

ITEM NO.3

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. NO. 42571/2023 in Writ Petition(s)(Civil) No(s).114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA . & ORS.

Respondent(s)

(I.A. NO. 42571/2023 (APPLN. FOR DIRECTIONS ON B/O PETITIONER)

Date : 14-08-2023 This application was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

Mr. A D N Rao, Sr. Adv. (A.C.)

For Petitioner(s) Mr. Prashant Bhushan, AOR
Mrs. Neha Rathi, Adv.
Mr. Pranav Sachdeva, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Saudamini Sharma, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. Tarkeshwar Nath, Adv.
Mr. Rajat Nair, Adv.
Ms. Suhasini Sen, Adv.

Mr. Rakesh Dwivedi, Sr. Adv.
Mrs. Kirti Renu Mishra, AOR
Ms. Sansriti Pathak, Adv.
Mr. Eklavya Dwivedi, Adv.

Mr. Mukesh Kumar Maroria, AOR

M/S. Karanjawala & Co., AOR

Mr. Mukul Kumar, AOR

Mr. Balaji Srinivasan, AOR

Mr. Shibashish Misra, AOR

Mr. Naveen Kumar, AOR

Mr. Ashok Panigrahi, AOR
Ms. Geetanjali Das Krishnan, Adv.
Mr. Nabab Singh, Adv.

Mr. Raj Kumar Mehta, AOR

Mr. B. Krishna Prasad, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Sunil Kumar Jain, AOR

Ms. Movita, AOR

Ms. Ruchi Kohli, AOR

M/S. Aura & Co., AOR

Mr. Mahesh Agarwal, Adv.

Mr. E. C. Agrawala, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. Ashok Kumar Panda, Sr. Adv.

Mr. Tejaswi Kumar Pradhan, AOR

Mr. Manoranjan Paikaray, Adv.

Mr. Shashwat Panda, Adv.

Mr. Aniket Gupta, Adv.

Mr. Gaurav Kejriwal, AOR

Mr. Sunil Dogra, Adv.

Mr. Vivek Vishnoi, Adv.

Mr. Abhishek Sharma, AOR

M/S. Khaitan & Co., AOR

Mr. Ramendra Mohan Patnaik, AOR

Mr. Himinder Lal, AOR

Mr. Sandeep Devashish Das, AOR

Mr. Gaurav Khanna, AOR

Mr. Sibho Sankar Mishra, AOR

Mr. Umakant Misra, Adv.

Mr. Sunil Mund, Adv.

Mrs. Prabhati Nayak, Adv.

Mr. Debabrata Dash, Adv.

Ms. Apoorva Sharma, Adv.

Mr. Dhananjaya Mishra, AOR

Mr. Shovan Mishra, AOR
Ms. Bipasa Tripathy, Adv.

Mr. Lakshmi Raman Singh, AOR

Mr. Preshit Vilas Surshe, AOR

Mr. Hitendra Nath Rath, AOR

Ms. Uttara Babbar, AOR

M/S. Aura & Co., AOR

Mr. Shadan Farasat, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

I.A. NO. 42571/2023

1 Pursuant to the order dated 1 May 2023, the following statements have been made by the State of Odisha through Mr Rakesh Dwivedi, senior counsel appearing on their behalf:

- (i) At present, an amount of Rs 2,622 crores, excluding interest, is due and outstanding on account of illegal mining, out of which an amount of Rs 2,215 crores is recoverable from five lessees;
- (ii) The leases of the defaulters have either expired or, as the case may be, have been terminated and they are not operating any lease or allowed to participate in tenders; and
- (iii) Proceedings for termination of the leases are pending against some of the defaulters who shall have small some amounts comparatively due and outstanding.

2 We issue the following directions:

- (i) The State Government shall take expeditious steps to pursue the recovery proceedings in accordance with law and shall take necessary steps by attaching the assets of the defaulting entities; and
- (ii) Hereafter, the terms and conditions of tender shall expressly clarify that no tender shall be entertained at the behest of an entity against which outstandings are due or companies in which the same promoters are interested.

3 The second aspect of the matter which has been highlighted by Mr Prashant Bhushan, counsel appearing on behalf of the petitioner, is the need for imposing a cap on mining in the State of Odisha. Counsel submits that such a cap has been imposed both in respect of the States of Karnataka and Goa. In the context of the State of Odisha, it has been submitted that the data on the record indicates that the yearly mining permissions cover 58 leases with permissible excavation to the extent of 227.13 million tonnes. According to the note which has been submitted by Mr Prashant Bhushan, the total reserves are 4748.52 million tonnes, as a consequence of which, the reserves are liable to come to an end within twenty years.

4 The State of Odisha, on the other hand, has disclosed that the estimate of iron ore reserves on the geologically explored strata at present is 9220 million tonnes and there is a likelihood of this increasing in future.

5 Ms Aishwarya Bhati, Additional Solicitor General appeared on behalf of the Union of India.

- 6 The Union of India shall consider the position and decide whether a cap on mining is necessitated in the case of State of Odisha and, if so, the modalities to be followed for determining such a cap. In arriving at its decision, the Union of India shall also examine the basis on which a cap was imposed in the States of Karnataka and Goa. The Union of India shall file its affidavit on this aspect within a period of eight weeks.
- 7 Mr A D N Rao, *Amicus Curiae*, on the other hand, has submitted that this Court may entrust the task of submitting recommendations on the capping of mining to the Central Empowered Committee (CEC). This aspect shall be examined after the response is filed by the Union of India.
- 8 List the application on 20 October 2023.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR