



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.5145 of 2026

M/s. Kalinga Alumina Limited and another ***Petitioner***

Mr. Vikas Singh, Senior Advocate assisted by
Mr. Venugopal Mohapatra, Advocate, Ms. Deeplika Kalia,
Advocate and Ms. Aishwarya Ray, Advocate

-versus-

State of Odisha and others ***Opposite parties***
Mr. Saswat Das, AGA

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

ORDER
17.02.2026

Order No.

01. ***1.*** A notice inviting tender for auction of mining lease in respect of Kutrumali Bauxite Block in the districts of Kalahandi and Rayagada being floated, E-auction process was conducted and the petitioner no.1 was considered as “preferred bidder” under Rule 9(9)(iii) or Rule 10(1A) of the Mineral (Auction) Rules, 2015 (for short, “the Rules”) on 11th February, 2023.

1.1. Accordingly, as required under Rule 10(1A) of the Rules, the petitioner no.1 made payment towards the first instalment to the tune of Rs.80,31,45,203/- being 20% of the upfront payment.

1.2. Pursuant to Rule 10(2) of the Rules, the Government of Odisha issued a Letter of Intent (LOI) in favour of the petitioner no.1 granting the mining lease for a period of fifty years on 27th February, 2023 and it provided for extension in case there is delay in procurement of statutory clearance and execution of mining lease deed attributable to factors beyond control.



1.3. On 2nd September, 2023, the Additional Chief General Manager (Land), IDCO directed the petitioner no.1 to deposit administrative charges for processing the lease proposal. Accordingly, deposit was made to the tune of Rs.1,78,85,095/- with IDCO on 28th September, 2023.

1.4. The Indian Bureau of Mines (IBM) approved the mining plan and Progressive Mine Closure Plan (PMCP) on 22nd November, 2023 for five financial years from the date of execution of the mining lease deed.

2. While matter stood thus, learned Senior Advocate appearing for the petitioner no.1 submitted that the petitioner no.1 submitted draft Environmental Impact Assessment/Environmental Management Plan to the Member Secretary, State Pollution Control Board, Odisha on 7th June, 2024 with prescribed fees and requested for conducting the public hearing in order to accord the environmental clearance. In view of the Environment Impact Assessment Notification, 2006, as public hearing is required to be completed within forty-five days of the request made by the petitioner no.1, despite several reminders, the public hearing has not been conducted as yet.

2.1. In the process as per notice inviting tender due date for submission of performance security of Rs.4,01,57,26,016/- and mining plan along with the second instalment, *i.e.*, 20% of upfront payment of Rs.80,31,45,203/- has set in on 26th August, 2025.

2.2. The Director of Mines and Geology directed the petitioner no.1 to submit the performance security and the second instalment of upfront payment in the following:-



“As per the time table of the Tender document, you are required to submit the Performance Security, Mining Plan along with second instalment (20%) of Upfront payment within the stipulated time of 2 years and 6 months from the date of issue of Loi to become successful bidder in respect of the block.”

2.3. It is urged by the learned Senior Advocate for the petitioner that the process took considerable length of time, which is not attributable to the petitioner, yet the Director of Mines and Geology, Odisha directed the petitioner on 13th November, 2025 to submit performance security within six months from the date of 17th October, 2025, *i.e.*, the date on which the Mineral (Auction) Second Amendment Rules, 2025 has been promulgated.

2.4. Referring to the *Hukam Chand Etc. Vs. Union of India and others*, (1972) 2 SCC 601 and *Federation of Indian Mineral Industries and others Vs. Union of India and another*, (2017) 16 SCC 186, learned Senior Advocate for the petitioner submitted that the amendment Rules by notification dated 17th October, 2025 has no retrospective application and, therefore, it is vehemently contended that the impugned order dated 22nd January, 2026 directing the petitioner to deposit the third instalment in consonance with the amended Rules 10(6) of the Rules is arbitrary exercise of power and non-application of mind.

3. Learned Additional Government Advocate appearing for the State-opposite parties heavily placing reliance on sub-rule (3), sub-rule (5) and sub-rule (6) of the Rule 10 of the Rules, contended that on payment of first installment of the upfront amount, the petitioner no.1 was considered “preferred bidder” and in order to be



considered as “successful bidder”, the petitioner is required to *inter alia* pay the second instalment of the upfront payment.

3.1. He would submit that on payment of all the three installments in accordance with Rule 10(6) of the Rules as amended in 2025 *vide* notification dated 17th October, 2025, the State Government may allow further period of two years for execution of mining lease deed. He submitted that the petitioner has not yet deposited the second and the third instalment of upfront payment.

4. *Per contra*, learned Senior Advocate would argue that the impugned order dated 22nd January, 2026 directing the petitioner to deposit all the three instalments in terms of the Rules as amended by virtue of the Mineral (Auction) Second amendment Rules, 2025 is illegal and bad in law. Said provision would only be applied in the circumstances where the “preferred bidder” was declared after commencement of said amendment Rules. Nonetheless, in the present case, the petitioner has been considered “preferred bidder” prior to the amendment came into force; as such, the demand *vide* letter dated 22nd January, 2026 is required to be quashed under the above premises.

5. The seminal question has arisen in the matter is whether Rule 10 as amended by virtue of the Mineral (Auction) Second Amendment Rules, 2025 is applicable to the facts and circumstances of the present case, when the petitioner is considered as “preferred bidder” on 11th February, 2023, *i.e.*, prior to commencement of said Amendment Rules, 2025. The matter, hence, requires consideration.

6. Issue notice to the opposite parties.



7. Mr. Saswat Das, learned Additional Government Advocate appears and waives service of notice on behalf of opposite party nos.1 to 5 and 7.

8. The petitioner is directed to serve a copy of the writ petition in the Office of the learned Deputy Solicitor General of India for service of notice on behalf of opposite party nos.8 & 9.

9. Issue notice to the opposite party no.6 by Speed Post with A.D., requisites for which shall be filed within three working days. In the event of furnishing such requisites within the period stipulated, the Office shall send the notice to the said opposite party by fixing a short returnable date.

10. List this matter on 10th March, 2026. Counter affidavit, if any, shall be filed in the meantime.

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11. As it appears from Section 1(2) of the Mineral (Auction) Second Amendment Rules, 2025 that it came into force on 17th October, 2025. It is admitted fact on record that the petitioner is considered to be “preferred bidder” on 11th February, 2023. It seems from the record and not disputed by the learned Additional Government Advocate that the public hearing has not yet been conducted, which is necessary requirement under the Environment Impact Assessment Notification, 2006. In order to grant environmental clearance, conduct of public hearing is *sine qua non* requirement.

12. It is, thus, apparent from the submission and material available on record that the petitioner was required to discharge liability by depositing second installment on 26th August, 2025,



which is prior to effective date of amendment in the year 2025 referred to above.

13. Since this Court has issued notice to the opposite parties for adjudication of the issues raised in the writ petition, it is directed that the petitioners shall deposit the amount determined towards the second instalment within a period of fifteen days from date. If the petitioner fulfils such condition, the opposite parties are restrained from taking coercive measure against the petitioner pursuant to Letter dated 22nd January, 2026 issued by the Government of Odisha, Steel and Mines Department *vide* Annexure-33 till the next date of listing.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant