

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO-12

/2022

IN THE MATTER OF

Srinath Mishra

Applicant

Versus

State Of Odisha and Others

Respondents

AFFIDAVIT

I, **Sri Srinath Mishra**, aged about 60 years, S/o- Umakanta Mishra, Res.-Charibatia Singh Colony, P.O.-Chandikhole, P.S.-Dharmasala, Pin-755044 Dist-Jajpur, Odisha do hereby solemnly affirm and state as follows:

- (1) That I am the applicant in the aforementioned application and I am apprising the Hon'ble Tribunal about the W.P(C) No-29310/2022 filed by (GECPL) Gammon Engineers and Contractors Private Limited, in the Hon'ble High Court of Odisha.
- (2) That the matter was finally heard on 01.08.2025 and the judgement was delivered on 17.10.2025 which is enclosed here with for the kind perusal of the Hon'ble Tribunal.

Ashis Kumar Mahapatra

Ashis Kumar Mahapatra
Notary Public No-31/08
Chandikhole, Jajpur, Odisha

(1)

That the petitioner being duty bound in the above mentioned application is submitting the final status and position of the W.P(C) No-29310/2022, in the Hon'ble High Court of Odisha to the Hon'ble Tribunal.



✓ *Siroran-...*
Deponent

VERIFICATION

Verified on this the 29th day of Dec 2024 at Chandibhola that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Identified By

✓ *Siroran-...*

VERIFICANT



[Signature]
29/12/24

Advocate

29/12/24
Ashis Kumar Mahapatra
Notary Public No-31/08
Chandibhola, Jajpur, Odisha



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IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

W.P.(C) No.29310 of 2022

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

M/s. Gammon Infrastructure Projects Limited- GECPL (JV) *Petitioner(s)*

-versus-

State of Odisha and Ors. *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. M.K. Mishra, Sr. Adv.*
Along with
Mr. M. Samantray, Adv.
Mr. Sidhant Dwibedi, Adv.

For Opposite Party (s) : *Mr. S.D. Das, Sr. Adv.*
Along with
Mr. H. Mohanty (for O.P.8),
Mr. B. Sekhar, Adv.
(for O.Ps.5 & 6),
Ms. G. Patra, ASC (for State)

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-01.08.2025

DATE OF JUDGMENT:-17.10.2025

Dr. Sanjeeb K Panigrahi, J.

1. The present Writ Petition has been preferred challenging the order dated 24.05.2022 of the Collector and District Magistrate, Jajpur and order dated 8.6.2022 of the NHAI requesting the Project Director, NHAI to retain amounts from being released in favour of the present Petitioner due to orders passed in Original Application No. 12/2022/EZ



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pending before the NGT despite the present Petitioner not being a party in the said O.A.

I. FACTUAL MATRIX OF THE CASE:

2. The present Petitioner is a Joint Venture Company of two constituent partners, namely, M/s Gammon Infrastructure Projects Limited and M/s Gammon Engineers and Contractors Private Limited.
3. The Petitioner was awarded the contract for rehabilitation and upgradation of the Duburi–Chandikhole section of National Highway-200 (New NH-53) under NHDP Phase-III on EPC mode. The agreement between the Petitioner and the National Highways Authority of India (NHAI) was executed on 3.1.2019, with a scheduled completion period of 910 days from the appointed date of 11.2.2020.
4. During execution, the Petitioner claims to have faced severe shortages of minor minerals such as sand, earth, and aggregates, allegedly due to the failure of local authorities to allot quarries. It maintains that despite repeated requests to the Collector, Tahasildar, and NHAI officials, no allotments were made, causing delays in project completion.
5. Due to the unavailability of government-allotted quarries, the Petitioner sourced minor minerals from local villagers and through purchase from authorized local sellers, asserting that these actions complied with central government notifications. It relied upon the Ministry of Environment, Forest and Climate Change's notification dated 15 January 2016, and the Ministry of Road Transport and Highways circular dated 31 August 2017, which permit use of



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excavated earth from ponds and community works without requiring environmental clearance. The Petitioner further asserts that such excavation aided local communities and contributed to environmental benefits like water conservation and desiltation. It contends that no criminal or environmental violations were found by authorities during this period.

6. Despite these submissions, the Collector, Jajpur, on 24.5.2022, imposed a royalty of Rs.1.72 crore, an equivalent penalty of Rs.1.72 crore, and an environmental compensation of Rs.7.07 crore for alleged unauthorized extraction of soil, stone, dust, and sand. The Petitioner states that it was not given any prior notice or opportunity to present its case before the order was passed. It also maintains that the calculations used by the Collector lack clarity or legal basis. The Petitioner claims that the order was issued in compliance with directions of the NGT, Eastern Zone, in Original Application No. 12 of 2022, even though the Petitioner was never impleaded as a party before the Tribunal.
7. Aggrieved by these actions, the Petitioner approached this Court seeking quashing of the Collector's letter dated 24 May 2022 and the consequential communication dated 1 August 2022 from NHAI demanding payment. The Petitioner contends that its operations were conducted lawfully and within the scope of government guidelines. It further argues that its use of industrial by-products such as fly ash and slag minimized environmental impact. According to the Petitioner, since it had already paid royalty amounts totalling over ₹2.14 crore and had additional sums withheld for royalty by NHAI, there was no



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outstanding liability. The Petitioner thus prays for intervention by this Court to set aside the impugned orders as illegal, arbitrary, and violative of constitutional and statutory principles.

8. Now that the facts leading up to the instant Petition has been laid down, this Court shall endeavour to summarise the contentions of the Parties and the broad grounds that have been raised.

II. PETITIONER'S SUBMISSIONS

9. The Ld. Counsel for the Petitioner submitted that the impugned action of the Collector, Jajpur, in imposing additional penalty and environmental compensation is arbitrary, illegal, and violative of Articles 14, 19, and 300A of the Constitution of India. It was contended that the Petitioner was not a party before the National Green Tribunal in O.A. No. 12 of 2022, and hence, any order or direction emanating from those proceedings could not have been enforced against it. The learned Counsel emphasized that the Collector acted without jurisdiction and in gross violation of principles of natural justice, as no notice or opportunity of hearing was ever afforded to the Petitioner prior to passing of the impugned demand. It was further submitted that the order lacks reasoning, calculation, and legal foundation, rendering it unsustainable in law.
10. The Ld. Counsel further submitted that the Petitioner's actions were fully protected under the Ministry of Environment, Forest and Climate Change Notification dated 15 January 2016 and the Ministry of Road Transport and Highways Circular dated 31 August 2017. Both documents exempt certain community works and road construction activities from environmental clearance and royalty obligations when



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linked to desiltation or water conservation. The Petitioner had lawfully sourced earth and morrum from village ponds and private lands in cooperation with local authorities, and had also paid and deposited requisite royalty as per Rule 58(5) of the Odisha Minor Minerals Concession Rules, 2016. It was argued that the Collector's failure to allot quarries, coupled with his subsequent penal action, reflects administrative arbitrariness and unjust enrichment. The Ld. Counsel, therefore, urged that the impugned orders be quashed as unconstitutional, excessive, and devoid of statutory support.

III. OPPOSITE PARTYS' SUBMISSIONS

11. *Per contra*, the Ld. Counsel for the Respondent, in opposition to the writ petition, submits that the petitioners are essentially aggrieved by the order of the NGT which is appealable under Section 22 of the NGT Act and as such, the writ petition is not liable to be entertained in the wake of availability of an effective alternative remedy to the petitioners. He submits that the challenge to the order and consequential demand can be better addressed in appeal before the Apex Court.

IV. ISSUE FOR CONSIDERATION

12. Having heard the parties and perused the materials available on record, this court here has identified the following solitary issue to be determined:
- A. Whether the impugned orders warrant any interference in exercise of this Court's writ jurisdiction?



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V. ISSUE A: WHETHER THE IMPUGNED ORDERS WARRANT ANY INTERFERENCE IN EXERCISE OF THIS COURT'S WRIT JURISDICTION?

