Supreme Court of India
State Of Haryana & Anr vs Chanan Mal Etc on 18 March, 1976
Equivalent citations: 1976 AIR 1654, 1976 SCR (3) 688
Author: M H Beg
Bench: Beg, M. Hameedullah

PETITIONER:
STATE OF HARYANA & ANR.

Vs.

RESPONDENT:
CHANAN MAL ETC.

DATE OF JUDGMENT18/03/1976

BENCH:
BEG, M. HAMEEDULLAH
BENCH:
BEG, M. HAMEEDULLAH
RAY, A.N. (CJ)
SARKARIA, RANJIT SINGH
SHINGAL, P.N.

CITATION:
1976 AIR 1654 1976 SCR (3) 688
1977 SCC (1) 390
CITATOR INFO :
RF 1980 SC1955 (41)
F 1982 SC 697 (28)
RF 1991 SC1676 (46,47,48,50)

ACT:
Mines and Minerals (Regulation and Development) Act, 67 of 1957- Section 16(1)(b)-Scope of.
Haryana Minerals (Vesting of Rights) Act, 1973-If repugnant to the provisions of Central Act.
Mandamus-Issue of-Petitioner should first call upon the authority to discharge legal obligation.
Statement of Objects and Reasons-When could be used in interpretation
New questions-When could be raised.

HEADNOTE:
On the strength of entries in the (wajib-ul-arz) (village administration papers) of some villages the State Government considered itself to be the owner of saltpetre deposits. By a notification it declared saltpetre as a minor mineral and auctioned the mines in accordance with the Punjab Minor Minerals Con Cessions Rules, 1964 made under

the provisions of the Mines and Minerals (Regulation and Development) Act 67 of 1957. In a writ petition the High Court held that, unless the mineral deposits were specifically mentioned in the Wajib-ul-arz of a village, as having vested in the State, their ownership would still remain vested in the former proprietors according to the record of rights. To meet this situation, the State legislature passed the Haryana Minerals (Vesting of Rights) Act, 1973. Since the owners of the lands had haphazardly created lessee rights in contravention of the Punjab Rules, 1964, two notifications were issued with the object of the conservation as well as of scientific exploitation of mineral resources. By one notification the State Government purported to acquire rights to saltpetre in the lands and by the second it announced that certain saltpetre bearing areas would be auctioned.

In a writ petition under Art. 226, the High Court held (i) that in view of the declaration contained in s. 2 of the Central Act the field covered by the impugned Act was already fully occupied by the Central legislation so that the State Act was inoperative and void for repugnancy and quashed the two notifications; and (ii) that rights in such lands had continued to vest in the former owners of estates despite acquisitions of other parts of their estates.

The respondents in the appeals containded that the declaration in s. 2 of the Central Act that it was expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals would become unworkable if the provisions of the State Act were permitted to operate.

While the appeals were pending writ petitions were filed in this Court under Article 32. The petitioners in the first batch of writ petitions have asserted rights as holders of mining lesses granted by persons who had been entered as proprietors of estates in the record of rights and that the State under the State Act had wrongly acquired the right to mineral deposits in their former lands. It was contended that the effect of the State Act was only to change the ownership without interfering with the regulation of leasehold or licensee rights in minerals under the Central Act.

Allowing the appeals of the State and dismissing the writ petitions,

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HELD: (i) The Haryana Minerals (Vesting of Rights) Act. 1973, is valid, as it is not, in any way, repugnant to the provisions of the Mines and

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Minerals (Regulation of Development) Act 67 of 1957, made by Parliament. Ownership rights could be and have been validly acquired by the State Government under the State Act. [710G]

(ii) No rights are shown by any petitioner to have been conferred upon him under any lease or licence executed in

accordance with the provisions of the Central Act, but, any petitioner, either before the High Court or in this Court, who can establish any such right governed by the provisions of the Central Act 67 of 1957 may take such proceedings before an appropriate court, as may still be open to him under the law, against any such action or Government notification as is alleged to infringe that right. [710H]

(iii) Any petitioner who applied for a writ or order in the nature of a mandamus should, in compliance with a well-known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it had refused or neglected to carry it out within a reasonable time before applying to a court for such an order even where the alleged obligation is established. [711B]

1. (a) It is difficult to sustain the respondents' contention that the provisions of the Central Act would be really unworkable by mere change of ownership of land in which mineral deposits were found. The character of the State Act has to be judged by the substance and effect of its provisions and not merely by the purpose given in the Statement of Objects and Reasons. [706C]

(b) The provisions of the Central Act show that subject to the overall supervision of the Central Government the State Government has a sphere of its own powers and can take legally specified actions under the Central Act and rules. Thus, the whole field of control and regulation under the provisions of the Central Act cannot be said to be reserved for the Central Government. [698B]

(c) The stated objects and reasons of the State Act showed that the acquisition was to be made to protect the mineral potentialities of the land and to ensure their proper development and exploitation on scientific lines. If this was the actual purpose behind the Act it did not materially differ from that which could be said to lie behind the Central Act. [692E]

(d) The provisions contained in s. 16(1)(b) show that Parliament itself contemplated state legislation for vesting of lands containing mineral deposits in the State Government. It only required that rights to mining granted in such land should be regulated by the provisions of Act 67 of 1957 as amended in 1972. This feature could only be explained on the assumption that Parliament did not intend to trench upon powers of State legislatures under entry 18 of List II read with entry 42 of List III. Again, s. 17 of the Central Act shows that there was no intention to interfere with vesting of lands in the States by the provisions of the Central Act. [707B-C]

(e) There is no force in the contention of the respondents that the vesting contemplated by s. 16(1)(b) as it now stands must be of "estates" of proprietors or lands of tenureholders under some legislation for agrarian reform. Agrarian 31A of the Constitution is not confined to

legislation for agrarian reform. Agrarian reform is only one of the possible or alternative objects of such acquisition. It need not be the exclusive or only purpose of State legislation contemplated by s. 16(1)(b) of the Central Act. Power to legislate for the acquisition of the whole of an estate or 'tenure' would include the power to legislate for any part of it. [707 D-E]

Hingir-Rampur Coal Co. Ltd. & Ors. v. The State of Orissa & Ors.,[1961] 2 S.C.R. 537; State of West Bengal v. Union of India,[1964] 1 S.C.R. 371; State of Orissa v. M. A. Tulloch & Co.,[1964] (4) S.C.R. 461 & Baijnath Kedia v. The State of Bihar,[1970] 2 S.C.R. 100, held inapplicable.

(2) The lessee and licensee rights governed by the Central Act or rules are not covered by the State Act. It is clear from s. 3(2) of the State Act that the provisions of this Act were to be read subject to the provisions made by or under the Central Act. The State Act did not and could not upso facto

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terminate either lessee or licensee rights which were subsisting on the date when the State Act came into force. On the other hand. s. 9 of the Central Act 56 of 1972, which amended s. 16 of the principal Act, made it imperative for such lessee rights as existed in estates (which had vested in a State Government) to be brought into conformity with the Central Act. Therefore, if there were no lessee or licensee rights of mining in minor minerals on land which were actually regulated by the provisions of the Central Act they would continue. [708H]

In the instant case, however. it was not shown how the notification of auctions of mining rights affected any subsisting rights of any alleged lessee or licensee. It has not been shown that any lessee or licensee asked the State Government to carry out any statutory or contractual obligation before he invoked the writ jurisdiction of the High Court or this Court. The essential averments to disclose subsisting rights or the locus standi of the petitioners were wanting in these petitions. [709A]

(3) In the second batch of petitions, the only dispute between the parties related to the vesting of ownership rights in minor minerals in those plots. The petitioners have come to this Court as lessees and not as owners. Rights of former owners have been validly terminated by the State Act. It is difficult to make out from these petitions how any lessee rights acquired by the petitioners themselves under any law subsisted or were affected by the notifications. [710E-F]

(4) The statement of objects and reasons is relevant when the object or purpose of an enactment is in dispute or uncertain. It can never override the effect which follows logically from the explicit and unmistakable language of its substantive provisions. Such effect is the best evidence of intention. A statement of objects and reasons is not a part

of the statute, and, therefore, it is not even relevant in a case in which the language of the operative parts of the Act leaves no room whatsoever, to doubt what was meant by the legislators. [706D-E]

In the instant case it is not disputed that the object and effect of the State Act was to acquire proprietary rights to mineral deposits in "land". Its provisions however, do not mention leasehold or licensee rights. This is so because these rights were governed by the Central Act 67 of 1957.

(5) It is not correct to say that any new question was allowed to be raised simply because the parties were permitted to place their points of view on the same question after taking into account the changes brought about in Act 67 of 1957 by Act 56 of 1972 and how earlier decisions of this Court, which were given before the amendments came into force, could be at all helpful in deciding the questions. The Court is bound to take judicial notice of the law as it exists and not the law as it once was. [706G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 840 to 860 of 1975.

From the Judgments and orders dated 7-5-74, 27-8-74, 2- 9-74 and 10-9-74 of the Punjab and Haryana High Court in Civil Writ Nos. 1133, 1118, 1180, 1208, 1225, 1226, 1231, 1238, 1277, 1251,1352/74 and 1188, 1198, 1221/74 and L.P.As. Nos. 395 and 399 of 1974 respectively and Writ Petitions 1309-1318 and 1371-1373/75 (Under Article 32 of the Constitution of India) M. C. Bhandare, (In Case 844-860/75) and L. N. Singhvi (In all Writ Petitions) and R. N. Sachthey for the Appellant and Respondents.

S. Gopal Singh and P. Keshwa Pillai for the Petitioners in W.P. 1371-73/75.

Harbans Singh Marwah for the Petitioners in W.P. 1371- 73/75.

A. K. Sen, Kapil Sibbal, S. K. Jain and S. S. Khanduja for the Respondents excepting C.As. 852, 853 and 855/75.

Naunit Lal for the Intervener in C.A. 845/75 Ch. Dhyan Singh etc. The Judgment of the Court was delivered by BEG, J. The seventeen appeals before us by the State and by the Director of Industries of Haryana, after certification under Article 133 (1) (a) (b) of the constitution, are directed against a Judgment of the High Court of Punjab and Haryana on Writ Petition of owners of lands and lessees of mineral rights in land seeking reliefs in the nature of Mandamus to enforce fundamental rights conferred by Article 31 (2) and to restrain the Government of Haryana from taking any action to implement two notifications void: (i) No. 1217-2-1-B-II-74/7622 dated the 20th February, 1974, and, (ii) No. GIG/SP/Auc/ 1173/3075-C, dated the 22nd February, 1974, after declaring the Haryana

Minerals (Vesting of Rights) Act, 1973 (hereinafter referred to as 'the Haryana Act').

Under the notification of 20th February, 1974, the State Government purported to acquire rights to Saltpetre, a minor mineral in the land described in a schedule appended to the notification issued in exercise of power conferred by Section 3, sub. section (i) of the Haryana Act. By the notification of 22nd February, 1974, the State Government announced to the general public that certain saltpetre bearing areas in the State of Haryana, mentioned therein, would be auctioned on the dates given there. The notifications have not been placed before us. But, from the averments in the statements on behalf of the State and on behalf of some of the respondents in the affidavits supporting their respective cases in proceedings for a stay of the operation of the High Court's judgment, it appears that the intention of the State was to acquire Saltpetre deposits in lands whose owners had granted mining leases claimed by petitioners in the High Court to be subsisting. The auctions advertised were probably of fresh lessee rights. Whether the auctions were to be of ownership or lessee rights in lands, the result was that one owner or one lessee was to be substituted by another in each case as a result of acquisition and sale. The State was to get the difference between the price of acquisition and amount realised on sale of each part sold. The apparent effect of mere change of owners or lessees was that the State of Haryana would benefit financially from the acquisitions and sales, although the object of the Haryana Act was said to include conservation as well as "scientific exploitation" of mineral resources. The case of the appellant State also seemed to be that the owners of lands had "haphazardly" created lessee rights in contravention of the Punjab Minor Minerals Concession Rules, 1954, made under the provisions of the Mines and Minerals (Regulation of Development) Act 67 of 1957 (hereinafter referred to as the Central Act'). Learned Counsel for the appellant State contended that the Haryana Act was only meant to supplement and not supplant the Central Act. The State claimed to be dealing with lessee rights under the Central Act and not under the Haryana Act at all.

The case of the petitioners in the High Court was: Firstly, that the Haryana Act was beyond the competence of the State Legislature inasmuch as the field in which this Act operated was necessarily occupied already by the provisions of the Central Act enacted under entry No. 54 of the Union List (List I) of the Seventh Schedule to the Constitution which reads as follows:

> "54, Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest".

Secondly, that the purported acquisition under the Haryana Act offended the provisions of Article 31(2) inasmuch as it was neither for a public purpose nor for adequate compensation, the provision for compensation in the Act being, according to the petitioners, illusory.

A Division Bench of the High Court allowed the Writ Petitions and quashed the impugned notifications after declaring the Act to be ultra-vires. It also held that the Haryana Act violated Article 31(2). It found the compensation provided by the Haryana Act to be grossly low and illusory, although its view was that, judging from the statement of reasons and objects of the Haryana Act, a public purpose was made out. The stated reasons and objects of the Haryana Act showed that the

acquisition was to be made to protect the mineral potentialities of the land and to ensure their proper development and exploitation on scientific lines. If this was the actual purpose behind the Haryana Act it did not materially differ from that which could be said to lie behind the Central Act.

The real question, however, was not whether any of the purposes of the two Acts were common but whether the provisions of the Central Act so operated as necessarily to exclude, in carrying out their objects, the operation of the State Act. The High Court had held that, in view of the declaration contained in Section 2 of the Central Act, and decisions of this Court in the Hingir-Rampur Coal Co. Ltd. & Ors. v. The State of Orissa & Ors., State of West Bengal v. Union of India, State of Orissa v. M. A. Tulloch & Co., and Baijnath Kedia v. The State of Bihar, the field covered by the impugned Act was already fully occupied by the Central Legislation so that the State Act had to be held to be inoperative and void for repugnancy.

Section 2 of the Central Act lays down:

"It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided".

Section 3(a) of this Act says:

" 'minerals' includes all minerals except mineral oils;"

Section 3(c) reads:

> "'mining lease' means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose";

Section 3(d) enacts:

"'mining operations' means any operations undertaken for the purpose of mining any mineral;" Section 3(e) elucidates:

> " 'Minor minerals' means building stones, gravel ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the official Gazette, declare to be a minor mineral";

Section 3 (g) indicates:

"'prospecting licence' means a licence granted for the purpose of undertaking prospecting operations;" Section 3(h) enacts:

> "'prospecting operations' means any operations under taken for the purpose of exploring locating or proving mineral deposits;"

Section 3(i) lays down:

> "the expressions, 'mine' and 'owner', have the meanings assigned to them in the Mines Act, 1952".

Sections 4 to 9 of the Central Act deal with General Restrictions on Prospecting and Mining operations. Section 4 indicates that all prospecting and mining operations will be governed by the Central Act. But, Section 4A, introduced by Section 2 of the Central Act 56 of 1972, lays down:

> "4A(1) Where the Central Government after consultation with the State Government, is of opinion that it is expedient in the interest of regulation of mines and mineral development so to do, it may request the State Government to make a premature termination of a mining lease in respect of any mineral, other than a minor mineral, and, on receipt of such request, the State Government shall make an order making a premature termination of such mining lease and granting a fresh mining lease in favour of such Government company or corporation owned or controlled by Government as it may think fit".

Section 5 concerns restrictions on the grant of prospecting licences or mining leases. It shows that these will be granted by the State Government and the Central Government was to give its approval in certain specified cases only. Section 6 indicates areas for which a prospecting licence or mining lease or more than one licence or lease may be granted in any one State. The Central Government could make exceptions to this rule. Section 7 limits duration of a prospecting licence, which is evidently to be granted by the State Government, to one year for mica and two years for other minerals, subject to renewal, and, in the case of scheduled minerals, subject to approval by Central Government for each grant or renewal. Similarly, Section 8 provides periods of grant and renewal of leases by the State Government. Section 9 deals with Royalties in respect of mining leases. Section 9A is concerned with the Dead rent to be paid by the lessee to the State Government subject to the regulation of it by the Central Government.

Sections 10 to 12 of the Central Act contain procedure for obtaining prospecting licences or mining leases in land in which mineral rights vest in the Government. It is true that it is not specified here in which Government rights to minerals in any land vest. But, the machinery provided for applications and for maintaining the registers of applications for prospecting licences and mining leases shows that it is the State Government which will be concerned with this matter subject to the provisions of Sections 10 to 12 of the Act.

Rules for regulating the grant of prospecting licences and mining leases are to be made by the Central Government according to the detailed provisions of Section 13 and Section 13A. Section 14, however, lays down:

> "14. The provisions of Sections 4 to 13 (inclusive) shall not apply to quarry leases, mining leases, or other mineral concessions in respect of minor minerals".

Section 15 makes it clear that it is the State Government which has the power to make rules for regulating the grant of quarry leases, mining leases, or other mineral concessions in respect of "minor minerals" and for purposes connected therewith.

Section 16(1) of the Central Act enacts: "16(1)(a) All mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, if in force at such commencement, shall be brought into conformity with the provisions of this Act, and the rules made thereunder, within six months from such commencement, or such further time as the Central Government may, by general or special order, specify in this behalf

(b) Where the rights under any mining lease, granted by the proprietor of an estate or tenure before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, have vested, on or after the 25th day of October, 1949, in the State Government in pursuance of the provisions of any Act of any Provincial or State Legislature which provides for the acquisition of estates or tenures or provides for agrarian reform, such mining lease shall be brought into conformity with the provisions of this Act and the rules made thereunder within six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, or within such further time as the Central Government may, by general or special order, specify in this behalf". Section 16(2) provides for rules to be made by the Central Government to carry out the purposes of Section 16(1).

Special powers of Central Government in respect of mining operations in certain lands are provided for in Section 17. Clause (1) of this Section reads:-

> "17(1) The provisions of this Section shall apply in respect of land in which the minerals vest in the Government of a State or any other person".

Clause (2) of Section 17 provides for undertakings by the Central Government, in consultation with the State Government, of prospecting or mining operations "in any area not already held under any prospecting licence or mining lease....". Section 17(3) makes the Central Government liable in such cases to pay the State Government prospecting fee, royalty, surface rent, or dead rent, as the case may be, at the same rate at which it would have been payable under this Act, if such prospecting or mining operations had been undertaken by a private person under a prospecting licence or mining lease. Section 17(4) contains powers of the Central Government, in consultation with the State Government, to prohibit grant of prospecting or mining leases in any area specified in a notification.

Section 18, dealing with the development of minerals enacts:

> "18(1) It shall be the duty of the Central Government to take all such steps as may be necessary for the conservation and development of minerals in India, and for that purpose the Central Government may, by notification in the Official Gazette, make such rules as it thinks fit.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the opening of new mines and the regulation of mining operations in any area;

(b) the regulation of the excavation or collection of minerals from any mine;

(c) the measures to be taken by owners of mines for the purpose of beneficiation of ores, including the provision of suitable contrivances for such purpose;

(d) the development of mineral resources in any area;

(e) the notification of all new borings and shaft sinkings and the preservation of bore-hole records, and specimens of cores of all new bore-holes;

(f) the regulation of the arrangements for the storage of minerals and the stocks thereof that may be kept by any person;

(g) the submission of samples of minerals from any mine by the owner thereof and the manner in which and the authority to which such samples shall be submitted; and the taking of samples of any minerals from any mine by the State Government or any authority specified by it in that behalf; and

(h) the submission by owners of mines of such special or periodical returns and reports as may be specified, and the form in which and the authority to which such returns and reports shall be submitted.

(3) All rules made under this section shall be binding on the Government".

It should be noted that Section 18 set out above empowers the Central Government to make rules for the "conservation and development of minerals in any part of India". The State Government is not even entitled under Central Act to be consulted about this subject, but it is bound by the rules made on it by the Central Government. The term "Government", according to Section 3(23) of the General Clauses Act, includes both the Central Government and a State Government.

Section 18A, sub-section (1) inserted by Section 11 of the Act of 56 of 1972, does, however, require consultation with the State Government on one matter. It says:

"18.A(1) Where the Central Government is of opinion that for the conservation and development of minerals in India, it is necessary to collect as precise information as possible with regard to any mineral available in or under any land in relation to which any prospecting licence or mining lease has been granted, whether by the State Government or by any other person, the Central Government may authority or the Geological Survey of India, or such other authority or agency as it may specify in this

> behalf, to carry out such detailed investigations for the purpose of obtaining such information as may be necessary: Provided that in the cases of prospecting licences or mining leases granted by a State Government, no such authorisation shall be made except after consultation with the State Government".

The remaining clauses (2) to (6) of Section 18A deal with the consequences of the authorisation of investigation by the Central Government and matters connected therewith. The proviso to clause (6) dealing with the costs of investigation enacts:-

> "Provided that where the State Government or other person in whom the minerals are vested or the holder of any prospecting licence or mining lease applies to the Central Government to furnish to it or him a copy of the report submitted under sub-section (5), that State Government or other person or the holder of a prospecting licence or mining lease, as the case may be, shall bear such reasonable part of the costs of investigation as the Central Government may specify in this behalf and shall, on payment of such part of the costs of investigation, be entitled to receive from the Central Government a true copy of the report submitted to it under sub-section (5)".

Miscellaneous provisions are contained in Sections 19 to 33 of the Central Act. Here, Section 19 lays down:

> "19. Any prospecting licence or mining lease granted renewed or acquired in contravention of the provisions of this Act or any rules or orders made thereunder shall be void and of no effect".

Section 20 enacts:

> "20. The provisions of this Act and the rules made thereunder shall apply in relation to the renewal after the commencement of this Act of any prospecting licence or mining lease granted before such commencement as they apply in relation to the renewal of a prospecting licence or mining lease granted after such commencement".

Section 21 provides for penalties for anyone who contravenes the provisions of Section 4(1) of the Act. Among these miscellaneous provisions is Section 25 recast by Section 14 of Act 56 of 1972. It lays down that:

> "Any rent, royalty, tax, fee or other sum due to the Government under this Act or the rules made thereunder or under the terms and conditions of any prospecting licence or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as an arrear of land revenue".

Section 25, sub-section (2) shows that these dues are to be specified either by the Act or by the Rules made thereunder or under the terms and conditions of any prospective licence or mining lease. The

control however, is of officers appointed by the State Government.

Section 26 provides for delegation of the powers of the Central Government by notification in the official Gazette to either the State Government or any officer or authority either subordinate to the Central Government or the State Government. Section 30 shows that the orders made by the State Government or other authority in exercise of powers by or under the Central Act are revisable by the Central Government. Hence, the provisions of the Central Act show that, subject to the overall supervision of the Central Government, the State Government has a sphere of its own powers and can take legally specified actions under the Central Act and rules made thereunder. Thus, the whole field of control and regulation under the provisions of the Central Act 67 of 1957 cannot be said to be reserved for the Central Government.

As indicated above, there have been some very significant changes by the Central Act 56 of 1972. These seem to us to make it necessary to reconsider the effect of the declaration contained in Section 2 of the Central Act as interpreted by the decisions of this Court so far. Before outlining the provisions of Haryana Act, we may indicate the position resulting from the four decisions mentioned above relied upon by Punjab & Haryana High Court.

In Hingir-Rampur Coal Co's case (supra), the validity of the Orissa Mining Areas Development Fund Act, 1952, was questioned on the ground that it authorised the State of Orissa to impose a cess on the valuation of the minerals. The State of Orissa had relied upon entries 23 and 66 of the State List (List II) of the Seventh Schedule. Entry 23 of List II is:

> "Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union".

And entry 66 of List II is:

"Fees in respect of any of the matters in this list, but not including fees taken in any court". The petitioning Coal Co. had relied on entry 84 of List I of the Seventh Schedule empowering the Parliament alone to impose excise duty on tobacco and other manufactured goods with the exception of Alcoholic liquor, opium, Indian hemp, and other narcotics. It had also cited, in support of its case, entry 52 of List I of "Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest". Furthermore, the Coal Company relied on entry 54 of List I relating to Mines and mineral development, already set out above. This Court held that the imposition of the cess under the State enactment was really a fee falling within entries 23 and 66 of List II of the Seventh Schedule. It held that the State Act was neither hit by entry 54, read with Mines and Minerals Development Act 3 of 1948, nor by entry 52 of List I. The decision in that case turned on an interpretation of Article 372 of the Constitution. It was held that a declaration in the Act of 1948 could not be equated with a declaration made by the Parliament in a post-Constitution enactment in terms of entry 54 of List I. It was, therefore, not really a decision on the effect of Section 2 of the Central Act 67 of 1957.

The State of West Bengal v. Union of India (supra) was the case of a suit filed by the State of West Bengal against the Union. It was contended, on behalf of West Bengal State, that the Coal Bearing Areas (Acquisition and Development) Act, 1957, enacted by Parliament, proposing to acquire certain coal bearing areas in the State, did not apply to areas owned by the State itself, and, in the alternative, that, even if it did so apply to areas owned by the State of West Bengal, it was beyond the legislative competence of Parliament because entry 42 in the Concurrent List (List III) did not authorise an acquisition of property already vested in the State although this entry in the Concurrent List merely reads: "acquisition and requisitioning of property". It was urged there that, without a constitutional amendment, Parliament could not acquire the property of the State of West Bengal under the provisions of the impugned Act. It was held there (at p. 417):

> "... the power of the Union to legislate in respect of property situate in the States even if the States are regarded qua the union as Sovereign, remains unrestricted, and the State property is not immune from its operation. Exercising powers under the diverse entries which have been referred to earlier, the Union Parliament could legislate so as to trench upon the rights of the State in the property vested in them. If exclusion of State property from the purview of Union legislation is regarded as implicit in those entries in List I, it would be difficult if not impossible for the Union Government to carry out its obligations in respect of matters of national importance".

Learned Counsel for the appellant State before us has relied upon the case of State of West Bengal (supra) for contending that the powers of the State of Haryana to acquire land are not impaired by the declaration contained in the Central Act. He cited the rule of construction stated there as follows (at p. 393):

> "Unless a law expressly or by necessary implication so provides, a State is not bound thereby. This well recognised rule applies to the interpretation of the Constitution. There fore, in the absence of any provision express or necessarily implying that the property of the State could be acquired by the Union, the rights claimed by the Union to legislate for acquisition of State property must be negatived."

