



2026:CGHC:27068

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 4579 of 2024****Order Reserved on 25.04.2026****Order Delivered on 02.07.2026**

1 - M/s J.K. Stone Cutting Industries Through Its Partner Umed Bafna 34 Years, S/o Dharm Chand Bafna, R/o 722 Ward No. 11, Gandhi Chowk, Mahasamund District - Mahasamund (C.G.)

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through The Secretary Department Of Geology And Mining Mantralaya, Mahanadi Bhawan, Naya Raipur, District - Raipur (C.G.)

2 - The Director (Mining) Directorate Of Geology And Mining Indravati Bhawan, Block - 4 First And Second Floor, Nava Raipur, Atal Nagar, Raipur District - Raipur (C.G.)

3 - The Dy. Director (Mining) Raipur, District - Raipur (C.G.)

4 - The Collector Raipur, District - Raipur (C.G.)

5 - The Sub - Divisional Officer (Revenue) Arang District - Raipur

6 - The Tehsildar Arang, Arang District - Raipur



7 - The Mining Officer Raipur, District - Raipur (C.G.)

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Vikram Sharma, Advocate

For State :- Mr. R.K. Gupta, Addl. A.G.

SB-Hon'ble Shri Justice Amitendra Kishore Prasad

CAV Order

1. The present writ petition challenges the order passed by the Sub-Divisional Officer (Revenue), whereby the petitioner's crusher plant operating in a duly sanctioned mining lease area has been directed to be closed/stayed. It is the petitioner's case that the impugned order has been passed without jurisdiction, as mining operations are governed exclusively by the Mines and Minerals (Development and Regulation) Act, 1957 and the Chhattisgarh Minor Mineral Rules, 2015, which do not confer any such power upon the Sub-Divisional Officer (Revenue). It is further contended that the said authority has acted beyond its statutory competence by invoking general administrative powers, despite the fact that the lease and environmental clearances were duly granted by competent authorities.



2. Subject matter in brief is that the present writ petition is being filed challenging the order passed by respondent No. 5, whereby the Sub-Divisional Officer (Revenue), by overstepping his jurisdiction in matters governed by the special statute i.e. the Mines and Minerals (Development and Regulation) Act, 1957 read with the Chhattisgarh Minor Mineral Rules, 2015, has stayed the operation of the petitioner's crusher plant situated within the sanctioned mining lease area at Khasra No. 1855 and 1860, admeasuring 2.62 hectares, Village Paragaon, Tehsil Arang, District Raipur (C.G.). It is submitted that the impugned order has been passed without any statutory authority, as the Sub-Divisional Officer (Revenue) is not the competent authority under the Rules of 2015, particularly Rule 20 and Rule 73, which clearly vest powers relating to quarry lease and suspension of mining operations only with the designated authorities such as the Collector or Director, depending upon the category of mineral. It is further submitted that the SDO (Revenue), by invoking general administrative powers under the Land Revenue Code, has usurped jurisdiction vested exclusively under the special mining legislation, thereby rendering the impugned order wholly without authority of law, arbitrary, and liable to be set aside.



3. Facts of the case are that the petitioner firm, a partnership concern, was granted a mining lease on 06.03.2023 for quarrying flagstone over land bearing Khasra Nos. 1855 and 1860, admeasuring 1.92 hectares, situated at Village Paragaon, Tehsil Arang, District Raipur, for a period of 30 years under the Mines and Minerals (Development and Regulation) Act, 1957 and the Chhattisgarh Minor Mineral Rules, 2015. The lease deed expressly permitted the petitioner to carry out beneficiation/processing activities, including installation of a crusher plant within the leased area. The petitioner also obtained environmental clearance from the State Level Environment Impact Assessment Authority and necessary permission from the Mining Department to operate the crusher plant. However, the Sub-Divisional Officer (Revenue) issued a show cause notice and thereafter passed an order dated 05.02.2024 directing closure/stay of the crusher plant on the basis of complaints from villagers, despite the petitioner having submitted its reply. The petitioner contends that the SDO (Revenue) is not a competent authority under the Act of 1957 or the Rules of 2015 to interfere in mining operations or suspend activities of a duly granted lease, and that the impugned order is wholly



without jurisdiction, arbitrary, and contrary to the statutory scheme.