13. The Ld. Counsel for the Petitioner submitted that the breach of natural justice and the admitted fact that the petitioner was not given opportunity of being heard, are good ground for this Court to exercise its jurisdiction under Article 226 of the Constitution and to set right the injustice done to the petitioner. He submitted that, even as the other side will point out about the availability of alternative remedy under Section 22 of the NGT Act, 2010 which provides for the Appeal to the, in the facts of the case when there is a clear breach of natural justice, this Court may exercise its powers.
14. In support of the above submission, the decision of the in *Whirlpool Corpn. v. Registrar of Trade Marks*¹, was pressed into service, for what it laid down in paragraphs 14 and 15 of the judgment. Another decision in *HarbanslalSahnia v. Indian Oil Corporation*², was also relied on to highlight that the writ jurisdiction is not invariably excluded even when the alternative remedy is available.
15. For the similar principle, decision of the Apex Court in *Radhakishan Industries v. State of H.P.*³, which also ruled on the lines of *Whirlpool Corpn.* (supra), in which it was stated that the power under Article 226 of the Constitution to issue writs can be exercised not only for enforcement of fundamental rights, but for any other purpose including the circumstance arising in the facts of the present case.

¹(1998) 8 SCC 1

²(2003) 2 SCC 107

³(2021) 6 SCC 771



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16. The Opposite Parties have relied on Section 22 of the National Green Tribunal Act, 2010, to vehemently submit that read with Section 14 of the Act which deals with the settlement of dispute by the Tribunal, since the appeal is provided before the Supreme Court under the said Section, the petition under Article 226 and 227 of the Constitution would not lie, and that the present petition is liable to be thrown away on that ground alone.
17. Therefore, the only plank of contention on behalf of the Opposite Parties is Section 22 of the NGT Act, 2010 to submit that the same provides the remedy before the Supreme Court and that the petitioners cannot invoke the jurisdiction and Article 226 of the Constitution of India.
18. Said Section 22 of the NGT Act reads as under,

“22. Appeal to Supreme Court.- Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Civil Procedure Code, 1908 : Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.”

19. In the context of the above provision of Section 22 of the NGT Act and in view of the contention, the question falls for consideration is whether it would be permissible for the High Court to exercise powers under Article 226 of the Constitution. The position of law is well settled that only reason that an alternative remedy is available, would



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not be an embargo on the High Court's power to entertain the petition under Article 226 in certain contingencies.

20. Surveying the decisions generally laying down the above law, in *Harbanslal Sahnia* (supra), the Apex Court relying on its own decision in *Whirlpool Corpn. v. Registrar of Trade Marks* (supra) observed that the rule of exclusion of writ jurisdiction because of availability of an alternative remedy is a rule of discretion and not of a compulsion. It was stated that certain contingencies such as where the petitioner seek to enforce the fundamental rights, where there is failure to comply with the principles of natural justice or where the orders of proceedings are without jurisdiction or that the vires of the Act is challenged, the availability of the alternative remedy is not to be pleaded as a bar.
21. In *U.P. Power Transmission Corporation Ltd. v. CG Power and Industrial Solutions Ltd.*⁴, stated to reiterate that existence of an alternative remedy will not be always a prohibitory norm for the High Court to refuse to entertain the writ petition,

“67. It is well settled that availability of an alternative remedy does not prohibit the High Court from entertaining a writ petition in an appropriate case. The High Court may entertain a writ petition, notwithstanding the availability of an alternative remedy, particularly : (1) where the writ petition seeks enforcement of a fundamental right; (ii) where there is failure of principles of natural justice or (iii) where the impugned orders or proceedings are wholly without jurisdiction or (iv) the vires of an Act is under challenge. Reference may be made to Whirlpool Corpn. v. Registrar

⁴(2021) 6 SCC 15



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of Trade Marks [(1998) 8 SCC 1] and Pimpri Chinchwad Municipal Corpn. v. Gayatri Construction Co. [(2008) 8 SCC 172], cited on behalf of Respondent 1."

22. The statement of law that notwithstanding availability of the alternative remedy, the High Court retains the power to exercise its writ jurisdiction, was asserted and elaborated in *Whirlpool Corpn.* (supra), in the following words,

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose"."

23. It was also held that the availability of alternative remedy is never a bar to the discretion available with the High Court whether to entertain or not the prerogative writs,

"15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of



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forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

24. The rule of exhaustion of statutory remedy is rule of discretion and not rule of law, stated the Apex Court in *State of U.P. v. Mohammed Noor*⁵,

"17. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies."

25. In *A.V. Venkateswaran, Collector of Customs v. Ramchand Sobhraj Wadhvani*⁶, it was highlighted that the discretion vested in the High Court to entertain the petition irrespective of the remedy available is customised in the sense that facts of each case have to be applied,

"18. ...the two exceptions which the learned Solicitor General formulated to the normal rule as to the effect of the existence of an adequate alternative remedy were by no means exhaustive, and (2) that even beyond them a discretion vested in the High Court to have entertained the petition and granted the petitioner relief notwithstanding the existence of an alternative remedy. We need only add that the broad lines of the general principles on which the Court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible rules which should be applied with rigidity in every case which comes up before the Court."

⁵AIR 1958 SC 86

⁶AIR 1961 SC 1506



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26. Having noticed the proposition of law in general context that non-compliance of principles of natural justice is one of the exceptions to the rule of discretion normally followed that the High Court would desist from exercising jurisdiction under Article 226 of the Constitution, when the alternative remedy is available, it is to be observed that the same statement of law would apply to the specific context of Section 22 of the NGT Act, as well. The issue could be said to be no more *res integra* that the jurisdiction under Article 226 of the Constitution would be exercisable even in the wake of providence of Section 22 in the NGT Act, provided and subject to the exceptions recognised by the Court discussed above, exist in the given set of facts.
27. The question whether there would be an ouster of the jurisdiction of the High Court under Articles 226 and 227 of the Constitution in wake of provisions of Sections 14 and 22 of the NGT Act, 2010, specifically came up for consideration with the Supreme Court in *Madhya Pradesh High Court Advocates Bar Association v. Union of India*⁷, wherein one of the issue considered by the Apex Court was whether the NGT ousts High Court's jurisdiction under Sections 14 and 22 of the NGT Act.
28. While noticing the context of creation of the National Green Tribunal, the Apex Court in turn stated that the forum was created to go into the environmental issues with mandate to comply with the principles of natural justice,

"13. The precursor to the NGT Act was the 186th Report of the Law Commission of India dated 29.3.2003 which

⁷2022 SCC OnLine SC 639



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came after the Supreme Court repeatedly urged Parliament through various judgments to establish specialized environmental courts, with qualified judges and technical experts on the bench. The Supreme Court also put forward that there should be direct appeals to the Supreme Court from such environmental courts. The Law Commission then recommended creation of a specialized court to deal with the environmental issues. The Law Commission expressed the view that it is not convenient for the High Courts and the Supreme Court to make local inquiries or to receive evidence. Moreover, the superior Courts will not have access to expert environmental scientists on permanent basis to assist them. The NGT was conceived as a complementary specialized forum to deal with all multidisciplinary environmental issues, both as original as well as an appellate authority. The specialized forum was also made free from the rules of evidence applicable to normal courts and was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts etc., with specific mandate to observe the principles of natural justice."

29. The issue about the exercise of jurisdiction by the High Court vis-à-vis the said provisions in the NGT Act, was considered and addressed by the Supreme Court by recalling the *ratio* of the decision of seven judges bench in *L. Chandra Kumar v. Union of India*⁸ in which it was held in paragraphs 78 and 79 that the power of judicial review over legislative action vested in the High Courts under Article 226 and under Article 32 of the Constitution, is an integral and essential feature of the Constitution, constituting part of its basic structure. It was held that, therefore, ordinarily power of High Courts and Supreme Court cannot be excluded. It was further observed that the power vested in

⁸(1997) 3 SCC 261



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the High Courts to exercise judicial superintendence over the decisions of all Courts and Tribunals within their respective jurisdictions, is also part of the basic structure.

30. The Apex Court in *Madhya Pradesh High Court Advocates Bar Association* (supra), observed,

"21. It can further be noted that in terms of the above ratio in L. Chandra Kumar [supra], the High Courts have been entertaining petitions under Article 226 and 227 of the Constitution against orders of the NGT. While exercising such jurisdiction, the Courts necessarily exercise due discretion on whether to entertain or to reject the petition, as per the test broadly laid down in Whirlpool Corpn. v. Registrar of Trade Marks, Mumbai;

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a



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violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

31. Noticing thus that the power of judicial review can be exercised and prerogative writs can be issued in three circumstances namely enforcement of the fundamental rights, where there is a breach of violation of principles of natural justice or where the order of proceedings is wholly without jurisdiction, in *Madhya Pradesh High Court Advocates Bar Association* (supra), it was held in terms that the jurisdiction of the High Court would remain unaffected,

"22. It is also noteworthy that nothing contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court's exercise their discretion in tandem with the law depending on the facts of each particular case."

32. Undisputedly, Section 22 of the NGT Act, 2010 provides for an Appeal to the Apex Court against the order passed by the Tribunal. The Apex Court in the case of *Madhya Pradesh High Court Advocates Bar Association & Another* (Supra) has clearly laid down that the power of judicial review of the High Courts under Article 226 and 227 of the Constitution of India is not ousted by Section 22 of the NGT Act and remains unaffected. This proposition is in consonance with the ratio



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laid down by the seven Judges Bench in the Case of *L. Chandra Kumar (supra)*. It is, however, not out of place to mention here that while a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy is available, the existence of an alternate remedy does not by itself bar the High Court from exercising the jurisdiction in certain contingencies. The Apex Court in its decision dated 24.9.2021 passed in the case of *Magadh Sugar and Energy Ltd. Vs. State of Bihar and others*⁹ after considering various judgments has summarized the principles governing the exercise of writ jurisdiction by the High Courts in the presence of an alternate remedy as under :

"25. While a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy is available, the existence of an alternate remedy does not by itself bar the High Court from exercising its jurisdiction in certain contingencies. This principle has been crystallized by this Court in Whirpool Corporation v. Registrar of Trademarks, Mumbai, (1998) 8 SCC 1 and Harbanslal Sahni v. Indian Oil Corporation Ltd, (2003) 2 SCC 107. Recently, in Radha Krishan Industries v. State of Himachal Pradesh & Ors, (2021) SCC OnLine SC 334, a two judge Bench of this Court of which one of us was a part of (Justice DY Chandrachud) has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternate remedy. This Court has observed:

"28. The principles of law which emerge are that:

⁹2021 SCC Online SC 801



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(i) *The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;*

(ii) *The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;*

(iii) *Exceptions to the rule of alternate remedy arise where;*

(a) *the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;*

(b) *there has been a violation of the principles of natural justice;*

(c) *the order or proceedings are wholly without jurisdiction; or*

(d) *the vires of a legislation is challenged;*

(iv) *An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;*

(v) *When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory*



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remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with. (emphasis supplied)”

33. Thus, in this Court's opinion considering the ratio of the decisions of the Apex Court particularly, the ratio laid down in the case of *Madhya Pradesh High Court Advocates Bar Association and another (supra)* there can be no second thoughts about the maintainability of the instant writ petition. The writ petition is held maintainable.
34. The principles of natural justice are intended to operate in the areas not chartered by any law even though any legal provisions may not contemplate the observance of natural justice. The consequence of the action and the prejudice which may be caused to the party would necessitate the compliance of natural justice. The natural justice is a principle which ensures fair and non-prejudicial adjudication whenever a decision making process is going to effect the rights of any person.
35. Natural justice aims to secure fair play in action. It implies that the Court would not permit one-sider to influence a decision by his own version which may not be known to the other side, going to be effected if the version is to be acted upon *ex parte*.



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36. A person who is subjected to some inquiry or imposition of some decision should not be left in dark as to the risk of confronting with adverse finding without any opportunity to put forward his case, raise defence and adduce evidence or produce material before the decision maker. They may be the material evidence or case which would dissuade decision maker from taking one particular view against another.
37. In *State Bank of India v. D.C. Aggarwal*¹⁰, the Apex Court held that while taking action against a person on the basis of certain material or evidence without bringing the same to the notice of such person is violative of procedural safeguards and contrary to fair and just inquiry.
38. The contention that the petitioners are to be attributed with knowledge of the proceedings is of no avail, even if it is to be so presumed. The High Court of Allahabad in *Committee of Management, Vaidik Higher Secondary School v. District Inspector of Schools*¹¹ with reference to an English decision with a reference to decision of the Privy-Council in *Mahon v. Ali New Zealand Limited*¹² which held that "mere knowledge of enquiry proceedings or presence at the hearing is not enough" for taking away with the observance of natural justice. It was held that even if a person has knowledge of the proceedings or is present, that by itself cannot be a ground not to

¹⁰(1993) 1 SCC 13

¹¹1993 SCC OnLine All 569

¹²[1984] 3 All ER 201



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observe the principals of natural justice, if such person is likely to be adversely affected.

39. More recent decisions laying down that the NGT is obliged to comply with the principles of natural justice, finally reiterates the position of law. The Apex Court in *Singrauli Super Thermal Power Station v. Ashwini Kumar Dubey* which was Civil Appeal No. 3856 of 2022 decided on 5.7.2023, disapproved the order of the National Green Tribunal which was passed without compliance of natural justice. The National Green Tribunal had constituted an expert Committee with regard to the alleged violations, in respect of which there was no opportunity was given to the opponent.
40. The Supreme Court noticed that Section 19(1) of the NGT Act, 2010 reads to provide that the Tribunal shall not be bound by the Civil Procedure Code, 1908, but shall be guided by the principles of natural justice, and proceeded to observe,

"11. In other words, the NGT has simply accepted the recommendations as remedial action suggested by the Committee but the same is in the absence of there being objections filed by the appellants herein who were the respondents before the NGT and without giving any hearing to them and against whom directions impugned in these cases have been passed by the NGT. We find that the procedure adopted by the NGT is an instance of violation of the principles of natural justice."

41. The Supreme Court in *Singrauli Super Thermal Power Station*(supra), then further observed that observance of principles of natural justice as contemplated in Section 19(1) of the Act is indispensable. It was stated that the material on which the authority acts must be supplied



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to the party against whom such material/data is to be used in as much as only then, such party would have an opportunity 'not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authorities relies'. A reasonable opportunity must be accorded to the affected party to present its observations and comments. With such observations, the Apex Court in that case set aside the order before it and the case was remanded to NGT for reconsideration.

42. In a more recent decision in *Veena Gupta v. Central Pollution Control Board*¹³, the appeal before the Supreme Court arose when an *ex parte* order passed by the NGT in *suo motu* proceedings holding the appellants guilty and directing payment of compensation. It was a ground of challenge that before passing adverse order, opportunity was not given.
43. Such repetitive orders without affording opportunity of hearing and without compliance of natural justice by the NGT, came under scanner of the Apex Court in the following observations,

"4. The National Green Tribunal's recurrent engagement in unilateral decision making, provisioning ex post factor review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding."

¹³(2024) 2 SCALE 200



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44. The principles of *natural justice* are the silent sentinels guarding the citadel of law, the unseen harmony beneath the thunder of judgment. They are the minimum standards of fairness that ensure justice is not only done but, as Lord Hewart observed in *R v. Sussex Justices, ex parte McCarthy* (1924), “manifestly and undoubtedly seen to be done.” The two cardinal principles—*audi alteram partem* (hear the other side) and *nemo iudex in causa sua* (no one shall be a judge in his own cause)—reflect the moral core of legal reasoning. Without them, authority risks devolving into arbitrariness. Natural justice, therefore, is not a matter of procedural formality; it is the expression of reason and integrity in action, ensuring that every decision rests upon fairness, transparency, and respect for human dignity.
45. Across centuries, from Roman law to the modern constitutional era, *natural justice* has served as the conscience of the legal order. It is a principle that transcends legislation, for it is rooted in the moral law—*lex naturae*—that guides all just governance. As Lord Denning once remarked, “The rule of law must rest upon the twin pillars of fairness and reason.” These principles limit the excesses of power and safeguard the citizen against injustice disguised as legality. Their application ensures that legal authority remains a servant of justice, not its master. In this sense, natural justice preserves not merely the appearance of order, but the very legitimacy of the judicial process itself.
46. In the Indian context, the Supreme Court has affirmed that *natural justice* is an essential element of the *rule of law*. This affirmation expanded procedural fairness beyond the courtroom, making it a



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constitutional guarantee against arbitrary state action. Natural justice thus stands as a living principle—flexible yet firm—adapting to new contexts while maintaining its core commitment to equity and reason. It ensures that justice remains human, grounded in the belief that every person deserves an opportunity to be heard and judged without bias.

47. Thus, the edifice of justice stands not upon marble halls or gilded statutes, but upon the invisible pillars of *jus naturale*. Its endurance is the triumph of conscience over convenience, of duty over discretion. The law may evolve, but its spirit remains anchored in this eternal truth: that every person deserves to be heard by an impartial ear. As Lord Mansfield stated, “Let right be done though the heavens may fall.” This enduring call reminds us that justice without fairness is mere power. The principles of natural justice transform law from a tool of governance into an instrument of moral order. They are not abstract ideals but living safeguards—ensuring that every exercise of authority is measured against the immutable standard of fairness, reason, and humanity.
48. This Court agrees with the Petitioner that the imposition of additional penalty and environmental compensation by the Collector, Jajpur, was arbitrary and without jurisdiction. The record clearly establishes that the Petitioner was not made a party before the National Green Tribunal in O.A. No. 12 of 2022, yet the Collector purported to act on directions issued therein. Such an action amounts to violation of the fundamental principles of natural justice, as no person can be penalized without being heard. When an order is passed affecting the



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rights and interests of a party who was never before the Tribunal, it stands vitiated on procedural grounds alone, warranting interference by this Court.

49. This Court also finds merit in the Petitioner's submission that the Collector's action was in contravention of Articles 14, 19, and 300A of the Constitution of India. Article 14 guarantees equality before law and prohibits arbitrary treatment by the State. The unilateral imposition of penalty and environmental compensation without prior notice or hearing demonstrates arbitrary exercise of power. Furthermore, the right to carry on trade under Article 19(1)(g) and the right to property under Article 300A cannot be curtailed without authority of law. In the present case, the Collector's demand has no clear statutory foundation, nor was it supported by any calculation or legal justification, rendering it unconstitutional.
50. In the present case, the Collector exceeded his jurisdiction by acting as an executing arm of the NGT without proper authorization. The Tribunal's directions were general and did not specifically identify the Petitioner as a violator. Yet, the Collector proceeded to levy penalty and environmental compensation as if the Petitioner had been adjudged guilty.
51. This Court agrees with the Petitioner that the impugned demands have caused unwarranted hardship and financial prejudice despite compliance with central notifications, payment of royalty, and adherence to contract terms. The Collector's order, passed without hearing or statutory backing, amounts to an abuse of discretion.



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Judicial review is warranted where administrative action results in manifest injustice.

VI. CONCLUSION:

52. For all the aforesaid considerations and the position of law highlighted, this Court is inclined to exercise powers under Article 226 of the Constitution in limited context and in respect of specific area which is non-compliance of principles of natural justice as liability of payment of environment compensation has been imposed on the Petitioners without affording an opportunity of hearing to the petitioners.
53. Accordingly, this Court holds that the letters dated 24.5.2022 and 1.8.2022 are illegal and arbitrary. The same are hereby quashed, and the Respondents are directed to refund any recovered amounts forthwith.
54. The setting aside of the order and the finding imposing the environment compensation on the appellant are on the sole ground that they are passed without affording of opportunity of hearing to the appellant and thus in breach of principles of natural justice.
55. The matter is remitted back to the National Green Tribunal, Eastern Zone to reconsider and decide afresh the question of imposition or otherwise of the environment compensation on the Petitioner, and to decide as to whether the Petitioner is liable to pay such compensation, after extending opportunity of hearing to the Petitioner.



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56. The NGT shall permit the Petitioner to produce all the documents and the materials in their defence to put forward their case and the Petitioner shall also be heard for their case.
57. The parties shall co-operate in expeditious completion of above exercise by NGT.
58. It is clarified that the aforesaid order and directions are passed only on the ground of non compliance of principles of natural justice.
59. This Court has not gone into, nor has expressed any opinion on merits.
60. The present Writ Petition is allowed in the above terms.
61. No order as to costs.
62. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 17th October, 2025/*