

**IN THE HIGH COURT OF ORISSA AT CUTTACK****WP(C) No.3963 of 2026****Rakesh Kumar Sahoo**

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Petitioner**-Versus-****State of Odisha and others**

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Opposite Parties**Advocates appeared in this case:**

For Petitioner : Mr. Biswajit Nayak,
Advocate

For Opposite Parties : Mr. Umesh Chandra Behura,
Additional Government Advocate

CORAM:**HON' BLE THE CHIEF JUSTICE****AND****HON'BLE MR. JUSTICE MURAHARI SRI RAMAN****J U D G M E N T**

Date of hearing and judgment: 24th March, 2026

HARISH TANDON, CJ.-

1. The dormant and lethargic attitude of the authorities in taking a prompt and immediate decision in compliance of the direction passed by this Court in an earlier round of litigation, is eminently present and manifested in the instant case.



2. Though the petitioner has not complained off the violation of the order dated 26th October, 2021 passed in WP(C) No.17047 of 2021 by filing a contempt petition, yet the Court cannot shut its eyes in the event the Court finds that there has been a flagrant violation of the said order undermining the sanctity and majesty of the Court and its order. We would have proceeded to initiate a *suo motu* contempt proceeding after noticing the aforesaid facts, but we find that the petitioner has approached by filing a separate writ petition seeking implementation of the said order.

3. We do not find any embargo created in law in maintaining the subsequent writ petition, even if the contempt petition is not filed. The same having disposed of, as the petitioner is seeking the implementation of the said order, we proceed to decide the matter. The writ petition, i.e., W.P.(C) No.17047 of 2021 was filed seeking a direction upon the authorities to allow the petitioner to operate the quarry lease for a period of five years reckoning from 4th December, 2020 and quashing the order dated 19th April, 2021 passed by the Tahasildar, Garadpur, Kendrapara preventing the petitioner to stop the lifting of the sand from the said source on and



after 25th April, 2021. The Court while disposing of the said matter, observed as follows:-

“8. For the aforementioned reasons, this Court quashes the letter dated 19th April, 2021 issued by the Tahasildar, Garadpur and holds that the petitioner is permitted to count the five year period of the lease from the date of registration of the lease deed i.e. 4th December, 2020 consistent with Rule 61(2) of the OMMC Rules, 2004. The necessary corrections be carried out in the lease agreement within a period of four weeks to reflect the above position.

9. It is clarified that the period during which the lease has been stopped i.e. 27th April, 2021 onwards upto the date on which it allowed to resume on the strength of this order, will also be accounted for while calculating the five-year period.”

4. It is apparent from the bare reading of the directions passed by the Court in the said writ petition that the period of the lease should be counted from the date of the registration of the lease deed and not from the date of the execution thereof under Rule-61 (2) of the Odisha Minor Mineral Concession Rules, 2004 (for short, “the OMMC Rules”). A specific direction was passed to make necessary correction in the lease agreement within the stipulated time, which in fact has not been done as of now. The Division Bench clarified that for the purpose of computation of the period of lease, the time between the order issued by the concerned



Tahasildar stopping the lifting of the sand from the source till the date the same is allowed, shall be excluded and the petitioner shall be given the benefit of the said period. According to the petitioner, till date it has not been issued the order to resume the lifting of sand and, therefore, the period of the lease has not expired by efflux of time.

5. Learned Additional Government Advocate appearing for the State-opposite parties submits that the period of lease has expired by efflux of time having reckoned from 4th December, 2020 and, therefore, the writ petition has received a natural death being infructuous. He further submits that despite the specific direction passed in the earlier writ petition, the petitioner never approached the authorities nor asked for correction to be incorporated therein and, therefore, the authorities cannot be saddled with any responsibilities in not complying the said order. He further submits that in the meantime, an amendment being Odisha Minor Minerals (Second Amendment) Rules, 2022 has been carried out in the OMMC Rules, where the power of the Tahasildar is vested upon the Mining Officer and, therefore, there



is no negligence and/or lapses which can be attributed to the Tahasildar.

6. We have given our anxious consideration to the aforesaid stand taken by the State. Equally, we cannot shut our eyes to the fact that the order passed by this Court in an earlier writ petition is still begging an answer, whether the same has been duly complied with or not. The change of the authorities does not change the spirit and tenet of the order. The order passed by the Court can never be undermined nor to be whittled down nor can be effaced from the record, but its implementation must be ensured by the authorities as any apathetic approach having shown in due implementation of the said order undermines the majesty and sanctity of the Court and its order. The authority who did not see the birth on the date of an order, steps into the shoes of the authority, who was present before the Court, cannot absolve its statutory responsibility in securing the compliance of the Court's order. The moment, the writ petition was served and the counsel is engaged from the panel of the Advocate representing the State, a positive approach must have been shown in securing the



compliance, which in the instant case appears to be completely absent.

7. A plea is sought to be taken by the learned Additional Government Advocate that there has been lapses and laches on the part of the petitioner and, therefore, the Court should not encourage such litigant, who slept in a slumber for a pretty long time. In an adversarial system of adjudication, one has to proceed on the basis of his own case and should not be permitted to take advantage of weakness of the other's case. The Court is concerned with the implementation of the order issued upon the authority and such implementation does not depend upon the conduct of the other side. The moment the Court is apprised of the fact that its order has not been complied with, the Court cannot show any reluctance nor may give any latitude to the authorities, as the order needs to be implemented unless interfered by the higher forum.

8. We feel that there is a complete lack of respect having shown by the authorities to the judicial order and, therefore, we direct the authority to immediately secure the implementation of the said order dated 26th October, 2021 passed in WP(C) No.17047



of 2021 (Annexure-3) within six weeks from the date of communication of this order.

9. With the aforesaid observation and direction, the writ petition stands disposed of. As a result of disposal of the writ petition, all the pending Interlocutory Application (s), if any, shall stand disposed of, but in the circumstances there shall be no order as to costs.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant