

[CW-5211/2021]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 5211/2021

Dalpat Singh Chudawat S/o Shri Girdhari Singh, Aged About 62
Years, R/o Village Kanavera Tehsil Deogarh, District Rajsamand
(Raj.)

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of Mines,
New Delhi.
2. State Of Rajasthan, Through Principal Secretary, Mines
Department, Government Of Rajasthan, Secretariat,
Jaipur.
3. Chief Secretary, State Government Of Rajasthan,
Secretariat, Jaipur (Raj.)
4. The Joint Secretary (Mines), Mines Department,
Government Of Rajasthan, Secretariat, Jaipur.
5. The Director, Mines And Geology Department, Directorate
Khanij Bhawan, Udaipur.
6. The Mining Engineer, Mines And Geology Department,
Amet, Distt. Rajsamand.

-----Respondents

For Petitioner(s)	:	Mr. Akhilesh Rajpurohit Mr. Anirudh Purohit Mr. DD Thanvi Mr. Arvind Vyas Mr. Amit Vyas Mr. DLR Vyas Mr. Om Prakash Kumawat Mr. JS Naruka Mr. PS Chundawat Mr. Paramveer Singh Mr. Sushil Solanki Mr. Milap Chopra
For Respondent(s)	:	Mr. Sandeep Shah, Sr. Adv. cum AAG assisted by Mr. Lakshya Pagaria & Mr. Nishant Bapna



HON'BLE DR. JUSTICE NUPUR BHATI

Order

Reportable

Reserved on : 10/07/2023

Pronounced on : 18/07/2023

1. Since in all these cases (list of which is enclosed with this order as **Schedule 'A'**, which shall be treated as part of this order), common questions of facts and law are involved, therefore, these writ petitions are being decided by this common order.

The petitioners, in these petitions, have challenged the impugned orders whereby their Letter of Intents/Prospecting Licenses (for short, 'LoIs/PLs) have been cancelled.

2. For the purpose of deciding this batch of writ petitions, it is deemed proper and appropriate to consider the facts of the case in SB Civil Writ Petition No.5211/2021, which has been filed under Article 226 of the Constitution of India with the following prayers:-

"(i) *By an appropriate writ, order or direction the order (Annex.8) dated 1002.2021 may be quashed and set aside with all its natural consequences as if these orders were never passed and issued.*

(ii) *By an appropriate order or direction the order dated 29.12.2014 (Annex.) whereby the LoI has been issued in favour of the petitioner may kindly be ordered to be restored with a direction to the respondents to grant the mining lease in favour of the petitioner in accordance with law.*

(iii) *Pending decision and final disposal of the writ petition the respondents may be restrained from granting the area in question to any other person."*

3. The facts of the case are that the petitioner applied for mining lease (M.L. No.607/2011) on 23.12.2011 for mineral



Quartz and Feldspar at Village Kenwara, Tehsil Deogarh, District Rajsamand. Along with the application, requisite fees and requisite documents as required under Rule 9(1) of the Mineral Concession Rules, 1960 (for short, 'the Rules of 1960') were also submitted. Thereafter, in compliance of the notice and direction, the petitioner deposited Pre-demarcation fees. During the process, a communication was issued by the Mining Engineer, Amet to the Deputy Conservator, Forest for ascertaining the fact that whether the area in question falls in the forest, who in turn, informed that the area for which application had been filed, does not fall in the forest. After completing all the formalities and process, a LoI dated 29.12.2014 (Annex.1) was issued in favour of the petitioner, pursuant to which, the petitioner submitted the approved mining plan with progressive mine closure plan dated 16.06.2015 (Annex.2).

4. Thereafter, without issuing any show-cause notice and without affording any opportunity of hearing, the respondent-State issued an order dated 17.10.2015 whereby all the LoIs/ Prospecting Licenses, issued between the period from 01.11.2014 to 12.01.2015 stood cancelled and the Principal Secretary, Mining Department, directed the Director to issue necessary orders in this regard vide communication dated 17.01.2015 along with which a list of LoIs/ Prospecting Licenses was also issued in which petitioner's name appeared at S.No.201. Pursuant to communication dated 17.01.2015 (Annex.3), the Director authorized the concerned Mining Engineer to issue formal compliance order cancelling the LoIs/Prospecting licenses issued between the period from 01.11.2014 to 12.01.2015 and the LoI



dated 29.12.2014, granted in favour of the petitioner, was cancelled vide order dated 20.10.2015 (Annex.4).

5. The petitioner challenged the aforesaid orders before this Court, which came up for hearing on 08.08.2018 along with other bunch of connected petitions and the same were decided in terms of the order dated 30.08.2017 in the case of M/s. Karni Mines & Minerals Vs. State of Raj. & Ors. (Sated BCWP No.8179/2016), wherein this Court quashed and set aside the order dated 17.10.2015 so also the formal order of cancellation dated 20.10.2015 in terms of the order of this Court in the case of M/s. Karni Mines & Minerals Vs. State of Raj. (SBCWP No.15337/2017, decided on 30.08.2017 and granted liberty to the respondents to pass order afresh in accordance with law and after following the principles of natural justice by a duly constituted committee by the Chief Secretary, comprising three senior officials. The order dated 30.08.2017 reads as under:-

"It is not the case of the respondents that the LoI was not issued on merits or that the petitioner does not fulfill the conditions for grant of LoI and nor is it a case of violation of any of the conditions of LoI. In spite of the same, it was cancelled without following the principles of natural justice.

Accordingly, the present writ petitions are allowed. The impugned orders dated 17.10.2015 and 20.10.2015 qua the petitioners are set aside. This Court would have directed the respondent-authorities to issue mining license in terms of the order dated 23.08.2017 passed in the case of M/s. Wonder Cement Limited (supra) but this Court is bound by its own order dated 02.08.2017 passed in the case of M/s Krishna Marbles (supra) which is prior in time.

Accordingly, the respondents are at liberty to pass a fresh order in accordance with law after following the principles of natural justice and examining each case separately by a duly constituted committee to be constituted by the Chief Secretary comprising of at least three senior official in





terms of the order dated 02.08/2017 passed in S.B. Civil Writ Petition No.15337/2016 (M/s. Krishna Marble Vs State of Rajasthan & Ors.). However, since the mining license too was to be issued by 11.01.2007 and much time has passed, the said Committee shall be constituted within two weeks of the receipt of this order. The said Committee shall decide the matter as expeditiously as possible preferably within three months thereafter. In case, the said Committee decide the same in favour of the petitioners, the concerned authority shall proceed for grant of the mining license as applicable to the petitioners in accordance with law."



6. The State Government thereafter challenged the order dated 30.08.2017 before the Division Bench of this Court vide D.B.S.A.W. No.647/2019, which stood dismissed vide order dated 09.08.2019 and the SLP preferred before the Hon'ble Supreme Court also stood dismissed vide order dated 06.12.2019.

7. The State Government constituted a committee in pursuance of the order dated 30.08.2017 and a letter was issued to the petitioner by the respondent No.5, fixing the date for personal hearing, on which date the petitioner appeared and narrated the entire case. However, the LoI, issued in favour of the petitioner stood cancelled vide order dated 10.02.2021 on the same ground. Hence, this writ petition has been preferred.

8. Learned counsel for the petitioners submitted that the order dated 10.02.2021 has been passed without proper application of mind. It was submitted that in the garb of some corruption, which was never proved, prejudicial orders were passed cancelling the LoIs/Prospecting Licenses. It was further submitted that the Governor of Rajasthan issued an order to conduct an enquiry in the matter on 17.10.2015 and on the same date, order cancelling the LoIs/Prospecting Licenses has been issued, without affording any opportunity of hearing to the petitioners.



9. Learned counsel for the petitioners submitted that the Mines & Minerals (Development & Regulation) Amendment Ordinance, 2015 was promulgated and was made effective from 12.01.2015. Subsequently, the Mines & Minerals (Development & Regulation) Amendment Act, 2015 (for short, 'the Act of 2015') was enacted and for the purpose of the present controversy, Section 10A of the Act of 2015 is material, which is reproduced hereunder:-

"10A.(1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 shall become ineligible.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015:-

- (a) applications received under section 11A of this Act;*
- (b) where before the commencement of the said Ordinance a reconnaissance permit or prospecting license has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting license following by a mining lease, or a mining lease, as the case may be, in respect of the mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be:-*
 - (i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government.*
 - (ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting license;*
 - (iii) has not become ineligible under the provisions of this Act; and*
 - (iv) has not failed to apply for grant of prospecting license or mining lease, as the case may be, within a period of three months after the expiry*





of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

- (c) *Where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines & Minerals (Development and Regulating Amendment Ordinance, 2015, the mining lease shall be granted to subject to fulfillment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said ordinance.*

Provided that in respect of any mineral specified in the first Schedule, no prospecting license or mining lease shall be granted under clause (b) of this sub-section except with the previous approval of the Central Government."

Learned counsel for the petitioners thus, submitted that as per the provisions of clause (c) of Section 10A(2) aforesaid, the LoI/Prospecting License for grant of mining lease issued prior to coming into force of the Act of 2015, has already been saved and the right to get mining lease has also been protected by the said provision itself and, therefore, the impugned order deserved to be quashed and set aside.

10. Learned counsel for the petitioners also submitted that the present case is not a case of mere application but it is a case where LoIs/Prospecting Licenses have already come into effect and thus, even if it is assumed that all pending applications received prior to commencement of the Ordinance, 2015 have been rendered ineligible, even then, the same will not adversely affect the case of the petitioners as in their cases,



LoIs/Prospecting Licenses have been issued and there is a distinction between the application simpliciter and the issuance of LoIs/Prospecting Licenses. It was thus, submitted that the Ordinance, 2015 or Act of 2015 cannot, in any way, affect the rights of the petitioners in whose favour LoIs/Prospecting Licenses have already been issued.

11. Learned counsel submitted that passing of the impugned order dated 10.02.2021, cancelling the LoIs/Prospecting Licenses issued in favour of the petitioners, is not sustainable in the eyes of law as the same has been passed without proper application of mind. It was submitted that the same has been passed on the pretext of alleged violation of the provisions contained in paras Nos.5.2.4 and 5.2.5 of the guidelines dated 30.02.2014 issued by the Central Government. Learned counsel submitted that the reliance on the aforesaid paras is totally misplaced as the said guidelines are not statutory in nature and have no legal force. Even the said guidelines do not, in any manner, restrict the pending applications, which were already considered and examined. It was submitted that approval has already been granted much prior to issuance of the guidelines on 30.10.2014 and formal LoIs/Prospecting Licenses have been issued in December, 2014. It was also submitted that the reason for cancellation given in the order impugned is nothing but an after-thought as in the previous order dated 17.10.2015, there is no mention of such reason. It is only when the petitioners preferred writ petition before this Court, they brought this reason, which is not permissible in the eye of law.



12. Learned counsel for the petitioners also submitted that in pursuance of the order of a Coordinate Bench of this Court dated 30.08.2017, passed in the earlier writ petition of the petitioner (in SBCWP No.5211/2021), wherein it was directed to pass fresh order in accordance with law after following the principles of natural justice and examining the each case separately, issued a communication providing the petitioners an opportunity of personal hearing through video conferencing and in the said letter, no violation, irregularities or ineligibility were pointed in respect of which the petitioner was required to furnish his explanation. Thus, the said letter cannot be termed as a show cause notice. It was submitted that the fundamental purpose of giving a notice is to inform about the case set up against him which he has to meet and particulars of the penalty/action which is proposed to be taken. Both the things were missing in the said letter. However, though the petitioner narrated all the facts and that there is no violation of rules in granting the LoI in favour of the petitioner, however, the Committee passed the impugned order dated 10.02.2021, without considering any material and in hasty manner and thus, the same is against the settled principle of law and the entire proceedings subsequent thereto is laconic and null and void. He placed reliance upon the judgment rendered in the case of **Gorkha Security Services Vs. Government (NCT of Delhi) & Ors. [(2014) 9 SCC 105]**.

13. Learned counsel for the petitioners further submitted that on the one hand the Governor of Rajasthan issued an order dated 17.10.2015 for conducting enquiry in the matter relating to the entire allotment process and grant of LoIs and sanction of





prospecting licences by the Mining Department within the period from 01.11.2014 to 12.01.2015 and on the other hand, on the same day, i.e. 17.10.2015, the State Government has ordered for cancellation of LoIs/Prospecting Licences granted between the period from 01.11.2014 to 12.01.2015.

14. Learned counsel for the petitioners submitted that the action of the respondents in passing the impugned order dated 10.02.2021 is violative of the fundamental rights of the petitioner enshrined under Article 14 of the Constitution of India. It was submitted that in a similar case of M/s. Wonder Cement Ltd. Vs. State of Rajasthan challenged the order dated 17.10.2015, cancelling its LoI by filing revision petition before the Central Government which was allowed vide order dated 14.12.2016 and the matter was remanded to the State Government to take decision as per law. But, since the State Government did not take the decision in compliance of the order of the revisional authority, the LoI holder preferred a writ petition before this Court (SBCWP No.126/2017), which was allowed vide order dated 23.08.2017 with a direction to the State Government to consider the same and grant mining lease pursuant to the LoI. It was observed thus:-

"The State Government has not alleged non-compliance of any of the conditions of LoI on or before 11.01.2017 thus it is a case where the State Government has failed to show any procedural irregularity or illegality in grant of LoI or even could not demonstrate failure of the petitioner company to comply any of the terms of LoI. The pendency of the matter with the Lokayukta cannot be a ground to deny consideration when issue related to petitioner company has been decided by the Division Bench of this court. It is more so when the Central Government had passed an order in favour of the petitioner company on a revision thus it is a case where respondents have failed to



indicate any procedural irregularity or illegality so as non-compliance of the terms of the LoI."

The State Government, did not challenge the said order passed in favour of M/s. Wonder Cement and issued mining lease.

It was thus submitted that the State Government ought to have given the same treatment to the petitioners but while not doing so, clearly violated the fundamental rights of the petitioners enshrined under Article 14 of the Constitution of India.

15. Learned counsel for the petitioners also submitted that the guidelines dated 30.10.2014, issued by the Central Government, is in contravention of the Act of 2015, as the LoIs/Prospecting Licenses, issued in favour of the petitioners was saved under Section 10A(2)(c) of the Act of 2015. It was submitted that guidelines are mere administrative in nature and have no statutory force and the same cannot be given over-riding effect on a statute.

16. Learned counsel submitted that the present writ petitions are second round of litigation before this Court wherein the State Government, without examining each and every case independently had passed ad verbetem orders and blatantly violated the directions of the Court, which were given vide order dated 30.08.2017 passed in the case of M/s. Karni Mines & Minerals (supra).

17. Learned counsel for the petitioners submitted that the matters are squarely covered by the judgment of this Court at Jaipur Bench in the case of **M/s. Kamlesh Metacast Pvt. Ltd. Vs. State of Rajasthan & Ors. [SBCWP No.13426/2020, decided on 25.06.20121]** and **Ashok Kumar Jain Vs. State [SBCWP No.9083/2021, decided on 14.02.2022]**.



18. Per contra, learned Senior Counsel-cum-AAG, submitted that the LoIs/Prospecting Licences were issued to the petitioners in gross violation of the guidelines dated 30.10.2014, particularly clauses 5.2.4 and 5.2.5. It was submitted that the guidelines dated 30.10.2014 have been issued in supersession of all the previous instructions/guidelines stating about the process of the cases by the government and the said guidelines are mandatory in nature but the petitioners have preferred the present writ petitions without challenging the guidelines. The clauses 5.2.4 and 5.2.5 read as under:-

"5.2.4. State Government should invite application for grant of mineral concessions by notification in the official Gazette and State Government's website for wide publicity. Notification, inter alia, should indicate the date from which applications can be submitted, which should be a date 30 days or more from the date of notification. The due date for submitting applications should be indicated and should be reasonable to ensure that the period for accepting application is not kept indefinite.

5.2.5 Depending on the availability of exploration data and mineralization, an area should be notified for inviting applications for grant of PL or RP. An area should be notified for inviting application for grant of ML, only if mineralization in terms of UNFC 1997 (refer to para 2.2.2.) by way of prospecting or otherwise has been established. The extent of mineralization should be mentioned in the notification."

It was submitted that as per Clause 5.2.4 of the guidelines, the State Government should invite applications for grant of mineral concessions by notification in the official gazette and the State Government's website for wide publicity. And, as per clause 5.2.5, depending on the availability of exploration data and mineralization, an area should be notified for inviting applications for grant of ML only if mineralization in terms of UNFC 1997 by

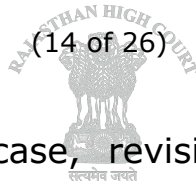


way of prospecting or otherwise has been established and the extent of mineralization should be mentioned in the notification.

19. Learned Senior Counsel-cum-AAG submitted that so far as the cases of Prospecting Licenses are concerned, vested right is there only for those applicants who had complied with the conditions as per the Act. Only those applicants are saved under Section 10A(2)(b) of the Act of 2015 where the Prospecting License has been granted before the promulgation of the Act of 2015 in respect of any land for any mineral and in respect of the license, the applicants have complied with the conditions under the Act. Further, as per Section 9f the Act of 1957, the prospecting license shall be void in any occasion of contravention of any provisions of the Act or any rules or orders made thereunder. Hence, the State has powers to declare the mineral concession as void in situations of any contravention of the provisions/rules/orders.

20. Learned Senior Counsel-cum-AAG further submitted that so far as the cases regarding Prospecting Licences are concerned, only those applicants were saved under Section 10A(2), where the prospecting licence was granted before promulgation of the Act of 2015 and the applicants had complied with the conditions under the Act and in any occasion of contravention of any provisions of the Act or any rules or orders made thereunder, the same shall be void.

21. While distinguishing the judgment rendered in the case of **M/s. Kamlesh Metacast Pvt. Ltd.** (supra), learned Senior Counsel-cum-AAG submitted that the petitioner in that case preferred a revision petition before the revisional authority,



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whereas in the present case, revision petition has not been preferred and thus, the present writ petition cannot be allowed in terms of judgment of M/s. Kamlesh Metacadt Pvt. Ltd. (supra).

22. While distinguishing the judgment rendered in the case of Ashok Kumar Jain (supra), learned Senior Counsel-cum-AAG submitted that the said case was decided in the light of the judgment rendered in the case of M/s. Kamlesh Metacast (supra) without any other observation or independent adjudication. The State Government preferred an appeal being D.B.S.A.W. No.962/2022 (State of Rajasthan & Ors. Vs. Ashok Kumar Jain) was dismissed by the Division Bench vide order dated 02.09.2022 with liberty to file review petition and the review petition being S.B. Civil Review Petition No.193/2022 (State of Rajasthan & Ors. Vs. Ashok Kumar Jain) was dismissed while holding that considering the fact that considering the fact that judgment of which review has been sought, was passed in presence of another AAG would not give any liberty to argue the matter on merits. He also submitted that the present petitions are liable to be dismissed on the ground of alternative and statutory remedy of revision petition under Section 30 of the Act of 1957.

23. Heard learned counsel for the parties and perused the material available on record.

24. From the facts narrated above, the question that come for consideration of this Court is that whether the judgment dated 25.06.2021 rendered in the case M/s. Kamlesh Metacast Pvt. Ltd. (supra) and judgment dated 14.02.2022 passed in the case of Ashok Kumar Jain (supra) are applicable in the present writ petitions or not as the petitioners, without availing the statutory



remedy of revision petition, have filed the instant writ petitions before this Court and whether the writ petitions are required to be relegated for alternative remedy of revision.

25. Thus, in order to examine the questions before this Court, it is necessary to look into the facts of the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra), which are as follows:-

(i) On 12.01.2015, the Mines and Mineral (Development & Regulation) Amendment Act, 2015 came into force whereby it was provided that all the pending applications would stand rejected except those which have been saved under Clauses (a) to (c) of sub-section (2) of Section 10A of the MMDR Act, as it existed.

(ii) A decision was taken by the State Government on 17.10.2015 to cancel all the permissions granted and LoIs issued by the Mining Department for the period from 01.11.2014 to 12.01.2015 on the ground that the same were issued contrary to the guidelines laid down by the Central Government and the State Government. In pursuance thereof, a show cause notice was issued under Section 4A(3) to the petitioner-company on 03.03.2016 proposing to terminate the P.L. issued to it. The petitioner-company submitted its reply to the show cause notice. After receiving the reply, the State Government passed an order on 30.11.2016 cancelling all the LoIs and licenses.

(iii) The petitioner-company challenged the cancellation of its P.L. in Revision Petition before the Mines Tribunal, GoI (hereinafter referred to as 'the Tribunal') assailing the orders dated 17.10.2015 and 30.11.2016 (supra).

(iv) A Revision Petition was decided on 19.09.2018 whereby the orders dated 17.10.2015 and 30.11.2016 were quashed and the



matter was remanded back to the State Government to take up appropriate as per law. The Tribunal relied on the judgment of M/s. Wonder Cement Limited and the cancellation of P.L. was also quashed.

(v) The State Government did not take any action and petitioner-company filed SB Civil Writ Petition No.8906/2019 which was disposed of by this Court vide its order dated 17.05.2019 with the following directions:-

“upon hearing the counsel for the petitioner and considering the nature of grievance raised and prayer addressed; the State respondents are directed to determine the claim of the petitioner as expeditiously as possible preferably within a period of two months from the date a certified copy of this order is presented.”

(vi) The compliance of the order dated 17.05.2019 was not made and a contempt was filed by M/s. Kamlesh Metacast wherein this Court passed an order on 13.10.2020 to take a decision within a period of 3 days on 15.10.2020. The decision was taken by the respondent-Mining Department upholding its earlier order dated 30.11.2014 issued by the Central Government.

(vii) It is after this stage, that the matter had come up before this Court.

26. From the perusal of the aforesaid, it is clear that the facts of the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) and the present cases are same except the fact that the petitioner M/s. Kamlesh Metacast preferred a revision petition.

27. The revisional authority, in the case of M/s. Kamlesh Metacast Pvt. Ltd. passed the following order:-

“I have gone through the records and submission made by the parties during hearing. Apparently, there is no dispute/





contradiction regarding the facts stated by both the parties. It is a fact that the PL was granted to the Revisionist before the MMDR Act, 2015 effective from 12.01.2015. During hearing the Revisionist stated that no show cause notice was issued and in similar identical cases i.e. M/s. Wonder Cement Ltd., the Revisionary Authority in his order No.337 of 2016 dated 14.12.2014 [F.No.25/(19)/2015-RC-I] and Hon'ble High Court of Rajasthan in SB Civil W.P. No.126/2-17 rejected the stand taken by the State Government to take a fresh view in the matter. In view of the above, the impugned order is set-aside and the case is remanded to the State government to take appropriate action as deemed fit as per law. The Revision Application is disposed of.

Parties concerned be informed accordingly."

28. Thereafter when nothing was done, petitioner M/s. Kamlesh Metacast Pvt. Ltd. Preferred writ petition (SBCWP No.8906/2019) in which the respondent-State was directed to decide the claim of the petitioner within two months. When the said order was not complied with, a contempt petition was filed, which was disposed of with a direction to decide the matter within three days. The State Government uphold its earlier order dated 30.11.2016 maintaining that the PL was granted in contravention of the guidelines dated 30.10.2014. Therefore, the petitioner M/s. Kamlesh Metacast Pvt. Ltd. again filed SBCWP No.13426/2020, which was allowed vide order dated 25.06.2021 and the respondents were directed to hand-over the possession of the area in question.

29. In the present cases it is true that the petitioners have not preferred any revision petition but from the aforesaid facts, it is clear that the order passed by the revisional authority in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra), was nowhere challenged by the State. Therefore, even if the petitioners



preferred revision petitions, the fate of the same would be as was in the case of M/s. Kamlesh Metacast Pvt. Ltd. In the writ petition, preferred by M/s. Kamlesh Metacast Pvt. Ltd., this Court, vide order dated 25.06.2021, has also observed as under:-

"16. Accordingly, in view of above findings and conclusions, the order dated 15.10.2020 is quashed and set aside. The respondents are now directed to handover the possession of the area as earmarked earlier for the mining purpose in terms of license granted to the petitioner-company dated 24.12.2014."

30. Similarly, this Court in the case of **M/s. Krishna Marble Vs. State & Ors. [S.B.C.w.P. No.15337/2016, decided on 02.08.2017]**, while dealing with the issue of alternative remedy of revision available to those petitioners had held the same to be no bar to exercising of writ jurisdiction for the almost same set of facts as in the present writ petitions. It was observed as under:-

*"In the present case, the approval for terminating the prospecting license has been granted by the Central Government itself vide impugned order dated 24.08.2016 (Annex.14). The said provision does not provide any revision against an approval granted by the Central Government. Hence, even the argument that some of the petitioners have already filed the revision petition does not help. Moreover, the said revision petitions have been filed prior to the passing of the order dated 30.11.2016 vide which the prospecting licenses have been cancelled on the basis of the approval granted by the Central Government vide order dated 24.08.2016. Neither the order dated 24.08.2016 which is the approval given by the Central Government or the order dated 13.05.2016 is a subject matter of challenge in the said revision. In any case, it is a well settled proposition of law that availability of alternative remedy is not bar to the exercising of writ jurisdiction in appropriate cases as also held by the Apex Court in the case of **State of Tripura Vs. Manoranjan Chakraborty & Ors. Reported in (2001) 10 SCC 740.***

Thus, in the facts of the present case as discussed above, Section 30 of the Mines & Minerals (Development & Regulations) Act, 1957 does not come in the way of the





petitioner to challenge the impugned orders by way of the present writ petition. Under the circumstances, this Court has no inhibition in entertaining the writ petition being maintainable."

31. Thus, in these circumstances, this Court finds that even if the petitioners have not availed alternative remedy, it does not prohibit the petitioners from approaching this Court directly as the action of the State Government is not in conformity with Article 14 of the Constitution of India as equality before the law means that amongst equals the law should be equal and should be equally administered and that like should be the alike.

32. This Court also finds that this Court, in the case of **M/s. Karni Mines & Minerals Vs. State & Ors. [S.B. Civil Writ Petition No.8179/2016, decided on 30.08.2017]**, held as under:-

"Accordingly, the present writ petitions are allowed. The impugned orders dated 17.10.2015 and 20.10.2015 qua the petitioners are set aside. This Court would have directed the respondent-authorities to issue mining license in terms of the Order dated 23.08.2017 passed in the case of M/s. Wonder Cement Limited (supra) but this Court is bound by its own order dated 02.08.2017 passed in the case of M/s. Krishna Marbles (supra) which is prior in time.

Accordingly, the respondents are at liberty to pass a fresh order in accordance with law after following the principles of natural justice and examining each case separately by a duly constituted committee to be constituted by the Chief Secretary comprising of at least three senior official in terms of the order dated 02.08.2017 passed in S.B. Civil Writ Petition No.15337/2016 (M/s Krishna Marble Vs. State of Rajasthan & ors.). However, since the mining license too was to be issued by 11.01.2017 and much time has passed, the said Committee shall be constituted within two weeks of the receipt of this order. The said Committee shall decide the matter as expeditiously as possible preferably within three months thereafter. In case, the said Committee decide the same in favour of the petitioners, the concerned authority shall proceed in accordance with law."





33. It was also observed in the order supra that, "It is not the case of the respondents that LoI was not issued on merits or that the petitioner does not fulfill the conditions for grant of LoI and nor it is a case of violation of any conditions of LoI. In spite of the same, it was cancelled without following the principles of natural justice". However, now the State has taken a contrary stand that on account of ineligibility of the petitioner, the LoIs/PLs are required to be cancelled.

34. It is an admitted position that vide order dated 17.10.2015, the Director Mines had authorized the concerned Mining Engineers to issue the formal compliance order cancelling the LoIs/PLs of the persons who were granted LoIs/PLs between the period 01.11.2014 to 12.01.2015 and the petitioners' case in hand as well as the petitioner in the case of M/s. Kamlesh Metacast Pvt. Ltd., since had been issued LoIs/PLs during the said period were cancelled. Thereafter, the State Government, after constituting the Committee, again rejected the LoIs/PLs of the petitioners on the same ground as of the petitioner in the case of M/s. Kamlesh Metacast Pvt. Ltd. that the same were issued contrary to the guidelines dated 30.10.2014, laid down by the Central Government and the State Government.

35. Once this Court, in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) has held that the Act, which provides for issuing of license only by way of auction, came into force from 12.01.2015, on the day when petitioner applied the provisions of MMDR Act and Rules allowed mode and issuance of license was by way of moving an application and thus, the applications, which the petitioners moved in the year 2011, were in confirmation with the



then existing laws, then, there is no reason that the petitioners' case is not allowed in the same terms. It has also been said in the judgment of M/s. Kamlesh Metacast Pvt. Ltd. that the entire process was completed and final license was sanctioned on 24.12.2014, therefore, this Court held that the Tribunal has rightly quashed the order dated 30.11.2015. The Court has further observed that the order of the Tribunal was not challenged by the State Government in any proceedings either before this Court or elsewhere and the State had, therefore, no authority or jurisdiction to restore an order, which already stood quashed and set aside by the Tribunal. This Court, in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra), had also given its finding in regard to the contention of the respondents that the order dated 24.11.2014 is in violation of Clauses 5.2.4 and 5.2.5, and observed as under:-

"8. The said guidelines became part of the amendment made by the Central Government in the MMDR Act, 1957 w.e.f. 12.01.2015 and it was provided under the Mining Amendment Act that the composite license of mining as well as mining leases allotment shall be done exclusively by way of auction.

9. A perusal of the aforesaid provisions of the guidelines show that the said provisions are prospective in nature. Thus, after 30.10.2014 the applications could have been accepted by the State Government only by notifying in official gazette. However, the said guidelines do not in any manner restrict the pending applications, which were already considered and examined and land was already earmarked.

10. In the present case, this court finds that approval has already been given much earlier of issuing guidelines dated 30.10.2014 and it is a formal order which has been passed in December, 2014. The Tribunal has also examined the said aspect and therefore, there was no occasion for the respondents to again reiterate the same





submission and restore the cancellation order dated 30.11.2016. In fact, in terms of the order passed by the Tribunal in Revision Petition, as noticed by this court earlier in the writ petition decided on 17.05.2019, the only needful action to be taken by the State Government was to issue order for handing over the possession of the earmarked and demarcated site relating to the prospective license."

It was thereafter, observed as under:-

"13. In the present case, the Tribunal has quashed the order, meaning thereby the P.L. dated 24.12.2014 stood restored. The respondents were required to handover the possession which they have taken over of the mining area. However, the respondent-State has adopted an approach as if the matter had been remanded back for passing a fresh decision whether P.L. was to be cancelled or not. While quashing the order dated 30.11.2016, the Tribunal also quashed the order dated 17.10.2015 which was made the basis for issuing of show cause notice. Thus, it cannot be said that possession was restored to the situation where show cause notice was still in vogue. The order dated 15.10.2020, thus, is found to be without jurisdiction and without authority in law. The P.L. sanctioned order dated 24.12.2014 which was declared null and void stood restored after passing of the order by the Tribunal dated 19.09.2018.

14. Accordingly, the respondents were required to hand over the possession of the mining area and the petitioner-company was entitled to act according to the P.L. issued to them for the period of three years. The order dated 15.10.2020 is, therefore, liable to be set aside.

15. This Court further accepts the contention of the petitioner-company that the period from 30.11.2016 till the date of handing over possession in terms of the present order, shall be treated as dies non and shall be excluded from the period of three years license granted under the P.L. dated 24.12.2014. The amendments made subsequently in the MMDR Act, 1957 during pendency of this writ petition would not apply to the license granted on 24.12.2014 and the four months additional time required for completing the formalities shall be granted additionally.

16. Accordingly, in view of above findings and conclusions, the order dated 15.10.2020 is quashed and





set aside. The respondents are now directed to handover the possession of the area as earmarked earlier for the mining purposes in terms of license granted to the petitioner-company dated 24.12.2014."

36. Thus, this Court finds that the impugned action and the decision of the State Government is ad-verbetum the same and the reason for cancelling the LoIs/PLs of the present petitioners is the same as was for the petitioner in the case of M/s. Kamlesh Metacast Pvt. Ltd.

37. The action of the State Government is such that it has failed to exercise degree of fairness and rather the action of the State Government is highly discriminatory as on one hand, when the impugned action of the State has been held to be invalid and the impugned orders have also been quashed and set aside by this Court in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) and on the other hand, the plea of the State Government that the present writ petitions may be dismissed on the ground of alternative remedy being available, is found to be ex-facie discriminatory. Thus, in such facts and circumstances of the case, writ jurisdiction can be exercise and mere existence of alternative remedy cannot preclude the petitioners from invoking the writ jurisdiction and it would be highly arbitrary and unjust to relegate the parties to avail statutory remedy of revision after such a long battle before this Court and particularly this one being the second round of litigation.

38. This Court, vide its judgment rendered in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) has already adjudicated upon the controversy involved in the present writ petitions and thus the point of distinguishing the case on the ground that the present



petitioners have not availed the statutory alternative remedy of revision petition does not sustain. This Court, while keeping in view that a set of persons on the same pedestal had been granted relief whereas the present petitioners, while deviating in a process of seeking separate remedy, have been deprived of their valuable rights. Both the set of persons, who were granted LoIs/PLs ought to have been treated in law on an equal footing. The relief sought is similar to the relief sought in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) and the same thus ought to be granted on the same pedestal. It is another thing that on determination of merits also, the petitioners succeed because the statute saves their applications for LoIs/PLs and the respondents have not been able to point out any illegality in continuing with the process of rights that had already accrued to the petitioners and crystalized.

39. Resultantly, the writ petitions are allowed in terms of the judgment rendered in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra). The impugned orders cancelling LoIs/PLs of the petitioners are hereby quashed and set aside and the respondents are directed to proceed in the matter as per the directions given in the case of M/s. Kamlesh Metacast Pvt. Ltd. (supra) in accordance with law.

40. The stay application and all other pending applications, if any, stand disposed of.

(DR. NUPUR BHATI),J

-skm/-



SCHEDULE-A

S.NO.	PETITION NO.	PETITIONER	RESPONDENT
1	SBCWP No. 11058/2018	M/s Krishna Marble	State of Rajasthan & Ors.
2	SBCWP No. 4496/2021	Purshottam Pareek	Union of India & Ors.
3	SBCWP No. 4523/2021	Bindeshwar Pareek	Union of India & Ors.
4	SBCWP No. 4571/2021	Pawan Pareek	Union of India & Ors.
5	SBCWP No. 4585/2021	Chetan Ram Choudhary	Union of India & Ors.
6	SBCWP No. 4831/2021	Rambabu Soni	State of Rajasthan & Ors.
7	SBCWP No. 4866/2021	Lata Chouhan	Union of India & Ors.
8	SBCWP No. 4868/2021	Shyam Sunder Lohiya	Union of India & Ors.
9	SBCWP No. 4869/2021	Monika Sharma	Union of India & Ors.
10	SBCWP No. 5134/2021	M/s Ambika Mines and Minerals	Union of India & Ors.
11	SBCWP No. 5863/2021	Raj Singh Sisodiya	Union of India & Ors.
12	SBCWP No. 5864/2021	Bheru Singh Sisodiya	Union of India & Ors.
13	SBCWP No. 6471/2021	Smt. Alka Mishra	Union of India & Ors.
14	SBCWP No. 6493/2021	Sarla Devi	Union of India & Ors.
15	SBCWP No. 6521/2021	M/s Mahadev Minerals and Chemical Udhyog	Union of India & Ors.
16	SBCWP No. 6579/2021	Smt. Laxmi Gurjar	Union of India & Ors.
17	SBCWP No. 6699/2021	Radheshyam Verma	Union of India & Ors.
18	SBCWP No. 7042/2021	Smt. Gayatri	Union of India & Ors.
19	SBCWP No. 7043/2021	Surendra Kumar Thalod	Union of India & Ors.
20	SBCWP No. 7082/2021	Pawan Kumar	Union of India & Ors.
21	SBCWP No. 7091/2021	Bhawar Lal	Union of India & Ors.
22	SBCWP No. 7093/2021	Ratan Lal Kumawat	Union of India & Ors.
23	SBCWP No. 7118/2021	Mukesh Kumar Verma	Union of India & Ors.
24	SBCWP No. 7761/2021	M/s Anmol Minerals	Union of India & Ors.
25	SBCWP No. 7853/2021	M/s Singhvi Mining Exploration Pvt. Ltd.	Union of India & Ors.
26	SBCWP No. 7962/2021	Janak Kumari	Union of India & Ors.
27	SBCWP No. 7963/2021	Bhawani Singh	Union of India & Ors.
28	SBCWP No. 8203/2021	M/s Ambaji Mines and Minerals	State of Rajasthan & Ors.
29	SBCWP No. 9095/2021	Veer Vikram Singh Tomar	Union of India & Ors.
30	SBCWP No. 9890/2021	Dharam Chand Gurjar	State of Rajasthan & Ors.
31	SBCWP No. 9912/2021	Smt. Deu Bai Gurjar	State of Rajasthan & Ors.
32	SBCWP No. 10078/2021	M/s Dev Narain Minerals	State of Rajasthan & Ors.
33	SBCWP No. 10321/2021	M/s Realistic Natural Resources Pvt. Ltd.	Union of India & Ors.
34	SBCWP No. 10437/2021	M/s Solanki Minerals	Union of India & Ors.
35	SBCWP No. 10613/2021	Meenakshi Jangid	Union of India & Ors.
36	SBCWP No. 10757/2021	Gaje Singh Gaur	Union of India & Ors.



S.NO.	PETITION NO.	PETITIONER	RESPONDENT
37	SBCWP No. 10758/2021	Gaje Singh Gaur	Union of India & Ors.
38	SBCWP No. 10930/2021	Deepsikha Gaur	Union of India & Ors.
39	SBCWP No. 11340/2021	M/s Realistic Natural Resources Pvt. Ltd.	Union of India & Ors.
40	SBCWP No. 11457/2021	M/s Krishna Marble	State of Rajasthan & Ors.
41	SBCWP No. 11600/2021	M/s KGN Minerals	Union of India & Ors.
42	SBCWP No. 11839/2021	Vinod Lalchand Lalwani	Union of India & Ors.
43	SBCWP No. 12133/2021	M/s Jyoti Minerals	Union of India & Ors.
44	SBCWP No. 12689/2021	Lokendra Singh	State of Rajasthan & Ors.
45	SBCWP No. 13530/2021	Salim Choudhary	Union of India & Ors.
46	SBCWP No. 14795/2021	Bheru Singh Sisodia	Union of India & Ors.
47	SBCWP No. 15161/2021	M/s Gayatri Minerals	Union of India & Ors.
48	SBCWP No. 17738/2021	Ishwar Singh	Union of India & Ors.
49	SBCWP No. 2537/2022	Ratanlal Godara	Union of India & Ors.
50	SBCWP No. 2997/2022	Roshan Bhati	Union of India & Ors.
51	SBCWP No. 3026/2022	Rajesh Solanki	Union of India & Ors.
52	SBCWP No. 12755/2022	Harish Soni	State of Rajasthan & Ors.
53	SBCWP No. 12849/2022	Krishna Soni	State of Rajasthan & Ors.
54	SBCWP No. 13191/2022	Krishna Soni	State of Rajasthan & Ors.
55	SBCWP No. 14134/2022	Kamini	Union of India & Ors.
56	SBCWP No. 18623/2022	Dashrath Kumar	Union of India & Ors.
57	SBCWP No. 18634/2022	Laxman Singh	Union of India & Ors.
58	SBCWP No. 19417/2022	Jhabar Mal	Union of India & Ors.
59	SBCWP No. 19419/2022	Puran Mal Swami	Union of India & Ors.
60	SBCWP No. 974/2023	Surendra Singh Dhaka	Union of India & Ors.
61	SBCWP No. 5958/2023	Smt. Kamla Kanwar	Union of India & Ors.
62	SBCWP No. 11775/2021	Ramvatar	Union of India & Ors.
63	SBCWP No. 5418/2021	Rahul Vyas	Union of India & Ors.

