ORISSA HIGH COURT : CUTTACK

AFR

W.P.(C) No.743 of 2017

In the matter of an Application under
Articles 226 and 227 of the Constitution of India, 1950

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1. OCL Iron & Steels Limited
(A company under the Companies Act, 1956)
Having its Registered Office
At: Lamloi, P.O.: Garvana, Rajgangpur
District: Sundergarh
Odisha – 770 017.

2. Mr. Dilip Das
Aged about 51 years
Son of Bidyadar Das
Having address
At: Mallapada, Talagadia, Jajpur
Odisha – 755 043
(being the Executive Director of
the Petitioner-Company. ... Petitioners

-VERSUS-

1. Union of India
Represented by
The Secretary (Mines)
Ministry of Mines, 3rd Floor,
Shashtri Bhavan, Rajender Prasad Road
New Delhi – 110 001.

2. Union of India
Represented by

The Secretary
The Ministry of Environment Forest
& Climate Change, Jorbagh
CGO Complex, Indira Paryavaran Bhawan
New Delhi – 110 003.

3. State of Odisha
Represented by
The Principal Secretary
Department of Steel & Mines
State Secretariat, Bhubaneswar
Odisha ... Opposite parties.

Counsel appeared for the parties:

For the Petitioner	: Sri Pinaki Misra, Senior Advocate Assisted by M/s. Saswat Kumar Acharya, Abhisek Agarwal and Abhijeet Agarwal, Advocates.
For the Opposite parties	: Mr. Saswat Das, Additional Government Advocate Mr. Himanshu Sekhar Panda, Central Government Counsel.

P R E S E N T:

HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON

AND

HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN

Date of Hearing : 07.05.2026 :: Date of Judgment : 28.07.2026

JUDGMENT

MURAHARI SRI RAMAN, J.—

The petitioners, alleging inaction on the part of the opposite parties, particularly the opposite party No.3, in depriving it of the property by not executing mining lease before the cut-off date, *i.e.,* 11.01.2017, in terms of Section 10A(2)(c) of the Mines and Minerals (Development and Regulation) Act, 1957 (be referred to as "MMDR Act") read with Rule 8(4) of the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concessions Rules, 2016 (abbreviated as "MC Rules") and thereby discriminating it *vis-à-vis* sixteen others in whose favour lease deeds were executed and registered on 11.01.2017, crave for exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India to issue writ of *mandamus* to the opposite parties and beseeches grant of following relief(s):

"In the circumstances, it is therefore most humbly prayed that this Hon'ble Court may kindly be graciously pleased to:

(a) Pass appropriate writ, order or direction to the effect that the State Government shall execute and register the mining lease deed with the petitioner promptly as the petitioner has complied all the conditions vide its Letter dated 23.12.2008 as required under Section 10A(2)(c) of the MMDR Act and/or;

(b) Pass appropriate writ, order or direction or declaration to the effect that the grant of mining lease shall not lapse or forfeited in the event the mining lease deed is not-executed and/or registered on or before 11.01.2017, and/or

(c) Pass appropriate writ, order or direction to the effect that the mining lease can be executed even after 11.01.2017, and/or;

(d) Pass appropriate writ, order or direction or declaration to the effect that the provisions of Rule 8(4) of the Mineral Concession Rules, 2016 to the extent it seeks to forfeit the right of the petitioner on after 11.01.2017 is declared ultra-vires, illegal being contrary to the provisions of the MMDR Act and the Constitution of India;

(e) Pass appropriate writ, order or direction in the nature of declaration that the provisions Clause (c) of sub-section (2) Section 10A of the MMDR Act to the extent it seeks to curtail, abridge or restrict the right of the petitioner after a period of two years (i.e. after 11.01.2017) is unconstitutional, ultra-vires and violative of the Article 14 and 19 and other provisions of Constitution of India;

(f) Pass appropriate writ, order or direction in the nature of declaration that the conditions No. 2(i) of the Guidelines dated 30.11.2016 is declared ultra vires illegal and not binding;

(g) Pass any other or further order as may be deemed fit and proper by this Hon'ble Court.

And for this act of kindness, the petitioners shall as in duty bound ever pray."

The facts:

2. The necessary background facts as adumbrated by the petitioners giving rise to filing of this the writ petition is narrated hereunder.

2.1. The Government of India in Ministry of Mines *vide* Letter bearing No.5/111/2008-M.IV, dated 29.09.2008 accorded approval under Section 5(1) of the MMDR Act by invoking the provisions of Section 11(5) and by relaxing provisions under sub-rules (1) and (2) of Rule 59 of the Mineral Concession Rules, 1960 for grant of mining lease for iron ore over an area of 45.131 hectares in the village Kundaposi in the district of Keonjhar in favour of the OCL India Ltd.[1] for a period of twenty five

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[1] *Vide* Order dated 27.11.2007 in the company petition being COPET No.27 of 2007 the company judge of this Court sanctioned "Scheme of Arrangement" and allowed demerger of the Steel Undertaking (Sponge Iron Works) of OCL India Limited *vis-a-vis* M/s.OCL India Ltd., OCL Iron and Steel Ltd., Konark Minerals Ltd. and Dalmia Cement Ltd. and, thereby allowed transfer and vesting of all assets and liabilities of said undertaking, which was duly registered by the Registrar of the Companies on 20.12.2007 and acknowledged by the Government of Odisha *vide* Steel and Mines Department Letter No.VSL-71/03/4084/SM, dated 27.05.2008. Interlocutory Application bearing No.15936 of 2025 during pendency of the writ application was filed by the company named "OCL Iron and Steel Limited" for amendment of cause title as the new company was admitted to corporate insolvency resolution process in terms of Insolvency and Bankruptcy Code, 2016 pursuant to an Order dated 20.09.2021 by the learned National Company Law Tribunal, Cuttack Bench. Said petition of the petitioner-company being not opposed to by none of the opposite parties, has been allowed by this Court *vide* Order dated 15.10.2025 and accordingly original cause titled stands replaced by the amended cause title depicting the name of the company as "OCL Iron & Steels Limited" in place of "OCL Iron and Steel Limited".
Intimation was made to proper quarters as per Rule 62 of the Mineral Concession Rules, 1960, which stood as follows:
"62. Change of name, nationality, etc. to be intimated.—
(1) An applicant for, or the holder of a reconnaissance permit, a prospecting licence or a mining lease shall intimate to the State Government within

years in response to the recommendation of the State Government in Department of Steel and Mines, Bhubaneswar *vide* Letter No.5198/ III(A)SM-46/2002/SM, dated 08.07.2008 issued in consideration of application dated 20.06.2002 in this regard by the company. By Letter Ref. No.RG:MN:01, dated 24.12.2008, the petitioner-company conveyed acceptance of the terms and conditions embodied in Steel and Mines Department Letter No.8556-III(A)SM-46/2002/SM, dated 23.12.2008 granting lease for twenty years[2].

2.2. The Government of India in Ministry of Mines, Indian Bureau of Mines, Office of the Regional Controller of Mines, *vide* Letter No.MP/OTF. MECH/10-ORI/BHU/

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sixty days any change that may take place in his name, nationality or other particulars mentioned in the relevant Forms.

(2) If the holder of a reconnaissance permit or a prospecting licence or a mining lease fails, without sufficient cause, to furnish the information referred to in sub-rule (1), the State Government may determine the reconnaissance permit or prospecting licence or mining lease, as the case may be:

Provided that no such order shall be made without giving the permit holder or the licensee or the lessee, as the case may be, a reasonable opportunity of stating his case."

2 By Steel and Mines Department Proceeding No.III(A)SM-46/2002/SM communicated in Memo No.897/SM, dated 04.02.209, it has been acknowledged as follows:

"Whereas M/s. OCL India Ltd. has filed mineral concession applications in the State of Odisha as read above;

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Whereas the Scheme of Arrangement came into effect from the appointed date, i.e., 01.01.2007 and it is already acknowledged by this Department and communicated vide this Department Letter No.4084, dated 27.05.2008;

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Now, therefore, the State Government are hereby pleased to order that the mining lease for iron ore over an area of 45.131 hectares in village Kundaposi of Keonjhar District for grant in favour of M/s. OCL India Ltd. will now be treated as decided to be grant in favour of M/s. OCL Iron & Steel Ltd."

2009-10, dated 24.08.2009 approved the mining plan with certain conditions stipulated therein. A Certificate dated 24.11.2010 has come to be issued by the Collector, Keonjhar, the Chairperson of DLC, after undertaking process for diversion and settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which *inter alia* certified that:

"It is certified on the basis of joint verification report dated 01.07.2010 and Gram Sabha Resolution that no such facilities managed by Government requiring diversion of forest land under Section 3(2) of the Forest Rights Act, 2006 exist over the forest land proposed for diversion."

In furtherance thereto, Form II (for Projects other than Linear Projects) dated 06.09.2013 was issued from the Office of the District Collector, Keonjhar *inter alia* asserting that *"The rights of primitive tribal groups and pre-agricultural communities where applicable have been specifically safeguarded as per Section 3(1) of the Forest Rights Act."*

2.3. This apart, by Letter No.432/SE/AA, dated 14.01.2013 the State Environment Impact Assessment Authority (SEIAA), Odisha (constituted *vide* Order No.S.O. 1899(E), dated 17.08.2012 of Ministry of Environment and Forests, Government of India) informed that the SEAC, Odisha has recommended for grant of Environmental

Clearance subject to submission of authentic copy of Stage-I Forest Clearance.

2.4. On 01.04.2015 "Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980" was issued *vide* F.No.11-599/2014-FC by the Government of India, Ministry of Environment, Forest and Climate Change (Forest Conservation Division) with one of the conditions envisaged therein as follows:

"Henceforth, in case of mining leases, including those of Government Authorities, having forest land in part or in full, approval of Central Government under Section 2(iii) of the Forest Act, for the entire forest land located within a mining lease shall be obtained before execution (including by way of renewal) of a mining lease in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Rules framed thereunder."

Though an application was filed for grant of general approval under Section 2(iii) of the Forest (Conservation) Act, 1980 for entire forest area including the safety zone area, in view of Operational Guidelines dated 16.11.2016 issued by the Ministry of Environment, Forest and Climate Change (Forest Conservation Division) *vide* F.No.9-31/2016-FC, dated 16.11.2016 instructing to file such application by online process "for seeking permission for getting forest land on lease under Section 2(iii) of Forest Conservation Act, 1980" and *vide* F.No.8-

31/2016-FC, dated 17.11.2016 instructing to "apply online on the prescribed form" as made available on webportal of the Ministry, the petitioner stated to have filed "online application" on 20.12.2016, which was forwarded by the State Government for consideration of proposal under Section 2(iii) of the Forest Conservation Act, 1980 to the Ministry of Environment, Forest and Climate Change.

Government of India in Ministry of Environment Forest and Climate Change (Forest Conservation Division) issued Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 with the following clarification *vide* Letter bearing F.No.11-599/2014-FC, dated 19.10.2015:

> *"I am directed to refer to this Ministry's letter of even number dated 1st April 2015 on the above-mentioned subject, and to say that some of the States have sought clarification from this Ministry on applicability of para 2(v)*[3] *of the said letter to the*

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[3] Clause (v) of Paragraph 2 of the Guidelines in Letter dated 01.04.2015 stood as follows:
"In case of existing mining leases having forest land in part or in full, where approval under Section 2 of the FC Act for a part of the forest land has only been obtained, Central Government hereby accords general approval under Section 2(iii) of the FC Act for the remaining area of the forest land falling within such mining leases, subject to following conditions:
(a) State Government shall, within a .period of one year from the date of issue of this letter, realize from the user agency, NPV of the entire forest land falling in the mining lease, in case NPV of such forest land has not already been realised;
(b) In case State Government fails to realize from the user agency, NPV of the entire forest land falling in a mining lease within a period of one year from the date of issue of this letter, this general approval in respect of such mining lease, shall be kept in abeyance, and shall be deemed to have

existing mining leases (as on the date of the issue of the said letter) having Forest land in part where approval under Section 2 of the Forest (Conservation) Act, 1980 for even a part of the forest land falling in such leases has not been obtained, and to say that to facilitate this Ministry to take decision on the matter, details of existing mining leases having forest land in part or in full for which though the mining lease has already been executed at least once before 1st April 2015 but approval under die Forest (Conservation) Act, 1980 for even a part of forest land falling in such mining lease has not been obtained, may be provided to this Ministry at the earliest, and in any case before the expiry of a period of one year from the date of issue of the said letter dated 1st April 2015.

