



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2610 of 2026

Narendra Nath Singh

....

Petitioner

Mr. Sailaza Nandan Das, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Ms. Biswabara Dash, ASC

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

ORDER

17.02.2026

Order No.

01. 1. Pursuant to a notice inviting tender from the intending bidders for an auction of the sairat sources, the petitioner was adjudged as the highest bidder and an agreement was entered into with the Government on 28th December, 2020 for a period of five years.
2. Indubitably, the petitioner paid the royalty and other charges for the said financial year 2020-2021, but did not deposit the statutory amount for the rest of the financial years. The demand notice was issued followed by a reminder from the office of the Deputy Director of Mines, Khordha Circle, Khordha, but there was no response from the side of the petitioner. The show-cause notice was subsequently issued by the Mining Officer (In-charge), Khordha on 28th November, 2024 followed by another show-cause notice dated 19th December, 2024. All the aforesaid show-cause notices remained non-responsive and the authority thereafter



proceeded to decide the issues so raised therein. Since there has been a violation of the statutory provision contained under the Odisha Minor Mineral Concession Rules, 2016 (for short, ‘OMMC Rules’), the lease executed in favour of the petitioner was cancelled and the security money deposited was forfeited invoking the provision contained under Rule 27 (14) of the said OMMC Rules.

3. The petitioner has challenged the said order of cancellation primarily on the ground that keeping the application pending for renewal/extension of the lease period, the authority ought not to have proceeded to cancel the said lease. A further plea is taken that the cancellation of a lease is within the powers of the “Competent Authority” as defined in Rule 2(1)(f) of the OMMC Rules and, therefore, the Mining Officer (In-charge) is not empowered to take a decision under the aforesaid provision. It is, thus, submitted that the impugned order is *per se* illegal having passed by an authority not empowered in this regard and, therefore, the same is liable to be quashed and set aside.

4. Let us examine the contention of the petitioner on the basis of the statutory provisions contained in the said OMMC Rules. Sub-Rule (7) of Rule 51 of the OMMC Rules provides for cancellation of a lease and/or levy of the penalty not exceeding rupees fifty thousand, in the event, the “Competent Authority” after giving a notice of requisite time held that the lessee has committed a breach of any or more conditions of the lease deed. The “Competent Authority” is defined in Rule 2(1)(f) of the OMMC Rules to mean officer mentioned in column (4) of



Schedule-IV. Schedule-IV appended to the said Rules indicates that in case of minor minerals other than specified minor minerals in relation to a quarry lease or a quarry permit when occurring within the village boundaries, the “Competent Authority” is the Mining Officer of the respective jurisdiction under the Steel and Mines Department. On a conjoint reading of Sub-Rule (7) of Rule 51 of the OMMC Rules with the definition of “Competent Authority”, it is manifest that the cancellation of lease or levy of penalty not exceeding rupees fifty thousand is conferred upon the “Competent Authority”. In the event, the lessee has committed a breach of any one or more conditions of the lease deed, the period of notice engulfed in the said Sub-Rule (7). It is intended to give an opportunity to the lessee to rectify the defects within such time; meaning thereby, if the breach is capable of being remedied, a further opportunity is given to the lessee to opt for the same.

5. Undoubtedly, the notices were issued to the petitioner, which remained non-responsive as the petitioner never approached the authority nor took any steps thereupon. The show-cause notices were basically founded upon non-payment of the royalty and other charges, which has the statutory flavour for the several financial years barring the first financial year and it does not appear from the pleadings of the instant writ petition that the petitioner has deposited the same. There appears to be a continuous breach of the terms and conditions embodied in the lease deed and, therefore, we do not find any illegality in the action of the authority in issuing a notice contemplating to cancel the lease deed.



6. It leads to another question, whether the Mining Officer (In-charge) would come within the ambit of the definition of a “Competent Authority” given under Rule 2(1)(f) of the OMMC Rules?

7. We had an occasion to peruse the impugned order and there is no ambiguity in finding that the said order is passed by the Mining Officer (In-charge). Schedule-IV appended to the said Rules confers powers upon the Mining Officer to pass an order or to take a decision in relation to minor minerals other than specified minor minerals. The moment the Mining Officer is included within the definition of a “Competent Authority”, a power is vested upon him to take a decision in relation to any of the provisions contained in the said Rules, which confers the power upon the “Competent Authority”. In an administrative field, the functioning of the different departments depends upon the conglomeration of the officers and separation of the powers conferred upon them in relation to a particular or a specified work. There cannot be a vacuum in functioning of the department, if the same is created either by way of demitting the office, being transferred or getting promotion as the powers entrusted to a particular officer is to be discharged through another officer. The functioning of the department through a particular officer cannot be kept in limbo and no decision could be taken thereupon, which is not recognized in an administrative jurisprudence. Once the post is vacant, the duties, responsibilities and the functioning of such post are to be ensured through a competent person upon conferment of the powers in the



interregnum and if such powers are exercised, it cannot invite illegality.

8. There is no case made out by the petitioner that the Mining Officer was absent for a brief period but the moment the duties, functions and the powers are conferred upon the officer to discharge as a Mining Officer, the order passed by such officer conforms to the statutory and/or legislative intent.

9. We, thus, do not find that the order impugned in the instant writ petition is passed by the authority bereft of such power or not in conformity with the definition of a “Competent Authority”.

10. The writ petition, thus, fails and is dismissed as such. No order as to costs.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

M. Panda