4. Following reliefs have been prayed by way of this petition:-

“10.1) That the Hon'ble Court may kindly be pleased to issue a writ of appropriate nature in quashing the impugned order dated 05.02.2024 as the same is illegal and non-est in eyes of law.

10.2) Any other relief which this Hon'ble Court deems Fit and proper may also kindly be granted to the petitioner, in the interest of justice.

10.3) Cost of the petition may also be granted to the petitioner.”

5. Learned counsel for the petitioner submits that the impugned order dated 05.02.2024 passed by respondent No. 5 is wholly without jurisdiction, non-est in the eyes of law, and has been issued without application of mind. The Sub-Divisional Officer (Revenue) has unlawfully assumed powers not vested in him under the Mines and Minerals (Development and Regulation) Act, 1957 and the Chhattisgarh Minor Mineral Rules, 2015, and has consequently no authority to direct suspension of the petitioner's crusher plant operations. It is further submitted that the action of the respondent No. 5 has resulted in



violation of the petitioner's fundamental right under Article 19(1)(g) of the Constitution of India, as the arbitrary closure of a lawfully operating unit has directly affected the petitioner's right to carry on business. It is also submitted that the show cause notice dated 30.01.2024 itself indicates a predetermined and prejudiced approach, as it was issued on the basis of complaints from villagers and a Gram Sabha resolution, without proper appreciation of statutory provisions governing mining operations. It is further contended that the petitioner is duly authorized to carry out beneficiation and processing activities within the leased area in terms of the lease deed executed with the State Government, which expressly permits installation and operation of crusher plant. The Mining Department, through its communication dated 26.12.2023 issued by the Deputy Director (Mining), Raipur, has also clarified that the petitioner is free to utilize the leased land as per the terms of the lease. In view of the above, it is submitted that the impugned order is arbitrary, illegal, without authority of law, and deserves to be set aside.

6. Learned State counsel submits that the present writ petition is misconceived, devoid of merit, and is liable to be dismissed. It is contended that the impugned order dated 05.02.2024 has been passed by the competent authority on the basis of



complaints received from the local villagers and resolutions passed in public interest, highlighting serious concerns regarding environmental pollution and proximity of the petitioner's stone crusher plant to religious places, community buildings, and inhabited areas. It is further submitted that prior to passing of the impugned order, a proper show cause notice was issued to the petitioner, to which a reply was submitted; however, the same was found to be unsatisfactory and evasive. The action of the authorities is thus justified in larger public interest and to ensure environmental safety. It is also submitted that the petitioner has an efficacious alternative remedy available before the National Green Tribunal under the National Green Tribunal Act, 2010, and therefore the writ petition is not maintainable. Additionally, it is pointed out that subsequent orders passed by the Chhattisgarh Environment Conservation Board, which are not under challenge in the present petition, further govern the field, and the petitioner cannot seek relief in isolation against the impugned order. In view of the aforesaid, learned State counsel submits that no interference is warranted by this Hon'ble Court and the writ petition deserves to be dismissed.

7. At this stage, learned counsel for the petitioner submits that the averments made in the return are wholly misconceived



and are an attempt to divert the issue from the core question involved in the present writ petition, namely, the lack of jurisdiction of the Sub-Divisional Officer (Revenue) to interfere in matters governed by the Mines and Minerals (Development and Regulation) Act, 1957 and the Chhattisgarh Minor Mineral Rules, 2015. It is further submitted that the respondents have not specifically denied the fundamental legal contention raised by the petitioner regarding the absence of statutory authority with the SDO (Revenue), and therefore, the impugned action stands admitted by necessary implication. The petitioner reiterates that the order dated 05.02.2024 is illegal, arbitrary, and without authority of law, having been passed in complete excess of jurisdiction and in disregard of the statutory scheme governing mining operations. It is also submitted that the reliance placed by the respondents on subsequent environmental proceedings and consent issues is wholly irrelevant to the present controversy, as the present petition is confined only to the jurisdictional illegality committed by respondent No. 5 in passing the impugned order.