Applying this rule, he contends that the powers of the State Government to acquire land are left intact by the Central Act 67 of 1957.

Learned Counsel for the respondent, however, relied on another passage in the State of West Bengal's case (supra) to submit that legislative power for acquisition of minerals for their development and conservation must be deemed to be vested in Parliament now even if the mineral resources are situated in the State. He quoted (at p. 436):-

> "By making the requisite declarations under Entries 54 of List I, the Union Parliament assumed power to regulate mines and minerals and thereby to deny to all agencies not under the control of the Union, authority to work the mines. It could scarcely be imagined that the Constitution makers while intending to confer an exclusive power to work mines and minerals under the control of the Union, still

> prevented effective exercise of that power by making it impossible compulsorily to acquire the land vested in the States containing minerals. The effective exercise of the power would depend-if such an argument is accepted-not upon the exercise of the power to undertake regulation and control by issuing a notification under Entry 54, but upon the will of the State in the territory of which mineral bearing land is situate. Power to legislate for regulation and development of mines and minerals under the control of the Union, would by necessary implication include the power to acquire mines and minerals. Power to legislate for acquisition of property vested in the States cannot therefore be denied to the Parliament if it be exercised consistently with the protection afforded by Art. 31."

In the two cases discussed above no provision of the Central Act 67 of 1957 was under consideration by this Court. Moreover, power to acquire for purposes of development and regulation has not been exercised by Act 67 of 1957. The existence of power of Parliament to legislate on this topic as an incident of exercise of legislative power on another subject is one thing. Its actual exercise is another. It is difficult to see how the field of acquisition could become occupied by a Central Act in the same way as it had been in the West Bengal's case (supra) even before Parliament legislates to acquire land in a State. Atleast until Parliament has so legislated as it was shewn to have done by the statute considered by this Court in the case from West Bengal, the field is free foe State legislation falling under the express provisions of entry 42 of List III.

In State of Orissa v. M. A. Tulloch & Co. (supra) the provisions of the Central Act 67 of 1957 were considered by this Court directly. In this case, the legality of certain demands as fee under the Orissa Act 27 of 1952, the validity of which had been upheld by this Court in Hingir-Rampur Coal Co.'s case (supra), came up for consideration again in the light of the provisions of the Central Act 67 of 1957. It was contended on behalf of the State of Orissa that the objects and purposes of the Orissa Act and of the Central Act were entirely distinct and different so that they could validly co-exist since neither trespassed into the field of the other. It was pointed out there that this Court had indicated, in the Hingir-Rampur Coal Co.'s case (supra) that, if the declaration in the 1948 Act relied upon by the petitioner in that case had been made after our Constitution became operative, the position would have been different. Reliance was placed upon the provisions of Section 18 of the Central Act to hold (at p. 477):

> "Repugnancy arises when two enactments both within the competence of the two Legislatures collide and when the Constitution expressly or by necessary implication provides that the enactment of one Legislature has superiority over the other than to the extent of the repugnancy the one supersedes the other. But two enactments may be repugnant to each other even though obedience to each of them is possible without disobeying the other. The test of two legislations containing contradictory provisions is not, however, the only criterion of repugnancy, for if a competent legislature with a superior efficacy expressly or impliedly evinces by its legislation an intention to cover the whole field, the enactments of the other legislature whether passed before or after would be overborne on the ground of repugnance. Where such is the position, the inconsistency is demonstrated not by a detailed comparison of provisions of the two

> statutes but by the mere existence of the two pieces of legislation. In the present case, having regard to the terms of S. 18(1) it appears clear to us that the intention of Parliament was to cover the entire field and thus to leave no scope for the argument that until rules were framed, there was no inconsistency and no supersession of the State Act".

It was also held there (at p. 478):

> "If by reason of the declaration by Parliament the entire subject-matter of conservation and development of minerals' has been taken over for being dealt with by Parliament, thus depriving the State of the power which it therefore possessed, it would follow that the 'matter' in the State List is to the extent of the declaration, subtracted from the scope and ambit of Entry 23 of the State List. There would, therefore, after the Central Act of 1957 be 'no matter in the List' to which the fee could be related in order to render it valid".

In Baijnath Kedia's case (supra), the proviso (2) to Section 10(2) of the Bihar Land Reforms (Amendment) Act, 1964 (Bihar Act 4 of 1965) and a sub-rule of Rule 20, added on December 10, 1964, by a notification of the Governor to the Bihar Minor Mineral Rules, 1961, came up for consideration. Under the Bihar Land Reforms Act, 1950, the former landlords had ceased to have any interest from the date of vesting so that their rights as lessors under the mining leases granted by them in their "estates" became vested in the State of Bihar under Section 19(1) of the Land Reforms Act; and, by Section 10(2) of that Act, the terms on which the lands were held on leases between the original lessors and lessees became binding on the State Government under the impugned proviso to Section 10(2), amounting to alteration of the terms of the leases executed by the original lessors, the former landlords, additional demands were made upon lessees. The State Government had also relied upon a sub-rule added to Rule 20 framed under Section 15 of the Central Act 67 of 1957. This Court, after examining the relevant provisions of the Central Act, held, relying on Hingir-Rampur Coal Co.'s case (supra) and M. A. Tulloch Co.'s case (supra), as follows (at p. 113):

> "The declaration is contained in s. 2 of Act 67 of 1957 and speaks of the taking and the control of the Central Government the regulation of mines and development of minerals to the extent provided in the Act itself. We have thus not to look outside Act 67 of 1957, to determine what is left within the competence of the State Legislature but have to work it out from the terms of that Act".

After referring to what was decided in the earlier cases, this Court said (at p. 114):

> "These two cases bind us and apply here. Since the Bihar State Legislature amended the Land Reforms Act after the coming into force of Act 67 of 1957, the declaration in the latter Act would carve out a field to the extent provided in that Act and to that extent entry 23 would stand cut down. To sustain the amendment the State must show that the matter is not covered by the Central Act. The other side must, of

course, show that the matter is already covered and there is no room for legislation".

It added (at p. 114-115):

> "We have already analysed Act 67 of 1957. The Act takes over the control of regulation of mines and development of minerals to the Union; of course, to the extent provided. It deals with minor minerals separately from the other minerals. In respect of minor minerals it provides in s. 14 that ss. 4-13 of the Act do not apply to prospecting licences and mining leases. It goes on to state in s. 15 that the State Government may, by notification in the official Gazette, make rules for regulating the grant of prospecting licences and mining leases in respect of minor minerals and for purposes connected therewith, and that until rules are made, any rules made by the State Government regulating the grant of prospecting licences and mining leases in respect of minor minerals which were in force immediately before the commencement of the Act would continue in force. It is admitted that no such rules were made by the State Government. It follows that the subject of legislation is covered in respect of minor minerals by the express words of s. 15(1). Parliament has undertaken legislation and laid down that regulation of the grant of prospecting licences and mining leases in respect of minor minerals and for purposes connected therewith must be by rules made by the State Government. Whether the rules are made or not the topic is covered by Parliamentary legislation and to that extent the powers of State Legislature are wanting. Therefore, there is no room for State Legislation".

In Baijnath Kedia's case (supra), this Court also said (at p. 116):

> "We have already held that the whole of the legislative field was covered by the Parliamentary declaration read with provisions of Act 67 of 1957, particularly s. 15 We have also held that entry 23 of List II was to that extent cut down by entry 54 of List I. The whole of the topic of minor minerals became a Union subject. The Union Parliament allowed rules to be made but that did not recreate a scope for legislation at the State level. Therefore, if the old leases were to be modified a legislative enactment by Parliament on the lines of s. 16 of Act 67 of 1957 was necessary. The place of such a law could not be taken by legislation by the State Legislature as it purported to do by enacting the second Proviso to s. 10 of the Land Reforms Act. It will further be seen that Parliament in s. 4 of the Act 67 of 1957 created an express bar although s. 4 was not applicable to minor minerals. Whether s. 4 was intended to apply to minor minerals as well or any part of it applies to minor minerals are questions we cannot consider in view of the clear declaration in s. 14 of Act 67 of 1957 that the provisions of ss. 4-13 (inclusive) do not apply. Therefore, there does not exist any prohibition such as is to be found in s. 4(1) Proviso in respect of minor minerals. Although s. 16 applies to minor minerals it only permits modification of mining leases granted before October 25, 1949. In regard to leases of minor minerals executed between this date and December 1964 when Rule 20(1) was enacted, there is no provision of law which enables the terms of existing leases to be altered. A mere

rule is not sufficient".

Again, referring to the earlier decisions it said (at p.

117):

> "On the basis of those rulings we have held that the entire legislative field in relation to minor minerals had been withdrawn from the State Legislature. We have also held that vested rights could only be taken away by law made by a competent legislature. Mere rule-making power of the State Government was not able to reach them. The authority to do so must, therefore, have emanated from Parliament. The existing provision related to regulation of leases and matters connected therewith to be granted in future and not for alteration of the terms of leases which were in existence before Act 67 of 1957. For that special legislative provision was necessary. As no such parliamentary law had been passed by the second sub- rule to Rule 20 was ineffective. It could not derive sustenance from the second Proviso to s. 10(2) of the Land Reforms Act since that proviso was not validly enacted."

The question which arises before us now is whether, possibly as a result of the decision of this Court in Baijnath Kedia's case (supra), the Parliament had not amended the law, as we find it in the present Section 16 of the Act 67 of 1957, as amended by Act 56 of 1972, so as to undo its effect. If that amendment is in response to the need pointed out in Baijnath Kedia's case (supra) would it not cover the provisions of the Haryana Act now before us ?

> The preamble to the Haryana Act states that it is: "An Act to vest the mineral rights in the State Govt. and to provide for payment of amount to the owners of minerals and for other matters connected therewith."

The crucial section is S. 3 of the Haryana Act which runs as follows:

> "S. 3 Vesting of minerals in State Government.-(1) The State Government may, from time to time, by notification, acquire the right to any minerals in any land and the right to the minerals specified in the notification shall, from the date of its publication, vest in the State Government.
>
> (2) Notwithstanding anything contained in any law for the time being in force, on the publication of the notification under sub-section (1), the right to the minerals in the land specified in the notification shall vest absolutely in the State Government and the State Government shall, subject to the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, have all the powers necessary for the proper enjoyment or disposal of such right.
>
> (3) The right to the minerals in the land includes the right of access to land for the purpose of prospecting and working mines and for the purposes subsidiary thereto

including the sinking of pits and shafts, erection of plants and machinery, construction of roads, stacking of minerals and deposits of refuse, quarrying and obtaining building and road materials, using water and taking timber and any other purpose which the State Government may declare to be subsidiary to mining.

(4) If the State Government has assigned to any person its right over any minerals, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in subsection (2) and (3) should be exercised, the Collector may, by an order in writing subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned". Other provisions of the Haryana Act are not material.

Section 1 merely gives the Act its title and Section 2 deals with definitions. Section 4 relates to compensation. Section 5 provides for references or disputes about compensation to Civil Courts. Section 6 applies Civil procedure to compensation proceedings. Section 7 provides for appeals. Section 8 contains the necessary powers of the State Government to frame rules. These provisions exhaust the Act.

Saltpetre was declared a minor mineral by notification No. 1(31) 65-MII on 21st January, 1967. Its deposits are said to have been found in 638 villages of Haryana. It appears that the State of Haryana considered itself to be the owner of these deposits on the strength of entries in the records of rights (Wajib-ul-arz) of these villages and used to auction them in accordance with the Punjab Minor Minerals Concession Rules, 1964. But, on 25th May, 1971, the Punjab & Haryana High Court held on a Writ Petition (C.W. No. 1221 of 1971), that unless the mineral deposits are specifically mentioned in the Wajib-ul-arz of a village as having vested in the State, their ownership would still remain vested in the former proprietors mentioned as owners of their lands in a Wajib-ul-arz. As a result of this decision, the right to Saltpetre deposits was found to be vested in individual proprietors of their estates and Gram Panchayats in about 600 out of 638 villages. It is stated that, in order to meet this situation, the Haryana Act No. 48 of 1973 was framed and passed. The President of India gave his assent to it on 6th December, 1973. It was thus a logical corollary of land reforms. Apparently, there was no conflict between the State and the Union Government on the policy underlying the Act.

The arguments advanced on behalf of the appellant State were:

Firstly, that the Central Act does not purport to cover or operate upon the power to acquire ownership in minerals which are part of "land". The relevant entry for exercise of legislative power to acquire property is entry 42 in the Concurrent List (List III) of the Seventh Schedule. The Central Act purports to have been made in exercise of the power under entry 54 of List I for regulation and development of mines, whereas the Haryana Act operates in the distinct and separate field of acquisition of property.

Secondly, minerals being part of "land" in the State, within the competence of the State Legislature to legislate upon, under entry 18 of the State List (List II), legislation falling substantially under this head, read with entry 23 of the State List and entry 42 of the Concurrent List (List III), should not be

invalidated unless we are compelled to do so.

