



2025:PATHC:98711

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2985 of 2025

M/s Hollyhock Infrastructures Pvt. Ltd. @ Hollyhock Infrastructures Pvt. Ltd.
Office at - 150, East, Mohan Bigha Station Road, P.S.- Dalmiyanagar, District
- Rohtas, through its CEO- Mrinal Kumar, Male, aged about 42 years, Son of
Kashinath Pandey, Residence of C- 102 Kashyap Green City, Abhimanyu
Nagar, P.O. - Khagaul, P.S. - Rupaspur, District- Patna, Pin - 801105.

... .. Petitioner

Versus

1. The State of Bihar through The Principal Secretary Department of Mines and Geology.
2. The Principal Secretary-Cum-Mines Commissioner, District – Patna.
3. The District Collector, Rohtas at Sasaram.
4. The Managing Director, Bihar State Mining Corporation Ltd. Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Abhinav Shrivastava, Senior Advocate Mr. Madhumay Madhup, Advocate Mr. Nilabh Ranjan, Advocate Mr. Anand Kumar Tiwari, Advocate Mr. Tauseef Warar, Advocate
For the State	:	S.C.-9
For the Mining Department :		Mr. Naresh Dikshit, Spl. P.P. Mr. Brij Bihari Tiwari, Advocate Ms. Shruti Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 11-12-2025

Heard Mr. Abhinav Shrivastava, the learned Senior
Counsel for the petitioner, the learned counsel for the State and
Mr. Naresh Dikshit, learned Special Public Prosecutor for the
Mining Department.

2. The instant writ petition has been preferred
for the following reliefs:

(i) To hold and declare that, in the terms of advt.





dated 04/03/2024 (Annexure P/1) and / or bid documents, (viz financial bid/technical bid), it was not obligatory for the single bidder / Petitioner, to make at least one call (bid), above the minimum reserve price, and to raise the minimum reserve (bid) price at least by 10% of the minimum reserve price in case of single bidder, as this would be contrary to the fundamental concept of minimum reserve price, in the auction process;

(ii) To issue an appropriate writ in the nature of certiorari for quashing of Order dated 19/12/2024, passed by the Court of Mines Commissioner (Annexure P/10) whereby and whereunder the Appellate Authority/Court of Mines Commissioner (Respondent No. 2) has rejected the Appeal of the Petitioner, directed against the order of the District Collector, Rohtas, Sasaram (Respondent No.3) of forfeiting Earnest Money Deposit of Rs.3,27,37,500/- (Three Crore Twenty Seven Lacs Thirty Seven Thousand Five Hundred Only) which was deposited by the Petitioner, as earnest money, in pursuance to the advt. dated 04/03/2024 (Annexure-P/1);

(iii) To issue an appropriate writ in the nature of certiorari for quashing of Order dated 11/06/2024, vide Memo No.949, issued by the District Collector, Rohtas, Sasaram, (Annexure P/7) forfeiting Earnest Money Deposit of Rs. 3,27,37,500/- (Three Crore Twenty Seven Lacs Thirty Seven Thousand Five Hundred Only)





which was deposited by the Petitioner, as earnest money, in pursuance to the advt. dated 04/03/2024 (Annexure – P/1);

(iv) To issue an appropriate writ in the nature of mandamus giving direction to the concerned authorities to release the forfeited Earnest Money Deposit of Rs.3,27,37,500/- in favour of the Petitioner, which was deposited by him, as earnest money, in pursuance to the advt. dated 04/03/2024 (Annexure-P/1).”

3. The brief facts of the case are that the petitioner, namely, M/s Hollyhock Infrastructures Pvt. Ltd. is a registered company, and it is acting through the petitioner namely, Mrinal Kumar. The Mines and Geology Department of District Rohtas, Sasaram, *vide* its advertisement dated 04.03.2024, invited bids through tender, for sand *ghats* and blocks in the Sone river, Balughat-Rohtas, Sone Block-No. 9B, in accordance with the Bihar Sand Mining Policy, 2019, and the Bihar Minerals (Prevention of Illegal Mining, Transportation, and Storage) Rules, 2019.

3.1. Pertinently, this was the third attempt, since earlier the respondent department had failed to get the appropriate number of bidders for the aforesaid *ghats*. The present petitioner also participated in the auction process in response to the short notice dated 04.03.2024 and in connection





thereto had deposited the earnest money of Rs. 3,27,37,500/- along with the application fee. The leasing of the sand *ghats* was carried out through an e-auction tendering process, among bidders whose technical bids satisfied the eligibility criteria specified in the tender documents. The petitioner successfully qualified in the technical bid and thereafter proceeded with the submission of the financial bid / e-auction bid and logged-in using the User ID provided by Beltron and had uploaded all the required documents for the e-auction which was held on 29.04.2024.