2. *I am further directed to say that till decision on the said matter is taken by this Ministry after the receipt of the afore-mentioned information from all the*

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been kept in abeyance, and all mining activities in such mining lease shall be stopped, till such time, the NPV of such forest land is realised by the State Government;

(c) *The general approval shall be valid for a period co-terminus with the period of mining lease in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957, as amended, and the Rules framed thereunder;*

(d) *This general approval does not, in any manager, exempt a user agency from obtaining prior approval under Section 2(ii) of the FC Act in regard to such area of forest land which is to be used for non-forest purpose;*

(e) *Grant of this general approval under Section 2(iii) does not, in any manner, create any right or equity in favour of the user agency for grant of approval under Section 2(ii) of the FC Act and decision on proposals under Section 2(ii) will be taken purely on the merit of each case;*

(f) *This general approval will not be applicable to the forest land for which Central Government before the issue of this letter has already declined approval under Section 2 of the FC Act; and*

(g) *Grant of this general approval does not in any manner, exonerate the concerned Authorities in the State Government or in any other Authority, from the proceedings under Sections 3A and 3B of the FC Act, liable to be initiated for violation, if any, of the FC Act committed by them by assigning such, forest land on mining lease without obtaining prior approval of Central Government under Section 2 of tlie FC Act."*

States and Union territories, the States and Union territories if so desires, ***may seek general approval under Section 2(iii) of the Forest (Conservation) Act, 1980 for the forest land falling in such mining leases,*** *on case to case basis, by giving details (viz. date of execution of mining lease deed and area of forest and non-forest land falling in such mining leases) of one or more of such mining leases to this Ministry in letter form."*

On 09.01.2017 the said Ministry granted general approval under Section 2(iii) of the Forest Conservation Act, 1980, just two days prior to the last date fixed for execution of mining lease deed in terms of Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016.

2.5. Pursuant thereto, the Divisional Forest Officer raised a demand to the tune of Rs.4,22,82,331/- as Net Present Value over the forest land admeasuring 45.029 hectares, which stood deposited *vide* NEFT/RTGS Challan dated 10.01.2017 (Annexure-13) in favour of Odisha State Compensatory Afforestation Fund Management and Planning Authority ("CAMPA, Odisha", for short). The petitioner made a fervent request for issue of lease execution of order in its favour *vide* Letter dated 10.01.2017 (Annexure-14) addressed to Principal Secretary to the Government of Odisha, Department of Steel and Mines by enclosing evidence showing compliance of terms and conditions. Besides such step, another Letter was submitted in the Office of the Divisional Forest Officer, Keonjhar Division, on 11.01.2017 demonstrating compliance of conditions including Clearance by the Ministry of Environment, Forest and Climate Change.

2.6. Though the petitioner has taken all possible steps, due to delay in the process on the part of the opposite parties and the circumstances not within the control of the petitioner, the mining lease deed was not executed in its favour on or before 17.11.2017 as specified under Rule 8(4) of the MC Rules, 2016 read with Section 10A(2)(c) of the MMDR Act, while the State Government in similarly situated companies/entities executed such lease deed on or about said cut-off date.

At the stage of fresh admission:

3. This Court at the stage of entertainment of the writ petition passed the following Order on 16.01.2017:

> *"Connect with W.P.(C) Nos.281[4] and 283 of 2017[5].*

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4 Visiting webportal it is found that on 07.03.2017 the following order was passed in W.P.(C) No.281 of 2017 *[Rudra Sen Sindhu Vrs. Union of India and Others]*:
"07.03.2017
Learned counsel for the petitioner states that the petitioner does not wish to press this writ petition. Misc. Case No. 3381 of 2017 has also been filed with a prayer to permit the petitioner to withdraw the writ petition ***as the lease deed has already been executed between the State and the petitioner****.*
Prayer is allowed.
The writ petition is accordingly disposed of as withdrawn."

5 Visiting webportal it could be ascertained that W.P.(C) No.283 of 2017 (Parmeswari Devi Vrs. State of Odisha and Others) is pending as on date.

The submission of Mr. Ashok Parija, learned Senior Counsel for the petitioners is that the petitioners had applied for grant of mining lease, which was duly approved by the Central Government under Section 5(1) of the Mines and Minerals (Development and Regulation) Act, 1957 on 29.09.2008. The application however kept pending and in the meantime, the Act was amended and certain provisions have been inserted by Act 10 of 2015 with effect from 12.01.2015. Under the new provision of Section 10A, lease deed is to be granted within a period of two years from the date of the amendment of the Act i.e. with effect from 12.01.2015. Besides, several prayers which have been made, the grievance of the petitioners at this stage is with regard to the provision of Rule 8(4) of Mineral (Other Than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, which provides that in case the mining lease is not executed on or before 11.01.2017, the rights of the applicant shall be forfeited.

2. The submission of the learned counsel for the petitioners is that because of the lapses on the part of the opposite parties, the mining lease has not been granted for which the petitioners cannot be made to suffer. ***The petitioners further contends that the provision of sub-rule (4) of Rule 8 is contrary to the provisions of Section 10A(2)(c) of MMDR Act, 1957 and as such, the same cannot be sustained in the eye of law****.*

3. ***In our view, the matter requires consideration****.*

4. Mr. A.K. Bose, learned Assistant Solicitor General accepts notice on behalf of opposite parties No. 1 *and 2 and Mr. B.P. Pradhan, learned Additional Government Advocate accepts notice on behalf of opposite party No.3. They pray for and are granted four weeks time to file counter affidavit and the petitioners shall have two weeks thereafter to file rejoinder affidavit.*

5. *List this matter immediately after six weeks.*

6. *Considering the facts and circumstances of the case and keeping in view the submissions made by the learned counsel for the parties, as an interim measure,* ***it is directed that the provisions of Rule 8(4) of Mineral (Other Than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, shall not be made applicable in the case of the petitioners till the next date of listing****."*

Response of the opposite party No.3:

4. A counter affidavit being sworn to by the Deputy Secretary to the Government of Odisha in Steel and Mines Department has come to be filed on 01.09.2017 *inter alia* with the following replies:

(i) Having admitted that the petitioner being accorded with prior approval by the Central Government under Section 5 of the MMDR Act, a Letter of Intent with certain terms and conditions to govern grant of lease in favour of the petitioner was issued by the State Government and that the mining plan was approved by the Indian Bureau of Mines. Yet

when certain terms and conditions which formed part of Letter No.8556/SM, dated 23.12.2008 remained unfulfilled even after six years, the petitioner was issued with notice *vide* Letter No.III(A)SM-46/2002/2994/SM, dated 09.04.2015 calling upon it to explain as to why such terms and conditions would not be revoked and the application for mining lease dated 20.06.2002 would not be rejected.

(ii) Since the petitioner submitted compliance of terms indicated in Letter of Intent on 10.01.2017 (late afternoon) in view of Rule 8(1) of the MC Rules for consideration of grant of mining lease under Rule 8(2) of the said Rules, such partial compliance could not be processed due to paucity of time. The petitioner could/did not furnish full compliance of terms and conditions on or before 11.01.2017, as a result of which grant order of mining lease was not considered.

(iii) Due to non-compliance of the terms and conditions mentioned in the Letter of Intent within the period specified in Rule 8(4) of the MC Rules read with Section 10A(2)(c) of the MMDR Act, the right of the petitioner for grant of mining lease got forfeited with effect from 12.01.2017.

(iv) In order to eliminate discretion and improve transparency in the allocation of mineral resources as evident from the Statement of Objects and Reasons for bringing into force auction regime necessary amendments were made in the MMDR Act *inter alia* introducing Section 10A in said Act in the year 2015 and framing relevant Rules in the year 2016. The twin conditions stipulated in Section 10A(2)(c) of the MMDR Act being not satisfied, the petitioner became ineligible for grant of mining lease in terms of Section 10A(1) thereof.

(v) The petitioner having got approval under Section 2(iii) of the Forest (Conservation) Act, 1980 on 09.01.2017 submitted the full compliance letter on 10.01.2017 in the late afternoon, just the day before 11.01.2017, *i.e.,* the last date for grant and execution of the lease saved under Section 10(2)(c) of the MMDR Act, due to paucity of time the lease deed could not be executed and registered.

Response of the opposite party No.2:

5. Citing Section 2 of the Forest (Conservation) Act, 1980 as amended by virtue of the Forest (Conservation) Amendment Act, 1988, a counter affidavit has been filed by the opposite party No.2 by stating that:

"That with regard to the approval under Section 2(iii) of the Forest (Conservation) Act, it is submitted that the proposal received from the State Government has been granted approval by the Ministry of Environment, Forest and Climate Change, New Delhi vide its Letter No.8-73/ 2016-FC, dated 09.01.2017."

Rejoinder affidavit of the petitioner:

6. Strongly opposing the blame put upon it by the opposite parties in delaying the process to obtain necessary clearances to comply with the terms and conditions envisaged in the Letter of Intent dated 23.12.2008, the petitioner submitted that one of the conditions contained in Letter dated 29.02.2008 granting prior approval under Section 5(1) of the MMDR Act was that the applicant was required to obtain statutory clearance under the provisions of the Forest (Conservation) Act, 1980 and Environmental Notification dated 27.01.1994. It is explained that the petitioner submitted a Forest Diversion Proposal under Section 2(ii) of the Forest (Conservation) Act for an area of 41.011 hectares. The process of such grant took considerable length of period at the behest of the Ministry of Environment, Forest and Climate Change. It is only on 09.01.2017 the petitioner was issued with clearance in terms of Section 2(iii) of said Act. The delay cannot be attributed to the petitioner.

Hearing:

7. As the pleadings are complete and this Court as an interim measure *vide* Order dated 16.01.2017 directed not to make provisions of Rule 8(4) of the MC Rules, 2016 applicable *qua* the petitioner(s), respective counsel representing the parties agreed for final hearing of the matter.

7.1. Though on 01.12.2025 the matter was heard, written note of submissions were sought to be filed on 15.12.2025. Having allowed, such notes so filed were directed to be taken on record. For clarification of certain aspects, the case was instructed to be posted on 07.05.2026, on which date final hearing was conducted by the counsel for the parties.

7.2. Sri Pinaki Misra, learned Senior Advocate assisted by Sri Abhisek Agarwal, learned Advocate representing the petitioner and Sri Saswat Das, learned Additional Standing Counsel were heard in the matter.

7.3. Upon conclusion of hearing, the matter stood reserved for preparation and pronouncement of judgment/order.

Consideration of arguments advanced and submissions made by the counsel for respective parties:

8. At the outset it needs to be stated that in the writ application the petitioner has raised many issues including validity and rationality in putting cut-off date, *i.e.,* 11.01.2017 for execution of lease deed *vide* Rule 8(4) of the MC Rules, 2016, nonetheless, at the stage of arguments Sri Pinaki Misra, learned Senior Advocate confined his arguments to the extent of discriminatory treatment meted to the petitioner in not executing mining lease deed on 11.01.2017 despite fulfilment of all the statutory requirements.

9. For convenience relevant statutory provisions which are necessary for the present purpose are reproduced hereunder:

The Mines and Minerals (Development and Regulation) Act, 1957:

"5. Restrictions on the grant of prospecting licences or mining leases.—

(1) A State Government shall not grant a reconnaissance permit, prospecting licence or mining lease to any person unless such person—

(a) is an Indian national, or company as defined in Clause (20) of Section 2 of the Companies Act, 2013 (18 of 2013); and

(b) satisfies such conditions as may be prescribed:

Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation.—

For the purposes of this sub-section, a person shall be deemed to be an Indian national,—

(a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(b) in the case of an individual, only if he is a citizen of India.

(2) No mining lease shall be granted by the State Government unless it is satisfied that—

(a) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;

(b) there is a mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned:

Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.

10A. Rights of existing concession holders and applicants.—

(1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015[6], shall become ineligible.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015:

a. applications received under section 11A of this Act;

b. where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be,—

(i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;

6 Inserted by Section 10 of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 [Act 10 of 2015], with effect from 12.01.2015.

(ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;

(iii) has not become ineligible under the provisions of this Act; and

(iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

c. where the Central Government has communicated previous approval as required under sub-section (1) of Section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Act:

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted under *clause (b) of this subsection except with the previous approval of the Central Government."*

The Minerals (Other Than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016:

"8. Rights under the provisions of clause (c) of sub-section (2) of Section 10A.—

(1) The applicant in whose favour:

(a) the State Government has issued a letter of intent (by whatever name called) in writing before January 12, 2015, for grant of a mining lease for minerals not specified in the First Schedule to the Act; or

(b) the Central Government has communicated the previous approval in writing before January 12, 2015, under sub-section (1) of Section 5, for grant of a mining lease for minerals specified in Part C of the First Schedule to the Act, shall submit a letter of compliance to the State Government, of the conditions mentioned in the letter of intent or the conditions mentioned in the previous approval granted by the Central Government, as the case may be; and the State Government shall send an acknowledgement of receipt of the letter of compliance to the applicant in Schedule II within a period of three days of receipt thereof.

(2) After receipt of letter of compliance under sub-rule (1), the State Government shall issue an order for grant of the mining lease within a period of sixty days from the date of receipt of such letter subject to

verification of fulfilment of the conditions mentioned in the letter of intent or previous approval of the Central Government, as the case may be:

Provided that in case the conditions as mentioned in the

(i) letter of intent issued by the State Government, or

(ii) previous approval granted by the Central Government

are not fulfilled, the State Government shall, after giving the applicant an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant within a period of sixty days from the date of receipt of letter of compliance, refuse to grant a mining lease for non-compliance of conditions mentioned in the letter of intent or the previous approval of the Central Government, as the case may be.

(3) Upon issuance of an order of grant of mining lease under sub-rule (2), the applicant shall:

(a) furnish a performance security to the State Government in the form of a bank guarantee in the format specified in Schedule IV or as a security deposit for an amount equivalent to 0.50% of the value of estimated resources, which may be invoked by the State Government as per the terms and conditions of the Mine Development and Production Agreement, published by the Government of India in the Ministry of Mines, vide Part I, Section-I of the Gazette of India, dated the 2nd

July, 2015, and the mining lease deed. The performance security shall be adjusted every five years to correspond to 0.50% of the reassessed value of estimated resources; and

(b) sign a Mine Development and Production Agreement with the State Government in the format specified by the Central Government after compliance of conditions specified in this sub-rule.

(4) ***Where an order for grant of mining lease has been issued under sub-rule (2), the mining lease shall be executed with the applicant in the format specified in Schedule VII and registered on or before 11th January, 2017, failing which the right of such an applicant under clause (c) of sub-section (2) of Section 10A for grant of a mining lease shall be forfeited and in such cases, it would not be mandatory for the State Government to issue any order in this regard.***

(5) The State Government may, for reasons to be recorded in writing and communicated to the applicant, reduce the area applied for at the time of grant of the mining lease.

(6) The date of the commencement of the period for which a mining lease is granted shall be the date on which a duly executed mining lease deed is registered."

The Forest (Conservation) Act, 1980:

"2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.—

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved:

(ii) that any forest land or any portion thereof may be used for any non-forest purpose.

[7]*[(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;*

(iv) that any forest land or any portion thereof may cleared of trees which have grown naturally in that land portion, for the purpose of using it for reafforestation.]

[8]*[Explanation.—*

For the purpose of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for:

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7 Inserted by the Forest (Conservation) Amendment Act, 1988 [Act 69 of 1988] came into force with effect from 15.03.1989, being notified in the Gazette of India, Extraordinary, 1989 [Notification No.SO188 (E), 15.03.1989].

8 Substituted *ibid.*

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reafforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wild life, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.]

3. Constitution of Advisory Committee.—

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to—

(i) the grant of approval under Section 2; and

(ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government."

10. Referring to Section 10A(2)(c) of the MMDR Act, Sri Saswat Das, learned Additional Government Advocate submitted that two categories of applicants[9] who could be considered for grant of mining lease without auction, subject to specific conditions, namely:

i. those who received a Letter of Intent for grant of the mining lease from the State Government; or

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[9] Paragraph 2 of written note of submissions filed on behalf of the opposite party No.3.

ii. those who had received prior approval from the Central Government for the grant of mining lease.

10.1. These two categories of applicants are required to fulfil all the conditions specified in the Letter of Intent or must be in possession of prior approval of the Central Government under Section 5 of the MMDR Act within two years from 12.01.2015. Exercising power conferred under Section 13 of the MMDR Act, the MC Rules, 2016 have been framed. It is submitted that the mining lease applications pending at the time of commencement of said Amendment Act, *i.e.,* 12.01.2015, lease could be granted subject to fulfilment of conditions stipulated therein.

10.2. Referring to following paragraphs from *Bhushan Power and Steel Limited Vrs. S.L. Seal, Additional Secretary, (Steel and Mines), State of Odisha and Others, (2017) 2 SCC 125*, it was submitted that having not fulfilled conditions the petitioner has rightly been refused grant of the mining lease:

> *"12. It was argued with vehemence that even when under sub-section (1) of Section 10-A, all applications received prior to the date of commencement of the Amendment Act, 2015 have been rendered ineligible, sub-section (2) saves certain kinds of applications.* ***Clause (c) thereof is invoked by the petitioner to submit that in the instant case since "letter of intent" had been issued by the State***

Government to grant a mining lease, the petitioner's application stands protected. *For this purpose, recommendation dated 24.05.2014 is treated as letter of intent by the petitioner, laying emphasis on the words "letter of intent (by whatever name called)". It was, thus, argued that form of letter of intent is not necessary and the substance of the letter had to be seen. It was argued that since the Letter dated 24.05.2014 of the State Government is in the nature of recommendation for grant of lease, it signifies intention to grant the mining lease insofar as the State Government is concerned and, therefore, in substance, it is the letter of intent. It was, thus, argued that under the new regime contained in Section 10-A, approval of the Central Government was not even required and the State Government could have proceeded further and granted the lease.*

16. *Since the State Government had sent the necessary letter of request to the Central Government, direction contained in the judgment dated 14.03.2012 [Bhushan Power & Steel Ltd. Vrs. State of Orissa, (2012) 4 SCC 246] stands complied with. The issue now raised, as reflected and discussed in the earlier portion of this judgment, is whether the application of the petitioner is rendered ineligible in view of Section 10-A of the Act or whether it still survives. We are examining this issue as the petitioner's counsel have argued that the petitioner is eligible to be considered as its application falls in the category carved out by clause (c) of Section 10-A(2) and further that since no approval of the Central Government is required now, the State Government could itself grant the lease. It is argued that failure*

of the State Government amounts to contempt of the orders of this Court.

17. *Undoubtedly, as per sub-section (1) of Section 10-A, all applications received prior to coming into force of the Amendment Act, 2015, become ineligible. Reason for interpreting such a provision is not far to seek. Before the passing of the Amendment Act, 2015, it was the Central Government which had the ultimate control over the grant of licences insofar as mining of major minerals is concerned.* ***As per the procedure then existing, the State Government could recommend the application submitted by any applicant for grant of mining lease to the Central Government and the Central Government was given the power to grant or refuse to grant the approval. Thus, "previous approval" from the Central Government was essential for grant of lease, without which the State Government could not enter into any such lease agreement with the applicant.*** *Shortcomings of this procedure were noticed by this Court in its judgment rendered in Centre for Public Interest Litigation Vrs. Union of India, (2012) 3 SCC 1 (for short "CPIL case") and also in Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1. In these judgments, this Court expressed that allocation of natural resources should normally be by auction. Judgment in Centre for Public Interest Litigation Vrs. Union of India, (2012) 3 SCC 1 had a direct relevance to the grant of mineral concessions as the Government found that it was resulting in multipurpose litigation which was becoming counterproductive. Mining Ordinance, 2015 was passed on 12.01.2015 which was*

ultimately replaced when Parliament enacted the Amendment Act, 2015.

18. *The exhaustive Statement of Objects and Reasons reveals that the extensive amendment in the Act were effected after extensive consultations and intensive scrutiny by the Standing Committee on Coal and Steel, who gave their Report in May 2013. As is evident from the Statement that difficulties were experienced because the existing Act does not permit the auctioning of mineral concessions. It was observed that with auctioning of mineral concessions, transparency in allocation will improve; the Government will get an increased share of the value of mineral resources; and that it will alleviate the procedural delay, which in turn would check slowdown which adversely affected the growth of mining sector.*

19. *The Amendment Act, 2015, as is evident from the objects, aims at: (i) eliminating discretion; (ii) improving transparency in the allocation of mineral resources; (iii) simplifying procedures; (iv) eliminating delay on administration, so as to enable expeditious and optimum development of the mineral resources of the country; (v) obtaining for the Government an enhanced share of the value of the mineral resources; and (vi) attracting private investment and the latest technology.*

20. *The Amendment Act, 2015 ushered in the amendment of Sections 3, 4, 4-A, 5, 6, 13, 15, 21 and First Schedule; substitution of new sections for Sections 8, 11 and 13; and, insertion of new Sections 8-A, 9-B, 9-C, 10-A, 10-C, 11-B, 11-C, 12-A, 15-A, 17-A, 20-A, 30-B, 30-C and Fourth Schedule.*

21. *These amendments brought in vogue : (i) auction to be the sole method of allotment; (ii) extension of tenure of existing lease from the date of their last renewal to 31.03.2030 (in the case of captive mines) and till 31.03.2020 (for the merchant miners) or till the completion of renewal already granted, if any, or a period of 50 years from the date of grant of such lease; (iii) establishment of District Mineral Foundation for safeguarding interest of persons affected by mining related activities; (iv) setting up of a National Mineral Exploration Trust created out of contributions from the mining lease-holders, in order to have a dedicated fund for encouraging exploration and investment; (v) removal of the provisions requiring "previous approval" from the Central Government for grant of mineral concessions in case of important minerals like iron ore, bauxite, manganese, etc. thereby making the process simpler and quicker; (vi) introduction of stringent penal provisions to check illegal mining prescribing higher penalties up to Rs 5 lakhs per hectare and imprisonment up to 5 years; and (vii) further empowering the State Government to set up Special Courts for trial of offences under the Act.*

22. *Newly inserted provisions of the Amendment Act, 2015 are to be examined and interpreted keeping in view the aforesaid method of allocation of mineral resources through auctioning, that has been introduced by the Amendment Act, 2015. Amended Section 11 now makes it clear that the mining leases are to be granted by auction.* ***It is for this reason that sub-section (1) of Section 10-A mandates that all applications received prior to 12-1-2015 shall become ineligible.*** *Notwithstanding,*

sub-section (2) thereof carves out exceptions by saving certain categories of applications even filed before the Amendment Act, 2015 came into operation. ***Three kinds of applications are saved****:*

22.1. First, applications received under Section 11-A of the Act. Section 11-A, under new avatar is an exception to Section 11 which mandates grant of prospecting licence combining lease through auction in respect of minerals, other than notified minerals. Section 11-A empowers the Central Government to select certain kinds of companies mentioned in the said section, through auction by competitive bidding on such terms and conditions, as may be prescribed, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite. Unamended provision was also of similar nature except that the companies which can be selected now for this purpose under the new provision are different from the companies which were mentioned in the old provision. It is for this reason, if applications were received even under unamended Section 11-A, they are saved and protected, which means that these applications can be processed under Section 11-A of the Act.

22.2. Second category of applications, which are kept eligible under the new provision, are those where the reconnaissance, permit or prospecting licence had been granted and the permit-holder or the licensee, as the case may be, had undertaken reconnaissance operations or prospecting operations. The reason for protecting this class of applicants, it appears, is that such applicants, with hope to get the licence, had *altered their position by spending lot of money on reconnaissance operations or prospecting operations. This category, therefore, respects the principle of legitimate expectation.*

22.3. ***Third category is that category of applicants where the Central Government had already communicated previous approval under Section 5(1) of the Act for grant of mining lease or the State Government had issued letter of intent to grant a mining lease before coming into force of the Amendment Act, 2015. Here again, the raison dêtre is that certain right had accrued to these applicants inasmuch as all the necessary procedures and formalities were complied with under the unamended provisions and only formal lease deed remained to be executed*.**

22.4. *It would, thus, be seen that in all the three cases, some kind of right, in law, came to be vested in these categories of cases which led Parliament to make such a provision saving those rights, and understandably so.*

23. *Here, the petitioner seeks to cover its case under the third category with the plea that insofar as the State Government is concerned, it had issued "letter of intent".* ***The petitioner is treating Letter dated 24.05.2014, which was sent by the State Government to the Central Government with a request to the Central Government to give its approval for grant of mineral concessions, as the "letter of intent".*** *It is in this hue, the submission is that the intention behind the said letter is to be seen even if it is not termed as "letter*

of intent" and this argument is predicated on the words "by whatever name called".

24. *No doubt, having regard to the words "by whatever name called", the expression "letter of intent" is to be given wider connotation. It means that nomenclature of the letter would not be the determinative factor. It is the substantive nature of the letter in question that would determine as to whether it can be treated as the letter of intent. For this purpose, it is first necessary to find the meaning that has to be attributed to the term "letter of intent". As per the legal dictionary, "letter of intent" is a document that described the preliminary understanding between the parties who intend to make a contract or join together in another action. This term has come up for interpretation on few occasions before this Court.*

25. *In Rishi Kiran Logistics (P) Ltd. Vrs. Kandla Port Trust, (2015) 13 SCC 233, relying upon an earlier decision, this Court held that a letter of intent merely indicates a party's intention to enter into a contract with other party in future, as can be seen from the following para 43 thereof, which reads as under:*

> *'43. At this juncture, while keeping the aforesaid pertinent features of the case in mind, we would take note of "the Rules and Procedure for Allotment of Plots" in question issued by Kandla Port Trust. As per Clause 12 thereof the Port Trust had reserved with itself right of acceptance or rejection of any bid with specific stipulation that mere payment of EMD and offering of premium will not confer any right or interest in favour of the bidder for allotment of land. Such a right to reject the bid could be*

exercised "at any time without assigning any reasons thereto". Clause 13 relates to "approvals from statutory authorities", with unequivocal assertion therein that the allottees will have to obtain all approvals from different authorities and these included approvals from CRZ as well. As per Clause 16, the allotment was to be made subject to the approval of Kandla Port Trust Board/competent authority. In view of this material on record and factual position noted in earlier paragraphs we are of the opinion that observations in Dresser Rand S.A. Vrs. Bindal Agro Chem Ltd., (2006) 1 SCC 751 would be squarely available in the present case, wherein the Court held that:

'39. … a letter of intent merely indicates a party's intention to enter into a contract with the other party in future. A letter of intent is not intended to bind either party ultimately to enter into any contract. …

40. It is no doubt true that a letter of intent may be construed as a letter of acceptance if such intention is evident from its terms. It is not uncommon in contracts involving detailed procedure, in order to save time, to issue a letter of intent communicating the acceptance of the offer and asking the contractor to start the work with a stipulation that the detailed contract would be drawn up later. If such a letter is issued to the contractor, though it may be termed as a letter of intent, it may amount to *acceptance of the offer resulting in a concluded contract between the parties. But the question whether the letter of intent is merely an expression of an intention to place an order in future or whether it is a final acceptance of the offer thereby leading to a contract, is a matter that has to be decided with reference to the terms of the letter.'*

When the LoI is itself hedged with the condition that the final allotment would be made later after obtaining CRZ and other clearances, it may depict an intention to enter into contract at a later stage. *Thus, we find that on the facts of this case it appears that a letter with intention to enter into a contract which could take place after all other formalities are completed. However, when the completion of these formalities had taken undue long time and the prices of land, in the interregnum, shot up sharply, the respondent had a right to cancel the process which had not resulted in a concluded contract.'*

[See also Rajasthan Coop. Dairy Federation Ltd. Vrs. Maha Laxmi Mingrate Mktg. Service (P) Ltd., (1996) 10 SCC 405]

26. ***Applying the aforesaid meaning, can it be said that Letter dated 24.05.2014 of the State Government would constitute a letter of intent?*** *We are afraid, answer has to be in the negative. Reason is simple. As mentioned above, in order to enable the State Government to enter into any lease* *agreement/contract with the prospecting licensee, "previous approval" of the Central Government was essential. Unless such approval came, the State Government could not communicate to the prospecting licensee/lessee its intention to enter into any contract as the prerequisite prior approval would be lacking. Therefore, no promise could be held by the State Government to any applicant showing its intention to enter into a contract in the future. Position would have been different had Letter dated 24.05.2014 been issued after receiving previous approval of the Central Government. However, that is not so. This letter to the Central Government was only recommendatory in nature and ultimate decision rested with the Central Government. It is a different thing if the Central Government refuses to give its approval on any extraneous reasons or mala fides or does not take into consideration relevant factors/material while rejecting the application, which may form a different cause of action and may become a reason to challenge the action of the Central Government rejecting the application on the grounds that are available in law to seek judicial review of such an action. However, we are not dealing with that situation in the instant case. Our discussion is confined to the plea raised before us viz. whether Letter dated 24.05.2014 can be termed as "letter of intent". For the reasons stated above, we are of the view that it was not a letter of intent. The application of the petitioner, therefore, would not be covered by clause (c) of Section 10-A of the Act.*

27. We are conscious of the fact that the petitioner herein had originally succeeded in the appeal *inasmuch as judgment dated 14.03.2012 was rendered giving direction to the State Government to recommend the case of the petitioner, in terms of the MoU entered into between the parties, to the Central Government. This was not done and the decision was reiterated in orders dated 22.04.2014 passed in Bhushan Power and Steel Ltd. Vrs. Rajesh Verma, (2014) 5 SCR 493. It is possible that had the State Government acted promptly and sent the recommendations earlier, the Central Government might have accorded its approval. However, whether it could have done so or not would be in the realm of conjectures. Insofar as the Central Government is concerned, no direction was ever given by this Court. On the contrary, it was categorically observed in the order dated 22.04.2014 in Bhushan Power and Steel Ltd. Vrs. Rajesh Verma that it would be for the Central Government to consider the recommendations of the State Government on its own merits and in accordance with law. If that has not been done by the Central Government, it cannot be the subject-matter of present contempt petition."*

10.3. In the present set of facts, there is no dispute that upon consideration of the application of the petitioner, the State Government recommended the case for prior approval of the Central Government and the latter approved invoking Section 5(1) and Section 11(5) of the MMDR Act read with sub-rules (1) and (2) of Rule 59 of the Mineral Concession Rules, 1960. Of course, such approval was hedged with certain conditions which were required to be fulfilled.

10.4. It may be significant to take note of following observations contained in *State of West Bengal Vrs. Chiranjilal (Mineral) Industries of Bagandih and Others, (2023) 12 SCR 277*:

"8. The Respondent No.1-M/s. Chiranjilal (Mineral) Industries of Bagandih has relied upon judgment of this Court in Bhushan Power and Steel Limited Vrs. S.L. Seal, Additional Secretary (Steel and Mines), State of Odisha and Others, (2017) 2 SCC 125. In the said case, the predecessor-in-interest of the petitioner therein had made an application for grant of lease before the State of Odisha for mining of Iron Ore in an area measuring 1250 acres. The application was in view of the proposal to set up a steel plant in the district of Sambalpur, Odisha. The rejection for the grant of the mining lease to M/s. Bhushan Power and Steel Limited was challenged in a Writ Petition in the High Court, which was dismissed, but the appeal preferred before this Court was allowed vide judgment dated 14.03.2012 in Bhushan Power and Steel, Limited and Others Vrs. State of Orissa and Another, (2012) 4 SCC 246, setting aside the order of the State Government dated 09.02.2016, with the following directions:

'41. In the light of the above, the High Court erred in holding that it could not interfere with the decision of the State Government calling upon the appellants to sign a fresh MoU with the Government, during subsistence of the earlier MoU. Since the State Government has already made allotments in favour of others in relaxation of the Mineral Concession Rules,

1960, under Rule 59(2) thereof, no cogent ground had been made out on behalf of the State to deny the said privilege to the appellants as well. Accordingly, we allow the appeal and set aside the judgment and order of the High Court of Orissa and also the decision of the State Government dated 09.02.2006, rejecting the appellants' claim for grant of mining lease.

42. During the course of hearing, we have been informed that Thakurani Block A has large reserves of iron ore, in which the appellants can also be accommodated. We, accordingly, direct the State of Orissa to take appropriate steps to act in terms of the MoU dated 15.05.2002, as also its earlier commitments to recommend the case of the appellants to the Central Government for grant of adequate iron ore reserves to meet the requirements of the appellants in their steel plant at Lapanga.'

9. The State of Odisha thereafter filed an application for review of the judgment in *Bhushan Power and Steel Limited and Others Vrs. State of Orissa and Another, (2012) 4 SCC 246* which was rejected vide order dated 11.09.2012.

10. Alleging non-compliance and in-action of the judgment dated 14.03.2012, a contempt petition was filed by M/s. Bhushan Power and Steel Limited. The contempt petition was contested by the State of Odisha on several grounds, including that the judgment dated 14.03.2012 is incapable of enforcement, for which reliance was placed on a subsequent judgment of this Court in Sandur

Manganese and Iron Ores Ltd. Vrs. State of Karnataka, (2010) 13 SCC 1. This stand did not find favour with this Court and the officers of the State Government were found to be in contempt of the judgment dated 14.03.2012 vide judgment dated 22.04.2014 in Bhushan Power and Steel Limited Vrs. Rajesh Verma, (2014) 5 SCC 551. Under these circumstances, the judgment dated 22.04.2014 had given one more opportunity to the State Government to send requisite recommendation to the Central Government inter alia observing that this Court cannot lose sight of the fact that there is a judgment inter se the parties, which has become final. Accordingly, the contention that the judgment of this Court in Sandur Manganese and Iron Ores Limited (supra) will not undo the directions given in the judgment dated 14.03.2012 was rejected. The relevant observations in the judgment dated 22.04.2014 read as under:

'21. We cannot lose sight of the fact that there is a judgment, inter partes, which has become final. Even when the civil appeal was being heard, certain other parties claiming their interest in these very lands had moved intervention applications which were dismissed. At that time also it was mentioned that there are 195 applicants. However, notwithstanding the same, this Court issued firm directions to the State Government to recommend the case of the petitioners for mining lease in both the areas. In view of such categorical and unambiguous directions given in the judgment which has attained finality, merely because another judgment has been delivered by this Court in

Sandur Manganese case, cannot be a ground to undo the directions contained in the judgment dated 14.03.2012. Insofar as law laid down in Sandur Manganese is concerned, that may be applied and followed by the State Government in respect of other applications which are still pending. However, that cannot be pressed into service qua the petitioner whose rights have been crystallised by the judgment rendered in its favour. It cannot be reopened, that too at the stage of implementation of the said judgment.

22. … Once we hold that the respondents are bound to implement the direction contained in the judgment dated 14.03.2012, insofar as the State Government is concerned, it is obliged to comply therewith and such matters, along with other relevant considerations, can be left to the wisdom of the Central Government while taking a decision on the recommendation of the State Government.

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24. … However, we are giving one final opportunity to them to purge the contempt by transmitting requisite recommendations to the Central Government. It would be for the Central Government to consider the said recommendations on its own merits and in accordance with law. In case the recommendation is sent within one month from the date of copy of receipt of this order, we propose not to take any further action and the respondents/contemnors shall stand *discharged from this contempt petition. However, in case the respondents do not purge in the manner mentioned above, it would be open to the petitioners to point out the same to this Court by moving appropriate application and in that event the contemnors shall be proceeded against.'*

11. *Consequent to the directions dated 22.04.2014, the State Government had sent the requisite recommendation to the Central Government for grant of mining lease of the area in question. The Central Government, however, took the stand that having regard to the amendments in the MMDR Act, 1957, vide the Amendment Act, 2015 introducing Section 10-A, the request made by M/s Bhushan Power and Steel Limited stands invalidated. In view of the aforesaid stand, the Central Government had written letters to the State Government, with a copy sent to M/s Bhushan Power and Steel Limited. In the letter dated 13.05.2015, the Central Government had stated that the proposal for according the prior approval for grant of mineral concession was ineligible in terms of sub-section (1) to Section 10-A of the MMDR Act, 1957 and, therefore, should be treated as closed. However, the State Government might ascertain whether the proposal was safe from ineligibility under Section 10-A of the MMDR Act, 1957 and thereupon the State Government could take action accordingly. Similar view was also expressed by the Central Government in the letter dated 29.05.2015 therein. Consequent to these communications, the State Government vide letter dated 09.07.2015 had informed M/s Bhushan Power and Steel Limited that their applications for*

grant of mining lease had become ineligible as per sub-section (1) to Section 10-A of the MMDR Act, 1957.

12. ***This Court in M/s Bhushan Steel and Power Limited, (2012) 4 SCC 246 specifically examined the contention whether in the facts of the said case, clause (c) to sub-section (2) to Section 10-A of the MMDR Act, 1957 could be invoked in view of the contention raised by M/s Bhushan Steel and Power Limited that the Letter of Intent was issued by the State Government for grant of mining lease and, therefore, their application stands protected. The submission was that the recommendation dated 24.05.2014, given by the State Government should be treated as a Letter of Intent by "whatever name called", as it signifies the intention to grant mining lease insofar as the State Government is concerned.*** *It was also argued that under the new regime contained under Section 10-A of the MMDR Act, 1957, approval of the Central Government was not even required and the State Government could have proceeded further and granted the lease.*

13. ***The aforesaid arguments did not find favour of this Court in the case of M/s Bhushan Steel and Power Limited (supra) in spite of the earlier judgment of this Court dated 14.03.2012 and the order passed in the contempt petition dated 22.04.2014 with the observations therein that there was failure of the State Government to comply with the directions.*** *This*

Court rejected the submissions in M/s Bhushan Steel and Power Limited (supra) and held as under:

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14. *Thus, the object and purpose of the Amendment Act, 2015 is to ensure that allocation of mineral resources is done through auctioning. This is the reason why sub-section (1) to Section 10-A of the MMDR Act, 1957 mandates that all applications received prior to 12.01.2015 shall become ineligible. The exceptions or the saving clause applies to three kinds of situations specified in sub-section (2) to Section 10-A of the MMDR Act. 1957. The first category is where an application has been received under Section 11-A of the MMDR Act, 1957. The second category is where a reconnaissance permit or a prospecting licence has been granted the permit holder or the licensee has the right to obtain a prospecting licence followed by a mining lease and the State Government is satisfied that the permit holder or the licensee has complied with the requirements specified in sub-clauses (i) to (iv) of clause (b) of sub-section (2) to Section 10-A of the MMDR Act, 1957. The reason for protecting this class of cases is on account of the fact that they had altered their position by spending money on reconnaissance operations or prospecting operations. Accordingly, the principle of legitimate expectation is applied. The third category is where the Central Government had already communicated their previous approval or the State Government had issue Letter of Intent for grant of mining lease before coming into force of the Amendment Act 2015. The raison dêtre, it is observed therein, is that certain*

rights had accrued to these applicants inasmuch as all necessary procedures and formalities had been complied with and only formal lease remains to be executed.

15. *Delving on the question of whether the letter for approval dated 22.05.2014 granted by the State Government can be treated as a Letter of Intent predicated on the words by whatever name, which expression, it was submitted, should be given a broad interpretation in view of the words 'by whatever name called' was examined in-depth and in detail.* ***Reference was made to the legal dictionary for the meaning of the term 'Letter of Intent' as a preliminary understanding between the parties who intend to make a contract or join together for further action.*** *Reference was also made to decisions of this Court in Rishi Kiran Logistics Private Limited Vrs. Board of Trustees of Kandla Port Trust and Others, (2015) 13 SCC 233 and Rajasthan Cooperative Dairy Federation Limited Vrs. Maha Laxmi Mingrate Marketing Service Private Limited and Others, (1996) 10 SCC 405. ****

16. *The aforesaid judgment is relevant for our purpose, though in the present case, post Notification No. S.O. 423(E) dated 10.02.2015, Dolomite was notified as a minor mineral and hence, the approval of the Central Government was not required for the reason that the Grant Order dated 16.07.2015 was hedged with pre-conditions, including the requirement to submit consent letters of the owners of the land in question (Raiyats) before the execution of the lease deed, or there was to be a stipulation that a condition to this*

effect would be incorporated in the draft lease. Therefore, in our opinion, the Grant Order dated 16.07.2015 is provisional, and is subject to fulfilment of the conditions therein.

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21. During the course of arguments before us, reference was made by the appellants to the provisions of the West Bengal Land Reforms Act, 1955 and the judgment of this Court in Thressiamma Jacob and Others Vrs. Geologist, Department of Mining and Geology and Others, (2013) 9 SCC 725. We have not examined the said aspects which are left open and not adjudicated upon. However, we deem it appropriate to observe that the judgment of this Court in Thressiamma Jacob and Others (supra) is prior to the enforcement of the Amendment Act, 2015 and the Concession Rules, 2016. ***The amendments made by the Amendment Act, 2015 were not subject matter of decision in the said case and would have to be considered by the courts and the authorities as a judgment's binding ratio depends upon the legal provisions considered, interpreted and applied in a given judgment. When the law changes by an amendment in the legislation, the amended legal provisions have to be considered, interpreted and applied****."*

10.5. It is apposite to say that having got the approval of the Government of India, Ministry of Mines *vide* Letter No.5/111/2008-M.IV, dated 29.09.2008 (Annexure-1) stipulating condition to ensure compliance of amended provisions of the MMDR Act and the Rules framed thereunder and other applicable Acts and Rules including the Forest (Conservation) Act, 1980 and the Environmental Notification dated 27.01.1994 as issued and amended by MoEF, and the Letter bearing No.8556-III(A)SM 46/2002, dated 23.12.2008 (Annexure-2) issued by the State Government specifying conditions therein for compliance, the applicant (petitioner) confirmed the same by accepting terms and conditions embodied in said letters for grant of mining lease for iron ore over an area of 45.131 hectares in village: Kundaposi in the District of Keonjhar. Upon taking all the necessary steps, it was granted the approval by the Central Government under Section 2(iii) of the Forest (Conservation) Act, 1980 over an area of 45.029 hectares of forest land within total mining lease area of 45.131 hectares pertaining to iron ore mining lease in the said village subject to conditions (see, Letter F. No.8-73/2016-FC, dated 09.01.2017 available at Annexure-12) in consonance with Guidelines, as amended/ modified from time to time including the Ministry of Mines Order dated 04.01.2017 *vide* F.No.7/1/2016-M.IV (Part-1), titled "the Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017" (for brevity, Removal of Difficulties Order"). Upon receipt of such approval the petitioner deposited amount of Net Present Value on 10.01.2017 (Annexure-13) and furnished compliance report on 10.01.2017.

11. Sri Pinaki Misra, learned Senior Advocate appearing for the petitioner referring to the Mines and Minerals (Development and Regulation) Act, 1957 as amended by virtue of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 emphasised that there has been paradigm shift from "grant of lease" to "auction regime". Therefore, necessary amendments have been brought not only in the statute but also the Rules framed thereunder. Nevertheless, he would emphatically submit that the cut-off date which has been fixed for execution of mining lease deed, *i.e.,* 11.01.2017 inasmuch as the Mines and Minerals (Development and Regulation) Amendment Act, 2015 came into force with effect from 12.01.2015, has no rational bearing. He would submit that since the petitioner has complied with all the necessary terms and conditions put upon in the Letter of Intent dated 23.12.2008 issued by the State Government read with the prior approval of the Central Government in terms of Section 5 of the MMDR Act *vide* Letter dated 29.09.2008 prior to said cut-off date, that is on 10.01.2017, which fact was duly communicated to proper quarters on this date, instead of going ahead with the execution of the lease deed on 11.01.2017, the petitioner could not be discriminated *vis-à-vis* other similarly situated person/entities. Therefore, while not pressing for the consideration of the present matter with regard to attack on the *vires* of Rule 8(4) of the MC Rules, 2016, he advanced arguments based on protection postulated in Article 14 of the Constitution of India.

11.1. Sri Pinaki Misra, learned Senior Advocate has taken this Court to Letter of Intent of the Government of Odisha in Department of Steel and Mines issued way back on 23.12.2008 (Annexure-2) to contend that pursuant to Government of India in Ministry of Mines Letter dated 29.09.2008 (Annexure-1) according approval under Section 5(1) of the MMDR Act invoking provisions of Section 11(5) of said Act read with Rule 59 of the Mineral Concession Rules, 1960, such Letter of Intent contained certain terms and conditions including requirement of obtaining statutory clearance under the Forest (Conservation) Act, 1980.

11.2. Dates and events indicates the following facts:

i. Mining plan was approved on 24.08.2009 by the Indian Bureau of Mines, Office of the Regional Controller of Mines subject to conditions.

ii. Collector issued Certificate on 24.11.2010 indicating compliance under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006.

iii. On 14.01.2013 the State Environment Impact Assessment Authority (SEIAA), Odisha sought for authentic copy of Stage-I Forest Clearance for issue of Environmental Clearance.

iv. Guidelines were issued frequently in quick succession with change in procedures. Such Guidelines were issued on 01.04.2015, 19.10.2015, 16.11.2016 and 17.11.2016. Though the amendment of the MMDR Act came into force with effect 12.01.2015 with stipulation of two years from the date of commencement of said Amendment Act for grant of mining lease, an Inter-Departmental Committee constituted by the Government of Odisha in Steel and Mines Department *vide* Notification No.2507-IV(AB)SM-10/2010/SM, dated 19.03.2015 was vested with power by Notification bearing No.3736-III(A)SM-29/1998, dated 07.05.2016 to examine all proposals for grant of mining lease under clauses (b) and (c) of sub-section (2) of Section 10A of the MMDR Act and make recommendation to the Government.

v. Even while pending consideration of the online application of the petitioner which was submitted in view of amended Guidelines, notwithstanding earlier one being pending, the Ministry of Mines by

Order dated 04.01.2017 [*vide* F. No.7/1/2016-M.IV (Part-1)] clarified as follows:

"Ministry Mines
Order
New Delhi, the 4th January, 2017

S.O.27(E).—

Whereas difficulties have arisen in giving effect to the provisions of clause (c) sub-section (2) of Section 10A of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), insofar as it relates to fulfilment of conditions laid in the letter of intent (by whatever name called) issued by the State Governments within a period of two years from the date of commencement of the said Act.

Now, therefore, in exercise of the powers conferred by the sub-section (1) of Section 24 of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), the Central Government hereby makes the following order to remove the difficulties relating to fulfilment of conditions laid in the letter of intent, namely:

1. Short title and commencement.—

(1) This order may be called the Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Environmental Clearance.—

Notwithstanding anything contained in clause (c) of sub-section (2) of Section 10A of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), it is clarified that where the condition of obtaining environmental clearance has not been complied with by the applicant on or before 11 th January, 2017, but all other conditions specified in previous approval or the letter of intent have been fulfilled, the applications shall be considered under that section and mining lease shall be granted by the concerned State Governments in accordance with the notifications issued under the Environment (Protection) Act 1986) (29 of 1986):

Provided that no mining activity shall commence unless and until the applicant obtain Environmental Clearance as laid down under the Environment (Protection) Act, 1986 and the rules made thereunder."

vi. The present context is relatable to Section 10A(2)(c) which indicates on a bare reading that the mining lease shall be granted subject to fulfilment of conditions of previous approval of the Central Government or the Letter of Intent within a period of two years from the date the Mines and Minerals (Development and Regulation) Amendment Act, 2015 came into force, *i.e.*, 12.01.2015. This would mean that the fulfilment of conditions by an applicant as instructed in the Letter concerning prior approval of Government of India in Ministry of Mines Letter dated 29.09.2008 or in the Letter of Intent of the Government of Odisha in Department of Steel and Mines issued in Letter dated 23.12.2008 ought to be on or before 11.01.2017. The provisions of Section 10(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules makes it abundantly clear that such cut-off date is non-negotiable.

vii. Order of the Government of India, Ministry of Environment, Forest and Climate Change (Forest Conservation Division) in F. No.3-1/2016-FC, dated 10.10.2016 reconstituted the Forest Advisory Committee in exercise of power conferred under Section 3 of the Forest (Conservation) Act, 1980. The Forest Advisory Committee postponed its meeting *vide* Office Memorandum F.No.11-91/2012-FC, dated 09.12.2016.

viii. Order of the Ministry of Mines dated 04.01.2017 merely provides for obtaining the Environment Certificate subsequently where it could not be obtained on or before 11.01.2017. Nevertheless, said order clearly lays down that no mining activity shall commence until the applicant obtains the Environment Clearance Certificate as laid down under the Environment (Protection) Act, 1986 and

Rules, retaining such mandatory requirement to obtain the Environment Clearance.

ix. The minutes of the meeting held on 10.05.2016 at the Ministry of Mines *inter alia* reveals as follows:

"A meeting to expedite the pending mining lease cases saved under Section 10A(2)(c) was held under the Chairmanship of Union Secretary (Mines) on 10th May, 2016 at 12 AM at Aluminium Rood, 101-D, Shastri Bhavan, New Delhi, 110001. The list of participants of the meeting is given in Annexure-1.

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5. Further, the Union Secretary (Mines) desired that a pro forma be circulated to all State Governments for obtaining a uniform status of the saved cases under Section 10A(2)(c) with the request to complete the data, so that the consolidated list of pending clearances from Ministry of Environment, Forest and Climate Change and Indian Bureau of Mines may be expedited, within prescribed time limit. The pro forma has been circulated and the same is given in Annexure-III."

11.3. The sequel of events depicts that it is the authorities/ opposite parties who have delayed the consideration of Environment Clearance and Forest Clearance. It emanates from paragraph 10 of the counter affidavit of Government of Odisha in Steel and Mines Department that:

"That, the petitioner is not eligible for grant of mining lease in terms of Section 10A(2)(c) of MMDR Act and Rule 8 of the MC Rules, 2016 for the following reasons:

(i) The applicant has not submitted any compliance letter in time as required under Rule 8(1) of the MC Rules, 2016 for consideration of his case for issuing the letter of grant of mining lease to him.

(ii) The applicant has obtained forest clearance as required under the provisions of Section 2(iii) of the Forest Conservation Act, 1980, which is a pre-condition for grant of a mining lease only on 09.01.2017 and submitted on 10.01.2017 late after-noon.

(iii) The mining lease application has thus become ineligible for consideration and letter of intent/previous approval under Section 5 of the MMDR Act have become invalid for consideration."

11.4. The reasons so ascribed for attributing the petitioner's laches in obtaining the necessary clearance from competent Department of the Government could not persuade this Court to accede to the contention of the learned Additional Government Advocate.

11.5. Careful scrutiny of the documents enclosed with the writ petition would demonstrate that all the conditions were fulfilled including approval under Section 2(iii) of the Forest (Conservation) Act, 1980. The approval found mentioned in Letter dated 09.01.2017 issued by the Ministry of Environment, Forest and Climate Change has been issued in consideration of State Government Letter No.10F(Con) 138/2016/23789/F&E, dated 20.12.2016. Such approval further seems to have been issued after clarification in Removal of Difficulties Order dated 04.01.2017 being issued by the Ministry of Mines.

11.6. From the aforesaid discussions it is not apt to say that the delay or laches could be attributed to the petitioner. Examination of claim of the petitioner and recommendation of the State Government being the domain of the Central Government, knowing fully well that there was frequent changes in modalities for making application and scrutiny of contents thereof during 2015-17, at the fag end (*i.e.,* 04.01.2017) the Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017 was issued, and it was also well within knowledge of all concerned that the cut-off date was fixed on 11.01.2017 for execution of lease deed. However, after receipt of Letter dated 09.01.2017 according approval under Section 2(iii) of the Forest (Conservation) Act, 1980, the petitioner took immediate step on the very next date *i.e.,* 10.01.2017 by making deposit of Net Present Value (Annexure-13) and submitting compliance report.

11.7. A stance is taken by the learned Additional Government Advocate that as the petitioner furnished compliance report at the last moment on 10.01.2017, due to paucity of time the lease deed could not be prepared and executed. It is interesting to notice counter affidavit filed on behalf of the opposite party No.2, Ministry of Environment, Forest and Climate Change. Referring to history of legislation, reproducing Section 2 of the Forest (Conservation) Act, 1980, it is only asserted at paragraph 9 of the counter affidavit that proposal received from the State Government has been granted approval by the Ministry of Environment, Forest and Climate Change, New Delhi *vide* Letter dated 09.01.2017. The opposite party No.3 also made it clear that the stand of the petitioner at paragraph 5(H) of the writ petition needs no reply. None of the counter affidavit does show any explanation with respect to the fact stated at paragraph 5(H) of the writ petition, which is as follows:

"That on 17.06.2011, the DFO Keonjhar forwarded the proposal to RCCF (Rourkela) after verifying the Forest Diversion Proposal of the petitioner No.1-Company. Finally on 11.04.2014, the Government of Odisha, Forest & Environment Department forwarded the proposal of the petitioner No.1 to the MoEF. Thereafter, on 30.05.2014, the MoEF scrutinizing the proposal, forwarded the same to the Forest Appraisal Committee. It is submitted that the proposal of the petitioner No.1 for diversion of 41.01 hectares of forest land under Section 2(ii) of the Forest Conservation Act, 1980 is pending with the MoEF."

11.8. No reply is proffered by the said opposite party No.3 as to why the approval could be accomplished on 09.01.2017 though it was within its knowledge that time-frame is stipulated in the Mines and Minerals (Development and Regulation) Amendment Act, 2015. It is not out of place to have reference to Letter dated 31.10.2016 addressed to Principal Secretary, Department of Steel and Mines, Government of Odisha (Annexure-24), whereby the petitioner candidly intimated that *"The Forest Appraisal Committee after detailed deliberations recommended that decision on the proposal involving diversion of large area of forest land for execution of a fresh mining lease may be deferred till completion of the carrying capacity study proposed to be undertaken by Ministry of Environment, Forest and Climate Change"*. As it has already been mentioned in the foregoing paragraphs there were very many Guidelines issued by the Ministry concerned and the last such clarification in the form of the Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017 was issued only on 04.01.2017. It is thereafter within five days of such Order, the approval under Section 2(iii) of the Forest (Conservation) Act, 1980 was accorded.

11.9. The petitioner enclosing all necessary documents submitted a representation under the Subject

"Compliance Report with respect to grant proceeding vide Letter No.III(A)SM 46/02/8556/SM, BBSR, dated 23.12.2008 and Memo No.897/SM, BBSR, dated 04.02.2009" with request to issue lease execution order. Said representation dated 10.01.2017 addressed to the Principal Secretary to Government of Odisha in Department of Steel and Mines, was received in the Office of the Secretary, Steel and Mines Department. A letter indicating compliance of all the requirements has been filed in the Office of Divisional Forest Officer, Keonjhar Division, on 11.01.2017.

11.10. It is not the case of the opposite parties that the petitioner did not comply with the conditions envisaged for execution of lease deed. It is the allegation of the opposite parties that the compliance report was received by them at late hours of 10.01.2017 just before the last date, *i.e.,* 11.01.2017.

11.11. The petitioner having complied with all such terms and conditions including deposit of Net Present Value and approval under Section 2(iii) of the Forest Conservation Act, 1980 (see, Annexures-12, 13 and 14), in the considered view of this Court, the Government of Odisha should have been more pragmatic than pedantic in its approach, particularly when it could execute many lease deeds on a single day, *i.e.,* 11.01.2017 with respect to others. Save and except receipt of compliance report "late afternoon", no explanation is offered by the opposite parties as to why the petitioner was discriminated.

12. It is in the wake of aforesaid factual scenario and legal position, Sri Pinaki Misra, learned Senior Advocate pressed into service provisions of Article 14 of the Constitution of India by demonstrating that to the information of the petitioner sixteen numbers of mining leases with respect to major minerals pertaining to Section 10A(2)(c) of the MMDR Act were executed and registered on a single day, *i.e.,* 11.01.2017 (See, Annexure-1 to the written note of submission dated 15.12.2025). Amongst them, to illustrate, he categorically wished to demonstrate the case of Sree Metaliks Ltd., whose facts and circumstances are akin to that of the petitioner.

12.1. Referring to Annexure-31 enclosed with the Additional Affidavit dated 11.09.2025 (filed on 15.09.2025) emphasis is laid on the date of execution of Mining Lease Deed in specified format in Schedule VII (See Rules 7(11), **8(4)**, 9(2), 12(1)(d) of the MC Rules, 2016. It is submitted that the lease deed was not only executed on 11.01.2017 between the Governor of Odisha acting through the Department of Steel and Mines, Government of Odisha signed by the Collector, Keonjhar (Lessor) and the Sree Metaliks Ltd. (Lessee) and registered on the very same date. To further clarify the position with the similarity between Sree Metaliks Ltd. and the instant petitioner, the submission of learned Senior Counsel proceeded to state that said Sree Metaliks Ltd. also got approval under Section 2(iii) of the Forest Conservation Act, 1980 on 10.01.2017, *i.e.,* one day prior to 11.01.2017. He stated that rather the petitioner was on better footing.

12.2. Sri Saswat Das, learned Additional Government Advocate as against the plea taken by the petitioner in the Rejoinder Affidavit that discrimination has been caused to it as it is similarly circumstanced in comparison to the facts of Sree Metaliks Ltd., submitted that Article 14 of the Constitution of India emphasises equality before law which is subject to reasonable restriction. In other words, the fundamental right are subject to reasonable restriction. The reasonable restriction is apparent under the provisions envisioned under 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016. The petitioner cannot claim equity *vis-a-vis* operation of law as constricted under sub-rule (4) of Rule 8 of the MC Rules, 2016. The claim of the petitioner is hit by negative equality. Merely because the lease deed could be timely executed with Sree Metaliks Ltd. it is with vehemence urged that non-execution of lease deed in favour of the petitioner cannot be agitated as a matter of right by comparing with the facts of said company. It is arduously contended that it does not cast an obligation on the State Government to execute the lease deed in favour of the petitioner contrary to the conditions with cut-off date laid down in Section 10A(2)(c) of the MMDR Act read with sub-rule (4) of Rule 8 of the MC Rules.

12.3. Sri Saswat Das, learned Additional Government Advocate stemmed on following observations of the Hon'ble Supreme Court of India made in *R. Muthukumar Vrs. Chairman and Managing Director, TANGEDCO, (2022) 1 SCR 577*:

"A principle, axiomatic in this country's constitutional lore is that there is no negative equality. In other words, if there has been a benefit or advantage conferred on one or a set of people, without legal basis or justification, that benefit cannot multiply, or be relied upon as a principle of parity or equality. In Basawaraj & Anr. Vrs. Special Land Acquisition Officer, (2013) 14 SCC 81 = (2013) 8 SCR 227, this court ruled that:

'8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a

wrong is committed in an earlier case, it cannot be perpetuated.'

Other decisions have enunciated or applied this principle (Ref: Chandigarh Admn. Vrs. Jagjit Singh, (1995) 1 SCC 745, Anand Buttons Ltd. Vrs State of Haryana, (2005) 9 SCC 164, K.K. Bhalla Vrs. State of M.P., (2006) 3 SCC 581; Fuljit Kaur Vrs. State of Punjab, (2010) 11 SCC 455; and Chaman Lal Vrs. State of Punjab, (2014) 15 SCC 715). Recently, in The State of Odisha Vrs. Anup Kumar Senapati, 2019 SCC Online SC 1207 this court observed as follows:

'If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. ***A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision****."*

12.4. *Per contra*, it is submitted by the learned Senior Counsel for the petitioner that the explanation/reply in the counter affidavit(s) does not emerge any distinctive feature being drawn between the circumstances of the petitioner and Sree Metaliks Ltd. Highlighting that the opposite parties, in view of *Mohinder Singh Gill Vrs. The Chief Election Commissioner, AIR 1978 SC 851*, cannot, in absence of any pleading in that regard, contend that a wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Nothing is placed on record to suggest that steps are being taken against the err, if at all, perpetrated by the functionaries. No dispute is set out by the opposite parties with respect to execution and registration of sixteen mining lease deeds with respect to major minerals on a single date, *i.e.,* 11.01.2017.

