



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3222 OF 2026

MOIL JANSHAKTI MAZDOOR SANGH  
BALAGHAT (M.P./M.S.), through its  
President, Ramkripal Khurshel, aged about  
69 years, R/o. Ward No.07, Gujri Chowk,  
Tah.Tirodi, District : Balaghat (M.P.) 481449

.... PETITIONER.

// VERSUS //

1. Union of India, through its Secretary,  
Ministry of Steel (MOIL) Division,  
Udyog Bhawan, Dr. Maulana Azad  
Road, New Delhi-110011
- 2) Chairman, Public Enterprises Selection  
Board (PESB), Department of Personnel  
& Training Government of India,  
Block No.14, C.G.O. Complex, Lodhi Road,  
New Delhi-110003.
- 3) Chief Vigilance Commissioner (CVC),  
Satarkta Bhawan, Block-A, GPO Complex,  
INA, New Delhi-110023
- 4) Chief Vigilance Officer (CVO),  
Ministry of Steel, Udyog Bhawan,  
Dr. Maulana Azad Road, New Delhi-110011.
- 5) Steel Authority of India Limited (SAIL),  
Ispat Bhawan, Lodhi Road,  
New Delhi-110003 through its  
Chairman-cum-Managing Director.

- 6) Shri. Vishawanath Suresh,  
Chairman-cum-Managing Director,  
MOIL Limited, MOIL Bhawan,  
1-A, Katol Road, Chhaoni,  
Nagpur-440013.

.... **RESPONDENTS.**

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Shri A.K.Waghmare, Advocates for Petitioner.  
Shri Tushar Mehta, SGI a/w Shri Kartik Shukul, DSGI a/b Shri Harshwardhan  
Khawale & Shri Gaurav Khatwani, Advocates for Resp. Nos. 1 to 4.  
Shri Shanshank Garg, Sr. Advocate i/b Shri Y.N.Sambre, Adv. for Resp. No.6.  
Shri Tushar Mehta, SGI i/b Shri Y.N.Sambre & Shri A.P.Singh, Advs. for Intervenor.

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**CORAM : ANIL S. KILOR AND**  
**RAJ D. WAKODE, JJ.**

**DATE OF RESERVING THE JUDGMENT : 25/06/2026.**  
**DATE OF PRONOUNCING THE JUDGMENT: 29/07/2026.**

**JUDGMENT** : (Per : Anil S. Kilor, J)

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. The petitioner is seeking writ of *quo warranto* against the respondent No.6-Chairman-cum-Managing Director of Manganese Ore India Limited (MOIL).

The brief facts of the present case are as under :

4. The petitioner is a Mazdoor Sangh claims to be a largest union of workers/ employees.

5. It is the case of the petitioner that an advertisement for the post of Chairman-cum-Managing Director was published by the Government of India through a Public Enterprises Selection Board on 11/04/2025 and in pursuance to which a selection process was undertaken. In the said process, the respondent No. 6 was selected. On 06/01/2026, the Deputy Secretary, Secretariate of Appointments Committee of the Cabinet issued a communication as regard the approval of the proposal of Ministry of Steel for appointment of the respondent No.6 to the post of Chairman-cum-Managing Director (CMD, MOIL). The appointment was for the period from the date of his assumption of charge till the date of his superannuation, i.e., 31/08/2030, or until further orders, whichever is earlier. Thereupon, the Hon'ble President of India was pleased to appoint the respondent No.6 as CMD MOIL for the period as referred herein above vide order dated 07/01/2026.

6. It is further the case of the petitioner that three complaints were lodged in respect of alleged corruption involving senior-level executives of the Steel Authority of India Limited (SAIL). It is alleged that in the

said complaints the respondent No.6 is the accused and the learned Lokpal ordered Central Bureau of Investigation (CBI) to probe against all the accused, including the respondent No.6.

7. It is stated that the report of CMD(Vigilance), ED(Vigilance) and CVO has categorically stated that the senior officials, Chairman, Director, ED(Sales and ITD) and ED(Marketing) of SAIL have deliberately misused their official position and favoured to M/s Avon Steel Industries Pvt. Ltd., which resulted in a huge loss to the SAIL ranging from Rs.263-370 crores. Thus, it is the case of the petitioner that the appointment of respondent No.6 is in clear violation of settled service norms which prohibits such appointment where there are allegations of corruption. Hence, this petition.

8. We have heard the learned counsel for the respective parties.

9. Shri Tushar Mehta, learned Solicitor General of India (SGI), at the outset, raised a preliminary objection to the maintainability of the present petition. It is argued that before a person can effectively claim a writ of *quo warranto*, he has to satisfy the Court that the office in question is a 'public office' and is held by a usurper without legal authority. It is further required to establish that the 'public office' must

be created by Constitution, legislature or through authority conferred by legislature. It is also required to establish that some sovereign power of Government is delegated. It is further submitted that there are no pleadings pointed out that MOIL is a public office and any sovereign powers are conferred upon the respondent No.6 by making such appointment. It is therefore, submitted that the petition needs to be dismissed as not maintainable. Shri Tushar Mehta, learned SGI in support of his submission has placed reliance upon the judgment of the Hon'ble Supreme Court of India in the case of *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn.*, reported in (2006) 11 SCC 731 (2), a judgment of the Principal Seat of this Court in the case of *Pravin P. Wategaonkar v. State of Maharashtra*, reported in 2024 SCC OnLine Bom 3142 and a judgment of this Court in the case of *Manohar Maroti Sahare Vs. Dr. Gopal Dhavan and Ors.*, reported in PIL 119 of 2015.

10. On the other hand, Shri Waghmare, learned counsel for the petitioner while replying to the preliminary objection, has argued that the appointment of the petitioner is made by the President of India for a fixed period. It is, therefore, submitted that the respondent No.6 is holding a public office. It is further submitted that in the company

MOIL 53% shares are of the Union of India, which is also sufficient to say that it is a 'public office' / 'government office'.

11. He further submits that the allegations against respondent No.6 are that, while he was working in SAIL he misused his official position with other officers and favoured one M/s. Avon Steel Industries Pvt.Ltd., which resulted in a huge loss to the SAIL around Rs.263-370 crores. It is therefore, argued that such appointment of the respondent No.6, as Chairman-cum-Managing Director of MOIL, is in complete violation of the settled service norms.

12. He further argued that the appointment of the respondent No.6 is in violation of several governing provisions, including Constitution of India, orders of the Hon'ble Lokpal dated 10/01/2024 and 02/07/2025, the Consolidated Model Conduct, Discipline and Appeal Rules for CPSEs, the Whistle Blower Policy, the Code of Business Conduct and Ethics and the Fraud Prevention Policy.

13. He further argued that while appointing the respondent No.6 the Government of India Guidelines regarding Board Level Appointments in Central Public Sector Enterprises, 2017, particularly Chapters III, VIII and IX, as well as Appendices I and II, were also

allegedly violated. It is further stated that mandatory requirements relating to vigilance clearance, consideration of APARs, and approvals by the CVC, CVO, PESB and ACC were allegedly ignored. To substantiate his arguments, Shri Waghmare has placed reliance on the judgments of Hon'ble Supreme Court of India in the cases of *University of Mysore v. C.D. Govinda Rao*, reported in 1963 SCC OnLine SC 15; *Centre for PIL ..vs.. Union of India*, reported in (2011) 4 SCC 1, *Rajesh Awasthi ..vs.. Nand Lal Jaiswal*, reported in AIR 2013 SC 78, *Central Electricity Supply Utility of Odisha v. Dhobei Sahoo*, reported in (2014) 1 SCC 161, *CBI v. Ramesh Gelli*, reported in (2016) 3 SCC 788.

14. Having heard the rival contentions on the maintainability of the present petition, before proceeding further in the matter to decide whether the petitioner has sufficiently made out a case to satisfy the Court that the petitioner can claim a writ of *quo warranto*, it would be apposite to reiterate the law on this point.