3.2. The petitioner logged-in and participated in the financial bid / e-auction held on 29.04.2024 by accessing the online bidding process. The minimum reserve price was set at Rs. 13,09,50,000/-. In the auction process, the petitioner was the sole bidder and he did not raise the bid price and did not make any bid, therefore, according to the respondents, the e-auction failed.

3.3. Subsequently, on the very next day, the petitioner was served with a show cause notice dated 30.04.2024, stating that since the petitioner did not make any bid, despite logging-in during the e-auction process, the e-auction had failed and in pursuance of clause 19(v) of the tender





document, the earnest money may be forfeited. The petitioner replied to the aforesaid show cause notice vide its letter dated 02.05.2024 categorically stating that there was no mandatory clause thrusting an obligation on the participant to increase the Minimum Reserve Price.

3.4. The Collector, Rohtas, Sasaram passed the impugned order dated 11.06.2025 forfeiting the earnest money deposited by the petitioner. Aggrieved by the said impugned order, the petitioner preferred an appeal unsuccessfully under Rule 67(2) of Bihar Mineral (Concession, Prevention of illegal Mining, Transportation and Storage) Rules of 2019, before the Mines Commissioner.

4. The learned Senior Counsel for the petitioner has submitted that it was mandatory for a participant who had duly qualified the financial bid to participate in the financial bid/ e-auction process, which the petitioner had duly complied. The petitioner had accessed the portal through the user-ID, logged-in and even uploaded the requisite documents. The learned Senior Counsel submitted that the paragraph-10 of the terms and conditions for leasing the sand *ghats* mentioned in the Tender Documents clearly states that, only the highest bidder, amongst other bidders would be displayed on each bidder's computer





window in the online e-auction process and that the names and identities of the other bidders shall remain entirely confidential. It is the submission of the learned Senior Counsel that the petitioner on the date of e-auction, i.e. on 29.04.2024 had duly logged in and was awaiting the finalization of the tender at the declared minimum reserve price. The highest bid value was displayed over the monitor and during the entire duration the minimum reserve price was shown/displayed and no price/quote above the aforesaid minimum reserve price was reflected. It is the submission that since the petitioner has already participated for the exact same price value, it was not obligatory for him to raise his own cost input, that too by 10%. The respondents, instead of finalizing the process at the minimum reserve price, had declared the e-auction process failed and thereafter the petitioner was issued the show cause dated 30.04.2024.

5. The learned Senior Counsel has adverted to the clause 19(v) of the Tender Document, which was referenced in the show cause notice issued to the petitioner and submitted that the aforesaid clause stated that the non-participation of the technically qualified bidders in the e-auction resulting in its failure would lead to the forfeiture of their earnest money. The learned Senior Counsel has emphasised that the aforesaid show





cause notice failed to mention or indicate that the petitioner was the sole bidder and rather only stated that his non-participation led to the failure of the e-auction process. This omission, according to the learned Senior Counsel, renders the aforesaid show cause notice as vague and incomplete. Since it was never disclosed to the petitioner that he was the sole bidder, therefore the petitioner was under a *bona fide* belief waiting for other bidders/participants to make a bid above the minimum reserve price, so as to give him a reason, compelling enough, for raising the price by quoting above the minimum reserve price.

6. The learned Senior Counsel appearing for the petitioner has adverted to the impugned order passed by the Collector, Rohtas at Sasaram and submitted that the aforesaid impugned order has been passed without considering the reply submitted by the petitioner. Further, the same has been passed giving reasons which are alien to the show-cause notice itself as well as the tender notice. The reasoning given by the respondent-Collector, Rohtas, Sasaram while passing the impugned order dated 11.06.2024 is based on the direction/guidelines dated 05.06.2024, issued by the Secretary, Department of Mines and Geology, Government of Bihar, whereas the e-auction was held on 29.04.2024 itself. It is the





submission of the learned Senior Counsel that the aforesaid guidelines/direction cannot be given a retrospective application.

7. The aforesaid direction issued by the Respondent no. 01 - Secretary, Department of Mines and Geology, Government of Bihar vide letter dated 2198/M dated 05.06.2024 as quoted in the impugned order dated 11.06.2024 reads thus :-

“4. खान एवं भूतत्व विभाग बिहार पटना पत्रांक 2198/एम०, पटना, दिनांक 05.06.2024 से मार्गदर्शन प्राप्त हुआ। जिसमें उल्लेख किया गया है कि :-

“निविदा दस्तावेज की कंडिका 19 (v) एवं 19 (vi) से स्पष्ट है कि एकल निविदादाता को भी सुरक्षित जमा राशि के उपर बोली लगाना अनिवार्य है। निविदादाता द्वारा सुरक्षित जमा राशि के उपर बोली नहीं लगाए जाने के कारण निविदा सफल नहीं हो सकी तथा निविदा दस्तावेज की कंडिका 19(v) के आलोक में कार्रवाई करते हुए उक्त बालूघाट की पुनर्नीलामी हेतु शीघ्र विज्ञापन प्रकाशन की कार्रवाई की जाय।”

8. The learned Senior Counsel has next submitted that the aforesaid letter/guidelines issued by the Respondent no. 01-Secretary, Department of Mines and Geology, Government of Bihar, was never supplied to the petitioner before passing the impugned order, moreover, the aforesaid guidelines are also unenforceable since the same would amount to putting a condition in the tender notice which was not in the original advertisement/notice and that too without giving notice to the petitioner / participant. The impugned order dated 11.06.2024 is also assailed on the ground of being mechanical in nature and passed without considering and





appreciating the general rules of the tender document dated 04.03.2024.

9. The learned Senior Counsel for the petitioner has placed reliance on the decisions delivered by the Hon'ble Supreme Court in *S.L. Kapoor vs. Jagmohan and Ors.* reported as *(1980) 4 SCC 379* and *Krishnadatt Awasthy vs. State of M.P. & Ors* reported as *2025 INSC 126* to fortify that the actions of the respondents fail on the muster of principles of natural justice and consequently vitiates the process of forfeiture of the earnest money to the tune of Rs.3,27,37,500/- deposited by the petitioner.

10. The learned Senior Counsel has next adverted to the clause 19(v) and (vi) of the Tender Document dated 04.03.2024 and submitted that aforesaid clauses do not indicate any mandatory raising of the minimum reserve price in case of single bidder. The case of a sole bidder is elaborated under clause 19(vi) which clearly states that if the single bidder raises the minimum reserve price, then the Collector shall send the bid offer of the aforesaid single bidder with a recommendation to the department and only upon the prior approval of the department, the bid offer of the single bidder may be accepted. Therefore, the thrust of the argument





advanced by the learned Senior Counsel is that the aforesaid clause 19(vi) does not mandate that the single bidder has to raise the minimum reserve price since it uses the phrase '*if*' which gives liberty and discretion to the single bidder to raise the bid or choose not to raise the bid. In the second case, i.e., if the single bidder does not choose to raise the minimum reserve price, then penal consequence in the form of forfeiture cannot be attracted.

11. It is also the submission of the learned Senior Counsel that clause 19(ii) simply states that persons declared successful in the technical bid will be allowed to participate in the e-auction process and no other process and mandatory procedure have been attached to the participating persons. It is true that clause 19(v) states that non-participation of successful technical bidders would lead to forfeiture of earnest money, however the aforesaid clause does not mandate that after participation, every participant is obligated to make a bid. It is therefore the submission of the learned Senior Counsel that the respondent no.3 while forfeiting the earnest money deposit of the petitioner has tried to give a mandatory colour, so as to mandate, every participant to raise a bid which is *de-hors* the tender notice itself and any such condition added *ex-post*





facto is unlawful.

12. Further the learned Senior Counsel has submitted that the reserve price is the price announced at an auction as the least that will be entertained. The learned Senior Counsel has drawn strength from the decision of the Hon'ble Supreme Court in ***Ram Kishun and Ors. vs. State of Uttar Pradesh*** reported as ***(2012) 11 SCC 511*** wherein the Hon'ble Supreme Court had explained the meaning of 'reserve price' as the price with which the public auction starts and the auction bidders are not permitted to give bids below the said price, i.e., the minimum bid at auction. Therefore, it is submitted that since the petitioner was the sole bidder, the concerned authorities should have awarded the tender to him at the Minimum Reserve Price rather than incorrectly forfeiting the earnest money deposited by the petitioner.

13. Lastly, the learned Senior Counsel for the petitioner has submitted that the actions of the respondents are also against the legitimate expectation of the petitioner inasmuch as the petitioner being the sole bidder, could not be forced to increase the Minimum Reserve Price when he had no competition. This forced increase would defeat the very purpose of the Minimum Reserve Price. It is the categorical submission





of the learned Senior Counsel that during the e-auction held on 29.04.2024, the petitioner intended to set the Minimum Reserve Price of Rs.13,09,50,000/- as both his first and final bid. Moreover, the Mines and Geology Department had issued fresh tender under Short Notice dated 11.06.2024 inviting fresh e-auction for the settlement of the sand *ghats* and in pursuance thereto have already got a winning bidder and the aforesaid sand *ghats* outlined in the tender document have been awarded to the successful bidder, therefore, it is submitted that there is no loss to the respondents and on this score also the actions of the respondents in forfeiting the earnest money deposited by the petitioner can not be justified.

14. A counter affidavit has been filed on behalf of the answering respondent no. 3 submitting that clause 19 of the Tender Document prescribes the procedure for settlement of the sand *ghat* and selection of the successful bidder is mentioned and clause 19(v) of the tender document clearly stipulates that on account of non-participation of the successful bidders from the technical bid, if the auction fails, then the earnest money deposit of such bidders shall be forfeited. Further clause 19(vi) of the tender document states that in case of single bidder participation, a short term tender shall be floated and if





on the second time also no bidders appear/participate, then the single bidder who has quoted the reserve amount and if such bidder raises the bid price, then under such circumstances the Collector will send the recommendation to the Department of Mines and Geology and after getting the due approval, the settlement of the sand *ghat* shall be done in favour of the aforesaid single bidder.

