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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15422 of 2025

CNR No. ODHC010360322025

State of Odisha represented through its Addl. Chief Secretary to Govt. Department of Steel & Mines, Bhubaneswar & another .... ***Petitioners***

-Versus-

M/s. Mahanadi Coalfield Limited and others .... ***Opposite Parties***

Advocates appeared in this case:

For Petitioners : Mr. Debasish Tripathy, Addl. Govt. Advocate

For Opp. Parties : Mr. Sibashish Mishra, Adv for O.Ps. No.1 & 2

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE G. SATAPATHY

J U D G M E N T

Date of Hearing and Judgment: 27th October, 2026

G.SATAPATHY, J.

1. The petitioners by way of this writ petition seek to challenge the impugned common order dated 31.10.2023 passed by OP No.3 in Revision Application No. 18 of 2020 and 12 other connected Revision Applications.

2. By the impugned order under Annexure-1, OP No.3-cum-Revisional Authority, Ministry of Coal, Government of India, New Delhi revoked the demand notice issued on 14.01.2020 by Deputy Director of Mines, Talcher Circle, Angul issued to OP No.1 M/s. Mahanadi Coalfields Limited, Kaniha, Angul, Odisha (hereinafter referred to as 'MCL') raising a demand to pay a sum of Rs.11,02,03,910.00,which is computed on 68,54,500.050 Metric Tons (100mm) G-14 sized coal during the period April, 2018 to March, 2019 towards differential royalty, DMF and NMET contributions, while holding such demand notice liable to be quashed.

3. The precise claim of the writ petitioners is that the OP-MCL having been found to be processing Run-of- Mine (ROM) coal into calibrated sizes within the precincts of the leased out area, is obligated to pay the applicable exigible royalty for processed coal on account of processing and sizing of ROM coal in view of the provision of Sec. 9 of the Mines and Minerals (Development and Regulation Act), 1957 (in short, 'MMDR Act') read with Second Schedule thereto along Rule-64(B) of the Mining Concession Rules, 1960 (in short, 'the Rules'), but the OP-

MCL has only deposited the royalty excluding the amount due in processing (sizing) charge of ROM coal for the period April, 2018 to March, 2019 and, thereby, it is liable to pay the differential royalty amount which was demanded by the Deputy Director Mines, Talcher Circle, Angul by issuing demand notice No. 88/Mines dated 14.01.2020 raising a demand indicated *supra,* but the Revisional Authority-cum-OP No.3 has passed the impugned order without proper appreciation of facts and the settled position of law, thereby necessitating the supervisory intervention of this Court.

4. This Court has heard Mr.Debasish Tripathy, learned Additional Government Advocate appearing for the petitioners-State of Orissa and Deputy Director Mines, Talcher Circle, Angul and Mr.Sibashis Mishra, learned Advocate appearing for OPs-MCL and perused the record.

5. At the threshold, what is emphasized is that a formidable preliminary objection has been raised by the learned counsel for OP-MCL that the writ petition suffers from delay and latches, and hit by selective discrimination for assailing the impugned common order targeting only the OP-MCL undermining the principle of

judicial discipline. In adverting such preliminary objection, indisputably there appears no fixed period of limitation prescribed for filing the writ petition, but when the extra ordinary jurisdiction of the writ Court is to be invoked, it is to be seen as to whether the same is invoked within a reasonable time or not inasmuch as filing of the writ petition would not revive the dead cause of action or resurrect the cause of action since the extra-ordinary jurisdiction of Article 226 of the Constitution of India is not only discretionary, but also equitable and the same is founded on well known legal maxim "*vigilantibus non dormientibus jura subveniunt"* which means the law assists those who are vigilant, not those who sleep over their rights. Additionally, the Law of Limitation is not only founded on public policy, but also its object is to put an end to every litigation and thereby, it lays down the period of life for every litigation since keeping the litigation/dispute pending for a indefinite period would benefit no one. The Law of Limitation is based on the legal maxim *"interest reipublicae ut sit finis litium"* which means there should be end to litigation for general welfare. It is interesting, but equally important that a right albeit available, but not exercised nor the remedy thereof being availed of for a

long time ceases to exist and, thereby, barring the remedy with passage of time. In the context delay and latches, the Apex Court has laid down the precedents in a plethora of decisions including in a recent decision in ***Mrinmoy Maity Vrs. Chhanda Koley and Others; (2024) 15 SCC 215*** wherein at Paragraphs-9 & 10, the Apex Court has held as under: -

> *"9. Xx xx xx.* ***An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts****. This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*
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> *10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straightjacket formula with mathematical precision. The*

ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled".

6. In the context of delay, this Court considers it apposite to refer to Paragraphs-4 & 5 of the decision in ***State of Madhya Pradesh and Others vrs. Bherulal; (2020) 10 SCC 654*** wherein the Apex Court has held as under: -

"5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay".