15. We have perused the following judgments of the Hon'ble Supreme Court of India and this Court, cited by both the parties in the cases of *University of Mysore* (supra); *B.Srinivasa Reddy* (supra), *Centre for PIL* (supra), *Rajesh Awasthi* (supra), *Central Electricity Supply Utility*

*of Odisha (supra), CBI v. Ramesh Gelli (supra), Manohar Maroti Sahare (supra), Pravin P. Wategaonkar (supra).*

16. We may summarize the law laid down in the above referred judgments in following terms :

- (a) *Quo Warranto* confers jurisdiction on the constitutional courts to see that a public office is not held by usurper without any legal authority. It controls the executive from making appointments to public office against law and to protect a citizen from being deprived of public office to which he has a right;
- (b) *Quo warranto* affords a judicial remedy by which any person who holds an independent substantive public office is called upon to show by what right he holds the same so that his title to it may be duly determined and in the event it is found that the holder has no title he would be directed to be removed from the said office by a judicial order;
- (c) It is not for the court to embark upon an investigation of its own to ascertain the qualifications of the person concerned.
- (d) The Court merely makes a public declaration but will not consider the respective impact on the candidates or other factors.



- (e) The scope of enquiry for issuing a writ of *quo warranto* is limited only to determination of the issue as to whether the appointment of the public office concerned has been made by the competent authority and as to whether while making appointment to such public office, the statutory prescriptions have been followed or not.
- (f) Suitability or otherwise of the candidate for appointment to a post is a function of appointing authority and not that of the court unless the appointment is contrary to the statutory provisions/rules.
- (g) Government is not accountable to the court for the choice made but the Government is accountable to the courts in respect of the lawfulness/legality of its decisions when impugned under the judicial review jurisdiction;
- (h) It is the eligibility and not the merit of the candidate which needs to be enquired into by this Court while examining a prayer for issuance of a writ of *quo warranto*.

17. Thus, it is evident that the person claiming the writ of *quo warranto* must, first, establish that the appointment is to the post as a public office and it is made contrary to the statutory provisions/ rules.

18. At this stage, it is therefore, imperative to find out what is 'public office'. For this purpose, a judgment of the Allahabad High Court in the case of *Ravi Kant Tiwari ..vs.. State of U.P.*, reported in **2020 SCC OnLine All 5** is helpful. The relevant paras of the said judgment read thus:

*"7. There is a distinction between Public Office, Public Authority and Public Duty. A Chief Medical Superintendent of SGPGIMS can be said to be discharging a Public Duty but that ipso facto would not make that the post of Chief Medical Superintendent as a 'Public Office' for the purpose of maintaining a writ of quo-warranto.*

*8. In regard to "Public Office", the Calcutta High Court in the case of Shashi Bhushan Ray v. Pramatha Nath Bandopadhyay reported in 1966 SCC OnLine Cal 153; Paragraph 45 has relied upon Ferris Extra-ordinary Legal Remedies (Page 168), and consequently observed that the Law is stated to be that a Public Office is the right, authority and duty created and conferred by law by which an individual is vested with some portion of the sovereign functions of the Government to be exercised by him for the benefit of the Public, for the term and by the tenure prescribed by Law. In other words, it entails an obligation of the sovereign power.*

*9. "Public Office" as explained by the Major Law Lexicon IV Edition 2010 is as under:*

*"Public Office" defined. 55-6 V.c.40 S.4 A position whose occupant has legal authority to exercise a government's sovereign powers for a fixed period.*

*10. A "Public Office" is the right, authority and duty created and conferred by law, by which an individual is vested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public, for the term and by the tenure prescribed by law. It implies a delegation of a portion of the sovereign power. It is a trust conferred by public authority for a public purpose, embracing the ideas of tenure, duration, emoluments and duties. The determining factor, the test, is whether the Office involves a delegation of some of the solemn functions of government, either executive, legislative or judicial, to be exercised by the holder for the public benefit.(72 CWN 64,*

Vol. 72) [Extraordinary Legal Remedies, by Ferris as referred in *V.C. Shukla v. State (Delhi Admn)*, (1980) Supp 249, 266 Para 26] In *Re Miram's*, (1891) 1 QB 594 Cave. J, said "to make the Office a Public Office the pay must come out of national and not out of local funds the Office must be public in the strict sense of that term. It is not enough that the due discharge of the duties should be for the public benefit in a secondary and remote sense".

