IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 34498 of 2026
ODHC010815422026

Raj Kishore Mishra .... ***Petitioner***

Mr. Gopal Prasad Jena, Advocate

-versus-

The State of Odisha and others .... ***Opposite Parties***

Mr. Sanjay Rath, Additional Government Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH

ORDER

Order No. **30.10.2026**

01. ***1.*** The present writ petition is filed with the following prayer(s):

"In the aforesaid facts and circumstances, it is humbly prayed that the Hon'ble Court may graciously be pleased to admit the writ application and issue RULE NISI calling upon the opposite parties to show cause as to why the action of mining officer recommending the sand sairat at Brahmabarada from Brahmani River under Raulpur Tahasil for fresh tender under Annexure-8 should not be declared as illegal and set aside and petitioner should not be permitted to operate the sand sairat at Brahmabarada from Brahmani River under Rasulpur Tahasil for the balance period of three years as due to disturbances created by antisocial and due to order dt.04.06.21 and dt.28.07.23 issued by Tahasildar Rasulpur petitioner could not operate the above sand sairat for the balance period of three years.

And if the Opposite Parties fail to show cause or show insufficient cause, the said Rule Nisi may be made absolute and upon hearing the parties through their counsel, this Hon'ble Court be further pleased to set aside the recommendation of the mining officer recommending the sand sairat at Brahmabarada from Brahmani River under Raulpur Tahasil for fresh tender under Annexure-8 and allow petitioner to operate the mining at Brahmabarada for a balance period of three years as due to disturbances created by anti-social and due to order dt.04.06.21 and dt.28.07.23 issued by Tahasildar Rasulpur, petitioner could not operate the above sand sairat which are beyond control of the petitioner.

And be further pleased to pass such other order/orders, direction/directions and/or writ/writs as it deem fit and proper in the facts and circumstances of the case.

And for this act of your Lordships kindness the petitioner as in duty bound shall ever pray."

2. Learned Advocate for the petitioner submitted that the petitioner on 8th July, 2020 executed a quarry lease in respect of Brahmani River Sand, Brahmabarada for a period of five years with approved Mining Plans and valid Environmental Clearance. Despite complying with obligations and paying dues, the petitioner could not extract the requisite quantity due to disturbance created by some local people and some administrative exigencies for certain periods. It is submitted by the learned counsel for the petitioner has filed a representation dated 20th December, 2025 before the Director of Mines for extension of the lease period, which is still pending for consideration.

2.1. It is further submitted by learned counsel for the petitioner that this Court directed the authority to consider the representation seeking extension of lease period during which the sand sairat could not be operated by the lease holder in the cases of *Prasanta Kumar Mohanty vs. State of Odisha, W.P.(C) No.33235 of 2025 vide judgment dated 17.12.2025 and Suraj Agrawal vs. State of Odisha and others, W.P.(C) No.32657 of 2025 vide order dated 06.01.2026*.

3. Learned Additional Standing Counsel though resisted grant of extension of period of lease due to absence of power under the statute, however conceded that case of certain lease holders were considered by the competent authority.

4. Considered the submission advanced by the counsel for respective parties. It is admitted fact on record that the tenure of the lease in respect of the Brahmani River Sand, Brahmabarada was granted in favour of the petitioner by way of execution of lease deed on 8th July, 2020 and, thereby the period of lease expired on 7th July, 2025. On account of interdiction of learned National Green Tribunal in the case of Laxmidhar Palai v. District Collector, Balasore (OA No.33/2020/EZ), the petitioner could not operate the quarry till the restriction has been removed and the case stood disposed of on 02.02.2022. The inability to operate the quarry during subsistence of the lease period cannot be attributable to the petitioner, as contended by the petitioner. Therefore it is claimed by the petitioner that he is entitled to benefit of extension of lease period.

5. Perusal of *judgment dated 17.12.2025* in the case of *Prasanta Kumar Mohanty (supra)*, it is revealed that this Court has made the following observations:

> *"7.5. ***It was all along the stand of the State in the said report that the prayer for extension and/or renewal of a period in which the order of the NGT was operative cannot be granted in absence of any statutory Rules or the policy having taken in this regard and in pursuit of determining the same, the apex Court [Dharmendra Kumar Singh Vrs. State of Uttar Pradesh, reported in (2021) 1 SCC 93], in unequivocal terms held that if such a deprivation is shown, which cannot be attributed to the conduct of a mining leaseholder, the law permits the refund of the security deposit and the advanced royalty deposited by him in the following:*
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> > *'43. We, thus, find that the appropriate course of action to be adopted in this case cannot be to extend the lease for the obstructed period but to direct that the security deposit, if not already refunded, should be refunded and the amount deposited by the appellants/leaseholders as advance royalties to the respondent State be also paid back to them along with something more.'*
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> *7.6. A distinction can be drawn between an involuntary act and a voluntary act. In the event, the lessee or the lessor has committed a fault or committed a breach of the terms and conditions of the lease or the statutory provisions, the equity does not come to play. The position would have been different when neither of the contracting parties is at fault, but the deprivation is by virtue of an interdict created by an order of the NGT, such involuntary act cannot be equated with the voluntary act*

nor the principles governing such situation should be blurred.

8. As indicated hereinabove, we have noticed that in some of the cases, the Government have taken a decision on the representation of the mining leaseholder to extend the period and, therefore, we direct the authorities to consider the said prayer independently without being swayed by the observations made hereinabove. In the event, the authorities declined to extend the period or renew the lease, the security deposit and the advance royalty paid by the petitioner shall be refunded within two weeks from the said decision with an interest @ 6% per annum from the date of the deposit till the payment thereof."

6. This Court in *Suraj Agrawal vs. State of Odisha and others (supra)* observed as follows:

"*4.4. Having the aforesaid factual matrix and the submissions along with the decision of this Court as referred to above, this Court does not feels it apt to issue writ of mandamus to extend the tenure of lease deed as prayed for by the petitioner.*

4.5. However, this Court is taken to Rule 64 of the OMMC Rules, 2016 which reads as follows:

'64. Power of the Government to relax the rules.—

The Government may, in the interest of mineral development, relax any of the provisions of these rules in deserving cases in such manner as they deem proper.'

4.6. In view of the above rule conferring power on the Government to consider deserving case for relaxing the provisions of the OMMC Rules, it may be apposite for the petitioner to approach the Government for doing the

needful to enable him to avail benefit of extension as prayed for in the writ petition. This Court, therefore, disposes of the writ petition reserving liberty to the petitioner to approach the appropriate authority, within a period of two weeks from date, as undertaken by the counsel for the petitioner. In the event such representation/grievance petition is submitted to the appropriate authority by the petitioner within the said period, the authority concerned shall consider the grievance of the petitioner pragmatically within a period of eight (8) weeks from the date of filing of such representation and communicate the decision taken thereon to the petitioner forthwith.

4.7. As abundant caution it is clarified that nothing stated above on facts be construed as expression of opinion on the merit of the matter. The appropriate authority is free to take independent decision on the merit of the matter on the basis of the material placed on record before him by the petitioner."

7. On account of administrative exigency and interdiction of learned National Green Tribunal, the petitioner could not operate the quarry for certain period as mentioned above.

7.1. At this stage, it may be relevant to take note of a case being considered by this Court with regard to similarly circumstanced person in *Rajesh Kumar Mohapatra Vrs. State of Odisha and others* in *W.P. (C) No.36082 of 2020*, as relied on by the counsel to buttress the claim of the petitioner. Said case was disposed of *vide* order dated 31st May, 2021 showing indulgence taking into account the circumstances beyond control of the petitioner therein.

7.2. Having the aforesaid factual matrix and the submissions along with the decisions as referred to above, this Court does not feel it appropriate to issue writ of *mandamus* to extend the tenure of lease deed as prayed for by the petitioner. However, this Court is taken to Rule 64 of the Odisha Minor Minerals Concession Rules, 2016 which reads as follows:

> *"64. Power of the Government to relax the rules.—*
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> *The Government may, in the interest of mineral development, relax any of the provisions of these rules in deserving cases in such manner as they deem proper."*

7.3. In view of the above Rule conferring power on the Government to consider deserving case for relaxing the provisions of the OMMC Rules, it may be apposite for the petitioner to approach the Government for doing the needful to enable him to avail benefit of extension as prayed for in the writ petition.

7.4. Since the petitioner has already approached the appropriate authority by filing a representation dated 20.12.2025 vide Annexure-7, the concerned authority is directed to consider the grievance/representation of the petitioner pragmatically within a period of four (4) weeks from date and communicate the said decision taken thereon to the petitioner forthwith.

8. As an abundant caution, it is clarified that nothing stated above on facts be construed as an expression of any opinion of this Court on the merit of the matter. The appropriate authority is free to take independent decision on the merit of the matter on

the basis of the material placed on record before him by the petitioner.

9. With the aforesaid observations and direction, the writ petition along with pending Interlocutory Application(s), if any, stand disposed of.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

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Signed by: SUMANTA BEHERA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 30-Oct-2026 17:52:47

S. Behera