



IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: HON'BLE JUSTICE SHAMPA DUTT (PAUL)

WPA/377/2025

M/s. Sakthi Builders India Private Limited and another ... Petitioners

Versus

The Deputy Commissioner and Others

... Respondents

For the petitioners : Mr. Gopala Binu Kumar

For the respondents : Ms. Babita Das

Heard on : 10.12.2025

Judgment on : 16.12.2025

SHAMPA DUTT (PAUL), J.

1. The writ application has been preferred being aggrieved by an Order dated 18.06.2025 passed by the respondent No. 2 whereby held the seizure and administrative action initiated by the respondent No. 1 under Order dated 25.03.2025 in RC Case No. 01/DCN/2025 to be legally valid, justified and in accordance with law and accordingly the said order passed by the respondent No. 1 was affirmed and therefore directed the petitioner firm to refrain from any further unauthorized trade or transportation of minor mineral and tribal reserved area and all consequent orders passed on the basis of Order dated 18.06.2025 passed by the respondent No. 2.



2. The petitioner has further prayed that the materials seized from the petitioner be released immediately and to enable the petitioner company to pursue with the construction works awarded to the petitioner company under the Andaman Public Works Department.

3. The petitioners' case herein is that :-

(i) On 20.01.2025 the petitioner company received a notice issued by the respondent No. 2 whereby directed the petitioner company to submit detail in the prescribed format of mine and minerals.

(ii) On 27.01.2025 the petitioner company informed that the documents pertaining to import and stocking of the said materials would be submitted and sought for an extension of 2 week's time.

(iii) On 25.03.2025 the respondent No. 1 issued an order whereby imposed fine of Rs 3,86,43,200/- (Rupees Three Crore Eighty Six Lakh Forty Three Thousand Two Hundred Only) and directed the petitioner company to pay the same within 15 days failing which necessary entry shall be made in the record of right of the petitioner company and the fine amount would be collected as



arrears of land revenue as prescribed under the said regulation.

(iv) On 02.04.2025 the petitioner company informed the respondent No. 1 that the said materials as narrated in order dated 25/03/2025 were procured from mainland and enclosed all the general import and export manifesto for the perusal of the respondent No. 1 and informed that at no point of time the petitioner company was involved in any illegal transportation and dumping and requested the respondent No. 1 to verify the said quantity of the materials with the manifesto submitted by the petitioner company maintained by the vessel owners.

(v) In May, 2025 the petitioner firm filed a writ application being WPA/237/2025 before this Hon'ble Court for setting aside the **Order dated 25.03.2025**.

(vi) On 16.05.2025, this Hon'ble Court set aside the Order dated 25.03.2025 issued by the respondent No. 2 and directed the petitioner firm to appear before the respondent No. 2, and further directed the respondent No. 2 to pass a reasoned order latest by 18.06.2025.



(vii) On 20.05.2025, the petitioner firm submitted manifesto, bill of lading and custom clearance before the respondent No. 2.

(viii) On 11.07.2025, the petitioner firm received Impugned **Order dated 18.06.2025** passed by the respondent No. 5 whereby held the seizure and administrative action initiated by the respondent No. 1 under Order dated 25.03.2025 in RC Case No. 01/DCN/2025 to be legally valid, justified and in accordance with law and accordingly the said order dated 25.03.2025 passed by the respondent No. 1 was affirmed and the petitioner firm was refrained from any further unauthorized trade or transportation of minor mineral and tribal reserved area.

Hence, the writ application.

4. Affidavits were filed by the parties.
5. The respondents herein in their affidavit-in-opposition have denied the case of the petitioner as made out in the writ application.
6. **The specific case of the respondents herein** is that a field inspection was conducted by the Revenue Field Staff



during the first week of January 2025 and during the course of inspection they found huge chunk of minor minerals such as stone aggregate, loose soil (earth) and sea/river sand stack at village Small Lapathy. Thereafter upon local enquiry the field staff came to know that the said materials were stacked by M/S Shakti Builders (India) Pvt. Ltd. it is further submitted that as and when such private firm whomsoever it may be are importing quarry products such as stone aggregate, sand and loose soil etc., it has to be intimated to the Deputy Commissioner in the prescribed format (Form 3) as provided in the A & N Islands Minor Mineral Rules, 2012.

7. But neither the writ petitioner provided the required information with regards to the material so imported nor was he willing to provide such information to the District Administration.

8. As such, the District Administration vide a Notice No. 1-176/DCN/202425/64 dated 20/01/2024 issued to M/S Shakti Builders (India) Pvt. Ltd directed them to submit the details of Minor Minerals such as earth, stone aggregate, sea/river sand in the prescribed format stacked by the writ petitioner in and around Car Nicobar vide 25.01.2025 failing which necessary action as per rule would be initiated against them.



9. It is stated that despite submitting the required documents as directed, they submitted a letter addressed to the SDM, Car Nicobar on 27.01.2025 seeking time for submitting documents with the plea that they were unable to submit the documents within the time as stipulated in the notice and sought another 02 weeks time for the said purpose.

10. It is further submitted that Rule 3 (vii) of A & N Islands Minor Mineral Rules, 2012 empowers the Deputy Commissioner as competent authority to implement the provisions of these rules.

11. Further, it is stated that sub Rule (iv) of the Rule of 2012 construed "authorized officer" means the authorized officer appointed under the provisions of A & N Islands LR & LRR, 1966.

12. It is further submitted that rule 34 of A & N Islands Minor Mineral Rules, 2012 specifically describes that any person who possesses any minor mineral for processing, consumption, or for sale of any minor mineral shall if so required produce sufficient proof including cash memorandum or copy of transit pass to the competent authority. Rule 3 (vii) of A & N Islands minor mineral rules, 2012 empower the Deputy Commissioner as competent authority to implement the provisions of these



rules. Further sub rule (iv) of the Rule of 2012 construed "authorized officer" means the authorize appointed under the provisions of A & N Islands LR & LRR, 1966, which reproduced here under.

13. Apart from these, Section 8 of Andaman and Nicobar Islands (Production of Aboriginal Tribes Regulation), 1956 construes that whoever in contravention of the provisions of section 6, acquires any interest in or in any product of, or crop raised on, any land, or carries on any trade or business, in a reserved area, shall be punishable with imprisonment which may extend to one year, or with fine which extend to one thousand rupees, or with both and the interest so acquired shall be disposed of in such manner as the Chief Commissioner may, after taking into consideration of the case, direct.

14. It is further stated by the respondent administration that whoever, in contravention of a notification issued under section 7 enters a reserved area shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both. Therefore, under the Order of DC, Nicobar District in R.C No. 01/DC/2025-26 dated 25/03/2025 for non-producing the relevant documents with regards to the quarry products stacked at village Small Lapathi



by the M/s Shakti Builders India Pvt. Ltd were seized under the provisions contained in A&N Islands Minor Mineral Rules, 2012 as well as the Andaman Nicobar Islands LR & LRR, 1966 thereby imposing penalty amounting to Rs 3,86,43,200.00 (Rupees Three Crore Eighty Six Lakh Forty Three Thousand Two Hundred) which includes royalty too with the specific direction to deposit the amount within 15 days from the date of receipt of the order.

15. It is further submitted that as and when private firm whomsoever it may be are importing quarry products such as stone aggregates, sand and loose soil etc., has to be intimated to the Deputy Commissioner in the prescribed format as provided in the A & N Islands Minor Mineral Rules, 2012.

16. But neither the writ petitioner provided the required information with regard to the material so imported nor he was willing to provide such information to the District Administration. As such, the District Administration vide a Notice No. 1-176/DCN/202425/64 dated 20/01/2024 issued to M/S Shakti Builders (India) Pvt. Ltd directing them to submit the details of Minor Minerals such as earth, stone aggregate, sea/river sand in the prescribed format stack by the writ petitioner in and around Car Nicobar vide 25.01.2025 failing



which necessary action as per rule shall be initiated against them.

17. But instead of submitting the required documents as directed, they submitted a letter addressed to the SDM, Car Nicobar on 27.01.2025 thereby seeking time for submitting documents with the plea that they are unable to submit the documents within the time as stipulated in the notice and sought another 02 weeks for submitting the same.

18. The writ petitioner firm again submitted a letter dated 02/04/2025 wherein the firm apologized for non-submission of the documents as evidence with another plea that the managing director of the firm was away and was at mainland. As the writ petitioner firm was to submit the required documents by 25/01/2025, after lapse of two months; the competent authority has taken the appropriate action by way of seizing the minor minerals stacked by them.

19. In reply, the petitioners on affidavit stated that the respondent No. 1 with the sole intention to harass the petitioner knowing fully well how far the Andaman and Nicobar Islands Mines and Mineral Rules is applicable in cases, in a most illegal and arbitrary manner initiated notice dated 25.01.2025 upon the petitioner company.



20. That the respondent No. 2 did not accrue any power to issue such notice to the petitioner company, moreso the said rules and the provision of Section 201 of the said regulation has got no manner of application in the instant case, furthermore from the language of Section 201 of the said regulation it clearly postulates that the respondent No. 1 accrues power only, in respect of products which was extracted or removed from any mine or quarry, the right of which vest in the government.

21. Admittedly the materials which were brought by the petitioner company is from abroad and from mainland, therefore the respondent No. 1 & 2 did not accrue any power to issue such notice, as such the same is without jurisdiction and therefore liable to be set at naught.

22. It is further stated by the petitioner that a plain reading of Section 201 (6) speaks that if any person without lawful authority extracts or removes mineral from any mine or quarry, the right of which vest in a government and has not been assigned to him by the government, the respondent No. 1 accrues power to impose penalty and to seize the material, but in the instant case at no point of time the petitioner company has removed or extracted any mineral from any quarry, the right of which vest in the government. **Rather the petitioner has**



purchased the said material from abroad and from mainland.

That the respondent No. 1 also tried to make out a case under the Andaman Nicobar Island (Protection of Aboriginal Tribe) Regulation, 1956 as the said area as stated is a tribal area. Fact remains that under the dint of a valid tender and a valid contract executed between the petitioner company and the Andaman and Nicobar Administration, the petitioner firm is carrying on the said business and at no point of time the petitioner firm has carried any commercial activity within the tribal reserve area, **moreso the same is an improvement in order which was not the ground taken earlier order which was set aside by this Hon'ble Court and the same is taken only to harass the petitioner firm.**

23. It is further stated by the petitioner on denying the contention of the respondents in their affidavit-in-opposition, that the respondent authorities without the sanction of law in a most illegal and arbitrary manner, despite of the fact that the petitioner firm is carrying the said business from years together on the basis of all the relevant document by adhering to the rule of law, in a most illegal and arbitrary manner firstly initiated a process on 28.01.2025 followed by Order dated 25.03.2025 which was set aside by this Hon'ble Court by passing an Order dated 16.05.2025 in WPA/237/2025 whereby **this Hon'ble**



Court arrived to a definite finding that sufficient materials have been placed by the petitioner firm before this Hon'ble court to substantiate at least prima facie that the petitioner firm possessing sufficient documents to establish valid trans-shipment of minor minerals from various parts of the country and outside the country to Port Blair and thereafter again to Car Nicobar.

24. Even after the said order, the petitioners on 20.05.2025 once again submitted all the relevant documents, but despite of that, the respondent No. 2 in order to please the respondent No. 1 vide Order dated 18.06.2025 held the seizure and administrative action initiated by the respondent No. 1 under Order dated 25.03.2025 in RC Case No. 01/DCN/2025 to be legally valid, justified and in accordance with law and accordingly the said order dated 25.03.2025 passed by the respondent No. 1 was affirmed and therefore directed the petitioner firm to refrain from any further unauthorized trade or transportation of minor mineral and tribal reserved area, therefore the petitioner has good ground to succeed the instant writ petition.

25. On hearing the learned Counsels for the parties and on perusal of the materials on record and the relevant provisions of



law relevant to the present case and also relied upon by the parties, it appears that vide the order under challenge the respondent authorities herein passed the impugned reasoned order dated 18.06.2024.

26. The Sub Divisional Magistrate, Nicobar District, the authority concerned has concluded his order on the following findings :-

“Based on the detailed submissions, material on record, and applicable legal provisions, this Court finds that:

- 1. The petitioners have conducted unauthorized transactions in minor minerals in violation of Rules 31-34 of the A&N Minor Minerals Rules, 2012.*
- 2. The petitioners acted in contravention of Sections 6 and 8 of the PAT Regulation, 1956, by trading within a protected tribal reserve without due authorization.*
- 3. The seizure and administrative action initiated by the Deputy Commissioner, Nicobar, under order dated 25/03/2025 vide RC No 01/DCN/2025, is found to be legally valid, justified and in accordance with law.*

Accordingly, the order passed by the Deputy Commissioner, Nicobar stands affirmed. The petitioners are directed to refrain from any further unauthorized trade or transportation of minor minerals in tribal reserve areas.”



27. Admittedly, the authorized representative of the petitioner appeared before the said authority and submitted the following documents :-

- *Copies of general manifests of multiple voyages transporting stone aggregates;*
- *Sale bill from SIVA Agencies dated 12/09/2023;*
- *Written representations stating that the materials were meant for APWD works and later sold to residents when rejected.*

28. The said reasoned order was passed on the following findings :-

“I. Violation of A&N Minor Mineral Rules, 2012:

- a. The petitioners failed to submit mandatory Form-3 and other required documents under Rule 31, which mandates declaration of landing of imported minor minerals into the UT.*
- b. The sale of stone aggregates to local residents without proper authorisation violates Rules 32, 33, and 34 of the said Rules.*
- c. No transit pass, bill of lading or proof of authorised sourcing was furnished.*

II. Contradictions in APWD Work Claim:

- a. The Executive Engineer, APWD categorically denied any rejection of materials supplied by the petitioners, contradicting their justification for local sale.*



III. Illegal Removal of Seized Material:

- a. *The Tehsildar's inspection report (Annexure 'D) confirmed unauthorized removal of **10 CBM** of seized stone aggregates from Small Lapathy, constituting a breach of official custody and defiance of legal process.*

IV. Violation of PAT Regulation, 1956:

- a. *The commercial activity conducted by the petitioners within tribal reserve areas is in contravention of Section 6 of the Protection of Aboriginal Tribes Regulation, 1956, which prohibits non-tribals from conducting trade without prior sanction.*

V. Lack of Legal Documentation:

- a. *At no stage could the petitioners substantiate the lawful origin, authorised transport, or legal possession of the seized materials.*

Under Rule 34 of the A&N Minor Mineral Rules, 2012, any person found in possession of unauthorized minor minerals may be penalized, and the material seized.

Section 201(6) of the A&N Land Revenue and Land Reforms Regulation, 1966 empowers the administration to recover penalties up to double the market value of illegally extracted or removed minerals.

Sections 6 and 8 of the PAT Regulation, 1956, prohibit trade or acquisition of any interest in land/products in tribal reserves by non-tribal without permission and violation attracts penal consequences.”.



29. In the earlier writ application being WPA 237 of 2025 the writ petitioner had prayed for quashing of an order dated 25.03.2025. A copy of the said order has been annexed to the writ application as annexure 5.

30. In the said order, the authority concerned being the Deputy Commissioner, Nicobar District, who is an officer superior to the Sub Divisional Magistrate, Car Nicobar passed an order, wherein it appears as follows :-

*“Under the provisions of **Section 34** of A & N Islands Minor Mineral Rules, 2012 the competent authority or such person may seize Minor & Mineral and realize an amount not exceeding a sum calculated at double the market value or thereof.*

As per the provisions of Section 201(6) of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966, a person shall be liable, by order in writing of the Deputy Commissioner, to pay a penalty not exceeding twice the market value of the minerals extracted or removed.

I, therefore in exercise of power conferred on me under section 201(6) of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation 1966 and under section 34 of A & N Islands Minor Mineral Rules, 2012 do hereby order to deposit a sum of 3,86,43,200/- (Rupees Three Crore Eighty-Six Lakhs forty-three thousand and two hundred Only) as penalty for illegal transportation and dumping of stone aggregates and sand.”.



31. On a plain consideration of the two orders, one the impugned order herein and the other impugned order dated 25.03.2025 in the **earlier writ application** it appears that in the subsequent order dated 18.06.2025 the Sub Divisional Magistrate while passing a reasoned order as per compliance of the direction of the High Court in the earlier writ application has **clearly developed the case of the administration by including further provisions of law of which violation has been stated.** It is clear that most of the said provisions/ Sections were not part of the order dated 25.03.2025, challenged in the earlier writ application. The High Court while disposing of the earlier writ application being WPA 237 of 2025, directed as follows :

*“15. Before parting with, this Court thinks its pertinent to mention that since sufficient materials have been placed before this Court to substantiate at least **prima facie, that the writ petitioners possess sufficient documents to establish valid transshipment of minor minerals from various parts of the country and outside the country to Port Blair and thereafter, again to Car Nicobar Island,** this Court while allowing the instant writ petition and while setting aside the order dated 25.03.2025 as passed by the respondent no. 1 directs the writ petitioners to appear before the respondent no. 2/authority positively on or before May 30, 2025 with all relevant documents as have been called for pursuant to the notice dated 20.01.2025 (wrongly typed as 20.01.2024).*



16. Upon such appearance and upon furnishing all the requisite documents, the respondent no. 2/ authority shall reopen the case bearing R. C. No. ACN/01/2025 and after giving an opportunity of hearing to the authorized representative of the writ petitioner shall pass a reasoned order and shall forthwith communicate the same to the writ petitioners preferably by mail, if the mail details of the writ petitioners are provided to him at the time of hearing.”.

32. Learned Counsel appearing for the respondent administration submits that the petitioner has admittedly not complied with Rule 31 of the Andaman and Nicobar Islands Minor Mineral Rules, 2012 which lays down as follows :

*“Intimation of landing of minor minerals in Andaman & Nicobar Islands :- Where a person brings minor minerals into the Union Territory of Andaman & Nicobar Islands from any other place, he shall intimate to the Competent Authority on arrival of such minor minerals, **in Form-3** alongwith copy of the bill of lading and wharfage.”.*

33. Violation of Rules 32, 33, 34 is also alleged but the primary requirement in the present case is Rule 31 of the said Rules. Though the learned Counsel for the petitioner submits that he has all the documents in support of his contention that he has bought/brought the articles from outside Andaman and Nicobar Islands and as such, these sections are not application to him but admittedly the petitioner has not submitted his



Form-3 along with other documents of bill of lading and wharfage.

34. It is submitted by the petitioner that he has produced all the relevant documents of the said purchase before the authority concerned. But inspite of that his prayer has been rejected and his articles have been withheld.

35. It is further submitted that he is an enlisted contractor in the APWD and he has also the documents to show that the articles have been purchased from outside Andaman and Nicobar Islands. **But due to inadvertence Form-3 has not been submitted.**

36. Mr. Gopala Binnu Kumar, learned Advocate further submits that Regulation 201 (Clause 6) of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966 is not applicable in the present case as the petitioner has not done any of the acts mentioned in the said provision.

37. From the materials on record it appears that the penalty has been imposed upon the petitioner as per the provision of Section 201 (6) of the Regulation of 1966. The seizure has been made as per Rule 34 of the Rules of 2012.



38. It is further submitted by the petitioner that inspite of producing all documents before the authorities, the authorities concerned have not taken into consideration his documents and has passed an order which has caused severe prejudice to the petitioner herein.

39. The petitioner herein has annexed documents in support of his contention that he has purchased all the articles from outside the Island and the said documents are annexed from **pages 59 to 73. It appears from the impugned order under challenge that the said documents were not taken into consideration by the Sub Divisional Magistrate vide his order dated 18.06.2025.**

40. The respondents herein also could not produce any documents to substantiate their case as made out for violation of Rules 32, 33 and 34 of the Rules, 2012 alleging sale of stone to local residents.

41. It appears that after initiation of the present case, the petitioners' agreement and contract with the Andaman PWD was stalled, though the Executive Engineer has denied rejecting any materials. There is also *prima facie* no materials on record to show that the petitioner has violated Section 6 of the Protection of Aboriginal Tribes Regulation, 1956.



42. It further appears that the Sub Divisional Magistrate being an Officer sub ordinate to the Deputy Commissioner, Nicobar Island passed the impugned order as per directions of the High Court, without deciding the case of the petitioner in accordance with law and has also gone beyond the order of the Deputy Commissioner, Nicobar District dated 25.03.2025, by coming to findings beyond the scope of the reasoned order to be passed in compliance with the High Court's direction and has proceeded to decided the case against the petitioners herein vide the impugned order dated 18.06.2025 passed by the Sub Divisional Magistrate without any materials or reasons (proper) in support of his findings and is thus a clear abuse of process of law.

43. Accordingly, the impugned order dated 18.06.2025 is hereby quashed and set aside, in the interest of justice as it suffers from inherent illegality.

44. Considering the case as made out by both the parties, this Court keeping in mind the case of the parties herein and also the public interest in such cases, grants an opportunity to the petitioner to file his Form -3 within 30 days from the date of this order along with documents as required under the Rules of 2012 (herein pages 59 to 73 and



others, if any). Form-3 be given to the petitioner herein by the respondent/authorities concerned within 7 (Seven) days from the date of this order.

45. On filing of the said Form-3 along with supporting documents as annexed to the writ application, **the Deputy Commissioner**, Nicobar Islands shall apply his mind and the Rules, in accordance with law and decide the petitioners case **within 30 days thereafter** on hearing the petitioner and thereby pass a reasoned order.

46. In case the petitioners' case is found to be in accordance with law, the respondent authorities shall immediately return the materials seized on following the official procedure which should be done positively within 07 days from the date of consideration of the petitioners' case by the Deputy Commissioner as directed.

47. Writ application stands disposed of.

48. No order as to costs.

49. Parties to act in terms of the serve copy of this order downloaded from the website of this Hon'ble Court.

[**SHAMPA DUTT (PAUL), J.]**