**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**W.P.(C) No. 6862 of 2026**

Vijay Kumar Ojha, S/o Late Devi Ram Ojha, R/o Barajamda, PO-Barajamda, PS-Gua, District-West Singhbhum
... … Petitioner

Versus

1. The State of Jharkhand, through its Secretary, Department of Mines and Geology, Government of Jharkhand, Ranchi
2. The Director, Mines, Department of Mines and Geology, Government of Jharkhand, Ranchi
3. The Deputy Commissioner, West Singhbhum, Chaibasa
4. The District Mining Officer, West Singhbhum, Chaibasa

... … Respondents

**With**
**W.P.(C) No. 6863 of 2026**

Anil Khirwal, S/o Late Biswanath Khirwal, R/o Khirwal Market, Sadar Bazar, Chaibasa, PO-Chaibasa, PS-Sadar, Chaibasa, District-West Singhbhum ... … Petitioner

Versus

1. The State of Jharkhand, through its Secretary, Department of Mines and Geology, Government of Jharkhand, Ranchi
2. The Director, Mines, Department of Mines and Geology, Government of Jharkhand, Ranchi
3. The Deputy Commissioner, West Singhbhum, Chaibasa
4. The District Mining Officer, West Singhbhum, Chaibasa

... … Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Petitioners : Mr. Rahul Kumar, Advocate
Ms. Richa Lal, Advocate
For the Respondents : Mr. Sahbaj Akhtar, AC to AAG-III

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**Reserved on: 03.09.2026** **Pronounced on: 10.09.2026**

**Per: Rajesh Shankar, J.**

**1.** Both these writ petitions have been preferred for refund of the amount to the tune of Rs.33,60,863/- and Rs.2,08,39,666/- deposited respectively by the petitioners pursuant to the compensation demand raised by the 4th respondent – the District Mining Officer, Chaibasa in purported exercise of the

power under Section 21(5) of the Mines and Minerals (Development & Regulation) Act, 1957 (hereinafter referred to as "the Act, 1957"). The petitioners have also prayed for payment of interest @ 7% per annum from the date of deposit of the said amount till the date of refund of the same.

**2.** The learned counsel for the petitioners submits that the petitioners are holding mining lease of Manganese and Iron ore respectively carrying mining activities in accordance with law. They have also paid rent, royalty etc. on time to the satisfaction of the competent authorities.

**3.** It is further submitted that the respondent no. 4 issued demand notices vide Letter No. 2033/M dated 20.09.2017 against the petitioner of W.P.(C) No. 6862 of 2026 and vide Letter No. 1985/M dated 12.09.2017 (revised vide Letter No. 2012/M dated 18.09.2017) against the petitioner of W.P.(C) No. 6863 of 2026, whereby demands of Rs.33,60,863/- and Rs.2,08,39,666/- respectively were raised against them as compensation under Section 21(5) of the Act, 1957 for mining excess quantity of ore beyond the limit approved in the environmental clearance/certificates issued to them.

**4.** It is also submitted that since the said demand notices stipulated that in the event of default in making payment of the said amount till 31.12.2017, the petitioners would be charged 24% interest per annum on the same, they immediately paid the alleged compensation amount through challans and submitted proof thereof to the respondent no. 4

vide letters as contained in Ref. Nos. VKO/DMO/48/2017-18 and AK/98/17-18 respectively both dated 30.12.2017.

**5.** It is argued that though the compensation amount under Section 21(5) of the Act of 1957 can be realized by an authority delegated with such power by the State Government under Section 26(2) of the said Act, no such power was delegated to the respondent no. 4 to make the alleged demand from the petitioners. Thus, the demand raised by respondent no. 4 was without authority and hence, unsustainable in the eyes of law.

**6.** It is also contended that that a batch of writ petitions led by W.P.(C) No. 3399 of 2019 was filed by similarly situated persons which were heard by a Coordinate Bench of this Court and vide order dated 04.03.2025, the Court set aside the demand notices issued by the respective District Mining Officers under Section 21(5) of the Act, 1957 observing that said demand notices were issued without any delegation of power by the State Government to the concerned District Mining Officers. The Court also directed to refund the amount deposited by the petitioners of the said writ petitions.

**7.** The State of Jharkhand moved before the Hon'ble Supreme Court challenging the order dated 04.03.2025 passed in W.P.(C) No. 7326 of 2017 and other analogous cases by filing Special Leave Petitions, however, the same were dismissed vide order dated 15.12.2025 passed in Special Leave Petition (Civil) Diary No. 69550/2025 with Special Leave Petition (Civil)

Diary No. 67553/2025.

**8.** It is urged that the claim of the petitioners is same as was made in the aforesaid batch of the writ petitions. Once it has been decided by the Coordinate Bench in identical matters that the District Mining Officer has no authority or jurisdiction to make demand in purported exercise of powers under Section 21(5) of the Act, 1957 without delegation of power by the State Government under Section 26(2) of the Act, 1957, it is obligatory on the part of the respondents to refund the amount realized from the petitioners.

**9.** It is asserted that the State Litigation Policy also binds the respondent authorities to take a uniform decision consensually with respect to all similarly situated lessees. Accordingly, the petitioners made representations before the respondent no. 4 seeking refund of Rs.33,60,863/- and Rs.2,08,39,666/- respectively in terms with the law laid down by the Coordinate Bench of this Court vide order 04.03.2025, however, the respondents did not respond to the same.

**10.** The learned counsel for the petitioners lastly argues that the action of the respondents in withholding and failing to refund the said amount realized from the petitioners without the authority of law is arbitrary, illegal, and unsustainable in the eyes of law. Hence, the respondents should be directed to release/refund the said amount to the petitioners with interest.

**11.** The learned counsel for the respondents, while opposing the argument of the learned counsel for the petitioners, submits

that present writ petitions are liable to be dismissed mainly on the ground that the same have been filed after an inordinate delay of about nine years of making payment of the compensation amount as demanded. It is a well settled principle of law that the *fence sitters* are not entitled to get any relief despite a judgment having been passed in favour of few similarly situated persons. Moreover, the petitioners have not even challenged the demand notices before this Court. As such no relief may be granted to them under extraordinary writ jurisdiction.

**12.** Heard the learned counsel for the parties and perused the materials available on record.

**13.** The demand notices under Section 21(5) of the Act, 1957 were issued to the petitioners by the respondent no. 4 vide Letter No. 2033/M dated 20.09.2017 and Letter No. 1985/M dated 12.09.2017 (revised vide letter no. 2012/M dated 18.09.2017). The said demand notices were not challenged by the petitioners, rather they made payment of the demanded amount. Though the said payment was made by the petitioners under protest, they thereafter remained idle for about nine years.

**14.** In the meantime, some of the mining lease holders challenged the similar demand notices issued to them by the respondent no. 4 under Section 21(2) of the Act, 1957 by filing different writ petitions. Those writ petitions were heard by a Coordinate Bench of this Court and vide common order dated 04.03.2025,

the impugned demand notices were set aside on the ground that the respondent no. 4 had no jurisdiction to issue the said demand notices without delegation of power by the State Government under Section 26(2) of the Act, 1957 and that the State Government had not issued any such notification empowering the respondent no. 4 to issue the said demand notices.

**15.** Curiously enough, subsequent to passing of the said order, the petitioners woke up from the deep slumber and started making representations to the respondents seeking refund of the payments made by them. The litigants who remain passive and procrastinate on their claim waiting on the sideline while others fight their battle and come to the court after others succeed, are terms as *'fence sitters'* in Indian law. This behaviour of the litigants is frowned upon by the courts. The rationale behind denying the relief to the *'fence sitters'* is that 'delay defeats equity'. The courts are quite reluctant to grant relief to those who sleeps over their rights. This principle ensures that justice isn't held hostage by tardiness.

**16.** In the case of **State of Tamil Nadu & Anr. Vs. R. Sasipriya & Anr.** reported in **2026 SCC OnLine SC 795,** the Hon'ble Supreme Court has held that the *fence-sitters* cannot be permitted to challenge the validity of an order after the matter has been concluded. It is further held that no party can claim relief as a matter of right, and one of the well-recognised grounds for refusing relief is that the person approaching the

court is guilty of delay and laches.

**17.** Another reason for denying relief to the '*fence sitters'* is that prolonged inaction by the '*fence sitters'* leads to creation of third-party rights, making it unfair to grant relief to the '*fence sitters'* who wanted to see the outcome of others' cases. Denying reliefs to the '*fence sitters'* also discourage opportunism and encourages vigilant litigants.

