



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15898 of 2025

CNR No.ODHC010397452025

***M/s. Jagat Janani Services Pvt. Ltd.,
Keonjhar***

Petitioner

-Versus-

State of Odisha and others

Opposite Parties

Advocates appeared in this case:

For Petitioner : Mr. Durga Prasad Nanda, Senior Advocate
Mr. Rajjeet Roy, Advocate
Mr. R.K. Mahanta, Advocate

For Opp. Parties/State : Mr. Saswat Das,
Additional Government Advocate

**CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH**

J U D G M E N T

**Date of hearing: 18th August, 2026
Date of Judgment: 27th August, 2026**

HARISH TANDON, C.J.

1. The order dated 11th April, 2025 passed by the Director of Mines and Geology, Odisha in rejecting the appeal petition dated 2nd December, 2024 is the subject matter of challenge in the instant writ petition.



2. The challenge is basically premised on interplay between Rule-10(5) and Rule-10(7) of the Orissa Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007 (hereinafter referred to as “the said Rules” for the sake of convenience), in relation to the collection of sample for testing in order to ascertain the grade of the stacks and the testing of the umpire sample beyond the period provided for its preservation.

3. In order to have clarity on such aspect, it would be profitable to adumbrate the salient facts involved in the instant case.

4. The petitioner is the mining lease holder of Jururi Iron Ore Block in the district of Keonjhar with effect from 4th July, 2020 upon being emerged as the successful bidder and subsequently, the lease deed was also executed in his favour by the State Government.

5. Since the said Rules of 2007 mandates the requisite permits to transport the minerals from the mining area, an application was made for chemical analysis of the mineral samples to be collected from the stacks in the prescribed form which was duly collected after observing all the formalities contemplated under Rule-10 of the said Rules. After the said chemical analysis report having



obtained by the Deputy Director of Mines, the transit permit was issued in the prescribed form for removal of the iron ore from the stacks notified in this regard.

6. However, a surprise inspection was made by the State Level Enforcement Squad and certain anomalies were found in the grade. Immediately, the same was reported to the opposite party No.4, who subsequently issued a show cause notice to the petitioner for alleged violation of the Mineral Conservation and Development Rules, 2017 (MCDR, 2017), Mineral Concession Rules, 2016 (MCR, 2016) and the said Rules, 2007 in respect of four numbers of stacks. The petitioner responded to the said show cause notice denying any anomaly and/or discrepancy alleged in the said show cause notice, but the said State Level Enforcement Squad further conducted a joint inspection and found other anomalies and discrepancies, which was again reported to the opposite party No.4. A further show cause notice was issued to the petitioner, which was duly replied and, in fact, the petitioner appeared before the said opposite party No.4 denying the allegations made therein.

7. Amidst the aforesaid exercise undertaken by the authority, a letter was caused on 16th March, 2024 by the opposite party No.3



to the opposite party No.4, a copy whereof was served upon the petitioner, for re-analysis of the umpire sample. The petitioner agreed for re-analysis of the umpire sample in respect of five numbers of stacks by causing letter dated 10th April, 2024 and the said umpire sample was chemically analyzed in presence of the petitioner, which indicates variation in the grade inviting an imposition of higher amount of royalty and the other statutory charges, and a demand notice was issued upon the petitioner to pay the differential amount.

8. Immediately, a representation was made by the petitioner to revisit the demand notice but perceiving that no decision has been taken thereupon, a writ petition being W.P.(C) No.17285 of 2024 was filed before this Court. The said writ petition was disposed of on 28th October, 2024 as the petitioner intended to assail the order raising a demand under Rule-17A of the said Rules, 2007. The revisional application was filed under the said provision before the opposite party No.2 and by the impugned order, the same is dismissed as the authority did not find any ground warranting interference with the said demand notice.



9. Learned counsel for the petitioner arduously submits that once the chemical analysis of the stacks were undertaken by the authority on the basis of an application filed by the petitioner and transit permit having issued on the basis thereof upon payment of the statutory dues, it is not open to the authorities to take recourse to a surprise inspection. He further submits that even if the surprise inspection is permitted under Rule-10(7) of the said Rules, 2007, the lifespan of the umpire sample is restricted to three (3) months and, therefore, the chemical analysis of the said umpire sample beyond the said stipulated time is impermissible and no credence should be given thereto. It is further submitted that the aforementioned show cause notices do not reveal any significant variation in the grade and, therefore, the authorities have acted with a closed mind in issuing the demand notice. It is lastly submitted that the order of the Revisional Authority impugned in the instant writ petition is bereft of any reason having recorded in rejecting the stand of the petitioner and, therefore, liable to be quashed and set aside.

