

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Arena Food and Agro Industries Pvt. Ltd.**

**Vs.**

**The State of Bihar**

Civil Writ Jurisdiction Case No. 6873 of 2025

05 May 2025

**(Hon'ble Mr. Justice Alok Kumar Sinha)**

**Issue for Consideration**

Whether or not the Petitioner is entitled for permission to pay remainder of the additional royalty in installments and remove the mineral lying at the mining site?

**Headnotes**

Mines and Minerals-----Bihar Mining Mineral Concession Rules, 1972---  
Schedule-II, Rule 26(1)(b)----writ petition seeking direction to the Respondents to  
permit the Petitioner to pay remainder of the additional royalty in instalments and  
remove the mineral lying at the mining site.

**Held:** the learned counsel for the petitioner made an offer/proposal in Court whereby he submitted that the petitioner is ready to pay/deposit the entire balance/remaining amount of additional royalty of Rs. 7,98,63,083/- in six equal monthly installments, with each installment being of Rs. 1,33,10,514/- subject to the condition that after deposit of each installment the petitioner would be allowed to lift mineral lying at the site proportionate to the installment paid---- this offer/proposal as per the petitioner, would not only be in the interest of the petitioner but also in the interest of the Respondent-State/Mining Department because, as per the petitioner, a very low minimum price of Rs. 1,36,65,767/- had been fixed for auctioning the mineral lying at the site which may end up in fetching less revenue than what is being offered to be paid by the petitioner--- on a deeper understanding of the offer and taking into account the possibility of the successful highest bidder in the auction offering much less than what the petitioner

is offering to pay as on today which would bring less revenue to the Department, the learned counsel for the Respondent/Mining Department principally agreed to the offer/proposal made by the learned counsel for the petitioner subject to that if this time the petitioner failed to deposit any instalment in any month, for any reason whatsoever, then the Mining Department would not only cancel the order but also immediately proceed for fresh auction, as against which the petitioner would have no grievance against any action taken by the Respondent/Mining Department---writ application disposed of in above terms. **(Para- 26, 27)**

#### **Case Law Cited**

XXX

#### **List of Acts**

Indian Penal Code; Mines and Mineral (Development and Regulation) Act 1957; Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation And Storage) Rules, 2019

#### **List of Keywords**

Mining Lease---Royalty Amount---Additional Royalty---Auction of Mining Rights---Mineral Extraction---Payment of Royalty in Installments.

#### **Case Arising From**

Letter no. 2005 dated 02.04.2025 issued by Respondent Additional Secretary, Mines and Geology Department, Government of Bihar whereby Petitioner's representation dated 06.02.2025 has been rejected.

#### **Appearances for Parties**

For the Petitioner/s: Mr. Suraj Samdarshi, Advocate; Mr. Avinash Shekhar, Advocate

For the State: Mr. Standing Counsel (20); Mr. Mahendra Prasad Verma, AC to SC-20

For Mines: Mr. Naresh Dikshit, Advocate; Mrs. Kalpana, Advocate.

Headnotes Prepared by Reporter: Ghanshyam, Advocate

#### **Judgment/Order of the Hon'ble Patna High Court**

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6873 of 2025**

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Arena Food and Agro Industries Private Limited a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Village Nimi, P.S. Shekhopur, District Sheikhpura, through its director, Shreekrishan Kumar, aged about 39 (male) Son of Harangi Singh, resident of Village Nimmi, P.S. Shekhopur, District- Sheikhpura.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Additional Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
5. The District Magistrate cum Collector, Sheikhpura.
6. The Mineral Development Officer, Sheikhpura.

... .. Respondents

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**Appearance :**

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
	:	Mr. Avinash Shekhar, Advocate
For the State	:	Mr. Standing Counsel (20)
	:	Mr. Mahendra Prasad Verma, AC to SC-20
For Mines	:	Mr. Naresh Dikshit, Advocate
	:	Mrs. Kalpana, Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA**  
**ORAL JUDGMENT**

**Date : 05-05-2025**

Heard learned counsel for the petitioner and  
learned counsel for the State.

2. The petitioner in the present writ application has  
prayed for the following reliefs:-

*i) To issue an appropriate writ, order or  
direction in the nature of certiorari for  
quashing letter no. 2005 dated*



*02.04.2025 issued by Respondent Additional Secretary whereby petitioner's representation dated 06.02.2025 has been rejected.*

*ii) To issue an appropriate writ, order or direction in the nature of certiorari for quashing notice bearing no. PR No. 000159 (Mines) 2025-26 published in Dainik Bhaskar newspaper on 04.04.2025 whereby the respondents have published a notice for auction of 32,20,180.39 CFT mineral lying at Mauja Mathokar Surdaspur, Circle Sheikhpura, P.O Sheikhpura, Khata 272, and 132 Plot 1030 (P) and 32 (P) Block 04.*

*iii) To issue an appropriate writ, order or direction to the Respondents to permit the petitioner to pay remainder of the additional royalty in installments and remove the mineral lying at the mining site.*

*iv) This Hon'ble Court may adjudicate and hold that the action of the Respondents in not permitting the petitioner to pay the remainder of the additional royalty amount and trying to auction the mineral as much less consideration is completely unjustified and arbitrary.*

*v) This Hon'ble Court may adjudicate and hold that petitioner's failure to*



*comply with the earlier order of the Mines Commissioner contained in memo no. 5577 dated 24.11.2023 was solely attributable to the Respondents and the petitioner cannot be penalised for the same.*

*vi) To grant any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.*

3. The facts giving rise to the present writ application is that the petitioner company had participated in the auction for obtaining the mining lease for stone with respect to land situated at Mauja Mathokar Surdaspur, Circle-Sheikhpura, PO-Sheikhpura and Khata-272 and 132 Plot 1030 (P) and 32(P) Block-04, admeasuring 12.50 crores (hereinafter for brevity referred to as said land). Pursuant to participating in the auction, the petitioner company emerged as the highest bidder at Rs. 29,00,00,000/- (Rupees Twenty-Nine crores) and was granted the mining lease with respect to the said land for a period of five years (30-03-2017 to 29-03-2022). Thereafter, the petitioner company deposited a security amount of Rs, 2,90,00,000/- (Rs. Two crores and Ninety lakhs) and entered into a lease agreement with the State of Bihar on 30-3-2017 (Annexure-P/1 to the writ application). According to Part-V of the said agreement, the petitioner company was supposed to deposit the entire auctioned



amount of Rs. 29,00,00,000/- (Twenty-Nine crores) in 5 equal early installments of Rs. 5,80,00,000/- ( Rs. Five crores and 80 lakhs).

4. Learned counsel for the petitioner submitted that Schedule-II of the Bihar Mining Mineral Concession Rules, 1972 (which was in force at the time of the execution of agreement) contemplated that in case settlement is made through auction, the royalty under Rule 26(1)(b) would be the auction amount. The same provision has been incorporated in Schedule-III (A) of the 2019 Rules. Learned counsel for the petitioner further contended that since the settlement was through auction, the auctioned amount was the royalty which the petitioner was liable to pay. Learned counsel for the petitioner contended to have deposited the entire royalty amount of Rs. 29 crores along with applicable interest for delayed payment as well. Learned counsel for the petitioner further submitted that the petitioner had also obtained environment clearance from State Environment Impact Assessment Authority, Bihar, which was contained in Reference No. 428 dated 19-12-2016. According to the environment clearance granted to the petitioner, the proposed capacity of production was kept at 11,41,250 tons per annum (Annexure-P/3 to the writ



application). Thus, the petitioner was entitled to extract 11,41,250 tons per annum from the mines, consequently for the entire period of five years, the petitioner was entitled to extract 57,06,250 tons of mineral which corresponds to 14,26,56,250 cft. of minerals. The agreement of the petitioner is stated to have expired on 29-03-2022.

5. It was further stated by the learned counsel for the petitioner that during the entire period of five years, the petitioner had produced only 12,02,59,361.7 cft. mineral which comes to 48,10,374 mt. Insofar as dispatch is concerned, the total mineral dispatched was 11,54,47,915.6 cft. which comes to 46,17,916.624 mt. The details of which are as follows:-

Year	Month	Total Production (CFT)	Total Dispatch (CFT)
2017	April-Decemeber	1,97,36,440	26,89,855.25
2018	January-December	2,84,41,085	1,10,31,886.55
2019	January-December	2,78,81,836.65	2,18,85,021.95
2020	January-December	2,82,50,000	3,23,64,207.6
2021	January-December	1,34,65,000	3,18,38,094.45
2021	January-March	25,85,000	1,56,38,849.75
	Total	12,02,59,361.7 CFT	11,54,47,915.6 CFT

6. After expiry of the settlement, approximately 1,92,457.376 mt. of boulder/stone was lying at the mining site, which is corroborated by the monthly return filed by the



petitioner for the month of March 2022 on 21-04-2022 (Annexure-P/4 to the writ application). Since the total quantity of dispatched mineral was only 11,54,47,915.6 cft. which is less than 14,26,56,250 cft., the learned counsel for the petitioner contends that the petitioner was not liable to make payment of any additional royalty. Nonetheless, the learned counsel for the petitioner submits that under wrong advice and under the pressure of the District Mining Office, had paid additional royalty of Rs. 1,18,23,487/- initially.

7. The learned counsel for the petitioner further contended that in spite of the above, the Mineral Development Officer, Sheikhpura *vide* Letter No. 722 dated 04-07-2022 (Annexure-P/5 to the writ application) directed the petitioner to deposit Rs.6,25,34,581/- as additional royalty because it was alleged that the petitioner had dispatched mineral worth Rs. 36,43,58,068.00/- during the settlement term till 29-03-2022 and had deposited only Rs.30,18,23,487.00/-, therefore, the petitioner was held liable to pay additional royalty of Rs. 6,25,34,581/-. Learned counsel for the petitioner submits that *vide* letter dated 5-7-2022, the petitioner replied to the above demand letter (Annexure-P/5 to the writ application) but the reply of the petitioner was rejected *vide* Letter No. 731 dated 06-07-2022





(Annexure-P/6 to the writ application) and the petitioner was directed to deposit additional royalty of Rs. 6,25,34,581/- along with Income Tax and District Mineral Foundation Amount.

8. As against the Letter No. 731 dated 06-07-2022 (Annexure-P/6 to the writ application) issued by the Mineral Development Officer, Sheikhpura, the petitioner is said to have preferred an appeal under the Rule 67 of 2019 Rules before the Collector, Sheikhpura bearing Appeal Case No. 96 of 2022. In the meanwhile, the Senior Additional Collector-Cum-Mineral Development Officer Sheikhpura lodged Sheikhpura P.S. Case no. 396 of 2022 on 08-07-2022 against the petitioner under section 406, 419 and 420 of Indian Penal Code; Section 4 of Mines and Mineral ( Development and Regulation) Act 1957; Rule 11, 43 and 56 of Bihar Minerals ( Concession, Prevention of Illegal Mining, Transportation And Storage) Rules, 2019 alleging that the petitioner had not paid the additional royalty amounting to Rs. 6,25,34,581/- and had stopped 52,07,192 cft. and 5,39,280.75 cft. minerals at its K-license site and upon inspection carried out on 08.07.2022, the stock at the storage point was found to be nil. Thus, it was alleged that the stock had been sold off illegally.

