



2026:AHC:106781-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 43237 of 2018

AFR

Reserved on 20.11.2025

Delivered on 08.05.2026

Rameshwar Dutt Awasthi

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Bidhan Chandra Rai, Sanjay Kumar Nigam
Counsel for Respondent(s)	: C.S.C.

HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SUDHANSHU CHAUHAN, J.

(Delivered by Hon'ble Saral Srivastava, J.)

1. Heard Sri Bidhan Chandra Rai, learned Senior Advocate assisted by Sri Sanjay Kumar Nigam, learned counsel for the petitioner and Sri Rajeshwar Tripathi, learned Chief Standing Counsel-II for the State-respondents.
2. The petitioner by means of the present writ petition has assailed the order dated 26.04.2017 passed by the respondent no.2-Additional Chief Secretary, Government of U.P. Lucknow whereby the application of the petitioner for extension of the lease deed has been rejected.
3. The facts, in brief, are that one Bhulli Maharaj S/o Hari Kishore Awasthi proprietor of M/s Bhulli Maharaj & Sons, Shankargarh, District Allahabad was granted a mining lease over an area of 47.06 hectare in Village Janwa, Tehsil Bara, District Allahabad for extraction of Silica

Sand and minerals under the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'Act, 1957') read with the provisions of Mineral Concession Rules, 1960 (hereinafter referred to as 'Rules, 1960') for a period of ten years commencing w.e.f. 16.06.1979 to 15.06.1989.

4. The petitioner, thereafter, was granted first renewal under Section 8(2) of the Act, 1957 read with Rules, 1960 for a further period of ten years commencing w.e.f. 16.06.1989 to 15.06.1999. Based upon the same, the lease deed was executed on 13.12.1993 pursuant to the Government Order dated 23.04.1991.

5. Before expiry of the lease period, the petitioner submitted an application on 12.06.1998 for renewal of the lease for a further period of twenty years.

6. The Additional District Magistrate (Administration) vide notice dated 18.06.2011 directed the petitioner to submit Environment Clearance Certificate. The petitioner, thereafter, applied for Environment Clearance Certificate. The petitioner was granted NOC for mining of Silica Sand on 03.09.2012 by the Divisional Director, Social Forestry Department, Allahabad.

7. The Additional District Magistrate (Administration) in the light of the NOC dated 03.09.2012 made a recommendation dated 12.11.2013 to the Director, Geology and Mining for renewal of the mining lease for a further period of twenty years.

8. Further it is the case of the petitioner that the Director, Geology and Mining on 27.06.2014 taking note of recommendation letter dated 12.11.2013 made a recommendation to the Principal Secretary, Department of Geology & Mining, Lucknow for renewal of lease for a period of twenty years.

9. Based on the said recommendation, the Additional District Magistrate (Administration), Allahabad on 20.09.2014 requested the Controller General, Indian Bureau of Mines, Nagpur to submit report in the matter of renewal application dated 12.06.1998.

10. According to the petitioner, the mining plan was approved on 16.07.2015, and the Environment Clearance Certificate was granted on 06.01.2016. In the meantime, the Central Legislature passed MMDR (Amendment) Act, 2015 (hereinafter referred to as 'Amendment Act, 2015').

11. By the said amendment, Section 8A was inserted in the Act, 1957 to provide for regulating the period of mineral other than those specified in Part-A and Part-B of the First Schedule. The Central Government issued a D.O. with a direction to take necessary steps without any delay to implement the Amendment Act, 2015

12. When the respondents did not pass any order on the application of petitioner for renewal of lease, the petitioner approached this Court by filing Writ-C No.52665 of 2016 (Rameshwar Dutt Awasthi Vs. State of U.P. and 2 Others) with the following prayer:-

“i. Pass appropriate writ, order or direction in the nature of mandamus directing that the tenure of petitioner's mining lease over an area of 47.06 hectare in Village Janwa, Tehsil Bara in District Allahabad stood extend for a period of 50 years pursuant to the provisions of Section 8A (6) of the MMDR Amendment Act, 2015;

ii. Issue a writ, order or direction in the nature of mandamus restraining the District Magistrate, Allahabad, from interfering mining operations and also to issue the transit permit (Form-G) for dispatch of silica sand by the petitioner;

iii. Issue such other and further writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case; and

iv. Award the cost of the writ petition.”

13. This Court by judgement and order dated 25.01.2017 disposed of the aforesaid writ petition directing the petitioner to fulfill the formality as envisaged under the U.P. Minor Minerals (Concession) Rules, 1963 (hereinafter referred to as 'Rules, 1963'), and thereafter, the application of the petitioner would be dealt with as per law within next three months by the competent authority under Rules, 1963.

14. The petitioner in compliance of the said judgement submitted representation to the authority requesting for extension of the lease deed which was rejected by the respondent no.2 by impugned order.

15. A counter affidavit has been filed by the respondents specifically stating therein that the mining lease in respect of Silica Sand was granted for an area of 47.06 hectare in favour of Sri Bhulli Maharaj S/o Hari Kishore Awasthi proprietor of M/s Bhulli Maharaj and Sons, Police Station Shankargarh, District Prayagraj .

16. Further case of the respondents in counter affidavit is that Sri Bhulli Maharaj S/o Hari Kishore Awasthi proprietor of M/s Bhulli Maharaj died on 09.07.2005. Thus, after the death of sole proprietor, the firm ceased to exist.

17. In suit bearing Original Suit No.417 of 1997 (Bhulli Maharaj & Sons and Another Vs. State of U.P. and Others) after death of Bhulli Maharaj, two persons namely, Rameshwar Dutt Awasthi and Dr. Ganesh Dutt Awasthi, both sons of Late Bhulli Maharaj had moved substitution application and their names have been substituted in place of Bhulli Maharaj in the aforesaid suit.

18. There is no declaration by any competent Court of law declaring the petitioner, namely, Rameshwar Dutt Awasthi as the sole proprietor of the firm namely, M/s Bhulli Maharaj & Sons, in whose favour the mining lease was granted. It is stated that petitioner has nowhere disclosed in the writ petition as to how he became the only proprietor and his brother Dr. Ganesh Dutt Awasthi has not declared successor of M/s Bhulli Maharaj & Sons.

19. On 10.02.2015, the Central Government issued a notification notifying Silica Sand along with some other minerals as minor mineral. It is stated that after declaration of Silica Sand as minor mineral, the provision of Section 14 of the Act, 1957 came into play, and the provisions of Sections 5 to 13 of the Act, 1957, inclusive of Section 8 and Section 8A are not applicable with respect to Silica Sand.

20. The State Government by exercising powers under Section 15 of the Act, 1957, amended the provisions of Rules 1963 and added a new Chapter IX in Rules, 1963 vide U.P. Minor Mineral (Concession) (Fourteen Amendment) Rules, 2016 dated 29.06.2016 providing procedure for grant of mining lease of Silica Sand besides other minerals notified by the Central Government vide Notification dated 10.02.2015.

21. There is no provision for second renewal of mining lease under Chapter IX of Rules, 1963. It is stated that the order dated 26.04.2017 has been passed in view of the rules and procedure applicable on the date of decision of the writ petition of petitioner. It is also averred that the grounds taken by the petitioner are wholly misconceived and are not tenable in the eye of law, therefore, the writ petition lacks merit and does not warrant any interference by this Court under Article 226 of the Constitution of India.

