:

29. Per Contra, Mr. Mohan Kumar Dubey, learned AC to Advocate General, has submitted that the present writ petitioner is not fit to be entertained since the prayer so made as is being made in the present writ petition has already been refused to be interfered with vide order dated 30.11.2004 passed in W.P.(C) No. 6174 of 2004.

30. It has been contended that the writ petitioner has chosen not to challenge order dated 30.11.2004 passed in W.P.(C) No.6174 of 2004 before the higher forum and once the said order has been passed declining to interfere with the order of termination of mining lease, it is not available for the writ petitioner to challenge the same by filing the instant writ petition.

31. It has been contended by referring to order dated 26.03.2015 passed in W.P.(C) No. 7300 of 2005 wherein liberty was given to the petitioner to approach the appellate authority but as has been submitted in course of hearing by learned senior counsel for the petitioner that whatever liability has been casted upon the writ petitioner, regarding the Dead Rent and Surface Rent, which has been alleged to be not paid, has already been paid and as such the writ petitioner chosen not to prefer appeal, which itself suggest that the moment the petitioner has considered himself the defaulter in not making the payment of Dead Rent and

Surface Rent, it is not available for the writ petitioner to contest the case by taking the ground that none of the conditions of the lease deed has been flouted.

32. The argument has been advanced that the validity of the lease was for 10 years from the year 1997 operative till 2007 but during subsisting period of lease, it was cancelled and even if the writ petition will be allowed, the writ petitioner will not be benefitted in view of enactment of the Jharkhand Minor Mineral Concession Rules, 2004 [in short 'JMMC Rules, 2004'] wherein specific provision has been provided under Rule 9(1)(ka), (Cha), 9 (Chaha),9(12) that there cannot be any extension or continuation of lease deed after 31.03.2022.

33. Learned State counsel, based upon the aforesaid ground, has submitted that the impugned order(s) requires no interference and writ petition lacks merit and is fit to be dismissed.

Analysis

34. We have heard learned counsel for the parties and gone through the pleadings made in the writ petitions as also the counter affidavits filed by the respondents.

35. This Court, on appreciation of the argument advanced on behalf of parties, is of the view that following issues are required to be considered:

I. *Whether it is available for the writ petitioner to raise the ground of illegality in the cancellation of the lease deed once he has accepted the default by making payment of the defaulted amount of Dead Rent and Surface Rent by complying with the order passed by the Certificate Officer?*

II*. Whether the ground of not providing the opportunity of being heard is to be entertained at this stage when the petitioner has admitted the default of not making payment of Dead Rent and Surface Rent which is the terms and conditions of the lease deed and by not contesting the final decision taken by the Certificate Officer by dealing with the objection filed by the petitioner under Section 9 of the Act, 1914?*

III*. Whether even accepting the case of the writ petitioner is there then can any relief be extended in favour of the writ petitioner in view of enactment of Jharkhand Minor Mineral Concession Rules, 2004 as amended time to time on creation of the State of Jharkhand superseding the Bihar Minor Mineral Concession Rules, 1972 wherein specific provision has been made by way of statutory restriction that there cannot be any extension or renewal of the lease after 31.03.2022?*

36. Since issue No. I and II are inter-linked to each other, as such for the sake of convenience they are taken up together.

37. This Court in order to consider these issues needs to refer herein the terms and conditions of the lease deed dated 04.02.1997(Annexure-1), which contains one of the conditions of making payment of amount of Dead Rent/Royalty, Surface Rent etc. as per MMDR Act, 1957. For ready reference the relevant clause of the lease deed is being quoted as under:

> *"Part-V*
> *RENTS AND ROYALTIES RESERVED BY THIS LEASE:*
> *1.TO PAY DEED RENT OR ROYALTY WHICHEVER IS GREATER:*
> *The lessee shall pay in respect of any quarterly period or half yearly period as may be fixed by the Deputy Commissioner either the dead rent reserved by clause 2 of this part or the sum of the royalties, reserved by clause 3 of this part whichever is greater. If the lease permits the working of more than one mineral in the same area, the Deputy Commissioner may fix separate dead rent in respect of each mineral."*
> *PROVIDED the Lessee shall be liable to pay the dead rent or royalty in respect of each mineral which over be higher in mount but not both.*
> *2. RATE OF MODE OF PAYMENT OF DEAD RENT -*
> *Subject to the provisions of Clause I of this Part and from the to during the subsistence of the lease the losso0 shall pay to the District Mining Officer, Giridih in twelve equal monthly installments on the first day of following months each year dead rent at the rate of Rs. 3000/- (Rupees Three thousands) per acre per annum of the lands*

described in PART I of this Schedule subject to revision at any time by the State Government by notification of modification of Schedule I of this Rule. The Lessee shall not claim any remission of dead rent on the ground that he is not allowed by raiyats to go and work upon the raiyati lands because the Government grants the mineral rights only in the Mining lease and not the surface right.

3. RATE AND MODE OF PAYMENT OF ROYALTY

Subject to the provision of Clause I of this part the lessee shall during the subsistence of this lease pay to the State Government in twelve equal installments on the 15th day of the following month with monthly return in each month royalty in respect of any mineral removed by him from the leased area at the rate of Rs.25/- (Twenty five) per cubže metro or at the rate for the time being specified in the Second Schedule to the Bihar Minor Mineral Concession Rules, 197

4. PAYMENT OF SURFACE RENT :-

The lessee shall pay rent to the State Government in respect of all parts of the surface of the said lands which shall from time to time be occupied or used by the Lessee under the authority of those presents at the rate of Rs. 1000.00 (Rupees Ono thousand) per annum per acre of the area or at the rates as may be fixed by the Deputy Commissioner from time to time so occupied or used and so in proportion for any area less than an acre during the period from the commencement of such occupation or use until the area shall cease to be so occupied or used and shall so far as possible ba restored to its original condition which rent shall be paid upon each of the quarterly dates hereinbefore appointed for the payment of installments of the certain annual dead rent.

PROVIDED that no such rent shall be payable in respect of the occupation and use of the area comprised in any roads or ways to which the public have full right to access.

5. The Lessee shall duly and regularly pay to the appropriate authority all Coasos, Taxes and local dues in respect of the leased area, the said minerals or the working of the mines in addition to the rent and royalty so payable as aforesaid.

PART-VI.

PROVISIONS RELATING TO THE RENTS AND ROYALTIES

1. Rent and Royalties to be free deduction etc:-

The rent and royalties mentioned in Part V of this Schedule shall be paid free from any deductions to the State Government at District Mining Office, Giridih and in such manner as the State Government may direct.

2. Mode of computation of loyalty -

For the purposes of computing the said royalties the lessee shall keep a correct account of the mineral produced and dispatched. The accounts as well as the quantity of the mineral in stock or in the process dispatch may be checked by any officer authorised by the Deputy Commissioner.

3. Monthly account to be sent to State Government –

The accounts for each month in respect of raising, stock, sale, dispatch, local consumption, royalty and rent duo and paid shall be submitted within 15 days of the month following and a true copy signed by the lessee or his authorized agent shall be sent in triplicate to the competent officer thereafter in a Form not may be prescribed from Line to time by the Statement Government.

4. Interest on arrear payments :-

The Lessee shall be liable to pay interest at the rate of 24% per annum on royalty amount and remaining payable to the State Government.

5. Course of action if rent and royalties are not paid in time:-

Should the royalty or rent reserved and made payable by the leaso be not paid within one month next after the date fixed in the lease for the payment of the same, the Deputy Commissioner may enter upon the premises and distrain all or any of the mineral or beneficiated produces thereof or moveable property therein or of so much of them as w^ll

> *suffice for the satisfaction of the rent or royalties duo and all costs and expenses occasioned by the non-payment thereof. If any royalty or rent remains at any time unpaid for three calendar months after the date on which it is due the Deputy Commissioner may determine the lease and take possession of the premises comprised thereon. These rights shall be without prejudice to the right of the Deputy Commissioner to realise the dues under the Bihar Public Demands Recovery Act or any statutory Act or Rules thereof for the time being in force.*

38. The notices (Annexure-3 of the counter Affidavit) have been given to the petitioner as required to be given under Rule 21(5) of the Bihar Minor Mineral Concession Rules,1972 the rule under which the lease deed was executed in the year 1997 i.e., prior to bifurcation of the erstwhile State of Bihar. The occasion for issuing of notice upon the writ petitioner was that the amount of Dead Rent/Royalty, Surface Rent etc. was not being paid.

39. The aforesaid fact is admitted by the petitioner by virtue of the fact that even in spite of notice issued to the petitioner the amount of Dead Rent and Surface Rent has not been paid which led the authority to assess the said amount and treated it to be the public demand within the meaning of Section 3 of the Act, 1914.

40. Thereafter, the requisitioning authority has made requisition to the Certificate Officer for recovery in exercise of power under Section 5 of the Act, 1914. The certificate proceeding was initiated vide C.C. No. 06/03-04 to realize

the dues amount under the Act, 1914. The Certificate Officer has issued notice under Section 7 of the PDR Act, 1914 calling upon the writ petitioner to submit its objection as required to be submitted before the mining officer under Section 9 of the Act, 1914.

41. The writ petitioner has submitted the objection but the certificate officer has not found itself satisfied with the explanation furnished by way of opposition and confirmed the liability as has been casted upon by the requisitioning officer holding the writ petitioner to be certificate debtor by order dated 23.09.2005(Annexure-7).

42. Here, the relevant provision of PDR Act, 1914 i.e., Section 5,6,7 and 9 are being referred herein:

> ***5. Requisition for certificate in other cases.*** *- (1) When any public demand payable to any person other than the Collector is due such person may send to the Certificate Officer a written requisition in the prescribed form:*
> *Provided that in the case of an order framed by a liquidator under the Cooperative Societies Act, 1912 [2 of 1912] the written requisition shall be sent by the Registrar of Co-operative Societies, Bihar and Orissa.*
> ***(2)*** *Every such requisition shall be signed and verified in the prescribed manner, and except in such cases as may be prescribed, shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870 (VII of 1870) in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.*
> *Note 1. - Damages under Section 68 of the Bengal Tenancy Act, or Section 175 of the Chota Nagpur Tenancy Act cannot*

be included in certificates for arrears of rent. [Note 2. - Requisitions made in respect of public demands payable to Government shall not be chargeable with any Court-fee (Board's Notification No. 4-4169, dated the 15th July, 1970)].

Note 3. - Government are pleased to exempt the Encumbered estates in Chota Nagpur and all Court of Wards estates in Bengal having properties in this province from pre-payment of ad valorem and process fees in certificate cases on the understanding that no question of remission of the fees will be considered, however insolvent the estates will be. Government are also pleased to extend the concession to the Wards estates in Bihar which have difficulty in finding the money for purchase of stamps in advance on the aforesaid condition and also on the condition that estate should be exempted from pre-payment of fee for a given period.

[Memo No. 11198 R-l W-64, dated the 26th October, 1934, of the Government of Bihar and Orissa, Revenue Department.]

Note 4. - Government have exempted from pre-payment of ad valorem Court-fee, certificates issued under the Bihar and Orissa Co-operative Societies Act, 1935, on condition that the Court-fee will be the first charge on any sum realised in cash. The Court-fee payable on a requisition for a certificate under a liquidator's order under Section 44 or an award under Section 48 of the Bihar and Orissa Cooperative Societies Act, 1935, is a Court-fee of [75 paise and not an ad-valorem Court-fee]

***6. Filing of certificate on requisition**. - On receipt of any such requisition the Certificate Officer, if he is satisfied that the demand is recoverable and that recovery by suit is not barred by law, may sign a certificate, in the prescribed form, stating that the demand is due and shall include in the certificate the fee if any paid under Section 5, sub-section (2); and shall cause the certificate to be filed in his office.*

> ***7. Service of notice and copy of certificate on certificate debator****. - When a certificate has been filled in the office of a certificate officer under section 4 or section 6, he shall cause to be served upon the certificate-debator , in the prescribed manner, a notice in the prescribed manner, a notice in the prescribed form and a copy of the certificate.*
>
> ***9. Filing of petition denying liability****. - (1) The certificate debtor may within thirty days from the service of the notice required by Section 7, or where the notice has not been duly served then within thirty days from the execution of any process for enforcing the certificate, present to the Certificate Officer in whose office the certificate is filed or to the Certificate Officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying his liability, in whole or in part.*
>
> *(2) If any such petition is presented to a Certificate Officer other than the Certificate Officer in whose office the original certificate is filed, it shall be sent to the latter officer for disposal."*

43. The learned senior counsel for the writ petitioner has contended before this Court that the amount which was not paid i.e. amount of Dead Rent and Surface Rent, has been paid without contesting the order passed by the certificate officer rejecting the opposition filed under Section 9 of the Act, 1914.

44. Thus, it is evident that the defaulted amount has been admitted by the petitioner the moment he has chosen not to challenge the order dated 23.09.2005 passed in C.C. No. 06/03-04, by the certificate officer rather he has chosen to make payment of the said amount.

45. One of the conditions in the lease deed, as has been referred herein, is the payment of the amount of Royalty/Dead Rent as mandated under Section 9 and Section 9A of the MMDR Act, 1957 and as such the authority has taken decision to cancel the lease deed.

46. The question of non-issuance of notice is the core of the argument advanced on behalf of petitioner. However, in the counter affidavit three notices vide letter no.-196/M dated 11.02.2002, letter no.-632/M dated 31.07.2002 and letter no.-1006/M dated 19.12.2002(Annexure-B series), have been stated to be served upon the petitioner which has been mentioned along with memo number and date. Admittedly, there is no rejoinder to the said counter affidavit denying such statement made by the respondents.

47. Learned senior counsel for the petitioner has however denied that the petitioner has received any such notice without filing any rebuttal reply on oath.

48. This Court needs to refer herein that if the ground has been taken by the party to the proceeding on oath and if the same is being denied or disputed by other, then it is the bounden duty of the other party to deny it on oath. There cannot be any denial by making oral submission.

49. Further the question of issuance of notice has also been considered by this Court by taking the admission on

the part of the writ petitioner admitting the liability of Dead Rent and Surface Rent as per lease deed dated 04.02.1997(Annexure-1) between the parties, which was to be paid by the writ petitioner. Since the said amount has been paid by the writ petitioner thus the question of issuance of notice has become irrelevant, if the writ petitioner himself has accepted the liability by making payment of the said amount. However, after contesting up to the level of Certificate Proceeding by filing objection under Section 9 of the Act, 1914, the petitioner chosen not to prefer appeal against the said order.

50. On the question of notice which is being argued, this Court is of the view that the notice means that the concerned litigant against whom adverse decision is proposed to be taken then such litigant is required to know about the irregularity so as to defend himself; meaning thereby, the litigant concerned must be apprised regarding the issue of irregularity for the purpose of providing an opportunity of hearing.

51. The principle of natural justice is also not a straightjacket formula rather it is to be assessed on the basis of the facts and circumstances of the case and in a case where the litigant concerned is knowing about the irregularity and there is no chance of defending by disputing

the said irregularity i.e., if the litigant concerned is admitting the aforesaid fact then there is no reason for issuance of show cause/notice or its service on the principle that in a case of admission there will be no chance of changing the situation, reference in this regard may be taken from the judgment rendered by the Hon'ble Apex Court in the case ***Escorts Farms Ltd. vs. Commissioner, Kumaon Division, Nainital, U.P. & others***, reported in ***(2004) 4 SCC 281,*** wherein it has been held as under:

> *"64. Right of hearing to a necessary party is a valuable right. Denial of such right is serious breach of statutory procedure prescribed and violation of rules of natural justice. In these appeals preferred by the holder of lands and some other transferees, we have found that the terms of government grant did not permit transfers of land without permission of the State as grantor. Remand of cases of a group of transferees who were not heard, would, therefore, be of no legal consequence, more so, when on this legal question all affected parties have got full opportunity of hearing before the High Court and in this appeal before this Court. Rules of natural justice are to be followed for doing substantial justice and not for completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. In view of the legal position explained by us above, we therefore, refrain from remanding these cases in exercise of our discretionary powers under Article 136 of the Constitution of India."*

52. In **Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise, Gauhati and Ors.,**

(2015) 8 SCC 519 their Lordships have held at paragraph-39 which is being reproduced as under**:**

> *"39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasizing that the principles of natural justice cannot be applied in straitjacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason- perhaps because the evidence against the individual is thought to be utterly compelling- it is felt that a fair hearing "would make no difference"- meaning that a hearing would not change the ultimate conclusion reached by the decisionmaker."*

53. Adverting to the present case, herein also the writ petitioner has admitted the irregularity by depositing the amount of Dead Rent and Surface Rent, but belatedly i.e., after cancellation of lease deed. The terms and conditions of the lease deed contains that if any of the terms and conditions will be flouted then the competent authority will have right to cancel the lease deed.

54. The condition of the lease deed since is bilateral contract and as such the same is strictly to be adhered to by the signatory of the lease deed.

55. Further it is settled position of law that a concluded contract pre supposes the existence of at least two parties with mutual rights and obligations and once a concluded

contract comes into existence, it is axiomatic that such rights and obligations of the parties are governed by the terms and conditions thereof, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Rakesh Kumar Verma Vrs. HDFC Bank Ltd., 2025 INSC 473***.

56. Further, it requires to refer herein the settled position of law that once the parties have accepted the terms and conditions of lease or any agreement, it binds the parties and there cannot be any breach of terms and conditions. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Tamil Nadu Electricity Board and Another vs. N. Raju Reddiar and Another***, reported in (**1996) 4 SCC 551** wherein it has been held that it must be borne in mind that the agreement between the parties was a written agreement and therefore the parties are bound by the terms and conditions of the agreement.

57. Further, the law is well settled that once the terms and conditions of the agreement have been accepted by the parties, it is not available to them to assail the same, reference in this regard may be made to the judgment rendered by Hon'ble Apex Court in the case of ***Panna Lal and Others v. State of Rajasthan and Others,*** reported

in ***(1975) 2 SCC 633*** wherein it has been held that the licensee having voluntarily accepted the contract and after having fully exploited to its advantage the contract to the exclusion of other, cannot resile from the contract and cannot challenge the terms either on the ground of inconvenient.

58. It requires to refer herein the settled position of law that if any terms and conditions have been agreed upon by the parties the same cannot be relaxed by the High Court sitting under Article 226 of the Constitution of India otherwise it will amount to re-write the terms and conditions of contract as has been held in the case of ***Union Territory of Pondicherry and Ors Vs. P.V. Suresh and Ors.,*** reported in ***(1994) 2 SCC 70*** wherein at paragraph 11 it has been held that the Court has no jurisdiction to alter the terms or rewrite the contract between the parties, for ready reference the same is being quoted as under:

> *"11. In the circumstances of this case, ... Otherwise, the Court has no jurisdiction to alter the terms or rewrite the contract between the parties."*

59. In the case of ***Polymat India (P) Ltd. and Anr. Vs. National Insurance Co. Ltd. and Ors***., reported in ***(2005) 9 SCC 174***, the Hon'ble Apex Court by taking aid of the judgment rendered in the case of ***United India Insurance Co. Ltd. Vs. M.K.J. Corp.,*** reported in ***(1996) 6 SCC 428***

has been pleased to observe that "after the completion of the contract, no material alteration can be made in its terms except by mutual consent".