15. It is the submission on behalf of the answering respondent that the aforesaid two clauses 19(v) and 19(vi) squarely cover the present case since the petitioner was the single bidder who had participated in the e-auction but the petitioner failed to raise the bid price and consequently the e-auction failed and therefore the earnest money of the petitioner was forfeited by the Collector *vide* impugned order dated 11.06.2024.

16. It is next submitted by the answering respondent that the petitioner has admitted to have participated in the e-auction process after successfully qualifying the financial/technical bid, and had logged-in using the user-ID, and further the petitioner also admitted that he had not raised the bid price above the minimum reserve price and consequently the e-auction had failed. It is therefore the case of the answering





respondent that, the petitioner knew fully well that, being the sole bidder he was required to make a bid above the minimum reserve price.

17. Further, the answering respondent has rebutted the stand taken by the petitioner regarding his unawareness about being the sole bidder, by submitting that in the system for e-auction, there was a Spot Comparative Statement (Spot CS) which was present and accessible on the profile and the bidders/participants could have downloaded the same to assess and know how many bidders/participants were in the fray. It is also submitted that the petitioner had not done any activity on the e-auction portal, after logging in and being present in the live e-auction process. It is therefore the submission on behalf of the answering respondent that the petitioner was fully aware that the tender notice was being published for a third time and the petitioner was the sole bidder in the technical bid and thereafter in the financial bid and as such the petitioner being the sole bidder was required to raise the bid price above the reserve price, despite this fact, the petitioner willingly chose not to participate and as a result the e-auction failed, which triggered clause 19(v) leading to the forfeiture of the earnest money.





18. It is next submitted that, the Collector, Rohtas at Sasaram, after receiving the reply from the petitioner sought necessary guidelines from the Department of Mines and Geology, which was given *vide* letter dated 05.06.2024 and thereafter considering the instructions and the guidelines together with the reply of the petitioner, tender document and his activity on the e-auction process, the Collector had passed the impugned order of forfeiture of the earnest money holding that the petitioner deliberately did not perform any activity during the live e-auction on 29.04.2024 and was therefore responsible for its failure and thus, liable for forfeiture of earnest money. It is the submission that the deliberate non-activity of the petitioner was to frustrate the e-auction process.

19. The answering respondent has also supported the impugned order dated 19.12.2024 passed by the Appellate authority.

20. Considered the submissions of the parties and perused the materials available on record.

21. The petitioner after having successfully qualified in the technical bid for the settlement of the sand *ghats* had participated in the e-auction process which was conducted on 29.04.2024. In the aforesaid e-auction process, the petitioner





did not make any bids and since the petitioner was the only bidder / participant, as a consequence, the e-auction failed. The petitioner was issued a show cause notice on 30.04.2024 as to why his earnest money not be forfeited in pursuance of the clause 19(v) of the tender document on 30.04.2024. The aforesaid show cause dated 30.04.2024 reads as under :-

विषय –रोहतास जिलान्तर्गत अवस्थित बालूघाट सं०-रोहतास सोन ब्लॉक- 9B की ई-नीलामी में बोली नहीं लगाने के संबंध में स्पष्टीकरण।

रोहतास जिलान्तर्गत अवस्थित बालूघाट सं०-रोहतास सोन ब्लॉक- 9B की ई-नीलामी हेतु निविदा का प्रकाशन प्रमुख समाचार पत्रों में प्रकाशित की गई थी, जिसका PR No-019004 (Mines) 2023-24 है। आपके द्वारा दिनांक 19.03.2024 को अपलोड किये गए निविदा की तकनीकी जाँच पूर्व से निर्धारित कार्यक्रमानुसार दिनांक-21.03.2024 को की गई, जिसमें आप सफल घोषित हुए। तकनीकी रूप से सफल घोषित होने के पश्चात् वित्तीय बोली लगाने हेतु बालूघाट सं०-रोहतास सोन ब्लॉक 9B की ई-नीलामी की तिथि दिनांक-23.03.2024 को पूर्व से निर्धारित थी। भारत निर्वाचन आयोग द्वारा लोक सभा आम निर्वाचन 2024 हेतु दिनांक-16.03.2024 से सम्पूर्ण भारत देश में आदर्श आचार संहिता लागू होने के कारण कार्यालय के पत्रांक-505/ खनन, सासाराम, दिनांक 19.03.2024 द्वारा ई-नीलामी कराये जाने के बिन्दु पर विभाग से मार्गदर्शन की मांग की गई। तत्पश्चात् आदर्श आचार संहिता लागू होने कारण उक्त ई-नीलामी नीलामी का स्थगन आदेश इस कार्यालय के ज्ञापक-536/खनन, सासाराम, दिनांक-23.03.2024 से आपको संसूचित की गई। विभागीय पत्रांक-1397/एम०, पटना, दिनांक 19.04.2024 द्वारा मार्गदर्शन प्राप्त होने के फलस्वरूप पुनः संशोधित ई-नीलामी की तिथि एवं समय दिनांक-29.04.2024 समय 02:00 PM से 04:00 PM तक निर्धारित करते हुए इस कार्यालय के ज्ञापक-670/खनन, सासाराम, दिनांक-27.04.2024 से आपको संसूचित किया गया। उक्त तिथि को बालूघाट सं०-रोहतास सोन ब्लॉक- 9B के ई-नीलामी में आपके द्वारा बोली नहीं लगाया गया। जिसके कारण ई-नीलामी विफल हुई है। निविदा दस्तावेज की कंडिका-19 (V) में "तकनीकी निविदा में सफल निविदादाताओं द्वारा ई-नीलामी में भाग नहीं लेने के कारण नीलामी विफल हो जाने पर तकनीकी निविदा में सफल सभी निविदादाताओं की अग्रधन की राशि जप्त कर ली जाएगी।" प्रावधानित है।





