IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6393 of 2025

==========

Lalan Kumar Son of Late Mahendra Rai, resident of Chitarchak, P.O. Pahleja Badka, P.S. Sonepur, District- Saran.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Patna.
5. The District Magistrate cum Collector, Patna.
6. The Mineral Development Officer, Patna.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 6468 of 2025

==========

M/s Todays Fashion, through its Proprietor Md. Dawood Khan, Male, aged about 37 years, Son of Md. Sabir Khan, resident of Islam Nagar, Gondapur, Nawada, P.S. Nawada, District- Nawada, Bihar- 805110.

... ... Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Mines and Geology Department, Bihar, Patna.
2. The Director, Mines and Geology Department, Bihar, Patna.
3. The District Magistrate cum Collector, Nawada.
4. The District Mining Officer, Nawada.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 6578 of 2025

==========

Sanjay Kumar Son of Yamuna Singh Yadav Resident of Village- Ekbalganj, Nisarpura, P.S-Rani Talab Kanpa,Dist -Patna, Bihar.

... ... Petitioner

WEB COPY

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The principal Secretary Cum Mines and Geology department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Officer, Patna.
5. The District Magistrate Cum Collector, Bhojpur, Patna.
6. The District Mining Officer, Patna.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 6905 of 2025

==========

Rana Uday Pratap Singh Son of Rana Ranvijay Pratap Singh Resident of Village- Bishunpur Nala, Jaiprakash Nagar, P.S.-Dhanbad,District-Dhanbad Jharkhand.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Cikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary Cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Bhojpur.
5. The District Magistrate Cum Collector, Bhojpur.
6. The District Mining Officer, Bhojpur.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 6991 of 2025

==========

M/S Awanish Construction, a Partnership firm, through its Partner Subhash Singh aged about 56 Years (Male), Son of Ramchandar Singh, Resident of Vilalge-Olipur, Khawazepur, P.S.- Yadopur, District-Gopalganj, Bihar

... ... Petitioner

Versus

WEB COPY

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary Cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Bhojpur.
5. The District Magistrate Cum Collector, Bhojpur.
6. The Mineral Development Officer, Bhojpur.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 6992 of 2025

==========

M/S Awanish Construction, a Partnership firm, through its Partner Subhash Singh, aged about 56 Years (Male), Son of Ramchandar Singh, Resident of Village-Olipur, Khawazepur, P.S.- Yadopur, District- -Gopalganj, Bihar.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary Cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Asistant Director, District Mining Office, Bhojpur.
5. The District Magistrate Cum Collector, Bhojpur.
6. The Mineral Development Officer, Bhojpur.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 7141 of 2025

==========

M/s Gokul Sai Udyog LLP a Limited Liability Partnership registered under the Limited Liability Partnership Act, through its partner Dhananjay Kumar, aged about 41 years (male), son of Akhilesh Singh, resident of Village Ekbalganj, Nisarpura, P.S.- Rani Talab Kanpa, District Patna, Bihar.

... ... Petitioner

Versus

WEB COPY

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Patna.
5. The District Magistrate cum Collector, Bhojpur, Patna.
6. The District Mining Officer, Patna.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 7398 of 2025

==========

Todays Fashion through its proprietor Md Dawood Khan, Male, aged about 37 years, Son of Md. Sabir Khan, resident of Islam Nagar, Gondapur, Nawada, Bihar- 805110.

... ... Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Mines and Geology Department, Bihar, Patna.
2. The Director, Mines and Geology Department, Bihar, Patna.
3. The District Magistrate cum Collector, Gaya.
4. The District Mining Officer, Gaya.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 7415 of 2025

==========

M/s Rana Enterprises a proprietorship firm, through its sole proprietor Rana Saurav, aged about 31 years (male), son of Rana Uday Pratap Singh, resident of Village Bishunpur Nala, Jaiprakash Nagar, P.S. Dhanbad, District - Dhanbad, Jharkhand

... ... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas

WEB COPY

Bhawan, Bailey Road, Patna.

4. The Assistant Director, District Mining Office, Patna.
5. The District Magistrate cum Collector, Patna.
6. The District Mining Officer, Patna.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 17896 of 2025

==========

Lav Kumar Singh Son of Ram Adhya Singh, Resident of Near Suraksha Clinic, Hetlibandh, P.S. Jharia, District- Dhanbad.

... ... Petitioner

Versus

1. The State of Bihar through the Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Bhojpur.
5. The Mineral Development Officer, Bhojpur.

... ... Respondents

==========

with

Civil Writ Jurisdiction Case No. 18078 of 2025

==========

Damas Civil Construction India Private Limited a company-incorporated under Companies Act, having its office at ward no.18, Near Kaimur Astambh, Belwatia Pokhara, Kaimur, Bhabhua through its Director Mukesh Kumar, Male- aged about 44 years, Son of Abhiram Sharma, Resident Bambhai, P.S. and District- Arwal.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary-cum-Mines Commissioner, Department of Mines and Geology, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.

WEB COPY

4. The District Magistrate cum Collector, Patna.
5. The District Mining Officer, Patna.

... ... Respondent/s
==========

Appearance :
(In Civil Writ Jurisdiction Case No. 6393 of 2025)

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Ms. Simran Kumari, Advocate Ms. Abhilasha Jha, Advocate
For the State	:	Mr. Alok Kumar, S.C.-7
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 6468 of 2025)

For the Petitioner/s	:	Mr. Satyabir Bharti, Sr. Advocate Ms. Kanupriya Mr. Abhishekh Anand, Advocate
For the State	:	Mr. Kinkar Kumar S.C.- 09 Mr. Yohesh Kumar, AC to S.C.-09
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 6578 of 2025)

For the Petitioner	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Ms. Simran Kumari, Advocate Ms. Abhilasha Jha, Advocate
For the State	:	S.C. - 15
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 6905 of 2025)

For the Petitioner	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Ms. Simran Kumari, Advocate Ms. Abhilasha Jha, Advocate
For the State	:	Mr. U.S.S. Singh, G.P. -19
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 6991 of 2025)

For the Petitioner	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Ms. Simran Kumari, Advocate Ms. Abhilasha Jha, Advocate
For the State	:	Mr. Shiv Kumar, A.C. to G.A.-03
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P.

WEB COPY

Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 6992 of 2025)

For the Petitioner : Mr. Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Ms. Simran Kumari, Advocate
Ms. Abhilasha Jha, Advocate
For the State : G.A.-05
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 7141 of 2025)

For the Petitioner : Mr. Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Ms. Simran Kumari, Advocate
Ms. Abhilasha Jha, Advocate
For the State : S.C.-16
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 7398 of 2025)

For the Petitioner : Mr. Satyabir Bharti, Sr. Advocate
Ms. Kanupriya, Advocate
Mr. Abhishek Anand, Advocate
For the State : G.P. - 04
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 7415 of 2025)

For the Petitioner : Mr. Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Ms. Simran Kumari, Advocate
Ms. Abhilasha Jha, Advocate
For the State : S.C.-18
For the Mines Department: Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17896 of 2025)

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Ms. Simran Kumari, Advocate
Ms. Abhilasha Jha, Advocate
For the State : Mr. Sita Ram Yadav, G.P. 16
Mr. Rakesh Kumar Shrivastav, A.C. to G.P. 16
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 18078 of 2025)

For the Petitioner : Mr. Gaurav Prakash, Advocate
Mr. Jay Karan, Advocate

WEB COPY

For the State : SC- 22
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.
Mr. Brij Bihari Tiwari, Advocate
Ms. Shruti Singh, Advocate

==========

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT

Date : 16-04-2026

Since these cases involve similar factual position and questions, they have been heard together and are being disposed by this common judgment.

2. The petitioners herein had participated in the auction of different sand *ghats* across the State of Bihar and upon emerging as the highest bidders in the respective auction processes, they had deposited the earnest money deposits (E.M.D) and went through the process of securing the environmental clearances, finally leading to execution and registration of their respective mining lease deeds between the petitioners and the respondent-State and thereafter commencement of mining activities at the respective sand *ghats*.

3. The prayers in these writ petitions are for quashing the respective letters issued by the respondent-Collectors of various districts whereby the surrender of the settlement of the sand *ghats* has been rejected and the respective security deposits furnished by the petitioners have been forfeited. The petitioners have further prayed for directing the

WEB COPY

respondents to accept the surrender of their respective settlements of the concerned sand *ghats* and also to refund the security deposits of the petitioners.

4. In ***C.W.J.C. No. 17896 of 2025***, titled as ***'Lav Kumar Singh vs. The State Of Bihar & Ors.'*** the petitioner has additionally challenged the appellate order contained in memo no.4733 dated 25.08.2025 passed by the respondent Mines Commissioner in Appeal No.11 of 2025, whereby the appeal preferred by the petitioner-Lav Kumar Singh under Rule 67 (2) of the Bihar Minerals (Concession, Prevention of Illegal Mining Transportation and Storage) Rules, 2019 was dismissed and refused to be entertained on the ground of limitation holding that the Mines Commissioner does not have the power to condone delay in filing appeal.

5. The petitioner-M/s Awanish Construction has further preferred ***C.W.J.C No.6991 of 2025***, titled as ***M/s Awanish Construction vs State of Bihar & Ors.***, *inter alia* praying for the following further reliefs:-

> *"(i) To issue an appropriate writ, order or direction to the Respondents to refund the proportionate royalty amount for a period of 70 days during which the petitioner was precluded from conducting mining activity at Bhojpur Sone Sand Ghat No. 10 on account of a) restriction*

WEB COPY

imposed upon generation of e-challans b) delay caused by the Respondent in activating the secondary loading area and c) on account of restriction imposed by SEIAA contrary to the terms of the NIT and Agreement.

(ii) This Hon'ble Court may adjudicate and hold that the action of the Respondent Authorities in not granting proportionate remission in royalty for the period during which period the petitioner was restrained/prohibited from conducting mining activity for absolutely no fault on its part, is completely illegal, arbitrary and non-est in the eyes of law.

(iii) This Hon'ble Court may further adjudicate and hold that according to Rule 51(4) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019, a settlee is obligated to pay royalty only for mineral "extracted" and "removed" by it.

(iv) This Hon'ble Court may further adjudicate and hold that the action of the Respondents in obtaining the entire amount of royalty and not allowing the petitioner to conduct mining activity amounts to unjust enrichment.

(v) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

6. According to the petitioners, in the month of February, 2024 a condition was imposed by the respondent Mining Department, to the effect, that settlees could not

WEB COPY

generate more than a fixed number of e-transit *challans* per day and further according to the petitioners, this restriction was irrespective of the quantum of sand being transported on the vehicles of the petitioners, rather the restriction was imposed on the number of vehicles itself. The restriction was imposed on the online portal of the respondent-Department which the petitioners were using for generating the e-transit *challans*. According to the petitioners, such restriction was imposed on the pretext of controlling the problem of traffic jam arising on account of transportation of sand. The petitioners requested the respondent authorities to increase the number of e-transit challans, however, the same was not accepted.

7. It is the case of the petitioners that as per Rules 39 and 43 of the 2019 Rules, storage and transportation of sand can be done only on the basis of a valid e-transit *challans*, therefore, on account of restriction on the generation of *challans*, the petitioners were precluded from selling sand and this action of the respondent authorities resulted in losses to the petitioners and therefore, they submitted letters / exit notices to the respective Collectors of the different districts surrendering the settlement of their respective sand *ghats*. The Collectors directed for conducting replenishment study after which the

WEB COPY

surrender would be considered in compliance of Clause-18 of the Bihar Sand Mining Policy, 2019, Clause-37 of the N.I.T. and Clause-10 of the lease deed. Thereafter, the Collectors sought guidelines from the concerned department in the matter, which was responded to by the Director, Department of Mines and Geology stating therein that settlement holders had participated in the e-auction only after accepting all the terms and conditions stipulated in the Notice Inviting Tender (N.I.T.) for the settlement of sand *ghats* and the agreements have been executed incorporating the provisions of the Bihar Sand Mining Policy, 2019, the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019, as well as the conditions prescribed in the tender document. It was further stated that the agreements have been duly accepted by the settlement holder and the agreements executed with the sand settlement holders explicitly stipulates that, in the event of the settlement being surrendered, the security deposit, along with any other amounts deposited by the settlement holder, shall be forfeited.

8. Subsequently, the surrender letters / exit notices were rejected by the Collectors and the earnest money deposits/ security deposits of the petitioners were forfeited. This

WEB COPY

forms the nucleus of the present controversy.

9. The writ petitioners have principally challenged the rejection of their respective surrender of the settled sand *ghats* and forfeiture of their earnest money deposit/ security deposit, which for brevity and convenience is summarized as under:-

Case No. Cause Title & Sand ghat settled in favour of the petitioners	**Date of Execution / registration of agreement**	**Surrender by the settlee / date of exit notice.**	**Impugned Rejection order**	**Amount Forfeited in Rs.**
1. C.W.J.C No. 6393 of 2025, titled as '*Lalan Kumar vs State of Bihar & Ors.*' **Patna Sone Sand Ghat No. 06** settled in favour of Petitioner - Lalan Kumar	21.11.2023	04.05.2024	**Letter No. 467, dated 05.03.2025**	**8,85,16,800/-**
2. C.W.J.C No. 6468 of 2025, titled as *'M/s Today's Fashion vs. State of Bihar & Ors.'* **Sand Block – 05 (Jamuawan Patwa Saray Sand Ghat)** settled in favour of the petitioner proprietor firm M/s Today's Fashion	22.11.2023	21.05.2024	**Letter No. 332, dated 21.02.2025**	**3,76,65,000/-**
3. C.W.J.C. No.6578 of 2025, titled as '*Sanjay Kumar vs. State of Bihar & Ors.'* **Patna Sone Sand Ghat No. 10** settled in favour of Petitioner- Sanjay Kumar	14.12.2023	13.05.2024	**Letter No. 466, dated 05.03.2025**	**11,58,52,275/-**

WEB COPY

4. C.W.J.C No.6905 of 2025, titled as *'Rana Uday Pratap Singh vs. State of Bihar & Ors.'* **Bhojpur Sand Ghat No. 16** settled in favour of Petitioner- Rana Uday Pratap Singh	12.12.2023	08.04.2024	**Letter No. 610, dated 21.02.2025**	**4,11,75,000/-**
5. C.W.J.C. No. 6992 of 2025, titled as *'M/s. Awanish Construction vs. State of Bihar & Ors.'* ***Bhojpur Sone Sand Ghat No.10*** settled in favour of Petitioner partnership firm M/s Awanish Construction.	30.11.2023	18.05.2024	**Letter No. 609, dated 21.02.2025**	**5,34,60,000/-**
6. C.W.J, C. No. 7141 of 2025, titled as *'M/s Gokul Sai Udyog LLP vs The State of Bihar'* **Patna Sone Sand Cluster 13 (Sand Ghat No. 16)** settled in favour of the petitioner M/s Gokul Sai Udyog LLP	31.01.2024	18.07.2024	**Letter No. 472, dated 05.03.2025**	**5,93,40,600/-**
7. C.W.J.C. No.7398 of 2025, titled as *'Today's Fashion vs State of Bihar & Ors.'* **Sand Ghat No. 39, (Gaya Budh)** settled in favour of the proprietor firm M/s Today's Fashion.	21.05.2024	04.09.2024	**Letter No. 663, dated 05.03.2025**	**1,29,93,750/-**
8. C.W.J.C No. 7415 of 2025, titled as *'M/s Rana Enterprises vs. The State Of Bihar, & Ors.'* **Patna Sone Sand Cluster – 11 (Sand ghat Nos. 11, 12, 13 and 14)** settled in favour of the proprietor M/s Rana	04.03.2024	03.10.2024	**Letter No. 470, dated 05.03.2025**	**15,05,76,975/-**

WEB COPY

Enterprises.				
9. C.W.J.C No. 17896 of 2025, titled as *'Lav Kumar Singh vs. The State Of Bihar And Ors'* **Bhojpur Sone Sand Ghat No. 19** settled in favour of the Petitioner-Lav Kumar Singh.	18.12.2023	05.04.2024	**Letter No. 612, dated 21.02.2025**	**4,23,22,500/-**
10. C.W.J.C No. 18078 of 2025, titled as *'Damas Civil Construction India Private Limited vs. The State Of Bihar & Ors.'* **Patna Sone Sand Ghat No.05** settled in favour of the petitioner company-*Damas Civil Construction India Private Limited.*	20.03.2024	27.05.2024	**Letter No.468, dated 05.03.2025**	**11,55,01,950/-**

10. The impugned order dated 05.03.2025, passed by the Collector, Patna in the case of the petitioner-*Lalan Kumar* reads as under **:-**

"आदेश

पटना जिलान्तर्गत सोन नदी के बालूखण्ड कलस्टर संख्या – 06 का आगामी पाँच वर्षों के लिये बन्दोबस्ती हेतु प्रकाशित विज्ञापन के आलोक में दिनांक–17.10.2022 को सम्पन्न ई–नीलामी में मे० ललन कुमार, पिता– स्व० महेन्द्र राय, पता– छितरचक, पो०– पहलेजा बड़का, थाना– सोनपुर, जिला– सारण, बिहार– 841101 द्वारा सुरक्षित जमा राशि रू0– 11,06,46,000/. (ग्यारह करोड़ छः लाख छियालीस हजार रू० मात्र) के विरुद्ध रू0 **35,40,67,200/– (पैतिस करोड़ चालिस लाख सड़सठ हजार दो सौ रू० मात्र)** की उच्चतम् बोली के फलस्वरूप सफल डाकवक्ता घोषित हुए। निविदा दस्तावेज की कंडिका–20(i) के प्रावधानानुसार उच्चतम् बोली का 25% राशि (अग्रधन राशि मो0–2,76,61,500/– रूपये के समायोजन उपरान्त) में शेष प्रतिभूति राशि मो0–6,08,55,300/– (छः करोड़ आठ लाख पचपन हजार तीन

WEB COPY

सौ रू०) रूपये भुगतान के फलस्वरूप उक्त बालूधाट के लिए मे० ललन कुमार, पिता– स्व० महेन्द्र राय को कार्यालय पत्रांक–2836/एम0, पटना, दिनांक–08.11.2022 द्वारा सैद्धांतिक स्वीकृत्यादेश निर्गत किया गया। उच्चतम डाकवक्ता मे० ललन कुमार, पिता– स्व० महेन्द्र राय द्वारा RQP से खनन योजना तैयार कराकर खान एवं भूतत्व विभाग में अनुमोदन हेतु समर्पित किया गया, जिसे बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 यथा संशोधित 2021 के. नियम–17 में वर्णित प्रावधानों के तहत खान एवं भूतत्व विभाग के पत्रांक–5762/एम०, दिनांक–24.11.2022 द्वारा अनुमोदित किया गया है तथा मे० ललन कुमार, पिता– स्व० महेन्द्र राय द्वारा वैधानिक अनापत्ति यथा EC, CTE/CTO प्राप्त करने के लिए सारी वांछित प्रक्रिया पूर्ण करते हुए EC, CTE/CTO दिनांक–10.11.2023 तक प्राप्त करने के उपरांत बिहार बालू खनन नीति 2019 की कंडिका 9 (iii) एवं निविदा दस्तावेज की कंडिका– 24 (ii) के तहत् नियमानुसार प्रथम किस्त की राशि तथा इस पर देय अन्य करों का भुगतान कर एकरारनामा निष्पादन कराया गया। तदोपरांत कार्यालय पत्रांक–4235/खनन, दिनांक–29.11.2023 द्वारा पटना सोन नदी के बालूखण्ड कलस्टर संख्या – 06 से बालू खनन/ प्रेषण की अनुमति हेतु कार्यादेश निर्गत किया गया। इसी क्रम में पटना सोन नदी के बालूखण्ड कलस्टर संख्या– 06 के बन्दोबस्तधारी के पत्रांक–शून्य, दिनांक–04.05.2024 द्वारा ‘‘फरवरी से चालान का स्लॉट व्यवस्था का लागू होना, जिसकी पूर्व जानकारी व्यवस्था बोलीदाता को नहीं होना दिसम्बर और जनवरी और ठण्ढ और कोहरा के मौसम में बालू खनन एवं परिवहन में परेशानी होती है, जिसके वजह से बिक्री प्रभावित रहता है। फरवरी से अप्रैल में कंस्ट्रक्शन वर्क अधिक होने के कारण बाजार में बालू की मांग अधिक होती है परंतु स्लॉटिंग व्यवस्था लागु होने से बिक्री प्रभावित होना’’ उल्लेख करते हुए बन्दोबस्ती प्रत्यार्पण करने संबंधी आवेदन समर्पित किया गया।

2. बन्दोबस्तधारी द्वारा प्रत्यार्पण हेतु समर्पित आवेदन के आलोक में कार्यालय पत्रांक–2014/खनन, पटना, दिनांक–10.06.2024 द्वारा पुनर्भरण अध्ययन कराये जाने हेतु बिहार बालू खनन नीति, 2019 की कंडिका संख्या– 18 तथा बन्दोबस्तधारी द्वारा निष्पादित एकरारनामा का कंडिका– 10 (i) एवं (ii) के आलोक में बन्दोबस्तधारी के आवेदन पर पुनर्विचार करने संबंधी पत्र निर्गत किया गया। परन्तु

WEB COPY

बन्दोबस्तधारी द्वारा पुनः पत्रांक–शून्य, दिनांक–29.06.2024 द्वारा "CMPDIL Ranchi द्वारा बालूघाट का पुनर्भरण अध्ययन जो 2022 में कराया गया एवं उनके द्वारा प्रेषित पुनर्भरण प्रतिवेदन के आधार पर औसतन 112 प्रतिशत बालू की उपलब्धता बार–बार उल्लेख किया जा रहा है। तदोपरांत कोई अध्ययन नहीं कराया गया। CMPDIL Ranchi द्वारा प्रेषित Post Monsoon की डाटा जो अक्टूबर 2022 से जून 2024 तक घाट संचालित किया गया है। NIT के शर्त्तों अथवा LOI में कहीं भी यह उल्लेख नहीं है कि BMSCL के द्वारा माननीय सर्वोच्च न्यायालय के आदेशानुसार October 2023 से June 2024 तक घाट संचालित किया जाएगा। घाट पर गाड़ी आगमन का संख्या काफी था जिसके आधार पर तुलनात्मक रूप से काफी उच्च बोली दाता के रूप में निविदा हासिल की गई परंतु बिना कोई पूर्व सूचना/शर्त के Slotting System के लागू होने से व्यवसाय पर प्रतिकुल प्रभाव पडा और घाट संचालन करने में काफी आर्थिक क्षति का सामना करना पड़ा, उल्लेख करते हुए बन्दोबस्ती प्रत्यार्पण करने संबंधी आवेदन समर्पित किया गया।

परंतु बन्दोबस्तधारी द्वारा इस संदर्भ में पुनः बालूघाट संचालन की दिशा में प्रयास नहीं किया गया। विभागीय अधिसूचना संख्या–2650, दिनांक– 14.08.2019 द्वारा संसूचित बिहार बालू खनन नीति 2019 की कंडिका संख्या– 18, निविदा दस्तावेज की कंडिका संख्या–– 31, बन्दोबस्तधारी द्वारा निष्पादित एकरारनामा की कंडिका संख्या–10 एवं बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 (यथा संशोधित 2024) के नियम 50 (2) एवं (3) तथा बन्दोबस्तधारी द्वारा पटना सोन बालूघाट कलस्टर संख्या–10 हेतु प्रत्यार्पण आवेदन में वर्णित तथ्यों/बिन्दुओं में स्पष्टता नहीं होने के कारण कार्यालय पत्रांक–3076/खनन, पटना, दिनांक–14.10.2024 द्वारा प्रत्यार्पण की स्वीकृति एवं बन्दोबस्तधारी द्वारा जमा प्रतिभूति राशि को वापस करने के बिन्दु पर खान एवं भूतत्त्व विभाग, बिहार, पटना से मार्गदर्शन की मांग की गई थी।

3. पटना सोन बालूघाट कलस्टर संख्या– 10 के बन्दोबस्तधारी द्वारा द्वितीय वर्ष की बन्दोबस्ती की द्वितीय किस्त की राशि का भुगतान नहीं किए जाने के आलोक में निविदा दस्तावेज की कंडिका संख्या–24 (ii) तथा निष्पादित निबंधित एकरारनामा के अध्याय– V कंडिका– 2(ii) के अनुसार "यदि किस्तों के भुगतान करने

WEB COPY

में बन्दोबस्तधारी असफल होता है तो आगे ई–चालान सिस्टम द्वारा बंद कर दिया जायेगा और केवल अग्रिम भुगतान कर दिये जाने के बाद ही खोला जायेगा एवं इसके लिए किसी तरह के क्षतिपूर्ति का कोई दावा मान्य नहीं होगा।" तद्नुसार कार्यालय पत्रांक– 3436/खनन, दिनांक–28.11.2024 द्वारा उक्त बालूघाट की प्रथम वर्ष की बन्दोबस्ती की अंतिम तिथि– 28.11.2024 की मध्य रात्रि से ई–चालान बंद कराते हुए बालूघाट का संचालन बन्द कर दिया गया।

4. इसी क्रम में विभागीय पत्रांक 89/ एम०, पटना, दिनांक–08.01.2025 द्वारा बन्दोबस्ती प्रत्यार्पण के संबंध में मार्गदर्शन उपलब्ध कराया गया, जिसमें वर्णित है कि "बन्दोबस्तधारियों द्वारा बालूघ ाटों की बन्दोबस्ती हेतु आमंत्रित निविदा की सभी शत्तों को स्वीकार कर ही ई–नीलामी में भाग लिया गया है। यहाँ उल्लेखनीय है कि बिहार बालू खनन नीति, 2019, बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 तथा निविदा में निर्धारित शर्त को शामिल करते हुए एकरारनामा निष्पादित कराई गई है, जो बन्दोबस्तधारी द्वारा स्वीकार किया गया है। प्रसंगाधीन मामले में बालू बन्दोबस्तधारियों के साथ निष्पादित एकरारनामा में बन्दोबस्ती छोड़े जाने की स्थिति में बन्दोबस्तधारी द्वारा जमा प्रतिभूति राशि सहित अन्य राशि जप्त करने का उल्लेख है। ऐसी स्थिति में निष्पादित एकरारनामा के अनुरूप कार्रवाई की जा सकती है।"

5. बिहार बालू खनन नीति 2019 की कंडिका संख्या–11, निविदा दस्तावेज की कंडिका–7 (ख), कंडिका–15, कंडिका–22 एवं कंडिका––31 तथा बन्दोबस्तधारी द्वारा निष्पादित / निबंधित एकरारनामा का अध्याय– III की कंडिका– 10 तथा बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 (यथा संशोधित) के नियम–50 (4) में निम्नलिखित प्रावधान है :–

- **बिहार बालू खनन नीति 2019 की कंडिका संख्या–11:– बन्दोबस्ती विलेख (डीड) निष्पादन करना** :– सफल बीडर को 5 वर्षों की अवधि के लिए बालू खनन करने हेतु समानुदान अवार्ड दिया जाएगा। सफल बीडर विहित प्रपत्र में बन्दोबस्ती विलेख संबंधित नियम अथवा उसके समरूप एक विहित प्रपत्र में कार्य आरंभ करने के पहले, निष्पादित और निबंधित करेगा तथा यथा विहित अपेक्षित प्रतिभूति राशि जमा कर देगा।
- **<u>निविदा दस्तावेज की कंडिका–7 (ख):–</u>** निविदा

WEB COPY

की शर्तों एवं बन्धेजों के प्रत्येक पृष्ठ पर मुहर के साथ हस्ताक्षर कर तकनीकी निविदा के लिए कागजात पोर्टल पर अपलोड किया जाना है।

➢ **<u>निविदा दस्तावेज की कंडिका–15</u>**:– सभी इच्छुक निविदादाता ई–नीलामी हेतु पंजीकरण करने एवं ऑन–लाईन आवेदन करने से पूर्व नियम एवं शर्तों को अच्छी तरह से पढ़ लें। आवेदन करने के बाद यह माना जायेगा कि निविदादाताओं द्वारा नियम एवं शर्तों को ध्यान से पढ़ लिया गया है तथा सभी नियम शर्तें उनको मान्य है। बाद में इस संबंध में किसी भी प्रकार का दावा/आपत्ति अस्वीकार्य होगा।

➢ **<u>निविदा दस्तावेज की कंडिका–22 (i)</u>** बन्दोबस्ती विलेख/पट्टा संविदा (डीड) निष्पादन करनाः– सफल डाकवक्ता द्वारा सभी वैधानिक अनापत्ति प्राप्त करने के उपरांत 5 वर्षों की अवधि के लिए बालू खनन करने हेतु समानुदान/बन्दोबस्ती स्वीकृत किया जाएगा। सफल डाकवक्ता विहित प्रपत्र में संबंधित नियमानुसार बन्दोबस्ती विलेख अथवा उसके समरूप एक प्रपत्र, कार्य आरंभ करने के पहले, निष्पादित करेगा तथा यथा विहित अपेक्षित प्रतिभूति राशि जमा देगा। बन्दोबस्तधारी के पट्टे की अवधि विलेख/संविदा निष्पादन की तिथि से पाँच वर्षों के लिए विधिमान्य होगा।

➢ **<u>निविदा दस्तावेज की कंडिका – 31:– बन्दोबस्ती / समानुदान का प्रत्यार्पणः–</u>**

I. बन्दोबस्तधारी के बन्दोबस्ती छोड़ने के पूर्व उस पंचांग वर्ष की सम्पूर्ण बन्दोबस्ती राशि जमा करनी होगी। बन्दोबस्ती प्रत्यार्पित करने की स्थिति में जमा सम्पूर्ण प्रतिभूति राशि के साथ–साथ भुगतान की गई अन्य राशि को जप्त कर ली जायेगी। साथ ही बन्दोबस्तधारी के रूप में निर्गत भंडारण अनुज्ञप्ति भी स्वतः रद्द समझी जाएगी।

II. बन्दोबस्ती समर्पण के मामले में समाहर्त्ता द्वारा बकाया भुगतान के लिए 21 दिन का नोटिस देने के बाद भी राशि जमा नहीं करने पर बकाया वसूली के लिए बिहार एवं उड़ीसा लोक मांग अधिनियम, 1914 के तहत् कार्यवाही प्रांरभ की जायेगी।

➢ ***बन्दोबस्तधारी द्वारा निष्पादित एकरारनामा का अध्याय.***

WEB COPY

iii** की कंडिका संख्या.10* ***:- Exit/Surrender option of Mineral Concession Holder/Settlee:-

a. *It will be necessary to deposit the entire settlement amount of that related year by the settlee before exit from the settlement period. In case of surrender of settlement, the entire security amount along with the other amount paid by the Settlee will be forfeited and at the same time the storage license (K-License) issued in favour of the settlee will be also cancelled itself.*
b. *In case of surrender of settlement, if due payment is not received within 21 days from the notice issued by the Collector, proceeding will be initiated under the Bihar and Orissa Public Demand Recovery Act, 1914 to recover the said due amount.*

- बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 (यथा संशोधित) के नियम–50(4):–

  धोखाधड़ी या खनन अथवा पर्यावरणीय शर्तों के उल्लंघन या प्रतिवेदित की गई किसी अन्य अनियमितताओं की स्थिति कारोबार छोड़ने का कोई विकल्प खनिज समानुदान धारक को उपलब्ध नहीं रहेगा और उनकी प्रतिभूति जमा जप्त हो जाएगी।

6. बन्दोबस्तधारी द्वारा ना तो द्वितीय वर्ष के प्रथम किस्त का भुगतान ससमय किया गया है और ना ही उक्त बालूघाट के संचालन हेतु एकरारनामा विलेख का निष्पादन कराया गया है। बन्दोबस्तधारी द्वारा निविदा दस्तावेज की कंडिका संख्या–31 जिसमें बन्दोबस्ती छोड़े जाने की स्थिति में प्रतिभूति राशि के साथ अन्य सभी राशि जप्त करने की शर्त निर्धारित थी, को स्वीकार करने के बाद ही निविदा में भाग लिया था। साथ ही बन्दोबस्तधारी द्वारा समर्पित एवं हस्ताक्षरित एकरारनामा के अध्याय III की कंडिका संख्या–10 में भी बन्दोबस्ती छोड़े जाने की स्थिति में प्रतिभूति राशि के साथ

WEB COPY

अन्य सभी राशि जप्त करने की शर्त स्वीकार किया गया है। उपर्युक्त शत्तों को स्वीकार करने के बावजूद बन्दोबस्तधारी द्वारा नियम विरूद्ध बालूघाट प्रत्यार्पण का आवेदन दी गयी है, जो नियमानुकूल एवं स्वीकार योग्य नहीं है।

7. अतः उपर्युक्त तथ्यों एवं निष्पादित /निबंधित एकरारनामा की अध्याय–III की कंडिका 10 (i)(ii), निविदा दस्तावेज की कंडिका– 31, बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियमावली, 2019 (यथा संशोधित) के नियम 50 (4) के तहत् मे० ललन कुमार, पिता स्व० महेन्द्र राय द्वारा समर्पित प्रत्यार्पण आवेदन को खारिज करते हुए बन्दोबस्तधारी द्वारा जमा प्रतिभूति राशि 8,85,16,800/– (आठ करोड़ पचासी लाख सोलह हजार आठ सौ रू०) रू० को जप्त किया जाता है।

8. बिहार खनिज (समानुदान, अवैध खनन, परिवहन एवं भण्डारण निवारण) नियावमली, 2019 (यथा समय–समय पर संशोधित) के नियम–67 के तहत् "पारित अंतिम आदेश के 60 दिनों के भीतर सक्षम प्राधिकार के समक्ष अपीलीय होंगे" प्रावधानित है।

ह०/–
समाहर्त्ता,
पटना।"

11. Learned counsels for the petitioners have submitted that the petitioners were settlees of sand *ghats* and have duly surrendered the sand *ghats* settled in their favour in compliance of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (for short "2019 Rules"), however, the respondent authorities have first arbitrarily sat over the surrender / exit notices and thereafter, rejected the same and forfeited the earnest money / security deposits.

WEB COPY

12. Learned counsels for the petitioners have drawn the attention of this Court to Rule-50(1) of the 2019 Rules to contend that the respective sand *ghat* settlees have duly adhered to the time line of six months' notice before surrendering their lease and therefore, it was unlawful for the respondent authorities to arbitrarily reject their respective surrenders and thereafter forfeit their earnest money deposits/ security deposits relying upon the provisions of the tender documents and the provisions of the lease deed when the Rules of 2019 must prevail over such stipulations.

13. It has been submitted by learned counsels for the petitioners that the impugned letters of rejection of surrender of sand *ghats* in questions are bad in law and are fit to be set aside since according to Rule 50 (1) of the 2019 Rules, a settlee can surrender its settlement by giving six months' notice. In all these cases, the respective sand *ghat* settlees have duly given six months' notice before surrendering their respective sand *ghats* in accordance with Rule 50(1) of the 2019 Rules and therefore, they have surrendered within the stipulated time. It has further been submitted that it is not the import of Rule-50 of the 2019 Rules, that at the time of surrendering the settlement of a sand *ghat*, a settlee is bound to justify the surrender by giving reasons

WEB COPY

and submit evidences in support of such reasons. It is the categorical submission on behalf of the petitioners that a settlee can surrender its settlement for any reason whatsoever. It is also the submission of the learned counsel for the petitioners that there is no provision under the 2019 Rules for forfeiture of the security amount / earnest money deposit in case of surrender and whenever there is a conflict, then the statutory provision shall prevail over any policy decision of the State, therefore the respondents could not have relied upon Clauses of the policy documents, N.I.T or the lease deed to forfeit the security deposit of the petitioners particularly in absence of an express provision under the 2019 Rules.

14. The next submission of learned counsels for the petitioners is that on perusal of impugned letters of rejection of respective surrenders of sand *ghats* would show that the respondent-Collectors have relied upon clauses 7(*kha*), 15, 22 and 31 of the Tender Documents, Clause-11 of the Bihar Sand Mining Policy, 2019, Clause 10 under Part-III of the mining lease deed and Rule 50 (4) of the 2019 Rules, however it is submitted on behalf of the petitioners that, out of the above said provisions, Clause 31 of the Tender document, Clause 10 of Part-III of the Agreement and Rule 50 (4) of the 2019 Rules are

WEB COPY

relevant for the present purpose of surrender of sand *ghats* allotted to the petitioners.

15. Adverting to Clause 31 of the Tender Document, it is submitted that the aforesaid Clause is wholly contrary to Rule 50(2) of the 2019 Rules, which provides that *"the collector may allow such mineral concession holder to exit the business and return any security money deposited by the mineral concession holder after deducting such dues as are recoverable*". Further, according to the Rule 29-B(2) of the 2019 Rules, the settlement deed has to be executed in Form-B as prescribed in the 2019 Rules and a perusal of the aforesaid Form-B appended to the 2019 Rules would clearly show that it does not contain any provision for forfeiture of security deposit in case of surrender, yet, respondent authorities unilaterally made certain changes in the model agreement and stringent provisions relating to forfeiture of security deposit were added contrary to the model Form-B under Claus-10 of Part-III of the mining lease deed.

16. It is next submitted on behalf of the petitioners that, Clause 10 under Part III of the mining lease deed is highly onerous and is therefore *void ab initio* and unenforceable, in view of the principles laid down by the

WEB COPY

Hon'ble Supreme Court in ***Central Inland Water Transport Corporation Limited vs. Brajo Nath*** reported in ***1986 (3) SCC 156.***

17. It is submitted by learned counsel for the petitioners that due to this action of incorporating Clause-10 under Part-III in the lease deed by the respondent authorities, the petitioners were subjected to a highly onerous standard format of agreement without any opportunity of negotiation and discussion. It is further submitted that incorporation of such provision with respect to forfeiture of security deposit is directly in conflict with Rule 50(2) of the 2019 Rules. It is emphasized by the learned counsels appearing for the petitioners that Rule 50(2) of the 2019 Rules clearly provides for return of the security deposits in case of surrender, whereas in complete contradiction to the same, the agreement under Part-III Clause 10 provides for forfeiture of the security deposit without any exception. It is vehemently argued by the learned counsels for the petitioner that such discrepancy cannot be countenanced much less be arbitrarily enforced in the eyes of law.

18. The learned Counsels for the petitioners have drawn strength from the decision rendered by the Hon’ble Supreme Court in the case of ***Joshi Technologies International***

WEB COPY

Inc. vs. Union of India & Ors. reported in ***(2015) 7 SCC 728***, wherein the Hon'ble Supreme Court had held that at the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness. It has also been held that a writ can be issued where there is executive action unsupported by law.

19. It has been submitted by learned counsels for the petitioners that incorporation of highly onerous Clause- 31 in the tender terms and conditions and Clause 10 under Part-III of the mining lease deed by the respondent authorities is *de hors* the 2019 Rules and therefore, the action of rejection of surrender and forfeiture of the earnest money deposit is highly arbitrary and directly in conflict with Rule 50(2) of the 2019 Rules and cannot stand the test of Article 14 of the Constitution of India. It is settled proposition of law that if the tender terms are contrary to the statutory rules, the same are void and unenforceable.

20. Learned counsels for the petitioners have relied upon the decision of the Hon’ble Supreme Court in the case of ***Sant Ram Sharma vs. State of Rajasthan and Ors.*** reported in ***AIR 1967 SC 1910.***

21. It is further argued by the learned counsels

WEB COPY

for the petitioners that it is a settled proposition of law that an authority cannot issue orders or office memorandum or executive instructions in contravention of the statutory rules. Instructions can be issued only to supplement the statutory Rules but not to supplant it. Such instructions should be subservient to the statutory provisions.

22. In this regard, learned counsels for the petitioners have relied upon the following decisions: -

i. ***Union of India and Ors. vs. Majji Jangammayya and Ors.*** reported as ***AIR 1977 SC 757;***

ii. ***P.D. Aggarwal and Ors. v. State of U.P. and Ors.*** reported as ***AIR 1987 SC 1676***;

iii. ***Paluru Ramkrishnaiah and Ors. v. Union of India and Anr.*** reported as ***AIR 1990 SC 166;***

iv. ***C. Rangaswamaiah and Ors. v. Karnataka Lokayukta and Ors.*** reported as ***AIR 1998 SC 2496;***

v. ***JAC of Airlines Pilots Association of India and Ors. v. The Director General of Civil Aviation and Ors.*** reported as ***AIR 2011 SC***

WEB COPY

2220).

23. It is next submitted that it is also settled proposition of law that forfeiture of security deposit is permissible only if the same is not excessive and should not amount to penalty, however in the present cases, from a perusal of the impugned letters would reveal that the security deposits have been forfeited as a penalty for surrender of settlement and further, the petitioners were not afforded an opportunity of hearing before passing the impugned letters and no show-cause notices were issued in this regard. It has been submitted that opportunity of hearing is mandatory when civil consequences are involved. It is also argued that in the present cases, the impugned letters forfeiting the security deposits have been issued upon a direction from the superior authorities without application of mind and as such, are fit to be set aside. In this regard, the learned counsel for the petitioners have relied upon the decision of the Hon'ble Supreme Court in the case of ***State of Uttar Pradesh and Ors. vs. Maharaja Dharmander Prasad Singh and Ors.*** reported in ***(1989) 2 SCC 505,*** wherein it has been held as under:-

> *"55. It is true that in exercise of powers of revoking or cancelling the permission is akin to and partakes of a quasi-judicial*

WEB COPY

complexion and that in exercising of the former power the authority must bring to bear an unbiased mind, consider impartially the objections raised by the aggrieved party and decide the matter consistent with the principles of natural justice. The authority cannot permit its decision to be influenced by the dictation of others as this would amount to abdication and surrender of its discretion. It would then not be the Authority's discretion that is exercised, but someone else's. If an authority "hands over its discretion to another body it acts ultra-vires". Such an interference by a person or body extraneous to the power would plainly be contrary to the nature of the power conferred upon the authority. De Smith sums up the position thus:

> *"The relevant principles formulated by the courts may be broadly summarised as follows. The authority in which a discretion is vested can be compelled to exercise that discretion, but not to exercise it in any particular manner. In general, a discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the*

WEB COPY

matter before it: it must not act under the dictation of another body or disable itself from exercising a discretion in each individual case. In the purported exercise of its discretion it must not do what it has been forbidden to do, nor must it do what it has not been authorised to do. It must act in good faith, must have regard to all relevant considerations and must not be swayed by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously. Nor where a judgment must be made that certain facts exist can a discretion be validly exercised on the basis of an erroneous assumption about those facts. These several principles can conveniently be grouped in two main categories: failure to exercise a discretion, and excess or abuse of discretionary power. The two classes are not. however, mutually exclusive."

24. At this Stage, Mr. Satyabir Bharti, learned

WEB COPY

Senior Counsel has re-iterated the phraseology of Rule-50 of the 2019 Rules and has submitted that Clause-10 under Part-III of the mining lease deed can only be prevented from being in contravention of the aforesaid Rule-50, if the aforesaid Rule-50 is read to deal only with '<u>exit</u>' of the settlement and entitlement of the settlee to the return of the amount. In order to buttress his argument, the learned Senior Counsel has submitted that Rule-50 of the 2019 Rules uses the word '*exit*' whereas Clause-10 under Part-III of the mining lease deed deals with two different circumstances, that is, *firstly,* the exit of the settlement and *secondly,* of surrender of the settlement. It is the contention of the learned Senior Counsel that in so far as the exit of the settlement is concerned, the pre-requisite is deposit of the entire settlement amount of the concerned year by the settlee before exit, whereas in case of surrender, the security amount is liable to be forfeited. It is the categorical submission of the learned Senior Counsel that the present cases are that of exit and not of surrender of settlement. The surrender, according to the learned Senior Counsel, does not carry with it the requirement of six months' notice period and pre-deposit of the entire settlement amount of that relevant year, therefore the exit option as provided under Rule-50 is distinct from the surrender option

WEB COPY

under clause-10 of Part-III of the lease deed. It is emphasized by the learned Senior Counsel that any other interpretation would render the aforeaid Clause-10 of the mining lease deed as wholly contrary to the Rule-50 of the 2019 Rules and as a settled proposition of law, executive orders or policy decisions cannot override statutory rules.

25. The learned Senior Counsel has further submitted that, under Article-300A of the Constitution of India, the security amount of the petitioners could not have been forfeited in absence of express enabling statutory provision. Therefore, it is argued that the actions of the respondents are wholly violative of Article-300A of the Constitution. In support of the submissions the learned Senior Counsel has drawn strength form the following decisions:-

(i) ***Hindustan Times vs. State of U.P.*** reported as ***(2003) 1 SCC 591***, paragraph nos. 22-24 and 39;

(ii) ***K. Kuppusamy vs. State of Tamil Nadu*** reported as ***(1998) 8 SCC 469***, paragraph no. 3;

(iii) ***Tigger Goods Pvt. Ltd. vs. State of Bihar*** reported as ***(2009) 2 BLJ 297***

WEB COPY

PHC, paragraph nos.25 and 26.

26. Lastly, learned Senior Counsel has also relied upon ***Central Inland Water Transport Corporation (supra)*** and ***L.I.C. vs. Consumer Education Research Centre*** reported as ***(1995) 5 SCC 482*** to argue that if a contract or a clause thereunder is found to be unreasonable or unfair or irrational, then it must be considered, if the relative bargaining power of the contracting parties were unequal and the fact that contract has been signed on dotted lines by the party having unequal bargaining power then judicial review would be available.

27. Mr. Suraj Samdarshi, learned Counsel appearing for the petitioner- Awanish Construction in ***C.W.J.C. No.6991 of 2025,*** submits that the petitioner was precluded from carrying out mining activity for 70 days for no fault of his own and therefore he deserves to be refunded the proportionate royalty amount for the aforesaid period of 70 days during which he could not carry out the mining activity. The learned counsel for the petitioner -Awanish Construction, had drawn strength from the decisions of the Hon'ble Supreme Court in the case of ***Jai Durga Finvest (P) Ltd. vs. State of Haryana & Ors.*** reported as ***(2004) 3 SCC 381*** and the observations of the

WEB COPY

Hon'ble Supreme Court in the case of ***Chitra v. State of Kerala,*** reported as ***(2016) 1 SCC 685.***

28. *Per contra,* the learned counsel for the answering respondents have submitted that the present writ petitions are not maintainable since the dispute revolves around purely contractual obligations and cannot be adjudicated in writ jurisdiction. In support of this submission, learned counsel for the answering respondents has relied upon the decisions of the Hon'ble Supreme Court rendered in the case of ***A.B.L. International Limited vs. ECGC*** reported as ***(2004) 3 SCC 553*** and in the case of ***State of Bihar vs. Jain Plastics*** reported as ***AIR 2002 SC 206.***

29. The learned counsel for the answering respondents has next submitted that the tender conditions are binding in nature and the petitioners after having participated in the same, now the petitioners cannot be permitted to turn around and challenge the same after having accepted and acted upon the terms and conditions of the tender. The answering respondents have taken this Court to various Clauses of the Notice Inviting Tender (N.I.T), that is, Clause-7(b), Clause-15, Clause-22(1) and Clause-31, to submit that the petitioners cannot escape from the contractual obligations.

WEB COPY

30. Adverting to the impugned letters of rejection of the surrender and forfeiture of the earnest money / security deposit, the learned counsel for the answering respondents has submitted that the impugned letters have been passed strictly in consonance with the terms of the lease deed and the 2019 Rules, particularly, Clause-10 of the mining lease deed, which stipulates that the entire security deposit shall be forfeited if the lease holder surrenders the sand *ghat* prematurely. Further, repelling the reliance placed by learned counsels for the petitioners on Rule-50 of the 2019 Rules, it has been submitted that the right of surrender is not an absolute right and Rule-50 allows exit only subject to the terms of the auction, agreement and payment of dues. It has further been submitted that Rule-50(4) of the 2019 Rules, categorically prohibits surrender when penalty is outstanding.

31. It has further been argued by the learned counsel for the answering respondents that Clause-31 of the NIT and Clause-10 of the agreement makes express provision for forfeiture and such forfeiture is a contractual consequence and not a penalty for surrendering the sand *ghat*.

32. Clause-31 of the N.I.T. reads as under:-

*"**(31) बंदोबस्तीध्समानुदान का प्रत्यार्पण–***

i. बंदोबस्तधारी को बंदोबस्ती छोड़ने के पूर्व उस पंचांग वर्ष की

WEB COPY

सम्पूर्ण चंदोबस्ती राशि जमा करनी होगी। बंदोबस्ती प्रत्यार्पित करने की स्थिति में जमा सम्पूर्ण प्रतिभूति राशि के साथ–साथ भुगतान की गई अन्य राशि को जप्त कर ली जायेगी। साथ ही बंदोबस्तधारी के रूप में निर्गत्त भंडारण अनुज्ञप्ति भी स्वतः रद्द समझी जाएगी।

ii. बंदोबस्ती समर्पण के मामले में समाहर्त्ता द्वारा बकाया भुगतान के लिए 21 दिन का नोटिस देने के बाद भी राशि जमा नहीं करने पर बकाया वसूली के लिए बिहार एवं उड़ीसा लोक मांग अधिनियम, 1914 के तहत कार्यवाही प्रारंभ की जायेगी।''

33. The learned counsel for the answering respondents has emphasized that after having accepted and having received the benefit of the settlement, the petitioners cannot now re-writ the contract.

34. Relying upon the decisions of the Hon'ble Supreme Court in the case of ***Rajasthan State Industrial Development Corporation vs***. ***Diamond & Gem Development Corporation*** reported as ***(2013) 5 SCC 470*** and ***Balaji Ventures Pvt. Limited vs. Maharashtra State Power General Company Limited & Anr.*** reported as ***2022 SCC OnLine SC 1967,*** the learned counsel for the answering respondents have submitted that a party which has voluntarily entered into a contract with full knowledge of its terms and conditions and accepted its benefits by acting upon it, is estopped from later challenging the contractual conditions itself or seeking to avoid its consequences.

WEB COPY

35. Lastly, the learned counsel for the answering respondents has supported the impugned letters of rejection of surrender of the respective sand *ghats* by emphasizing that the aforesaid letters are reasoned and speaking in nature and rooted in the applicable contractual and statutory provisions.

36. I have considered the detailed submissions of the parties and perused the materials available on record.

37. The petitioners emerged as successful bidders in the respective auction processes and sand *ghats* were settled in their favour. The petitioners after complying with the necessary clearances and approvals including the environmental clearance, entered into the respective mining lease deeds and had thereafter commenced mining operations. Subsequently, the petitioners submitted letters to the respective Collectors, surrendering the settlement of the sand *ghats*. The Collectors, upon seeking guidelines from the Department, ultimately rejected the surrender of the petitioners, forfeited the security deposit and revoked the work orders.

38. Before proceeding with the matters, it would be gainful to refer to the law relating to surrendering sand mining lease deeds and the consequences therefore.

39. The Government of Bihar issued the Bihar

WEB COPY

Sand Mining Policy, 2019, notified on 14.08.2019 and thereafter, in exercise of the powers conferred under Section 15 read with Section 23-C and Section 26 of the Mines and Minerals (Development and Regulation) Act, 1957, the State of Bihar framed the 2019 Rules. The aforesaid 2019 Rules came into force with effect from its publication in the Official Gazette on 17.09.2019.

40. The relevant Clauses of the Bihar Sand Mining Policy, 2019 notified by the Department of Mines & Geology, Government of Bihar, relevant for the present purpose, reads as under:-

> *"11.* ***Execution of Settlement Deed.*** *The successful bidder shall be awarded the concession to mine sand for a period of 5 years. The successful bidder shall execute and register the settlement deed in prescribed form of the prevailing rules or a form as near thereto before starting work and pay the requisite security deposit as prescribed.*
>
> *xxxx*
>
> *18.* ***Surrender of Concession*** *- Annual settlement amount shall be paid before surrender of said sandghat by settlee.* ***In case of surrender, the security deposit along with other payments made by him shall be forfeited****."*

41. The Rule-50 of the 2019 Rules provide for

WEB COPY

an ‘Exit Option’ to the mineral concession holders, which provides that a mineral concession holder may opt to exit the business upon giving six months’ notice to the concerned Collector. The aforesaid Rule 50 of the 2019 Rules reads as under:-

> ***“50. Exit Option for Mineral Concession Holder. -*** *(1) Any Mineral Concession Holder, at any point of the Mineral Concession period, may opt to exit the business upon giving Six months' notice to the Collector. However, this option is not available to Mineral Concession Holder who have not paid their bidding amount or settlement amount or have violated any condition of settlement.*
>
> *(2)* ***The Collector may allow such Mineral Concession Holder to exit the business and return any security money deposited by the Mineral Concession Holder after deducting such dues as are recoverable.***
>
> *(3) The Collector, thereupon, shall initiate arrangement for a fresh bidding.*
>
> *(4)* ***In case of fraud or violation of mining or environmental conditions or any other irregularities reported, no exit option will be available to the Mineral Concession Holder and their security deposit shall be forfeited****.”*

42. The Rules of 2019, also provides that the mining lease deed shall be entered into Form-B, which is appended to and incorporated in the aforesaid Rules of 2019

WEB COPY

itself. The Rule 29-B(2) of the 2019 Rules reads as under:-

> *"CHAPTER – V*
>
> *SETTLEMENT OF SAND*
>
> *xxx*
>
> *29B(2)* ***Award of Concession and Signing of Deed.—*** *The successful bidder shall be awarded the concession to mine sand for a period of 5 years.* ***The successful bidder shall execute the settlement deed in form 'B' as prescribed in this rule or a form as near thereto before starting work.*** *In case the approval of mining plan and the environment clearance have not been obtained, successful bidder shall obtain the same before the execution of settlement deed."*

43. Therefore, from the afore-quoted Rule-29-B(2) of the 2019 Rules, would clearly show that Form-B, appended to the Rules of 2019, is not only a suggestive model format, rather it embodies the conditions and covenants that the parties to a mining lease must bind themselves to. The Form-B which is appended to the Rules does not contain any Clause-10 in Part-III, that is, the aforesaid Clause which forms the basis for the respondents to effect forfeiture of the earnest money deposits of the petitioners does not find place in the original Form-B appended to the 2019 Rules. This Court has noted that the Rule-29-B(2) does provide for variations, in as much as, the

WEB COPY

words used therein '*or a form as near thereto before starting work'*, however, this room for change is provided to prevent undue rigidity in the covenants of the mining lease deeds, keeping in view the ground realities of the various districts in the State of Bihar and one size fits all approach may defeat the purpose. It is however, clear that the aforesaid provision, provides flexibility and limited drafting elasticity in form, not complete freedom to change the substance, more so when a substantive Rule, i.e., Rule 50 of the governing 2019 Rules, occupies the filed. The Provision under Rule-29-B(2) provides for a much needed flexibility, but only variations consistent with the rules. The variations are meant to address practical implications and ground realities, but in the garb of the same, a complete re-writing is wholly impermissible.

44. The present Form-B, as executed between the parties, contain the following two Clauses that are relevant for the present purpose are *firstly*, Clause 3 under Part-VIII of the lease deed, which reads as under:-

> *"3.* ***Liberty to surrender the lease****: (1) The lessee/lessees may at any time surrender this lease by giving not less than Six months' notice in writing to the Collector, and upon the expiration of such notice provided that the lessee/lessees shall upon such expiration render*

WEB COPY

and pay all rents, water rates, royalties, compensation for damages and other moneys which may then be due and payable under these presents to the lessor or any other person or persons and shall deliver these presents to the State Government then this lease and the said term and the liberties, powers and privileges hereby granted shall absolutely cease and determine but without prejudice to any right or remedy of the lessor in respect of any breach of any of the covenants or agreements contained in these presents."

45. And *secondly,* Clause-10 under Part-III of the lease deed, which reads as under:-

"10. ***Exit/Surrender option for Mineral Concession Holder/Settlee****:-*

(1) ***<u>It will be necessary to deposit the entire settlement amount of that settlement year by the settlee before exit from the settlement period. In case of surrender of settlement, the entire security amount along with the other amount paid by the Settlee will be forfeited and at the same time the storage license (K-License) issued in favor of the settlee will be also cancelled itself.</u>***

(ii) In case of surrender of settlement, if due payment is not received within 21 days from the notice issued by the Collector, proceeding will be initiated under the Bihar and Orissa Public Demand

WEB COPY

Recovery Act, 1914 to recover the said due amount."

46. From the perusal of the aforesaid Clauses, it is inescapable, that Clause-10 under Part-III of the lease deed executed between the parties is in contravention of the Rule-50, inasmuch as, on the one hand the Rule-50 contemplates exit by the mineral concession holders upon satisfying certain conditions and the forfeiture under sub-rule (4) of Rule- 50 is only triggered in specific cases of fraud or violation of mining or environmental conditions or any other irregularities reported against the lease holder, in which case the exit option shall not be available and the security amount would stand forfeited. On the other hand, Clause-10 under Part-III clearly makes no exception and provides that in case of surrender of settlement, the entire security amount along with the other amount paid by the settlee shall be forfeited.

47. It is the settled proposition of law that executive actions cannot override statutory provisions, which has been explained by the Constitution Bench of the Hon'ble Supreme Court in the case of ***Sant Ram Sharma vs. State of Rajasthan & Ors.***, reported as ***1967 SCC OnLine SC 16*** wherein the Hon'ble Supreme Court considered the applicability of the letters/administrative instructions issued by the

WEB COPY

Government of India detailing with the administrative practice for promotions, against the Indian Police Service (Regulation of Seniority) Rules, 1954 and had held as under:-

> *"7. We proceed to consider the next contention of Mr. N.C. Chatterjee that in the absence of any statutory rules governing promotions to selection grade posts the Government cannot issue administrative instructions and such administrative instructions cannot impose any restrictions not found in the Rules already framed. We are unable to accept this argument as correct. It is true that there is no specific provision in the Rules laying down the principle of promotion of junior or senior grade officers to selection grade posts. But that does not mean that till statutory rules are framed in this behalf the Government cannot issue administrative instructions regarding the principle to be followed in promotions of the officers concerned to selection grade posts.* ***It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed."*** *(emphasis supplied)*

48. The Hon'ble Supreme Court in the case of ***Joint Action Committee of Air Line Pilots' Assn. of India***

WEB COPY

(ALPAI) & Ors. vs. DG of Civil Aviation & Ors. reported as ***(2011) 5 SCC 435*** while dealing with the ambit and purport of executive instructions had held as under:-

> ***"17.*** *CAR 2007 is neither a statute nor a subordinate legislation. The provisions contained in Sections 4-A, 5 and 5-A of the 1934 Act and Rules 42-A and 133-A of the 1937 Rules make it evident that the same are merely executive instructions which can be termed as "special directions".* ***The executive instruction can supplement a statute or cover areas to which the statute does not extend, but it cannot run contrary to the statutory provisions or whittle down their effect. (Vide State of M.P. vs. G.S. Dall & Flour Mills [1992 Supp (1) SCC 150]***.
>
> ***18.*** *In Khet Singh v. Union of India [(2002) 4 SCC 380, this Court considered the scope and binding force of the executive instructions issued by the Narcotic Bureau, New Delhi and came to the conclusion that such instructions are binding and have to be followed by the investigating officer, coming within the purview of the Narcotic Drugs and Psychotropic Substances Act, 1985, even though such instructions do not have the force of law. They are intended to guide the officers and to see that a fair procedure is adopted by them during the investigation of the crime.*
>
> ***19.*** *A Constitution Bench of this Court in Sant Ram Sharma v. State of Rajasthan [AIR 1967 SC 1910] held as under: (AIR p. 1914, para 7)*

WEB COPY

> *"7. ... It is true that the Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed." (emphasis added)*

20. *Thus, an executive order is to be issued keeping in view the rules and executive business, though the executive order may not have the force of law but it is issued to provide guidelines to all concerned, who are bound by it.*

21. *In Union of India v. Amrik Singh (1994) 1 SCC 269, this Court examined the scope of executive instructions issued by the Comptroller and Auditor General for making the appointments under the provisions of the Indian Audit and Accounts Department (Administrative Officers, Accounts Officers and Audit Officers) Recruitment Rules, 1964, and came to the conclusion that the Comptroller and Auditor General of India had necessary competence to issue departmental instructions on matters of conditions of service of persons serving in the Department, being the Head of the Department, in spite of the statutory rules existing in this regard. The Court came to the conclusion that an enabling provision is there and in view thereof, the Comptroller and Auditor General had exercised his powers and issued the instructions which are not inconsistent with the*

WEB COPY

statutory rules, the same are binding for the reason that the provision in executive instructions has been made with the required competence by the Comptroller and Auditor General.

22. *Thus, it is evident from the above that executive instructions which are issued for guidance and to implement the scheme of the Act and do not have the force of law, can be issued by the competent authority and altered, replaced and substituted at any time.* ***The law merely prohibits the issuance of a direction, which is not in consonance with the Act or the statutory rules applicable thereunder****."*

49. In ***Union of India & Anr. vs. Ashok Kumar Aggarwal,*** reported as ***(2013) 16 SCC 147***, the Hon'ble Supreme Court while dealing with service regulations governing a departmental enquiry, has reiterated that an office order or office memorandum cannot contravene statutory rules and held as under:-

"59. The law laid down above has consistently been followed and it is a settled proposition of law that an authority cannot issue orders / office memorandum / executive instructions in contravention of the statutory rules. However, instructions can be issued only to supplement the statutory rules but not to supplant it. Such instructions should be subservient to the statutory provisions. (Vide Union of India vs.

WEB COPY

Majji Jangamayya (1977) 1 SCC 606, P.D. Aggarwal v. State of U.P. (1987) 3 SCC 622, Paluru Ramkrishnaiah v. Union of India, (1989) 2 SCC 541, C. Rangaswamaiah v. Karnataka Lokayukta (1998) 6 SCC 66 and Joint Action Committee of Air Line Pilots' Assn. of India v. DG of Civil Aviation (2011) 5 SCC 435]"

50. From the afore-quoted decisions, it is patently clear that an executive instructions or policy decision cannot stand in contravention to statutory provisions. In the present cases, the reliance placed by the respondent authorities on the provisions of the tender documents, the Bihar Sand Mining Policy, 2019 and the decisive reliance placed by the respondents on Clause-10 under Part-III of the mining lease deed executed between the parties, is of no consequence since *firstly*, the provisions under Clause-18 of the Bihar Sand Mining Policy, 2019 is completely in contravention of the Rule-50 of the 2019 Rules. Similarly, Clause-10 under Part-III of the mining lease deed is also in contravention of the Rule-50 of the 2019 Rules. Upon a bare perusal of aforesaid Clause-10 under Part-III of the mining lease deed, it is patently clear that it clearly makes no exception before forfeiting the security deposit in case of surrender and provides that in case of surrender of settlement, the entire security amount along with the other

WEB COPY

amount paid by the settlee shall be forfeited and *secondly*, the aforesaid Clause-10 under Part-III is not provisioned under the Standard Form-B as appended to the statutory rules, which is in violation of Rule-29-B(2) of the 2019 Rules.

51. Once the 2019 Rules prescribe the specific form of lease under Form-B and deem the conditions in that form, to be conditions to be imposed under the Rules themselves, the lease deed ceases to be a purely private instrument and assumes a statutory character to that extent. The State Government could not impose terms and conditions according to its own whims ignoring or disregarding the statutory rules which are binding on it. Consequently, no covenant in such a deed can override, contradict, or whittle down the substantive Rule specifically occupying the filed. Any additional clause, mutually agreed, is sustainable, only if it is consistent with, and not destructive of, the statutory scheme.

52. This Court is conscious of the fact that mining settlement is an arduous process for which the State bears significant financial costs and premature surrendering of the settled sand *ghats* causes further financial burden upon the State. However, the forfeiture of the earnest money / security deposit of the petitioners, *de hors* the 2019 Rules, and in

WEB COPY

absence of an express statutory rule akin to Clause-10 under Part-III in the 2019 Rules, is not sustainable. Such covenants in a mining lease deed cannot be a source of power for the respondent authorities to forfeit the security deposits, more so, when an express Rule under Rule-50(2) already occupies the field. The power to forfeit the security deposit must flow from the 2019 Rules.

53. In view of the aforesaid discussions, I am of the considered view that the security amount deposited by the petitioners could not have been forfeited by the respondents on the strength of Clause-10 under Part-III of the executed mining lease deed, much less on the provisions of the tender documents or the Mining Policy of 2019. Such power to forfeit must be sourced directly from the Rules of 2019 to satisfy the constitutional mandate under Article 300-A. Accordingly the action of forfeiture of the security deposit triggered by the surrender by the petitioner is held to be unsustainable in absence of any express enabling provision under the 2019 Rules akin to Clause-10 under Part-III of the executed mining lease deed. The surrender applications of the petitioner must be decided in light of the existing rules occupying the filed, that is, Rule 50 of the 2019 Rules.

WEB COPY

54. So far as the grievance of the petitioner-Awanish Construction in ***C.W.J.C. No.6991 of 2025*** that the petitioner was precluded from operating the sand *ghat* for altogether 70 days, which according to the petitioner, is attributable to the respondents and therefore, he is entitled to the refund of royalty for the aforesaid period is concerned, this Court deems it appropriate to grant liberty to the petitioner to approach the respondent authorities with a detailed representation and supporting documents, which shall be decided by the respondent authority in accordance with law, particularly considering the law laid down by the Hon'ble Supreme Court in the case of ***Jai Durga Finvest (P) Ltd. (supra)*** and the observations of the Hon'ble Supreme Court in the case of ***Chitra v. State of Kerala (supra).***

55. In view of the foregoing discussions, this Court deems it appropriate to pass the following directions:-

i. The impugned letters by which the surrender of sand *ghats* by the petitioners have been rejected and the security deposits/ earnest money deposits have been forfeited, are hereby quashed and set aside.

ii. The respondents shall consider the case of

WEB COPY

the petitioners in accordance with Rule-50 of the 2019 Rules and in cases where the petitioner had given the requisite statutory notice of six months' and where no fraud or violation of mining or environmental conditions or any other irregularities have been reported against the petitioners prior to the surrender, the respondents shall accept the surrenders of the respective sand *ghats* of the petitioners in accordance with law and forthwith refund the respective security deposits / earnest money deposit of the petitioners after deducting recoverables, if any.

iii. The petitioner- M/s. Awanish Construction is given liberty to approach the respondent authorities, if so advised, for refund of the proportional royalty amount for the period during which he was precluded from the mining in the sand *ghat* settled in its favour. If such a representation is filed, the same shall be considered and decided by the

WEB COPY

respondent authorities within a period of eight weeks from the date of filing of such a representation by the petitioner and thereafter the respondent authority shall pass a reasoned and speaking order in accordance with law after affording an opportunity of hearing to the petitioner. While deciding the representation of the petitioner, the respondent authority shall also consider the law laid down by the Hon'ble Supreme Court in the case of ***Jai Durga Finvest (P) Ltd. (supra).***

56. With the aforesaid observations and directions, these writ petitions are allowed in the above terms.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	19.01.2026
Uploading Date	23.04.2026
Transmission Date	

WEB COPY