IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.3346 of 2020

Anindita Steels Limited a public limited company incorporated under Companies Act, 1956 having its office at 603, Panchwati Tower, Rear Block, 6th Floor, Harmu Road, P.S.- Argora, P.O.- Harmu, Ranchi- 834001, Jharkhand represented by its Director Firoz Abdi, son of Late Wahajur Rahman Abdi aged about 56 years, resident of Vikas Bhawan, Bariatu Road, Ranchi- P.O. - Ranchi University, P.S.- Bariatu, District-Ranchi, Jharkhand-834008.

... ... Petitioner

Versus

1. The State of Jharkhand, through its Secretary, Department of Mines & Geology, Government of Jharkhand, Yojna Bhawan, Third Floor, P.O. & P.S.- Doranda, District- Ranchi, Jharkhand;
2. The Deputy Commissioner, West Singhbhum, Chaibasa, P.O.-Chaibasa, P.S.- Sadar, District- West Singhbhum, Jharkhand;
3. The District Mining Officer, West Singhbhum, Chaibasa, P.O.- Chaibasa, P.S.- Sadar, District- West Singhbhum, Jharkhand;
4. The Union of India, through the Secretary, Ministry of Mines and Steel, Sashtri Bhawan, P.O.- Sashtri Bhawan, P.S.- Parliament Street, NCT of New Delhi;
5. Joint Secretary, Ministry of Mines, Government of India, Sashtri Bhawan, P.O.- Sashtri Bhawan, P.S.- Parliament Street, NCT of New Delhi.

... ... Respondents

CORAM :HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Petitioner : Mr. Pandey Neeraj Rai, Advocate
For the UOI : Mr. Anil Kumar, Addl. S.G.I.
For the State : Mr. Mohan Kumar Dubey, AC to AG

Oral Judgment

Per Sujit Narayan Prasad, J.

Order No.12 : Dated 1st December, 2023

1. The writ petition is under Article 226 of the Constitution of India seeking therein following reliefs :-

(a.) Quashing/setting aside with all consequences the

order of demand as contained in letter no.849 dated 14.6.2018 passed by the District Mining Officer, Chaibasa, (Annexure- 11), holding and declaring the same to be a nullity, in violation of the principles of natural justice, illegal, arbitrary and without jurisdiction;

(b.) quashing the subsequent order as contained in letter dated 03.05.2019 of the District Mining Officer (Annexure- 18) whereby he has refused to amend /correct/reconsider the said order dated 14.6.2018;

(c.) quashing/setting aside the revisional order dated 07.07.2020 (Annexure-20) passed in Revision Application no. 6/(7)/2019/RC-I of 2019 by the Joint Secretary & Revisional Authority, Ministry of Mines, Govt. of India, holding the same to be illegal, arbitrary and suffering from Wednesbury unreasonableness;

(d.) during the pendency of this petition:-

(i) operation of the impugned orders may be stayed;

(ii) no coercive steps be issued pursuant thereto;

(iii) the respondent authorities of the Mining department of Jharkhand be restrained from withholding or forbearing to issue the transit challans to the petitioner; and

(iv) respondents be directed to issue/release the mining challans to the petitioner.

2. The brief facts of the case as per the pleadings made in the writ petition which are required to be enumerated, read hereunder as :-

The petitioner applied for and was granted a mining lease for iron ore and manganese ore, situated in the District of West Singhbhum of Jharkhand, known as Parambaljori iron and manganese ore mines. The grant was made by the State Government of Jharkhand on 18.08.2010 after following due procedure for an area of 47.15 hectares, equivalent to 116.50 acres. The period of lease was initially 30 years, which got extended to 50 years as per the amended provision with effect from 12.01.2015 under section 8A (3) of the Mines and Minerals (Development and Regulation) Act, 1957, for captive use of the minerals.

3. Soon after the grant of mining lease to the petitioner, vide the lease deed dated 22.02.2011, there was an inspection carried out on 29.07.2011 as to the boundary-demarcation of petitioner's lease area by the Mines Inspector in the presence of the petitioner's representative. It was reported that there are 46 pillars which have been tallied with the pillars of the forest department and that all the pillars have been found to be in accordance with the official map.