अतः आपको निदेश दिया जाता है कि पत्र प्राप्ति के दो (2) दिनों के अन्दर अपना स्पष्टीकरण समर्पित करना सुनिश्चित करें कि क्यों नहीं आपके इस कृत्य के लिए निविदा दस्तावेज की कंडिका-19(v) के तहत आपके द्वारा जमा की गई अग्रधन की राशि को जप्त कर ली जाय। स्पष्टीकरण अप्राप्त रहने की स्थिति में एकतरफा निर्णय ले लिया जायेगा, जिसके जिम्मेवार आप स्वयं होंगे।

22. The Collector, Rohtas, Sasaram after receiving the reply from the petitioner sought necessary guidelines from the Department of Mines and Geology and upon receiving the same, passed the impugned order by which the earnest money deposited by the petitioner was forfeited. The appellate authority vide impugned order dated 19.12.2024 affirmed the order passed by the Collector Rohtas, Sasaram and dismissed the appeal preferred by the Petitioner.

23. From the reading of the aforesaid show-cause notice issued to the petitioner on 30.04.2024 and the impugned orders dated 11.06.2024 and 19.12.2024 would illustrate that the show cause notice had failed to mention that the petitioner being the sole bidder was required, according to the respondents, to raise the bid above the minimum reserve price and even did not make any reference to the Clause 19(vi) of the Tender Document. As such, according to the learned Senior Counsel for the petitioner, since the show cause itself is vague and non-specific the consequential orders stands vitiated. The other leg of contention of the learned Senior counsel for the petitioner is





that before forfeiture of the earnest money, no personal hearing has been given to the petitioner. He further submits that a show cause was given to the petitioner for which, the petitioner filed a reply but no personal hearing has been given.

24. The learned counsel for the Mining Department has not been able to bring on record any documents to show that the petitioner was given a personal hearing before the forfeiture of the amount.

25. The contention of the learned counsel for the Mining Department is that the forfeiture has been done as per the rules and there is no requirement of personal hearing.

26. It would be apposite to refer to the decision of the Hon'ble Supreme Court in the case of ***S.L. Kapoor v. Jagmohan***, reported as (1980) 4 SCC 379, wherein the Hon'ble Supreme Court had held as under -

“16. Thus on a consideration of the entire material placed before us we do not have any doubt that the New Delhi Municipal Committee was never put on notice of any action proposed to be taken under Section 238 of the Punjab Municipal Act and no opportunity was given to the Municipal Committee to explain any fact or circumstance on the basis that action was proposed. If there was any correspondence between the New Delhi





Municipal Committee and any other authority about the subject-matter of any of the allegations, if information was given and gathered it was for entirely different purposes. In our view, the requirements of natural justice are met only if opportunity to represent is given in view of proposed action. The demands of natural justice are not met even if the very person proceeded against has furnished the information on which the action is based, if it is furnished in a casual way or for some other purpose. We do not suggest that the opportunity need be a “double opportunity” that is, one opportunity on the factual allegations and another on the proposed penalty. Both may be rolled into one. But the person proceeded against must know that he is being required to meet the allegations which might lead to a certain action being taken against him. If that is made known the requirements are met. We disagree with the finding of the High Court that the Committee had the opportunity to meet the allegations contained in the order of supersession.

Xxxx

22. *In Chintapalli Agency Taluk Arrack Sales Cooperative Society Ltd. v. Secretary (Food & Agriculture), Govt. of A.P. [(1977) 4 SCC 337, there was a non-compliance with Section 77(2) of the Cooperative Societies*





Act which provided that no order prejudicial to any person shall be passed unless such person had been given an opportunity of making his representation. The argument was that since the facts were clear the non-compliance did not matter. It was also said that the appellant had of his own motion made some representation in the matter. This Court rejected the arguments observing (at pp. 567, 569-50): (SCC pp. 341 & 343-44, paras 11 & 21-22)

“... It is submitted that the government did not afford any opportunity to the appellant for making representation before it. The High Court rejected this plea on the ground that from a perusal of the voluntary applications filed by the appellant it was clear that the appellant had anyhow met with the points urged by the respondents in their revision petition before the government. We are, however, unable to accept the view of the High Court as correct. ...”