Thirdly, entry 54 of List I, set out above would naturally cover only those parts of the field of acquisition, in accordance with rules of interpretation indicated in State of West Bengal's case (supra), which are expressly excluded from this special field by the Central Act. Particularly, as acquisition belongs to a different head in the concurrent field, on which there is neither a Central Act for acquiring ownership of mineral deposits nor any express provision for it in Act 67 of 1957, there could be no question of the exclusion of the power of the State Legislature to pass the impugned Act. There was thus no unavoidable conflict between it and the State Act.

Fourthly, the impugned Act is protected from any challenge on the ground of inadequacy of compensation or the unreasonableness of the principles contained in Section 4(1) of the Haryana Act, as the acquisition of parts of estates of former proprietors of land falls under Article 31A.

On the other hand, the learned Counsel for the respondents has urged that the cases before us are covered completely by the decisions of this Court discussed above, and, in particular by those in Tulloch Co's., case (supra) and Baijnath Kedia's case (supra). It is urged that, when acquisition is only a means of conservation or development of mineral resources, even this field must be held to be necessarily excluded by the declaration in Section 2 and other provisions of Central Act 67 of 1957 which will become unworkable if the provisions of the Haryana Act were permitted to operate.

It seems difficult to sustain the case that the provisions of the Central Act would be really unworkable by mere change of ownership of land in which mineral deposits are found. We have to judge the character of the Haryana Act by the substance and effect of its provisions and not merely by the purpose given in the statement of reasons and objects behind it. Such statements of reasons are relevant when the object or purpose of an enactment is in dispute or uncertain. They can never override the effect which follows logically from the explicit and unmistakable language of its substantive provisions. Such effect is the best evidence of intention. A statement of objects and reasons is not a part of the statute, and, therefore, not even relevant in a case in which the language of the operative parts of the Act leaves no room whatsoever, as it does not in the Haryana Act, to doubt what was meant by the legislators. It is not disputed here that the object and effect of the Haryana Act was to acquire proprietary right to mineral deposits' in "land". Its provisions, however, do not mention leasehold or licensee rights. Obviously, this is so because these rights are governed by the Central Act 67 of 1957.

As we found nothing in the judgment under appeal or in the arguments advanced by either side to indicate that the effect of Act 56 of 1972 which had amended Act 67 of 1957 had been specifically noticed, we considered it necessary to hear further arguments with a view to giving parties an opportunity of showing us how earlier decisions, when the provisions introduced by Act 56 of 1972 were not there, could be at all helpful in deciding the question now before us. One of the objections taken before us, at the further hearing given to the parties, was that we should not allow a new point to be argued. We do not think that any new question was allowed by us to be raised simply because we have permitted parties to place their points of view on the same question after taking into account some changes in the Central Act. Indeed, we are bound to take judicial notice of the law as it

exists after its amendment. We can only apply the law as it exists and not the law as it once was. No party could justifiably complain that it was given an additional opportunity to meet what follows from the amended law even if the effect of the amendment was not noticed earlier.

We are particularly impressed by the provisions of Sections 16 and 17 as they now stand. A glance at section 16(1)(b) shows that the Central Act 67 of 1957 itself contemplates vesting of lands, which had belonged to any proprietor of an estate or tenure holder either on or after 25th October, 1949, in a State Government under a State enactment providing for the acquisition of estates or tenures in land or for agrarian reforms. The provisions lay down that mining leases granted in such land must be brought into conformity with the amended law introduced by Act 56 of 1972. It seems to us that this clearly means that Parliament itself contemplated State legislation for vesting of lands containing mineral deposits in the State Govt. It only required that rights to mining granted in such land should be regulated by the provisions of Act 67 of 1957 as amended. This feature could only be explained on the assumption that Parliament did not intend to trench upon powers of State Legislatures under entry 18 of List II, read with entry 42 of List III. Again, Section 17 of the Central Act 67 of 1957 shows that there was no intention to interfere with vesting of lands in the States by the provisions of the Central Act.

The only answer given on behalf of the respondents to this contention is that such vesting as it contemplated by Section 16(1)(b) of the Central Act, as it now stands, must be of "estates" of proprietors or lands of tenure holders under some legislation for agrarian reform. We are unable to find any force in this contention. Article 31 A of the Constitution is not confined to legislation for agrarian reform. Agrarian reform is only one of the possible or alternative objects of such acquisition. It need not be the exclusive or only purpose of State legislation contemplated by Section 16(1) (b) of the Central Act. And, power to legislate for the acquisition of the whole of an estate or "tenure" would include the power to legislate for any part of it.

Writ Petition Nos. 1309 to 1318 and 1371 to 1373 of 1975, directed against the provisions of this Act, have also been placed before us for arguments and appropriate orders. The petitioners in these cases assert rights as holders of mining leases granted by persons who had been entered as proprietors of estates in the records of rights in various villages. The rights of persons so entered (in a "Wajib-ul-arz") to mineral deposits in their former lands have been acquired by the State under the Haryana Act. According to the Haryana State, the Act was passed so as to, inter-alia, change the law as declared by the Punjab & Haryana High Court in the case reported in AIR 1972 P&H p. 50. According to the view of the High Court, rights in such lands had continued to vest in former owners of estates despite acquisitions of other parts of their "estate". The effect of the Haryana Act was, it was urged, only to change the ownership without interfering with the regulation of leasehold or licensee rights in minerals under the provisions of the Central Act 67 of 1957. The Haryana Act expressly states that it operates subject to the overriding provisions of Act 67 of 1957.

Dr. L. M. Singhvi, appearing on behalf of the State of Haryana, in the Writ Petitions under Article 32, submits: Firstly, that the legislative competence of the State Legislature, under entry 23 of List II is subjected to entry No. 54 of List I only "to the extent to which"

