

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5104 of 2025

Star Stone Crusher, a proprietorship firm having its place of business at C 24, Narayan Vihar Basti, Ambedkar Colony, District- Bikaner, Rajasthan-334001 through one of its Partner Budh Ram Sharma male aged about 37 years son of Kana Ram, Resident of Village- Khoda, Ward No.06, P.S- Rawatsar, District- Hanumangarh, Rajasthan- 335524.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its member Secretary.
4. The State Expert Appraisal Committee, Bihar Patna through its Member Secretary.
5. The District Collector, Madhubani.
6. The Mines Development Officer, Madhubani. (Cluster number 7).

... .. Respondents

with

Civil Writ Jurisdiction Case No. 5112 of 2025

Maa Parwati Enterprises a partnership firm having its place of business at C- 24, Narayan Vihar Basti, Ambedkar Colony, District-Bikaner, Rajasthan- 334001 through authorized signatory Netram male aged about 34 years, S/o Tiloka Ram resident of Ward No. 5, Khoda, P.S. Rawatsar, District- Hanumangarh, Rajasthan-335524.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary.
4. The State Expert Appraisal Committee, Bihar Patna through its Member Secretary.
5. The District Collector, Madhubani.
6. The Mines Development Officer, Madhubani (Cluster number 3).



... .. Respondents

with

Civil Writ Jurisdiction Case No. 5118 of 2025

Jai Shiv Shakti Enterprises, a Proprietorship firm having its Place of Business at Village-Khoda, Tehsil-Rawatsar, District-Hanumangarh, Rajasthan through its Proprietor Budh Ram Sharma Male aged about 37 Years Son of Kana Ram Resident of Village- Khoda Ward No. 06, P.S.- Rawatsar, District-Hanumangarh, Rajasthan-335524.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Pant.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary.
4. The State Expert Appraisal Committee, Bihar Patna through its Member Secretary.
5. The District Collector, Madhubani.
6. The Mines Development Officer, Madhubani. (Cluster number 2).

... .. Respondents

with

Civil Writ Jurisdiction Case No. 5147 of 2025

Maa Parwati Enterprises, a Partnership firm having its Place of Business at C 24, Narayan Vihar nasti, Ambedkar Colony, District-Bikaner, Rajasthan-334001, through Authorized Signatory Netram Male aged about 34 Years S/op Tiloka Ram, Resident of Ward No. 5 Khoda, P.S. Rawastar, District-Hanumangarh Rajasthan-335524.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary.
4. The State Expert Appraisal Committee, Bihar, Patna through its Member Secretary.
5. The District Collector, Madhubani.



6. The Mines Development Officer, Madhubani.

... .. Respondents

with
Civil Writ Jurisdiction Case No. 5328 of 2025

Shiva Associates, a Proprietorship Firm having its Place of Business at 3B, 22-23 Sukhadiya Nagar, Sri Ganganagar Rajasthan-335001 through Authorised Signatory Dalip Singh Male aged about 37 Years Son of Late Ram Singh Resident of Village - Deenwa- Ladkhani, P.S. Fatehpur, District- Sikar, Rajasthan-332303.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary.
4. The State Expert Appraisal Committee, Bihar Patna through its Member Secretary.
5. The District Collector, Banka.
6. The Mines Development Officer, Banka.

... .. Respondents

with
Civil Writ Jurisdiction Case No. 5746 of 2025

Shiva Associates a Proprietorship Firm having its place of Business at 3B, 22-23 Sukhadiya Nagar, Sri Ganganagar Rajasthan- 335001 through autorised signatory Dalip Singh male aged about 37 years Son of Late Ram Singh resident of village- Deenwa- Ladkhani, P.S. Fatehpur, District- Sikar, Rajasthan- 332303.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The State Environment Impact Assessment Authority, Bihar, Patna through its member Secretary.
4. The State Expert Appraisal Committee, Bihar Patna through its member Secretary.



- 5. The District Collector, Banka.
- 6. The Mines Development Officer, Banka (Cheer Unit No. 2).

... .. Respondents

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Appearance :
(In Civil Writ Jurisdiction Case No. 5104 of 2025)

Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Aditya Raman, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate Ms. Preety Choudhary, Advocate
For the Respondents	:	S.C.-23
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate

(In Civil Writ Jurisdiction Case No. 5112 of 2025)

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Aditya Raman, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate Ms. Preety Choudhary, Advocate
For the Respondents	:	S.C.-24
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate

(In Civil Writ Jurisdiction Case No. 5118 of 2025)

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Aditya Raman, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate Ms. Preety Choudhary, Advocate
For the Respondents	:	S.C.-22
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate

(In Civil Writ Jurisdiction Case No. 5147 of 2025)

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Aditya Raman, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate Ms. Preety Choudhary, Advocate
For the Respondents	:	S.C.-25
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate



		Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate
(In Civil Writ Jurisdiction Case No. 5328 of 2025)		
For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
		Mr. Aditya Raman, Advocate
		Mr. Alok Kumar Jha, Advocate
		Mr. Mukund Kumar, Advocate
		Mr. Akash Kumar, Advocate
		Ms. Preety Choudhary, Advocate
For the Respondents	:	G.P.-2
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P.
		Mr. Brij Bihari Tiwari, Advocate
		Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate
(In Civil Writ Jurisdiction Case No. 5746 of 2025)		
For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
		Mr. Aditya Raman, Advocate
		Mr. Alok Kumar Jha, Advocate
		Mr. Mukund Kumar, Advocate
		Mr. Akash Kumar, Advocate
		Ms. Preety Choudhary, Advocate
For the Respondents	:	G.A.-13
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P.
		Mr. Brij Bihari Tiwari, Advocate
		Ms. Shruti Singh, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 20-01-2026

Since all these writ petitions are involving same and similar issue with respect to other clusters of sand *ghats* in Madhubani and Banka Districts, they have been heard together and are being disposed of by this common judgment.

2. As the facts of these writ petitions are same and similar, for the convenience, the facts of C.W.J.C. No.5104 of 2025 are being taken as a leading case.

3. By way of these writ petitions, the petitioners have prayed for the following reliefs:-

“a). For issuance of a writ in the nature of



certiorari for quashing of the agenda item number 6 minutes of meeting dated 03.08.2024 of the State Expert Appraisal Committee (hereinafter referred to as "SEAC" for short) which is a part of the State Environment Impact Assessment Authority (hereinafter referred to as the competent authority for short) whereby the proposal for grant of environmental clearance to the sand ghats of the petitioner has been recommended in gross violation of appendix - V read with a paragraph 7 of the EIA Notification number 1533 dated 14.09.2006 as no 15 clear days' notice was given to the petitioner and thereby the petitioner has been denied opportunity of his participation and necessary deliberation before such a recommendation;

- b) For further issuance of a writ or order or a direction in the nature of certiorari for quashing of the environmental clearance issued by the respondent competent authority vide letter dated 17.01.2025 along with the relevant decision in the minutes of meeting dated 07.01.2025 as the same is in teeth of appendix - V read with a paragraph 7 of the EIA Notification number 1533 dated 14.09.2006;*



- c) *For further issuance of a writ or order or a direction in the nature of certiorari for quashing of the letter bearing memo number 61/M Madhubani dated 24.01.2025 issued by the respondent Mines Development Officer, Madhubani seeking necessary steps to be taken by the petitioner for obtaining clearances in the nature of CTE and CTO from the Bihar State Pollution Control Board with respect to the sand ghats settled in favour of the petitioner in light of the environmental clearance dated 17.01.2025 issued by the competent authority;*
- d) *For further issuance of a writ or order or a further direction upon the respondent state expert appraisal committee to reconsider the project of the petitioner from the stage of "appraisal" and award an adequate opportunity of hearing to the petitioner by issuing prior notice in accordance with appendix V of the EIA notification number 1533 dated 14.09.2006;*
- e) *For further restraining the respondents especially the respondent Department of Mines and Geology and its authorities from taking any coercive action against the petitioner due to non-compliance and non-observance of the necessary formalities for obtaining other*



clearances for mining activities with respect to the sand ghats settled in favour of the petitioner as a result of grant of environmental clearance by the competent authority;”

4. It is the case of the petitioners that the Department of Mines and Geology, Government of Bihar, had published a tender for settlement of sand *ghats* in the clusters of Madhubani and Banka districts, in which the petitioners had participated and being the highest bidders were awarded the settlement of respective sand *ghats* for a period of five years. Subsequently, Letter of Acceptance was issued to the petitioners and thereafter, the petitioners have submitted their respective mining plans before the competent authority. As per the terms and conditions of the tender notice, the petitioners have submitted applications before the State Environment Impact Assessment Authority, Bihar (SEIAA) for grant of environmental clearance with respect to the sand *ghats*, the mining rights of which were awarded after the conclusion of the auction process. The petitioners have submitted applications for grant of environmental clearance for which the procedure has been prescribed in the EIA notification no.1533 dated 14.09.2006 issued by the Ministry of Environment and Forest, Government of India, New Delhi.



5. According to the petitioners, as per the procedure prescribed in the aforesaid notification for grant of environmental clearance, a sub-committee of SEIAA which is known as "State-Level Expert Appraisal Committee" (SEAC) had to complete the fourth stage procedure of appraisal as prescribed in the notification and the procedure for appraisal is specifically prescribed in Appendix-V to the notification consisting of paragraph no.5 which provides that *"the applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC/SEAC meeting for considering the project proposal"*.

6. According to the petitioners, the aforesaid sub-committee i.e. the State Level Expert Appraisal Committee published its decision on 02.08.2024 wherein it was decided that the appraisal meeting shall be conducted on the very next day i.e. 03.08.2024. This according to the petitioners, was blatant disregard of aforesaid paragraph no.5 of Appendix-V. According to the petitioners, the petitioners being the project proponents have duly recorded their protest via e-mail dated 02.08.2024 itself requesting for grant of at least 48 hours time to enable them to attend such meeting. Despite the same, the respondents authorities went ahead and conducted the meeting on



03.08.2024 recording the absence of the petitioners or their representatives and proceeded to recommend the case of each of the petitioners for grant of environmental clearance with respect to their respective settled sand *ghats*.

7. It is also the case of the petitioners that the aforesaid recommendation of SEAC was accepted by the SEIAA in its meeting dated 07.01.2025 and consequently, the competent authority i.e. SEIAA issued the impugned environmental clearances vide letter dated 17.01.2025 which is under challenge.

8. The learned counsel for the petitioners submits that the minutes of meeting dated 03.08.2024 conducted by the SEAC being *ex-parte* is vitiated since the petitioners being project proponents have been denied the opportunity of attending the aforesaid meeting and put forth their contentions before the said sub committee.

9. The learned counsel for the petitioners submits that though in paragraph no.5 of the Appendix-V of the notification, it has clearly been stated that prior notice of at least 15 days must be given to the applicant for considering the project proposal, however, in the present case, just a day prior to the meeting the petitioners were informed that the meeting for



considering the project proposals would be held. Therefore, it is the contention of learned counsel for the petitioners is that if the petitioners would have been afforded adequate opportunity of representation before the SEAC, as per appendix V of the aforesaid notification, then they would have drawn their attention to the relevant issues such as, the letter dated 16.01.2024 issued by the Department of Mines and Geology, which has been addressed to the Collectors of various districts in the State and the letter dated 29.12.2023 issued by the Department of Water Resources, Government of Bihar, wherein a report relating to as many as 134 silt areas was forwarded which included those sand *ghats* also which were given to the present petitioners in settlement.

10. Lastly, the learned counsel for the petitioners submits that the aforesaid letters/reports was well within the knowledge of the respondents but, the same was not considered by the SEIAA and therefore, the said issue had gone unnoticed and could not be taken cognizance while the cases of these petitioners for grant of environmental clearance was being considered by the aforesaid sub-committee. Consequently, the petitioners have been issued environmental clearance on the basis of facts and figures which were available in the notice



inviting tender and other documents in the records but not keeping in view the ground reality which radically differed from the records.

11. It is, therefore, the submission of learned counsel for the petitioners that the impugned recommendations of SEAC is violative of the aforesaid notification and accordingly the decision of the competent authority namely, SEIAA accepting the recommendations of SEAC and grant of environmental clearance are all illegal and liable to be quashed and set aside.

12. In support of the submissions, the learned counsel has placed reliance on the following judgments:-

- i. *State of Jharkhand & Ors. vs. Ambay Cements & Anr.* reported as (2005) 1 SCC 368;
- ii. *Central Coalfields Limited & Anr. vs. SLLSML (Joint Venture Consortium) & Ors.* reported as (2016) 8 SCC 622;
- iii. *Uttar Pradesh Power Transmission Corporation Limited & Anr. vs. C.G. Power & Industrial Solutions Limited & Ors.* reported as (2021) 6 SCC 15;



iv. C.B. Gautam vs. Union of India & Ors.

reported as *(1993) 1 SCC 78*.

13. The respondent nos. 3 and 4 have filed their para-wise counter affidavit, in which they have explained the process of consideration and issuance of environmental clearance.

14. Adverting to the counter affidavit, learned counsel for the respondent nos.3 and 4 has submitted that once the environmental clearance is granted in favour of the petitioners, the remedy lies before the National Green Tribunal under Section 16 of the National Green Tribunal Act, 2010. It is submitted that the petitioner has assailed the decision of the SEAC, however, the aforesaid sub-committee is only an appraisal body and once the environmental clearance has been duly issued by the SEIAA the decision of the subordinate body i.e. the SEAC merges with the final decision of SEIAA. In the present case, there is no challenge to the condition incorporated in the environmental clearance by the petitioners. Therefore, it is submitted that since the alternative remedy lies before the National Green Tribunal, the petitioners ought to have moved before the Tribunal.

15. It is the submission of the respondent nos. 3



and 4 that the petitioners have misread the conditions of EIA notification dated 14.09.2006, in which the very purpose of 15 days' notice was to seek clarification from the project proponent and the said notice was not required to be issued in the instant case as the applications of the petitioners were to be considered on the basis of materials available on record and no clarification was required.

16. It has also been submitted that since the petitioners themselves had applied for the environment clearance, therefore, there was no reason to challenge the proceedings and the final environmental clearance issued by the respondent authorities which was issued in favour of the petitioners. Further, the project was considered and appraised positively i.e. in favour of the petitioners and the appraisal was made in accordance with law. Since, the processing of the applications of the petitioners for grant of environmental clearance has resulted in issuance of environmental clearance in their favour, the same cannot be said to be prejudicial to the petitioners when they were themselves the applicants thereof.

17. Adverting to the counter affidavit, it is submitted by learned counsel for the respondent nos. 3 and 4 that the Hon'ble Supreme Court was monitoring the issue of



grant of environmental clearance in the entire State of Bihar, therefore, there was no reason for the respondent authorities to defer consideration as it was in the favour of the petitioners.

18. It has also been submitted that in the present case, the entire applications along with the EIA reports, public consultations/ hearing documents and other necessary requirements were complete, further, the terms of reference related to compliance were also duly submitted and the valid and enforceable district survey reports (DSR) supporting mining activity was also on record.

19. It has also been submitted that after receiving multiple applications / legal notices, the SEIAA considered the same and it was decided on 07.01.2025 that even if the project proponent is absent during the meeting the SEAC/SEIAA can take necessary steps in the matter. The appraisal was carried out as per the EIA notification and no prejudice can be said to have been caused to the petitioners since ultimately, the environmental clearance was issued in favour of the petitioners. Further, the petitioners are trying to linger their own applications in order to avoid mining. The mining activity was to commence in the year 2022 but instead of carrying out mining, the highest bidders are litigating the matter.



20. Adverting to clause 5 of the Appendix V of the EIA notification, it has been submitted that mere mention of prior notice and information to the project proponent in the said clause will not vitiate an otherwise positive recommendation in favour of the project proponent for grant of environmental clearance and mere used of the word “shall” will not make it mandatory in absence of any consequence being provided in this regard.

21. In this case, the respondent nos. 5 and 6 have also filed their counter affidavit wherein they have stated that the petitioners are aggrieved by the action of the SEAC and SEIAA, for which, the competent authorities are respondent nos. 3 and 4. The respondent nos. 5 and 6 have brought on record the backgrounds facts leading upto the settlement of sand *ghats*. It has also been submitted that since the formalities of settlement of sand ghats have already been completed, the petitioners may be directed to take necessary steps in accordance with the terms and conditions of the tender documents and in principle approval and other relevant notifications and rules.

22. I have considered the submissions of the parties and perused the materials on record.



23. At the outset, it would be appropriate to deal with the contention of learned counsel for the respondents regarding existence of alternative remedy before the National Green Tribunal.

24. The Hon'ble Supreme Court in the case of *U.P. Transport Power Corporation Limited (supra)* has held that mere availability of an alternative remedy does not prohibit the High Court from entertaining a writ petition in an appropriate case, particularly, where there is a failure of principles of natural justice.

25. In these writ petitions, a limited question has come for consideration before this Court regarding challenge to the issuance of environmental clearance issued in favour of the petitioners on the ground of contravention of clause-5 of Appendix- V of the EIA notification dated 14.09.2006.

26. Admittedly, the present petitioners are the settlees of sand *ghats* in various sand clusters of Madhubani and Banka districts.

27. It will be relevant to quote aforesaid clause-5 of Appendix – V appended to the aforesaid notification dated 14.09.2006, which reads as under:-

***“5. The applicant shall be informed at least
15 (fifteen) days prior to the scheduled***



date of the EAC/SEAC meeting for considering the project proposal.”

28. The Hon’ble Supreme Court in the case of ***C.B. Gautam (supra)*** has held as under:-

“28. It must, however, be borne in mind that courts have generally read into the provisions of the relevant sections a requirement of giving a reasonable opportunity of being heard before an order is made which would have adverse civil consequences for the parties affected. This would be particularly so in a case where the validity of the section would be open to a serious challenge for want of such an opportunity.

29. It is true that the time frame within which the order for ~compulsory purchase has to be made is a fairly tight one but in our view the urgency is not such as would preclude a reasonable opportunity of being heard or to show cause being given to the parties likely to be adversely affected by an order of purchase under Section 269-UD(1). The enquiry pursuant to the explanation given by the intending purchaser or the intending seller might be a somewhat limited one or a summary one but we decline to accept the submission that the time-limit provided is so short as to preclude an enquiry or show cause altogether.”

29. The Hon’ble Supreme Court in the case of ***Ambay Cements (supra)*** has held as under:-

“25. In our view, the failure to comply with the requirements renders the writ petition filed by the respondent liable to be dismissed. While mandatory rule must be strictly observed,



substantial compliance might suffice in the case of a directory rule.

26. *Whenever the statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way. It is also settled rule of interpretation that where a statute is penal in character, it must be strictly construed and followed. Since the requirement, in the instant case, of obtaining prior permission is mandatory, therefore, non-compliance with the same must result in cancelling the concession made in favour of the grantee, the respondent herein.”*

30. The Hon’ble Supreme Court in the case of ***Central Coalfields Ltd. (supra)*** has held as under:-

“33. In Ramana Dayaram Shetty v. International Airport Authority of India [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] this Court held that the words used in a document are not superfluous or redundant but must be given some meaning and weightage : (SCC p. 500, para 7)

“7. ... It is a well-settled rule of



interpretation applicable alike to documents as to statutes that, save for compelling necessity, the Court should not be prompt to ascribe superfluity to the language of a document “and should be rather at the outset inclined to suppose every word intended to have some effect or be of some use”. To reject words as insensible should be the last resort of judicial interpretation, for it is an elementary rule based on common sense that no author of a formal document intended to be acted upon by the others should be presumed to use words without a meaning. The court must, as far as possible, avoid a construction which would render the words used by the author of the document meaningless and futile or reduce to silence any part of the document and make it altogether inapplicable.

34. *In Ramana Dayaram Shetty case [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] , the expression “registered IInd Class hotelier” was recognised as being inapt and perhaps ungrammatical; nevertheless common sense was not offended in describing a person running a registered IInd grade hotel as a registered IInd class hotelier. Despite this construction in its favour, Respondent 4 in that case were held to be factually ineligible to participate in the*



bidding process.

35. *It was further held that if others (such as the appellant in Ramana Dayaram Shetty case [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489]) were aware that non-fulfilment of the eligibility condition of being a registered IInd class hotelier would not be a bar for consideration, they too would have submitted a tender, but were prevented from doing so due to the eligibility condition, which was relaxed in the case of Respondent 4. This resulted in unequal treatment in favour of Respondent 4 — treatment that was constitutionally impermissible. Expounding on this, it was held : (SCC p. 504, para 10)*

“10. ... It is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege.”(emphasis supplied)

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38. *In G.J. Fernandez v. State of Karnataka [G.J. Fernandez v. State of Karnataka, (1990) 2 SCC 488] both the principles laid down in Ramana Dayaram Shetty [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] were reaffirmed. It was reaffirmed that the party issuing the tender (the employer) “has the right to punctiliously and rigidly” enforce the terms of the tender. If a party approaches a court for an order restraining the employer from strict enforcement of the terms of the tender, the court would decline to do so. It was also reaffirmed that the employer could deviate from the terms and conditions of the tender if the “changes affected all intending applicants alike and were not objectionable”. Therefore, deviation from the terms and conditions is permissible so long as the level playing field is maintained and it does not result in any arbitrariness or discrimination in Ramana Dayaram Shetty [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] sense.*

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52. *There is a wholesome principle that the courts have been following for a very long time and which was articulated in Nazir Ahmad v. King Emperor [Nazir Ahmad v. King Emperor; AIR 1936 PC 253 (2) : (1935-36) 63 IA 372 : 1936 SCC OnLine PC 41] , namely : (SCC OnLine PC)*

“... 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.”

There is no valid reason to give up this salutary principle or not to apply it mutatis mutandis to bid documents. This principle deserves to be applied in contractual disputes, particularly in commercial contracts or bids leading up to commercial contracts, where there is stiff competition. It must follow from the application of the principle laid down in Nazir Ahmad [Nazir Ahmad v. King Emperor; AIR 1936 PC 253 (2) : (1935-36) 63 IA 372 : 1936 SCC OnLine PC 41] that if the employer prescribes a particular format of the bank guarantee to be furnished, then a bidder ought to submit the bank guarantee in that particular format only and not in any other format. However, as mentioned above, there is no inflexibility in this regard and an employer could deviate from the terms of the bid document but only within the parameters mentioned above.”

31. From the afore-quoted judgments, as indicated above, it is clear that when a thing has to be done in a particular manner that should be done in that manner alone. In the present case, clause-5 of the Appendix- V appended to the notification dated 14.09.2006 clearly indicates that 15 days prior notice should have been given to the project proponents for



holding of the meeting of the EAC/SEAC for considering the project proposal, but, the notice was given to the project proponents i.e. the petitioners merely a day prior to holding of the said meeting, which is totally in contravention of the aforesaid clause and the law laid down by the Hon'ble Supreme Court in the afore-quoted judgments.

32. In the opinion of this Court, the petitioners should have been heard by the SIEAA at the time of consideration of grant of environmental clearance because the petitioners could have produced the relevant materials including the letters dated 29.12.2023 and 16.01.2024 in support of their claim i.e. mining not being possible at the sites which were advertised by the State. Further, this Court is also of the considered opinion that the condition prescribed in the notification for granting at least 15 days notice to the project proponents is a mandatory condition. It is noted that when the petitioners wanted at least 48 hours time in order to enable them to appear and participate in the meeting for producing relevant materials then the same ought to have been allowed by the respondents and refusal of the same indicates towards arbitrariness on the part of the respondents and therefore, such recommendations are vitiated and unsustainable.



33. Accordingly, the agenda of the meeting dated 03.08.2024 of the State Level Expert Appraisal Committee (SEAC) which had recommended the issuance of environmental clearance to the SEIAA is vitiated. The respective agenda items are hereby quashed and set aside in the following manner:-

C.W.J.C. Nos.	Agenda Item number of the 44 th Meeting of the SEAC, Bihar dated 03.08.2024
1. C.W.J.C. No. 5104 of 2025	Agenda Item No. 06
2. C.W.J.C. No. 5118 of 2025	Agenda Item No. 04
3. C.W.J.C. No. 5112 of 2025	Agenda Item No. 05
4. C.W.J.C. No. 5147 of 2025	Agenda Item No. 10
5. C.W.J.C. No. 5746 of 2025	Agenda Item No. 12
6. C.W.J.C. No. 5328 of 2025	Agenda Item No. 10

34. As a consequence of quashing the agenda items, the recommendations made for the Environmental Clearances does not stand and accordingly, the Environmental Clearance issued by the competent authority vide letters dated 17.01.2025 with respect to the present writ petitioners are also quashed and set aside.

35. The respondent authorities are directed to reconsider the respective project proposals of the petitioners from the stage of appraisal in accordance with clause- 5 of Appendix- V appended to the EIA notification dated 14.09.2006 by giving at least 15 days prior notice to the project proponents



before holding the meeting.

36. Since this Court has directed for reconsideration of the project proposals of the petitioners afresh after affording a reasonable opportunity, the respondents are restrained from taking any coercive steps against these petitioners till the conclusion of reconsideration of the cases of the petitioners.

37. With the aforesaid observations and directions, these writ petitions are allowed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	20.11.2025
Uploading Date	20.01.2026
Transmission Date	