8. I have heard learned counsel for the parties and perused the record carefully.



9. Having heard learned counsel for the parties and having perused the pleadings and documents on record, this Court is of the considered view that the core issue requiring determination is whether the Sub-Divisional Officer (Revenue) had any statutory authority under the Mines and Minerals (Development and Regulation) Act, 1957 read with the Chhattisgarh Minor Mineral Rules, 2015, to direct suspension/stoppage of the petitioner's legally sanctioned crusher plant operating within a duly granted mining lease area.
10. It is not in dispute that the petitioner is a holder of a valid mining lease granted under the statutory framework of the Act of 1957 and the Rules of 2015, and that the lease deed specifically permits beneficiation and processing activities, including installation of a crusher plant within the leased area. It is also undisputed that environmental clearance and requisite permissions from the competent mining authorities were duly obtained by the petitioner.
11. A bare perusal of Rule 2(1)(n), Rule 20 and Rule 73 of the Chhattisgarh Minor Mineral Rules, 2015 makes it manifest that the power to regulate, suspend or interfere with quarrying/mining operations is vested only in the designated



statutory authorities, namely the Collector, Director or such officers specifically authorized under the Rules. The Sub-Divisional Officer (Revenue) does not find mention as a competent authority for exercising powers relating to grant, regulation or suspension of mining operations.

12. In this regard, it is well settled that when a statute prescribes a particular authority to exercise a power, the same must be exercised strictly by that authority alone and not by invoking general executive or administrative powers. The Hon'ble Supreme Court in **Babu Verghese v. Bar Council of Kerala, (1999) 3 SCC 422** has held that where a thing is required to be done in a particular manner under the statute, it must be done in that manner alone or not at all. Relevant paras of the said judgment are quoted hereinbelow:-

“31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor [(1875) 1 Ch D 426 : 45 LJCh 373] which was followed by Lord Roche in Nazir Ahmad v. King Emperor [(1936) 63 IA 372 : AIR 1936 PC 253] who stated as under:



“[W]here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.”

32. *This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of V.P. [AIR 1954 SC 322 : 1954 SCR 1098] and again in Deep Chand v. State of Rajasthan [AIR 1961 SC 1527 : (1962) 1 SCR 662] . These cases were considered by a three-Judge Bench of this Court in State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 SCWR 57] and the rule laid down in Nazir Ahmad case [(1936) 63 IA 372 : AIR 1936 PC 253] was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law.*

33. *Now, BCI could act in the matter in three ways:*

(a) It could convene its meeting by giving 14 days' notice to all its members under Rule 1 and pass a resolution extending the term of the Kerala Bar Council.

(b) It could convene the meeting on a short notice under Rule 1 and pass the above resolution.

(c) It could act under Rule 6 by circulating the resolution to all its members and on obtaining



the opinion of the majority, extend the term of the Kerala Bar Council subject to confirmation at the next meeting.”

13. Similarly, in ***Gurnam Singh (Dead) through Legal Representatives and Others vs. Gurbachan Kaur (Dead) by Legal Representatives (2017) 13 SCC 414***, the Supreme Court has held as under:-

“13. The short question which arises for consideration in this appeal is whether the impugned order allowing the plaintiff's second appeal is legally sustainable in law? In other words, the question is whether the High Court had the jurisdiction to decide the second appeal when the appellant and the 2 respondents had expired during the pendency of appeal and their legal representatives were not brought on record?

14. In a leading case of this Court in Kiran Singh v. Chaman Paswan [Kiran Singh v. Chaman Paswan, AIR 1954 SC 340] , the learned Judge Venkatarama Ayyar, J. speaking for the Bench in his distinctive style of writing laid down the following principle of law being fundamental in nature: (AIR p. 342, para 6)



“6. ... It is a fundamental principle well established that a decree passed by a court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the court to pass any decree, and such a defect cannot be cured even by consent of parties.”

21. *It is a fundamental principle of law laid down by this Court in Kiran Singh case [Kiran Singh v. Chaman Paswan, AIR 1954 SC 340] that a decree passed by the court, if it is a nullity, its validity can be questioned in any proceeding including in execution proceedings or even in collateral proceedings whenever such decree is sought to be enforced by the decree-holder. The reason is that the defect of this nature affects the very authority of the court in passing such decree and goes to the root of the case. This principle, in our considered opinion,*



squarely applies to this case because it is a settled principle of law that the decree passed by a court for or against a dead person is a “nullity” (see N. Jayaram Reddy v. LAO [N. Jayaram Reddy v. LAO, (1979) 3 SCC 578] , Ashok Transport Agency v. Awadhesh Kumar [Ashok Transport Agency v. Awadhesh Kumar, (1998) 5 SCC 567] and Amba Bai v. Gopal [Amba Bai v. Gopal, (2001) 5 SCC 570]).”

14. Likewise in the matter of ***Garden Reach Shipbuilders and Engineers Limited vs. Grse Limited Workmens Union and Others 2025 SCC OnLine SC 582***, the Hon’ble Supreme Court has held as under:-

“8. The cause-list of the predecessor Division Bench dated March 11, 2024 would reveal that it had, inter alia, the determination to hear “APPEAL FROM ORDER RELATING TO SERVICE (GROUP VI) INCLUDING APPLICATIONS CONNECTED THERETO [EXCLUDING ...]”. We have further noticed from the cause-lists of August 16, 2024 (the date on which the writ petition, after hearing, was reserved for judgment) and September 4, 2024 (the date when the writ petition was allowed by the impugned order) that the Division



Bench had the same determination, i.e., to hear, inter alia, “APPEAL FROM ORDER RELATING TO SERVICE (GROUP VI) INCLUDING APPLICATIONS CONNECTED THERETO [EXCLUDING ...]”. Moreover, as per the roster set by the Chief Justice, determination was not given either to the predecessor Division Bench or to the Division Bench to hear writ petitions under ‘Service (Group VI)’ of the Classification List appended to the Writ Rules. We have also noticed that determination to hear writ petitions relating to Group VI, as made by the Chief Justice, was given to single benches on the relevant dates. On the face of such determination, neither the predecessor Division Bench nor the Division Bench of the High Court could have assumed jurisdiction to hear the writ petition premised on the legal position that they had jurisdiction to hear appeals from orders passed on writ petitions relating to Group VI.

*9. In the light of the law laid down by the High Court itself^{[15](#)} in *Sohan Lal Baid v. State of West Bengal*^{[16](#)}, as approved by a three-Judge Bench of this Court in *State of Rajasthan v. Prakash Chand*^{[17](#)} which*



has subsequently been approved by a Constitution Bench in Campaign for Judicial Accountability and Reforms v. Union of India¹⁸, as well as Rule 26 (supra), we hold that any order which a bench - comprising of two judges or a single judge - may choose to make in a case that is not placed before them/him by the Chief Justice of the High Court or in accordance with His Lordship's directions, such an order is without jurisdiction. In other words, an adjudication, beyond allocation, is void and such adjudication has to be considered a nullity. It needs no emphasis that the Chief Justice of the High Court, being the primus inter pares, has been vested with the power and authority to set the roster, as articulated in Sohan Lal Baid (supra), and such roster is final and binding on all the 'Companion Justices' of the said court. Plainly, therefore, the order dated March 11, 2024 and the impugned order are without jurisdiction.

11. We, however, record the statement of Mr. Nidhesh Gupta, learned senior counsel appearing for GRSE Ltd. that till such time the writ petition is disposed of by the appropriate Bench of the High Court to which it is assigned by the Chief



Justice, no appointment shall be made so as to render the writ petition infructuous. That would take care of the anxiety of the writ petitioners of being non-suited, if appointments were made to defeat their rights. Hence, we refrain from making any interim order to be operative during the pendency of the writ petition or to extend the ad-interim order dated August 1, 2016, passed on such writ petition.”

