



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.23792 of 2025**

***M/s. JSW Steel Limited, Mumbai*** .... ***Petitioners***  
***and another***

Represented By Adv. –  
Dr. Abhishek Manu Singhvi, Sr. Advocate  
Mr. Chinmay Sharma, Sr. Advocate  
Mr. Prafulla Rath, Sr. Advocate  
Mr. Chananjay Mishra, Advocate  
Mr. Venugopal Mahapatra, Advocate  
Ms. Priyansha Sharma, Advocate  
Mr. Arnav Behera, Advocate  
Ms. Aishwarya Ray, Advocate  
Mr. Ritesh Patnaik, Advocate

*-versus-*

***State of Odisha and others*** .... ***Opp. Parties***

Represented By Adv. –  
Mr. Pitambar Acharya, Advocate General  
Mr. Subha Bikash Panda, AGA  
Mr. Debaraj Mohanty, AGA  
Ms. Aishwarya Dash, ASC,  
Mr. P.K. Parhi, DSGI  
along with Mr. S.S. Kasyap, CGC.

**CORAM:**

**JUSTICE MANASH RANJAN PATHAK**

**JUSTICE MRUGANKA SEKHAR SAHOO**

**ORDER**

**04.09.2025**

*(Hybrid Mode)*

**Order No.**  
**02.**

1. We have heard learned Senior Counsel Dr. Abhishek Manu Singhvi and Mr. Pitambar Acharya, Sr. Advocate, learned Advocate General assisted by Ms. A. Dash, learned Additional Standing



Counsel. Mr. P.K. Parhi, learned DSGI along with Mr. S.S. Kashyap, Sr. Panel Counsel for opposite parties no.4 and 5 are also present in V.C.

2. Learned Sr. Counsel for the petitioners and the learned Advocate General were heard in extenso.

3. The petitioner-company is holder of a mining lease acquired by way of auction. The lease was executed on 27.06.2020 for a period of 50 years in respect of iron ore in Jajang Mining Block. A Mine Production & Development Agreement (MDPA) was executed with the State of Odisha on 25.06.2020. The lease was to start with effect from 27.06.2020. During the 5<sup>th</sup> year of the lease the petitioner instituted process of surrender of mining lease under Rule 21 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016. It is stated the said process of surrendering the mining lease culminated in the approval of the Final Mine Closer Plan (FMCP) by the Indian Bureau of Mines on 09.10.2024.

4. It is submitted by the learned Senior Counsel, Dr. Singhvi that from 27.06.2024 up to 30.11.2024, all the dues in terms of the governing Acts and Rules as applicable have been admittedly paid. Out of the six demands challenged, four have been stayed by orders of Court and two have been quashed. After physical and legal closure of the mines, there cannot be any dispatch obligation. Any obligation directly or indirectly requiring dispatch would amount to violation of law, violation of the FMCP. Obligation to dispatch would amount to compel the petitioner to do an act of impossibility. It is further submitted that the petitioner cannot be penalized for not doing something impossible and illegal. Compelling the petitioner to do



something in violation of law is per se illegal and arbitrary. It is submitted therefore the office order/letter dated 21.08.2025 (Annexure-25) directing the petitioner to pay the differential amount under Rule 12 A (2) of the Mineral (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 demanding differential royalty, differential DMF and differential NMT, adding thereto the value of performance security @ 24% of the shortfall making the total amount of demand of Rs.14,72,69,47,420/- has to be set aside.

5. The second limb of submission is that Rule 12-A and specifically Rule 12A (2) of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, is ultra vires the MMDR Act,1957.

6. Without prejudice to the submissions as noted above, it is submitted by the learned Sr. Counsel for the petitioner that the show cause notice dated 07.08.2025 (Anneure-21) lacks the details necessary for the petitioner to answer. The impugned order dated 21.08.2025 (Annexure-25) is completely non-speaking and making the earlier show cause an empty formality.