4. The petitioner started the mining operation on 10.01.2013. The entire mining work has been done in the portion falling between the pillars no. 6 to 15, which

corresponds to and covers the portions of the old/pre-existing quarries no.1 to 5.

5. It is the case of the petitioner that an inspection was allegedly carried out on 26.04.2018 by the Mines Inspector, Chaibasa in the petitioner's mine behind the back of the petitioner. The inspection report prepared on 27.04.2018 alleges that the boundary pillars were inspected and the position of pillar no. 1 to pillar no. 3 has been found to be not in accordance with the DGPS survey. No report was made of any mining being done outside the lease area.

6. Thereafter, another inspection was allegedly made on 12.05.2018 by the Mines Inspector around the petitioner's mining lease area. It has been alleged in the inspection report that mining work was found to have been done outside the area of the petitioner's lease, between pillar no. 1 to pillar no. 3. In the inspection report it has been mentioned that on 12.05.2018 sectional measurement was done with the Chain Career regarding the mining work done outside the lease area of the iron ore mining lease area. The quantity of the excavated mineral comes to 25000 cubic meter (approximately).

7. Based on such measurement, violation of Sections 4(1) and 4(1)(A) of the MMD&R Act has been alleged and it has been remarked that order may be passed for taking action in light of the said irregularities.

8. It is the further case of the petitioner that in the inspection report dated 12.05.2018 nowhere it has been reported by the Mines Inspector that any mining work was being done by the petitioner outside the lease held area. There is no mention of the actual figures of measurement recorded, if any, from which the so called "average" of the pit's length, breath and height has been the derived, which makes the report unfounded and the baseless. A show cause notice was issued on 14.05.2018 by the District Mining Officer, Chaibasa alleging that on 26.04.2018 the Mines inspector inspected the mining lease area of the petitioner and reported that the position of the boundary pillars no. 1 to 3 established inside the lease area was not found to be in accordance with the DGPS Survey. It has been further alleged that on 12.05.2018 the Mines Inspector has again carried out sectional measurement of the mining work carried outside the lease area by the petitioner, whereupon it has been reported that mining work has been done outside the lease area between pillar no. 1 to pillar no. 3. Thereafter the same particulars of the average dimensions and of the calculation of quantity so mined has been set out, as mentioned in the report dated 12.5.2018. The petitioner was asked to furnish explanation within 7 days as to why not the price of mineral so extracted be not recovered from the petitioner.

9. The aforesaid show cause notice was not served upon

the petitioner. However, a subsequent reminder dated 23.5.2018 was served in which the District Mining Officer had referred to the earlier show cause notice dated 14.5.2018 and the two inspection reports dated 27.4.2018 and 12.5.2018, asking for petitioner's explanation against a summary of calculation of the quantity alleged to be mined by outside the lease area.

10. The petitioner, by its letter dated 1.6.2018 to the District Mining Officer, denied the allegations and asked for copies of the two so called inspection reports and the original show cause notice dated 14.5.2018. The petitioner demanded opportunity in terms with the principles of natural justice.

11. Thereafter, the petitioner received a letter no. 849 dated 14.6.2018 of the District Mining Officer, whereby it was alleged that the petitioner had not given any reply to the show cause notice dated 14.05.2018 or its reminder dated 23.5.2018, and from that it was clear that the petitioner had nothing to say in that regard. Accordingly the payable amount as value of the mineral to the tune of Rs.8,68,12,500/- was directed to be paid within 15 days, otherwise the action for recovery shall be taken as per law.

12. The petitioner, thereafter, wrote to the District Mining Officer, a letter dated 14.7.2018 whereby violation of the principles of natural justice was asserted on the grounds of non-service of the two inspection reports of 27.04.2018 and

12.05.2018 and the original show cause notice dated 14.5.2018

13. The respondent District Mining Officer by its letter no.1016 dated 02.08.2018 clearly admitted violation of the principles of natural justice and denial of opportunity of hearing and therefore called the petitioner for hearing on 11.8.2018 in his office.

14. Accordingly the petitioner appeared in the hearing on 11.08.2018 and submitted a letter reiterating its earlier request for providing the two inspection reports (dated 26.4.2018 & 12.5.2018), so that the petitioner could be in a position to refute the allegations.

15. By letter no. 282/M dated 18.3.2019 the District Mining Officer, in furtherance of his acknowledgement of earlier mistake acted towards furnishing copies of the Inspection reports dated 27.04.2018 and 12.05.2018.

16. The petitioner replied through its letter dated 03.04.2019 asserting that even on the materials furnished the allegations had no legs to stand in view of the fact that there are contradictions in the contents of the two reports and that the surface plan of 23.09.2008 approved by the Controller of Mines, IBM showed that there had been a pre-existing quarry part of which was outside the lease area.

17. That by letter no. 413 dated 03.05.2019 the District Mining Officer sent an order of refusal to amend/correct/ re-

consider the earlier demand letter dated 14.06.2018.

18. Being aggrieved with the aforesaid order of refusal, the petitioner filed a statutory revision challenging both the orders dated 14.06.2018 and 03.05.2019 passed by the District Mining Officer before the Central Government (Ministry of Mines) under section 30 of the MMD&R Act, 1957 which was registered as Revision Application no. 6/(7)/ 2019/RC-I of 2019.

19. The aforesaid revision was heard on-line and got dismissed by order dated 07.07.2020 passed by the Revisional Authority.

20. Against the aforesaid order passed by the Revisional Authority, the instant writ petition has been filed.

21. It is evident from the fact that the mining lease for iron ore and manganese ore was granted in favour of the writ petitioner in the District of West Singhbhum, known as Parambaljori Iron and Manganese Ore Mines vide decision so taken by the State Government on 18.08.2010.

22. The prior approval of the Central Government was also given on 15.05.2007, execution of lease deed was done on 22.02.2011 of an area of 47.15 hectares, equivalent to 116.50 acres. The period of lease initially was for 30 years which was subsequently extended to 50 years as per the statutory provision as contained under Section 8A(3) of the Mines and Minerals (Development and Regulation) Act, 1957, in short

MMDR Act, 1957.

23. The writ petitioner has started carrying out mining operation. But subsequently on an inspection said to have been conducted by the Mines Inspector with the help of Chain Carrier on 24.07.2018 whereby and whereunder it was found that the mining operation has been carried out not in consonance with the terms and conditions of the lease, since, it was found in course of inspection that the mining operation was carried out beyond the lease hold area.

24. The said report was placed before the District Mining Officer, Chaibasa, who on receipt of the said inspection report, has issued show cause notice on 14.05.2018 asking the writ petitioner to submit reply within a period of 07 days as to why the excess amount be not recovered on account of mining operation over the excess land over and above the lease hold area. Thereafter, one reminder was also given on 23.05.2018.

25. The writ petitioner has responded to the said show cause while making a communication on 01.06.2018 asking therein that the relevant report may be supplied so that the petitioner may be able to give proper explanation.

26. The District Mining Officer has again issued notice on 14.06.2018 asking the writ petitioner to deposit an amount of Rs.8,68,12,500.00 to be deposited within the period of 15 days failing which action in accordance with law will be

taken.

27. The writ petitioner has responded in absence of the inspection report vide his reply dated 14.07.2018 wherein it has been stated that before coming to the conclusion of the amount to be paid as per the order dated 14.06.2018, the effective opportunity of hearing was not given since copy of the report has never been served upon the writ petitioner.

28. The District Mining Officer, upon this, has accepted the aforesaid fact of non-supply of the inspection report which has been considered by him to be in violation of the principle of natural justice and hence an opportunity was given to put forth the defence on 11.08.2018 along with the relevant documents.

29. The writ petitioner had appeared by submitting the required document and thereafter the District Mining Officer, on consideration of the documents and defence, has passed an order on 03.05.2019 by which the calculation of amount of Rs.8,68,12,500/- as was calculated vide demand dated 14.06.2018 has refused to amend/rectify/review the said decision.

30. The writ petitioner, being aggrieved with the said order, has preferred revision before the Revisional Authority as provided under Section 30 of the MMDR Act, 1957.

31. The Revisional Authority formulated two issues in paragraph 6 which are :-

6(a) Whether the inspection conducted by the Mining Inspector in the lease area was fair?

6(b) Whether the revisionist actually conducted illegal mining beyond the lease area?

32. It is the case of the writ petitioner that although two issues have been framed but issue No.6(a) has been answered by coming to the conclusion that the proper opportunity of hearing was given.

33. So far as the issue No.6(b) is concerned, there is no proper answer to the said issue since the case of the writ petitioner all along is that by the adjacent area of the existing mining as per the lease agreement there is another old quarry between Pillar No. 1 to 3 surface plan of which has been approved by the Indian Bureau of Mines (IBM) on 23.09.2008 but the same has not been considered while answering the issue No.6(b) by coming to the conclusion that the writ petitioner actually was involved in the illegal mining beyond the lease area.

34. The contention has been raised that even the issue No.6(a) has wrongly been answered since the inspection report has never been served upon the writ petitioner and that has been accepted by the District Mining Officer and that is the reason opportunity was given on 11.08.2018 to participate in the proceeding.

35. The writ petitioner had participated in the proceeding on

11.08.2018 but the District Mining Officer refused to mend the demand as was raised vide demand dated 14.06.2018, as such, the order passed by the Revisional Authority is not sustainable in the eyes of law.

36. Per contra, Mr. Mohan Kumar Dubey, learned AC to AG, has vehemently opposed the submission made on behalf of the writ petitioner by answering the ground of non-observance of the principle of natural justice as also the non-supply of the relevant documents and to substantiate his argument, for which he has referred the documents appended by the writ petitioner, i.e., communication dated 11.04.2019 written on behalf of the petitioner addressed to the District Mining Officer wherein the writ petitioner has admitted the fact that the required documents have already been submitted. It has further been stated therein that no illegal mining has been carried out by them outside the lease area, as the said quarry is old quarry, which has been mentioned in IBM approval letter dated 23.09.2008 and the surface plan duly approved by the Controller of Mines (Central Zone).

37. Therefore, submission has been made that when the documents as per the writ petitioner himself had been submitted before the District Mining Officer, now it is not available for him to take the ground that the documents, i.e., inspection report has not been supplied.

38. Further, the reference of communication dated

18.03.2019 issued under the signature of District Mining Officer, Chaibasa has also been made addressed to the writ petitioner whereby and whereunder the copy of the inspection report dated 27.10.2018 along with the measurement report dated 27.04.2018 have been sent with a direction to deposit the said amount.

39. Learned counsel for the State, on the basis of the aforesaid ground, has submitted that it cannot be said that it is a case of violation of principle of natural justice.

40. Further, the second issue has also been decided whereby and whereunder the Revisional Authority has come to conclusion that the mining operation was carried out beyond the lease hold area, hence, the order passed by the Revisional Authority does not suffer from an error.

41. Mr. Anil Kumar, learned Additional Solicitor General of India, appearing for the respondent Union of India has argued the case and has supported the version of the State.

42. We have heard learned counsel for the parties, gone across the pleading made in the writ petition along with the documents appended therewith and the order passed by the Revisional Authority.

43. The admitted case of the writ petitioner is that the impugned order of demand dated 14.06.2018 suffers from illegality on two grounds, i.e., -

(i) There is violation of principle of natural justice since

the copy of the inspection report has never been supplied to the writ petitioner.

(ii) After the inspection report has been supplied on acceptance by the District Mining Officer that non-supply of the inspection report amounts to principle of natural justice but even then the demand so made on 14.06.2018 to the tune of Rs.8,68,12,500/- has been declined to be reconsidered by saying in one line that to amend the demand or rectify or recall will not be in accordance with law.

44. The ground has been taken that IBM report had already been referred with respect to the fact that adjacent to the lease hold area the old quarry is going on but there is no consideration since, no order to that effect has been passed either way.

45. The ground has also been taken that all these points have been raised before the statutory Revisional Authority but even the Revisional Authority has not appreciated the factual aspect in right perspective.

46. The Revisional Authority has not considered the fact that once the District Mining Officer has accepted the fact of violation of principle of natural justice by not supplying the inspection report and thereafter when the inspection report has been supplied, then it was the bounden duty of the District Mining Officer to reconsider the demand so raised.

47. Further, the fact about operation of the mining in the adjacent area as approved by the IBM has also not been taken note since there is no finding to that effect although the issue has been framed as Issue No.6(b).

48. Learned State counsel, however, has tried to defend the decision taken by the District Mining Officer so as learned Additional Solicitor General of India has defended the order passed by the Revisional Authority.

49. We, for the purpose of consideration of the issues on the basis of the rival submissions, as referred hereinabove, are now proceeding to examine the factual aspect as to whether –

(i) There is violation of principle of natural justice?

(ii) The District Mining Officer while passing the order on 03.05.2019 by refusing to reconsider the demand already raised on the ground that it will not be in accordance with law when he himself has admitted the fact that the inspection report since was not supplied hence it is in violation of principle of natural justice?

(iii) The order passed by the Revisional Authority in coming to the conclusion that there is no violation of principle of natural justice while answering the Issue No.6(a) can be said to be correct?

(iv) The order of the Revisional Authority while answering the Issue No.6(b) can be said to be correct without

giving any finding with respect to the fact of operation of the mining area in the adjacent plot of the lease hold area as per the approval of the IBM?

50. All these issues since are interlinked, as such, the same are being considered and answered together.

51. The principle of natural justice is a principle which can only be said to be observed if the adequate and sufficient opportunity is being given to the concerned party against whom the adverse decision is to be taken.

52. This principle is said to be cardinal principle to be followed before taking adverse decision by the competent authority even though there is no statutory mandate as has been held by Constitution Bench of Hon'ble Apex Court in the case of ***Maneka Gandhi v. Union of India reported in (1978) 1 SCC 248*** which is a case where the validity of Sub-Section 3 of Section 10 of the Indian Passport Act was under challenged on the ground that before impounding the passport, the principle of natural justice is to be followed but there is no stipulation to that effect under the provision of Section 10 of the Indian Passport Act.

53. The Hon'ble Apex Court although has not invalidated the said provision but a proposition has been laid down that even in absence of any statutory provision in the statute, it is the cardinal principle to follow the principle of natural justice before taking decision adverse to the party concerned on the

basis of the principle that a man cannot be condemned without providing an opportunity, the relevant paragraph of the aforesaid judgment is being referred hereunder as :-

> "9. ... Thus, the soul of natural justice is "fair-play in action" and that is why it has received the widest recognition throughout the democratic world. In the United States, the right to an administrative hearing is regarded as essential requirement of fundamental fairness. And in England too it has been held that "fair-play in action" demands that before any prejudicial or adverse action is taken against a person, he must be given an opportunity to be heard..."

54. Further, the principle of natural justice cannot be said to be a mere formality, rather, the requirement to follow the principle of natural justice is there to provide adequate and sufficient opportunity which can only be said to be followed if the imputation/allegations is/are supported by relevant documents so that the concerned, who is to reply, be able to know the factual aspect and the documents upon which allegations are based.

55. If merely show cause notice is being issued but the very basis of issuance of show cause notice is not being supplied, in that eventuality it cannot be said to be observance of the principle of natural justice so as to provide adequate and sufficient opportunity to the concerned.

56. It is also well settled that principle of natural justice and assigning reason in the order on consideration of the factual

aspect is soul of the order and if the reason is absent, then also it will be said to be in violation of principle of natural justice, reference in this regard be made to the judgment rendered by Hon'ble Apex Court in the case of ***Raj Kishore Jha v. State of Bihar and Others*** reported in ***(2003) 11 SCC 519*** wherein at paragraph 19 it has been held that reason is the heartbeat of every conclusion and without the same, it becomes lifeless. For ready reference, the relevant paragraph of the aforesaid judgment is being quoted and referred hereunder as :-

> **"19.** Before we part with the case, we feel it necessary to indicate that non-reasoned conclusions by appellate courts are not appropriate, more so, when views of the lower court are differed from. In case of concurrence, the need to again repeat reasons may not be there. It is not so in case of reversal. Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless."

57. Further, in the case of ***Kranti Associates Private Limited and Another v. Masood Ahmed Khan and Others*** reported in ***(2010) 9 SCC 496*** wherein at paragraph 47 the Hon'ble Apex Court has observed that reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies. The relevant paragraph is quoted and referred hereunder as :-

> **47. ... ...**
> (*a*) ... .
> (*b*) ... .

