
Harjinder Singh Vs State Of Uttarakhand & Others

Writ Petition (M/S) No. 581 Of 2021

Court: Uttarakhand High Court

Date of Decision: March 12, 2021

Acts Referred:

Uttarakhand Minerals (Prevention Of Illegal Mining, Transportation And storage) Rules, 2005
â€” Rule 14

Hon'ble Judges: Manoj Kumar Tiwari, J

Bench: Single Bench

Advocate: Menika Tripathi, T.S. Phartiyal

Final Decision: Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. According to the petitioner, he was given a licence for storage of river bed material, which expired on 10.03.2019 and subsequently, the same was

renewed upto 09.03.2021.

2. Petitioner is aggrieved by an order passed by District Magistrate, Udham Singh Nagar on 25.10.2019, whereby he has been asked to deposit a sum

of Rs. 12,33,760/- as royalty for storing illegally procured river bed material and further a sum of Rs. 2,00,000/- as penalty, within a period of one

month, failing which the said amount was to be recovered as arrears of land revenue.

3. Ms. Menka Tripathi, learned counsel for the petitioner submits that a show cause notice was issued to the petitioner before passing the said order

and petitioner had given detail reply, denying the allegation made in the show cause notice, however, according to her, petitioner's reply was not

placed before the District Magistrate, Udham Singh Nagar. Consequently, petitioner's version could not be considered by the District Magistrate,

while passing the impugned order. Learned counsel further submits that petitioner had filed an application seeking recall of the order passed by District

Magistrate, however, the said application was rejected on the ground that, if petitioner is aggrieved by the order of District Magistrate, he may

approach the appellate forum.

4. Admittedly, petitioner has a remedy of appeal under Rule 14 of Uttarakhand Minerals (Prevention of Illegal Mining, Transportation & Storage)

Rules, therefore, this Court is not inclined to entertain the writ petition at this stage.

5. Accordingly, the writ petition is disposed of with liberty to the petitioner to file an appeal before the Commissioner, Kumaon Division within two

weeks from today. If such appeal is filed within stipulated time, Commissioner shall hear and decide the appeal on merits, as early as possible, but not

later than four months from the date of production of certified copy of this order.

6. It shall be open to the petitioner to file an application seeking stay of District Magistrate's order. For a period of four weeks or till consideration

of petitioner's stay application, whichever is earlier, recovery proceedings pending against the petitioner shall be kept in abeyance.

7. Let certified copy of this order be supplied to the parties by 15.03.2021.