11. According to the Black's Law Dictionary 6th Edition, the term "Public Office" is explained as under:

"Public Office, Essential characteristics of "Public Office" are (1) authority conferred by law (2) fixed tenure of Office and (3) power to exercise some portion of sovereign functions of government; key element of such test is that "Officer" is carrying out sovereign function. *Spring v. Constantino*, 168 Conn. 563, 362 A...2d 871, 875. Essential elements to establish public position as "Public Office" are position must be created by Constitution, Legislature, or through authority conferred by legislature, portion of sovereign power of government must be delegated to position, duties and powers must be defined, directly or impliedly, by legislature or through legislative authority, duties must be performed independently without control of superior power other than law, and position must have some permanency and continuity. *State ex rel. Eli.Lily and Co. v. Gaertner*, Mo. App, 619 S.W, 2D, 761, 764."

12. What can be deduced from the term "Public Office" as explained by various authorities and the authoritative pronouncements is that a "Public Office" is the right, authority and duty created and conferred by law, by which an individual is vested with some portion of the sovereign functions of the Government to be exercised by him for the benefit of the public, for the term and by the tenure prescribed by law. It implies a delegation of portion of sovereign power. It is a trust conferred by public authority for a public purpose, embracing the idea of tenure, duration, emoluments and duties. A public officer is, thus to be distinguished from a mere employment or agency resting on contract, to which such powers and functions are not attached. The Common Law Rule is that in order for the writ of quo warranto to lie, the office must be of a public nature. The determining fact, the test, is whether the office involves a delegation of some of the solemn functions of Government either executive, legislative or judicial, to be exercised by the holder of such office for general public benefit at large. Unless his powers are of this nature, he is not a public officer."

19. Having noted what is a 'public office', let us revert back to the facts of the present case to examine whether the post on which the appointment of the respondent No.6 is made is a 'public office'.

20. In the present matter, the appointment of the petitioner was made by the Hon'ble President of India. However, that *ipso facto* will not make the post of Chairman-cum-Managing Director as a 'public office'.

21. The MOIL is a Central Public Sector Enterprises as it owns 53% share, i.e., majority shares. It operates under the administrative control of the Ministry of Steel, Government of India. Under the Article of Association of the Indian Public Sector Companies, Top Board-level appointments are formally executed through the orders issued by the controlling ministry under the sanction of the President of India. The selection process involves evaluation by the Public Enterprises Selection Board, followed by clearance from the appointment committee of the cabinet leading to formal appointment by the Hon'ble President.

22. In the present matter, the procedure adopted for appointment of the petitioner is the same as narrated herein above and therefore, merely the fact that the appointment of the respondent No.6 is made by

the Hon'ble President of India will not make the post of Respondent No.6 as a 'public office'.

23. The petitioner has failed to point out under which statute the appointment of respondent No.6 is made. Petitioner has referred to the various statutes. However, the appointment of the respondent No.6 is not made under any of such statutes/ Rules. Reference to it by the petitioner was in relation to allegations made of corruption against the respondent No.6 or for other issues which are not relevant while seeking writ of *quo warranto*.

24. The petitioner has failed even to show that the MOIL is a creature of statute. Undisputably, the MOIL is a Government Company incorporated under the provisions of the Companies Act, 2013. Hence, there could be no question of Office of Chairman-cum-Managing Director of MOIL being considered as a 'pubic office'.

25. Furthermore, we do not find that the MOIL discharges any sovereign function. Having held so, this leads to a conclusion that the post of respondent No.6 is not of a 'public office'.

26. It is settled law that it is not for the Court to embark upon the investigation of its own to ascertain the qualifications of the person concerned or suitability of a candidate for appointment which is the function of an appointing authority. The scope of enquiry is limited to find out whether the appointment is for an office to be a 'public office' and such office is conferred by law and it has power to exercise some portion of sovereign powers of the Government. Thus, it is the eligibility and not the merit of the candidate which needs to be inquired into by the Court in such matters where the writ of *quo warranto* is claimed.

27. Since the petitioner has failed to establish that the appointment of the respondent No.6 on a post which is a 'public office', this petition, seeking writ of *quo warranto* against the respondent No.6 is not maintainable and the same is liable to be dismissed.

28. Accordingly, we pass the following order :

The Writ Petition is **dismissed**, as not maintainable.

Rule stands discharged. No order as to costs.

Civil Application(s), if any, shall stand disposed of.

( RAJ D. WAKODE, J )

(ANIL S. KILOR, J )