As mentioned earlier in the judgment the government did not give any notice communicating to the appellant about entertainment of the application in revision preferred by the respondents. Even though the appellant had filed some representations in respect of the matter, it would not absolve the government from giving notice to the appellant to make the representation





against the claim of the respondents. The minimal requirement under Section 77(2) is a notice informing the opponent about the application and affording him an opportunity to make his representation against whatever has been alleged in his petition. It is true that a personal hearing is not obligatory but the minimal requirement of the principles of natural justice which are ingrained in Section 77(2) is that the party whose rights are going to be affected and against whom some allegations are made and some prejudicial orders are claimed should have a written notice of the proceedings from the authority disclosing grounds of complaint or other objection preferably by furnishing a copy of the petition on which action is contemplated in order that a proper and effective representation may be made. This minimal requirement can on no account be dispensed with by relying upon the principle of absence of prejudice or imputation of certain knowledge to the party against whom action is sought for.

It is admitted that no notice whatever had been given by the government to the appellant. There is, therefore, clear violation of Section 77(2) which is a mandatory provision. We





do not agree with the High Court that this provision can be by-passed by resort to delving into correspondence between the appellant and the government. Such non-compliance with a mandatory provision gives rise to unnecessary litigation which must be avoided at all costs.

xxxx

24. *The matter has also been treated as an application of the general principle that justice should not only be done but should be seen to be done. Jackson's Natural Justice(1980 Edn.) contains a very interesting discussion of the subject. He says:*

“The distinction between justice being done and being seen to be done has been emphasised in many cases. .

..
The requirement that justice should be seen to be done may be regarded as a general principle which in some cases can be satisfied only by the observance of the rules of natural justice or as itself forming one of those rules. Both explanations of the significance of the maxim are found in Lord Widgery, C.J.'s judgment in R. v. Home Secretary [(1977) 1 WLR 766, 772] ,ex. p. Hosenball, where after saying that “the principles of natural justice are those fundamental rules, the breach of which will prevent justice from being seen to be done” he went on to describe the





maxim as “one of the rules generally accepted in the bundle of the rules making up natural justice”.

It is the recognition of the importance of the requirement that justice is seen to be done that justifies the giving of a remedy to a litigant even when it may be claimed that a decision alleged to be vitiated by a breach of natural justice would still have been reached had a fair hearing been given by an impartial tribunal. The maxim is applicable precisely when the court is concerned not with a case of actual injustice but with the appearance of injustice or possible injustice. In Altco Ltd. v. Sutherland [(1971) 2 Lloyd's Rep 515] Donaldson, J., said that the court, in deciding whether to interfere where an arbitrator had not given a party a full hearing was not concerned with whether a further hearing would produce a different or the same result. It was important that the parties should not only be given justice, but, as reasonable men, know that they had had justice or “to use the time hallowed phrase” that justice should not only be done but be seen to be done. In R. v. Thames Magistrates' Court, ex. p. Polemis [(1974) 1 WLR 1371] , the applicant obtained an order of certiorari to quash his conviction by a stipendiary magistrate on the ground that he had not had sufficient time to prepare his defence. The Divisional Court rejected the argument that, in its discretion, it ought to refuse relief because the applicant had no defence to the charge.

It is again absolutely basic to our





system that justice must not only be done but must manifestly be seen to be done. If justice was so clearly not seen to be done, as on the afternoon in question here, it seems to me that it is no answer to the applicant to say: 'Well, even if the case had been properly conducted, the result would have been the same. That is mixing up doing justice with seeing that justice is done (per Lord Widgery, C.J. at p. 1375)."

In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal." (emphasis supplied)

27. Subsequently the Hon'ble Supreme Court in a recent case of ***Krishnadatt Awasthy v. State of M.P.***, reported as ***(2025) 7 SCC 545*** reads as under :-

"43.The opportunity of hearing is considered so fundamental to any civilised legal system that the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds [Olga Tellis v. Bombay Municipal Corpn., (1985) 3 SCC 545].

44. It has been argued before us that if the failure to





provide hearing does not cause prejudice, observing the principle of natural justice may not be necessary. In this context, a three-Judge Bench of this Court in S.L. Kapoor v Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379] speaking through Chinappa Reddy, J. considered such arguments to be “pernicious” and held that “[t]he non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary”. The Supreme Court, however, has drawn out an exception where “on the admitted or indisputable facts only one conclusion is possible, and under the law only one penalty is permissible, then the Court may not compel the observance of natural justice” [Swadeshi Cotton Mills v. Union of India, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210; Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529 : 2000 SCC (L&S) 965] .

45. *Professor I.P. Massey [I.P. Massey, Administrative Law (8th Edn., 2012).] has commented on this shift as under:*

“Before the decision of the highest Court in S.L. Kapoor v. Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379], the rule was that the principles of natural justice shall apply only when an administrative action has caused some prejudice to the person, meaning thereby that he must have suffered some “civil consequences”. Therefore, the person had to show something extra in order to prove “prejudice” or civil consequences. This approach had stultified the growth of administrative law within an area of highly practical significance. It is gratifying that in Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379] , the Court took a bold step in holding that a separate showing of prejudice is not necessary. The non-observance of natural justice is in itself prejudice caused. However, merely because facts are admitted or are undisputable it





does not follow that the principles of natural justice need not be observed.”

46. In *State Bank of Patiala v. S.K. Sharma* [*State Bank of Patiala v. S.K. Sharma*, (1996) 3 SCC 364 : 1996 SCC (L&S) 717], the Supreme Court observed that where an enquiry is not convened by any statutory provision and the only obligation of the administrative authority is to observe the principles of natural justice, the court/tribunal should make a distinction between a total violation of the rule of fair hearing and violation of the facet of that rule. In other words, a distinction must be made between “no opportunity” or “no adequate opportunity”. In the case of the former, the order passed would undoubtedly be invalid and the authority may be asked to conduct proceedings afresh according to the rule of fair hearing. But in the latter case, the effect of violation of a facet of the rule of fair hearing has to be examined from the standpoint of prejudice.
47. In *Dharampal Satyapal Ltd. v. CCE* [*Dharampal Satyapal Ltd. v. CCE*, (2015) 8 SCC 519 : (2015) 33 GSTR 1], this Court dealt with the prejudice question as under: (SCC p. 540, para 42)

“42. So far so good. However, an important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be





considered at a later stage and such things cannot be presumed by the authority. This was so held by the English Court way back in the year 1943 in General Medical Council v. Spackman [General Medical Council v. Spackman, 1943 AC 627 (HL)] . This Court also spoke in the same language in Board of High School & Intermediate Education, U.P. v. Chitra Srivastava [Board of High School & Intermediate Education, U.P. v. Chitra Srivastava, (1970) 1 SCC 121]”

48. In a more recent decision in State of U.P. v Sudhir Kumar Singh [State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706] , the position of law was summarised as under: (SCC pp. 748-49, para 42)

“42. ...42.1. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused. 42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

42.4. In cases where facts can be stated to





be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

42.5. The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

49. The aforementioned principles on the “prejudice exception” must not however be understood as infringing upon the core of the principle of audi alteram partem. In this regard, the constitutionalisation of administrative law and the doctrinal shifts spearheaded in Maneka Gandhi [Maneka Gandhi v. Union of India, (1978) 1 SCC 248] were succinctly observed in a recent judgment in Madhyamam Broadcasting Ltd. v. Union of India [Madhyamam Broadcasting Ltd. v. Union of India, (2023) 13 SCC 401] , as under: (Madhyamam Broadcasting case [Madhyamam Broadcasting Ltd. v. Union of India, (2023) 13 SCC 401] , SCC pp. 451-52, para 55)

“55. ...55.1. Firstly, procedural fairness was no longer viewed merely as a means to secure a just outcome but a requirement that holds an inherent value in itself. In view of this shift, the courts are now precluded from solely assessing procedural infringements based on whether the procedure would have prejudiced the outcome of the case. [[S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379; “The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary”; also





see Swadeshi Cotton Mills v. Union of India, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210]] Instead, the courts would have to decide if the procedure that was followed infringed upon the right to a fair and reasonable procedure, independent of the outcome. In compliance with this line of thought, the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds. [Olga Tellis v. Bombay Municipal Corpn. [Olga Tellis v. Bombay Municipal Corpn., (1985) 3 SCC 545] ; C.B. Gautam v. Union of India [C.B. Gautam v. Union of India, (1993) 1 SCC 78] ; Sahara India (Firm) (1) v. CIT [Sahara India (Firm) (1) v. CIT, (2008) 14 SCC 151 : (2008) 300 ITR 403] ; Kesar Enterprises Ltd. v. State of U.P. [Kesar Enterprises Ltd. v. State of U.P., (2011) 13 SCC 733 : (2011) 10 GSTR 279]]

55.2.Secondly, natural justice principles breathe reasonableness into the procedure. Responding to the argument that the principles of natural justice are not static but are capable of being moulded to the circumstances, it was held that the core of natural justice guarantees a reasonable procedure which is a constitutional requirement entrenched in Articles 14, 19 and 21. The facet of audi alteram partem encompasses the components of notice, contents of the notice, reports of inquiry, and materials that are available for perusal. While situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core of the principle is abrogated because it is the core that infuses procedural reasonableness. The burden is on the applicant to prove that the procedure that was followed (or not followed) by the





adjudicating authority, in effect, infringes upon the core of the right to a fair and reasonable hearing. [See para 12 of Bhagwati, J.'s judgment in Maneka Gandhi v. Union of India [Maneka Gandhi v. Union of India, (1978) 1 SCC 248] .J”

