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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 31036 of 2025

**Citizens' Action Forum,
Bhubaneswar**

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Petitioner

State of Odisha and others **Opposite Parties**

-Versus-

Advocates appeared in this case:

For Petitioner : Mr. Matrugupta Mishra, Advocate

For Opposite Parties : Mr. Debasish Tripathy,
Additional Government Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

JUDGMENT

Date of Judgment : 29th January, 2026

HARISH TANDON, C.J.

1. The petitioner showed a serious concern on the underutilization of the mineral resources across the State of Odisha and inaction on the part of the State machineries in enforcing the statutory obligations envisaged under the Mines and Minerals (Development and Regulation) Act, 1957 (for short, 'the MMDR



Act, 1957'), in the instant public interest litigation (for short, 'PIL').

2. The focus is centralized to promote well-conceived mining practices to ensure strict compliance of the statutory frameworks as the State of Odisha holds considerable amount of natural resources, in particular, iron ore reserves having a potential capacity to meet the requisite requirements in the indigenous market. It is not only to further Make in India initiative undertaken by the Government but making the company more reliant on the optimum use of the natural resources having direct or indirect impact on economic, social and political development. A radical shift was envisioned in the year 2015 from the conventional way of allotting the mines through an executive fiat to the auction regime for allocation of the specified minerals in fair and transparent manner. In order to ensure such policy decision, the amendments were brought in MMDR Act, 1957 on 26th March 2015, which came into effect on and from 12th January, 2015.

3. In commensurate with such amendment having brought in the said Act, correspondingly the Mineral (Auction) Rules, 2015



(for short, ‘the Auction Rules, 2015’) was framed followed by the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (for short, ‘the Concession Rules, 2016’). Rule 12 (1) (ee) of the Concession Rules, 2016 encompasses not only several obligations, rights and the privileges of the mining lessee but subject to the conditions that in the event the mining lessee failed to carry out or perform any of its obligations thereunder or under the lease deed within the specified time, it is obligatory on the part of the State Government to perform or carry out the mining activities and the expenses incurred in this regard shall be borne by the lessee. The said Rule 12 (1) (ee) is reproduced as under:

“12. Terms and conditions of a mining lease.—(1) Every mining lease shall be subject to the following conditions:—

xxx xxx xxx

(ee) if the lessee fails to carry out or perform any of its obligations hereunder or under the lease deed within the time specified in that behalf, the State Government may cause the same to be carried out or performed and the lessee shall pay the State Government, on demand, all expenses incurred in this regard by the State Government and the decision of the State Government as to such expenses shall be final;”



4. Keeping in mind the avowed object and the purpose of regulating the mining activities, the Mineral Conservation and Development Rules, 2017 (for short, 'the 2017 Rules) was framed and notified by the Central Government focusing on the scientific mining, reporting and sustainability obligations to ensure regulated exploitation of the minerals. In close proximity of time, National Steel Policy, 2017 (for short, 'the 2017 Policy') was also issued by the Ministry of Steel aiming to embrace the technology to meet the competition in the global market ensuring the raw material security and cost-efficient domestic availability of the iron ore.

5. The Apex Court in *Common Cause v. Union of India*, reported in **(2017) 9 SCC 499** showed its deep concern on the unregulated mining activities involving scandal of enormous proportions leading to megabucks. Several issues were raised and the Constitution Bench of the apex Court showed its serious concern and directed the Central Government to have a fresh look at the National Mineral Policy, 2008 (for short, '2008 Policy') with regard to the conservation and mineral development. The Committee was constituted and the report was submitted on



31st December 2017, which was published inviting suggestions from the different sectors as well as the public at large.

6. Upon taking into consideration the suggestions, advice and changes to be brought in the said policy, National Mineral Policy, 2019 was issued in the month of March 2019, which supersedes the old aged 2008 Policy. The endeavor was shown to lay down the strategies for optimum, scientific and sustainable utilization of minerals affecting the public at large and to meet the public interest. A concern was shown therein to regulate the exploitations/mining by providing infrastructure and obligation to collect the revenue, to make annual business plan/roadmap in the mining sector in order to ensure transparency and fair-play and to streamline such activities, and above all, to rationalize unused PSUs reserved areas for speedy development.

7. The apex Court in *Bhushan Power and Steel Ltd. v. State of Odisha (Through S.L. Seal, Additional Secretary, Steel and Mines)*, reported in (2017) 2 SCC 125 succinctly and elucidely jotted down the object and the purpose of bringing the auction regime in the following:



“18. The exhaustive Statement of Objects and Reasons reveals that the extensive amendment in the Act were effected after extensive consultations and intensive scrutiny by the Standing Committee on Coal and Steel, who gave their Report in May 2013. As is evident from the Statement that difficulties were experienced because the existing Act does not permit the auctioning of mineral concessions. It was observed that with auctioning of mineral concessions, transparency in allocation will improve; the Government will get an increased share of the value of mineral resources; and that it will alleviate the procedural delay, which in turn would check slowdown which adversely affected the growth of mining sector.