15. Further, in ***State of Rajasthan v. Basant Nahata, (2005) 12 SCC 77***, the Hon’ble Supreme Court reiterated that executive authorities cannot assume jurisdiction which is not conferred upon them by statute, and any action taken dehors the statutory framework is liable to be struck down as arbitrary and without authority of law. Relevant paras of the said judgment are quoted hereinbelow:-

“56. Similar view has been taken in Syed Abdullah Sahib v. Syed Rahmatulla Sahib [AIR 1960 Mad 274 : 73 MLW 284] stating: (AIR p. 277, para 14)

“14. ... The Transfer of Property Act requires that certain transactions should be effectuated only by registered instruments. Apart from the provisions contained in that enactment, the obligation to register arises only under the Registration Act. Under the



latter Act registration is made obligatory in respect of certain specified class of documents, but there is nothing to require a transaction to be effected by a registered instrument. Section 17 of the Registration Act enumerates the documents which require registration.

The necessity for registration under that Act would depend upon what a document is or what it purports to be. A bargain or an arrangement between the parties may comprise several transactions. The question whether there should be a writing or registration would depend on each of the transactions and not on their cumulative result.”

59. *The question can be considered from another angle. A person may not have any near relative or is otherwise unable to attend the office of the Sub-Registrar or Registrar within whose jurisdictions the property is situated. He may even be out of the country. In absence of any substantive provisions contained in a parliamentary or legislative act, he cannot be refrained from dealing with his property in any manner he likes. Such statutory interdict would be opposed to one's right of property as envisaged under Article 300-A of the Constitution.*



62. Even for the said purpose, the part dealing with public policy in Section 23 of the Contract Act is required to be construed in conjunction with other parts thereof.

65. The contention raised on behalf of the appellants herein that the State, being higher authority, having been delegated with the power of making declaration in terms of Section 22-A of the Act, would not be abused is stated to be rejected. Such a question does not arise herein as the provision has been held to be ultra vires Articles 14 and 246 of the Constitution.”

16. Furthermore, in the recent judgment of Hon'ble Supreme Court in the matter of ***Harinagar Sugar Mills Limited (Biscuit Division) and Another vs. State of Maharashtra and Others (2025) 10 SCC 286***, it has been held as under:-

“21. It is contended by HSML that the Deputy Secretary made such an order without the requisite authority since he was not the “appropriate Government” to deal with applications under Section 25-O. As such, the order to revise and resubmit would be non est in law. It is an undisputed position, as also noted by the High Court, that the powers under Section 25-O rest with the Minister. There is no difficulty in that respect. The State Government,



being the appropriate Government, has delegated its power specifically to the Minister for Labour. Section 39 of the Act provides for such a situation. It reads:

“39. Delegation of powers.—The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government by such officer or authority subordinate to the State Government as may be specified in the notification.

22. *There is nothing on record to show that the Deputy Secretary has been duly authorised to conduct communication and/or accept or reject applications for closure made by industrial units. The authority concerned in that regard is only the Minister. If it is considered that the Minister*



for Labour himself represents the State Government or is merely an agent of the State Government, then for the Deputy Secretary to act, there ought to have been a notification in that respect. Otherwise, if the Minister for Labour is a delegate of the State Government, then there has to be a notification therefor as well. According to the impugned judgment, a Notification to this effect dated 25-6-2013 is present. However, the same is not on record. The respondent State has contended that the internal noting placed on record before the High Court shows that the file had travelled up to the Minister, and, therefore, any action consequent to such approval by the Minister is in accordance with the law.

23. *We find it difficult to accept this contention for two reasons. There is no express authority resting with the Deputy Secretary. This we have already observed. Second, reliance cannot be placed on internal noting to establish compliance with procedure. This Court in Pimpri Chinchwad New Township Development Authority v. Vishnudev Coop. Housing Society [Pimpri Chinchwad New Township Development Authority v. Vishnudev Coop. Housing Society, (2018) 8 SCC 215 : (2018) 4 SCC (Civ) 45] , in a case pertaining to proceedings under the Land Acquisition Act, 1894 concerning the issue*



of whether the State is at liberty to withdraw from an acquisition, held: (SCC p. 225, para 36)

“36. ... a mere noting in the official files of the Government while dealing with any matter pertaining to any person is essentially an internal matter of the Government and carries with it no legal sanctity;”

17. Applying the aforesaid principles to the present case, this Court finds that respondent No. 5/Sub-Divisional Officer (Revenue) has clearly acted beyond the scope of his jurisdiction by directing stoppage of the petitioner's crusher plant, which falls exclusively within the regulatory domain of authorities constituted under the mining statute. The impugned order is therefore without jurisdiction, ultra vires the statutory scheme, and cannot be sustained.
18. The submission of the State that the impugned order was passed on the complaints of villagers and in public interest does not overcome the basic defect of lack of jurisdiction. Even an action taken in public interest must be supported by law. If an authority has no power to pass an order, such defect cannot be cured merely on administrative or equitable considerations. The objection regarding availability of an alternative remedy under the National Green Tribunal Act is also not acceptable, as the present challenge



is not related to environmental clearance or environmental issues, but to the very authority and competence of the officer who passed the impugned order.

19. It is settled law that existence of alternative remedy is not an absolute bar where the order is wholly without jurisdiction, as held in **Whirlpool Corporation v. Registrar of Trademarks, (1998) 8 SCC 1** and reaffirmed in **Harbanslal Sahnia v. Indian Oil Corporation Ltd., (2003) 2 SCC 107.**
20. The subsequent reliance on proceedings before the Chhattisgarh Environment Conservation Board is also irrelevant for adjudication of the present lis, as the legality of the impugned order dated 05.02.2024 has to be tested on its own jurisdictional foundation at the time of its issuance. This Court is also of the opinion that the impugned action has the effect of directly interfering with the petitioner's right to carry on lawful business under Article 19(1)(g) of the Constitution of India, and such restriction cannot be imposed except in accordance with procedure established by law.
21. The Supreme Court in **Maneka Gandhi v. Union of India, (1978) 1 SCC 248** has held that any restriction affecting fundamental rights must be fair, just and reasonable,



which is clearly not satisfied in the present case. Therein, the Court held that the “procedure established by law” under Article 21 cannot be arbitrary, unfair or unreasonable. Any procedure must be “right, just and fair” and not fanciful or oppressive; otherwise it would not satisfy Article 21. Article 14 strikes at arbitrariness in State action. Equality and arbitrariness are sworn enemies. The principle of reasonableness pervades Article 14 and also informs Article 21. Any procedure under Article 21 must be non-arbitrary and fair to satisfy constitutional mandate. Even where a statute is silent, principles of natural justice (including right to be heard) are read into administrative action. A procedure which deprives a person of rights without hearing is unfair and violates Article 21. The Court affirmed that even in absence of express statutory provision, courts will imply the requirement of natural justice unless expressly excluded. Administrative orders affecting rights must conform to fairness.

22. In view of the aforesaid analysis, this Court holds that the impugned order dated 05.02.2024 passed by respondent No. 5 is without jurisdiction, contrary to the statutory scheme of the Mines and Minerals (Development and Regulation) Act, 1957 and the Chhattisgarh Minor Mineral Rules, 2015, and is therefore illegal, arbitrary, and non-est in the eyes of law.



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23. Accordingly, the writ petition deserves to be and is hereby **allowed**. The impugned order dated 05.02.2024 is quashed and set aside. It is further directed that the respondents shall not interfere with the lawful mining and crusher operations of the petitioner carried out under a valid lease and permissions, subject to compliance of applicable statutory requirements.

24. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)

Judge