9. The Director of the petitioner company namely,



*Radhe Sharma* filed anticipatory bail application before the Court below which was rejected and *Radhe Sharma* approached this Hon'ble Court *vide* Criminal Misc. No. 53870 of 2022 seeking anticipatory bail, which was allowed *vide* order dated 06.02.2023 (Annexure-P/7 to the writ application) upon the submission that the petitioner was ready to deposit Rs. 50 lakhs per month for six months, subject to the outcome of Civil Proceeding, if the Mining Department would allow the petitioner to lift the minerals already excavated and lying at the mineral site.

10. The learned counsel for the petitioner further submits that in light of the above order, *vide* representations dated 18.02.2023 and 22.02.2023, the petitioner requested the authorities to permit the petitioner to remove the minerals already lying at the mineral site. However, the petitioner was not permitted to lift the same. It is stated that Appeal Case No. 96 of 2022 was dismissed *vide* order dated 28.03.2023 (Annexure-P/9 to the writ application) contained in Memo No. 362 dated 03.04.2023 and the petitioner was directed to deposit an amount of Rs. 8,67,12,590/- [Rs. 6,25,34,581.00/- as additional royalty and Rs. 96,34,471.00/- as interest on delayed payment of additional royalty + Rs. 15,31,777/- as Income Tax amount +



Rs. 14,87,162 as DMF (District Mineral Foundation) amount + Rs.1,01,50,905.00/- as interest on delayed payment of installment + Rs. 13,73,694/- as interest on DMF amount] along with interest from the date of institution of certificate case.

11. The learned counsel for the petitioner further submitted that in spite of the order of this Hon'ble Court in Criminal Misc. No. 53870 of 2022, the petitioner was not allowed to deposit Rs. 50 lakhs per month and lift the material already lying at the mining site. This compelled the petitioner to file Criminal Misc. No. 24766 of 2023 seeking modification of the order dated 02.06.2022 passed in Criminal Misc. No. 53870 of 2022. It is stated that Criminal Misc. No. 24766 of 2023 was allowed *vide* order dated 19.04.2023 (Annexure-P/10 to the writ application) and this Court clarified that the condition of deposit of Rs. 50 lakhs was subject to the condition that the petitioner was allowed to lift the minerals already excavated and lying at the mining site.

12. In light of the above order dated 19.04.2023 (Annexure-P/10 to the writ application), the petitioner *vide* representation dated 08.06.2023 (Annexure-P/11 to the writ application) addressed to the District Magistrate is said to have objected to the levy of interest on non-payment of additional



royalty and Rs. 1,01,50,905/- as interest on delayed payment of installment and Rs. 13,73,694/- as interest on DMF amount and offer to deposit the additional royalty under protest in six installments, if permission was given to remove minerals already lying at the mining site. The petitioner submits that he has not replied to the aforesaid letter.

**13.** The learned counsel for the petitioner further contended that in spite of above, the Mining Department did not allow the petitioner to lift the mineral from the mining site and the petitioner could not deposit Rs. 50 lakhs and furnish bail bonds. Consequently, the petitioner filed Criminal Misc. No. 44436 of 2023 seeking removal of condition of deposit of Rs. 50 lakhs for six months. It is stated that Criminal Misc. No. 44436 of 2023 was allowed *vide* order dated 19.07.2023 (Annexure-P/12 to the writ application) and the condition of deposit of Rs. 50 lakhs for six months was omitted from the order dated 06.02.2023.

**14.** In the meanwhile, the petitioner is said to have filed CWJC No. 7134 of 2023 seeking permission to allow the petitioner to remove/sell 195671.60 mt. and 17458.91 mt. of royalty paid minerals (stone chips and dust) lying at stock areas bearing K-license Nos. K-Sheikhpura/28/2022 and K-



Sheikhpura/30/2022 respectively. The said case is said to have been disposed of *vide* order dated 22.08.2023 (Annexure-P/13 to the writ application) with direction to file a representation before the Mines Commissioner, which was done and it was numbered as Misc. Case No. 08 of 2023.

**15.** Further, being aggrieved by the order dated 28.03.2023 passed by the Collector in Appeal Case No. 96 of 2022, the petitioner is said to have filed CWJC No. 13532 of 2023 which was disposed of *vide* order dated 12.10.2023 (Annexure-P/14 to the writ application). This Hon'ble Court is said to have granted liberty to the petitioner to file revision and also granted permission to the petitioner to lift the already excavated minerals from the mining site subject to the condition that the petitioner shall pay the additional royalty of Rs. 6,25,34,581/- in six equal monthly installments.

**16.** In light of the liberty granted to the petitioner *vide* order dated 12.10.2023 (Annexure-P/14 to the writ application), the petitioner preferred Revision Case No. 2 of 2023 against the order dated 28.03.2023 passed by the Collector in Appeal Case No. 96 of 2022. The learned counsel for the petitioner also stated that the petitioner had also filed CWJC No. 14879 of 2022 seeking permission to allow the petitioner to



carry out mining activity for 317 days as the petitioner was precluded from conducting mineral activity due to various reasons. The said writ application is said to have been disposed of *vide* order dated 02.11.2022 (Annexure-P/15 to the writ application) with a direction to the Principal Secretary, Mines and Geology Department, Government of Bihar, Patna to positively take a decision on the petitioner's request dated 03.09.2022 and the petitioner was also given the liberty to raise the issue of lifting of material lying at the mining lease area.

17. In light of the above order dated 02.11.2022, (Annexure-P/15 to the writ application), the petitioner is said to have filed representation dated 10.11.2022, requesting that the petitioner be granted six months time to remove 192457.376 mt. of mineral already lying at the mining side.

18. It was further stated by the learned counsel for the petitioner that Misc. Case No. 08 of 2023 and Revision Case No. 02 of 2023 were heard simultaneously and disposed of *vide* order dated 23.11.2023 (Annexure-P/17 to the writ application) contained in Memo No. 5577 dated 24.11.2023 with a direction to the petitioner to deposit Rs.1,99,65,771/- every month for six months and in lieu of the same the petitioner would be entitled to lift 801907.03 cft. mineral every month.



**19.** It is stated that in compliance of the order dated 23.11.2023 (Annexure-P/17 to the writ application), the petitioner deposited the first installment of Rs. 1,99,65,771/- on 28.11.2023. However, it is contended that the petitioner was not immediately allowed to sell minerals from the lease hold area. It is submitted that the petitioner was given capping only on 02.01.2024 after a delay of 34 days, as a result of which huge amount of Rs. 1,99,65,771/- got stuck for more than a month. Thereafter, the petitioner deposited the second installment on 20.02.2024. Even this time the capping was not allotted in a timely manner and the Mining Department provided the capping on 09.01.2024 after a delay of 48 days, resulting in huge financial loss on account of large amount of money getting blocked.

**20.** It is further submitted that the capping given for the second month was valid till 08.05.2024. However, thereafter, some delay was caused in depositing the third installment on account of some technical issue in the current account of the petitioner and this fact was communicated to the Assistant Director *vide* letter dated 06.05.2024 (Annexure-P/18 to the writ application). Meanwhile, the Assistant Director *vide* Memo No. 585 dated 29.06.2024 (Annexure-P/19 to the writ application)



recalled the order of lifting of minerals from the lease area and seized the remainder of 3207628.14 cft. minerals from the site. The petitioner was also directed to remove all its machines etc. from the lease site. The petitioner *vide* representation dated 23.09.2024 (Annexure-P/20 to the writ application) requested the Additional Chief to extend the time period to deposit the royalty and reduce the monthly installment to Rs.1,00,00,000/- Finally, *vide* order contained in Memo No. 4526 dated 24.10.2024 (Annexure-P/21 to the writ application) issued by the Director Mines, the representation of the petitioner was rejected purportedly in light of order contained in order dated 23.11.2023 contained in Memo No. 5577 dated 24.11.2023 and Memo No. 585 dated 29.06.2024 issued by the Assistant Director. It is stated that on the very same day, the Director Mines *vide* Memo No. 4525 dated 24.10.2024 (Annexure-P/22 to the writ application), directed the Collector, Sheikhpura to seize all the minerals lying within the lease area and auction the same in accordance with the Rules. A copy of the said letter was provided to the petitioner from the District Mining Office.

**21.** It was submitted by the petitioner company that the Assistant Director, failed to consider that the delay caused in depositing the third installment of the royalty was not only on





account of the petitioner but also on account of the delay caused by the Mining Department in providing the capping to the petitioner. Being aggrieved by Memo No. 4525 dated 24.10.2024, the petitioner is said to have preferred a Revision Application before the Mines Commissioner bearing Revision Case No. 05 of 2024. The said case was dismissed *vide* order dated 14.01.2025 contained in Memo No. 302 dated 16.01.2025 (Annexure-P/23 to the writ application) on the ground that no revision was maintainable against order passed by the Director Mines. However, the petitioner was given liberty to file a representation before the Mines Commissioner with respect to its claim. The petitioner, therefore, filed a representation before the Principal Secretary Mines and Geology Department *vide* letter dated 06.02.2025 (Annexure-P/24 to the writ application) requesting that it be allowed to extend the time period to deposit the royalty. Since nothing was communicated to the petitioner for some time, the petitioner *vide* letter dated 28.02.2025 submitted a reminder letter to the Director Mines. Consequent thereto, the Director Mines *vide* Letter No. 2005 dated 02.04.2025 intimated the petitioner (Annexure-P/25 to the writ application) that *vide* earlier Letter No. 4526 dated 24.10.2024 (Annexure-P/22 to the writ application) the petitioner had been



intimated that its request had been rejected. The learned counsel for the petitioner therefore submits that no fresh order was passed upon the letter dated 06.02.2025. Rather relying on earlier Letter No. 4526 dated 24.10.2024 (Annexure-P/22 to the writ application) issued by the Director Mines, the request made to the Principal Secretary was rejected. Consequent thereto, the Mines Department has now floated an auction notice contained in PR No. 000159 (Mines-2025-26) published in *Dainik Bhaskar* newspaper on 04.04.2025 whereby 3220180.39 cft minerals lying at the mining site of the petitioner has been put up for auction and the date of the auction has been fixed for 21.05.2025. The tender notice has been brought on record as Annexure-P/26 to the writ application.

**22.** It is submitted by the petitioner that the Letter No. 2005 dated 02.04.2025 (Annexure-P/25 to the writ application) issued by the Director Mines is bad in the eyes of law. Since the representation dated 06.02.2025 was submitted to the Respondent-Principal Secretary in light of the order dated 14.01.2025 passed in Revision Case No. 05 of 2024, as per the petitioner, it was imperative that the Principal Secretary should have passed an order in this regard but the petitioner's representation has been rejected by the Director Mines, that too



by referring to earlier Memo No. 4525 dated 24.10.2024 (Annexure-P/22 to the writ application). The learned counsel for the petitioner further submits that the respondents have failed to consider that the delay of 34 and 48 days in depositing the royalty was caused by the Mining Department itself in providing the capping to the petitioner after it had deposited the first and second installment respectively. The petitioner submits that it was always willing and ready to comply with the order passed by the Mines Commissioner but its inability to comply was solely attributable to the Mining Department.

**23.** The petitioner unequivocally submits and states that the petitioner is ready to deposit the remainder of the royalty to the Mining Department, which as per the petitioner comes to Rs. 7,98,63,083/- (Rupees Seven Crores Ninety-Eight Lakhs Sixty-Three Thousand Eighty Three Only) in lieu of lifting of mineral lying at the mining site. On the contrary, as per the learned counsel for the petitioner, the Department is ready and willing to auction the same at a very low minimum price of Rs. 1,36,65,767/- (Rupees One Crore Thirty-Six Lakhs Sixty-Five Thousand Seven Hundred Sixty Seven Only). The learned counsel for the petitioner submits that the action of the respondents is highly arbitrary in the eyes of law and there



cannot be any justification for respondents to accept lower amount for the minerals when the petitioner is ready to pay much more i.e., Rs.7,98,63,083/-. The learned counsel for the petitioner emphasizes the fact that it would not be in the commercial interest of the Mining Department to accept a lower amount when the petitioner is ready and willing to pay approximately Rupees Eight crores.

