APHC010026122021

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.Nos:- 123 - 133 [3581]

W.P.No.1839 of 2021 along with W.A.Nos.164, 171 & 238 of 2021; W.A.Nos.1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022

(1) W.P.No.1839 of 2021:

M/s. Anjani Stone Crusher … Petitioner

Vs.

The State of Andhra Pradesh and others … Respondents

(2) W.A.No.164 of 2021:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. JMB Rocks … Respondent

(3) W.A.No.171 of 2021:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. Sri Durga Bhavani Granites … Respondent

(4) W.A.No.238 of 2021:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. Salasr Granites … Respondent

(5) W.A.No.1058 of 2022:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. Soma Patel ASI JV … Respondent

(6) W.A.Nos.1061 & (8) 1063 of 2022:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. GSR Stone Crushers … Respondent

(7) W.A.Nos.1062 & (10) 1065 of 2022:

The State of Andhra Pradesh and others … Appellants

Vs.

Mr. P. Venkateswara Rao … Respondent

(9) W.A.Nos.1064 & (11) 1066 of 2022:

The State of Andhra Pradesh and others … Appellants

Vs.

M/s. VVR Crushers and Constructions … Respondent

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Reserved for orders on	:	10.07.2026
Pronounced on	:	29.07.2026
Whether only operative part of the judgment is pronounced or whether full judgment is pronounced	:	Full

CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE RAVI CHEEMALAPATI

Present:

Advocates for Appellants	:	Mr. D. Srinivas, Advocate General, A.P. GP for Mines and Geology
Advocates for Respondents	:	Mr. Hari Sreedhar for sole respondent in W.A.Nos.1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022; and petitioner in W.P.No.1839 of 2021 Mr. K. S. Naveen for sole respondent in W.A.Nos.164, 171 & 238 of 2021 Mr. P. Veera Reddy, Sr. Counsel, for Intervener in W.A.No.1063 of 2022

LISA GILL, CJ.

Above said Writ Petition and all Writ Appeals were taken up together for hearing and adjudication, at request and with consent of learned counsel for parties because all matters primarily revolve around interpretation of Rule 26(3)(ii) and Rule 34(1) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short 'APMMC Rules').

2. W.P.No.1839 of 2021 has been filed for setting aside amendments made to APMMC Rules, particularly Rule 26, by G.O.Ms.No.35, dated 01.07.2020 on the ground of being contrary to Section 21(2) and Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957, (for short 'MMDR Act').

3. W.A.Nos.164, 171 & 238 of 2021 arise out of common order dated 06.10.2020, passed in W.P.Nos.8356, 8361 & 8366 of 2020, whereas W.A.Nos.1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022 arise out of common order dated 30.09.2022, passed in W.P.Nos.8390 of 2018; 12334, 27815, 27952, 27903, 28372 & 12950 of 2021.

4. The questions which arise for consideration before this Court in W.P.No.1839 of 2021 and as would be impacting the decision in all the other writ appeals are:

(i) Whether punitive action under Rules 26 and 34 of APMMC Rules, 1966, for illegal mining, transportation and storage of minor minerals can be taken by authorized officer, being an executive authority under the APMMC Rules, 1966, or whether such action can be taken solely by a Court of competent jurisdiction under Sections 21, 22 and 23A of MMDR Act?

(ii) Whether amendments to Rule 26 and Rule 34 of APMMC Rules, 1966, through G.O.Ms.No.35, dated 01.07.2020, are ultra vires the parent Act/provisions, hence, liable to be set aside?

5. Brief facts necessary for adjudication of this matter are that W.A.Nos.164, 171 and 238 of 2021 arise from W.P.No.8356 of 2020 *(M/s. JMB Rocks Vs. The State of Andhra Pradesh & others)*, W.P.No.8361 of 2020

(M/s. Sri Durga Bhavani Granites Vs. The State of Andhra Pradesh & others) and W.P.No.8366 of 2020 *(M/s. Salasr Granites Vs. The State of Andhra Pradesh & others)* respectively. Writ petitioners therein, all challenged show cause notices of even date i.e. 15.04.2020, whereby action was sought to be taken against them for realization of normal seigniorage fee, market value and penalty, the amounts of which were detailed in said notices in terms of Rule 26(3)(ii) of APMMC Rules for violations as committed by them. Issue raised in these writ petitions was that, as per Rule 26(3) of APMMC Rules as amended in 2016, unaccounted consumption or possession of minerals without proof of payment of revenue was made a penal offense, thus, this sort of levy/ penalty cannot be imposed by an officer of the department but only by a Court of competent jurisdiction after proper trial. It was further urged that show cause notice issued on the basis of estimation found on electricity consumption charges was an unscientific method of assessing alleged quality of minor minerals for which fee was allegedly not deposited. Vires of the Rules was not under challenge as such, while ground raised was that such action is without jurisdiction.

6. Learned Single Judge on considering the facts and circumstances concluded on 06.10.2020 that Rule 26(3)(ii) as amended in 2016 also provided for imprisonment for a term which may extend to two years or with fine which may extend to Rupees Five Lakhs along with market value of the mineral and seigniorage fee, or both, therefore, such punishment can only and solely be imposed by a Court of competent jurisdiction.

7. It was observed that unamended Rule did not provide for imprisonment, therefore, officials may earlier have been authorized to levy penalty, but with amendment in the rule in 2016 which also prescribed for punishment of imprisonment upto two years or fine etc.; such penal provisions have to be strictly construed and that power to impose such punishment of imprisonment along with other penalties is exercisable solely by a Court of competent jurisdiction.

8. In respect to estimation of amounts in question based on electricity consumption charge was concerned, it was held that a proper method should be evolved by authorities to meet emerging situations. Such a method should have a scientific rational basis along with statutory backing.

9. Objection of the State to maintainability of writ petition challenging a mere show cause notice was negated on the premise that show cause notice was issued by an official who did not have jurisdiction to issue the same. W.P.Nos.8356, 8361 & 8366 of 2020 were accordingly allowed by learned Single Judge vide order dated 06.10.2020.

10. As noted earlier, W.A.Nos.1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022 arise out of common order dated 30.09.2022, passed in W.P.Nos.8390 of 2018; 12334, 27815, 27952, 27903, 28372 & 12950 of 2021. In some of these petitions, challenge was to notices issued under Rule 26 as amended vide G.O.Ms.No.35, dated 01.07.2020, whereby provision for imposition of imprisonment was removed therefrom, and in other, petitioners

challenged the demand notices, confirmed by competent authority; upheld by appellate authority.

