

Court No. - 2

Case :- WRIT - C No. - 2119 of 2025

Petitioner :- M/S Maa Kaali Tyres Thru. Its Proprietor Dalpat Singh

Respondent :- State Of U.P. Thru. Its Special Secy. Deptt. Of
Geology And Mining Lko. And Another

Counsel for Petitioner :- Shishir Chandra, Gaurav Mehrotra, Utsav
Mishra

Counsel for Respondent :- C.S.C., C.S.C.

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

Heard.

The present petition has been filed seeking following relief:-

"i) issue a writ or order or direction in the nature of certiorari to quash order dated 27.01.2025 passed by respondent No.1 in Mines Revision No.46 (R) / G & M (UP) / 2024 [Re. M/s Maa Kall Tyres Vs. District Magistrate, Banda] (As contained in Annexure No.1 to the Writ Petition) affirming the order dated 26.04.2021 passed by the District Magistrate, Banda in so far as it pertains to cancellation of mining lease, holding the petitioner liable for recovery of dues of excess mining, illegal mining & overloading and blacklisting him for a period of 2 years in a pre-determined, whimsical & arbitrary manner.

ii) issue a writ or order or direction in the nature of certiorari to quash order No.137/khanij-30, Banda; dated 12.01.2024 issued by respondent No.2 (As contained in Annexure No.2 to the Writ Petition) in so far as it pertains to cancellation of mining lease, holding the petitioner liable for recovery of dues of excess mining, illegal mining & overloading and blacklisting him for a period of 2 years in a pre-determined, whimsical & arbitrary manner.

iii) a writ or order or direction in the nature of mandamus commanding respondent No.2 not to give effect to order No. 137/khanij-30, Banda, dated 12.01.2024; in so far as it pertains to recovery of an amount of Rs 5,79,79,000/- from the petitioner and blacklisting the petitioner for a period of 2 years; in an entirely illegal & arbitrary manner."

Prima facie, we find that the grounds taken in the reply dated 24.04.2023 after passing of the judgment dated 14.02.2023 in Writ- C No. 4229 of 2022, which was the earlier writ petition filed by the petitioner, have not been taken into consideration by the District

Magistrate, Banda while passing the impugned order dated 12.01.2024. Surprisingly, she has merely referred to the reply being submitted and then has made a cryptic observation that the same is not found to be tenable and then has straight away referred to the report dated 19.03.2021 and has drawn a conclusion that in view of the said report and the findings therein, the earlier order dated 26.04.2021, which in fact had already been quashed by this Court vide judgment dated 14.02.2023, is liable to be revived. This itself is objectionable and unacceptable. An order quashed by the High Court could have been revived though a fresh order containing a fresh decision could have been passed. Consideration of the matter is not in the light of the judgment dated 14.02.2023 passed by this Court in the earlier writ petition. Before the revisional authority also, various pleas were raised, but none have been considered, as should have been considered. A penal action such as the one at hand having civil consequences could not have been taken in such a manner which is not in accordance with the Principle of Natural Justice nor the letter and spirit of our earlier judgment dated 14.02.2023.

We may also put it on record that many of the provisions referred in the impugned order do not empower the District Magistrate to take decision unless of course such power has been delegated to her by the State Government. This aspect has also not been take into consideration and there is no reference to any such delegation such as under Section 21.

At this Stage, Shri Sisodiya, learned counsel for the State submitted that the matter may be remanded back to the District Magistrate, Banda.

In view of the aforesaid, we quash the impugned orders dated 12.01.2024 and 27.01.2025 and as the order passed by the District Magistrate dated 12.01.2024 itself is not in accordance with the earlier judgment dated 14.02.2023 and the Principles of Natural Justice as

there is no consideration of the pleas raised by the petitioner in his reply, we, therefore, grant liberty to the District Magistrate Banda to pass a fresh order, but while doing so, first and foremost, she will ascertain her own jurisdiction and the provisions of law under which she would be passing such an order. Secondly, she will consider all relevant pleas raised in the reply dated 19.03.2024 in the light of the observations made by this Court in the judgment dated 14.02.2023 passed in Writ- C No. 4229 of 2022 and then a reasoned decision shall be taken as to why the pleas raised by the petitioner are not tenable and why the petitioner is liable monetarily or otherwise, as the case may be, as per law.

In case, the District Magistrate, Banda finds that she does not have jurisdiction or power under the Mines and Minerals Regulation and Development Act, 1957 or the rules or regulations made thereunder, then she can forward all the materiel in her possession to the authority competent to take such action, who may do so, but, in the light of the observations made hereinabove.

The District Magistrate, Banda would be better advised to pass such orders, if she has authority to do so, in a manner which makes it easier to understand as to what has prevailed in her mind to impose such penalty and other penal actions and why the pleas raised by the petitioner are not tenable, as, what we find is that though the order runs into 13 pages, it merely contains narration of facts till the second para of Page 12. In fact, representations of petitioner and orders of Courts have been quoted at length, which makes the order unnecessarily lengthy. The discussion and decision is contained only in last one and a half page which, in any case, as stated, is wanting for the reasons already discussed. Such an order need not be very lengthy and it should display due and proper application of mind to relevant aspects and the basis for passing of the order should be clear to us. Ordinarily, facts should be stated in brief followed by pleas of the

petitioner, discussion, findings and conclusions arrived at and this should be done in a lucid manner. In fact, she should mention the specific provision being invoked for specific penal or other action. What she has done is, she has mentioned the allegations and towards the end all provisions of the Act, 1957 and Rules 1963 or 2021, which according to her were attracted, have been mentioned at one place, making it very difficult for the Court to decipher as to which provision is being applied for which action. We hope she will keep this in mind in future.

The present petition is **allowed** in the aforesaid terms.

Shri Sisodiya shall communicate our order to the District Magistrate, Banda.

(Om Prakash Shukla,J.) (Rajan Roy,J.)

Order Date :- 19.3.2025
Gurpreet Singh