

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10740 of 2025**

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Bimal Kumar Son of Shyam Sundar Yadav, Resident of Kurji More, Sadaquat Ashram, P.S. Digha, District- Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Commissioner-Cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
2. The Principal Secretary cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate-cum-Collector, Rohtas, Sasaram.
5. The Mineral Development Officer, Rohtas, Sasaram.

... .. Respondents

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with

**Civil Writ Jurisdiction Case No. 7128 of 2025**

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Nagendra Kumar Son of Mudrika Rai Resident of New Gosai Tola, Sultanpur Road, Dr. D.Ram, DAV Public School, Ward no. 20, Danapur Khagaul, P.O. and P.S. - Danapur, District-Patna-801503.

... .. Petitioner

Versus

1. The State of Bihar through the Commissioner-Cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna. 800001.
2. The Principal Secretary, Cum Commissioner Mines, Department of Bihar, Vikas Bhawan, Bailey Road, Patna. 800001.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate-Cum-Collector, Bhojpur.
5. The Mineral Development Officer, Bhojpur.

... .. Respondents

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**Appearance :**

**In C.W.J.C. No.10740 of 2026**

For the Petitioner : Mr. Suraj Samdarshi, Advocate



For the State : Mr. Avinash Shekhar, Advocate  
Ms. Simran Kumari, Advocate  
Ms. Abhilasha Jha, Advocate  
For the Mines Department: S.C.-26  
Mr. Naresh Dikshit, Spl. P.P.  
Mr. Brij Bihari Tiwari, Advocate  
Ms. Shruti Singh, Advocate

**In C.W.J.C. No.7128 of 2026**

For the Petitioner : Mr. Suraj Samdarshi, Advocate  
Mr. Avinash Shekhar, Advocate  
Ms. Simran Kumari, Advocate  
Ms. Abhilasha Jha, Advocate  
For the State : G.A.-7  
For the Mines Department : Mr. Naresh Dikshit, Spl. P.P.  
Mr. Brij Bihari Tiwari, Advocate  
Ms. Shruti Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**C.A.V. JUDGMENT**  
**Date : 16-04-2026**

Since both these cases involve similar factual position and questions, they have been heard together and are being disposed of by this common judgment.

2. In these cases, primarily the petitioners have challenged the orders passed by the respective District Magistrate-cum-Collector, by which the security deposit of the petitioners for settlement of sand *ghats* have been forfeited under Rule 28(1) of the Bihar Minerals (Concession, Prevention of Illegal Transportation and Storage) Rules, 2019 and the in-principal work orders have been revoked on the ground that the petitioners have not deposited their respective first installment of the royalty.

3. For convenience, the prayer made in both the cases are being reproduced herein-below:-



**Re:- C.W.J.C. No.10740 of 2025**

- “(i) For issuance of a writ, order or direction in the nature of certiorari for quashing memo no. 758 dated 11.05.2024 (Annexure-18) issued by the Respondent Collector, Rohtas, whereby and whereunder the security deposit of Rs. 8,97,34,500/- (Rupees Eight Crores, Ninety Seven Lakhs, Thirty Four Thousand and Five Hundred Only) furnished by the petitioner for settlement of Rohtas Sand Ghat No. 13 has been forfeited under Rule 28(1) of the Bihar Minerals (Concession, Prevention of Illegal Transportation and Storage) Rules 2019 and the in-principal work order contained in letter no.4491 dated 26.11.2022 has been revoked on the ground that the petitioner has not deposited the first installment of the royalty and commenced operation of the sand ghat.
- (ii) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to refund the security deposit of Rs. 8,97,34,500/- deposited by the petitioner for settlement of Rohtas Sand ghat No.13 since the contract between the petitioner and the Department of Mines and Geology stands frustrated due to unforeseen events which have occurred after formation of the contract, rendering its performance impossible and fundamentally different from what the parties originally intended.
- iii. This Hon’ble Court may adjudicate and hold that the petitioner cannot be compelled to pay



*the entire settlement amount when the mineral potential of the sand ghat has been reduced that too for no fault on the part of the petitioner.*

- iv. *This Hon'ble Court may adjudicate and hold that a sand ghat cannot be settled and allowed to be operated without there being replenishment study of the year 2023 as contemplated under the Enforcement & Monitoring Guidelines for Sand Mining 2020.*
- v. *To award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case."*

**Re:- C.W.J.C. No.7128 of 2025**

- (i) *For issuance of a writ, order or direction in the nature of certiorari for quashing memo no. 1919 dated 29.04.2024 (Annexure 18) issued by the Respondent Collector, Bhojpur, whereby and whereunder the security deposit of Rs. 2,00,47,500/- (Rupees Two Crores Forty Seven Thousand Five Hundred Only) furnished by the petitioner for settlement of Bhojpur Sand Ghat No. 01 has been forfeited under Rule 28(1) of the Bihar Minerals (Concession, Prevention of Illegal Transportation and Storage) Rules, 2019 on the ground that the petitioner has not deposited the first installment of the royalty and commenced operation of the sand ghat.*
- ii) *For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to refund the security deposit of Rs. 2,00,47,500/- (Rupees Two Crores Forty Seven Thousand Five Hundred Only) deposited by the*



*petitioner for settlement of Bhojpur Sand ghat No. 01 since the contract between the petitioner and the Department of Mines and Geology stands frustrated due to unforeseen events which have occurred after formation of the contract, rendering its performance impossible and fundamentally different from what the parties originally intended.*

- iii. This Hon'ble Court may adjudicate and hold that the petitioner cannot be compelled to pay the entire settlement amount when the mineral potential of the sand ghat has been reduced that too for no fault on the part of the petitioner.*
- iv. This Hon'ble Court may adjudicate and hold that a sand ghat cannot be settled and allowed to be operated without there being replenishment study of the year 2023 as contemplated under the Enforcement & Monitoring Guidelines for Sand Mining 2020.*
- v. To award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case.”*

4. The Department of Mines and Geology, Government of Bihar, floated tenders for e-auction of sand *ghats* in different districts of the State including Rohtas Sand *Ghat* No.13 and Bhojpur Sand *Ghat* No.01, which are subject matter of these two writ petitions. The petitioners in both these cases emerged as the highest bidder for Rohtas Sand *Ghat* No. 13 and Bhojpur Sand *Ghat* No. 01 respectively. The reserve



price of Rohtas Sand Ghat No.13 was Rs.15,60,60,000/- against which the petitioner - Bimal Kumar quoted Rs.35,89,38,000/- and the reserve price of Bhojpur Sand Ghat No.01 was Rs.7,29,00,000/- against which the petitioner - Nagendra Kumar quoted Rs. 8,01,90,000/-. Thereafter, both the petitioners deposited the requisite security deposit i.e. 25% of the auction/bid amount, after adjustment of earnest money deposit.

5. Consequently, respective in-principle work orders were issued in favour of the petitioners by the concerned authorities and both the petitioners submitted the required mining plans, which were approved by the competent authority. After approval of the Mining Plans, both petitioners approached the State Environment Impact Assessment Authority (SEIAA) for issuance of Terms of Reference and further environmental clearance, which were granted to them.

6. It is the case of the petitioners that since the mineral potential of the sand *ghats* had reduced considerably considering the fact that there was no replenishment of sand during the monsoon season of the year 2023, the petitioners were reluctant to commence mining operations at their respective sand *ghats*, as according to the petitioners, the same would have caused heavy financial losses to the petitioners.



7. It is the further case of the petitioners that after the monsoon season of 2023, there was no sufficient replenishment of sand, resulting in substantial reduction in the mineral potential of the respective sand *ghats*. Further, no replenishment study was conducted after the monsoon season of 2023, although such exercise is mandatory under the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020), particularly for assessing actual replenishment and sustainable extraction. The petitioner - Nagendra Kumar, upon learning about the reduced availability of sand, addressed a representation dated 22.09.2023 to the Member Secretary, SEAC, requesting that the environmental clearance be granted only after physical verification of the sand *ghat* but despite the aforesaid representation, the environmental clearance was granted to the petitioners without proper consideration of the issue of non-replenishment and reduced mineral potential.

8. According to the petitioners, at the time of participating in the auction, they had inspected the respective sand *ghats* and found sufficient sand availability but the depletion in mineral potential occurred only thereafter, during the period which was consumed in obtaining approvals and clearances and such depletion may have occurred due to lack of



replenishment during monsoon and/or illegal or excessive mining by prior operators or third parties. It is the case of the petitioners that they, under pressure, from the mining authorities proceeded further and applied for Consent to Establish (CTE) and Consent to Operate (CTO) from Bihar State Pollution Control Board.

9. It is also the case of the petitioners that they did not commence mining operations even after obtaining necessary permissions since their consistent stand is that the actual mineral potential had been seriously reduced due to absence of post-monsoon replenishment. Further, the petitioners received several letters from the respondent authorities for making the payment of first installment in lieu of mining lease granted in their favour but they did not pay the required payment and ultimately, vide impugned orders the security deposits of the petitioners have been forfeited by the respondents under Rule 28(1) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 on the ground that the petitioners did not deposit the first installment of royalty and had not commenced operation of the sand *ghats*.

10. Learned counsel for the petitioners submits



that the impugned orders forfeiting the security deposits of the petitioners are illegal, arbitrary and unsustainable in law in view of the fact that there had been no adequate replenishment of sand after monsoon 2023 and no fresh replenishment study of the respective sand *ghats* had been conducted in terms of the guidelines of the E.M.G.S.M., 2020. He further submits that the actual mineral potential of the respective sand *ghats* had materially reduced after the auction and before the petitioners could even commence the operation of mining on the sand *ghats*.

**11.** It has been submitted by learned counsel for the petitioners that the petitioners had already undertaken all required compliance and were not responsible for the depletion of the availability of sand in the sand *ghats*.

**12.** It is submitted that the petitioners have been proceeded against merely on the allegation that they did not deposit the first installment of royalty/settlement amount and did not commence operation of the respective sand *ghats*. On this ground alone, the respondents invoked Rule 28(1) of the 2019 Rules, along with certain clauses of the tender document, and proceeded to forfeit the security deposits of the petitioners.

**13.** It is the categorical submission of learned



counsel for the petitioners that Rule 28(1) of the 2019 Rules will not apply in the present case since the said provision forms part of Chapter IV of the Rules, which governs the procedure for grant of mining lease '*except sand*'. Sand settlement, on the other hand, is specifically governed by Chapter V, namely Rules 29A to 30, which constitutes a distinct and self-contained Code in relation to the settlement, operation and obligations pertaining to sand *ghats*. Once the Rules themselves maintain this legislative distinction, the respondents could not have lawfully borrowed Rule 28(1) from a different chapter and applied it to sand settlees.

**14.** It is the submission on behalf of the petitioners that the action of the respondents in forfeiting the security deposits of the petitioners cannot be justified unless there exists a clear and specific statutory authority. Further, the respondents could not have compelled the petitioners to proceed with the settlement and commence mining operations without first resolving the foundational issue of actual mineral availability in the concerned sand *ghats*. It is the contention of the petitioners that the actual mineral potential of the respective sand *ghats* materially changed after the auction and before the commencement of operation, and yet the respondents proceeded



as though the originally assumed reserve of sand remained intact. It is argued that such conduct is arbitrary and reflects complete non-application of mind and therefore, the impugned orders are liable to be set aside.