10. *Per contra*, the learned Additional Government Advocate vehemently submits that the chemical analysis of the stacks are



done by the authorities on an application of the petitioner and, therefore, no fetter is put on the authority to make a surprise inspection through the State Level Enforcement Squad under Rule-10(7) of the said Rules.

11. It is further submitted that the samples were drawn in presence of the petitioner and the chemical analysis of the umpire sample was done with the concurrence of the petitioner and, therefore, it is too late in a day to contend that such chemical analysis of the umpire sample should be ignored or was in contravention to the statutory provision. He further submits that the chemical analysis revealed that there was an upgradation ranging between 55% to 58% Fe and since the petitioner paid the less amount, the differential amount was demanded which cannot be said to be perverse and/or liable to be quashed. Lastly, it is submitted that the umpire sample was tested in presence of the petitioner and, therefore, the petitioner cannot take rebound to contend that the period for preservation of the said umpire sample expired.

12. On the backdrop of the aforesaid submissions so advanced before us, the point involved in the instant writ petition is primarily



founded upon the actions taken by the authorities under Rule-10(5) and Rule-10(7) of the said Rules, 2007. Undeniably, the petitioner is a mining lease holder and it is imperative under the Rules of 2007 to apply before the authority for chemical analysis of the stacks for transportation. In fact, the petitioner resorted to the said course by making an application in prescribed format and on the chemical analysis report of the stacks determining the grade, the statutory liabilities were discharged and the transit permit was issued to the petitioner.

13. Rule-10 sub-rule (7) of the said Rules confers power upon the authority to undertake a surprise check in order to ascertain any significant upward deviation in the grade of a mineral and, in the event, any discrepancy and/or anomaly is found which attracts a higher amount of royalty and other statutory charges, the differential amount can be claimed by the authority. The said Rule-10(7) of the said Rule reads thus:

“Rule-10(7). If after the submission of analysis report by the lessee and before the dispatch of the stack, during surprise check, any significant upward deviation in the grade of mineral is observed, then, the mineral transportation from the concerned leases may be suspended. Resumption of transportation may be



allowed after the conclusion of enquiry, which shall be concluded within 15 days. In case of any dispute raised by a lessee within three months from the date of analysis of second part of the sample, the Director may allow analysis of the umpire sample at the Government Laboratory in presence of the lessee or his authorized representative, if he is satisfied with the genuineness of the dispute and on the representation of the lessee. The analysis result of the Government Laboratory shall be final and binding:

Provided that in case the lessee declares to pay highest rate of royalty as prescribed under the Second Schedule of the Act, stacking and sampling shall be dispensed as provided under rules 5, 6 and 7 above and the Deputy Director of Mines or Mining officer shall issue permit after permission accorded by the Director of Mines for such dispense. The Director of Mines may prescribe conditions, as he deems fit, for such permission. Average blast hole samples data in terms of quality and quantity of each blast representing the average run of Mines grade shall be submitted to the concerned Deputy Director of Mines or Mining Officer, as the case may be, for record and verification, further the lessee shall be required to submit a monthly average analysis report for quality and grade:

Provided further that in case of the lessees availing exemption for stacking & sampling as above,



the application for issue of permit submitted in form-J shall be forwarded by the Designated Officer or Authorized Officer without any certification and the verification of the land from which mineral has been raised, balance stock from previous permitted quantity, if any, and total stock at mines site shall be done and reported once in every month.”

14. The interplay between sub-rule (5) and sub-rule (7) of Rule-10 can be envisaged in the restricted sense that while drawing the sample, the same shall be divided in three parts with corresponding identification number or code randomly generated by the online system, out of which the first part of the sample shall be sent to the laboratory of the lessee duly notified by the State Government; second part shall be sent to the Government laboratory and, in the event, there is a variance therein, the higher of the above two analysis reports shall be taken for the purpose of calculating the statutory dues and the differential amount shall be paid by the lessee. So far as the third sample is concerned, which is identified as an umpire sample, shall be kept in the custody of the lessee for a period of three months for the purpose of analysis in case of a challenge made by the lessee.



15. The aforesaid recourses are provided under sub-rule (5) of Rule-10, whereas sub-rule (7) does not contain such exhaustive mechanism but is relatable to the umpire sample. The linkage between sub-rule (5) and sub-rule (7) can be reasonably visualized so far as the collection of the sample is concerned, as in both the situations contemplated under sub-rules (5) and (7), same has to be divided in three parts. The sub-rule (7) of Rule-10 of the said Rules bestowed power upon the authority to make a surprise check even after undertaking the exercise under sub-rule (5) thereof and, in the event, any significant upward deviation is noticed, the transportation may be suspended, which can only resume after completion of an inquiry.

16. It is indicated in the said provision that in the event any dispute is raised within three months from the date of analysis of the second part of the sample, the permission may be given for analysis of the umpire sample and the report shall be treated as conclusive one for the purpose of calculating the statutory dues. After the second surprise check and observing a significant upward deviation on 19th December, 2023, a letter dated 16th March, 2024 was issued and a copy thereof was served upon the petitioner calling upon as to



whether the petitioner is intended to have the umpire sample reanalyzed. Such letter was within three months from the date of the collection of the umpire sample on the last surprise check but the petitioner agreed for reanalysis of the said umpire sample by making an application on 10th April, 2024.

17. Though, the umpire sample shall be kept in the custody of the lessee for a period of three months, it is obligatory on the part of the lessee to dispute the chemical analysis of the second sample within three months from the date of its analysis and the discretion was vested upon the Director to allow such analysis in a Government laboratory in presence of the lessee. Though sub-rule (5) of Rule-10 obligated the lessee to keep the umpire sample for a period of three months, sub-rule (7) of Rule-10 is relatable to the raising of a dispute by the lessee within the three months and making an application for reanalysis of the umpire sample.

18. A conjoint reading of both the provisions does not convey a sense that under any circumstance, chemical analysis of the umpire sample cannot be done after three months. What sub-rule (7) of Rule-10 mandates that it is an option of the lessee to raise a dispute within three months and apply for reanalysis of the umpire



sample before the Director. The option is exercised by the petitioner and once such option is exercised, it is not open to the petitioner to contend that the validity period of the umpire sample having expired; the re-analysis report cannot be relied upon. Sub-rule (5) of Rule-10 creates an obligation on the part of the lessee to preserve the sample for three months without any consequence to follow after the expiration of the said period and, therefore, cannot be regarded as a mandatory provision. On the other hand, sub-rule (7) of Rule-10 gives an option to the lessee to raise a dispute within three months from the date of the analysis report of the second part of the sample and seeks for a re-analysis thereof.

19. Thus, the time start ticking not from the date of the drawing of the sample but from the analysis report of the second part of the sample under sub-rule (7) of Rule-10 and, therefore, both the aforesaid provisions are distinct and operates in different situations. Apart from the same, the petitioner voluntarily applied for re-analysis of the umpire sample and the testing was done in his presence and it is only after the demand notice was issued on the basis of the upward deviation in the grade notice in the said analysis report of the umpire sample, the demand was raised of a differential



amount, the petitioner took such plea, which, in our opinion, is not tenable. Once the petitioner acquiesces to his rights and excises the option for re-analysis, in view of the expression that the analysis result of the umpire sample shall be final and binding, the contention of the petitioner in this regard is untenable.

20. The petitioner has taken another plea that the impugned order of the Revisional Authority is devoid of any reasons and, therefore, liable to be quashed and set aside. We had an occasion to meticulously examine the findings returned in the impugned order, which vividly reflects that taking recourse to the provisions contained in Rule-10(7) of the said Rules, this umpire sample was analyzed in presence of the petitioner and the result was also communicated to the effect that two numbers of stacks, out of five numbers were upgraded than the permitted grade. It cannot be said that the impugned order is bereft of any reasons and, therefore, the contention of the petitioner in this regard is unsustainable.

21. From whatever angle we look at, does not find any infirmity and/or illegality in the action of the statutory authorities in raising a demand of the differential amount of the statutory dues and, therefore, the instant writ petition is dismissed.



22. However, considering the fact that a considerable period has elapsed because of the remedy having exhausted under the statutory provisions, we permit the petitioner to pay the amount as shown in the impugned demand notice, if not already paid, within four weeks from date.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

Sisira
Jr. Steno