Parliament chooses to take upon itself the regulation of mines and minerals and no more. Secondly, in arriving at a decision on the extent to which Parliament has removed regulation and development of mines from State control, strict construction ought to be adopted so that, without a specific and clear declaration by Parliament, ousting the power of State Legislature to deal with vesting of land in the State Government, it should not be assumed that the legislative power of the State to acquire what is "land" had been taken away. Thirdly, Parliament having legislated specifically only in order to regulate the grant of mining leases and concessions, irrespective of the ownership of the lands in which mining leases and concessions are granted, the clear legislative intent of Parliament, gathered from the Central Act 67 of 1957 itself, also was to exclude the topic of acquisition of ownership and other rights in land, apart from those of holders of mining leases and licences, from its purview. Fourthly, the majority view in the State of West Bengal's case (supra) should be read in the context of the particular Act considered there under which the Union Govt. had been given powers of acquiring lands belonging to the State of West Bengal. No such Central Act is before us for interpretation. Even if the power was vested in the Parliament to acquire land as an incident of regulation and development of minerals, that power not having been exercised at all by Act is of 1957, it was not permissible to assume any conflict between the Central Act 67 of 1957 and the Haryana Act. Fifthly, D. M. Collieries & Industries Ltd. v. Commissioner Burdwan Division, following 66 C.W.N. p. 304=AIR 1960 Cal. 646, could be relied upon to urge that States had not lost their legislative competence altogether to acquire lands in which mineral rights could be granted. Examples of such acquisitions were: section 10 of the Bihar Land Reforms Act, 1950, Section 5(2) of the West Bengal Estate Acquisition Act, 1953 (as amended by Act 22 of 1964) Coal Bearing Areas (Acquisition and Development) Act, 1957: Coaking Coal Mines (Nationalisation) Act 1972, and Coal Mines, (Nationalisation) Act, 1973. In any case, until Parliament legislates to acquire ownership of mineral deposits in a State, this field cannot be said to be occupied merely because of the declaration in Act 67 of 1957 which contains nothing whatsoever about the ownership of minerals. Sixthly, the provisions of Act 67 of 1957 also show that the power of granting leases and concessions in respect of mineral deposits is left largely to State Government.

There is, however, one argument advanced on behalf of holders of leases or licences of mining rights which must be upheld. It is that lessee and licensee rights, governed by the provisions of Act 67 of 1957 or rules made thereunder, are not covered by the Haryana Act. It is clear from Section 3(2) of the Haryana Act itself that the provisions of this Act are to be read subject to the provisions made by or under the Central Act. Moreover, the Haryana Act does not and cannot ipso facto terminate either lessee or licensee rights which were subsisting on the date when the Haryana Act came into force. On the other hand, section 9 of the Central Act 56 of 1972, which amended section 16 of the Principal Act (Central Act 67 of 1957), made it imperative for such lessee rights as existed in estates, (which had vested in a State Government) to be brought into conformity with the Central Act. Obviously, therefore, if there are any lessee or licensee rights of mining in minor minerals on land which were actually regulated by the provisions of the Central Act 67 of 1957, they will continue. Although, this is a legally correct contention, it was not shewn to us how the notification of auctions of mining rights affected any subsisting rights of any alleged lessee or licensee. The facts of no individual case were placed before us. We do not know which respondent in the appeal or which petitioner in Writ Petitions before us has any subsisting rights governed by any of the provisions of the Central Act or rules made thereunder. It has also not been shewn to us that any lessee or licensee

asked the State Government to carry out any statutory or contractual obligation before he invoked the Writ jurisdiction of the High Court or of this Court. Thus, essential averments to disclose subsisting rights or the locus standi of the petitioners are wanting here.

In Writ Petitions No. 1309-1318 and 1371-1373 of 1975, the petitioners only assert that they are lessees of minor minerals holding rights under registered leases executed by the owners of minor minerals. But, they do not state whether their leases are governed by or have been brought into conformity with the provisions of the Central Act.

Annexure 'A' is the notification, dated 10th April, 1974, assailed by petitioner in this Court. Its purpose is stated in the following terms:

> "In exercise of powers conferred by sub-section (1) of Section 3 of the Haryana Mineral (Vesting of Rights) Act, 1973, the Governor of Haryana hereby acquires the right to the minerals, mentioned in column 6 of the schedule given below in the land specified in column 5 thereof".

The schedule contains a large number of khasra numbers of plots in various villages covered by the notification Another notification of 11th September, 1975, challenged by the petitioners in this Court says:

> 'It is hereby notified for the general public that Minor Mineral quarries of Gurgaon District, as per particulars given below, will be put to auction on 1- 10-1975 in the office of Senior-District Industries Officer, Faridabad, at 10 A.M.".

Thereafter, follows the names of 139 villages in Tehsil Gurgaon under the heading "Name of Quarry". Under the next heading. "Name of the Minor Mineral", occur the words "Road metal and stone."

The notification then proceeds to say:

> "The terms and conditions of the auction are given below :-
>
> (i) Each bidder shall be required to deposit a sum of Rs. 200 in cash as earnest money, with the Presiding Officer before participating in the auction.
>
> (ii) The period of contract shall commence from the date of execution of the agreement to the 21st March, 1977.
>
> (iii)Other terms and conditions of auction shall be the same as contained in the Punjab Minor Mineral Concession Rules, 1964, as adopted by Haryana Government.
>
> (iv) The highest bidder shall be entitled to obtain short term permits from the date of auction till the date of acceptance of his bid by the competent authority. Therefore, he

will not have any right to revoke his officer.

Any other information he had from the Senior District Industries Officer. Faridabad.

(B. L. MITTAL) Director of Industries, Haryana".

Some of the numbers given in the first notification correspond with the number of plots in respect of which the petitioners allege to be lease-holders. A perusal of the petitions and the counter-affidavits filed in reply on behalf of the State of Haryana shows that the only dispute between the parties relates to the vesting of ownership rights in a minor mineral in these plots. But, the petitioners have come before us as lessees and not as owners. Rights of former owners have been validity terminated by the Haryana Act. We are unable to make out, from these petitions how any lessee rights acquired by the petitioners themselves, under any law subsist or are affected by the notifications mentioned above.

We proceed to record our conclusions as follows:

1. The Haryana Minerals (Vesting of Rights) Act, 1973, is valid, as it is not, in any way, repugnant to the provisions of the Mines and Minerals (Regulation of Development) Act 67 of 1957, made by Parliament. Ownership rights could be and have been validity acquired by the Haryana Govt. under the Haryana Act.

2. No rights are shewn by any petitioner before us to have been conferred upon him under any lease or licence executed or brought in accordance with the provision of the Central Act 67 of 1957, but, any petitioner, either before the High Court or in this Court, now before us, who can establish any such right governed by the provisions of the Central Act 67 of 1957 may take such proceedings before an appropriate Court, if so advised, as may still be open to him under the law, against any such action or Govt. notification as is alleged to infringe that right. We are unable to find any such right in any writ petition, as framed, now before us.

3. Any petitioner who applies for a writ or order in the nature of a mandamus should, in compliance with a well known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it has refused or neglected to carry it out within a reasonable time before applying to a Court for such an order even where the alleged obligation is established.

Accordingly, subject to the observations made above, we allow Civil Appeals Nos. 844-860 of 1975, and set aside the judgment and orders of the High Court of Punjab and Haryana and dismiss the Writ petitions.

We also dismiss the Writ Petitions Nos. 1309-1318 and 1371-1373 of 1975, subject to the observations made above, filed in this Court.

Parties will bear their own costs.

P.B.R. Appeal allowed &

Petitions dismissed.