IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.37499 of 2026

CNR No.ODHC010884732026

Himansu Sekhar Pradhan …. ***Petitioner***

Mr. Prabhu Prasad Mohanty, Advocate

-versus-

State of Odisha & Ors. …. ***Opp. Parties***

Mr. Saswat Das, AGA

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

ORDER
11.11.2026

Order No.

01. 1. Heard learned counsel for both the Parties.

2. The petitioner came up before this Court for issuance of a *mandamus* upon the Mining Officer to forthwith permit him to operate the Praharajpur (Ka) Sand Source for remaining un-operated lease period and also to declare the prolonging inaction of the opposite parties in not taking a decision despite the disposal of a matter before the National Green Tribunal (NGT) to be arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

3. Admittedly, the petitioner was adjudged as a successful bidder in relation to a sand quarry and a lease deed was also executed on 3rd October, 2016 for a period of five years. The petitioner, after fulfilling and/or complying all the terms and conditions embodied in the said lease deed as well as the statutory

provisions, ensued the operation, but was subsequently prevented from 5th October, 2018 when interim order was passed till 26th February, 2021 when the matter was finally decided. Because of the interdict created in terms of the order of the National Green Tribunal, Principal Bench, New Delhi, the sairat could not be operated.

4. Admittedly, the said order creates a brindle in operation of the sand quarries across the State which remained inoperative till 26th February, 2021, when the said proceeding pending before the NGT was finally disposed of. Obviously, between the periods from 5th October, 2018 till the period of expiration of the lease, the petitioner was prevented from operating the said sand quarry, yet, in order to ensure his obligation, the statutory amounts were deposited with the authority. Obviously, the petitioner was prevented from utilizing the usufructs of the said lease because of the order of the NGT and approached the authority to extend or renew the lease for such period when the order of the NGT was operative. The authority is sitting over the said representation and has not taken any conscious decision thereupon.

5. Mr. Prabhu Prasad Mohanty, learned counsel appearing on behalf of the petitioner submits that the authority cannot deprive the petitioner from using and utilizing the resources for the entire period of lease and in fact, the State has been directed to extend the period in a slew of litigations filed before this Court.

6. To buttress the aforesaid submission, reliance is placed upon a Division Bench order of this Court dated 31st May, 2021 passed in ***Jayaram Das v. State of Odisha and others*** (W.P.(C)

No.36099 of 2020) where, in an identical situation, a direction was passed upon the State to extend the tenure of the lease by a period of one year eight months and ten days, when the said order of the NGT was operative.

7. On the other hand, Mr. Saswat Das, learned Additional Government Advocate (AGA) appearing on behalf of the State submits that neither the Rules nor the Act applicable in this regard contained the provision relating to extension and/or renewal of the lease which expired by efflux of time. It is further submitted that after several amendments having brought into the Mines and Minerals (Development and Regulation) Act, 1957 as well as the Odisha Minor Minerals Concession Rules, 2016, the quarries or the mines can only be settled through an open auction and not in the form of an extension or the renewal thereof. Mr. Das further submits that the Apex Court, in case of ***Dharmendra Kumar Singh v. State of Uttar Pradesh,*** reported in ***(2021) 1 SCC 93*** held that the Court cannot compel the State to extend or renew the lease period in absence of any such rule and, therefore, the contention of the petitioner is unsustainable.

8. On the conspectus of the aforesaid facts so unfurled, it is undeniable that the period of lease could not be enjoyed by the petitioner because of an order of the NGT operating during the currency thereof. Even after the disposal of the proceeding by the NGT, no conscious decision has been taken by the State as on this date to grant permission in respect of Praharajpur (Ka) sand quarry. The question, therefore, begging an answer is whether the Court should direct the authorities to extend the period of lease or

to renew the lease, as the petitioner was deprived of enjoying the benefits for the entire period of the lease.

9. We have given our anxious consideration to various provisions of the Act and our endeavor has failed to find out any specific provision relating to the extension or the renewal of lease after the same expired. It is a trite law that the Court should not issue *mandamus* commanding the authorities to do an act either forbidden by law or *dehors* the law. The authorities shall act within the precincts of the law and transgression of a boundary is always viewed zealously by the writ Courts, as the interference becomes inevitable in this regard. Even in case of a statutory lease, it is not only guided by the terms and conditions embodied therein but also the statutory provisions governing the field and the Court should be slow and circumspect in interfering in this regard.