24. Per contra, the learned counsel appearing for the Mines Department submits that *vide* judgment and order dated 12.10.2023 passed in CWJC No. 13532 of 2023, this Hon'ble Court had disposed of the writ application and had allowed the petitioner to pay the additional royalty of Rs. 6,25,34,581/- as per following strict terms and conditions contained in paragraph nos. 6 and 7 of the said judgment which reads as under:-

*“6. Considering the submissions made on behalf of the parties and taking note of the bonafide undertaking of the petitioner that he is ready to deposit the additional royalty amount within a period of six months, this Court deems it apt and proper to allow the petitioner to pay the amount in six equal instalments on monthly basis*

*7. However, it is needless to observe that the permission to lift the boulder/stones*



*shall be issued only after payment of first installment, before 10th of November, 2023. It is also made clear that within six months i.e., upto 10.04.2023 the entire payment of additional royalty of Rs. 6,25,34,581/- must be made within six equal monthly installments. Failure of any installment in any month would lead to cancellation of the order, giving liberty to respondents to take appropriate action. Further, this order will not prevent the Mines Department to make any settlement with any lessee in connection with the site, in question, but during this period of six months, the site, in question, will not be handed over to the successful bidder.”*

25. Learned counsel for the Mines Department, therefore, submits that it was very clearly stipulated by this Court that upon failure of payment of any installment the same would lead to cancellation of the order, giving liberty to the respondents to take appropriate action. It was further stipulated by the Court that in such a situation, the Mines Department would be free to make any settlement with any lessee in connection with the minerals lying at the site through auction. He, therefore, submits that the present action of the Mines Department of canceling the order of the petitioner because of his default in payment of the installment is absolutely proper



and also the action of the Department to initiate the process of auctioning of the minerals lying at the site is also proper and in accordance with the order dated 12.10.2023 passed in CWJC No. 13532 of 2023. Hence, as per the learned counsel for the Mines Department, the present writ application does not have any merit and is fit to be dismissed.

**26.** The contention of the parties have been noted in detail hereinabove with a view to highlight the complexities of this case and the *lis* involved therein. However, when this Court was just about starting to adjudicate the present case on merit, the learned counsel for the petitioner made an offer/proposal in Court whereby he submitted that the petitioner is ready to pay/deposit the entire balance/remaining amount of additional royalty of Rs. 7,98,63,083/- in six equal monthly installments, with each installment being of Rs. 1,33,10,514/- subject to the condition that after deposit of each installment the petitioner would be allowed to lift mineral lying at the site proportionate to the installment paid. The learned counsel for the petitioner further proposed that the petitioner would be willing to do this without prejudice to his right of pursuing with the case by which he has challenged the imposition of the additional royalty. This offer/proposal as per the petitioner, would not only



be in the interest of the petitioner but also in the interest of the Respondent-State/Mining Department because, as per the petitioner, a very low minimum price of Rs. 1,36,65,767/- had been fixed for auctioning the mineral lying at the site which may end up in fetching less revenue than what is being offered to be paid by the petitioner and hence the petitioner implored the Respondent-State/Mining Department to accept its offer/proposal.

27. The learned counsel appearing for the Respondent/Mining Department initially was not willing to accept the offer/proposal given by the learned counsel for the petitioner but on a deeper understanding of the offer and taking into account the possibility of the successful highest bidder in the auction offering much less than what the petitioner is offering to pay as on today which would bring less revenue to the Department, the learned counsel for the Respondent/Mining Department principally agreed to the offer/proposal made by the learned counsel for the petitioner subject to that if this time the petitioner failed to deposit any installment in any month, for any reason whatsoever, then the Mining Department would not only cancel the order but also immediately proceed for fresh auction, as against which the petitioner would have no



grievance and further that the petitioner must undertake that in case of failure to deposit any installment within time, the petitioner would not seek any remedy against Respondent/Mining Department's decision to cancel the order and to go for fresh auction. In nutshell, if under any circumstance the petitioner failed to pay any installment then thereafter he would have no grievance against any action taken by the Respondent/Mining Department as a consequence thereof. The learned counsel for the Respondent/Mining Department also objected to petitioner being allowed to pay the remaining amount of additional royalty in six installments and insisted that the entire amount should be cleared in four equal monthly installments.

**28.** Considering the offer/proposal made by the learned counsel for the petitioner and also the acceptance on part of the Respondent/Mining Department with certain reservations, both the parties ultimately agreed to the following terms under which the present writ application is being disposed of:-

(I) The petitioner will deposit the remaining amount of additional royalty of Rs. 7,98,63,083/- in five equal monthly installments starting from 25.05.2025, with each installment





being of Rs. 1,59,72,617/-. All the five installments, therefore, must be paid by 25.10.2025. To clarify, the installments must be paid as under:-

(a) First installment of Rs. 1,59,72,617/- should be paid by 25.06.2025.

(b) Second installment of Rs. 1,59,72,617/- should be paid by 25.07.2025.

(c) Third installment of Rs. 1,59,72,617/- should be paid by 25.08.2025.

(d) Fourth installment of Rs. 1,59,72,617/- should be paid by 25.09.2025.

(e) Fifth installment of Rs. 1,59,72,617/- should be paid by 25.10.2025.

(II) After deposit of each installment by the petitioner, the petitioner will be allowed to lift mineral lying at the site proportionate to the installment paid within ten days of the payment of the installment.

(III) The aforesaid payment by the petitioner will be without prejudice to the petitioner's right of pursuing with the case by which the petitioner has challenged the very imposition of additional royalty.

(IV) Failure to pay any installment by the petitioner



will lead to cancellation of the order giving liberty to Respondent/Mining Department to take all appropriate action as deemed fit which will include the Mining Department's right to initiate fresh auction for settlement with any lessee in connection with minerals lying at the site.

(V) If the petitioner fails to pay any installment of any month, the petitioner, based on his undertaking given in open Court will not challenge the decision of the Respondent/Mining Department to cancel the order as well as the decision taken to proceed for fresh auction.

**29.** To give effect to the above terms agreed between the parties under which the present writ application is being disposed of, the Letter No. 2005 dated 02.04.2025 issued by Respondent-Additional Secretary (Annexure-P/25 to the writ application) is hereby quashed and also the process for auctioning of the mineral lying at the site initiated through notice bearing PR No. 000159 (Mines) 2025-26 published in Dainik Bhaskar newspaper on 04.04.2025 (Annexure-P/26 to the writ application) through which notice for auction of 32,20,180.39 cft. mineral lying at Mauja Mathokar Surdaspur, Circle Sheikhpura, P.O Sheikhpura, Khata 272, and 132 Plot 1030 (P) and 32 (P) Block 04, is also quashed.



**30.** Before parting with this case, this Court would like to record its appreciation for learned Advocate Mr. Naresh Dikshit ably assisted by learned Advocate Mrs. Kalpana appearing for the Respondent/Mining Department for taking a pragmatic decision in the commercial interest of the Mining Department/State.

**30.1)** This writ application is, accordingly, disposed of in above terms.

**(Alok Kumar Sinha, J)**

Gaurav Sinha/-

AFR/NAFR	AFR
CAV DATE	29.04.2025
Uploading Date	05.05.2025
Transmission Date	NA