(*c*) … …
(*d*) … …
(*e*) … …
(*f*) **Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies**.
… … … … …".

58. Further, it is the bounden duty of the authority concerned who is to decide that if any plea is being taken, the same is required to be considered either way by applying its mind. Consideration does not mean a mere formality, rather, if any document or stand has been taken in defence, it is the bounden duty of the authority concerned to discuss and while accepting or refusing, the same must be based upon the well assigned reason, otherwise, it cannot be said to be a consideration in the eyes of law since consideration means active application of mind which can only be said to be there if the document/defence will be well considered by the authority concerned, reference in this regard be made to the judgment rendered by Hon'ble Apex Court in the case of ***Chairman, Life Insurance Corporation of India and Others v. A. Masilamani*** reported in ***(2013) 6 SCC 530*** wherein at paragraph 19 it has been held that the term "consider" postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The relevant paragraph of the aforesaid judgment is being quoted and referred

hereunder as :-

> "**19.** The word "consider" is of great significance. The dictionary meaning of the same is, "to think over", "to regard as", or "deem to be". Hence, there is a clear connotation to the effect that there must be active application of mind. In other words, the term "consider" postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The order of the authority itself should reveal such application of mind. The appellate authority cannot simply adopt the language employed by the disciplinary authority and proceed to affirm its order."

59. We are proceeding now to examine the issues/grounds of violation of principle of natural justice and non-consideration of the relevant documents.

60. The issue has been raised that the show cause notice although was issued on 14.05.2018 based upon the inspection conducted on 12.05.2018.

61. We have considered the said show cause but we have found that the same was not appended with the copy of the inspection report which is the basis of demand holding the writ petitioner of violating the provision of Section 4(1) and 4(1)(A) of the MMDR Act, 1957 and Rule 21 of the MMDR Rules. Meaning thereby the basis of statutory violation in the inspection report.

62. The contention which has been raised that the

inspection report has never been served is evident from the communication issued under the signature of the District Mining Officer dated 02.08.2018 whereby and whereunder the District Mining Officer has accepted that the non-supply of the inspection report amounts to violation of principle of natural justice and hence, an opportunity was given to appear before the District Mining Officer on 11.08.2018 but very surprisingly, prior to that the decision was already taken by the District Mining Officer on 14.06.2018 casting liability of Rs.8,68,12,500/-.

63. It further appears that the writ petitioner, after getting the copy of the inspection report as per the covering letter dated 18.03.2019, had requested the District Mining Officer to reconsider the demand so raised but the District Mining Officer has not accepted the said request by passing an order on 03.05.2019 whereby and whereunder the application was rejected on the ground that it will not be in accordance with law either to amend/rectify/review the decision so taken of casting liability of Rs.8,68,12,500/- vide order dated 14.06.2018.

64. The writ petitioner has preferred statutory revision as provided under Section 30 of the MMDR Act, 1957.

65. The Revisional Authority has got power under the aforesaid provision to look into the illegality and propriety of the impugned order. Accordingly, the Revisional Authority

has proceeded and framed two issues as under paragraph 6, i.e., 6(a) Whether the inspection conducted by the Mining Inspector in the lease area was fair? and 6(b) Whether the revisionist actually conducted illegal mining beyond the lease area?

66. The issue No.6(a) has been discussed and answered under paragraph 7(ii) whereby and whereunder the Revisional Authority has come to conclusion that the principle of natural justice has been followed because the opportunity of hearing was given to the writ petitioner by asking him to appear for hearing on 11.08.2018 and again the hearing was fixed for 11.04.2019.

67. But the said finding cannot be said to be correct when the opportunity of hearing was given by the District Mining Officer asking the writ petitioner to appear on 11.08.2018 and again on 11.04.2019 then where is the reconsideration, rather, the same without delving on merit, has been said to be not in accordance with law by coming to the conclusion that the demand already calculated vide communication dated 14.06.2018 cannot be amended/rectified/reviewed by the District Mining Officer.

68. The question is that when the District Mining Officer has taken a decision by accepting the importance of the inspection report only in order to provide effective opportunity to defend and accordingly, the writ petitioner had appeared

and tried to make out his defence.

69. But the District Mining Officer in a highly arbitrary and illegal manner, has refused to reconsider without assigning any reason, rather, the reason has been assigned in rejecting the said request that it cannot be said to be in accordance with law.

70. The question is that when the District Mining Officer himself has found the violation of principle of natural justice and in consequence thereof when the documents were directed to be supplied and accordingly the document, i.e., the inspection report was supplied, then it was bounden duty of the District Mining Officer to reconsider and pass a fresh order by taking note of the inspection report, i.e., the same ought to have been discussed on merit rather than to say that it will not be proper and in accordance with law to either amend or rectify or review the decision so taken on 14.06.2018.

71. But the Revisional Authority has also failed to appreciate the aforesaid fact, rather, has come to conclusion of observance of principle of natural justice merely on the ground that the opportunity of hearing was given by fixing the dates on 11.08.2018 and subsequently on 11.04.2019.

72. The Revisional Authority ought to have taken into consideration the duty which was to be casted by the District Mining Officer after getting reply based upon the inspection

report by passing an order either way.

73. Hence, we are of the view that the answer of Issue No.6(a) which has been given, cannot be said to cogent and proper.

74. The Issue No.6(b), i.e., as to whether the revisionist actually conducted illegal mining beyond the lease area, according to our considered view, also is not based on cogent reasoning since the writ petitioner has all along taken the ground of his lease hold area as per the approved surface plan of IBM, approved on 23.09.2008.

75. The Revisional Authority has taken note of the same but while answering the Issue No.6(b) with respect to the issue of illegal mining, there is no consideration at all of approved IBM Plan, rather, the Revisional Authority has only based the answer of the said issue that State Government had observed all formalities like inspection of area, issue of show cause notice and opportunity of hearing to the revisionist.

76. The said answer of the Issue No.6(b), according to our considered view, cannot be said to be just and proper, since, merely by completing the formality of issuance of show cause notice cannot be said to be effective compliance of the principle of natural justice as per the discussion made hereinabove based upon the judgments referred as above.

77. Further, if any document is filed along with the show cause, then the same is required to be considered either way.

Non-consideration amounts to violation of principle of natural justice as also non-application of active mind.

78. This Court, based upon the aforesaid discussion, is of the view that the order passed by the Revisional Authority cannot be said to be proper.

79. Accordingly, we, in exercise of power conferred to this Court under Article 226 of the Constitution of India, are of the view that it is a fit case where writ of certiorari is to be issued on the principle as laid down by Hon'ble Apex Court in the case of ***Syed Yakoob Vrs. K.S. Radhakrishnan and Others [A.I.R. 1964 SC 477]***, wherein it has been held as follows:-

> "7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and

> the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised."

80. In ***Hari Vishnu Kamath v. Syed Ahmad Ishaque and Others, [A.I.R. 1955 SC 233]***, the Hon'ble Apex Court, with regard to the character and scope of the writ of certiorari and the conditions under which it can be issued, at paragraph-21

has observed which is being reproduced hereinbelow:-

> "21. ... ..., the following propositions may be taken as established : (1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute..... ..."

81. Accordingly, that the impugned order dated 07.07.2020 passed in Revision Application No.6/(7)/2019/RC-I of 2019 is fit to be quashed and set aside.

82. The order dated 07.07.2020 passed in Revision Application No.6/(7)/2019/RC-I of 2019 is quashed and set aside.

83. In consequence, we are of the view that the matter needs

to be remitted before the Revisional Authority for taking decision afresh.

84. Accordingly, the matter is remitted to the Revisional Authority to take decision afresh in accordance with law after providing opportunity of hearing to the parties.

85. Let such decision be taken within the period of two months from the date of receipt of copy of this order.

86. It is made clear that whatever demand is there, the same will depend upon the final outcome of the order to be passed by the Revisional Authority as directed above.

87. The instant writ petition stands disposed of.

88. Consequently, pending interlocutory applications also stands disposed of.

(Sujit Narayan Prasad, J.)

(Navneet Kumar, J.)

Birendra/ ***A.F.R.***