**18.** In the present cases, the petitioners have not even chosen to challenge the demand notices, and have merely prayed for extending the benefit granted to the petitioners of W.P.(C) No. 3399 of 2019 and other analogous cases vide order dated 04.03.2025 claiming that they are similarly situated. The learned counsel for the petitioners has argued before this Court that the demand notices issued to the petitioners are void having been passed by a person without any authority of law and as such, there is no need to challenge the same.

**19.** We are not at all impressed with such argument of the learned counsel for the petitioners in view of the settled position of law that there is nothing like void order. Even a bad order is required to be challenged before the court of law.

**20.** In the case of **State of Kerala Vs. M.K. Kunhikannan Nambiar Manjeri Manikoth (Dead) & Ors.** reported in **(1996) 1 SCC 435,** the Hon'ble Supreme Court has held that even a void order or decision made against the parties cannot be said to be non-existent in all cases and in all situations. Ordinarily, such an order will, in fact, be effective *inter partes*

until it is successfully challenged before an appropriate forum. Mere use of the word 'void' is not determinative of its legal impact.

**21.** Their Lordships in the said case have further held as under:-

> **8.** In Halsbury's Laws of England, 4th Edn., (Re-issue) Vol. 1(1) in para 26, p. 31, it is stated, thus:
>
> > "If an act or decision, or an order or other instrument is invalid, it should, in principle, be null and void for all purposes; and it has been said that there are no degrees of nullity. Even though such an act is wrong and lacking in jurisdiction, however, it subsists and remains fully effective unless and until it is set aside by a court of competent jurisdiction. Until its validity is challenged, its legality is preserved."
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> In the *Judicial Review of Administrative Action*, De Smith, Woolf and Jowell, 1995 Edn., at pp. 259-60 the law is stated thus:
>
> > "The erosion of the distinction between jurisdictional errors and non-jurisdictional errors has, as we have seen, correspondingly eroded the distinction between void and voidable decisions. The courts have become increasingly impatient with the distinction, to the extent that the situation today can be summarised as follows:
> >
> > (1) All official decisions are presumed to be valid until set aside or otherwise held to be invalid by a court of competent jurisdiction."
>
> Similarly, Wade and Forsyth in *Administrative Law*, Seventh Edn., 1994, have stated the law thus at pp. 341-342:
>
> > "… every unlawful administrative act, however invalid, is merely voidable. But this is no more

> than the truism that in most situations the only way to resist unlawful action is by recourse to the law. In a well-known passage Lord Radcliffe said:
> 'An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity upon its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders.'
>
> This must be equally true even where the brand of invalidity is plainly visible: for there also the order can effectively be resisted in law only by obtaining the decision of the court. The necessity of recourse to the court has been pointed out repeatedly in the House of Lords and Privy Council without distinction between patent and latent defects."

The above statement of the law supports our view that the order of the Board dated 28-6-1977, declining to implead Respondents 3 and 4 (which stood confirmed in revision) concludes the matter against Respondents 3 and 4.

**22.** The learned counsel for the petitioners has also placed reliance on the judgment rendered by a Coordinate Bench of this Court in the case of **Kamal Khan Vs. The State of Jharkhand & Ors. (W.P.C No. 2859 of 2022) with other analogous cases**. In the said cases, the petitioners had challenged the orders whereby the District Mining Officers of Dumka and Pakur had imposed penalty on them. However, in the present cases, the petitioners have failed to challenge the demand notices. Moreover, the petitioners of those cases were vigilant

of their rights and had come to the Court promptly. Thus, the facts and circumstances of the present cases are entirely different from those cases. Moreover, in the said cases, the Court while quashing and setting aside the impugned orders, had given liberty to the concerned authority to decide the issue afresh on their own merits in accordance with law. Thus, the said judgment cannot be applied in the present cases.

**23.** In view of the aforesaid reasons, the petitioners are not entitled to get any relief under extraordinary writ jurisdiction of this Court.

**24.** The writ petitions are accordingly dismissed.

**(M. S. Sonak, C.J.)**

**(Rajesh Shankar, J.)**

September 10, 2026
Manish
**A.F.R.**

Uploaded on 10.09.2026