19. The Amendment Act, 2015, as is evident from the objects, aims at : (i) eliminating discretion; (ii) improving transparency in the allocation of mineral resources; (iii) simplifying procedures; (iv) eliminating delay on administration, so as to enable expeditious and optimum development of the mineral resources of the country; (v) obtaining for the Government an enhanced share of the value of the mineral resources; and (vi) attracting private investment and the latest technology.”

8. The petitioner in the instant PIL has not raised any concern on the other aspect of law but is primarily founded upon under-exploration and underutilization of the iron ores and the corresponding obligation of the State to ensure the optimum use thereof. The State of Odisha has a large number of iron ores deposits having obvious geological potential of about 30% thereof but despite having obligated the lessees to win the minerals strictly



in terms of the environmental clearance and the terms and conditions embodied in the lease deed, some of the lessees are not adhering to the actual output not only affecting the demand in the market but also impacting the revenue to the Government exchequer in the form of royalty. Although the provisions relating to penalty and other allied impositions are incorporated in the Act, yet neither action is taken by the State nor the provisions contained under Rule 12 (1) (ee) of the Concession Rules, 2016 are activated. It admits no ambiguity that the Government held the mineral being a public resource in trust and, therefore, an obligation is imposed on the Government to ensure optimum, continuous and sustainable utilization of those minerals, which is one of the constitutional obligations, enshrined under Article 39(b) of the Constitution of India. The petitioner has highlighted the discontinuous production, a chronic underutilization by the mining lease holders despite the statutory duty cast upon it under the MMDR Act, 1957 and the Concession Rules, 2016 for optimum utilization in the public interest.

9. This Court passed an order in the instant writ petition on 7th November, 2025 directing the State Government to take



instructions on the issues raised in the instant writ petition. On 22nd December 2025, the State was directed to make an enquiry to ascertain the mining lease holders, who are violating the terms and conditions provided in the statute as well as in the deed in not extracting the ores as mandated therein in the form of an affidavit. The State filed an affidavit disclosing the outcome of an enquiry having conducted in the interregnum wherefrom it appears that almost majority of the mining lease holders have not secured the optimum extraction of the iron ore where in some of the cases, the demand in the form of penalty was raised, yet such demand is kept in abeyance under the aegis of an interim order passed by this Court.

10. The entire episode as succinctly narrated hereinabove leaves no ambiguity that there is a patent underutilization of the mines by the mining lease holders, but in none of the cases, we find that the State has taken recourse to the provision contained under Rule 12 (1) (ee) of the Concession Rules, 2016. The instant PIL highlighted some of the mining blocks to corroborate the factum of underutilization not only in one year but continuously for several years resulting in deprivation of a statutory imposition



under the statute but also affects the livelihood of large number of people. The petitioner underscores the average minimum utilization of the ores and the huge loss suffered by the State, which would roughly amount to rupees four thousand crores. The provisions contained in the statutory framework cannot be put to idle or a dead letter. The moment the Government has consciously incorporated a provision like Rule 12 (1) (ee) of the Concession Rules, 2016, to meet the avowed object and the purpose, it casts a statutory duty on the Government to activate the said provision in the larger public interest.

11. Rule 12 of the Concession Rules, 2016 contains exhaustive terms and conditions, which are inhereed and ingrained in every mining lease and, therefore, such statutory terms and conditions embodied in the mining lease, if provide for certain action to be taken in the event of default or violation thereof, it is the ardent duty of the State to take recourses thereunder. It is axiomatic to record that failure on the part of the lessee to comply any terms and conditions, be it statutory or otherwise, invites any consequences for action to be taken, the State cannot remain static, but should invoke such provision in the manner provided therein.



12. We have been given several instances in the affidavit form by the State where some other lessees have failed to meet the minimum exploration of the minerals/ores and, therefore, time has come that the State must take responsibility to take shelter under Rule 12 (1) (ee) of the Concession Rules, 2016.

13. We, therefore, direct the State Government to invoke the provisions contained under Rule 12 (1) (ee) of the Concession Rules, 2016 to carry out or perform the statutory obligations to ensure the optimum utilization of the mines through the National Mineral Development Corporation, which is owned and controlled by the Central Government. The aforementioned direction shall not only ensure the optimum utilization of the mines, but also eradicate any burden on the government exchequer.

14. With this direction, the writ petition, stands disposed of.

*(Harish Tandon)
Chief Justice*

*(M.S. Raman)
Judge*

M. Panda/Arun Mishra