7. The learned Sr. Counsel has relied on the decisions of the Hon'ble Supreme Court rendered as summed up herein for the propositions as indicated. In **MD, Army Welfare Housing Organisation v. Sumangal Services (P) Ltd.:** (2004) 9 SCC 619, paras-109 and 110 of SCC: the petitioner cannot be directed to do a impossible act or an act that is unlawful;



**Mohammed Gazi v. State of M.P. and others:** (2000) 4 SCC 342, para-7 of SCC: the law does not compel a man to do what he cannot possibly perform;

**Oryx Fisheries Private Limited v. Union of India and others:** (2010) 13 SCC 427, paras-31 and 37 of SCC: while reading a show cause notice the person subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show cause notice. The notice can itself be read to infer latent bias;

**Mary Pushpam v. Telvi Curusumary and others:** (2024) 3 SCC 224, paragraphs-1, 20 and 21: when a decision of a coordinate Bench of the same High Court is brought to the notice of the Bench, it is to be respected and is binding subject to right of the Bench of such co-equal quorum to take a different view and refer the question to a larger Bench. It is the only course of action open to a Bench of co-equal strength, when faced with the previous decision taken by a Bench with same strength;

**Sandhya Educational Society and another v. Union of India and others:** (2014) 7 SCC 701, paragraph-9: judicial decorum and discipline is paramount and, therefore, a coordinate Bench has to respect the judgments and orders passed by another coordinate Bench and cannot on mere assumptions refer the matter for consideration by a larger Bench;

by interim order dated 14.08.2025 passed in pending W.P.(C) No.22431 of 2025, wherein demand notice invoking provisions contained under Rule 12-A of Minerals (Other than Atomic and Hydro



Carbons Energy Mineral) Concession Rules, 2016 was under consideration, the coordinate Bench, as an interim measure restrained the opposite parties-authorities from taking any coercive steps till next date of hearing;

by interim order dated 06.05.2025 in W.P.(C) No.5215 of 2025 in the pending writ petition, Rule 12A(1) has been challenged as ultra-vires the provisions of Mines and Minerals Development Regulation Act, 1957. The demand is based on Rule 12-A of Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 and notice has been issued by the coordinate Bench;

regarding alternative remedy being not a bar to invoke extraordinary writ jurisdiction, learned Sr. Counsel relies on the principles laid in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others : (1998) 8 SCC 1**.

8. Mr. Acharya, Senior Advocate, learned Advocate General submits that there is presumption of legality of Rule 12-A of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 and it has to be presumed to be intra vires. The contention of the petitioners has to be tested in the context that the lease entered by the petitioners with the State is in existence. As per Rule 21 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 the closing of mining, operation of mine does not necessarily stop. The contention that the petitioner has stopped mining is erroneous. The issue regarding surrender of the mining lease has to be considered vis-à-vis the fact that it has to be accepted by State. Unless there is acceptance by State upon clearance of all the demands, the surrender of mine cannot be accepted. The Rule which



the vires is challenged has to be answered by the Central Government and the State is well within its competence to raise demand as has been raised and impugned in the writ petition. Such demand is statutory under Rule 12-A. Though suggested by the petitioner, the surrender of mining lease cannot be automatic. The principles of natural justice are not applicable as the demand is a statutory demand. Mining closure Plan does not confer any right for cessation of mining unless the Rule 21(2)(a)(b) of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 is complied by the petitioner-lease holder. The mineral resource held on lease by the petitioner is a national resource and the petitioner is liable to pay the demand for exploiting the resource. The obligation to dispatch is legal, statutory and contractual. The citations relied upon by the learned Senior Counsel are of no avail to the petitioners, they are distinguishable on the facts of the present case and have no application to the case at hand. It is submitted that even if notice is issued by admitting the writ petition interim order should not be granted

9. Since paucity of time intervenes, the matter has to be adjourned.

10. After hearing the learned Sr. Counsel for the petitioners and the learned Advocate General, we issue notice in the writ petition. Since the learned Additional Government Advocates and the learned Additional Standing Counsel have appeared upon advance copy served, no further notice be issued.



11. The learned DSGI along with learned Sr. Panel Counsel have appeared on behalf of opposite parties no.4 and 5 upon advance copy served, no further notice be issued.

**I.A. No.14429 of 2025**

12. Issue notice as above.

13. The learned Sr. Counsel for the petitioners urged before us to pass interim order regarding stay of the operation of the impugned order apart from the challenge to the vires of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

14. The learned Advocate General vehemently opposes the prayer for stay. It is also submitted that 50% of the demanded amount may be deposited by the petitioner.

As an interim measure, it is directed that till the next date, no precipitative action shall be taken by the opposite parties pursuant to the Letter No.2902/Mines dated 21.08.2025 (Annexure-25).

15. On consent, the matter shall be listed on 12<sup>th</sup> September, 2025.

***(Manash Ranjan Pathak)***  
***Judge***

***(Mruganka Sekhar Sahoo)***  
***Judge***