

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

S.B. Civil Writ Petition No. 20021/2025

Ent Bhatta Sangh Bharatpur

----Petitioner

Versus

State of Rajasthan & Ors.

----Respondents

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For Petitioner(s) : Ms. Priyansha Gupta

For Respondent(s) : Mr. Rahul Lodha, AGC

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**HON'BLE MR. JUSTICE ANUROOP SINGHI**  
**Order**

**23/04/2026**

The seminal issue which has arisen for consideration in the present matter at this stage is as to what the figure '150', as used in the formula in Rule 53(2) of the Rajasthan Minor Mineral Concession Rules, 2017 (hereinafter referred to as "**the Rules of 2017**") denotes for the purposes of calculating the annual quantity of brick earth (tonnes) and accordingly, whether the basis for calculation for annual quantity of brick earth (tonnes), in light of the several directions issued by the Hon'ble Supreme Court in ***Civil Appeal Diary No(s).18213/2021***, titled as ***NCR Brick Kiln Association Vs. Central Pollution Control Board & Ors.***, which permits the brick kiln to operate for a limited period, requires any reconsideration.

Rule 53(2) of the Rules of 2017 provides for a specific formula for the determination of annual quantity of brick earth (tonnes) which is,  $150 \times W \times N$ , where 'W' means the weight of one thousand bricks of size 9" x 4.5" x 3" and shall be taken as two point eight tonnes and 'N' means number of vertical columns (ghodies) of bricks between the outer and inner walls of brick kiln

along its width. The royalty of the annual quantity of the permit is calculated by the above mentioned formula at the rates as specified in Schedule II of the Rules of 2017.

Further, Rule 53(7) of the Rules of 2017 provides that the permit for brick kilns shall be granted for a period of minimum one year and maximum ten years and the period shall end on 30<sup>th</sup> of September.

Learned counsel for the petitioner submits that in terms of the orders passed in ***NCR Brick Kiln Association (supra)***, more particularly the order dated 19.04.2024, the brick kilns were allowed to operate for the period from 1<sup>st</sup> March to 30<sup>th</sup> June only, which results into 122 days, thus, it is the submission of learned counsel for the petitioner that as the usage of figure of '150' in Rule 53(2) of the Rules of 2017 denotes the number of days, once the Hon'ble Supreme Court has given permission to operate the brick kiln only for a period of 122 days in the entire year, the application of such formula having figure of 150 in Rule 53 (2) of the Rules of 2017, is absolutely arbitrary and deserves to be modified and reduced proportionately.

To emphasis that the figure 150 denotes the number of days, learned counsel for the petitioner has relied upon the report of the Comptroller and Auditor General of India, for the year ending on 31<sup>st</sup> March, 2011, Clause 6.7.3.2 of which, while referring to the said formula mentions '150' as '150 days'. The said facts stand reiterated in the subsequent two reports of the year 2012 and 2016.

Learned counsel for the petitioner has also placed reliance on the site report made by the Mining Engineer, Bharatpur, dated

16.02.2004 (Annexure-5), wherein again the word 'days' has been mentioned after the figure '150'. On the basis of the same, learned counsel for the petitioner submits that as the figure '150' denotes the number of days, the same deserves to be proportionately reduced as the Hon'ble Supreme Court has given permission to operate the brick kiln only for a period of 122 days in the entire year and it would be absolutely obnoxious to interpret that while the brick kilns are directed to operate for 122 days in the entire year, the calculation of quantity of brick earth (tonnes) is being made by multiplying it by 150 days.

Learned counsel for the petitioner further submits that royalty is being charged from the brick kiln owners on a quarterly basis and the royalty has already been paid by them for the quarter ending March, 2026, under coercion and hence, the payment of the same may not impact their rights to assail the determination of the same.

On the other hand, Mr. Rahul Lodha, learned AGC, has raised preliminary objection with respect to maintainability of the writ petition primarily on the ground that if at all the petitioner is aggrieved by any of the Rules of 2017, the challenge has to be made to the vires of the said rule, which has not been made in the present writ petition.

Taking note of the aforesaid submissions, this Court vide its orders dated 13.02.2026, 19.02.2026 and 18.03.2026, had directed the respondents to file a specific affidavit with respect to the formula prescribed under Rule 53(2) of the Rules of 2017. Further, the order dated 18.03.2026 specifically required the respondents to file an affidavit with respect to the object and

reasons behind prescribing the multiplier of '150' in the said formula so as to decipher as to what the figure '150' actually denotes.

Though, multiple affidavits have been filed, however, but for denying the fact that the figure of '150' does not denote '150 days' and that too not in a satisfactory manner, no justification or objects and reasons have been placed on record as to what actually '150' denotes and what has formed the basis for having the figure '150' in the formula as provided under Rule 53(2) of the Rules of 2017.

Considering the fact that the determination as to what the figure '150' actually denotes in the Rule 53(2) of the Rules of 2017 and the fact that the same would have an overall impact, while all possible efforts and assistance has been rendered by Mr. Rahul Lodha, learned AGC, appearing on behalf of the respondent – Department, this Court requests the Advocate General of the State of Rajasthan, to appear in the matter and assist the Court in respect of the controversy as enumerated above.

List the matter on 14.07.2026, enabling the learned Advocate General to make his submissions.

Learned counsel for the respondents shall be at liberty to file the relevant documents and details on or before the next date, so as to substantiate their stand.

**(ANUROOP SINGHI),J**