60. The petitioner since has agreed to make payment of the Dead Rent and Surface Rent as one of the conditions of the lease deed, and admittedly it is not paid then certainly the writ petitioner will be considered to be defaulter of the terms and conditions of the lease deed and the aforesaid aspect of the matter is an admission due to the fact of depositing the said amount by the petitioner; meaning thereby the cause of defaulting in making payment of Dead Rent and Surface Rent is known to the writ petitioner and by virtue of that it is not available for the writ petitioner to take the ground of violation of principles of natural justice reason being that in such circumstances the writ petitioner will not be in a position to defend himself in such admitted fact of not making payment of the Dead Rent and Surface Rent and in that view of the matter if the consideration will be given of violation of principles of natural justice then the same will amount to empty formality and futile exercise.

61. It also needs to refer herein that the writ petitioner has come to this Court by filing writ petition being W.P.(C) No. 6174 of 2004 challenging the order dated

26.06.2003(Annexure-4) by which the mining lease was cancelled and certificate proceeding was also challenged.

62. We have gone through the order dated 26.06.2003(Annexure-4) and found that the lease deed was cancelled. For ready reference the content of the said order although is in Hindi, is quoted as under:

जिला खनन कार्यालय, गिरिडीह

पत्रांक 594 / एम0, दिनांक 26.6.03

सेवा में,

श्री विजय कृष्ण सहाय,
पिता स्व0 महाराज सहाय,
मो0 शास्त्री नगर
पो0 + थाना–गिरिडीह
जिला–गिरिडीह।

विषयः– गिरिडीह जिला अन्तर्गत मौजा चचघरा के प्लॉट नं0 547 / P, रकबा 1.50 एकड़ क्षेत्र पर धारित पत्थर खनन पट्टा के सम्बन्ध में।

उपर्युक्त विषय के सम्बन्ध में आपको सूचित किया जाता है कि उक्त धारित पत्थर खनन पट्टा के बाबत निर्गत बैधानिक नोटिस सं0 196 / एम0, दिनांक 11.02.02, 632 / एम0 दिनांक 31.07.02 एवं 1006 / एम0 दिनांक 19.12.02 के द्वारा दिया गया था जिसका अनुपालन आपके द्वारा नहीं किया गया फलस्वरूप उक्त धारित पट्टा शेष अवधि के लिए उपायुक्त, गिरिडीह के आदेश दिनांक–24.5.03 के द्वारा परि समाप्त कर दी गई है।

अतः आपको आदेश दिया जाता है कि उक्त पट्टा क्षेत्र का क्षेत्राधिकार इस कार्यालय के खान निरीक्षक को दिनांक 12.06.03 को वापस कर दें अन्यथा एक तरफा क्षेत्राधिकार सरकार के पक्ष में ले लिया जाएगा।

इसे आवश्यक समझें।

जिला खनन
पदाधिकारी
गिरिडीह।

63. It is evident from order dated 30.11.2004 passed in WPC No. 6174 of 2004 that this Court has declined to interfere with the order of cancellation of mining lease, however, liberty was reserved with the writ petitioner to approach the certificate officer and take all the points that may be available to him.

64. For ready reference, order dated 30.11.2004 passed in WP(C) No. 6174 of 2004 is being referred.

> *Petitioner has prayed for quashing the order which was passed as far back as on 26.6.2003 cancelling the mining lease and is further challenging the certificate proceeding.*
>
> *In my view, the petitioner may appear before the Certificate Court before whom Certificate Case is pending and take all the points that may be available to him. This Court, at this stage, is not inclined to interfere with the order of cancellation of mining lease.*
>
> *The writ petition is accordingly dismissed.*
>
> *Needless to say that Certificate Officer shall consider the objection and determine the liability in accordance with law."*

65. The order dated 30.11.2004 has also not been challenged before the higher forum which also clarifies that the petitioner has not challenged his liability and as per the decision taken by the certificate officer which has been contested by the writ petitioner by filing objection under Section 9 of the Act, 1914 in pursuance to the liberty granted by this Court vide order dated 30.11.2004 passed in WP(C) No. 6174 of 2004, the said liability has been paid.

66. Thus, this Court, on the basis of the discussion made hereinabove, is of the view that the argument advanced on behalf of the petitioner by way of ground of non-serving of the notice is not worth to be acceptable, accordingly rejected.

67. Accordingly, issue no. I and II are answered against the writ petitioner.

68. So far Issue No. III i.e., whether even accepting the case of the writ petitioner is there then can any relief be extended in favour of the writ petitioner in view of enactment of Jharkhand Minor Mineral Concession Rules, 2004 on creation of the State of Jharkhand superseding the Bihar Minor Mineral Concession Rules, 1972 wherein statutory restrictions has been made that there cannot be any extension or renewal of the lease after 31.03.2022, is concerned, this Court in order to consider the aforesaid issue needs to refer herein that the lease deed was executed in the year 1997 i.e., at the time of erstwhile State of Bihar while the Bihar Minor Mineral Concession Rule,1972 was in vogue. Lease deed was cancelled in the year 2003 at that time also the Bihar Minor Mineral Concession Rules was prevalent although the State was bifurcated in two State i.e., the successor State of Bihar and the successor State of Jharkhand.

69. The successor State of Jharkhand has come out with Jharkhand Minor Mineral Concession Rule, 2004, in exercise of power conferred under Section 15 of the MMDR Act, 1957. The moment the Jharkhand Minor Mineral Concession Rule, 2004 has been enacted, the Bihar Minor Mineral Concession Rule, 1972 has lost its force as per provision of Section 85 of the Bihar Re-Organization Act, 2000. The Jharkhand Minor Mineral Concession Rule, 2004 has been amended several times particularly in year 2020, in order to adhere to the judicial pronouncements enunciated by Hon'ble Apex Court rendered in the case of ***Goa Foundation v. Union of India and Others, [(2014) 6 SCC 590]*** and **Manohar Lal Sharma vs The Principle Secretary & Others *(2014) 9 SCC 516*** by inserting the provision as contained under Section 9. For ready reference the relevant provisions of rule 9 of Rules 2004 are being quoted as under:

> *"**9(1) (क)**-रैयती भूमि के 03.00 हे० क्षेत्र एवं उससे कम क्षेत्र पर पत्थर, मोरम एवं मिट्टी लघु खनिज के खनन पट्टा उपायुक्त द्वारा स्वीकृत किया जाएगा।*
> *परन्तु कि सभी सरकारी क्षेत्र एवं झारखण्ड लघु खनिज समनुदान (संशोधन) नियमावली, 2019 के नियम-6(ख) के परन्तु में उल्लेखित क्षेत्र एवं खनिज को छोड़कर सभी रैयती क्षेत्र पर बालू छोड़कर अन्य सभी लघु खनिज के खनन पट्टा की स्वीकृति झारखण्ड लघु खनिज नीलामी नियमावली, 2017 में निरूपित प्रावधानों के अन्तर्गत इलैक्टानिक नीलामी के माध्यम से निदेशक, खान के द्वारा किया जाएगा। परन्तु राज्य सरकार आवश्यकतानुसार नीलामी हेतु उपायुक्त को भी प्राधिकृत कर सकती है।*

9(ङ) सरकारी क्षेत्र एवं 05.00 हे0 क्षेत्र से अधिक के रैयती क्षेत्र पर प्राप्त वैसे आवेदन पत्र जिसमें इस अधिसूचना निर्गत होने की तिथि से पूर्व झारखण्ड लघु खनिज समनुदान नियमावली, 2004 के नियम 11 अंतर्गत Letter of Intent (आशय का पत्र) निर्गत हो चुका है, उसे इस अधिसूचना के निर्गत होने की तिथि से 180 दिनों के अंदर पर्यावरण स्वीकृति एवं खनन योजना अनिवार्य रूप से समर्पित करना होगा, अन्यथा उनका आवेदन स्वतः अस्वीकृत हो जाएगा।

