

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

(Civil Writ Jurisdiction)

**W.P. (C) No. 161 of 2024**

M/s Jharkhand Stone Minerals Works, having its office at House No. 107, Harindanga Bazar, Main Road, Pakur, P.O. and P.S. Pakur, District Pakur, PIN 816107 (Jharkhand), through its Proprietor Md. Tipu Ansari, aged about 32 years, son of Haji Md. Tanweer Alam Ansari, resident of House No. 107, Harindanga Bazar, Main Road, Pakur, P.O. and P.S. Pakur, District Pakur, PIN 816107 (Jharkhand),  
**....Petitioner**

*Versus*

1. The State of Jharkhand, through the Secretary, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
2. The Commissioner, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
3. The Director of Mines, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
4. Deputy Commissioner, Pakur, having its office at District Collectorate, Pakur, P.O. and P.S. Pakur, District Pakur Jharkhand, PIN 816107.
5. District Mining Officer, Pakur, having its office at District Collectorate, Pakur, P.O. and P.S. Pakur, District Pakur Jharkhand, PIN 816107.

**...Respondents**

**With**

**W.P. (C) No. 688 of 2023**

M/s Maa Chedi Stone (a Proprietorship concern), having its office at Ward No. 1, Unchari, P.O. and P.S. Garhwa, District Garhwa, Jharkhand, PIN 822114, through its Proprietor Laxman Prasad Sahu, aged about 65 years, son of Jagan Sahu, resident of Ward No. 01, Unchari, P.O. and P.S. Garhwa, District Garhwa, Jharkhand, PIN 822114  
**....Petitioner**

*Versus*

1. The State of Jharkhand, through the Secretary, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
2. The Commissioner, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
3. The Director of Mines, Department of Mines and Geology, having its office at Yojna Bhawan (Nepal House), P.O. and P.S. Doranda, District Ranchi, Jharkhand, PIN 834002.
4. Deputy Commissioner, Palamau, having its office at District Collectorate, Medini Nagar, P.O. and P.S. Medini Nagar, District Palamau,

(Jharkhand), PIN 822101.

5. District Mining Officer, Palamau, having its office at District Collectorate, Medini Nagar, P.O. and P.S. Medini Nagar, District Palamau, (Jharkhand), PIN 822101. **...Respondents**

-----  
**CORAM: HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Petitioner(s) : Mr. Sumeet Gadodia, Advocate  
For the State : Mr. M.K. Dubey, AC to AG  
Mr. Aditya Raman, AC to GA-III  
-----

30<sup>th</sup> April 2024

Per, Shree Chandrashekhar, A.C.J.

This batch of writ petitions seeks to challenge the order contained in Memo dated 6<sup>th</sup> February 2024 passed by the Deputy Commissioner declining to execute lease-deed on the ground of lack of power and jurisdiction under the Jharkhand Minor Mineral Concession Rules, 2004 as amended by the Rules of 2019.

2. This is admitted at the Bar that the facts in these writ petitions and the point of law formulated therein are identical. We may also indicate that in view of the affidavits filed in the previous proceedings we did not invite an affidavit-in-opposition by State of Jharkhand; this is the third round of litigation.

3. For the sake of convenience, we shall reproduce the prayer clause in WP(C) No. 161 of 2024 hereinbelow:

(i) For issuance of an appropriate writ/order/direction including Writ of Mandamus directing Respondent No. 1-Secretary Department of Mines and Geology, to provide appropriate guidelines to Deputy Commissioner, Pakur as sought for by the said Officer vide Letter No. 282/M dated 23.02.2022 (**Annexure-9**) for the purpose of grant of mining lease of Stone Boulders in favour of the Petitioner, for which Letter of Intent, contained in Letter No. 2405/M dated 28.10.2016 (**Annexure-1**) has already been issued to the Petitioner for allotment of mining lease situated at Mouza Hathigarh No.3 Thana-Littipara, Jamabandi Nos. 56, 57, 99 Plot No. 945, 946, 955/P, 956, 958 and 959, having an area of 8.60 Acres, in the District of Pakur.

(ii) In alternative to payer (i) above, Petitioner prays for issuance of further appropriate writ/order/direction, including Writ of Mandamus, directing Respondent-Deputy Commissioner, Pakur to grant mining lease in favour of the Petitioner pertaining to Stone Boulder, situated at Mouza

Hathigarh No. 3, Thana-Littipara, Jamabandi Nos. 56, 57, 99 Plot No. 945, 946, 955/P, 956, 957, 958 and 959, having an area of 8.60 Acres, in the District of Pakur; especially because Letter of Intent, contained in Letter No. 2405/M dated 28.10.2016 (**Annexure-1**) has already been issued in favour of the Petitioner, and, also in view of the fact that Petitioner has already obtained necessary statutory clearances, including Environmental Clearance, for grant of mining lease in its favour.

(iii) For issuance of any other appropriate writ(s)/order(s)/direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case.

4. Briefly stated, M/s Jharkhand Stone Minerals Works which is a sole proprietorship-Firm made an application for the allotment of mining lease and a Letter of Intent (in short, LoI) was issued vide letter no. 2405/M dated 28<sup>th</sup> October 2016 for award of a mining lease spread over 8.60 acres in Jamabandi Nos. 56, 57, 99, Plot Nos. 945, 946, 955/P, 956, 957, 958 and 959 under Mouza Hathigarh No.3, Thana Littipara in the district of Pakur. While the final execution of mining lease was pending, Rule 9(1)(e) of the Jharkhand Minor Mineral Concession Rules, 2004 (in short, JMMC Rules) was amended through a notification dated 22<sup>nd</sup> February 2017 by the Amendment No. 149 of 2017. In the meantime, the State Level Environment Impact Assessment Authority, Jharkhand granted Environmental Clearance (in short, EC) for “Hathigarh Stone Mines” on 8<sup>th</sup> November 2019 to the petitioner-Firm. However, the Deputy Commissioner by an order dated 17<sup>th</sup> February 2020 declined the application for mining lease in view of the amended Rule 9(1)(e) of the JMMC Rules. The petitioner-Firm filed W.P(C) No. 5601 of 2018 to challenge the said order, which was dismissed in view of the alternative remedy of revision under Rule 62 of the Jharkhand Minor Mineral Concession Rules, 2004.

5. So, Revision Case No. 10 of 2021 was instituted by the petitioner-Firm and the revisional Authority noted that the petitioner-Firm had the Mining Plan approved on 25<sup>th</sup> May 2017 and it made application for EC on 16<sup>th</sup> October 2019 which was duly issued on 8<sup>th</sup> November 2019. The revisional Authority vide order dated 4<sup>th</sup> January 2022 remanded the matter back to the Deputy Commissioner, Pakur to examine the matter afresh and pass an order as per the JMMC Rules. On remand by the Mines Commissioner, the Deputy

Commissioner made a communication to the Secretary, Mines and Geology Department seeking guidelines in view of the Gazette Notification dated 8<sup>th</sup> March 2019 under which the maximum area for mining lease for stone is restricted to 3 Hectares.

6. In the background of the aforementioned facts, Mr. Sumeet Gadodia, the learned counsel for the petitioner-Firm submits that before the amendments in JMMC Rules when a vested right accrued in favour of the petitioner-Firm the Deputy Commissioner was the competent authority and he shall still be the competent Authority under Rule 9(1)(a). On the other hand, Mr. M.K. Dubey, the learned State counsel seeks to raise an objection on the ground that these writ petitions are premature inasmuch as a decision as regards execution of mining lease in favour of the petitioner-Firm can be taken by the Mines Commissioner who is the Authority under Rule 9(1)(a) to conduct auction for the mines.

7. The petitioner-Firm had made an application for a mining lease and, in respect thereto, LoI was issued on 28<sup>th</sup> October 2016. The amendment in Rule 9 of JMMC Rules was brought into effect on 22<sup>nd</sup> February 2017 through the Amendment No. 149 of 2017. Under clause (e) to Rule 9(1), a mining lease for an area exceeding 5 Hectares can be granted provided the EC was submitted within 180 days of the LoI. The petitioner-Firm's application was rejected with reference to this amended provision.

