



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

**PUBLIC INTEREST LITIGATION NO.6 OF 2023**

**WITH**

**PUBLIC INTEREST LITIGATION NO.10 OF 2025**

**PUBLIC INTEREST LITIGATION NO.6 OF 2023**

**Samarjeet Chatterjee S/o Shri Ranjeet Kumar Chatterjee,**

**Age about 48 years, Occupation – Contractor (Mining),**

**R/o New Rajendra Nagar, Raipur (C.G.).**

**... Petitioner**

**Versus**

**~~1. Union of India, through Secretary,~~**  
**~~— Government of India, New Delhi.~~**

**... Deleted as per Court's**  
**Order dated 23<sup>rd</sup> August, 2023**

**2. Secretary, Government of India,**  
**Ministry of Coal and Mines,**  
**New Delhi, Shastri Bhawan,**  
**Dr. Rajendra Prasad Road,**  
**New Delhi-110 001.**

**3. Secretary, Government of India,**  
**Ministry of Environment and Forest,**  
**New Delhi, Indira Paryavaran Bhawan,**  
**Jorbagh Road, New Delhi- 110 003.**

**4. Chairman/Members of all the**  
**Expert Appraisal Committees,**  
**Indira Paryavaran Bhawan,**  
**JorBagh Road, New Delhi- 110 003.**

**5. Principal Secretary,**  
**Environment Department,**  
**Government of Maharashtra,**  
**Mantralaya, Mumbai-400 032.**

**6. Joint Director, Water,**  
**Maharashtra Pollution Control Board,**  
Kalpataru Point, 3<sup>rd</sup> and 4<sup>th</sup> Floor,  
Road No.8, Sior Cir, Opp. PVR Theatre,  
Mumbai, Maharashtra-400 022.

**7. Regional Officer,**  
**Maharashtra Pollution Control Board,**  
Chandrapur, Udyog Bhavan, 1<sup>st</sup> Floor,  
Opp. Bus Stand, Railway Station Road,  
Chandrapur-442 401.

**8. Directorate of Geology and Mining,**  
**Government of Maharashtra,**  
Plot No.27, Khanij Bhavan,  
Cement Road, Shivaji Nagar,  
Nagpur, Maharashtra-440 010.

**9. Collector, District Gadchiroli,**  
District Collector Office,  
Gadchiroli, Maharashtra-442 710.

**10. Lloyds Metals and Energy Ltd.,**  
Through its Managing Director,  
A2, 2<sup>nd</sup> Floor, Madhu Estate,  
Pandurang Budhkar Marg,  
Lower Parel, Mumbai-400 012.

**... Respondents**

Shri M.L. Vairagade, Counsel for Petitioner.

Shri Devang Vyas, Additional Solicitor General of India, assisted by Shri N.S. Deshpande, Deputy Solicitor General of India for Respondent Nos.2 and 3.

Shri D.V. Chauhan, Senior Advocate and Government Pleader, with Shri N.S. Rao, Assistant Government Pleader for Respondent Nos. 4 to 6, 8 and 9.

Shri S.S. Sanyal, Counsel for Respondent No.7.

Shri Chinmay S. Dharmadhikari, assisted by Shri Raghav A. Bhandakkar,  
Counsel for Respondent No.10.

**WITH**  
**PUBLIC INTEREST LITIGATION NO.10 OF 2025**

1. **Vishesh S/o Saibaba Bhatpalliwar,**  
Age about 38 years, R/o Near Sai Mandir,  
Allapalli, Tq. Aheri, Dist. Gadchiroli,  
PIN: 442 703, PAN No.ALUPB6544K,  
Phone: 7773936937.
2. **Samarjeet Chatterjee S/o Ranjee Kumar Chatterjee,**  
Age about 50 years, R/o New Rajendra Nagar,  
Raipur (C.G.), PAN No.AEYPC6102R,  
Phone No.9826676990.

... **Petitioners**

**Versus**

1. **Union of India,** through its Secretary,  
Ministry of Coal and Mines,  
New **Delhi**, Shastri Bhawan,  
Dr. Rajendra Prasad Road,  
New Delhi-110 001.
2. **Secretary, Government of India,**  
Ministry of Environment and Forest  
Climate Change, New Delhi, Shastri Bhawan,  
Dr. Rajendra Prasad Road,  
New Delhi-110 001.
3. **Chairman/Members of all the Experts**  
**Appraisal Committee,** Indira Paryavaran  
Bhavan, Jorbagh Road, New Delhi-110 003.
4. **Joint Director, Water,**  
**Maharashtra Pollution Control Board,**

Kalpataru Point, 3<sup>rd</sup> and 4<sup>th</sup> Floor, Road No.8,  
Sion Cir. Opp. PVR Theatre, Mumbai,  
Maharashtra-400 022.

**5. Regional Officer,**

**Maharashtra Pollution Control Board,**  
Chandrapur, Udyog Bhavan,  
1<sup>st</sup> Floor, Opp. Bus Stand,  
Railway Station Road,  
Chandrapur, Dist. Chandrapur-442 401.

**6. Chairman, Maharashtra Pollution Control Board,**

Kalpatru Point, 3<sup>rd</sup> and 4<sup>th</sup> Floor,  
Sion-Matunga Scheme Road No.8,  
Opp. Cine Planet Cinema,  
Near Sion Circle, Sion (E),  
Mumbai-400 022.

**7. Collector, District Gadchiroli,**

District Collector Office,  
Gadchiroli, Dist. Gadchiroli,  
Maharashtra-442 710.

**8. Lloyds Metal and Energy Limited,**

through its Managing Director,  
A2, 2<sup>nd</sup> Floor, Madhu Estate,  
Pandurang Budhkar Marg,  
Lower Parel, Mumbai-400 003.

... **Respondents**

Shri M.L. Vairagade, Counsel for Petitioners.

Shri Devang Vyas, Additional Solicitor General of India, assisted by  
Shri N.S. Deshpande, Deputy Solicitor General of India for Respondent Nos.1  
and 2.

Shri D.V. Chauhan, Senior Advocate and Government Pleader, with Shri N.S. Rao, Assistant Government Pleader for Respondent No.7.

Shri Chinmay S. Dharmadhikari, assisted by Shri Raghav A. Bhandakkar, Counsel for Respondent No.8.

**CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**

**DATE : 9<sup>th</sup> MAY, 2025**

**ORAL JUDGMENT (PER NITIN W. SAMBRE, J.) :**

1. By consent and as prayed for by the learned counsel for the petitioners, both these Public Interest Litigations are tagged together and heard finally.

2. Though in the body of Public Interest Litigation No.10 of 2025, no specific pleadings are provided as regards locus, qualification, and source of knowledge of the petitioner No.2 so as to prefer this Public Interest Litigation, however in the cause-title of Public Interest Litigation No.6 of 2023, the occupation of this petitioner is shown to be Contractor (Mining).

3. In Public Interest Litigation No.6 of 2023, the reliefs sought are as under :

*“i. The Hon’ble Court may kindly be pleased to call for the entire records in the possession of the respondents in respect of the subject matter, for kind perusal.*

*ii. The Hon’ble Court may kindly be pleased to issue an appropriate writ, order or direction to the respondent authorities to cancel the proceedings as per Annex.-P-1 of the expansion, as the same is not as per the guidelines issued by the Ministry of Environment, Forest and Climate Change (IA Division).*

*iii. To kindly make any other order that may be deemed fit and just in the facts and circumstances of the case.*

*iv. hold and declare that entire process of expansion of mining capacity of respondent no.10 company from 3.0 mtpa to 10.0 mtpa is illegal, further hold and declare that grant of Terms of Reference (ToR) dated 18/07/2022 (Annex-A-10 Page no.517) and further grant of egregious Environment clearance (EC) dated 24/02/2023 (Annex-A-11, Page no.166) is illegal and is in clear violation of OM dated 11/04/2022 and SOP dated 07/07/2021 issued by MOE&FF*

*v. quash and set aside the Terms of Reference (ToR) dated 18/07/2022 (Annexe-A-10 Page no.517) and Environment clearance (EC) dated 24/02/2023 (Annexe-A-11, Page no.166), which is in contravention of the OM dated 11/04/2022 and SOP dated 07/07/2021 issued by MOE&FF*

*vi. Respondent Nos. 2 to 4 be directed to revert the activity/production capacity of Respondent No. 10 company to its permissible limits (prior EC), i.e. 3.0 MTPA as per SOP dated 07/07/2021 in the interest of justice.”*

4. In Public Interest Litigation No.10 of 2025, the reliefs sought are as under :

*“i. The Hon’ble Court may kindly be pleased to call for the entire records in the possession of the respondents in respect of the subject matter, for kind perusal.*

*ii. The Hon’ble Court may kindly be pleased to hold and declare that entire process of expansion of mining capacity of respondent no.8-company from 10 MTPA to 60 MTPA is illegal, further hold and declare that the ToR dated 26.11.2024 (Annexure-A) is illegal and is in clear violation of OM dated 11/04/2022 (Annexure-E) and OM dated 30/05/2022 (Annexure-F).*

*iii. The Hon’ble Court may kindly be pleased to issue an appropriate writ, order or direction to the respondent authorities and cancel the ToR dated 26.11.2024 (Annexure-A) granted to the respondent no.8-company for expansion from 10 MTPA to 60 MTPA, being illegal and in violation of OM dated 11/04/2022 (Annexure-E) and OM dated 30/05/2022 (Annexure-F).*

*iv. During the pendency of the present petition, the proposed public hearing dated 28/01/2025 may kindly be stayed.*

*v. grant ad-interim relief in terms of prayer clause (iv).*

*vi. Any other relief deemed fit and necessary in the facts and circumstances may kindly be granted in the interest of justice.”*

5. For deciding both these Public Interest Litigations, the facts narrated in Public Interest Litigation No.6 of 2023 are taken into account.

6. In Public Interest Litigation No.6 of 2023, the petitioner has initially questioned the decision to entertain the proceedings and sought cancellation of the order at Annexure P-1, which is in relation to the minutes recorded by the Maharashtra Pollution Control Board, the respondent herein, in regard to the grant of public hearing.

7. Consequent to such public hearing, the petitioner carried out the amendment pursuant to the orders dated February 28, 2024 and September 04, 2024 and has sought a declaration that the process of expansion of mining capacity of the respondent No.10 from 3 MTPA to 10 MTPA is illegal. He has sought a further declaration that the grant of Terms of Reference (ToR) dated July 18, 2022 and further grant of environmental clearance on February 24, 2023 are illegal and are in violation of the Office Memorandum (OM) dated 11<sup>th</sup> April, 2022 and Standard Operating Procedure (SOP) dated July 07, 2021 issued by the Central Government. Accordingly, the petitioner has sought quashing of the ToR dated July 18, 2024 and the environmental clearance dated February 24, 2023, as the same are in contravention of the aforesaid OM and SOP. The petitioner has further

prayed that the respondents be directed to revert the production capacity of the respondent No.10 to the original permissible limit, viz. the limit that was initially sanctioned and approved prior to the grant of environmental clearance, i.e. 3 MTPA, as per SOP dated July 07, 2021, in the interest of justice.

8. In Public Interest Litigation No.10 of 2025, the very same petitioner has prayed for a declaration that the entire process of expansion of mining capacity of the respondent No.8-Company from 10 MTPA to 60 MTPA is illegal and has accordingly sought a declaration that the ToR dated November 26, 2024 is in violation of OM dated April 11, 2022 and May 30, 2022. The petitioner has accordingly sought the cancellation of the ToR dated November 26, 2024, granted in favour of the respondent No.8-Company.

9. The facts necessary for deciding these Public Interest Litigations preferred under Article 226 of the Constitution of India, read with Rule 7 of the Bombay High Court Public Interest Litigation Rules, 2010, are as under :

(i) The petitioner in Public Interest Litigation No.6 of 2023 is claiming to be a permanent resident of Raipur, State of Chhattisgarh and was in the profession of mining contractor. He has alleged in the affidavit filed under Rule 7 of the above-referred Bombay High Court Public Interest Litigation Rules, 2010, that his annual income is approximately Rupees four to five Lakhs, and he has ceased his business as a mining contractor way back and is now involved in his family business of ayurvedic medicines.



(ii) M/s. Gadchiroli Metals and Minerals Limited applied for grant of iron ore mine for which at the Collector Office, Gadchiroli, on July 12, 2005, a public hearing in the matter of grant of environmental clearance was conducted by the Committee presided over by the Collector, Gadchiroli, respondent No.9, as Chairman along with Regional Officer, Maharashtra Pollution Control Board, Nagpur, and Sub-Regional Officer, Maharashtra Pollution Control Board, Chandrapur, as Members. Based on the said hearing, the recommendations were made, which are as under :

- “1. In this Public Hearing, it is observed that almost all people are interested in supporting the project.*
- 2. As per some remarks from the public, the company should take all precautionary measures for environmental protection and pollution control, and they expressed hope that the company will take all necessary measures within a given time.*
- 3. Company should provide employment opportunities to local people.*
- 4. The company should establish a plant based on iron ore minerals, preferably at Etapalli Taluka in Gadchiroli District.*
- 5. All people expressed their views that Gadchiroli District is covered with 85% Forest land and hence, the question of Forest land and Environment is not a barrier to this project for the development of the District.*
- 6. Company agreed to establish a plant in the local area following all Govt. Rules & regulations.*
- 7. Company is also committed to providing training and employment opportunities to local people.*
- 8. The company also agreed to take care of the cultural values of the local people, the Adiwasi community.*
- 9. A matter of encroachment on Forest land and their farming will be taken into consideration.*
- 10. The company should help to run the railway in this area.”*

(iii) Accordingly, the environmental clearance was granted on May 29, 2006, with a capacity of 3 MTPA under the Environmental Impact Assessment (EIA) Notification of 1994. The said environmental clearance granted by the respondent No.3-Government of India, is based on the terms and conditions, which are in the form of specific and general conditions, which are as under :

***“A. Specific Conditions***

*(i) The mining operations shall not intersect groundwater table. Prior approval of the Ministry of Environment & Forest and Central Ground Water Authority shall be obtained for mining below water level.*

*(ii) A wildlife management plan clearly showing safeguards and management interventions for the area shall be prepared and got vetted by Wildlife Institute of India and duly implemented in the project. The cost of preparation and implementation of wildlife management plan shall be borne by the proponent and included as project costs.*

*(iii) Float ore area shall be completely backfilled concurrently and reclaimed with topsoil. Backfilling shall start from the 6<sup>th</sup> year onwards.*

*(iv) Use of ripper dozer as an alternate technology to avoid blasting and ground vibrations shall be explored and adopted to the extent possible.*

*(v) Topsoil shall be stacked properly with a proper slope, with adequate measures, and should be used for the reclamation and rehabilitation of mined-out areas.*

*(vi) There shall be no external overburden dumps. Monitoring and management of rehabilitated areas should continue until the vegetation becomes self-sustaining. Compliance status should be submitted to the Ministry of Environment & Forests on a six-month basis.*

*(vii) Catch drains and siltation ponds of appropriate size should be constructed to arrest silt and sediment flows from soil, temporary dumps and mineral dumps. The water so collected should be utilized for watering the mine area, roads, green belt development etc. The*

*drains should be regularly desilted, particularly after monsoon, and maintained properly.*

*Garland drain (size, gradient and length) shall be constructed for mine pit and for temporary dumps, and sump capacity should be designed keeping a 50% safety margin over and above peak sudden rainfall (based on 50 years of data) and maximum discharge in the area adjoining the mine site. Sump capacity should also provide an adequate retention period to allow proper settling of silt material. Sedimentation pits should be constructed at the corners of the garland drains and desilted at regular intervals.*

*(viii) Dimension of the retaining wall at the toe of dumps and OB benches within the mine to check run-off and siltation should be based on the rainfall data.*

*(ix) Plantation shall be raised in an area of 342.29 ha, including a green belt of 5.8 ha, around ML area, mineral separation plant, roads, etc., by planting the native species in consultation with the local DFO/ Agriculture Department. The density of the trees should be around 2500 plants per ha.*

*(x) The project authority should implement suitable conservation measures to augment groundwater resources in the area in consultation with the Regional Director, Central Ground Water Board.*

*(xi) Regular monitoring of groundwater level and quality should be carried out by establishing a network of existing wells and constructing new piezometers during the mining operation. The monitoring should be carried out four times in a year – pre-monsoon (April-May), Monsoon (August), post-monsoon (November) and winter (January) and the data thus collected may be sent regularly to MOEF, Central Ground Water Authority and Regional Director of the Central Ground Water Board.*

*(xii) Suitable rainwater harvesting measures on a long-term basis shall be planned and implemented in consultation with Regional Director, CGWB.*

*(xiii) Permission from the competent authority should be obtained for the drawal of water from the river.*

*(xiv) A suitable embankment of proper dimensions should be constructed to protect the area from floodwater during the rainy season.*

(xv) *Appropriate mitigative measures should be taken to prevent pollution of the Bandia River in consultation with the State Pollution Control Board.*

(xvi) *Vehicular emissions should be kept under control and regularly monitored. Measures shall be taken for the maintenance of vehicles used in mining operations and in the transportation of minerals. The vehicles should be covered with a tarpaulin and shall not be overloaded.*

(xvii) *The project authorities should undertake a sample survey to generate data on pre-project community health status within a radius of 1 km from the proposed mine.*

(xviii) *Blasting operation should be carried out only during the daytime. Controlled blasting should be practised. The mitigative measures for control of ground vibrations and to arrest flying rocks and boulders should be implemented.*

(xix) *Drills should be wet operated or operated with dust extractors.*

(xx) *A water sprinkling system shall be provided to check fugitive emissions from ancillary operations such as crushing, screening plant, etc.*

(xxi) *Consent to operate should be obtained from SPCB before starting production from the mine.*

(xxii) *A Sewage treatment plant should be installed for the colony. ETP should also be provided for the workshop and the mineral separation plant wastewater.*

(xxiii) *Digital processing of the entire lease area using remote sensing techniques should be done regularly, once every three years, for monitoring land use patterns and a report submitted to MOEF and its regional office.*

(xxiv) *A Fine Mine Closure Plan, along with details of the Corpus Fund, should be submitted to the Ministry of Environment & Forests 5 years in advance of final mine closure for approval.*

#### **B. General conditions**

(i) *No change in mining technology and scope of working should be made without prior approval of the Ministry of Environment & Forests.*

(ii) *No change in the calendar plan, including excavation, quantum of mineral iron ore and waste, should be made.*

(iii) *Conservation measures for the protection of flora and fauna in the core and buffer zones should be drawn up in consultation with the local forest department.*

(iv) *Four ambient air quality-monitoring stations should be established in the core zone as well as in the buffer zone for RPM, SPM, SO<sub>2</sub>, and NO<sub>x</sub> monitoring. Location of the stations should be decided based on the meteorological data, topographical features, and environmentally and ecologically sensitive targets, and frequency of monitoring should be undertaken in consultation with the State Pollution Control Board.*

(v) *Data on ambient air quality (RPM, SPM, SO<sub>2</sub>, NO<sub>x</sub>) should be regularly submitted to the Ministry, including its Regional office located at Bhopal and the State Pollution Control Board/Central Pollution Control Board, once in six months.*

(vi) *Fugitive dust emissions from all the sources should be controlled regularly. Water spraying arrangement on haul roads, loading and unloading and at transfer points should be provided and properly maintained.*

(vii) *Measures should be taken for control of noise levels below 85 dBA in the work environment. Workers engaged in operations of HEMM, etc, should be provided with earplugs/muffs.*

(viii) *Industrial wastewater (workshop and waste water from the mine) should be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19<sup>th</sup> May, 1993 and 31<sup>st</sup> December, 1993 or as amended from time to time. An Oil and grease trap should be installed before the discharge of workshop effluents.*

(ix) *Personnel working in dusty areas should wear protective respiratory devices, and they should also be provided with adequate training and information on safety and health aspects.*

*Occupational health surveillance programs for workers should be undertaken periodically to observe any contractions due to exposure to coal dust and take the correct measures, if needed.*

(x) *A separate environmental management cell with suitable qualified personnel should be set up under the control of a Senior Executive, who will report directly to the Head of the Organization.*

(xi) *The project authorities should inform the Regional Office located at Bhopal regarding the date of financial closures and final approval of*

*the project by the concerned authorities, and the date of start of land development work.*

*(xii) The funds earmarked for environmental protection measures should be kept in a separate account and should not be diverted for other purposes. Year-wise expenditure should be reported to the Ministry and its Regional Office located at Bhopal.*

*(xiii) The Regional Office of this Ministry, located at Bhopal, shall monitor compliance with the stipulated conditions. The project authorities should extend full cooperation to the officer(s) of the Regional Office by furnishing the requisite data/information/monitoring reports.*

*(xiv) A copy of the clearance letter will be marked to the concerned Panchayat/local NGO, if any, from whom and suggestions/representations have been received while processing the proposal.*

*(xv) State Pollution Control Board should display a copy of the clearance letter at the Regional office, District Industry Centre and Collector's office/Tehsildar's Office for 30 days.*

*(xvi) The project authorities should advertise at least in two local newspapers widely circulated, one of which shall be in the vernacular language of the locality concerned, within 7 days of the issue of the clearance letter informing that the project has been accorded environmental clearance and a copy of the clearance letter is available with the State Pollution Control Board and may also be seen at web site of the Ministry of Environment and Forests at <http://envfor.nic.in> and a copy of the same should be forwarded to the Regional Office of this Ministry located Bhopal.*

**(iv)** Subsequent thereto, the respondent No.3 brought into effect the fresh EIA Notification dated September 14, 2006 (hereinafter referred to as "*the Notification of 2006*").

**(v)** The environmental clearance granted in favour of M/s. Gadchiroli Metals and Minerals Limited, on May 29, 2006, was transferred in favour of the respondent No. 10- Company.

(vi) Since the period for which the validity of the mining project will be in existence was under cloud, and whether the fresh environmental clearance after expiry of five years is required, the respondent No.3 vide Notification dated August 21, 2013 clarified that the EIA Notification of 1994 provides for the validity of environmental clearance certificate for five years for commencement and not from the commencement of operation and a capping of maximum thirty years is provided. The clarification in the said Notification further provides that the validity of environmental clearance shall be construed to mean for a period of five years from the commencement of construction or operation.

(vii) Since the fresh EIA Notification came into force, the project proponent, like the respondent No.10, was required to make an application within six months from the date of issuance of the said Notification. The respondent No.10 never applied for a grant of environmental clearance based on the above, and it is claimed that, because of the Naxalite problems, the mining operations were almost brought to a standstill. The respondent No.10 pursuant to SOPs issued by the respondent No.3 under the directions of the National Green Tribunal for grant of environmental clearance applied for grant of EIA and environmental clearance through online proposal dated June 14, 2022 based on the SOP framed under the OM dated July 07, 2021 seeking grant of ToR for production capacity of 10 Metric Tonne Per Annum of iron ore. Respondent No. 10 also sought environmental clearance under the EIA Notification of 2006 for a crushing and screening plant.

(viii) In the 53<sup>rd</sup> EIA Meeting held in June 2022, the proposal of the petitioner was processed with the recommendation that since the ToR under the OM dated July 07, 2021 was violated, action should be initiated against the respondent No.10 under Section 19 of the Environment (Protection) Act, 1986 in addition to the action by the State Pollution Control Board. The respondent No.3 accordingly issued the ToR in favour of the respondent No.10 on July 18, 2022, subject to the aforesaid action to be initiated by the State Pollution Control Board.

(ix) Based on the above development, the respondent No.10 applied for a public hearing on July 28, 2022, which was conducted on October 27, 2022, in the office of the respondent No.9 at the District Headquarters, i.e. Gadchiroli. The notice of public hearing was issued in the regional/local and national newspapers in their edition of September 23, 2022, scheduling the date of public hearing as October 27, 2022. In the said meeting, a public hearing was conducted under the stewardship of the respondent No.9-Collector, Gadchiroli, along with the officials from the respondent-Maharashtra Pollution Control Board as Members of the Committee, as well as public representatives and the local public in large numbers.

(x) Based on the aforesaid, the respondent No.10 moved an online application for the grant of environmental clearance with a capacity of 10 MTPA. In the 8<sup>th</sup> Expert Appraisal Committee Meeting, the said application was considered subject to incurring the expenditure of 26.64 crores towards remediation, national resource augmentation and community resource



augmentation measures over a period three years from the grant of environmental clearance and also subject to furnishing a bank guarantee for the said amount and payment of penalty of Rs.5.48 crores as was calculated as per the SOP prescribed under the Notification dated July 07, 2021 and the recommendations were made to the respondent No.3, i.e. the Ministry of Environment and Forest.

(xi) The respondent-Maharashtra Pollution Control Board accordingly preferred a complaint against the respondent No.10 being Criminal Case No.128 of 2023 before the Court of Magistrate, Aheri alleging violation of the provisions of Sections 15, 16 and 19 of the Environment (Protection) Act, 1986, as the respondent No.3 based on the recommendations of the Expert Appraisal Committee was of the view that there is a failure of the respondent No.10 in not obtaining a fresh environmental clearance under the EIA Notification of 2006.

(xii) The respondent No.10 came to be convicted for an offence under Section 16, punishable under Section 15 of the Environment (Protection) Act, 1986, having pleaded guilty. Apart from the above, after satisfying the conditions of penalty and furnishing of bank guarantee, as referred above, the respondent No.3 granted fresh environmental clearance to the respondent No.10 on 24th February, 2023, for excavation of iron ore to the extent of 10 MTPA. It is this ToR dated 18<sup>th</sup> July, 2022 and the environmental clearance dated 24<sup>th</sup> February, 2023, which are subject matter of challenge alleging

violation of the OM dated 11th April, 2022 and SOPs framed under the Notification dated 7th July, 2021, issued by the respondent No.3.

**(xiii)** In Public Interest Litigation No.10 of 2025, the petitioner has sought a declaration that the process of expansion of mining capacity of the respondent No.10 in the present Public Interest Litigation and the respondent No.8 in Public Interest Litigation No.10 of 2025 from 10 MTPA to 16 MTPA is illegal and sought quashing of the ToR dated November 26, 2024 since the same is in violation of the OM dated April 11, 2022 and May 30, 2022.

**10.** Shri Vairagade, learned counsel for the petitioners, submits that the respondent No.10 continued the mining of iron ore from the year 2011 to 2023. According to him, respondent No. 10 obtained the environmental clearance for the erstwhile M/S. Gadchiroli Metals and Minerals Limited on May 29, 2006, under the EIA Notification of 1994, and the same was valid only for five years. It is claimed that the project proponent has operated the mine after 2011 without obtaining the necessary environmental clearance under the EIA of 2006. As such, the project of respondent No.10 falls under the violation case, and such a case ought to have been dealt with by respondent No.3 under the Notification dated April 06, 2018.

**11.** According to the counsel for the petitioners, in the 53<sup>rd</sup> Meeting of the Expert Appraisal Committee held on January 28, 2022, the Committee recommended the proposal of the ToR being in violation of the OM dated July 07, 2021 issued by the respondent No.3. According to him, the grant of ToR by the Expert Appraisal Committee ought not to have been under the OM

dated July 07, 2021 and the SOP framed thereunder and also that of the OM dated April 06, 2018. According to him, Clause 16 of ToR, the compliance was warranted, which speaks of the respondent No.10 should have reverted to the original capacity, viz. 3 MTPA, however, the expansion is granted in violation of the said ToR and OMs dated 7<sup>th</sup> July, 2021 and 11<sup>th</sup> April, 2022.

**12.** The counsel for the petitioners would further claim that in view of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, particularly Clause 7(ii) and the OM dated April 11, 2022, particularly Clause 4(iv), the expansion ought not to have been 50% of the production capacity, i.e. 50% of 3 MTPA, and the grant of expansion as such goes contrary to the aforesaid provisions. According to him, in the absence of there being any environmental clearance after May 28, 2011, the environmental clearance ought not to have been granted. Even otherwise, he would claim that for the reasons aforesaid and having regard to the prosecution of the respondent No.10, who was convicted for violation of the Environment (Protection) Act and the Rules framed thereunder, the State-level Expert Appraisal Committee ought not to have recommended the case of the respondent No.10 for environmental clearance. According to him, the operation by the respondent No.10 for a period from 2011 to 2022, for which there was no environment clearance, the respondent No.3 has overlooked the violations and granted ToR and further granted environmental clearance contrary to the OM referred above. He would claim that not only there was a violation of ToR, but also the respondent No.10 has produced and dispatched a greater quantity of iron ore

than the permissible one. That being so, he has sought quashing of the grant of environmental clearance and further expansion of the quota from 3 MTPA to 10 MTPA and further to 16 MTPA.

**13.** In view of the above matter, the counsel for the petitioners would urge that not only the environmental clearance granted earlier is liable to be quashed but also the directions need to be issued to the respondent No.3 to instruct the respondent No.10 further to revert back to its original capacity of 3 MTPA and the expansion, if any, be considered to the extent of 50% of the original capacity and in any case, the same cannot be 10 MTPA from 3 MTPA and 16 MTPA from 10 MTPA. According to him, the aforesaid conduct of the respondent No.3 in favour of the respondent No.10 amounts to a grant of unjust enrichment by acting contrary to the SOP provided under the OM dated July 07, 2021, April 11, 2022, and May 30, 2022. He would claim that even if the petitioner is a resident of Chhattisgarh State, still he has every right to prefer the present Public Interest Litigations and sought support from the Division Bench judgment of this Court in the matter of *Adv. Aires Rodrigues Vs. Communitate of Serula and others* [2014(5)Mh.L.J. 308] and the judgment of the Apex Court in the matter of *Indian Banks' Association, Bombay and others Vs. Devkala Consultancy Service and others* [(2004) 11 SCC 1]. According to him, the aforesaid conduct of the respondent No.3 in extending undue favour to the respondent No.10 has not only resulted in the rise in water pollution but also air and sound pollution. According to him, even otherwise also the venue being 150 km. away from the actual mine area, the same has resulted in the denial of an effective opportunity to hear the

petitioner. He would further claim that the respondent Nos. 3 and 10 are also responsible for the violation of the Wildlife (Protection) Act and the Environment (Protection) Act.

14. As against above, the learned Deputy Solicitor General of India appearing for the respondent Nos.1 to 3, the learned Government Pleader appearing for the respondent Nos.5, 8 and 9, the learned counsel appearing for the respondent No.7, and the learned counsel appearing for the respondent No.10 would attack the locus of the petitioner to file the present Public Interest Litigations. The respective counsel appearing for the respondents speak of the petitioner, who is a resident of another State cannot be said to be even remotely connected to the Gadchiroli District in the State of Maharashtra and as such cannot be said to be affected or has a right to espouse the cause of the residents of Gadchiroli. The respondents would further claim that the petitioner has no remote link with the area in which the respondent No.3 is operating, and that being so, there is no violation of any of his rights. According to them, even if what has been stated is accepted that he raised an objection, the fact remains that he never attended the public hearing conducted by the respondent No.9 at the District Headquarters and that being so, he sans locus to question the legality of the orders which are impugned in these Public Interest Litigations. The respondents would further claim that the initial environmental clearance granted in 2005-06 was after the hearing was conducted by the respondent No.9 at the very same place and the said hearing was never questioned by the petitioner or any of the residents of Gadchiroli District for last twenty years thereby doubting the

*bona fides* of the respondent Nos.1 to 3 or that of the respondent Nos.7 and 9. So as to substantiate their contention that the petitioner lacks locus, the respondents have drawn support from the judgment of the Apex Court in the matter of *Ashok Kumar Pandey Vs. State of W.B.* [(2004) 3 SCC 349], particularly Paragraphs 4, 12 and 14 and the judgment of this Court in the matter of *Mrinall Shashi Shekhar Chakravorty Vs. Election Commission of India, New Delhi and another* [2020(4) Mh.L.J. 402], particularly Paragraphs 11, 13, 15, 17, 21 and 22. According to the respondents, even if it is considered that Gadchiroli consists of a tribal-dominated population and there is an ignorance of literacy, inarticulation or poverty, the fact about public representatives attended the public hearing speaks of the representation given to the local population. It is claimed that the very *bona fides* of the petitioner are under cloud, as the present petition is a luxury litigation, as he has nothing to lose in the matter. The learned Government Pleader appearing for the respondent-State has invited our attention to the procedure for the grant of environmental clearance and the place contemplated for holding the public hearing, which are not statutorily prescribed. According to him, the procedures under various OMs are in the form of administrative instructions, which have no statutory force. According to him, there cannot be an absolute right in the procedural legitimate expectation, apart from the fact that there is no violation of the statutory right. The learned Government Pleader would submit that the public hearing was conducted at the District Headquarters because of the massive naxal activities in and around the area of mining, and the said fact can be inferred from the documents, which the petitioner himself

has placed on record. He would further claim that the grant of a public hearing at the time of initial environmental clearance at the District Headquarters is not questioned by the petitioner.

15. The counsel for the respondent no.3, while drawing support from the judgment of the Apex Court in *Ashok Kumar Pandey Vs. State of W.B.* [(2004) 3 SCC 349], particularly Paragraph 4, would urge that the 'Public Interest Litigation' should be properly regulated and its abuse needs to be averted as the same becomes a tool in unscrupulous hands to release vendettas and wreak vengeance. Unless the Court is of the firm opinion that there exists a germane and genuine issue in the public interest litigation and not merely an adventure of a knight errant or poke one's nose into for a probe, the public interest litigation shall not be entertained. He would claim that when the petitioner had approached the Apex Court through a special leave petition questioning the orders of this Court, the Apex Court had dismissed the said petition by observing that the special leave petition preferred by the petitioner was vexatious in nature.

The Deputy Solicitor General of India while opposing the prayer of the petitioner on merit and without prejudice to the earlier contention of lack of locus would urge that the respondent no.3 has conducted itself strictly in accordance with the EIA Notification dated September 14, 2006 in the matter of grant of environmental clearance in relation to new projects. According to him, the earlier environmental clearance, dated May 29, 2006, was valid for five years, as per the judgment of the Apex Court dated August 20, 2017, delivered in Writ Petition No. 114 of 2014 [Common Cause Versus *Union of*

*India*]. The respondent no.10, having regard to the EIA Notification dated May 29, 2006, made an online application for ToR on June 13, 2022, for a production capacity of 10 MTPA. According to him, it is not an enhancement to grant a fresh sanction for the excavation of iron ore of 10 MTPA. According to him, as per the SOP prescribed under the EIA Notification dated July 07, 2021 the ToR was issued for production capacity of 10 MTPA with certain conditions including conduct of public hearing which was duly conducted by the respondent no.9. He would submit that the grant of environmental clearance in favour of the respondent no.10 on February 24, 2023 is only after following the SOP dated July 07, 2021 prescribed under the EIA Notification dated May 29, 2006. As such, he would claim that both the public interest litigations lack merit and are liable to be dismissed.

16. The counsel for the respondent no.10 would urge that the notification dated August 21, 2023, issued by it is self-explanatory. According to him, the period of five years has to be construed as for the commencement of construction or operation and not from the commencement and operation. According to him, the respondent no.10 *bona fide* could not apply for environmental clearance in view of the Naxal problem, which has virtually stopped their mining operations. It is claimed that the said respondent could produce 560 MTPA of iron ore in 2019-20 and 2020-21. According to him, from 2007-08 to 2021-22, the cumulative production was 3.2 million tonnes. He would draw support from the communication dated June 28, 2022, issued to that effect from the District Mining Officer, Gadchiroli, who works under the aegis of the District Collector. He would further claim that in the case



where the environmental clearance is not obtained, the SOP was laid down under the OM dated July 07, 2021, and the same was duly adhered to by the petitioner. According to him, the petitioner has misread the SOP dated July 07, 2021, to claim that the respondent no.10 should revert back to its original capacity for violating the terms of the environmental clearance certificate. According to him, there is no violation of the SOP dated July 07, 2021 and the online application dated June 14, 2020, was rightly dealt with in accordance with the said SOP for the grant of production capacity of 10 MTPA of iron ore with a crushing and screening plant. He would claim that 53<sup>rd</sup> Environmental Impact Assessment Committee has rightly recommended the proposal after noticing violation of ToR and penalised the respondent no.10. According to him, not only the public hearing was rightly so conducted by the respondent no.9 at District Headquarters but the answering respondent has furnished the bank guarantee of the penalty with the State Pollution Control Board. The respondent, having pleaded guilty, was punished under Section 16 of the Environment (Protection) Act, which led to the grant of an Environmental Clearance Certificate. He would claim that the environmental clearance certificate dated February 24, 2023, was issued only by the respondent no.3 under the strict compliance with and adherence to the provisions of the EIA Notification dated May 29, 2006 and the SOP dated July 07, 2021. He would urge that the guidelines dated April 11, 2022, provide for the procedure of expansion up to 50% without a public hearing and the eligibility criteria for its application. According to the counsel for the respondent no.10, it has provided employment to around 2000 people with a

minimum salary of Rs.15,000/- per month. It has also promoted skill development training for the local residents, such as computer training, LMV, HMV operation, mechanics, catering, etc. It has also provided healthcare facilities such as hospitals, ambulances, free medicines, etc. According to him, 80% of the project has already been completed, and it has paid a royalty of 2000 Crores to the District Mineral Fund till this date. As such, it has sought dismissal of both the public interest litigations.

17. We have considered the rival submissions.

18. At the outset, since all the respondents have raised an objection to the locus of the petitioner, we deem it appropriate to deal with the said contention at the threshold.

19. The Apex Court in *Ashok Kumar Pandey* (supra) in paragraphs 4, 12, 14, 17 has made the following observations:-

*“4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke ones into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be*

*allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in The Janta Dal case (supra) and Kazi Lhendup Dorji vs. Central Bureau of Investigation, (1994 Supp (2) SCC 116). A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See Ramjas Foundation v. Union of India [AIR 1993 SC 852] and K.R. Srinivas vs. R.M. Premchand [1994 (6) SCC 620].*

**12.** *Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.*

**14.** *The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information not being vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interests: (i)*

*nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such a case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that, under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busybodies, or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect.*

*17. Coming to the facts of the case, it has not been shown as to how and in what manner the accused, condemned prisoner, is handicapped in not seeking relief, if any, as available in law. The matter pertains to something to happen or not at Kolkatta and what was the truth about the news or cause for the delay, even if it is not known, ascertained or even attempted to be ascertained by the petitioner before approaching this Court. To a pointed query, the petitioner submitted that the petitioner "may not be aware" of his rights, that except for the news he heard, he could not say any further and "the respondent-State may come and clarify the position. This petition cannot be entertained on such speculative foundations and premises, and to make a roving enquiry. May be at times even on certain unconfirmed news but depending upon the gravity or heinous nature of the crime alleged to be perpetrated which would prove to be obnoxious to the avowed public policy, morals and greater societal interests involved, Courts have ventured to intervene but we are not satisfied that this could be one such case, on the facts disclosed. It is reliably learnt that a petition with almost identical prayers was filed before the Calcutta High Court by relatives of the accused, and the same has been recently dismissed by the High Court."*

**20.** In addition to above, the Division Bench of this Court in *Mrinall Shashi Shekhar Chakravorty* (supra) on the issue of locus of the petitioner-litigant

therein has considered the said issue on similar lines of the Apex Court and has made following observations in paragraphs 11, 12, 13, 17, 21 and 22:-

*“11. Only a person who has suffered from some legal injury can challenge the Act/Orders/Rules etc., in the Court of law. Writ Petition under Article 226 of the Constitution of India is maintainable for the purpose of enforcing a statutory or legal right, where there is a complaint of breach of statutory duty on the part of the Authorities. We are aware that the rule of locus standi in public interest litigation requires no rigid litmus test, but certainly, Courts are empowered to examine the case on settled parameters. The dominant object of public interest litigation is to ensure the observance of the provisions of the Constitution or the Law, which can be best achieved to advance the cause of a community or disadvantaged groups. However, only a person acting bona fide or having sufficient interest in the proceedings of public interest litigation will alone have locus and can approach the Court for the poor and needy suffering from a violation of their statutory rights. This necessitates us to examine the case to ensure the bona fides and whether there is involvement of genuine public interest. The Court is expected to maintain strict vigilance to ensure that there is no abuse of the process of law and that ordinarily, the by-standards are not granted a passport.*

*12. In Black's Law Dictionary (6th Edition), 'public interest' is defined as "something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything to narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government..."*

*13. In our country, the concept of Public Interest Litigation initially surfaced in the year 1976. After germination of the seeds of the concept of public interest litigation in the soil of our judicial system, this Rule of public interest litigation was nourished, nurtured and developed by the Supreme Court in a series of decisions. The traditional syntax of law in regard to locus standi for a specific judicial redress has been relaxed to achieve the avowed purpose. The recognition for departing with the strict rule of locus*

*standi was to echo the voice of the downtrodden or poor who are unable to approach the Court for one reason or another. Gradually, the Courts have perceived, misuse of public interest litigation, hence, as a note of caution, examination of bonafides of petitioner has become an order of the day.*

*17. The basic idea behind diluting the concept of locus is based on the philosophy that the actual person aggrieved because of his ignorance, illiteracy, unarticulation or poverty, is unable to approach the Court for his own cause. Here, the petitioner took a self-motivated flag for the candidates of unrecognised political parties or independent candidates, who are desirous to contest the elections. Certainly, the said class cannot be termed as ignorant, illiterate or members from poor strata of the society. None of them has raised this challenge, therefore, it is inappropriate to examine said cause which amounts to foreclosing their rights at the behest of somebody else. Such class may have some different angle to view the changed provisions which one may not know. In the circumstances, not even a single characteristic of public interest litigation is visible.*

*21. Present petition is silent about any nexus of petitioner with the cause which has been self shouldered. In this luxury litigation, the petitioner has nothing to lose, but is trying to gain, and thus, it is a waste of valuable time of the Court. Our system should not afford us to succumb to such attacks. No doubt, the doors of Courts are open in entertaining the real and genuine public interest involved in matters, but certainly, adventurous experiments are to be nipped in the bud. The system is not so fragile which can be usurped by anybody for no reason by invoking the extra ordinary jurisdiction which has its own sanctity and object.*

*22. In the result, we are not inclined to entertain the petition, which is styled as Public Interest Litigation. We are of the opinion that this is not a fit case where Public Interest Litigation jurisdiction should be invoked or exercised. There is nothing to suggest that none of the affected person can take up the cause and approach to the Court of law. Majority, if not, all of them who are contesting or desiring to contest the election would be person with proper means who can also avail proper legal remedy. This is not a case where the petitioner is espousing the cause of a weaker section of the society,*

*who on account of hardships and handicaps inherently faced by them, are unable to knock the doors of justice. In substance, there is no reason why such an issue can be examined in public interest, as stated above. Accordingly, we dismiss the petition on account of non-maintainability. We make it explicitly clear that we have not dealt with the challenges raised by the petitioner on merit. No order as to costs.”*

21. We are required to be sensitive as to what prompted the petitioner, who is a resident of the State of Chhattisgarh, to file a public interest litigation in the State of Maharashtra, and that too in relation to a project to which he could not be said to be remotely connected. In *Ashok Kumar Pandey* (supra), the Apex Court, through an authoritative pronouncement, has held that while entertaining the public interest litigation, the Courts should also be sensitive to the principle of handling the same with great care and circumspection. The Apex Court has observed that it has to be used as an effective weapon in the armoury of law for delivering the social justice to the citizens, and the same be not permitted to be used for suspicious products of mischief. The Apex Court has further held that it should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on a personal vendetta. Such attempts of the busy bodies deserve to be thrown out by rejection at the threshold and, in appropriate case, with exemplary costs. Amongst others, the Courts must be satisfied while entertaining the public interest litigation about the credentials of the petitioner, *prima-facie* correctness or nature of the information given by him, being not vague and indefinite, and it should demonstrate the gravity and seriousness. The Courts

should be sensitive and careful to the fact that the petitioner should not be allowed to indulge in making wild and reckless allegations.

**22.** Though the learned counsel for the petitioner has tried to draw support from the judgment of the Apex Court in *Indian Bank Association* (supra) and the Division Bench judgment of this Court in *Adv. Aires Rodrigues* (supra), however, both these judgments are not at all applicable to the case in hand. The fact remains that the Division Bench judgment of this Court in *Adv. Aires Rodrigues* (supra) is based on the Portuguese law and the petitioner therein had demonstrated before the Division Bench of this Court that even if he is not the member of the community, having no personal or pecuniary interest and still he has demonstrated the prejudice being caused by the action of the respondents therein. The Division Bench of this Court has accepted that the petitioner therein is a *bona fide* litigant and he was able to demonstrate the violation of the constitutional rights of the community. The Division Bench of this Court further observed that it is duty-bound to entertain the public interest litigation in the interest of a larger section of the public. The issue in the said public interest litigation was in relation to the development of the community farm land in Goa, which is a Union Territory, wherein the ownership is collectively held. In the said case, a stranger's encroachment was sought to be regularised which otherwise is not permissible in law and as such the Court considering the locus of the petitioner, who was a practising Advocate has allowed him to espouse the cause of the general public which does not appear to be the case in hand. The Apex Court in *Institute of Law, Chandigarh v. Neeraj Sharma* [(2015) 1 SCC 720] and the Division Bench of



this Court in *Bhupal Anna Vibhute v. Collector of Kolhapur*, [1996 SCC OnLine Bom 156] while deliberating upon the locus standi of the petitioner had upheld the maintainability of the Public Interest Litigation as the petitioner in those cases was a resident of the same State of which the action was assailed. Apart from above, in *Indian Banks Association* (supra) though the Apex Court has held that the High Court can entertain the petition moved by the person having knowledge in the subject matter of *lis* and can be termed as a person having interest therein, we are required to be sensitive to the very status of the petitioner who is not even the resident of this State and has no nexus with the cause. We have already observed that not only he lacks financial capacity, but even the source of knowledge and the information gathered by him is not disclosed. Rather, perusal of the minutes of the meeting in relation to the public hearing suggests that the representation from all the sectors was entertained, and observations were duly forwarded to the competent authority.

**23.** In the light of the observations of the Apex Court in *Ashok Kumar Pandey* (supra) and also the observations of the Division Bench of this Court in *Mrinall Shashi Shekhar Chakravorty* (supra), when confronted, the counsel for the petitioner is not in a position to satisfy this Court as to what legal injury the petitioner is said to have suffered. The petitioner, who has an annual earning capacity of Rupees Four to Five Lakhs, was a mine contractor and claims to have discontinued his said occupation and has all the way traveled to the State of Maharashtra after allegedly gathering information from Aheri where the plant is located which is at a distance of more than 200

kilometers from this place. We fail to understand as to what is the source of expenses incurred by the petitioner as there is a serious doubt about his *bona fides* also. Merely because the petitioner is claiming to be a social servant that by itself does not give him the locus to prefer the public interest litigation as he has not shown any nexus with the cause, which he intends to espouse, of such people who are residing almost more than 300 Kilometers away from his place of residence and that too in another State. The fact that the petitioner has not questioned the earlier public hearing, which was conducted at the District Headquarters in 2005-06, and is now questioning the subsequent public hearing, sufficiently demonstrates that the petitioner lacks *bona fides* in the matter of preferring the public interest litigation. Apart from the above, it is very difficult to even recover the costs from the petitioner, if so saddled, having regard to his monthly and annual income. On this count alone, both these public interest litigations are liable to be rejected, and we intend to dismiss both these public interest litigations on this count alone.

**24.** However, since certain issues on merits are sought to be canvassed by both parties, we intend to deal with the same in brief.

The fact about the issuance of communication dated September 09, 2022, by the State Police Department about the Naxal issue and the suggestion that the hearing should not be conducted in Aheri, where the plant is located, prompted the District Magistrate to hold the public hearing at the District Headquarters. Even otherwise, the petitioner has failed to demonstrate that there is a statutory right vested in him to claim a public

hearing for the grant of an environment clearance certificate at the site where permission to mine the iron ore is granted.

25. The entire case of the petitioner revolves around the grant of environmental clearance and the procedure followed for the same, which he claimed to be in breach of the procedure contemplated under the EIA Notification dated May 29, 2006. The fact remains that in compliance with the EIA Notification dated May 29, 2006, as amended on December 01, 2009, a public hearing was conducted at the District Headquarters, which is perhaps properly secured in view of the Naxal menace. Based on the online application moved by the respondent no.10, the SOP dated July 07, 2021, appears to have been adhered to. Not only the earlier violation by the respondent no.10 is addressed by directing its prosecution for the offence punishable under Section 15 of the Environment (Protection) Act, but also the bank guarantee and other stringent conditions were imposed. So far as the contention that the environmental clearance ought not to have been granted contrary to the SOP dated July 07, 2021 is concerned, we are required to be sensitive to the fact that it is only in case if the enhanced capacity is sought to the extent of 50% of the existing capacity, requirement of fresh environmental clearance certificate is done away with. In the case at hand, the complete procedure based on the ToR is followed.

26. That being so, in the aforesaid background, both the public interest litigations *sans* merit. Hence, they are dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)