9(च) सरकारी क्षेत्र एवं 05.00 हे0 क्षेत्र से अधिक के रैयती क्षेत्र पर प्राप्त वैसे खनन पट्टे, जो नवीकरण अंतर्गत थे एवं पर्यावरणीय स्वीकृति/खनन योजना प्राप्त नहीं रहने के कारण कालतिरोहित हो गये हो, उनके पट्टे की अवधि पट्टा स्वीकृति/नवीनीकरण की तिथि से 31 मार्च, 2022 तक के लिए अवधि विस्तारित मानी जाएगी, बशर्ते कि अधिसूचना की तिथि के पूर्व खनन पट्टा की अस्वीकृति/रद्द/व्ययगत होने का आदेश, नहीं पारित किया गया है, परन्तु वैसे खानन पट्टे पर कोई खनन तब तक नहीं किया जा सकेगा, जब तक खनन हेतु आवश्यक पर्यावरणीय स्वीकृति/वन एवं पर्यावरण विभाग की स्वीकृति/खनन योजना स्वीकृति प्राप्त नहीं हो जाता है। आवेदक को सभी वांछित अनापत्ती 180 दिनों के अंदर समर्पित कना होगा।

9(छ) सरकारी क्षेत्र एवं 05.00 हे0 क्षेत्र से अधिक के रैयती क्षेत्र पर स्वीकृत/नवीकृत खनन पट्टे की अवधि यदि उनकी स्वीकृति/नवीकरण की अवधि 3[31 मार्च, 2022 के बाद की तिथि हो, तो उनकी अवधि उनकी स्वीकृति/नवीकरण की अवधि तक विधिमान्य रहेगी।

9(12) नियम-9 (1) (घ), 9(1)(ङ), 9(1)(च), 9 (1) (छ) तथा 9 (10) पूर्व से स्वीकृत/आवदित लघु खनिज के 5.00 हेक्टेयर क्षेत्र से कम क्षेत्र पर भी लागू होंगें।"

70. It is evident from the provision as referred hereinabove that there cannot be any renewal or extension of mining lease after 31.03.2022. However, if the validity of mining lease is there after 31.03.2022 up-to that date the validity of the mining lease will be operative but thereafter it has to be settled through auction.

71. It is relevant to refer herein that as on date whatever decision is to be taken by the State it is in pursuance to the decision of JMMC Rules, 2004 amended time to time even though lease was granted under the Bihar Minor Mineral Concession Rules,1972 but the moment the Jharkhand Minor Mineral Concession Rules,2004 has been enacted which is in supersession to the Bihar Minor Mineral Concession Rules,1972 due to the force of Section 85 of the Bihar Re-organization Act, 2000 and otherwise also, the moment Government of Jharkhand has come out with the new rule the same will be in supersession to the earlier rule, therefore, whatever decision is to be taken by the State of Jharkhand, that is to be strictly in accordance with the Jharkhand Minor Mineral Concession Rules, 2004, wherein there is no provision of extension of period of lease after 31.03.2022 in a case where the validity of the lease itself has expired prior to 31.03.2022.

72. Herein, in the facts of the present case, even accepting the case of the writ petitioner to be correct then lease was in force only for a period of ten years i.e., from 1997 to 2007.

73. Even if the petitioner will be granted any relief, then also there cannot be any extension of the period of lease in view of the statutory restriction in the statute.

74. So far as the Dead Rent and Surface Rent is concerned, which has already been paid, had the petitioner any grievance in relation to the amount of Dead Rent and Surface Rent then it would have been contested but that is not the case herein since the amount has already been paid.

75. This Court, therefore, is of the view that in view of restriction imposed by the statute under Rule 9 of the Jharkhand Minor Mineral Concession Rule, 2004, no relief can be granted contrary to the statutory restriction.

76. Accordingly, issue III is answered against the writ petitioner.

77. This Court, after having answered all the issues, is of the view that the instant writ petition lacks merit and is accordingly dismissed.

78. Pending Interlocutory Application, if any, stands disposed of.

I Agree **(Sujit Narayan Prasad, J.)**

(Arun Kumar Rai, J.) **(Arun Kumar Rai, J.)**

12th December, 2025

Alankar/
A.F.R
Uploaded on 12.12.2025