**15.** It is the categorical submission of learned counsel for the petitioners that no post-monsoonal replenishment study for the year 2023 was conducted in respect of the concerned sand *ghats*, though such study is integral to the sustainable sand mining practice. The EMGSM, 2020 expressly recognises replenishment assessment as an essential component of sustainable sand mining. The purpose of such study is to ascertain the quantity replenished after monsoon, determine actual mineable quantity, prevent ecological over-exploitation, and regulate extraction on a scientific basis. In the absence of such a study, the respondents could not have lawfully presumed that the original mineral potential remained unchanged.

**16.** It is the submission of learned counsel for the petitioners that at the time of participating in the auction, they had inspected the respective sand *ghats* and had found sufficient availability of sand, and their bids were made on the basis of the mineral potential as it then existed and as represented by the tender and related records. The bid amounts



themselves demonstrate the *bona fides* of the petitioners.

**17.** It is submitted that the petitioners acted *bona fide* throughout and were never an unwilling or defaulting bidder. They did not abandon the settlement after being declared successful, nor did they refuse to proceed at the threshold stage. On the contrary, both the petitioners deposited the required security amounts and thereafter complied with the mandatory procedural requirements and finally obtained environmental clearance in their favour and thereafter obtained Consent to Establish and Consent to Operate. Such conduct is wholly inconsistent with any allegation that the petitioners never intended to perform their obligations.

**18.** It has further been submitted that the petitioners have specifically requested the authority that environmental clearance be granted only after physical verification of the sand *ghats* since the mineral availability had materially reduced, which clearly shows that the issue of non-availability of sand in the sand *ghats* has been raised at the initial stage. It has further been submitted that though the petitioner - Bimal Kumar could not furnish separate detailed replies to each departmental communications during the relevant period, as he was unwell, such circumstance cannot



defeat the petitioners' substantive case.

**19.** It is the submission of learned counsel for the petitioners that the respondents cannot take shelter of the tender conditions to validate an action otherwise unsupported by the governing statutory rules. Even otherwise, the tender clauses relied upon by the respondents cannot be applied mechanically.

**20.** It is submitted that Clause 42(xix) of the N.I.T. cannot preclude objection where the reduction in mineral potential occurred after the auction and before commencement of mining due to supervening developments. It is the submission on behalf of the petitioners that their grievance is not based on some pre-existing issue that ought to have been discovered earlier, but on a post-auction change in the physical condition of the sand *ghats*. Hence, the petitioners cannot be put to disadvantage.

**21.** Learned counsel for the petitioners has argued that even though the dispute has arisen in the context of a tender and settlement arrangement, however, the conduct of the respondent-State remains subject to constitutional standards of fairness, reasonableness and non-arbitrariness. The State cannot claim immunity from judicial review merely because the relationship has a contractual element. Where the authority acts



under colour of statutory power, invokes an inapplicable rule, disregards environmental and scientific concerns, ignores *bona fide* objections, and imposes penal financial consequences, its action squarely attracts writ jurisdiction.

**22.** In support of this proposition, the petitioners rely upon the decision of the Hon'ble Supreme Court in the case of *Joshi Technologies International Inc. vs. Union of India*, reported as **(2015) 7 SCC 728**, to contend that judicial review remains available where State action in the contractual field is arbitrary, unfair, unsupported by law, or violative of public law obligations.

**23.** It has further been argued by learned counsel for the petitioners that a replenishment study conducted in the year 2022 cannot conclusively determine the actual mineral availability after subsequent extraction. A full monsoon cycle and the admitted absence of any updated replenishment study for the year 2023 also cast doubt on the earlier replenishment study conducted in the year 2022. It has further been argued that once the petitioners raised grievance regarding non-availability of sand, the respondent authorities ought to have conducted a replenishment study to ascertain the actual availability of sand and its replenishment rate.



24. *Per contra*, the learned counsel for the answering respondents has submitted that these writ petitions are wholly misconceived and liable to be dismissed, as the impugned orders have been passed in accordance with law and after giving several opportunities to the petitioners to pay the first installment and when the petitioners failed to pay the same, the impugned orders forfeiting the earnest money of the petitioners have been passed.

