IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35341 of 2026

CNR No.ODHC010829532026

Surendra Nath Parichha …. ***Petitioner***

Mr. S. Rath Advocate

-Versus-

State of Odisha and others …. ***Opp. Parties***

Mr. S. Rath, AGA

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

ORDER
04.11.2026

Order No.

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

> *"Under the aforesaid facts and circumstances, the Petitioner prays before this Hon'ble Court for issuance of appropriate direction/(s) and Writ/(s) to the Opposite Parties more particularly the Opposite Party No.3, the Mining Officer, (Minor Minerals), Mayurbhanj to extend the lease of the Kainsari Sand Bed thereby allowing the Petitioner to operate the Kainsari Sand Bed upto 28.08.2026 as per the statutory framework envisaged under Odisha Minor Mineral Concession Rules, 2016, in the interest of Justice;*
>
> *And may pass any other order/orders, direction/directions, writ/writs as this Hon'ble Court deem fit and proper;*
>
> *And for which act of kindness, the Petitioner shall as in duty bound every pray."*

2. The petitioner, successful bidder, got the lease deed executed effective from 29.04.2021 to be valid till 28.08.2026 for quarrying operation at "Kainsari Sand Bed".

3. It is submitted by Mr. S. Rath, learned counsel for the petitioner that due to the delay in grant of EC, although the petitioner applied for EC on 31.12.2022, but was granted EC on 06.05.2022 after delay of sixteen months and order of stay passed by the learned National Green Tribunal, Eastern Zone Bench, Kolkata, the petitioner could not carry on quarry operation. Since the order of stay was operative from 08.08.2024 to 18.04.2025, the petitioner is entitled to extension of period of lease for a period of 24 months only. It is submitted that the authority concerned was moved on many occasions for extension of period of lease and last such approach was made by representation under Annexure-17. Since the authorities have not yet taken up the representation for consideration, the writ petition has been filed.

4. It is 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.

5. Mr. S. Rath, learned Additional Government Advocate conceded that given a direction, the authority concerned can consider such representation of the petitioner.

6. Considered the submission advanced by the counsel for respective parties, it is admitted fact on record that the lease deed expired on 28.08.2026 but the authority concerned made it clear that the lessee applied for extension of lease period for twenty four (24) months during which the quarry operation remained stayed due to

order passed by the learned National Green Tribunal, Eastern Zone Bench, Kolkata and delay in grant of EC.

7. 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:-

> "*xxx xxx xxx xxx*
>
> *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, 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."*
>
> *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."

8. 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."

9. In view of the aforesaid discussion, as the representation of the petitioner under Annexure-17 is stated to be pending before the authority concerned, it is felt apposite to direct the authority concerned to consider and dispose of the same, within a period of three weeks from the date of production of the copy of this order by affording reasonable opportunity of hearing to the petitioner. The authority shall also take into account the judgment dated 17.12.2025 passed in W.P.(C) No.33235 of 2025 and order dated 06.01.2026 passed in W.P(C) No.32657 of 2025 as referred to hereinabove. The decision taken by the authority is required to be communicated to the petitioner forthwith.

10. As an 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.

11. 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

Signature Not Verified
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Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 05-Nov-2026 17:48:07

Bijay/Sarbani