8. The relevant portions of the amended JMMC Rules which were published vide Notification dated 22<sup>nd</sup> February 2017 read as under:

JHARKHAND MINOR MINERAL CONCESSION RULES, 2004  
(as Amended Vide Notification No. 149 dated 22.02.2017 )

(iv) Rule 9(1)(a) is substituted as follows:-

Mining lease of minor minerals less than 05.00 hectare area of raiyat land of Schedule-2 shall be approved by the Deputy Commissioner.

Provided that the approval of mining lease on area above 05.00 hectare of minor minerals of raiyat area and mining lease of Batru Mineral, Granite, Marble, Sandstone and Ornamental Stone will be as per Jharkhand Minor Mineral Auction Rules (which will be defined and issued separately). Under the stated provisions, this will be done through electronic auction by the Director of Mines. But the State Government can also authorize the Deputy Commissioner for auction as per requirement.

Provided that the approval of mining lease in respect of 31 (thirty one) minerals notified through Notification No. 1653/M, Ranchi, dated 6 September, 2016, shall be subject to the provisions laid down in the Jharkhand Minor Mineral Auction Rules (which will be defined and issued separately). Under this, it will be done through electronic auction by the Director, Mines.

Provided that in the case of the above 31 (thirty one) minerals and sandstone, granite, marble and ornamental stone, before the auction, the work of identifying the block will be done by checking the availability and quality of the mineral by the Directorate of Geology, Jharkhand or other exploration establishment authorized by the State Government will be done.

For the protection of community property like pool, road, pond, river, building, religious place, cremation ground, mountain etc., security zone will have to be identified as per the rules issued by the State Government and the standards established by the Forest Environment and Climate Change Department, in which minerals There will be no mining work.

(v) After Rule-9(1)(c), Rule-9(1)(d), 9(1)(e), 9(1)(f) and 9(1)(g) are inserted as follows :-

(d) Before the date of issuance of this notification, applications received for mining on government area and Raiyat area of more than 05.00 hectares will automatically be disqualified.

(e) The applications that have been received for government land and Raiyati land for more than 05.00 hectare in which Letter of Intent has been issued under Rule 11 of Jharkhand Minor Mineral Grant Rules, 2004 before the date of issue of this notification, environmental clearance and mining plan will have to be compulsorily submitted within 180 days from the date of issue of this notification, otherwise those applications shall be automatically rejected.

(f) Those mining leases obtained on government area and rayoti area of more than 05.00 hectare area, which were under renewal and have lapsed due to not receiving of environmental approval/mining plan, the period of their lease is from the date of lease approval and renewal to 31st March. The period will be considered extended till 2020, provided that no order for rejection/cancellation/expiration of the mining lease has been passed before the date of notification, but no mining can be done on such mining lease until environmental clearance required for mining is obtained.

(g) The period of sanctioned/renewed mining lease on government area and Raiyat area of more than 5.00 hectare area, if approved and, if the renewal period is after March 31, 2020, then their period will remain valid till the period of their acceptance/renewal.

9. However, before the order of remand was passed by the Mines Commissioner, there was another amendment in Rule 9 to the effect that the mining lease for 3 Hectares or more shall be granted through auction. The amended Rules provided as under:

**JHARKHAND MINOR MINERAL CONCESSION RULES, 2004**  
(as Amended Vide Notification No. 218 dated 08.03.2019)

4. Rules 9(1)(a), 9(1)(b) of Jharkhand Minor Mineral Concession Rules, 2004 as amended in 2017 are replaced as follows and proviso to 9(1)(f) is added as follows:

Rule-9(1)(a)- Mining lease of stone, morum and clay minor minerals on 03.00

hectare area of raiyat land and less area will be approved by the Deputy Commissioner.

Provided that except the areas and minerals mentioned in the proviso to Rule 6(b) of Jharkhand Minor Mineral Concessional (Amendment) Rules, 2019, mining lease of all other minor minerals except sand will be sanctioned in terms of the provisions of Jharkhand Minor Mineral Auction Rules, 2017, through electronic auction to be conducted by the Director of Mines. However, the State Government can also authorize the Deputy Commissioner for auction as and when required.

Provided that in the case of 31 (thirty one) minerals notified vide Notification No. 1653/M, Ranchi, dated September 06, 2016, availability and quality of minerals before auction of mineral like granite stone mineral, marble, sandstone and ornamental stone etc. would be done. The work of identifying the block after investigation will be done by the Geology Directorate, Jharkhand or other exploration establishment authorized by the state government.

For the safety of community property such as bridges, roads, ponds, rivers, buildings, religious places, cremation grounds, mountains etc., security zones will have to be marked as per the rules issued by the State Government and the parameters established by the Forest Environment and Climate Change Department, where there will be no mining of minerals.

Rule-9(1)(b)- Approval of prospecting license and mining leases for granite mineral will be done by the State Government through electronic auction under the provisions of Jharkhand State Minor Mineral Rules.

Provided that prospecting license, acceptance of mining lease and conservation and development of granite mineral will be in accordance with the provisions of The Granite Conservation and Development Rules, 1999.

Rule-9(1)(f):- Provided that in case of extension/renewal of the pending/expired mining lease of granite mineral, the minimum period of the mining lease will be in accordance with the provisions of The Granite Conservation and Development Rules, 1999.

Provided that all pending cases for granite mineral will have to be extended/renewed within 06 months from the date of notification, provided all statutory clearances/approvals have been obtained by such applicants.

10. On behalf of the petitioner-Firm, it is contended that the rights of a litigant concretise on the date of seeking relief and an adjudication thereon should be made on the basis of the law existing on that day. In *“Beg Raj Singh v. State of U.P. & Ors.” (2003) 1 SCC 726*, the Hon’ble Supreme Court observed that the ordinary rule of litigation is that the rights of the parties stand crystallised on the date of commencement of litigation and the right to relief should be decided by reference to the date on which the petitioner entered the province of the Court. Mr. Sumeet Gadodia, the learned counsel for the petitioner-Firm submits that the revisional Authority condoned the delay in submission of the EC and as of that date, the petitioner-Firm was eligible and fulfilled all necessary conditions for grant of subject mining leases.

11. In “*Beg Raj Singh*”, the Hon’ble Supreme Court contemplated two situations whereunder relief may be declined to the aggrieved party. First, there may be a situation where on account of subsequent or intervening events the aggrieved party may be denied relief in equity. Secondly, the relief to which the aggrieved party was entitled may have been rendered redundant by lapse of time or incapable of being granted. In a situation which is presented in this batch of writ petitions, the petitioner-Firm may justifiably be declined the relief. However, the State Government’s action in granting approvals to mining leases for minor mineral executed even recently cannot be overlooked. For a similar reason, as to the jurisdiction of the Deputy Commissioner to execute mining lease beyond 3 Hectares, we may indicate that the State Government seems to have approved the lease deeds executed by the Deputy Commissioners in other districts. We are definitely not criticizing the incumbent Deputy Commissioner, Pakur and have formed an opinion to entertain these writ petitions only for this reason that the Departmental Secretary did not put up his stand and the State Government seems to have approved mining leases exceeding 3 Hectares executed by the Deputy Commissioners in the recent past. This is also bearing in our mind that for whatsoever reason the State Government did not put up a serious challenge in the previous proceedings and almost conceded to the stand taken in the writ petition. Now, in 3<sup>rd</sup> round of litigation, this Court should not re-open the whole issue and ignore the previous orders passed between the parties.

12. Therefore, these writ petitions are allowed.

13. On full and all statutory payments, the Deputy Commissioner shall execute the subject mining leases within four weeks, upon verification of other conditions, if any.

**(Shree Chandrashekhar, A.C.J.)**

**(Navneet Kumar, J.)**

*R.K./Nishant*  
*N.AFR*