22. Challenging the impugned order, learned counsel for the petitioner has submitted that after incorporation of Section 8A in the Act, 1957, the power of renewal of lease of the State Government has been done away with, therefore, the State Government has no power either to reject or accept the application for renewal of lease w.e.f. 12.01.2015 i.e. the date of incorporation of Section 8A in the Act, 1957.

23. It is further contended that by virtue of operation of Section 8A, the petitioner's lease stood extended for 50 years from 1979, and therefore, the respondent no.2 has wrongly treated the case of the petitioner for renewal of lease deed. He further contends that petitioner's right to extension of lease deed is not precluded by Section 8A (9) of the Amendment Act, 2015.

24. It is lastly urged that impugned order is colourable exercise of power by the State Government which is contrary to the statute.

25. Learned counsel for the petitioner in support of his argument has relied upon the following judgements:-

(i). ***Common Cause Vs. Union of India and Others (2016) 11 SCC 455;***

(ii). *V.S. Charati Vs. Hussein Nhanu Jamadar (Dead) By LRS. (1999) 1 SCC 273;*

(iii). *National Agricultural Cooperative Marketing Federation of India Ltd. and Another Vs. Union of India and Others (2003) 5 SCC 23;*

(iv). *Neelima Srivastava Vs. State of Uttar Pradesh and Others (2021) 17 SCC 693;*

(v). *State of Tamil Nadu Vs. State of Kerala and Another (2014) 12 SCC 696;*

(vi). *M.P. Housing and Infrastructure Development Board and Another Vs. K.P. Dwivedi (2022) 3 SCC 783.*

26. Rebutting the aforesaid contention, learned Chief Standing Counsel-II has contended that in the earlier Writ-C No.52665 of 2016, this Court has categorically held that after the Silica Sand has been declared minor mineral, its mining operation would be covered under the provisions of Rules, 1963, and in case petitioner intends to carry out mining of minor mineral, then he will have to abide by the terms and conditions provided under Rules, 1963.

27. He contends that Section 4 of the Act, 1957 provides that no person can undertake mining operations in any area except in accordance with terms and conditions of mining lease granted under the Act and Rules made thereunder.

28. He further contends that Rule 3 of Rules, 1963 provides that mining operations should be under mining lease or mining permit granted under the Rules. It is submitted that since this Court has categorically held in the earlier writ petition that the petitioner in order to carry out mining operation of minor minerals has to fall in line with terms and conditions of Rules, 1963, therefore, it is manifest that this Court has not concluded that even if Rules, 1963 does not permit the second renewal of lease or extension of lease, the petitioner is entitled to get it.

29. It is submitted that operative portion of the order passed by this Court in the earlier writ petition of the petitioner clearly discloses the intention of the Court that the Court has left the matter for the authorities to deal with the application of petitioner as per Rules, 1963, and in such view of the fact, the respondent no.2 has not committed any illegality in rejecting the application of petitioner as second renewal of lease of Silica Sand is not permissible under Rules, 1963.

30. He further submits that it is the case of the petitioner that his lease is covered under Section 8A(6) of the Act, 1957. He submits that to take the benefit of Section 8A(6), petitioner has to comply with all the terms and conditions of lease deed. It is contended that petitioner had not complied with all terms and conditions of the lease in order to avail the benefit of Section 8A(6) of the Act, 1957.

31. He further contends that petitioner was supposed to have an Environment Clearance Certificate in view of the notification of the year 1994 issued by the Government of India for running mining lease of major mineral, but the petitioner did not have any Environment Clearance Certificate due to which, the petitioner was stopped from carrying mining operation in the year 2011, therefore, petitioner's mining lease was not operational on the date of induction of Section 8A in the Act, 1957 by the Amendment Act, 2015.

32. He further contends that the petitioner's application dated 12.06.1998 for renewal of lease deed was not valid because petitioner did not enclose the mining plan as per Rules, 1960 applicable on the major minerals along with the application.

33. To buttress the said contention, he submits that second renewal application under Rules, 1960 was required to be submitted in Form-J. He submits that as per Serial X (c) of Form-J, the mining plan was also not enclosed. Accordingly, he contends that Section 8A(6) is not attracted in the case of petitioner and thus, he could not be granted the benefit of deemed extension on account of pendency of renewal application as per Section 8A(6).

34. He further contends that the petitioner has based his claim on Rule 24A (6) which was incorporated in Rules, 1960 by the Mineral Concession (Second Amendment) Rules, 1994 by Notification dated 27.09.1994. He submits that the benefit of Rule 24A (6) was applicable in case of first renewal application and not applicable in case of second renewal application as has been held by the Apex Court in the case of ***Goa Foundation Vs. Union of India and Others (2014) 6 SCC 590***.

35. He submits that that the petitioner's argument regarding deemed extension is based on Section 8(3) of the Act, 1957, and for availing the benefit of said section, the primary condition is that there has to be an order passed by the State Government recording specific finding that renewal is necessary in the interest of mineral development. He submits that unless such condition is complied with, there could not be any second renewal. Accordingly, he submits that interpretation of rule should be in consonance and in harmony with the Act, 1957 and therefore, if petitioner is extended the benefit of Rule 24A for the purpose of second renewal, such benefit would be contrary to the intent of legislature as provided under Section 8A(6) of the Act, 1957.

36. He contends that the finding of this Court in the earlier writ petition of the petitioner regarding benefit of Section 8A(6) of the Amendment Act, 2015 to the petitioner is contrary to the intent of legislature and the case of ***Goa Foundation (supra)***, and therefore, is not binding upon the authority.

37. He further contends that it is settled in law that once the policy is changed by the Government, then all the leases have to be granted as per new policy i.e. through e-tender-cum-e-auction, therefore, petitioner's claim regarding deemed extension on the basis of pendency of renewal application cannot be considered.

38. We have considered the rival submissions of learned counsel for the parties and perused the record.

39. The undisputed facts as emanates from the record are that the petitioner was granted lease for mining of Silica Sand mineral over an

area of 47.06 hectare in Village Janwa, Tehsil Bara, District Allahabad for a period from 16.06.1979 to 15.06.1989.

40. The petitioner, thereafter, was granted first renewal under Section 8(2) of the Act, 1957 read with Rule 24A (1) of the Rules, 1960 for a term of ten years vide Government Order dated 23.04.1991. The lease deed regarding first renewal was executed on 13.12.1993.

41. Before expiry of first renewal, the petitioner applied for second renewal under Section 8(3) of the Act, 1957 for a period of twenty years. The mining of the petitioner was closed for want of Environment Clearance Certificate vide notice dated 18.06.2011. The petitioner obtained forest clearance on 03.09.2012.

42. The Mining Officer, Allahabad issued No Dues Certificate on 31.10.2013. The Additional District Magistrate (Administration), Allahabad recommended the renewal of mining lease for a term of twenty years on 12.11.2013. The mining plan of the petitioner was approved on 16.07.2015. In the meantime, Section 8A was inducted in the Act, 1957 by the Amendment Act, 2015. When the lease of the petitioner was not extended, the petitioner approached this Court by filing Writ-C No.52665 of 2016 (Rameshwar Dutt Awasthi Vs. State of U.P. and Others) with the prayer extracted above.