10. The decision rendered in ***Dharmendra Kumar Singh*** (supra) appears to us having taken note of the aforesaid notion of law in a somewhat identical situation. The said case originated from the State of Uttar Pradesh, where the operation of several mining leases was kept at halt by the same order of the NGT. The Apex Court noticed the distinguishing features as several mining leaseholders approached the Supreme Court. Some of the mining areas were falling within the purview of the Forest Act and some beyond the same. The applicability of Section 4 of the Forest Act, 1927 was taken into consideration and the Supreme Court took note of the fact that they were prevented from operating the lease because of the order of the NGT. The Apex Court in unequivocal terms held that if the mining policy or the applicable statute does

not permit any extension or the renewal, it would not be proper on the part of the Court to issue a *mandamus* in the following:

> *"37. We do find ourselves in agreement with the submission of the learned counsel for the State that the right to extension of lease either flows from a statutory provision or from the terms of the lease between the parties concerned. If there has been an obstructed period by reason of a judicial interdict, that itself will not give window to extend the lease by not following the statutory provisions, especially when the terms of the lease do not provide for any consequences thereof."*

11. The unreported judgment of this Court relied upon by the petitioner in case of ***Jayaram Das*** (*supra*) did not notice the judgment rendered by the Supreme Court in ***Dharmendra Kumar Singh*** (*supra*) at a prior period of time. Apart from the same, if there is any apparent conflict and/or inconsistency between the judgment of the High Court and the Apex Court, the judgment of the apex Court is binding on all the Courts by virtue of Article 141 of the Constitution of India. Any judgment which runs counter to the ratio and/or the principles of law laid down by the Supreme Court cannot be said to be a good law and, therefore, the safest course which the High Court should adopt in this regard is to follow the mandate of the Supreme Court.

12. The Supreme Court, in case of ***Dharmendra Kumar Singh*** *(supra)* in clear and unequivocal words, held that in absence of any statutory provision, the Court should not pass a direction upon the authorities to do an act contrary thereto and, therefore, we do not find that any direction as sought for in the form of *mandamus* can be granted. Equally, we have noticed in recent past that in some of the cases, the Government has taken a conscious decision based upon a policy to permit the quarry leaseholders to operate. Whether that is permissible or not is the wisdom of the

administrative authority to ponder upon and no such direction can be passed by the Court in judicial fiat.

13. Interestingly, an ancillary point arose in the instant case as we find from the judgment rendered in ***Dharmendra Kumar Singh*** *(supra)* that it would be too burdensome on the leaseholder to continue paying the security deposit and the advance royalties, despite being prevented by an order passed by the NGT and, therefore, is entitled to the refund thereof. Mr. Das, the learned ASC vociferously submits that even the petitioner is not entitled to any refund and the observations made by the Apex Court in ***Dharmendra Kumar Singh*** *(supra)* is mere a direction to be construed under Article 142 of the Constitution of India. Even apart, she submits that the Division Bench of this Court in ***Narayan Nayak v. State of Odisha*** (W.P.(C) No. 10384 of 2021), while disposing of the same on 5th March, 2024, categorically held that the quarry leaseholder is not entitled to a refund and, therefore, even the petitioner is not entitled to get the refund of the security deposit and the advance royalty.

14. Taking the first plea, we do not find the contention of Ms. Dash to be correct in the perspective of the observations made by the apex Court in ***Dharmendra Kumar Singh*** *(supra)*. The State was formidably opposing the prayer of the mining leaseholders seeking for extension and relying on the separate provision of the Rules and the statute, including the policy adopted by the Government of Uttar Pradesh, which dislodged the claim of the mining leaseholder to have the lease extended or renewed. In pursuit of the same, though there appears to be a word

"concession" used in paragraph 41 thereof but the same has to be read in juxtaposition with the other contentions raised by the State in the said matter. 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:

> *"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."*

15. 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.

16. The reliance to an unreported judgment of this Court in ***Narayan Nayak*** *(supra)* is one of the cases concerning the voluntary act. In the said case, there was a default or a breach

committed by the mining leaseholder in not submitting the requisite certificate and in such perspective, the claim for refund was denied. We have no hesitation nor a dissent to the proposition laid down therein for the simple reason that if the quarry could not be operated because of the fault of the lessee in complying with the terms and conditions of the lease or the statutory provision, he does not deserve any equitable reliefs in the form of a refund. However, the position is different when he cannot be blamed for a breach of any of the terms and conditions or the statutory provision and, therefore, the judgment rendered in ***Narayan Nayak*** *(supra)* has no manner of applicability in the instant case.

17. 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.

18. With these observations and directions, the writ petition is disposed of.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

Bijay/Sarbani

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Signed by: SARBANI DASH
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 11-Nov-2026 18:00:06