12.5. In order to bring to fore the similarity between the two, Sri Pinaki Misra, learned Senior Advocate insisted to consider Letter dated 10.01.2017 issued by the Conservator of Forests (Central) addressing the Principal Secretary, Forest and Environment Department, Government of Odisha (Annexure-28 of the Rejoinder Affidavit filed by the petitioner) and Letter dated 09.01.2017 issued by Assistant Inspector General of Forests (Annexure-12 of the writ petition). Minute excursion into both the letters reveals that approval invoking Section 2(iii) under the Forest (Conservation) Act, 1980 was accorded to Sree Metaliks Ltd. in the Letter marked as Annexure-28, whereas Letter marked as Annexure-12 was issued in favour of the petitioner. The tenor and nature of both the letters are found to be identical requiring certain conditions to be fulfilled. Sri Saswat Das, learned Additional Government Advocate could not dispute the similitude in both the letters of approval issued under Section 2(iii) of the Forest (Conservation) Act. This Court finds force in the contention of the learned Senior Advocate that though Sree Metaliks Ltd. got the said approval on 10.01.2017, its lease deed could be prepared, executed and registered on 11.01.2017; whereas the approval accorded in favour of the petitioner granted on 09.01.2017 and compliance report with respect to grant proceeding was submitted by the petitioner on 10.01.2017 having deposited the amount of Net Present Value (Annexure-13), its lease deed was not executed and/or registered.

12.6. It is, thus, observed that the case law cited and relied upon by the learned Additional Government Advocate to counter the argument of the petitioner *qua* equality/ parity in treatment between two similarly situated entities/persons has no application on the present facts and in the circumstances of the matter.

12.7. In the considered view of this Court, the State Government should have been considerate and it could not discriminate the petitioner particularly when it is demonstrated that sixteen lease deeds in respect of major minerals could be executed and registered on a single day, *i.e.,* 11.01.2017 including similarly situated entity, namely Sree Metaliks Limited.

13. It is pointed out by Sri Saswat Das, learned Additional Government Advocate that in *Balasore Alloys Limited Vrs. State of Odisha, 2019 (I) ILR-CUT 214* this Court while taking cognizance of the fact that the matter pertaining *vires* of provisions of Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016, being *sub judice* before the Hon'ble Supreme Court of India, passed the following order:

> *"21. So far the various provisions contained in Section 10-A(2)(c) of MMDR Amendment Act, 2015 read with Rule 8(4) of the Concession Rules, 2016 are concerned, it has been brought to the notice of this Court that the matter is pending before the apex Court for consideration. Therefore, this Court is refrained from examining the same, when the matter is sub judice before the apex Court. But at the same time, this Court is of the considered opinion that there is nothing available on record to stand in the way of petitioner No.1 for executing the mining lease, as it has already complied all the requirements under various provisions of the Act and all the authorities concerned have acknowledged the requisite fees deposited for the purpose of execution of such mining lease. Therefore, we direct the opposite parties to execute the mining lease as expeditiously as possible, preferably within a period of two months hence.*
>
> *22. The writ application is thus allowed. No order to costs."*

13.1. Against the said judgment and order, the State of Odisha moved the Hon'ble Supreme Court of India in Special

Leave Petition (Civil) Diary No(s).6602 of 2019[10] wherein the following order was passed on 11.03.2019:

"Delay condoned.
Issue notice.
In the meantime, the operation of the impugned order passed by the High Court shall remain stayed."

13.2. It is submitted by the learned Additional Government Advocate that in *Larsen & Toubro Limited Vrs. Union of India, W.P.(C) No.4301 of 2021, vide Judgment dated 02.03.2023*[11] this Court upheld the *vires* of the Mines and Minerals (Development and Regulation) Amendment Act No.16 of 2021, which came into force with effect from 28.03.2021 whereby proviso to Section 10A(2)(b) was added and further Section 10A(2)(d) inserted. In the said case, this Court held as follows:

"70. Above apart, the Amendment Act, 2021 is also protected under Article 31C of the Constitution of India, inasmuch as, it is a law towards securing that the ownership and control of the material resources of the community ('minerals' in the present case) are so distributed to best subserve the common good, as has been referred to Article 39(b) of the Constitution of India. Sanjeev Coke Manufacturing Company Vrs. Bharat Coking Coal Limited, (1983) 1 SCC 147 is to be referred to reach at the conclusion.

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10 Numbered as *Civil Appeal No.2336 of 2026 : State of Odisha Vrs. Balasore Alloys Limited.*

11 The judgment of this Court reported at *2023 SCC OnLine Ori 706* being challenged before the Hon'ble Supreme Court of India in SLP(C) No.006163 of 2023 [now, numbered as C.A. No.013687 of 2024], the same is pending.

71. *In view of the fact and law, as discussed above, it is held that the provisions contained in Section 10A(2)(b) of the Amendment Act, 2021 cannot be declared as ultra vires rather it is intra vires of Constitution of India. As it appears, under Sub-section (1) of Section 5 of the MMDR Act, of 1957, prior approval of the Central Government is essential and that itself cannot be construed to be an empty formality rather the recommendation made by the State Government is not binding on the Central Government. The saving clause, i.e., Section 10A(2)(b), which has been inserted vide MMDR Amendment Act 2015, with effect from 12.01.2015 does not create vested right automatically, it merely saves the applicants from ineligibility due to introduction of auction as the only method of obtaining mineral concession. Even the right to obtain a mining lease is subject to compliance of the terms and conditions mentioned in Section 10A(2)(b), which has also lapsed on coming into effect of the MMDR Amendment Act, 2021.*

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77. ***As discussed above, by way of Mineral Concession Rules Fourth Amendment Rules, 2021, the Central Government also omitted Rule 7 and Rule 8 of the Mineral Concession Rules, 2016, by which the modalities for saved applications under Section 10A(2)(b) and Section 10A(2)(c) of the Amendment Act, 2015 were wiped out.*** *Needless to say, prior to the 2015 Amendment, for all minerals under First Schedule (major mineral) of the Act, the State Government only had the authority to recommend to the Central*

Government for grant or mining lease. Such authority was governed by the then existing Section 11 of the Act. The State was only a recommendatory authority. The ultimate authority for approving the grant of mining lease for all First Schedule (major mineral) of the Act lay with the Central Government under Section 5(1) of the then prevailing MMDR Act, 1957. After the 2015 Amendment, Section 10A(2)(b) of the Act and the proviso to Section 10A(2)(c) mandate the Central Government's approval for grant of mining lease. Therefore, Section 10A(2)(b) does not vest any right on the petitioner to obtain a mining lease without the prior approval of the Central Government.

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91. *On the factual matrix, as discussed above, it is made clear that the petitioner has breached the terms and conditions of the PL as it had made three PL applications for bauxite deposits on 31.10.1990 for use in its captive plant. In its applications, the petitioner stated that it is proposing to set up alumina plant. The Central Government communicated its approval on 22.05.1992 under Section 5(1) (b) of the MMDR Act, 1957 to grant PL for all the 3 applications for a period of 2 years subject to the condition, inter alia, that in case the petitioner failed to get the LOI for the plant within a year or if such LOI is issued to any other party for a project, the PL will be prematurely determined under Rule 14 (3) of the M.C. Rules, 1960. If the petitioner seeks to take benefit of its status as PL holder under Section 10A(2)(b) of the Act despite the fact that its PL had expired in 1993, it should have complied*

with its terms and conditions. But the petitioner is in continuing breach of the terms and conditions of the PLs all along as it failed to establish an alumina plant and extended its LOI with the Central Government.

92. *During the year 2020-2021, the State of Odisha received revenue to the tune of approximately Rs. 20,600/- crores from 140 working mines whereas auction premium from 23 auctioned mines alone was Rs. 19,250/- crores. Similarly, during the same period Karanataka had earned royalty revenue of Rs. 649/- crores from 131 working mines whereas the auction premium from 11 auctioned mines alone was Rs. 1883.8 crores. Therefore, the amended Acts 2015 and 2021, because of the introduction of the auction regime not only got well established in last 7 years, but also gave encouraging results to the State Governments in terms of participation of bidders. Therefore, the augmentation of revenue being encouraging one, which will be utilized for greater public interest, the amendment cannot be said to be arbitrary, unreasonable and contrary to the provisions of law.*

93. *Though a large number of judgments were cited on behalf of the parties, but the judgments, which are apt for the just and proper adjudication of the case, have been taken into consideration.*

94. *In view of the facts and law, as discussed above, this Court is of the considered view that the provisions contained in Section 10A(2)(b) in the Amendment Act, 2021 is intra vires. Thereby, the application of the petitioner under Section 10A(2)(b) for grant of mining lease has lapsed by operation of*

law and the petitioner is not entitled to get any relief in this writ petition."

13.3. Sri Pinaki Misra, learned Senior Advocate contended that the said case was with respect to consideration of three applications for prospecting licenses which were recommended by the State Government stating *inter alia* (i) the applicant had proposed to set up the plant; and that (ii) issuance of LoI in favour of the applicant for setting up such plant. Drawing distinction, he submitted that the petitioner being conscious of the factum of matter pending before the Hon'ble Supreme Court of India with respect to validity of the amendment, it does not press for adjudication of such *vires.* On the contrary, it is harped by the petitioner that even though on 10.01.2017 it complied with necessary conditions attached to the approval order of the Central Government under Section 5 of the MMDR Act and the LoI issued by the State Government, there was no impediment on the part of the Government of Odisha to execute and register the mining lease deed along with sixteen others including Sree Metaliks Limited, whose case is identical to the instant petitioner. The entire case in the present context is on the anvil of discriminatory treatment falling within the scope of provisions envisioned in Article 14 of the Constitution of India.

13.4. Sri Saswat Das, learned Additional Government Advocate could not improve upon to justify the action of the authorities concerned as to why the lease deed could not be executed on 11.01.2017, though in case of Sree Metaliks Limited which got the approval under Section 2(iii) of the Forest (Conservation) Act, 1980 on 10.01.2017 whereas the petitioner got such approval on 09.01.2017 and deposited the Net Present Value on 10.01.2017 and also submitted the compliance report on the very same date. Only explanation rendered in the counter affidavit filed on behalf of the opposite party No.3 was that the petitioner submitted the compliance report in the "afternoon" on the eve of last date for execution of lease deed. In the considered opinion of this Court such vague explanation cannot be countenanced. As the Government of Odisha was fully conscious of such date-line and facilitated many other similarly situated entities/persons no rational and plausible explanation is forthcoming from the opposite parties. Even the counter affidavit of the opposite party No.2, as has already been stated in the foregoing paragraphs, is silent as to why it took considerable period to grant approval invoking Section 2(iii) of the Forest (Conservation) Act, 1980. The events in issuing Guidelines and clarification through the Ministry of Mines Order dated 04.01.2017 *vide* F.No.7/1/2016-M.IV (Part-1), titled "the Mines and Minerals (Development and Regulation) Removal of Difficulties Order, 2017" came at the fag end of two years period stipulated under Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016.

13.5. Under the above scenario, delay and laches cannot be attributed to the petitioner.

14. Valiant attempt was made by Sri Saswat Das, learned Additional Government Advocate to support his contention to deny direction to execute mining lease. The rights of parties being crystallised on the date of filing of writ petition[12], *i.e.,* in the year 2017. Rule 8 of the MC

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12 See, *Beg Raj Singh Vrs. State of U.P., (2003) 1 SCC 726* wherein it has been held that,

"6. The only submission made by the learned counsel for the appellant is that the appellant has been given a very rough deal by the State Government and the injustice done to the appellant the High Court has failed to redeem. He had identified and explored the new mining area and made huge expenditure in making the mining area approachable and therefore it was the legitimate expectation of the appellant that he would be entitled to operate the mine for a minimum period of three years as per the declared policy of the State Government. The State Government should not have interfered with the order of the Collector and that too at the instance of a third party — Respondent 3, when no auction was held and no right was created in favour of Respondent 3. Matter as to the grant or renewal of the lease for a total period of three years was in accordance with the policy of the State Government and was a matter between the State and the appellant. It was submitted at the end that the appellant has been agitating his right diligently throughout and the time lost in prosecuting legal proceedings up to the High Court wherein the plea raised by the appellant laying challenge to the order of the State Government was found to be meritorious and the order of the State Government held liable to be set aside, the appellant should not have been denied relief and should have been allowed to operate the mine for that period by which the mining operation by the appellant fell short of three years' time.