43. The Coordinate Bench of this Court in the aforesaid writ petition has recorded following finding with regard to grant of benefit of Section 8A (6) to the petitioner:-

“Consequently, in the facts of the case, the fact of the matter is that second renewal application moved on 12.6.1998 at no point of time the said application in question has been rejected, nor the lease in question has been determined, nor the lease in question has lapsed and, accordingly, once the regime of renewal has been replaced by introducing the provisions of deemed extension of lease period, the petitioner is entitled for the benefit of the statutory provisions as contained under Section 8A (6) of the MMDR Amendment Act, 2015.”

Apex Court in the case of Sulekhan Singh & Company and others Vs. State of U.P. and others, 2016 (2) AWC 1102 (SC), has clarified the legal position that merely because a renewal application has been moved an incumbent has no vested right to get its renewed. Here, in the present case, the fact of the matter is that it is true that renewal application has been moved but the fact of the matter is that said renewal application has been pending and during pendency of the same the Central Government has come up with the statutory provisions in the shape of Section 8A in the MMDR Amendment Act, 2015 for extending the life span of the lease in question subject to fulfillment of the other terms and conditions as provided for.

There is difference between the extension of lease and renewal of lease. The difference in between two expression has been subject matter of interpretation before the Apex Court in the case of Gajraj Singh Etc. Vs. State Transport Appellate Tribunal, 1997 (1) SCC 650, wherein Apex Court mentioned that grant of renewal is a fresh grant though it breaths life into the operation of previous lease. In the case of extension the same lease continues in force during additional period by the performance of stipulated act. Said view has been reiterated with approval in the case of State of Gujarat Vs. Nirmla Ben S. Mehta, 2016 JT (6) 508. Viewed from this perspective, under the scheme of things provided for the power of State Government to grant or refuse renewal has been done away with in respect of minerals other than those specified in Part A and Part B of the First Schedule under Section 8A of the 2015 Act and, thereafter, on the expiry of lease period the lease would be put up for auction as per the procedure specified in the Act. Section 8A (5) and 8A (6) of the 2015 Act uses categorical expression "shall be extended, shall be deemed to have been extended". The effect and impact of deeming provision has been subject matter of consideration by the Apex Court in the case of Bhavnagar University Vs. Palitana Sugar Mill and others, 2003 (2) SCC 111, wherein Apex Court has followed the judgement in the case of East End Dwellings Co. Ltd. Vs. Finsbury Borough Council, 1951 (2) All England Reports 587, as under;

"If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it."

There is no reason for us not to extend the said benefit to the petitioner on the strength of the statutory provisions introduced through Section 8A (6) of the 2015 Act and the claim of petitioner would be covered by the same and petitioner's lease would be deemed to have been extended subject to the condition that all the terms and conditions of lease have been complied with. The further larger issue that is engaging our attention as on date is that with the passage of time when the claim of petitioner is being considered by us there are subsequent developments, that have so taken place, and what would be its impact in carrying out mining activity is a further issue to be considered by us."

44. The Coordinate Bench of this Court in the aforesaid writ petition has held that after Silica Sand has been declared minor mineral, the petitioner in order to carry out the mining operations of the said mineral has to abide the terms and conditions provided in Rules, 1963 to carry out the mining operations. The relevant extract of the judgement is reproduced herein-below:-

"Earlier silica sand was a major mineral and same was covered by the provisions of 1957 Act read with the provisions of 1960 Rules but after notification dated 10.2.2015 has been made by the Central Government, same has been declared as a minor mineral and as of now the silica sand being declared as minor mineral its mining operation would be covered by the provisions of 1963 Rules and under the 1963 Rules, that have been so framed, in case petitioner intends to carry out mining operations pertaining to minor mineral, then he will have to abide by the terms and conditions provided for under 1963 Rules. Section 4 of MMDR Act provides for that no person can undertake mining operations in any area, except under and in accordance with the terms and conditions of mining lease granted under the Act and the Rules made thereunder. Rule 3 of the 1963 Rules clearly provides that mining operations should be under

mining lease or mining permit granted under these rules. For ready reference Rule 3 is extracted below:-

"Mining operations to be under a mining lease or mining permit- (1)

No person shall undertake any mining operations in any area within the State of any minor minerals to which these rules are applicable except under and in accordance with the terms and conditions of a mining lease or mining permit granted under these rules:

Provided that nothing shall affect any operations undertaken in accordance with the terms and conditions of mining lease or permit duly granted before the commencement of these rules.

Explanation:- For the purposes of this rule manual digging or manual extraction of ordinary clay, ordinary earth for making bricks and pottery shall not be treated as mining operations;

Provided that pit created by such digging or extraction should not be deeper than two meters.

(2) No mining lease or mining permit shall be granted otherwise than in accordance with the provisions of these rules."

A bare perusal of Rule 3 would go to show that no person should undertake any mining operations in any area within the State of any minor minerals to which these rules are applicable except under and in accordance with the terms and conditions of a mining lease or mining permit granted under these rules and the proviso in question only exempts such mining operations wherein mining lease or permit has been granted before the commencement of these rules. Once in exercise of authority conferred under Clause (e) of Section 3 of 1957 Act the Central Government has declared silica sand as a minor mineral, then in consonance with the Rule 3 of 1963 Rules the petitioner can carry out mining operations of minor minerals only in consonance with the rules in question, then in view of this fact it may be true that the lease period of petitioner would stand extended by operation of law under Section 8A (6) for winning minerals other than those specified in Part A and Part B of the First Schedule subject to fulfillment of other terms and conditions but once with the passage of time in exercise of statutory power a major mineral has been declared as minor mineral and petitioner, as on date, is

interested in carrying out mining activity of minor mineral, then he will have to fall in line in consonance with the provisions of 1963 Rules. Chapter IX has been introduced in 1963 Rules by means of amendment named as the U.P. Minor Mineral (Concession) (Fourteenth Amendment) Rules, 2016 wherein the provisions of said Chapter has been made applicable in reference of silica sand also notified by Central Government as minor mineral.

Once Central Government consciously in exercise of its statutory power has placed silica sand in the category of minor mineral under Clause (e) of Section 3 of 1957 Act and power to make rules in that regard is vested by Section 15 (1) in the State Government while power to make rules with respect to minerals as defined by Clause (a) of Section 3 is vested by Section 13 (1) in the Central Government and Section 14 clearly provides that Section 13 will not apply to quarry leases, mining leases or other mineral concessions in respect of minor mineral, then net effect of the same is that silica sand being declared as a minor mineral, its mining activity will have to be in consonance with the 1963 Rules. The new state of affairs which have been brought into existence by declaration made under clause (e) of Section 3 of 1957 Act has to be given its full effect and no rider or exception can be read in the same. Old lease of petitioner would require modification, as on date, as there is no such provision on the line of Section 16 of 1957 Act available that permitted modification of lease granted before 25.10.1949 and gave breathing time to holders of mining leases to bring the said lease in line with the provisions of 1957 Act and the Rules framed thereunder within two years from the period specified therein and during the said interregnum period, the period of such lease was permitted to continue to operate. Once there is no such provision which enables the term of existing lease to be altered, then as already deliberated above, even though petitioner's claim would fall within the parameter of Section 8A (6) of 1957 Act but as the lease accorded in his favour has been for mineral as specified under 1960 Rules and as of now Central Government has consciously included said mineral in the category of minor mineral and thus necessarily by operation of law governance of said mineral has to be one under 1963 Rules, then the provisions of 1957 Act and 1963 Rules cannot be permitted to be ignored."

45. At this stage, it would be apposite to reproduce Section 8A of the Amendment Act, 2015:-

“8A. Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.- (1) The provisions of this section shall apply to minerals other than those specified in Part A and Part B of the First Schedule.

(2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, all mining leases shall be granted for the period of fifty years.

(3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 shall be deemed to have been granted for a period of fifty years.

(4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.

(5) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended up to a period ending on the 31st March, 2030 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

(6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended up to a period ending on the 31st March, 2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the

condition that all the terms and conditions of the lease have been complied with.

(7) Any holder of a lease granted, where mineral is used for captive purpose, shall have the right of first refusal at the time of auction held for such lease after the expiry of the lease period.

(8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of Government companies or corporations shall be such as may be prescribed by the Central Government.

(9) The provisions of this section, notwithstanding anything contained therein, shall not apply to a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, for which renewal has been rejected, or which has been determined, or lapsed."

46. The petitioner claims that since the second renewal application of mining lease was submitted by the petitioner twelve months before the date on which the lease was due to expire, therefore, he is entitled to the benefit of Section 8A (6) of the Amendment Act, 2015.

47. This Court while deciding the earlier writ petition of the petitioner has recorded that second renewal application was filed by the petitioner on 12.06.1998 and at no point of time, the said application has been rejected nor the lease of the petitioner has been determined nor the lease of the petitioner has lapsed, and once the legitimate renewal has been replaced by inducting the proviso of deemed extension of lease period, the petitioner is entitled to the benefit of Section 8A(6) of the Amendment Act, 2015, but at the same time this Court has also recorded on the internal page-25 of the earlier judgement that *"the claim of the petitioner would be covered by the same and petitioner's lease would be deemed to have been extended subject to condition that all the terms and conditions of the lease have been complied with".*

48. So it is manifest from the aforesaid quoted portion of the earlier judgement of this Court that the petitioner's lease would be deemed to be

extended subject to the condition that all the terms and conditions of the lease have been complied by him.

49. The petitioner submitted application for second renewal of lease deed on 12.06.1998 under Rule 24A of the Rules, 1960. Rule 24A(1) requires the applicant to submit an application for renewal in Form-J. Rule 24A of the Rules, 1960 is reproduced herein-below:

“24-A. Renewal of mining lease-(1) An application for the renewal of a mining lease shall be made to the State Government in Form J, at least twelve months before the date on which the lease is due to expire, through such officer or authority as the State Government may specify in this behalf.

(2). The renewal or renewals of a mining lease granted in respect of a mineral specified in Part 'A' and Part 'B' of the First Schedule to the Act may be granted by the State Government with the previous approval of the Central Government.

(3). The renewal or renewals of a mining lease granted in respect of a mineral not specified in Part 'A' and Part 'B' of the First Schedule to the Act may be granted by the State Government:

Provided that before granting approval for second or subsequent renewal of a mining lease, the State Government shall seek a report from the Controller General, Indian Bureau of Mines, as to whether it would be in the interest of mineral development to grant the renewal of the mining lease:

Provided further that in case a report is not received from Controller General, Indian Bureau of Mines in a period of three months of receipt of the communication from the State Government, it would be deemed that the Indian Bureau of Mines has no adverse comments to offer regarding the grant of the renewal of mining lease.

(6) If an application for first renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period of two years or till the State Government passes order thereon, whichever is earlier.

Provided that the leases where applications for first renewal of mining lease have been made to the State Government and which have not been disposed of by the State Government before the date of expiry of lease and are pending for disposal as on the date of the notification of this amendment, shall be deemed to have been extended by a further period of two years from the date of coming into force of this amendment or till the State Government passes order thereon or the date of expiry of the maximum period allowed for first renewal, whichever is the earliest:

Provided further that the provisions of this sub-rule shall not apply to renewal under sub-section (3) of section 8 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957).

(8). Notwithstanding anything contained in sub-rule (1) and sub-rule (6) and application for the first renewal of a mining lease, so declared under the provisions of Section 4 of the Goa, Daman and Diu Mining Concession (Abolition and Declaration as Mining Lease) Act, 1987, shall be made to the State Government in Form J before the expiry of the period of mining lease in terms of sub-section (1) of Section 5 of the said Act, through such officer or authority as the State Government may specify in this behalf:

Provided that the State Government may, for reasons to be recorded in writing and subject to such conditions as it may think fit, allow extension of time for making of such application upto a total period not exceeding one year.

(9). If an application for first renewal made within the time referred to in sub-rule (8) or within the time allowed by the State Government under the proviso to sub-rule (8), the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon or the date of expiry of the maximum period allowed for first renewal, whichever is earlier.

(10). The State Government may condone delay in an application for renewal of mining lease made after the time limit prescribed in sub-rule (1) provided the application has been made before the expiry of the lease.”

50. This Court in the earlier judgement did not deal with the issue as to whether the petitioner complied with the terms and conditions of the lease so as to avail the benefit of Section 8A(6) of the Amendment Act, 2015. However, this Court recorded a categorical finding that the said benefit is available to the petitioner if he complies with the terms and conditions of the lease deed.

51. The lease of the petitioner was up to 15.06.1999. The petitioner after expiry of term of lease deed on 15.06.1999 continued to do mining upto 18.06.2011 by taking advantage of Rule 24A (6) of the Rules, 1960 up till 18.06.2011, when he was issued notice by the Mining Officer to stop mining for want of Environment Clearance Certificate. So, the petitioner after the lapse of his lease continued mining without the Environment Clearance Certificate.

52. At this stage, it is also relevant to scrutinize whether the application filed by the petitioner for second renewal was a valid application in the eyes of law. This question goes to the root of the matter to find out whether based on such renewal application, petitioner could be granted benefit of Section 8A (6) of the Amendment Act, 2015.

53. The application for renewal under Rule 24A(1) of Rules, 1960 is to be submitted in Form-J. Clause-2 (7) of Form-J requires “number and date” of the valid clearance certificate of payment of mining dues.

54. Several information which the petitioner was supposed to submit while submitting application in Form-J were not supplied by the petitioner which is evident from the following column of Form-J submitted by the petitioner:-

“(Form J)”

The required particulars are given below:

<i>(ii)</i>	<i>Is the applicant a private/individual/private/company/public company/firm or association.</i>	<i>Private/Individual</i>
<i>(iii)</i>	<i>In case applicant is (a) an individual, his nationality. (b) a private company, the nationality</i>	<i>Indian</i>

	<p><i>of all members of the company alongwith place of registration.</i></p> <p><i>(c) a public company, the nationality of director, the percentage of shares capital held by Indian national alongwith place of incorporation.</i></p> <p><i>(d) Firm or a association, the nationality of all the partners of the firm or members of the association.</i></p>	<p><i>x</i></p> <p><i>x</i></p> <p><i>x</i></p>
<i>(iv)</i>	<i>Profession or nature of business of applicant</i>	<i>Money and Trade</i>
<i>(v)</i>	<i>Omitted</i>	
<i>1(vi)</i>	<i>Omitted</i>	
<i>2(vii)</i>	<i><u>Number and date of the valid clearance certificate of payment of mining dues (copy enclosed).</u></i>	<i><u>Applied for clearance certificate of payment of mining dues and will send as soon as received by me.</u></i>
<i>3(vii)</i>	<i>Number and date of Income Tax clearance certificate from Income Tax Officer (attached) an affidavit, that upto date Income Tax returned as prescribed under the Income Tax Act, 1961 have been filed and the tax due including the tax on account of self assessment has been paid.</i>	<i>Copy of Income Tax clearance certificate dated 12.06.1998 is attached herewith.</i>
<i>(a(viii))</i>	<i>Particulars of the mining licence of which renewal is desired.</i>	<i>Mining lease of Silica Sand at village Janwa (Bara) Allahabad of 47.06 Hectare for 10 years date of execution is 16.06.1979.</i>
<i>(b)</i>	<i>Details of previous renewal granted, if any.</i>	<i>The first renewal granted by G.O. No.1172/18-12-91-55/89 dated 23.4.99. Date of execution is 13.12.93.</i>
<i>(ix)</i>	<i>Period for which renewal of mining lease is required.</i>	<i>For twenty (20) years.</i>
<i>(x)</i>	<i>Whether renewal is desired for the whole or part of lease hold.</i>	<i>Whole of lease land.</i>
<i>4(xa)</i>	<i>Does the applicant continue to have surface rights over the area of the land for which he requires renewal of</i>	<i>The surface right is partly owned by applicant. The rest</i>

	<i>the mining lease.</i>	<i>belonged to the Govt. which in laws of lease applicant can use on payment of prescribed rate as per schedule.</i>
<i>(b)</i>	<i>If not has he obtained the consent of the owner and occupier for undertaking mining operation. If so, the consent of the owner and occupier of the land obtained in writing be filed.</i>	<i>Consent of owner had been already filed at the time of first renewal.</i>
<i>(xb)</i>	<i>Particulars of the areas mineral-wise, in each state duly supported by affidavit for which the applicant or any person joint in interest which him.</i>	<i>The details are given in accompanying affidavit.</i>
<i>(a)</i>	<i>Already holds under mining lease:</i>	<i>Only one lease whose renewal is applied here.</i>
<i>(b)</i>	<i>Has already applied for but not granted, or</i>	<i>The applicant has applied for mining lease of Silica Sand for small area in village Bhaisahi and Lakhnauti, but yet has not been granted.</i>
<i>(c)</i>	<i>Being applied for simultaneously.</i>	
<i>(xc)</i>	<p><i>A mining plan which shall include-</i></p> <p><i>(a) The plant of the showing the nature and extent of the mineral body, spot of spots where the excavation is to be done in the first year and its extent, a detailed cross-section and detailed plan of spot(s) of excavation based on prospecting date gathered by the applicant a tentative scheme of mining for the period of the lease.</i></p> <p><i>(b) The details of geology and lithology of the area the extent of manual mining and through machines</i></p> <p><i>(c) Annual programme and plan of the excavation from year to year and</i></p> <p><i>(d) The plan of the area showing natural water courses limit of reserved and other forestares and</i></p>	<i><u>The approved mining plan and map etc. had been filed on 4.7.89 at the time of renewal and new mining scheme is being processed and will be filed later as soon as is ready.</u></i>

	<p><i>density of trees assessment of impact of mining activity of Forest, land surface and Environment including air and water pollution, and details of the scheme for restoration of the same by aforestation, land reclamation, use of pollution control devices.</i></p>	
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55. The aforesaid fact discloses that on the date of submitting renewal application, certain necessary information which the petitioner was required to submit while filing the application for second renewal was not supplied. The second renewal application of the petitioner was not complete in all respects on which the authority could proceed to consider to grant the second renewal.

56. As per own case of the petitioner, the petitioner obtained 'No Dues Certificate' on 31.10.2013. The petitioner got the mining plan approved on 16.07.2015 and the Environment Clearance Certificate was granted to the petitioner on 06.01.2016.

57. The aforementioned necessary documents required at Serial No.2 (vii) and 4 (xc) which the petitioner was supposed to supply with Form-J at the time of submission of form on 12.06.1998 but were not supplied. The pleading in the writ petition is silent to the effect that the petitioner had made any effort to provide aforesaid documents immediately so as to complete his renewal application in all respects to enable the authorities to consider the renewal application nor there is any pleading in the writ petition explaining the reasons for the inordinate delay of 16 years in filing the aforesaid documents. Therefore, it can be presumed that the petitioner did not make any effort to provide the aforesaid information/documents so as to complete his second renewal application in all respects for about more than 16 years.

58. Section 8A has been inducted in the Act, 1957 by Amendment Act, 2015 w.e.f. 12.01.2015 when the Ordinance was published in the Official

Gazette on 12.01.2015 and was replaced by Amendment Act, 2015 vide Notification dated 27.03.2015.

59. In the case of *Goa Foundation (supra)*, the Apex Court has categorically held that Rule 24 A(6) is applicable to first renewal and not to second renewal. The Apex Court further held that sub-rule (6) of Rule 24A of Rules, 1960 cannot be applied to second renewal under sub-section (3) of Section 8 of the Act, 1957 inasmuch as renewal under sub-section (3) of Section 8 requires the State Government to record specific reason that renewal is in the interest of mineral development. Paragraph no. 28 of the said judgement is reproduced herein below:-

“28. The MC Rules have been made under Section 13 of the MMDR Act by the Central Government and obviously could not have been made in a manner inconsistent with the provisions of the Act. Sub-rule (6) of Rule 24A of the MC Rules provides that

“24-A. (6) If an application for the renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon.”

This sub-rule cannot apply to a renewal under sub-section (3) of Section 8 of the MMDR Act because the renewal under this provision cannot be made without express orders of the State Government recording reasons for renewal in the interest of mineral development. In other words, so long as there is a right of renewal in the lessee which in the case of a mining lease is for a maximum period of twenty years, the provision regarding deemed extension of a lease can operate, but if the right of renewal of a mining lease is dependent upon the State Government forming an opinion that in the interest of mineral development it is necessary to do so and the State Government recording reasons therefor, a provision regarding deemed extension till orders are passed by the State Government on the application of renewal cannot apply. We are, therefore, of the opinion that sub-rule (6) of Rule 24-A of the MC Rules will apply to a case of first renewal under sub-section (2) of Section 8 of the MMDR Act other than a case covered under sub-rule (9) of Rule 24-A of the MC Rules, but will not apply to renewal under sub-section (3) of Section 8 of the MMDR Act. In our view, the deemed mining leases of the lessees in Goa expired on 22.11.1987 under sub-section (1) of Section 5 of the Abolition Act and the maximum of 20 years renewal period of the deemed mining leases

in Goa as provided in sub-section (2) of Section 8 of the MMDR Act read with sub-rules (8) and (9) of Rule 24-A of the MC Rules expired on 22.11.2007.”

60. So the continuance of mining operation by the petitioner under the shelter of Rule 24A(6) was illegal in view of the judgement of the Apex Court in the case of **Goa Foundation (supra)** which categorically held that Rule 24A (6) is not applicable in case of second renewal.

61. Even in the case of **Common Cause (supra)**, the Apex Court in paragraph no.16 has held that in case of second and subsequent renewal, the amended Rule 24A (6) would not extend the lease period. Paragraph no.16 of the said judgement is reproduced herein-below:-

“16. One clarification is imperative at this stage. After the passing of the order on 21.4.2014, in the Goa Foundation case, subsisting “first renewals” under Rule 24-A would expire on the completion of a further period of twenty years after the expiry of the period contemplated under the original grant, or as interpreted above. There was no similar automatic grant of “second renewals” after Goa Foundation case. Therefore, for all intents and purposes, the conclusion recorded hereinabove should be deemed to be relevant only with reference to the grant of “first renewals”. It is necessary to reiterate that in Goa Foundation case, this Court had held that second renewals would be subject to an order passed by the State Government recording reasons that it was in the interest of mineral development to do so. Needless to mention that a second or subsequent renewal also required the previous approval of the Central Government – as provided for under Section 8(4) of the MMDR Act. The amendment to Rule 24-A made on 18.7.2014, more particularly, the second proviso to sub-rule (6) leaves no room for any doubt that the automatic extension postulated with reference to the first renewal would not apply to the second or subsequent renewals. It is therefore necessary to further conclude that in cases of second and subsequent renewals, the amended Rule 24A(6) would not extend the lease period for a further period of two years from the date of amendment. Therefore, for all intents and purposes, in relation to renewal sought under Section 8(3) of the MMDR Act (read with Rule

24-A(6) of the Mineral Concession Rules – amended on 18.7.2014), all second renewals which were assumed to be subsisting by State Governments would expire with effect from the date of the judgment in Goa Foundation case i.e. 21.4.2014, and expressly, with effect from 18.7.2014 when the second proviso to Rule 24-A(6) provided accordingly. Unless of course, the Government had passed an express order in writing as mandated under Section 8(3) of the MMDR Act, extending the subsisting mining lease by a second or subsequent renewal.”

62. However, the Apex Court in the case of **Common Cause (supra)** saved the leaseholders who applied for second renewal and no renewal order was passed on their application and they continued to do mining by taking advantage of Rule 24A (6) of Rules, 1960 after noticing the object of induction of Rule 8A in the Act, 1957.

63. By accepting the contention of leaseholders that term ‘renewal has been rejected’ ‘on determination’ and ‘lapse’ used in Section 8A (9) are the terms used for different contingencies/situations/exigencies under the Act, 1957 and Rules, 1960. The Apex Court repelled the contention of the petitioner in the said case that Section 8A(9) can be legitimate basis for excluding the applicability of Section 8A where the period of lease of renewal had expired prior to 12.01.2015.

64. In the context of the present case, it would also be relevant to reproduce para-29, 30 & 31 of the judgement of the Apex Court in the case of **Common Cause (supra):-**

“29. From a perusal of the extract reproduced above, it is apparent that the insertion of Section 8-A into the MMDR Act was to address the hardship faced by leaseholders, besides other reasons, due to the second and subsequent applications for renewal remaining unattended at the hands of the State Government. The instant amendment to the MMDR Act introduced a uniform original grant period of fifty years for all mining leaseholders. It also excluded renewal(s) after the expiry of the original lease period. Accordingly, no renewal application can now be filed (after 12.1.2015). Under sub-sections (5) and (6) of Section 8-A, in our view such

leaseholders, who had moved applications for renewal of captive/non-captive mines would be entitled to continue up to 31.3.2030/31.3.2020. The “Objects and Reasons” for the amendment to the MMDR Act aim at remedying the position which emerged upon the interpretation of the provisions of the MMDR Act as they existed hitherto before. The instant amendment was also directed at remedying the grievances of the mining industry due to “second and subsequent renewals” remaining pending. And also, because the provisions of law relating to renewals had been found to be wanting. The above view is also endorsed by the fact that Section 8-A(9) deals with a situation wherein “...renewal has been rejected...”. It is therefore apparent that sub-sections (5) and (6) of Section 8-A of the amended MMDR Act are aimed at situations wherein an application for renewal (validly made) has remained unattended. Therefore, for no fault of the leaseholder he would be subjected to an arbitrary prejudice. It needs to be clarified that since an application for renewal cannot be filed after 12.1.2015, an application for renewal as would be treated as having been validly made, ought to have been made before 12.1.2015. We are of the view that out of the three contingencies contemplated under Sections 8-A(5) and 8-A(6) referred to above the first of the contingencies positively pertains to a situation wherein applications validly made for renewal were pending without any final decision at the hands of the State Government. Because in the absence of a renewal application, the leaseholder can be taken to have already expressed his disinterest to continue mining operations. Therefore logically, the words “... with effect from the date of expiry of the period of renewal last made...”, should relate to an expired lease prior to 12.1.2015 in relation to which a valid application for renewal had already been made.

30. We also feel persuaded in accepting the contention advanced at the hands of learned counsel representing the leaseholders that the words “... with effect from the date of expiry of the period of renewal last made...” cannot be overlooked. In our considered view, there is no ambiguity in the aforesaid words. The plain reading of the quoted words can lead to one and only one inference, namely, that the

situation contemplated under sub-sections (5) and (6) of Section 8-A of the amended MMDR Act (wherein both the above words have been used), includes a situation when the lease period contemplated by a renewal is scheduled to expire before 31.3.2030/31.3.2020. We are satisfied in clarifying that the situation contemplated by the use of the aforesaid words would extend to a leaseholder who had moved a valid application for renewal to the State Government which was yet to be considered and disposed of prior to 12.1.2015. The instant situation is not excluded by the contingencies contemplated under Section 8-A(9) of the amended MMDR Act. For the reasons recorded in the instant paragraph, as also, in the preceding paragraphs (wherein Section 8-A of the amended MMDR Act has been considered and interpreted), we are satisfied to hold that the applicability of Section 8-A of the amended MMDR Act need not only extend to leaseholders whose original lease/renewal lease period had not expired but would also extend to leaseholders whose term of lease/renewal had expired prior to 12.1.2015 and the leaseholder(s) concerned had moved a valid application for renewal at least twelve months before the leaseholder's existing lease (original, first, second or subsequent) was due to expire, and whose application has not been considered and rejected.

31. Irrespective of the position noticed herein above, it is imperative for us to clarify that the benefit of extension of the lease period postulated under Section 8-A of the MMDR Act is available, subject to a further overriding condition, namely, "...that all the terms and conditions of the lease have been complied with". A leaseholder who does not satisfy any of the required conditions of the lease, as for instance the postulated clearances/approvals/consent would not be entitled to the benefits extended under sub-section (5) or (6) of Section 8-A of the amended MMDR Act."

65. The Apex Court in the paragraphs, reproduced above, in **Common Cause (supra)** has categorically held that the application for renewal of lease must be a valid application. So the benefit of Section 8A(6) can be

extended to the petitioner if the application of the petitioner for renewal was valid.

66. In the instant case, we have already noted above that information required in the column in Form-J was not supplied by the petitioner at the time of filing application for renewal of lease. Rule 24A(1) of Rules, 1960 requires application for renewal to be filed at least twelve months before the date on which the lease is due to expire. The Rule does not contemplate an application to be valid even if it does not contain all the information sought in the said application.

67. In our opinion, under Rule 24A(1), the object for providing the time frame of twelve months for filing the application for renewal of lease before it was due to expire is that the competent authority should have sufficient time to process the application for renewal in accordance with the procedure provided under Rules, 1960, so that appropriate order is passed on the renewal application, and if the decision is taken by the Central Government to renew the lease under Section 8A(3) of the Amendment Act, 2015, it should be done within time in order to avoid the break in continuity of lease, so that the leaseholders may not suffer any loss, and at the same time, the State should also not suffer any loss of revenue.

68. It is also pertinent to note that the benefit of Section 8A(6) of the Amendment Act, 2015 can be provided to the leaseholder if he did not breach the terms and conditions of lease.

69. The Coordinate Bench of this Court in the earlier writ petition of the petitioner though has held that the rider contemplated under Section Section 8A(9) of the Amendment Act, 2015 will not come in the way of petitioner in getting the benefit of Section 8A(6), but the Coordinate Bench has categorically held that petitioner will get the benefit of Section 8A(6) of Amendment Act, 2015 provided the petitioner has not committed breach of any terms and conditions of lease.

70. So the Coordinate Bench of this Court in the earlier judgement has not given the absolute benefit of Section 8A(6) to the petitioner, and

mandated that lease of the petitioner is extended for 50 years under Section 8A(6) rather Coordinate Bench of this Court put a rider that petitioner shall be entitled to benefit of Section 8A(6) provided the terms and conditions of the lease has not been breached.

71. In the present case, admittedly, the lease of the petitioner had expired on 15.06.1999. Thereafter, no lease deed was in existence. In such situation, it cannot be ascertained whether petitioner has violated any terms and conditions of the lease.

72. In a situation where lease deed has expired and an application had been submitted for renewal of lease deed, and there is no lease deed in existence, but the petitioner continued to carry out mining operation without any lease, in such situation, the Court is supposed to lift the veil and find out the true intention of the legislature in incorporating the words “all the terms and conditions of the lease deed have been complied with”.

73. In our opinion, the above mentioned words in Section 8A(6) have been incorporated with an intention that where renewal application has been submitted and an order is yet to be passed, the mining operation should be carried out after complying with all the relevant provisions of the Act and Rules, and if there is non-compliance of any rule or provision of the Act, it implies that all the terms and conditions of the lease deed have not been complied with.

74. The reason why we say so is that the lease deed incorporates all the requirements of law on fulfilling of which the mining operation can be carried out, and if there is no lease deed in existence then obviously, the intention of the legislature is that the mining operation should be conducted as per law.

75. Even in the case of *Common Cause (supra)*, the Apex Court has held that benefit of Section 8A(6) can be extended to those leaseholders whose applications have been found valid.

76. The valid application means that the application should conform with all the requirements of law, and if it is not in conformity with law, such application cannot be said to a valid application in law.

77. Now, we proceed to analyze in the light of aforesaid fact whether the petitioner has complied with the aforesaid requirement for availing the benefit of Section 8A(6) of the Amendment Act, 2015.

78. While submitting Form-J, the petitioner did not obtain the mining plan. The petitioner neither submitted 'No Dues Certificate' nor mining plan. Admittedly, 'No Dues Certificate' was submitted by the petitioner on 31.10.2013 and the mining plan was approved on 16.07.2015.

79. The petitioner filed his renewal application on 15.06.1998, and the petitioner continued the mining operation without having a valid mining plan about 13 years, whereas it was incumbent upon the petitioner to submit mining plan along with an application in Form-J for renewal of lease by 15.06.1998.

80. The petitioner obtained the mining plan on 16.07.2015. Section 8A has been promulgated by the Ordinance dated 12.01.2015 which was later on replaced by an Act vide notification dated 27.01.2015. So, the application of the petitioner was defective and not as per law till 16.07.2015 when the mining plan was approved. Therefore, in the absence of valid application of renewal submitted by the petitioner for renewal of lease, there was no occasion for the authority to consider and process such application till it is complete in all respect.

81. In view of the categorical finding of the Apex Court in the case of *Common Cause (supra)* in paragraph no.30, extracted above, the renewal application should be a valid application whereas the petitioner's application by any stretch of imagination in view of the aforesaid fact can be said to be a valid application.

82. Further, the petitioner carried out mining operations without mining plan after expiry of lease deed on 15.06.1999 which clearly implies that petitioner did not fulfill the requirements under Section

8A(6) of Amendment Act, 2015 that the leaseholder has to comply with all the terms and conditions of the lease.

83. It is one of the contentions of learned counsel for the petitioner that once this Court in earlier writ petition of the petitioner has held that petitioner is entitled to the benefit of Section 8A(6) even if the said finding is incorrect, that shall be binding upon the parties as the earlier judgement in writ petition of petitioner has not been assailed by the respondents and same has attained finality, therefore, it is not open to the respondents to contend that petitioner is not entitled to the benefit of Section 8A(6), and in this respect, he has placed reliance upon the judgment of Apex Court in the case of *V.S. Charati (supra)*. Paragraph no.9 of the said judgement is reproduced herein below:-

“9. It is submitted by the respondent that the Agricultural Lands Tribunal was not right in dropping proceedings under Section 32-G. Its order of 31.5.1961 is bad in law. He relied upon a decision of the Bombay High Court in the case of Nago Dattu Mahajan Vs. Yeshodabai Huna Mahajan (1976) 78 Bom LR 427 where this Court had held that under Section 31, the landlords have a choice to avail of one of the two provisions of resumption, namely, either Section 31(1) or Section 31(3). No landlord can avail of both the provisions. Learned counsel for the respondent, therefore, contends that in the present case, the appellant having exercised his choice under Section 31(1), could not have urged in the proceedings under Section 32-G his disability as a minor under Section 31(3). The order of 31.5.1961 of the Agricultural Lands Tribunal, however, was not challenged by the respondent. The order of 31.5.1961 has become final and the decision rendered by the Agricultural Lands Tribunal as between the appellant and the respondent is binding on both the parties. A decision, simply because it may be wrong, would not thereupon become a nullity. It would continue to bind the parties unless set aside. The effect of the decision of 31.5.1961 on the parties, therefore, cannot be ignored. In the present case, since the tenant could not complete his purchase by reason of the proceedings under Section 32-G being dropped, he cannot now

contend that the decision has no legal effect or that the proceedings under Section 32-G ought to have been completed and, therefore, he should be looked upon as a purchaser.”

84. There is no quarrel to the aforesaid proposition of law elucidated by the Apex Court in the aforesaid case.

85. In the case in hand, the aforesaid principle is not applicable inasmuch as in the earlier case of the petitioner, the Coordinate Bench has not given the absolute mandate that petitioner is entitled to the benefit of Section 8A(6) rather this Court put a rider in the light of requirement of Section 8A(6) that petitioner is entitled to benefit of Section 8A(6) provided the terms and conditions of the lease have been complied with.

86. So the direction of granting benefit of Section 8A(6) was not absolute by the Coordinate Bench of this Court and the said finding has not attained finality as discretion is left to the authority to see whether terms and conditions of the lease deed have been complied with, and on compliance of said condition, the authorities are mandated to extend the benefit of Section 8A(6) and lease of the petitioner is deemed to be extended for 50 years.

87. We have interpreted the term “all the terms and conditions of the lease deed have been complied with” and we have held that petitioner did not comply with all the conditions of the lease deed.

88. Even as per own case of the petitioner, the mining plan of the petitioner was approved on 16.07.2015 after about 18 years from the date of filing of application by the petitioner for renewal of lease and after about six months from the date Section 8A has been incorporated in the Act, 1957 by Amendment Act, 2015.

89. Thus, in view of the specific finding recorded by the Apex Court in paragraph no.30 of the judgement of Apex Court in the case of ***Common Cause (supra)*** that benefit of Section 8A(6) can be extended only if renewal application is valid whereas in the present case, we have already held above that renewal application submitted by the petitioner

was not valid in the eyes of law. Thus, even as per the case of ***Common Cause (supra)***, the petitioner is not entitled to the benefit of Section 8A(6).

90. For the reasons detailed above, we are of the view that principle of *res-judicata* as invoked by the learned counsel for the petitioner is not attracted in the present case for the reason that the findings of Coordinate Bench of this Court in the earlier judgement passed in earlier writ petition of the petitioner regarding extension of benefit of Section 8A(6) to the petitioner was conditional as it was subject to the condition that the petitioner fulfilled the terms and conditions of the lease deed.

91. Since, we have already held that earlier judgement of the Coordinate Bench of this Court in the case of petitioner was conditional as the petitioner is entitled to the benefit of Section 8A(6) of the Amendment Act, 2015 subject to the condition that 'all the terms and conditions of the lease deed have been complied with', therefore, the Court has granted liberty to the authorities to treat the lease deed of the petitioner deemed to be extended if terms and conditions of the lease deed have been complied with, therefore, this Court did not grant automatic extension of lease to petitioner.

92. In such view of the fact, the judgement of Apex Court in the case of ***National Agricultural Cooperative Marketing Federation of India Ltd. (supra)*** relied upon by the learned counsel for the petitioner wherein Apex Court held that a judicial decision which has become final inter parties cannot be set at naught by legislative action and the judgement of the Apex Court Court in the case of ***Neelima Srivastava (supra)*** wherein it has been laid down by the Apex Court that it is not permissible for the parties to reopen the concluded judgements of the Court, are not applicable in the facts of the present case.

93. It has also been urged by the learned counsel for the petitioner that by Amendment Act, 2015, the power of State Government to renew the lease has been done away with, and therefore, after commencement of Amendment Act, 2015, second renewal application stood exhausted, and

the lease of the petitioner stands automatically extended by virtue of operation of law, thus, rejection of renewal application by the respondent is *per se* illegal as the lease of the petitioner stood extended automatically by virtue of operation of law.

94. It is pertinent to note that lease stands extended by virtue of operation of law after the Amendment Act, 2015 only in those cases where the lessee meets the requirement of Amendment Act, 2015 and not in cases where the lessee does not meet the requirement of Amendment Act, 2015.

95. The petitioner claims that his lease is extended for 50 years by virtue of operation of law under Section 8A(6) of the Amendment Act, 2015.

96. We have deliberated above that renewal application of the petitioner was not a valid renewal application in the eyes of law inasmuch as no mining plan was enclosed with the renewal application. Further, the mining plan was obtained by the petitioner as per his own case on 16.07.2015 after enforcement of Amendment Act, 2015. The petitioner obtained the Environment Clearance Certificate on 06.01.2016 after enforcement of Amendment Act, 2015. Thus, it is evident from the aforesaid fact that petitioner's application for renewal of lease was not a valid application and further, the petitioner was doing mining till 2011 without a mining plan.

97. To carry out valid mining operation, there has to be a mining plan, therefore, it is obvious that petitioner's mining operation till 2011, when he was stopped by respondents from doing mining, was in breach of law, therefore, petitioner is not entitled to the benefit of Section 8A(6) as extension of said benefit was subject to condition that "all the terms and conditions of the lease deed have been complied with". Thus, the aforesaid submission of the learned counsel for the petitioner lacks substance and is accordingly rejected.

98. So far as the argument of learned counsel for the petitioner that petitioner's right to extension of lease is not precluded by virtue of

Section 8A(9) of the Amendment Act, 2015 as the lease of the petitioner cannot be treated to have lapsed is concerned, though it is correct that the respondent no.2 has illegally held in the absence of any specific order holding lease has lapsed that the lease of the petitioner has lapsed, and this finding is contrary to the judgement of the Apex Court in the case of **Common Cause (supra)** wherein the Apex Court in paragraph no.35 has held that *'it is apparent from a perusal of sub-rule (1) extracted above that the State Government is mandated to pass an order and thereby declare that a mining lease had lapsed. It is also the mandate of sub-rule (1) aforesaid that such an order passed by the State Government must be communicated to the leaseholder. On a conjoint reading of Section 4-A(4) and Rule 28(1), we are satisfied to hold that a mining lease under Section 4-A(4) would not be deemed to have lapsed till the State Government passes an order declaring the mining lease to have lapsed and further communicates the same to the leaseholder'*.

99. Even if the aforesaid finding of the authority is incorrect, but that would not come to rescue of the petitioner. We shall deal with reason for the said finding at the appropriate place.

100. The second ground on which the application of the petitioner has been rejected is that Chapter-IX of Rules, 1963 incorporated in the Rules, 1963 by Notification No.2229/LXXXVI-2016-130-2015 dated 29.06.2016 does not provide any provision for second renewal of lease and petitioner also could not demonstrate that there is any provision under Chapter-IX of the Rules, 1963 providing for grant of lease of Silica Sand etc., we are of the view that the said finding of the authority is correct. The aforesaid finding has been assailed by the petitioner on the ground that since the lease of the petitioner stood extended by virtue of Amendment Act, 2015, therefore, it is not a case of renewal of lease and thus, the authority has erroneously treated the case of the petitioner to be a case of renewal of lease.

101. We may note that the contention of learned counsel for the petitioner may have substance provided the petitioner was entitled to the benefit of Section 8A(6) of the Amendment Act, 2015. We have detailed

above the reason why the petitioner's case does not fall within the ambit of Section 8A(6) of the Amendment Act, 2015, therefore, even if the authority has erroneously treated the case of the petitioner to be a case of renewal of lease, but that would not benefit the petitioner.

102. It would be apposite to mention that this Court has repeatedly held that even if an order is illegal or not as per law, the Court may refuse to issue any writ under Article 226 of the Constitution of India for the reason that the Court while exercising power under Article 226 of the Constitution of India shall not issue futile writs.

103. In the case in hand, we have found that renewal application of the petitioner was not valid as he did not comply with the requirement of law so as to enable the authorities to consider the said renewal application, and even on the date of Amendment Act, 2015, the deficiency or defect in renewal application was not removed as the mining plan was obtained by the petitioner as per his own case on 16.07.2015 and Environment Clearance Certificate was obtained on 06.01.2016, therefore, even as per the case of *Common Cause (supra)*, the petitioner's application for renewal of lease was no application in the eye of law. Therefore, even if we quash the impugned order and remand the matter, the petitioner cannot get the benefit of Section 8A(6) of the Amendment Act, 2015. Thus, we are not inclined to interfere with the impugned order on the settled principle of law that the Court should not issue futile writs.

104. Thus, for the reasons given above, the writ petition lacks merit and is, accordingly, *dismissed* with no order as to costs.

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)

May 8, 2026
Sattiyarth/NS