11. Learned Single Bench vide impugned order dated 30.09.2022, while referring to earlier order dated 06.10.2020, passed in W.P.Nos.8356, 8361 & 8366 of 2020, allowed W.P.Nos.8390 of 2018; 12334, 27815, 27952, 27903, 28372 & 12950 of 2021 on the same analogy while further adding that the Rules cannot go beyond the principal Act or be inconsistent with principal Act; MMDR Act contemplates levy of penalty, under the Act and APMMC Rules, to be decided by Court, while APMMC Rules name Assistant Director of Mines as authority for this purpose. It was concluded that there was a clear contradiction and inconsistence between MMDR Act and APMMC Rules, therefore, Rule 26 has to give way. Objection by the State, that such a conclusion should not have been arrived at, in view of no challenge to Rule 26, was negated.

12. W.A.No.1058 of 2022 arises out of W.P.No.12950 of 2021 *(M/s. Soma Patel ASI (JV) Vs. The State of Andhra Pradesh & others)*, whereby petitioner challenges demand notice dated 03.05.2021.

13. W.A.Nos.1061 & 1063 of 2022 arise out of W.P.Nos.12334 of 2021; 8390 of 2018 (both titled *M/s. GSR Stone Crushers Vs. The State of Andhra Pradesh & others*) respectively. Lessee/ writ petitioner in both these writ petitions is the same as is the subject matter of Lease.

14. W.P.No.8390 of 2018 (subject matter of W.A.No.1063 of 2022) was filed by writ petitioner therein challenging show cause notice dated 20.01.2018 issued by Assistant Director of Mines, Srikakulam. Subsequent to reply filed by said petitioner, demand notice dated 19.02.2018 was issued which was challenged by petitioner by way of W.P.No.8390 of 2018. During pendency of said writ petition, action was again initiated against petitioner on basis of information furnished by Vigilance and Enforcement Department; another show cause notice dated 09.04.2021 and demand notice dated 22.04.2021 issued by Assistant Director of Mines, Srikakulam, were then challenged by same petitioner vide W.P.No.12334 of 2021 (subject matter of W.A.No.1061 of 2022).

15. W.A.Nos.1062 and 1065 of 2022 arise out of W.P.Nos.27952 & 27815 of 2021 (both titled *Mr. P. Venkateswara Rao Vs. The State of Andhra Pradesh & others*) respectively. Lessee in both these writ petitions is the same and challenge is to demand notices of even date i.e. 10.11.2020.

16. W.P.Nos.27815 of 2021 and 27952 of 2021 (subject matter of W.A.Nos.1065 and 1062 of 2022) were filed by same petitioner, who earlier filed W.P.No.15863 of 2020 challenging demand notice dated 07.08.2020 under Rule 26(3)(ii). This Court in W.P.No.15863 of 2020 remanded the matter to Assistant Director of Mines, Vishakhapatnam, to re-conduct entire exercise after affording complete information to petitioner. Subsequently, demand notice was again issued which was subjected to challenge by said

petitioner by way of W.P.No.25176 of 2020, which was dismissed on the ground that petitioner had an efficacious alternate remedy of appeal. W.A.No.64 of 2021 challenging said decision was dismissed. Petitioner therein then filed an appeal before authorities, which was dismissed on 21.09.2021, which was then challenged vide W.P.No.27952 of 2021. Said petitioner, in W.P.No.27815 of 2021, had earlier challenged show cause notice dated 14.07.2020 issued on the basis of an inspection report submitted by Vigilance and Enforcement Department by way of W.P.No.15888 of 2020, wherein matter was remanded to Assistant Director of Mines, to furnish complete documents, pursuant to which a demand notice was again issued on 10.11.2020, the same being challenged by way of W.P.No.25190 of 2020, which was dismissed on basis of availability of efficacious alternate remedy. W.A.No.70 of 2021 filed against this order was dismissed and petitioner ultimately filed an appeal before Assistant Director of Mines and Geology against said demand notice, which was dismissed on 21.09.2021, leading to filing of W.P.No.27815 of 2021.

17. W.A.Nos.1064 & 1066 of 2022 arise out of W.P.Nos.28372 & 27903 of 2021 (both titled *M/s. VVR Crushers and Constructions Vs. The State of Andhra Pradesh & others*) respectively, challenging demand notice of even date i.e. 10.11.2020.

18. Details of all writ appeals as mentioned above are reproduced in the tabular form as under:

S.No.	Writ Appeals	Writ Petitions	Demand Notice/ Show Cause Notice	Rule under which Notice was issued
1.	W.A.No.164 of 2021	W.P.No.8356 of 2020 (M/s. JMB Rocks Vs.The State of Andhra Pradesh & others)	Show Cause Notice dated 15.04.2020	-
2.	W.A.No.171 of 2021	W.P.No.8361 of 2020 (M/s. Sri Durga Bhavani Granites Vs. The State of Andhra Pradesh & others)		
3.	W.A.No.238 of 2021	W.P.No.8366 of 2020 (M/s. Salasr Granites Vs. The State of Andhra Pradesh & others)		
4.	W.A.No.1058 of 2022	W.P.No.12950 of 2021 (M/s. Soma Patel ASI (JV) Vs. The State of Andhra Pradesh & another)	Demand Notice dated 03.05.2021	Impugned demand notice was issued as per Amended Rule 26(1) & 34(1) of APMMC Rules, 1966, vide G.O.Ms.No.35, dated 01.07.2020
.	W.A.Nos.1061 & 1063 of 2022	W.P.Nos.12334 of 2021; and 8390 of 2018 (M/s. GSR Stone Crushers Vs. The State of Andhra Pradesh & another)	Demand Notices dated 22.04.2021 and 19.02.2018 respectively	Impugned demand notice dated 22.04.2021 was issued as per Amended Rule 26(1) and 34(1) of APMMC Rules, 1966, vide G.O.Ms.No.35, dated 01.07.2020 and Impugned demand notice dated 19.02.2018 was issued as per Amended Rule

				26(3) of APMMC Rules, 1966
6.	*W.A.Nos.1062 & 1065 of 2022*	*W.P.Nos.27952 & 27815 of 2021 (Mr. P. Venkateswara Rao Vs. The State of Andhra Pradesh & others)*	*Demand Notices dated 10.11.2020*	*Impugned demand notices were issued as per Amended Rule 26 r/w 34(1) of APMMC Rules, 1966, vide G.O.Ms.No.35, dated 01.07.2020*
7.	*W.A.Nos.1064 & 1066 of 2022*	*W.P.Nos.28372 & 27903 of 2021 (M/s. VVR Crushers and Constructions Vs. The State of Andhra Pradesh & others)*	*Demand Notices dated 10.11.2020*	*Impugned demand notices were issued as per Amended Rule 34(1) of APMMC Rules, 1966, vide G.O.Ms.No.37, dated 14.03.2016 and G.O.Ms.No.35, dated 01.07.2020 respectively*

19. W.P.No.1839 of 2021 has been filed for declaring amendments made to APMMC Rules, 1966, by way of G.O.Ms.No.35, dated 01.07.2020, to the extent of providing punitive measures in excess of what has been stated in Sections 21 & 27 and contrary to Section 22 of MMDR Act, as ultra vires.

20. Principal question that has been raised in the writ petition and writ appeals by writ petitioners therein (respondents in writ appeals) is that jurisdiction to levy penalty for unauthorized mining or other violations of the Act cannot be conferred upon an executive authority as has been done under the APMMC Rules and such action can be taken solely by a Court of

competent jurisdiction. Vires of Rules 26 & 34 to that extent has been challenged in W.P.No.1839 of 2021 while proceedings under said Rules (amended on 01.07.2020 and under the unamended Rules as well) were under challenge in the writ petitions leading to writ appeals in question without vires of Rules being called in question.

<u>Submissions on behalf of writ petitioner in W.P.No.1839 of 2021 and respondents in writ appeals/ writ petitioners before learned Single Bench</u>:

21. As vires of the Rules as above are under challenge, arguments on behalf of writ petitioner in W.P.No.1839 of 2021 and respondents in writ appeals i.e. writ petitioners before learned Single Bench are being noted first. The latter are referred to as writ petitioners/respondents. It was vehemently argued that provision of imposition of penalty and imprisonment, by officials of the department, as was the case vide amendment carried out in March 2016, is not permissible in terms of Section 21 of MMDR Act. Whenever any penalty has to be imposed under the Rules, it can be imposed only on conviction by Court of competent jurisdiction, upon a complaint filed by a person authorized in that behalf, either by the Central or State Government.

22. It was urged that first and foremost respondent State does not have any power to provide penalty beyond what is provided under Section 21 of MMDR Act, and moreover, procedure contrary to provisions of the parent Act cannot be promulgated under the Rules. The rules, it is

submitted, cannot travel beyond the enabling statute or be inconsistent therewith.

23. It was further submitted that use of the word ‘offence’ in proviso to Rule 34 is indicative of criminal nature of penalty, therefore, even if the provision of imposition of imprisonment, as was present after the amendment carried out in March 2016, has been subsequently done away with vide amendment carried out on 01.07.2020, it is clearly penal in nature and thus cannot be imposed without a proper trial before a Court of competent jurisdiction. In case of any violation, State, it was contended, can only impose a seigniorage fee, which cannot be by way of penalty or of such an amount that it becomes penal in nature. State, at best, can recover the price of mineral illegally removed/transported.

24. It was further argued that once there is a clear-cut conflict between the substantive Act and Rules, the former has to prevail, therefore, the offending rule should be struck down. The State, it was submitted, has no power to impose penalties as have been prescribed in Rule 26(1) and Rule 34 of APMMC Rules, 1966, to be exacted by officials of the Department, as the same is beyond permissible statutory limits.

25. Reliance was placed upon judgments of Hon’ble the Supreme Court in ***Mineral Area Development Authority and another Vs. Steel Authority of India and another*****,** ***(2024) 10 SCC 1*****;** ***State of Meghalaya***

Vs. All Dimasa Students Union and others*, *(2019) 8 SCC 177*;** and ***Naresh Chandra Agarwal Vs. Institute of Chartered Accountants of India and others, 2024 SCC OnLine SC 114. Learned counsel for writ petitioners before learned Single Bench, while supporting the said arguments, urged that learned Single Bench has correctly passed impugned orders dated 06.10.2020 & 30.09.2022 as notices issued to writ petitioners are beyond jurisdiction of the issuing authority. Thus, their writ petitions were correctly entertained and allowed. No argument was addressed on the individual facts of any particular case.

26. It was thus prayed that W.P.No.1839 of 2021 be allowed and W.A.Nos.164, 171 & 238 of 2021; 1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022 filed by the State be dismissed.

Submissions on behalf of the State/Department of Mines and Geology i.e. respondents in writ petitions and appellants in all writ appeals:

27. Learned Advocate General representing the State in W.P.No.1839 of 2021 and appellants in above mentioned writ appeals, with equal vehemence argued that impugned orders dated 06.10.2020 and 30.09.2022 passed by learned Single Bench should be set aside, thereby allowing all the writ appeals, and that W.P.No.1839 of 2021 be dismissed being devoid of any merit.

28. It is submitted that the State is well within its power to promulgate the Rules as are challenged before this Court. It was

contended that provisions of the Act i.e. Section 15, Section 21 and Section 23C clearly confer power upon the State to promulgate the Rules as has been done. It was denied that penalty cannot be imposed or recovered by officials of the department and that such action could be taken only by a Court of competent jurisdiction. It was argued that said provisions are a deterrent measure and have thus to be understood in said context.

29. Learned Advocate General further submitted that learned Single Bench while passing orders dated 06.10.2020 and 30.09.2022 has not considered the controversy in its correct perspective and has wrongly and incorrectly allowed the writ petitions. It was contended that validity of Rules in question had not even been challenged by writ petitioners therein. Therefore, there is a fundamental flaw in the impugned orders.

30. Learned Single Bench in impugned order dated 30.09.2022 has in fact recorded that writ petitioners are not disputing power of the State to levy fines and penalties, but had contended that such levy of penalty can be carried out only by a Court of competent criminal jurisdiction. Reliance was placed upon judgments of Hon'ble the Supreme Court in ***Karnataka Rare Earth Vs. Senior Geologists, Department of Mines, (2004) 2 SCC 783; State of U.P. Vs. Sukhpal Singh Bal, (2005) 7 SCC 615***; and a Full Bench of this High Court in ***L. Venkateswara Rao and others Vs. M/s. Singareni Collieries Company Ltd, 1993 SCC OnLine AP 451***.

31. In respect to impugned order dated 06.10.2020 in W.A.Nos.164, 171 & 238 of 2021, learned Advocate General submitted that as per Rule 26(3)(ii) as amended on 14.03.2016, the aspect of penalty can be clearly distinguished from the imposition of imprisonment. Insofar as penalty, seigniorage fee etc. is concerned, the same can be levied and exacted by officials of the department. It was only imposition of imprisonment which would fall in the domain of Courts exercising criminal jurisdiction.

32. It was thus prayed that W.P.No.1839 of 2021 be dismissed and abovementioned writ appeals be allowed, thereby setting aside impugned orders dated 06.10.2020 and 30.09.2022, consequently dismissing writ petitions throughout.

Analysis & Conclusion:

33. We heard learned counsel for parties at length and have perused the files with their able assistance.

34. At the outset, it is necessary to refer to some of the provisions of MMDR Act, 1957. Section 4 of MMDR Act provides that prospecting or mining operations cannot be undertaken except under a license or lease. Section 4 reads as under:

"4. Prospecting or mining operations to be under license or lease -

(1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or of a exploration licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder:

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with terms and conditions of a prospecting licence or of a exploration licence, mining lease granted before the commencement of this Act which is in force at such commencement:

Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited., a Government company within the meaning of clause (45) of section 2 of the Companies Act, 2013, and any other entities including private entities that may be notified for this purpose, subject to such conditions as may be specified by the Central Government.

Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease mining concession or by any other name) in force immediately before the commencement of this Act in the Union territory of Goa, Daman and Diu.

(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(2) No mineral concession shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(3) Any State Government may, after prior consultation with the Central Government and in accordance with the rule made under section 18, undertake reconnaissance, prospecting or mining operations with

respect to any mineral specified in the First Schedule in any area within that State which is not already held under any mineral concession.”

35. Section 13 of MMDR Act deals with power of Central Government to make rules in respect of minerals and for purposes connected therewith; and Section 13A deals with power of Central Government to make rules for grant of prospecting licences or mining leases in respect of territorial waters or continental shelf of India.

36. Section 14 of MMDR Act provides that Sections 5 to 13 shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals, and reads as under:

*“**14. Sections 5 to 13 not to apply to minor minerals –***

The provisions of sections 5 to 13 (inclusive) shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals.”

37. Section 15 of the Act, which provides power of State Governments to make rules in respect of minor minerals, reads as under:

*“**15. Power of State Governments to make rules in respect of minor minerals -***

(1) The State Government may, by notification in the Official Gazette, make rules for regulating the grant of 3 quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith.

(1A) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the person by whom and the manner in which, applications for quarry leases, mining leases or other mineral concessions may be made and the fees to be paid therefor;

(b) the time within which, and the form in which, acknowledgement of the receipt of any such applications may be sent;

(c) the matters which may be considered where applications in respect of the same land are received within the same day;

(d) the terms on which, and the conditions subject to which and the authority by which quarry leases, mining leases or other mineral concessions may be granted or renewed;

(e) the procedure for obtaining quarry leases, mining leases or other mineral concessions;

(f) the facilities to be afforded by holders of quarry leases, mining leases or other mineral concessions to persons deputed by the Government for the purpose of undertaking research or training in matters relating to mining operations;

(g) the fixing and collection of rent, royalty, fees, dead rent, fines or other charges and the time within which and the manner in which these shall be payable;

(h) the manner in which rights of third parties may be protected (whether by way of payment of compensation or otherwise) in cases where any such party is prejudicially affected by reason of any prospecting or mining operations;

(i) the manner in which rehabilitation of flora and other vegetation such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or in any other area selected by the State Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;

(j) the manner in which and the conditions subject to which, a quarry lease, mining lease or other mineral concession may be transferred;

(k) the construction, maintenance and use of roads, power transmission lines, tramways, railways, serial ropeways, pipelines and the making of passage for water for mining purposes on any land comprised in a quarry or mining lease or other mineral concession;

(l) the form of registers to be maintained under this Act;

(m) the reports and statements to be submitted by holders of quarry or mining leases or other mineral concessions and the authority to which such reports and statements shall be submitted;

(n) the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under these rules may be made, the fees to be paid therefore, and the powers of the revisional authority; and

(o) any other matter which is to be, or may be, prescribed.

(2) Until rules are made under sub-section (1), any rules made by a State Government regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of this Act shall continue in force.

(3) The holder of a mining lease or any other mineral concession granted under any rule made under sub-section (1) shall pay royalty or dead rent, whichever is more in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals:

Provided that the State Government shall not enhance the rate of royalty or dead rent in respect of any minor mineral for more than once during any period of three years.

(4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely:—

(a) the manner in which the District Mineral Foundation shall work for the interest and benefit of persons and areas affected by mining under sub-section (2) of section 9B;

(b) the composition and functions of the District Mineral Foundation under sub-section (3) of section 9B; and

(c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under section 15A."

38. Section 21 of MMDR Act provides for penalties for violation of Section 4(1) and Section 4(1A) and reads as under:

"21. Penalties –

(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

(3) Where any person trespasses into any land in contravention of the provisions of sub-section (1) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

(4A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the

court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under sub-section (1) shall be cognizable.

Explanation — On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021 (16 of 2021), the expression "raising, transporting or causing to raise or transport any mineral without any lawful authority" occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence, exploration licence or in contravention of the rules made under section 23C."

39. Section 23C of MMDR Act which confers power upon State Government to make rules for preventing illegal mining, transportation and storage of minerals, reads as under:

"23C. Power of State Government to make rules for preventing illegal mining, transportation and storage of minerals –

(1) The State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) establishment of check-posts for checking of minerals under transit;

(b) establishment of weigh-bridges to measure the quantity of mineral being transported;

(c) regulation of mineral being transported from the area granted under a prospecting licence or a mining lease or a quarrying licence or a permit, in whatever name the permission to excavate minerals, has been given;

(d) inspection, checking and search of minerals at the place of excavation or storage or during transit;

(e) maintenance of registers and forms for the purposes of these rules;

(f) the period within which and the authority to which applications for revision of any order passed by any authority be preferred under any rule made under this section and the fees to be paid therefor and powers of such authority for disposing of such applications; and

(g) any other matter which is required to be, or may be, prescribed for the purpose of prevention of illegal mining, transportation and storage of minerals.

(3) Notwithstanding anything contained in section 30, the Central Government shall have no power to revise any order passed by a State Government or any of its authorised officers or any authority under the rules made under sub-sections (1) and (2).

40. In exercise of power under Sections 15 and 23C of MMDR Act, respondent State promulgated the Andhra Pradesh Minor Mineral Concession Rules, 1966. Said Rules provide for penalty, seigniorage fee etc. for violation of conditions of licence or any other violation under the Act. It is to be noted that various amendments had been carried out in Rule 26, the relevant in present case being the amendments made vide

G.O.Ms.No.37, dated 14.03.2016 and subsequently vide G.O.Ms.No.35, dated 01.07.2020.

41. A comparative table of Rule 26 as it stood before amendment carried out on 14.03.2016; after amendment carried out vide G.O.Ms.No.37, dated 14.03.2016 and after the amendment vide G.O.Ms.No.35, dated 01.07.2020 is reproduced as hereunder:

S.No.	***Provisions before amendment dated 14.03.2016***	***Provisions after amendment vide G.O.Ms.No.37, dt. 14.03.2016***	***Provisions after amendment vide G.O.Ms.No.35, dt. 01.07.2020***
1.	***26. Penalty for unauthorized quarrying:*** ***(1):*** *If any person carries on quarrying operations or transports minor minerals in contravention of these rules, he shall be liable to pay as penalty, such enhanced seigniorage fee together with assessments as may be imposed by an Officer nominated by the Director of Mines & Geology.*	***26. Penalty for unauthorized quarrying:*** ***(1):*** *If any person carries on quarrying operations or transports minor minerals in contravention of these rules, he shall be punishable* ***with imprisonment for a term which may extend to two years or with fine which may extend to Rs. Five Lakhs along with the Market Value of the mineral and Seigniorage Fee prevalent at that time or both*** *and the lease or permit if any already granted may, at the discretion of the officer authorized in this behalf, be liable to be terminated or cancelled.*	***26. Penalty for unauthorized quarrying:*** ***(1):*** *If any holder of mineral concession carries on quarrying operations and transports minor minerals by going beyond or encroaching outside the leased area or in any area without holding a mineral concession in contravention of these rules, the holder of such mineral concession shall be liable to pay* ***ten times*** *of Normal Seigniorage fee as penalty in addition to the normal Seigniorage fee along with DMF and MERIT amounts on the assessed quantities by the Asst. Director of Mines & Geology or the officer authorized in this behalf by the Director of Mines & Geology. The Asst. Director of Mines & Geology concerned may issue order for suspension of quarrying operations till realization of the penalty in addition to the normal Seigniorage fee* ***along with DMF and MERIT*** *amounts on the assessed quantities. Any repeated offence, shall result in termination of the lease after being given a reasonable opportunity to submit an explanation to the holder of mineral concession.*
2	***Rule 26 (2****): Whenever any person raises or transports minor minerals without any*	***Rule 26 (2):*** *Whenever any person raises or transports minor minerals without any*	***Rule 26 (2):*** *Whenever any person raises, transports or causes to be raised or*

	lawful authority, any minor minerals from any area not granted under a mineral concession and for that purpose, use any tool equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an Officer nominated by the Director of Mines & Geology in this behalf in addition to the imposition of the penalty under sub-rule(1): *Provided that in no case, the penalty shall **exceed ten times** the normal seigniorage fee and the lease or permit already granted may, at the discretion of Deputy Director, be liable to be terminated or cancelled.*	*lawful authority, such minerals may be seized by an officer nominated by the Director of Mines & Geology in this behalf in addition that he shall be **punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. Five Lakhs along with double the Market Value of the mineral or both**. In case of continuous offence, an additional fine **of Rs.5000/-** per day till the offence is rectified.*	*transported without any lawful authority, any minor minerals from any area not granted under a mineral concession and for that purpose, use any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by the Asst. Director of Mines & Geology or the officer authorized in this behalf by the Director of Mines & Geology and the person involved in such illegal quarrying and transportation of such mineral shall be liable **to pay ten times** of Normal Seigniorage fee as penalty in addition to the normal Seigniorage fee along with DMF and MERIT amounts on the assessed quantities by the Asst. Director of Mines & Geology or the officer authorized in this behalf by the Director of Mines & Geology. On realization of the above said penalty in addition to the normal Seigniorage fee along **with DMF and MERIT** amounts, Asst. Director of Mines & Geology concerned may release the quantity of mineral, tool, equipment, vehicle or any other thing seized.* *Any failure to pay the demanded amount within the stipulated time, the authorised officer shall:* *a. dispose the mineral in open auction by following due procedure;* *b. confiscate the machinery, tool, equipment, vehicle or any other thing by following due procedure and seek permission to dispose such confiscated things against the demanded amount.*
3.	***Rule 26 (3):*** ***(i)** For the purpose of ascertaining the position of payment of Mineral Revenue due to the Government or for any other purpose under these rules, the person authorized under sub-rule(2) may-*	***Rule 26 (3):*** *(i) For the purpose of ascertaining the position of payment of Mineral Revenue due to the Government or for any other purpose under these rules, the person authorised under sub-rule (2) may-*	***Rule 26 (3):*** *(i) For the purpose of ascertaining the position of payment of Mineral Revenue due to the Government or for any other purpose under these rules, the person authorised under sub-rule (2) may-*

	(a) enter and inspect any mineral; *(b) survey and take measurements;* *(c) weigh, measure or take measurements of stocks of minerals;* *(d) examine any document, book, register or record in the possession or power of any person having the control of, or connected with any mineral including the processed mineral and place marks of identification thereon and take extracts from, or make copies of such document, book, register or record; and* *(e) order the production of any such document, book, register, record as is referred in Clause (d).* ***(ii)*** *If no documentary proof is produced in token of having paid the mineral revenue due to the Government by any person who used or consumed or in possession of any mineral, including the processed mineral, he shall notwithstanding anything contained in sub-rule (1) be liable to pay one time of normal seigniorage fee as penalty in addition to normal seigniorage fee leviable under ``````rules.*	*(a) enter and inspect any premises,* *(b) survey and take measurements;* *(c) weigh, measure or take measurements of stocks of minerals;* *(d) examine any document, book, register or record in the possession or power of any person having the control of, or connected with any mineral including the processed mineral and place marks of identification thereon and take extracts from, or make copies of such document, book, register or record; and* *(e) order the production of any such document, book, register, record as is referred in Clause (d).* ***(ii)*** *If no documentary proof is produced in token of having paid the mineral revenue due to the Govt., by any person who used or consumed or in possession of any mineral including the processed mineral, he shall be* ***punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. Five lakhs along with the Market Value of the mineral and Seigniorage Fee prevalent at that time or both*** *and the lease or permit if any already granted may, at the discretion of the officer authorized in this behalf, be liable to be terminated or cancelled.* *(iii) if the Driver or person in-charge of the vehicle fails to produce a valid permit issued by the concerned Asst. Director of Mines & Geology or an officer authorized by the Director of Mines & Geology, the officer in-charge of the check post or barrier or during the interception of the movement of the vehicle, may require the Driver or the owner or person in-charge of the vehicle to pay penalty equal to Market Value of the Mineral along with Seigniorage Fee prevalent at that time.*	*(a) enter and inspect any premises,* *(b) survey and take measurements;* *(c) weigh, measure or take measurements of stocks of minerals;* *(d) examine any document, book, register or record in the possession or power of any person having the control of, or connected with any mineral including the processed mineral and place marks of identification thereon and take extracts from, or make copies of such document, book, register or record; and* *(e) order the production of any such document, book, register, record as is referred in Clause (d).* *(ii) If no documentary proof is produced in token of having paid the mineral revenue due to the Govt., by any person who used or consumed or in possession of any mineral including the processed mineral, such person shall be liable to pay five times of Normal Seigniorage as penalty in addition to the normal Seigniorage fee along with DMF and MERIT amounts for the said quantity.* *(iii) If the Driver or owner of the vehicle fails to produce a valid e-transit permit issued by the concerned Asst. Director of Mines & Geology or an officer authorized by the Director of Mines & Geology, the officer in charge of the check post or barrier or during the interception of the movement of the vehicle, may require the Driver or the owner of the vehicle to pay Five times of the normal Seigniorage fee as penalty in addition to the Normal Seigniorage fee along with DMF and MERIT amounts for the quantity not covered under the e-transit permit.*

4.	***Rule 26 (4):*** *The applicant/ applicant company convicted for an offence relating to unauthorized mining/ quarrying of minor minerals shall be debarred/ disqualified for getting new Quarry Lease or renewal of the existing Quarry Lease for a period of ten years.*	—	—

42. A comparative table of Rule 34, as it stood prior to amendment vide G.O.Ms.No.35 dated 01.07.2020, and thereafter, is reproduced as under:

Provisions prior to amendment vide G.O.Ms.No.35 dated 01.07.2020	***Provisions after amendment vide G.O.Ms.No.35 dated 01.07.2020***
Rule 34 (1): *No minor mineral shall be dispatched from any of the leased areas without a valid permit issued by the Asst. Director of Mines & Geology concerned or any officer authorized in this behalf by the Director of Mines & Geology.* *Provided that any misuse of the transit forms without paying Seigniorage Fee and not accompanied by the transit forms used by the Asst. Director of Mines & Geology, concerned or an officer authorised in this behalf by the Director of Mines & Geology and any other contravention, the lessee shall be punished with imprisonment for a term which may extend to two years or with a fine equal to Market Value of the mineral and Seigniorage Fee prevalent at that time or both. In case of continuous offence, an additional fine of Rs.500/- per day shall be levied till the offence is rectified and the lease or permit if any already granted may, at the discretion of the officer authorized in this behalf, be liable to be terminated or cancelled and the Security Deposit paid by the lessee will be forfeited.*	***Rule 34 (1):*** *No minor mineral shall be dispatched from any of the leased areas or area granted under a mineral concession without a valid e-transit permit issued by the Asst. Director of Mines & Geology concerned or any officer authorized in this behalf by the Director of Mines & Geology.* *The lessee shall furnish the details of quantity of minor minerals except Granite, Marble and 31 minor minerals mentioned at Sl. Nos. 18 to 48 in the Schedule-I of rule 10 dispatched and place of consignment to the Asst. Director of Mines & Geology concerned immediately after the dispatch of material. However, the lessee is required to obtain the e-transit forms in advance for transportation of minor minerals and shall render the account to the Asst. Director concerned once in a month. No second consignment of e-transit forms shall be issued unless the lessee has submitted the previous account of consignment of e-transit forms;* *Provided that any misuse of e-transit forms, dispatch and transportation of any minor mineral except Granite, Marble and 31 minor minerals mentioned at Sl.Nos.18 to 48 in the Schedule-I of rule 10 without paying Seigniorage fee and any other contravention, shall result in levy of five times of the normal Seigniorage fee as penalty for the first time offence and ten times of normal Seigniorage fee as penalty for the second time offence in addition to the Normal Seigniorage fee along with DMF and MERIT amounts for the evaded quantity by the Asst. Director of Mines & Geology or the officer authorized in this behalf by the Director of Mines & Geology. Any subsequent offence shall result in termination of the lease after the holder of mineral concession submits an explanation.*

43. It is thus apparent that Section 4 of MMDR Act provides that excavation and transportation of minerals has to be carried out strictly in accordance with terms of lease and permits granted by the Centre/ State and any infraction in this regard is visited with penalties as are provided under Section 21 of the Act and Rules as may be framed thereunder. In respect to minor minerals, the State is empowered to frame necessary rules.

44. It was argued by learned counsel for writ petitioner that Entry 54 of List I i.e. Union List (VII Schedule) of Constitution of India provides for regulation of mines and mineral development to the extent such regulation and development under control of the Union is declared by Parliament by law to be expedient in the public interest; and as per Entry 23 in List II, regulation of mines and mineral development can be carried out by the State subject to provisions of List I, thus, any rules promulgated by the State have to be in consonance with the main statute.

45. It was argued that Section 21(2) of MMDR Act indicates intention of the Parliament inasmuch as Section 21(2) takes within its fold the Rules made by State Government under Sections 15 and 23C. Source of power derived by the State Government in making amendments to Rules 26 and 34, even as per G.O.Ms.No.35 dated 01.07.2020 is stated to be Sections 15(1), 21(2), 22, 23C of MMDR Act. Violation of Section 4(1) and 4(1A) of MMDR Act i.e. raising and transportation of mineral without obtaining any

permit or license or lease attracts criminal liability under Section 21(1) and civil liability under Section 21(5). It is to be noted that, at the outset, a feeble attempt was made on behalf of writ petitioners in respect to legislative incompetence of the State to promulgate the Rule, the argument was then modulated to the effect that the State cannot promulgate rules which are opposed to or not in consonance with the parent statute.

46. In our considered opinion, there is no merit in the arguments raised on behalf of writ petitioners. There is no quarrel with the submission that rules promulgated under a statute have to be in consonance with provision thereof. Section 15 of MMDR Act confers power upon State Governments to make rules in respect of minor minerals; Section 23C specifically confers power upon State Governments to promulgate rules for preventing illegal mining, transportation and storage of minerals and for purposes connected therewith; Section 23C(g) specifically states that rules can be promulgated by the State for any other purpose, which is required to be or may be prescribed for the purpose of illegal mining, transportation and storage of minerals; Section 23C(3) specifically provides that notwithstanding anything contained in Section 30, Central Government shall have no power to revise any order passed by a State Government or any of its authorized officers or any authority under the Rules made under sub-sections (1) and (2) thereof.

47. It is undeniable that Rule 26 is a deterrent measure aimed at preventing illegal mining, transportation and storage of minerals. Mere use

of the word 'Penalty' in Rule 26 by itself is not indicative of the mode through which such penalty should be imposed i.e. only by process of a Criminal Court as is urged by writ petitioners. Hon'ble the Supreme Court in the case of ***Karnataka Rare Earth*** has held that marginal note of Section 21 of MMDR Act i.e. 'Penalties' creates a wrong impression. It was held as under:

> *"7. .... A reading of Section 21 shows that it deals with a variety of situations. Sub-Sections (1), (2), (4), (4A) and (6) are in the realm of criminal law. Sub-Section (3) empowers the State Government or any authority authorized in this behalf to summarily evict a trespasser. Sub-Section (5) empowers the State Government to recover rent, royalty or tax from the person who has raised the mineral from any land without any lawful authority and also empowers the State Government to recover the price thereof where such mineral has already been disposed of inasmuch as the same would not be available for seizure and confiscation. The provision as to recovery of price is in the nature of recovering the compensation and not penalty so also the power of the State Government to recover rent, royalty or tax in respect of any mineral raised without any lawful authority can also not be called a penal action. The underlying principle of sub-Section (5) is that a person acting without any lawful authority must not find himself placed in a position more advantageous than a person raising minerals with lawful authority.*
>
> *8. The correct principles of law applicable to the facts of the present case emanating from equity, and statutorily embodied in sub-Section (5) of Section 21 abovesaid, are to be found dealt with extensively in a recent decision of this Court in South Eastern Coalfields Ltd. Vs. State of M.P. & Ors. (2003) 8 SCC 648."*

48. At this stage, gainful reference can be made to judgment rendered by a Full Bench of this Court in the case of ***L. Venkateshwara Rao and others***, wherein prayer was for striking down Rule 26(3) of APMMC Rules as introduced by G.O.Ms.No.243 dated 08.05.1986 being ultra vires of Section 15(1) and 24(1) of MMDR Act besides being

violative of Article 14, 19, 21, 254, 256, 265 and 300A of Constitution of India. It was held in said case as under:

> *"54. We do not see any force in the contention of the learned Counsel. Under the provisions of the Act and the Rules, unauthorised mining of minerals whether they be minor minerals or other minerals, is strictly prohibited. The object is to check illicit quarrying of minor minerals. To achieve that object, the State Government made rules providing for the levy and collection of penalty in addition to the normal seigniorage fee in respect of minor minerals unauthorisedly raised. It is not correct that the provisions of the Act and the Mineral Concession Rules, 1960 contemplate levy on and collection of royalty from only the lessees or licence holders. As is evident from Sub-section (5) of Section 21, royalty can be recovered from any person who unauthorisedly carries on mining operations apart from recovering the mineral raised by such person or where such mineral has already been disposed of, the price thereof. There can be no doubt that the State Government has the competence to make rules fixing the seigniorage fee in respect minor minerals, levying fines and providing for their collection. Seigniorage fee is the fee chargeable on the minor minerals despatched or consumed from any land. Rule 26 (3) (ii) of the rules prescribes the method and manner of the levy of normal seigniorage fee and its collection from the user or consumer together with penalty in case such user or consumer fails to produce documentary proof in token of having paid the seigniorage fee in respect of the minor minerals used or consumed."*

49. It was further held by Full Bench that it is not impermissible for the legislature to leave it to the Executive to determine details of levy and collection of fees and penalty. Relevant para is reproduced as under:

> *"56. In case the user or consumer fails to produce proof of payment of seigniorage fee in respect of minor minerals used or consumed by him, Rule 26(3)(ii) authorises the levy of penalty on such consumer or user. This provision is intended to check illicit quarrying of minor minerals and to prevent evasion of mineral revenue due to the Government. The learned counsel for the respondent company has drawn our attention to Rule 209-A of the Central*

> *Excise Rules which authorises levy of penalty in addition to the excise duty on any person who acquires possession of goods, to submit that the excise duty and penalty can be levied on and recovered from any person other than the producer or manufacturer. It is not impermissible for the legislature to leave it to the executive to determine the details of levy and collection of fees and penalty including the selection of persons on whom it can be levied and the rates at which it can be charged, as observed by the Supreme Court in Gwalior Rayon Mills v. Assistant Commissioner of Sales Tax. The Legislature can confer power upon another authority to make subordinate or ancillary legislation. In view of the provisions of Section 15 of the Act, it is within the competence of the State Government to make a rule providing for the levy and collection of penalty from an user or consumer of minor minerals in case he fails to produce documentary proof in token of having paid the mineral revenue due to the Government in respect of such mineral used or consumed."*

50. It was categorically held that Rule 26 is within limits of statutory power conferred upon State Government.

51. Reference was made by learned counsel for writ petitioner to judgment of Hon'ble the Supreme Court in ***Mineral Area Development Authority*** to buttress the argument that as long as lessee was holding a valid license permit/ lease, such penal measures cannot be imposed upon them. Such argument is clearly devoid of any merit. The said judgment does not, in any manner, come to aid of writ petitioner on this aspect. In fact, in said judgment as per majority view, it has been held that List II Entry 50 does not constitute an exception to the position of law laid down in ***M.P.V. Sundararamier and Co. and others Vs. The State of A.P. and another, 1958 SCC OnLine SC 22,*** and that though Parliament can impose any limitations on the legislative field created by that Entry under a law relating

to mineral development, no such limitation had been imposed as under the MMDR Act. Hon'ble the Supreme Court in the case of ***All Dimasa Students Union*** was dealing with appeals which were filed challenging various orders passed by National Green Tribunal, wherein several directions had been issued with measures to be taken to check and combat unregulated coal mining in tribal areas of State of Meghalaya. There is no quarrel that the Rules promulgated under the statute cannot be beyond the parameters laid down in the Act. However, in the present case, learned counsel for writ petitioner was unable to point out any such infraction.

52. In our considered opinion, there is no merit whatsoever in the argument that such penalties, Seigniorage fee, DMF and MERIT amounts cannot be imposed by executive officers and can be levied only by a Court of competent jurisdiction.

53. As noted in foregoing paras, object of these provisions is to check illicit quarrying, transportation and storage of minor minerals. Section 15 of MMDR Act empowers the State to promulgate rules in respect of minor minerals as has been reproduced in foregoing paras. Section 23C especially empowers State Government to make rules for preventing illegal mining, transportation and storage of minerals. It is provided in Section 23(C)(2)(g) that in particular and without prejudice to generality of the power, such rules may provide for any other matter which is required to be or may be prescribed for purpose of prevention of illegal mining, transportation and storage of minerals.

54. It is pertinent to note that illegal mining is a malaise, with which Society has been plagued. Human greed, leading to rampant, unashamed and unabashed environmental degradation, has led to disastrous results, which now stare us in the face. Imposition of monetary penalty, seigniorage fee etc., as above by the authorized officer in the given factual matrix does not bring the Rules in violation of or in excess of the parent statute.

55. Learned counsel for writ petitioners were unable to point out any ground whatsoever, which would compel us to conclude that the said provisions in Rules 26 and 34 of APMMC Rules are ultra vires the parent Act.

56. Thus, challenge to amendments made to Rules 26 and 34 of APMMC Rules, 1966, through G.O.Ms.No.35 dated 01.07.2020 fails.

57. Thus, impugned order dated 30.09.2022 is also liable to be set aside, keeping in view the discussion in foregoing paras upholding validity of Rule 26 of APMMC Rules, 1966. There is no contradiction or inconsistency between the MMDR Act, 1957, and APMMC Rules, 1966. Such conclusion has been incorrectly arrived at by learned Single Bench. Such an interpretation, in fact, places a premium upon the wrong doers who may be able to get away with impunity despite violations as may have been committed by them.

58. W.A.Nos.164, 171 and 238 of 2021, decided by impugned order dated 06.10.2020, are the ones wherein learned Single Bench had set aside demand notice(s) on the premise that the rule as amended on 14.03.2016

also provided for imprisonment for a term which may extend to two years or with fine which may extend to Rupees Five Lakhs along with market value of mineral and seigniorage fee. Therefore, such penalty could not be imposed by the departmental officials but was within the sole purview of a Court of competent jurisdiction. Learned Single Bench in its order dated 06.10.2020 has in fact specifically observed that "*the old rule may have authorized the officials to levy penalty but in this Court's opinion the new rule by prescribing punishment of imprisonment upto two years or with fine and market value of the mineral etc., or both has taken this power out of the purview of the 3rd respondent and the like*".

59. It is a matter of record that, in all these three cases, proceedings were initiated against the writ petitioners for realization of normal seigniorage fee, market value of mineral and penalty. There is no move on the part of the department by way of said proceedings to impose any imprisonment etc.

60. It is a settled position that unless and until a provision is made out to be manifestly arbitrary or illegal, its validity shall be presumed. Moreover, in the present case, it is essential to have a harmonious interpretation and construction of this provision as it stood after the amendment in March 2016 till 01.07.2020. Power to impose penalty, seigniorage fee, market value of the mineral is clearly within the purview of the departmental official as specified. It is only the aspect of imposition of imprisonment if so stipulated by the department that necessary steps would have to be taken for filing of the complaint before a Court of competent jurisdiction for necessary action. It is a

settled position that Court should attempt to harmonize the provision in a given factual matrix by lending such interpretation that the provision itself does not become a dead letter or a useless one, rather it upholds the legislative intent to take necessary steps for prevention of illegal mining, transportation and storage of minerals.

61. In all fairness, we note another argument raised by learned counsel for writ petitioner, though only to be rejected, viz. that by way of issuance of G.O.Ms.No.100 dated 26.06.2025, the existing heading of Rule 26 has been changed to “recovery of mineral for unauthorized quarrying” which indicates that State itself was of the view that penalty cannot be imposed and exacted by the Director of Mines or any other officer as may be specified. Such substitution of heading does not, in any manner, come to aid of the writ petitioner. This argument is accordingly rejected being devoid of any merit.

62. Impugned order dated 06.10.2020 is also unsustainable in view of discussion in foregoing paras.

63. Thus provision of imposition of monetary penalties, Seigniorage fee, etc. for illegal mining, transportation and storage, etc., of minor minerals and its imposition by the executive officers is valid. However, such imposition has to be in strict accordance with provisions as laid down after providing proper opportunity to stakeholder/affected person. It bears reiteration that no arguments had been addressed on individual facts of any of the cases. No

argument was raised that the penalties imposed as upheld by appellate authorities are incorrect. Insofar as W.A.Nos.1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022 are concerned, wherein it is only the demand notice(s) which had been challenged, appeals, if any, are filed by said lessees within a period of 15 days, be entertained by authorities in accordance with law.

64. Keeping in view facts and circumstances as above, amendment of Rule 26(3) vide G.O.Ms.No.35 dated 01.07.2020 is upheld. W.P.No.1839 of 2021 is accordingly dismissed. Impugned orders dated 06.10.2020 and 30.09.2022 passed in W.P.Nos.8356, 8361 and 8366 of 2020; and W.P.Nos.8390 of 2018, 12950, 12334, 27952, 28372, 27815 & 27903 of 2021 respectively are set aside and the writ petitions dismissed. W.A.Nos.164, 171 & 238 of 2021; 1058, 1061, 1062, 1063, 1064, 1065 & 1066 of 2022 are accordingly allowed. No costs.

Consequently, connected miscellaneous applications, if any, shall stand disposed of.

Photocopy of this order be placed on files of connected cases.

LISA GILL, CJ

Date: 29.07.2026 **RAVI CHEEMALAPATI, J**

kbs

Uploaded on : 29.07.2026

Whether the order is Speaking/Reasoned : Yes

Whether the order is Reportable : Yes

65

HON'BLE MRS. JUSTICE LISA GILL, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE RAVI CHEEMALAPATI

W.P.No.1839 of 2021 along with
W.A.Nos.164, 171 & 238 of 2021;
W.A.Nos.1058, 1061, 1062, 1063, 1064,
1065 & 1066 of 2022

Dt: 29.07.2026

kbs