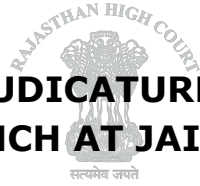


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12099/2025
CNR: RJHC020678822025 | URN: CW / 27261U / 2025

Ramesh Chand S/o Shri Nanak Chand, Resident Of C-78, D.d.a Flat, Shivaji Enclave, Raghuv eer Nagar, Tagore Garden, West Delhi-110027

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Mines And Petroleum, Secretariat, Janpath, C-Scheme, Jaipur
2. Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur
3. Superintendent, Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur
4. Mining Engineer, Department Of Mines And Geology, Bharatpur

-----Respondents

Connected With

S.B. Civil Writ Petition No. 12107/2025
CNR: RJHC020658972025 | URN: CW / 27277U / 2025

Manjeet Singh S/o Roshan Lal Yadav, Resident Of Sohana, Tehsil And District Gurgaon, Haryana Through Its Power Attorney Holder Rajindra Kumar S/o Munshi Ram At Present Resident Of Near Badwala Kuwa, Village Rajokri, New Delhi 110031

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Mines And Petroleum, Secretariat, Janpath, C-Scheme, Jaipur
2. Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur
3. Superintendent, Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur
4. Mining Engineer, Department Of Mines And Geology, Bharatpur
5. Deepak Tanwar S/o Unknown, Director Mines And



Geology, Shastri Circle, Udaipur

-----Respondents

S.B. Civil Writ Petition No. 12133/2025

CNR: RJHC020678652025 | URN: CW / 27319U / 2025

Yogendra Singh S/o Munsii Ram, Resident Of House No. 586,
Near Badwala Kuwa, Village Rajokri, New Delhi 110031.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Mine And Petroleum, Secretariat, Janpath, C-Scheme, Jaipur.
2. Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur.
3. Superintendent, Director Mines And Geology, Department Of Mines, Government Of Rajasthan, Udaipur.
4. Mining Engineer, Department Of Mines And Geology, Bharatpur.

-----Respondents

For Petitioner(s)	:	Mr. Vimal Chand Chaudhary, Adv.
For Respondent(s)	:	Mr. Vigyan Shah, AAG with Mr. Yash Joshi, Adv. & Ms. Swati Daga, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

06/08/2026

1. All the above writ petitions involve almost identical facts, cause of action and grievance, therefore, with the consent of the parties, all these writ petitions were heard together and are being decided by this common order.
2. For the sake of convenience facts stated in S.B. Civil Writ Petition No. 12099/2025 are being taken into consideration.

3. Petitioner has assailed orders dated 23.04.2025 (Annexures- 5), order dated 23.04.2025 (Annexure-6) and order dated 23.06.2025 passed by Mining Engineer, Bharatpur, whereby penalty of Rs.2,12,66,733/- (under challenge in S.B. Civil Writ Petition No. 12099/2025); Rs.3,46,60,342/- (under challenge in S.B. Civil Writ Petition No. 12107/2025) and Rs.5,30,94,256/- (under challenge in S.B. Civil Writ Petition No. 12133/2025) have been imposed.

4. Learned counsel appearing for the petitioner submitted that the impugned order dated 23.06.2025 has been passed by the Mining Engineer in utter violation of principles of natural justice and without affording any opportunity of hearing. It is stated that the action has been taken maliciously against the petitioner and in utter violation of the Rules. Enquiry has not been conducted in proper manner and all the parameters for assessing the penalties have been brushed aside. It is also submitted that the order has been passed by the Mining Engineer at the dictate of Director Mines and Geology Department, therefore, the petitioner does not have any alternative remedy except to invoke extraordinary jurisdiction of this Court.

5. Learned counsel for the petitioner relied upon judgment of Division Bench of this Court in the case of **Mewar Marbles Ltd. Vs. State of Rajasthan** reported in **2002 WLC (Raj.) UC 213** and judgment delivered by Co-ordinate Bench of this Court in the case of **Smt. Saroj Sharma Vs. State of Rajasthan & Ors.** reported in **1993 WLC (Raj.) 745**. Apart from above, learned counsel for the petitioner has placed heavy reliance upon order dated 20.01.2026 passed by Co-ordinate Bench of this Court at

Principal Seat, Jodhpur in the case of **Tulsi Das Bharwani Vs. State of Rajasthan & Ors.** (S.B. Civil Writ Petition No.930/2026).

6. Learned Additional Advocate General appearing for the State, at the threshold raised a preliminary objection that order dated 23.06.2025 passed by the Mining Engineer, Bharatpur is appealable in view of Rule 63 of the Rajasthan Minor Mineral Concession Rules, 2017 (for short the Rules of 2017'). Learned Additional Advocate General submits that the allegations of non compliance of principles of natural justice, as raised by the petitioner, are totally misconceived. Learned Additional Advocate General submits that although, at the time of initial inspection of the mines of the petitioner, no notice was given to the petitioner and joint inspection report was prepared on 05.04.2025, yet the petitioner submitted a representation and objection was raised against such inspection report pointing out that no prior notice before conducting joint survey and inspection was given to the petitioner, therefore, a request was made to again conduct survey and inspection in presence of the petitioner. Learned Additional Advocate General further pointed out that in view of such objection raised by the petitioner, vide order dated 09.06.2025, directions were given to conduct fresh inspection and survey of the mines of the petitioner in presence of the mine holders and to submit report thereof. Learned Additional Advocate General submits that the date of inspection was although fixed on 13.06.2025, yet on that day since revenue official (Tehsildar) was not there, therefore, the petitioner was informed that the fresh inspection shall be conducted on 18.06.2025.

7. Learned Additional Advocate General, while referring reply to the writ petition, submitted that on 18.06.2025, inspection was conducted in presence of the petitioner and report was also prepared, however, the petitioner/mine holders refused to sign the inspection report.

8. Learned Additional Advocate General further pointed out that merely, for the reason that directions for conducting inspection and survey were given by the Director Mines and Geology Department in the light of complaints/information of illegal mining, it cannot be said that the order dated 23.06.2025 has been passed by the Mining Engineer either at the dictate of the Director or with the approval of the Director. In fact, the Mining Engineer has applied its own independent mind and order dated 23.06.2025 has been passed after following the due procedure and after affording due opportunity of hearing.

9. Heard learned counsel for the parties and perused the record.

10. It is settled proposition of law that ordinarily, this Court does not exercise its writ jurisdiction, where alternative and efficacious remedy is already available under the statute. In the instant case, the subject matter is governed by the Rules of 2017, wherein Rule 63 lays down as under:-

"63. Appeal.- (1) Any person aggrieved by any order of the Superintending Mining Engineer, Superintending Mining Engineer (Vigilance), Mining Engineer, Mining Engineer (Vigilance), Assistant Mining Engineer or Assistant Mining Engineer (Vigilance) passed under these rules shall have the right of appeal to the Additional Director Mines authorized by the Government.

(2) Any person aggrieved by any order passed in appeal under sub-rule (1) or any other order passed by the Director or Additional Director Mines under these rules shall have the right of appeal to the Government.

(3) Every appeal shall be made in Form -29 in duplicate and shall be accompanied by a fee of rupees five thousand.

(4) An appeal shall be filed within three months of the date of communication of the order appealed against:

Provided that an appeal may be admitted after the said period if the appellate authority is satisfied that the appellant has sufficient cause for not filing the appeal within the said period but the appeal shall not be admitted after expiry of six month from the date of order appealed against."

11. It is also equally settled that the petitioner cannot be non-suited in a writ petition only on the ground of availability of alternate remedy and in the cases, where there is an allegation of acting without jurisdiction or where there is apparent violation of principles of natural justice, writ petition can be entertained as held by Hon'ble Supreme Court in the case of **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & Ors.** reported in **(1998) 8 SCC 1**.

12. In the case of **Smt. Saroj Sharma (supra)** as relied upon by learned counsel for the petitioner also the writ petition was entertained only on the allegation, where order was passed without notice and without opportunity of hearing to the parties. Similar is the position in the case of **Mewar Marbles Ltd. (supra)**, where the joint inspection was carried out without giving notice to the mine holder and thus, the entire proceedings were held to be in violation of principles of natural justice. In the case of **Tulsi Das Bharwani (supra)** also, the Co-ordinate Bench of this Court has quashed the show cause notice only under the circumstances, where the petitioner was not afforded a notice prior to the survey.

13. On perusal of the record of present writ petition would make it clear that although, while conducting initial joint survey on

05.04.2025, no notice whatsoever was given to the petitioner, however, it is equally undisputed that no action whatsoever was taken against the petitioner in respect of alleged joint survey dated 05.04.2025 and since, an objection was raised by the petitioner that a fresh survey be conducted in his presence, therefore, in view of the objection raised by the petitioner, a decision was taken to conduct a fresh survey in presence of the petitioner and accordingly, after conducting fresh survey in presence of the petitioner on 18.06.2025, since, as per record and survey, there was illegal mining by the petitioner, therefore, as per the Rules 54 and 60 of the Rules of 2017, penalty has been imposed upon the petitioner vide order dated 23.06.2025.

14. Thus, this Court, on the basis of aforesaid discussions and material on record, is of the considered opinion that in the instant case, action has been taken after following principles of natural justice, therefore, judgments as relied upon by learned counsel for the petitioner are not applicable.

15. As regards the objection raised by learned counsel for the petitioner that appeal against order of Mining Engineer is not maintainable under Rule 63 for the reason that the order has been passed with the approval of the Director or at the initiation of Director, this Court finds that on bare perusal of order dated 23.06.2025, nothing reveals that the order has been passed at the dictate of Director. The Mining Engineer while passing order dated 23.06.2025 has relied upon the report of survey and other relevant factors which proves factum of illegal mining and penalty has been determined and assessed on the basis of prevailing

Rules. Under these circumstances, there is no prohibition under the Rules denying remedy of appeal to the petitioner.

16. For the reasons mentioned hereinabove, these writ petitions filed by the petitioners are hereby dismissed on account of availability of alternative remedy to the petitioners.

17. It is, however, made clear that mere dismissal of these writ petitions would not curtail rights of the petitioners to avail alternative remedy available as per Rules.

18. It is also made clear that in case, appellate remedy is availed by the petitioners, the Appellate Authority shall decide the appeal without being influenced by any of the observations made by this Court in the present order.

19. Pending application(s), if any, stand(s) dismissed.

(ANAND SHARMA),J