7. In ***Post Master General and Others vrs. Living Media India Limited and Another; (2012) 3 SCC 563***, the Apex Court at Paragraphs-27 to 29 has held as under: -

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically

merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. ***In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few****".*

8. The aforesaid precedents as laid down by the Apex Court do not persuade this Court to make the judgment verbose by reiterating the same principle laid down by the Constitutional

Court in other decisions and the principle in the decisions as referred to above is considered sufficient to examine the case of the writ petitioners. This Court, however, makes it very clear that the provision of Sec. 3 of Limitation Act has to be construed differently as compared to Sec. 5 of the Limitation Act inasmuch as the provision of Sec. 3 needs to be applied strictly, whereas the provision of Sec. 5 can be applied liberally on the facts and circumstance of the case. What cannot be denied in this case is that the impugned order was passed by the Revisional Authority-cum-OP No.3 on 31.10.2023, but the present writ petition was presented to this Court on 19.05.2025 and the writ petitioner- State has offered the following explanation at Paragraphs-11 & 12 for delay in approaching this Court: -

> *"11. That the impugned order in question was passed on 31.10.2023 and was received by the Petitioner No. 1 on 04.11.2023. Further the same was forwarded to the law department for concurrence on 26.04.2023 and after due consideration on 20.07.2024 was returned from the department for filing of the Writ petition. Thereafter, the matter was discussed with the Office of Advocate General. Accordingly, all relevant information and documents was prepared by the Petitioners and was sent to the Office of Advocate General for vetting and finalization. The office of Advocate General marked the case to concerned additional standing counsel for*

preparation and drafting of the writ petition. Thereafter, due discussion and deliberation and collection of relevant data and information, draft writ was prepared and sent for approval.

12. That, the process of vetting and finalization of the draft writ required due deliberation and careful consideration after which the Petitioners have resorted to file the present writ. It is pertinent to mention here that because of procedural as well as administrative formalities the petitioners were prevented from approaching this Hon'ble Court in a timely manner. The petitioner has acted diligently and in good faith, without any malafide intent or negligence, and has been pursuing the matter earnestly as evident from the abovementioned paragraphs. It is noteworthy to mention here that the time consumed is neither deliberate nor excessive and does not cause any prejudice to the respondents".

9. There is in fact no quarrel over the position of law that an applicant can offer plausible explanation for not approaching the Court in Writ Petition within reasonable time, but while dealing such a writ application filed with considerable delay for more than one and half years as in this case, the Court would be circumspect and seek reasonable explanation for the delay. True it is that if there appears reasonable explanation offered by the petitioners, the Court should adopt a pragmatic approach to promote justice, but the explanation offered by the writ petitioners for the delay in approaching the Court cannot be stretched to cover the cases of

absolute apathy, utter negligence or institutional complacency. Further, there cannot be any discrimination of the parties for adopting different method(s) in considering the explanation offered for the delay, but the Courts is ought to treat everyone in the same standard of scale, be the applicant is a corporate body or State or a private individual or a privileged entity. Accordingly, the Government bodies are to be considered in the same legal standard as ordinary citizens in the matter of delay and latches, however, the State like the petitioners in this Writ Petition cannot resort to the plea of slow bureaucratic movement or delay in getting approval/sanction to file a litigation, as a shield to overcome the delay and latches. Examining the present case on these parameters, the explanation provided by the State-Writ Petitioners is entirely unconvincing and structurally deficient and the explanation offered for delay in approaching the Court in this Writ Petition lacks precise chronological details and it fails to explicitly state the reasons for the delay. What is interesting, but equally important is that the State authorities probably woke up from the slumber after a considerable period to file this Writ Petition and in a situation like this, accepting the latches in the

form of unexplained delay of such a considerable duration by way of liberal approach would just like paying premium on the institutional latches or negligence attributable/imputable to the authorities of the State involved in the matter for their sheer gross negligence and utter apathy towards the OP-MCL, who is none other than a subsidiary company of Central Government and in any way an organ of the Government. In other words, mere administrative negligence cannot constitute a reasonable explanation and the assertion regarding internal files moving from one table to other table does not fulfil the legal requirements of explaining an inordinate delay, but the State has simply offered explanation for the delay to be on account of processing the file, but without any chronological details and precise dates. It further appears from the explanation as offered by the Writ Petitioner-State in paragraphs-11 & 12 of the Writ Petition only demonstrate omnibus ground without explicitly stating precise details of the dates for delay in approaching the Court. Delay definitely defeats the equities and this Court, therefore, does not find any reasonable explanation offered by the writ petitioners for the delay in approaching the Court, but condoning such immense and

unmitigated delay without a legitimate day-to-day breakdown and without having any reasonable explanation would completely frustrate the principal objective of the Limitation Act, which is sounded on public policy to ensure finality to the litigation and protect legal rights from enduring vulnerability. In this situation, the Latin maxim ***"Dura lex sed lex"*** which means the law is harsh, but it is the law stands attracted to the case of the Writ Petitioners. The aforesaid Latin maxim epitomizes that valid laws must be followed and enforced strictly, even if the outcome is severe, unfair or inconvenient to a party in a specific case. Consequently, this Court finds that the Writ Petitioners have completely failed to demonstrate any reasonable explanation for the delay in approaching the Court and the belated filing of the Writ Petition is a clear example of gross institutional negligence and the Writ Petition suffers from delay and latches.

10. On turning to the issue of arbitrary discrimination as raised by the OP-MCL, it cannot be denied that the impugned order was passed on 31.10.2023 in 13 Revision Applications, but the State has only challenged the said order in respect of two revision applications vide RA Nos.18 & 22 of 2020. The selective

discrimination by the State-Writ Petitioner is writ large since it has picked and chose to assail the impugned order in two cases, out of the order passed in 13 revisional cases, which undermines the principle of equality. The State being an independent body should not discriminate anyone which is violative of Article 15 of the Constitution of India by selectively challenging the impugned order qua some of the litigants which not only violates the judicial discipline, but also undermine the uniformity in ensuring the implementation of law.

11. It is not only contended for the OP-MCL that the revisional authority has passed orders in 73 revision applications, but also a compilation of such 73 orders was in fact handed over to the learned Additional Government Advocate appearing for the writ petitioner on 06.10.2026 only to seek his response for selectively choosing to challenge two orders, but no explanation is forthcoming from the writ petitioners-State even after taking sufficient time. In the obtaining circumstance, if two orders are challenged by allowing the rest of the several orders to remain as it is, there is chance of two sets of conflicting orders to remain operative, if the Writ Petition against the impugned orders stands

allowed, which would only create bizarre situation undermining the principle of uniformity in implementing the law. Further, if two orders are allowed to be challenged by leaving the rest of the orders passed on similar issue could not only create a situation of conflicting orders to remain operative, but the same would further create difficulty in administration of justice. In such situation, what is striking to the mind of the Court which is equally important, is that the decision in the orders remaining unchallenged would operate as *res judicata* against deciding the Writ Petition challenging one of the several orders as passed by the revisional authority inasmuch as the orders remaining unchallenged attains finality and binding on the parties to the litigation. In the context of *res- judicata* in such a situation, this Court considers it profitable to refer to the decision in ***Harbans Singh and others Vrs. Sant Hari Singh and others; (2009) 2 SCC 526***, wherein at paragraphs-17, 18 & 20 the Apex Court has held as under: -

> ***"****17. Section 11 of the Code of Civil Procedure reads thus:*
>
> > *"11. Res judicata. - No Court shall try any suit or issue in which the matter directly and substantially in issue has been*

directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."

18. In Premier Tyres Limited vs. Kerala SRTC this Court held: (SCC pp. 148-49, paras 4-5)

"4. .... The question is what happens where no appeal is filed, as in this case from the decree in connected suit. Effect of non-filing of appeal against a judgment or decree is that it becomes final. This finality can be taken away only in accordance with law. Same consequences follow when a judgment or decree in a connected suit is not appealed from.

5. Mention may be made of a Constitution Bench decision in Badri Narayan Singh v. Kamdeo Prasad Singh. In an election petition filed by the respondent a declaration was sought to declare the election of appellant as invalid and to declare the respondent as the elected candidate. The tribunal granted first relief only. Both the appellant and respondent filed appeals in the High Court. The appellant's appeal was dismissed but that of the respondent was allowed. The appellant challenged the order passed in favour of the respondent in his appeal. It was dismissed and preliminary objection of the respondent was upheld. The Court observed: (Badri Narayan case, SCC p. 342, para 15)

> *"15. ... We are therefore of opinion that so long as the order in the appellant's Appeal No. 7 confirming the order setting aside his election on the ground that he was a holder of an office of profit under the Bihar Government and therefore could not have been a properly nominated candidate stands, he cannot question the finding about his holding an office of profit, in the present appeal, which is founded on the contention that that finding is incorrect."*

20. As no appeal was preferred by the Union of India while accepting the award made in favour of the first respondent, it had attained finality and, thus, the principle of res judicata was found to be applicable. It was opined: (Pundarikakshudu case, SCC p. 180, para 35)

> *"35. As the appellant failed to get that part of the award which was made by the arbitrator in favour of the first respondent set aside, the basic conclusion of the High Court cannot be faulted. The Court upon setting aside the whole award could have remitted back the matter to the arbitrator in terms of Section 16 of the Act or could have appointed another arbitrator, but at this juncture no such order can be passed as the award in part has become final."*

12. From a cumulative discussion of facts and circumstance together with law as referred to above, this Court not only finds the Writ Petition to be suffering from delay and latches, but also, it is hit by selective discrimination and the principle of *res- judicata*

and, thereby, the Writ Petition is liable to be dismissed. Consequently, the Writ Petition is not entitled to any relief.

13. In the result, the Writ Petition stands dismissed as it not only suffers from delay and latches, but also is hit by selective discrimination and legal bar of *res judicata*.

(Harish Tandon)
Chief Justice

(G.Satapathy)
Judge

Kishore

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