25. It is submitted by learned counsel for the answering respondents that the petitioners have consciously participated in the e-auction process and qualified in the technical bid and thereafter participated in the auction held on 21.11.2022, and emerged as the highest bidders. Having voluntarily participated in the auction with full knowledge of the terms and conditions, the petitioners cannot now resile from the obligations flowing from the very tender process.

26. It has further been submitted by learned counsel for the answering respondents that under the governing framework, the petitioners were mandatorily required to deposit the first installment of the settlement amount before issuance of work order and commencement of mining.

27. Adverting to Clause 19(iii) of the Tender



Document, learned counsel for the answering respondents submits that on perusal of the aforesaid clause, it is clear that failure to comply with the prescribed formalities and payment obligations, attracts the forfeiture of security deposit.

**28.** Learned counsel for the answering respondents have drawn attention to Clauses- 41 and 42(xxxix) of the Tender Document to contend that the settlee must adhere to the Mining Rules, 2019. Further, Rule 29A(5) of the Bihar Minerals Rules, 2019 clearly provides that if the successful bidder fails to deposit the required amount and other payable dues within the prescribed period, as referred to in the prevailing Government Notification, the security deposit shall be forfeited and fresh settlement process shall be initiated. Therefore, the impugned action is not *de hors* the Rules, but is traceable to the statutory and policy structure governing sand settlements.

**29.** It has further been submitted that in the Notification dated 10.05.2024 issued by the Department of Mining & Geology, Government of Bihar, it has been clarified that the successful bidder must deposit the first installment within the prescribed period after obtaining CTE/CTO and execute the agreement, failing which the Letter of Intent is



liable to be revoked and the security deposit forfeited.

**30.** It has further been submitted by learned counsel for the answering respondents that the inaction on the part of the petitioners has directly prejudiced the public exchequer since the settlement period of five years is reckoned from the date of execution of agreement and the failure on the part of the petitioners to deposit the first installment and execute the agreement delayed commencement of the settlement and caused loss of revenue to the State. The Collectors, therefore, acted not only within law but also in discharge of their obligation to protect public revenue and preserve the integrity of the auction process.

**31.** Learned counsel for the answering respondents has rebutted the contention of the petitioners that a fresh replenishment study was necessary before enforcing the settlement and has submitted that the District Survey Report (DSR) had already been duly approved by the competent authority and the mineable quantity stood reflected therein and further the Environmental Clearance was also granted to the petitioners on that basis. The N.I.T. and the auction process were founded on this approved DSR. Therefore, according to the respondents, there was no legal necessity for a separate



replenishment study at the stage now suggested by the petitioners.

**32.** It has next been submitted by the learned counsel for the answering respondents that the petitioners instead of availing the remedy of appeal against the order of the Collectors, they have directly approached this Court by way of these writ petitions, which is impermissible and on this ground also, the writ petition is liable to be dismissed.

**33.** I have considered the submissions of the parties and perused the materials available on record.

**34.** The petitioners have emerged as the highest bidders in the respective auction processes and subsequently, they have completed the necessary formalities of securing clearances and approvals from the respondent authorities. In the *interregnum*, the petitioners claims that the availability of sand in their respective sand *ghats* had reduced significantly rendering the mining as not feasible. Despite repeated communications by the respondent authorities, the petitioners did not deposit the first installment of royalty and as a consequence thereof, the security deposit of the petitioners were forfeited and the in-principal work orders were revoked.

**35.** This Court has noted that the respondents



have forfeited the security deposits of the petitioners without affording an opportunity of hearing to the petitioners and without issuing a show-cause notice, which clearly violates the principles of nature justice.

36. Recently, the Hon'ble Supreme Court in the case of *Krishnadatt Awasthy vs. State of M.P. & Ors.*, reported as (2025) 7 SCC 545 has emphasized on the imperativeness of principles of natural justice, particularly, before an administrative authority acting as a *quasi judicial* function and has held as under:-

“43. The opportunity of hearing is considered so fundamental to any civilised legal system that the courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional on procedural grounds [Olga Tellis v. Bombay Municipal Corpn., (1985) 3 SCC 545].

44. *It has been argued before us that if the failure to provide hearing does not cause prejudice, observing the principle of natural justice may not be necessary. In this context, a three-Judge Bench of this Court in S.L. Kapoor v. Jagmohan [S.L. Kapoor v. Jagmohan, (1980) 4 SCC 379] speaking through Chinappa Reddy, J. considered such arguments to be “pernicious” and held that “[t]he non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of*



*natural justice is unnecessary*". The Supreme Court, however, has drawn out an exception where "on the admitted or indisputable facts only one conclusion is possible, and under the law only one penalty is permissible, then the Court may not compel the observance of natural justice" [Swadeshi Cotton Mills v. Union of India, (1981) 1 SCC 664 : (1981) 51 Comp Cas 210; Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529 : 2000 SCC (L&S) 965].

45. Professor I.P. Massey [I.P. Massey, *Administrative Law* (8th Edn., 2012).] has commented on this shift as under:

"Before the decision of the highest Court in *S.L. Kapoor v. Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379], the rule was that the principles of natural justice shall apply only when an administrative action has caused some prejudice to the person, meaning thereby that he must have suffered some "civil consequences". Therefore, the person had to show something extra in order to prove "prejudice" or civil consequences. This approach had stultified the growth of administrative law within an area of highly practical significance. It is gratifying that in *Jagmohan* [*S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379], the Court took a bold step in holding that a separate showing of prejudice is not



*necessary. The non-observance of natural justice is in itself prejudice caused. However, merely because facts are admitted or are undisputable it does not follow that the principles of natural justice need not be observed.”*

46. *In State Bank of Patiala v. S.K. Sharma [State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364 : 1996 SCC (L&S) 717], the Supreme Court observed that where an enquiry is not convened by any statutory provision and the only obligation of the administrative authority is to observe the principles of natural justice, the court/tribunal should make a distinction between a total violation of the rule of fair hearing and violation of the facet of that rule. In other words, a distinction must be made between “no opportunity” or “no adequate opportunity”. **In the case of the former, the order passed would undoubtedly be invalid and the authority may be asked to conduct proceedings afresh according to the rule of fair hearing. But in the latter case, the effect of violation of a facet of the rule of fair hearing has to be examined from the standpoint of prejudice.***

47. *In Dharampal Satyapal Ltd. v. CCE [Dharampal Satyapal Ltd. v. CCE, (2015) 8 SCC 519 : (2015) 33 GSTR 1], this Court dealt with the prejudice question as under: (SCC p. 540, para 42)*

*“42. So far so good. However, an*



*important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority. This was so held by the English Court way back in the year 1943 in *General Medical Council v. Spackman* [1943 AC 627 (HL)]. This Court also spoke in the same language in *Board of High School & Intermediate Education, U.P. v. Chitra Srivastava* [Board of High School & Intermediate Education, U.P. v. Chitra Srivastava, (1970) 1 SCC 121] ....”*



48. *In a more recent decision in State of U.P. v Sudhir Kumar Singh [State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706] , the position of law was summarised as under: (SCC pp. 748-49, para 42)*

*“42. ...42.1. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.*

*42.2. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.*

*42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to*



*the person complaining of the breach of natural justice.*

*42.4. In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.*

*42.5. The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”*

37. In an another decision of the Hon’ble Supreme Court in the case of ***Raghunath Thakur vs. State of Bihar [(1989) 1 SCC 229]*** it has been held as under:-

*"4. ... But it is an implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person*



*concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order. In that view of the matter, the last portion of the order insofar as it directs blacklisting of the appellant in respect of future contracts, cannot be sustained in law...  
..."*

38. The doctrine of *audi alteram partem* has three basic essentials. *Firstly*, a person against whom an order is required to be passed or whose rights are likely to be affected adversely, must be granted an opportunity of being heard. *Secondly*, the authority concerned should provide a fair and transparent procedure and *lastly*, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.