7. Having heard the learned counsel for the petitioner, as also the learned counsel for the State and the private respondent, we are satisfied that the petition deserves to be allowed. ***The ordinary rule of litigation is that the rights of the parties stand crystallized on the date of commencement of litigation and the right to relief should be decided by reference to the date on which the petitioner entered the portals of the court.*** *A petitioner, though entitled to relief in law,* Rules, 2016 was in vogue at the relevant point. By virtue of the Minerals (Other Than Atomic and Hydro Carbon Energy Mineral) Conservation (Fourth Amendment) Rules, 2021 Rule 8 stood omitted with effect from 02.11.2021. It is submitted that in absence of specific provisions saving the actions under Rule 8, Section 6 of the General Clauses Act, 1897 cannot come to rescue of the petitioner. What is essentially submitted by the learned Additional Government Advocate is that in absence of saving clause in said Amendment Rules of 2021, all the rights, privileges, applications or liability acquired or accrued under the enactment so repealed

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may yet be denied relief in equity because of subsequent or intervening events i.e. the events between the commencement of litigation and the date of decision. ***The relief to which the petitioner is held entitled may have been rendered redundant by lapse of time or may have been rendered incapable of being granted by change in law.*** *There may be other circumstances which render it inequitable to grant the petitioner any relief over the respondents because of the balance tilting against the petitioner on weighing inequities pitted against equities on the date of judgment.* ***Third-party interests may have been created or allowing relief to the claimant may result in unjust enrichment on account of events happening in-between. Else the relief may not be denied solely on account of time lost in prosecuting proceedings in judicial or quasi-judicial forum and for no fault of the petitioner.*** *A plaintiff or petitioner having been found entitled to a right to relief, the court would as an ordinary rule try to place the successful party in the same position in which he would have been if the wrong complained against would not have been done to him. The present one is such a case. The delay in final decision cannot, in any manner, be attributed to the appellant. No auction has taken place. No third-party interest has been created. The sand mine has remained unoperated for the period for which the period of operation falls short of three years. The operation had to be stopped because of the order of the State Government intervening which order has been found unsustainable in accordance with stipulations contained in the mining lease consistently with GO issued by the State of Uttar Pradesh. Merely because a little higher revenue can be earned by the State Government that cannot be a ground for not enforcing the obligation of the State Government which it has incurred in accordance with its own policy decision."*

stood continued to operate in view of Section 6 of the General Clauses Act, 1897.

14.1. This Court on perusal of written note of submission dated 11.12.2025 furnished by the learned Additional Government Advocate finds the following stand taken by the opposite parties:

*"4. *** Cummulative reading of the statutory provisions basically Section 10A and Section 10A(2)(c) of the MMDR Act read with the provisions of sub-rule (4) of Rule 8 of the MC Rules, 2016 and Section 6 of the General Clauses Act, it is the clear mandate of law that the lease deed has to be executed between the parties (lessor and lessee) on or before 11.01.2017 after having fulfilled all the conditions by the lessee as per the exception carved out under Section 10A(2)(c).*

In this regard the law is well settled by the Hon'ble Apex Court in case of Sangram Spinners Vrs. Regional Provident Fund Commissioner reported in (2008) 1 SCC 391 where in the Hon'ble apex court held as follows:

'It is the cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective operation. ***The absence of a saving clause in a new enactment preserving the rights and liabilities under the repealed law is neither material nor decisive of the question.*** *In terms of Section 6(c) of the General Clauses Act, 1897 unless a different intention appears the repeal*

shall not affect any right, privilege or liability acquired, accrued or incurred under the enactment repealed. The appellant would be entitled to the protection for the period of three years starting from the date the establishment was set up irrespective of the repeal of the provision for such infancy protection.'

5. *The plea taken by the petitioner during the course of argument that the said rule having been amended and repealed by virtue of the Notification dt.02.11.2021, cannot be placed into operation to deny the benefits to the petitioner as carved out in the exception in 10A(2)(c) does not hold good in view of the provision of Section 6 of the General Clauses Act.* ***Admittedly, in the present case in hand, though the petitioner complied with all the statutory requirements and submitted compliance on 10.01.2015 before the authorities, but as there was no time to execute th lease deed within a short span of time. Admittedly the lease deed could not be executed between the parties on or before 11.01.2017 and as such by operation of sub-rule (4) of Rule 8 of MC Rules, 2016, the right of the applicant (petitioner) under clause (c) of sub-section (2) of Section-10A for grant of mining lease stood forfeited and therefore, there was no requirement for the State Government to issue any further order in this regard.***

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7. *That the plea taken by the petitioner in the Rejoinder Affidavit that a discrimination has been caused to it*

as in similar circumstances, lease deed has been executed in respect of Sree Metaliks Limited. In this regard, it is humbly submitted that Article 14 of the Constitution of India which emphasises equality before law puts also certain reasonable restrictions to such fundamental right. In other words, all fundamental rights are subject to reasonable restrictions. The reasonable restrictions are apparent under the provisions prescribed under Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules and Section 6 of the General Clauses Act. The petitioner cannot claim equity over and above the operation of law as prescribed under sub-rule (4) of Rule 8 of the MC Rules, 2016. The claim of the petitioner is hit by negative equality merely because the lease deed could be timely executed with Sree Metaliks Ltd. on or before 10.01.2015 (sic., 11.01.2017) does not cast an obligation on the State Government to execute the lease deed in favour of the petitioner contrary to the condition stipulated under sub-rule (4) of Rule 8 of the MC Rules, 2016."

14.2. This Court on examination of rival contentions and submissions in this respect finds that there is no material put forth by the opposite parties to show that by efflux of time third-party interests have been created or allowing relief to the petitioner would result in unjust enrichment on account of events happening in between. Hence, this Court is in a position to say that the relief may not be denied solely on account of time lost in prosecuting proceedings in judicial or *quasi* judicial forum and for no fault of the petitioner.

14.3. It may be fruitful to repeat that this Court in Order dated 16.01.2017 while entertaining the instant writ petition as an interim measure directed that the provisions of sub-rule (4) of Rule 8 of the MC Rules, 2016 shall not be made applicable in the case of the petitioners.

14.4. Nothing is argued on behalf of the opposite parties to indicate that Sree Metaliks Limited could comply with the conditions attached to the approval under Section 2(iii) of the Forest (Conservation) Act, 1980 much prior to the compliance being made by the petitioner. The counter affidavit and the written note of submission are silent in this regard. Nothing is put forth by the learned Additional Government Advocate to demonstrate that Sree Metaliks Limited was in an advantageous position than the petitioner and nothing is spelt out by the opposite parties to show that the circumstances which led to consider the applications of Sree Metaliks Limited and fifteen others in preference to the petitioner.

14.5. This Court *vide* Order dated 24.04.2018 in the instant writ petition passed the following in consideration of Misc. Case No.17260 of 2017:

> *"The primary prayer of the petitioners in this Misc. Case is for a direction to the Forest Advisory Committee to consider the application of the petitioners for grant of forest clearance under Section*

2(ii) of the Forest (Conservation) Act, 1980, and, during the pendency of this writ petition, the result of the same be kept in sealed cover, which would be subject to further order passed in this writ petition. To such application, a counter affidavit has been filed by the Ministry of Environment, Forest and Climate Change, Government of India, to which rejoinder affidavit has also been filed.

2. *Shri A. Mohanty, learned Central Government Counsel for the opposite party-Ministry of Forest has submitted that a decision was taken by Forest Advisory Committee on 16th May 2017, while dealing with Agenda No.1,* ***wherein the Forest Advisory Committee has opined that permission to the State Government will not be granted for considering the application of the petitioners for forest clearance because of pendency of this writ petition in which this Court had passed interim order on 11.01.2017.*** *After quoting the interim order, the Forest Advisory Committee opined that the State Government may not consider the application of the petitioners for forest clearance.*

3. *In our view, in our order dated 11.01.2017 there was no direction with regard to the consideration of the application of the petitioners for forest clearance. The submission of learned counsel for the petitioners is that this Court may not issue a direction to give the order/decision to the petitioners on their application for grant of forest clearance, but the application for grant of forest clearance filed by the petitioners may be considered in accordance with law and the decision on the same be kept in sealed*

cover, so that in case this writ petition is allowed, there may not be any further delay.

4. *Since we are of the view that our order dated 11.01.2017 can in no way be interpreted as if we have expressed any opinion with regard to consideration of the application of the petitioners for grant of forest clearance, the opinion given by the Forest Advisory Committee while dealing with Agenda No.1 on 18.09.2017 regarding not granting permission to the State Government to consider the application of the petitioners for grant of forest clearance is not justified, as there was no such observation even made in our order dated 11.01.2017.*

5. *As such, we allow this application and* ***direct the opposite parties to consider the application of the petitioners for grant of forest clearance under Section 2(ii) of the Forest Conservation Act, 1980 expeditiously and in accordance with law, and the same be kept in sealed cover to be opened as per the direction of this Court in this writ petition.*** *We make it clear that we have not expressed any opinion with regard to merits of the application of the petitioners, which shall be considered by the concerned authority while considering the application of the petitioners.*

The Misc. Case stands disposed of."

Despite such clear direction, there has been non-compliance of such order by the concerned authority.

14.6. On the contrary, the learned Senior Counsel for the petitioner in his fairness could establish that whereas the petitioner got the approval under Section 2(iii) of the Forest (Conservation) Act on 09.01.2017 and deposited Net Present Value on 10.01.2017 and also submitted compliance on the said date itself, record reveals that Sree Metaliks Ltd. having obtained approval on 10.01.2017 and there is nothing forthcoming from the side of the opposite parties to show that Net Present Value could be deposited prior to the petitioner. It is un-understandable that if the time could be given for Sree Metaliks Limited for consideration of its application who could submit compliance report on the same date when the petitioner submitted, no explanation is proffered by the opposite parties in their counter affidavit nor could any reply be offered in this regard by the learned Additional Government Advocate.

14.7. In such view of the matter, the stance of the learned Additional Government Advocate taken that the case of the petitioner could not be considered inasmuch as it stood unequally circumstanced in comparison to Sree Metaliks Limited is repelled.

Conclusion:

15. Having diligently considered each aspect of arguments advanced by the counsel for the respective parties and on the afore-discussed factual matrix, in consideration of provisions embedded in Article 14 of the Constitution of India, this Court finds no other scope than to hold that the State Government treated the petitioner with discrimination. As the learned Senior Advocate representing the petitioner confined his arguments to invoke doctrine of equality inviting consideration of this Court for parity in treatment with other entities whose cases were considered by the State Government with alacrity on the last date specified in Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016 for execution and registration of lease deed, this Court, hence, holds that the State Government having admitted that the petitioner has ***"complied with all the statutory requirements and submitted compliance on 10.01.2017"***, it could not single out the petitioner. Therefore, the submission of the learned Additional Government Advocate is negatived and it is, hence, to be held that the petitioner being identically circumstanced with the other entities more particularly in comparison with the case of Sree Metaliks Limited, the action of the functionaries of the State Government is tainted with arbitrariness, whims and it does attract *vice* of Article 14 of the Constitution of India.

16. Under the above premise, it is felt expedient to issue writ of *mandamus* to the opposite parties particularly the opposite party No.3 to consider the case of the petitioner as the opposite parties in the written note of submission dated 11.12.2025 admitted that it has complied with all statutory requirements on 10.01.2017 prior to the cut-off date envisaged under Section 10A(2)(c) of the MMDR Act read with Rule 8(4) of the MC Rules, 2016. Such exercise and follow up action is required to be completed within a period of eight weeks from date.

17. With the above observations and directions, the writ petition including pending Interlocutory Application(s), if any, stands disposed of; but in the circumstances, there shall be no order as to costs.

I agree.

(HARISH TANDON)
CHIEF JUSTICE

(MURAHARI SRI RAMAN)
JUDGE

High Court of Orissa, Cuttack
The 28th July, 2026//Aswini/Laxmikant