IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 32651 of 2026
CNR No.ODHC010773552026

Lingaraj Jena .... ***Petitioner***
Mr. Satyakanta Routra, Advocate

-versus-

State of Odisha and others .... ***Opposite Parties***
Mr. Debashis Tripathy, Additional Government Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR JUSTICE GOURISHANKAR SATAPATHY

ORDER

Order No. **27.10.2026**

01. **1.** The instant writ petition is filed by the owner of the vehicle, which was seized by the competent authorities as it was involved in the illegal transportation of the minor mineral. Subsequently, a case has been registered with the Jurisdictional Magistrate and it would be reasonably inferred from the said fact that the said seized vehicle might be confiscated by an order of the Jurisdictional Magistrate.

2. Amidst the pendency of the above, the Mining Officer, Cuttack Circle, Cuttack, issued a letter signifying the compounding of the offense upon payment of the compound fees. It is indicated in the said letter that in the event the petitioner is agreeable to compound the said offense upon payment of the said compound fees,

such consent should be communicated in writing. Obviously, when the compounding of the offense is provided in the statute, it cannot be a unilateral act but requires reciprocity in this regard. Unless the offender agrees to compound the offense, the compounding is not permissible.

3. So far as the power to compound the offense under the Odisha Minor Mineral Concession Rules, 2016 "the OMMC Rules" is concerned, the same is provided under Clause-(iv) of Sub-rule (1) of Rule 51 thereof. The only restrictions imposed therein that while compounding an offense upon payment of such sum, it shall not exceed the maximum amount of fine prescribed under these Rules. Clause-(i) of Sub-rule (1) of Rule 51 provides a maximum fine of Rs.5,00,000/- and, therefore, while compounding such offense, any demand which exceeds the said amount is regarded as an exercise of excessive powers not provided in the statute.

4. In the instant case, the authorities have quantified the compound fees much below the maximum amount of fine prescribed in these Rules and, therefore, cannot be said to have exceeded the powers emanating from the said provision.

5. Mr. Satyakanta Routra, learned counsel appearing for the petitioner submits that the vehicles seized by the authorities may be allowed to be released which, in our opinion, should not be entertained in exercise of judicial power under Article 226 of the Constitution of India. Once the seizure is converted into a confiscation under Sub-rule (3) of Rule 51, the Jurisdictional Magistrate is in *seisin* of the matter and, therefore, the writ Court should be slow and circumspect in entertaining such prayers, when an alternative remedy is provided to the petitioner.

6. We are conscious that mere existence of an alternative remedy does not create an absolute bar in entertaining the writ petition under Article 226 of the Constitution but the plethora of the judgments in this regard are uniform that it is open to the writ Court whether to entertain or not entertain when there is an adequate alternative remedy provided to the litigant. It is merely a Rule of discretion than of compulsion.

7. Since the alternative remedy is provided in the statute, we do not think that it is a fit case where the writ Court should exercise its extraordinary powers and, therefore, relegate the petitioner to an appropriate forum provided in the said statute.

8. The writ petition is, thus, dismissed. No order as to costs.

(Harish Tandon)
Chief Justice

(G. Satapathy)
Judge

Sisira

Signature Not Verified
Digitally Signed
Signed by: SISIRA KUMAR BEHERA
Designation: Junior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Oct-2026 17:41:21