39. Considering the aforesaid decision of the Hon'ble Supreme Court in the case of *Krishnadatt Awasthy (supra)*, it is clear that the principles of nature justice must be adhered to strictly. However, in the present case, the same has not been adhered to since the security deposits of the petitioners have been forfeited without having been given an opportunity of hearing. In my opinion, the petitioners should have been issued



a proper show-cause notice and should have been given an opportunity of hearing before forfeiture of the security deposit by the petitioners.

**40.** In view of the aforesaid discussions, this Court deems it appropriate that the violation of principle of natural justice in the present case, warrants remand of the present matters to the Collectors of Rohtas and Bhojpur districts respectively for passing a reasoned and speaking order after affording an opportunity of hearing to the petitioners in consonance with the principles of natural justice.

**41.** At this stage, it is required to be noted that it is settled that the mining activities cannot be permitted beyond the annual replenishment rate since that would endanger the environment and if the geological processes that naturally replenish the availability of sand cannot match the rate at which the mining occurs then over the period of time aggressive and continued mining activity would result in long term environmental damage. Therefore, sustainable development is *sine qua non* to strike a balance between developmental activities and the conservation of environment.

**42.** Recently, this Court in the case of *Manjeet Chawla vs. State of Bihar & Ors.* reported as *2026 SCC*



***OnLine Pat 535*** has already held that replenishment study is *sine qua non* for sand mining projects.

43. The mining over river beds cannot be permitted contrary to the replenishment rate of sand and that a replenishment study must be undertaken since it forms the very basis on which the quantity of permissible mining is determined and subsequently the environmental clearance is granted. This Court has noted that under Clause-5 of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forest & Climate Change, the need for replenishment study is paramount in order to nullify the adverse impact arising due to excessive and aggressive sand extraction. Thus, the replenishment study is not merely to ascertain the permissible quantity of sand for extraction but also is necessary to minimize the adverse impact therefrom and strike a balance between sand extraction / mining and preservation of riparian habitat.

44. It is equally settled that the State holds all natural resources including the minerals as a trustee of the public and must deal with them in a manner consistent with the nature of such a trust. What is clearly crystallized, therefore, is that the annual extractable quantity must be less than the annual



replenishment rate in order to align strictly with sustainable mining practices.

**45.** For the foregoing reasons, in order to strike a fair balance and keeping in view the sustainable mining practice, this Court deems it appropriate and in the interest of justice to direct the concerned respondent authorities to conduct a fresh replenishment study for the Rohtas Sand *Ghat* No.13 and Bhojpur Sand *Ghat* No. 01 by a competent authority / institution to ascertain the present and true quantity of sand available in the sand *ghats* and its replenishment rate, which have been allotted to the petitioners. The aforesaid exercise must be completed within eight weeks from today. The cost of the aforesaid replenishment studies shall be borne by the petitioners themselves.

**46.** Accordingly, the impugned orders contained in memo no.758 dated 11.05.2024 passed by the Collector, Rohtas and memo no.1919 dated 29.04.2024 passed by the Collector, Bhojpur are hereby quashed and set aside. The matter is remitted to the Collectors of Bhojpur and Rohtas districts for passing a reasoned and speaking order after giving an opportunity of hearing to the petitioners and after considering the fresh replenishment study reports, which would be



conducted in compliance of the aforesaid directions, for the respective sand *ghats*.

47. The writ petitions are allowed to the above extent.

**(Sandeep Kumar, J)**

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	19.01.2026
Uploading Date	16.04.2026
Transmission Date	