(emphasis in original)

50. Pertinently on the issue, a five-Judge Bench of this Court in *CORE [CORE v. ECI SPIC SMO MCML (JV), (2025) 4 SCC 641 : (2025) 2 SCC (Civ) 1]* described the object of observing the principles of natural justice as under: (SCC p. 718, para 80)

“80. ... **The object of observing the principles of natural justice is to ensure that ‘every person whose rights are going to be affected by the proposed action gets a fair hearing.’ The non-observance of natural justice is itself a prejudice to any person who has been denied justice depending upon the facts and circumstances of each case. The principle of procedural fairness is rooted in the principles of the rule of law and good governance.** In *Madhyamam Broadcasting Ltd. v. Union of India [Madhyamam Broadcasting Ltd. v. Union of India, (2023) 13 SCC 401]* , this Court held that the requirement of procedural fairness “holds an inherent value in itself”.”

54. In a catena of cases, significantly a clear distinction has been crafted by this Court between the service of notice and the requirement of fair hearing [*East India Commercial Co. Ltd. v. Collector of Customs, 1962 SCC OnLine SC 142 : AIR 1962 SC 1893; Uma Nath Pandey v. State of U.P., (2009) 12 SCC 40 : (2010) 1 SCC (Cri) 501]* . The respondents rely on *S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717]* which highlights the circumstances when non-adherence to the principle of natural justice, will not be fatal. It must however be borne in mind that *S.K. Sharma [State Bank of Patiala v. S.K. Sharma,*





(1996) 3 SCC 364 : 1996 SCC (L&S) 717] was not a case of total denial of opportunity unlike in the present case. In fact, as Viswanathan, J. rightly notes in S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717] , after noticing the classic case of Ridge v. Baldwin [Ridge v. Baldwin, 1964 AC 40 : (1963) 2 WLR 935 (HL)] , this Court expressly records that where there is a total violation of principles of natural justice, the violation would be of a fundamental nature. Therefore, S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717] did not deal with the violation of the first limb of audi alteram partem principles, a situation of non-service of notice. The judgment in fact explicitly records that “a distinction ought to be made between violation of the principle of natural justice, audi alteram partem, as such, and violation of a facet of the said principle. In other words, distinction between “no notice” “no hearing” and “no adequate hearing” or to put it in different words, “no opportunity” and “no adequate opportunity”, was highlighted. The judgment in S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717] is therefore inapplicable to the present matter which is a case of no notice whatsoever.

V.Conclusion

71. The principle of audi alteram partem is the cornerstone of justice, ensuring that no person is condemned unheard. This principle transforms justice from a mere technical formality into a humane pursuit. It safeguards against arbitrary decision-making, and is needed more so in cases of unequal power dynamics [Upendra Baxi, “Preface: The Myth and Reality of the Indian Administrative Law” in I.P. Massey (Ed.), Administrative Law, 8th Edn. (EBC, 2012).] .

72. An allegation of bias, can only be proved if facts are established after giving an opportunity of hearing. This process requires a fair and transparent procedure in which the parties concerned are given an adequate opportunity to present their case. Such an opportunity





allows the accused party or the affected individuals to respond to the allegations, provide evidence, and clarify any misgivings regarding the decision-making process. Therefore, for an allegation of bias to be proved, it is imperative that the procedural safeguards of a fair hearing are observed allowing for establishment of the relevant facts."

28. From the afore-quoted, it is clear that the show-cause notice issued to the petitioner must have clearly spelt out that the petitioner being the sole bidder, and according to the respondent authorities, the petitioner knowing fully well that the petitioner being the sole bidder in the e-auction process was mandated to place a bid above the minimum reserve price. The show-cause notice being vague in nature has prevented the petitioner from raising his defence effectively to the show-cause notice and as such, cannot be sustained in the eye of law. Further, the petitioner has also not been afforded with an opportunity of hearing before passing the impugned order. The respondent authorities, before forfeiture of the amount, ought to have been given a personal hearing to the petitioner which has not been done in the present case. Even if there is no requirement of personal hearing mentioned in the rules, still the petitioner should have been heard before passing the order of forfeiture of earnest money deposited by him.

29. In these circumstances, this application stands allowed and the impugned order dated 19.12.2024,





passed by the appellate authority (Annexure P/10) and the order dated 11.06.2024 passed by the Collector, Rohtas are set aside.

30. The matter is remanded back to the Mining Department for fresh consideration from the stage of issuance of show-cause notice. The petitioner shall be duly heard and thereafter an appropriate, well-reasoned order shall be passed by the Mining Department within six weeks from the date of receipt/communication of a copy of this order.

(Sandeep Kumar, J)

Shishir/-
Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	13.11.2025
Uploading Date	11.12.2025
Transmission Date	

