
(2005) 12 AHC CK 0072

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 43774 of 2005

Kamla Kant Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-12-2005

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34
Forest Act, 1927 — Section 4, 5
Interest Act, 1978 — Section 3
Mineral Concession Rules, 1960 — Rule 64A
Wild Life (Protection) Act, 1972 — Section 18(1), 29

Citation : AIR 2006 All 92 : (2006) 2 AWC 1503

Hon'ble Judges : Yatindra Singh, J; R.K. Rastogi, J

Bench : Division Bench

Advocate : W.H. Khan and J.H. Khan, for the Appellant; K.C. Sinha and S.C., for the Respondent

Judgement

R.K. Rastogi, J.—This is a writ petition for quashing the orders dated 31.3.2005, 16.5.2004 and 17.5.2004 passed by respondent No. 1, 5 and 6 respectively and for commanding respondent No. 1 to extend the period of lease beyond 12.3.2006 for the period during which the respondents had prohibited the petitioner from operating the lease and also commanding the respondents not to interfere in the petitioner's operation of lease dated 12.3.2003.

2. The facts relevant for disposal of this writ petition are that in the year 1963-64 a notification u/s 4 of the Indian Forest Act, 1927 was issued by the State Government constituting plot No. 1 total area 2626.81 hectare of village Kanach and plot No. 366 total area 1828.79 hectare of village Pakri (District Mirzapur) as Reserved Forest. Thereafter on 10.8.1982 a notification u/s 18(1) of the Wild Life Protection Act, 1972 was issued constituting Kaimur Wild Life Sanctuary consisting of several Van Blocks. An area of 921.8 hectare of Kanach Van Block and an area of 1406.7 hectares of Pakri Van Block was also included in this notification. Boundaries of the Sanctuary were also described in this notification.

In accordance with the direction of Hon''ble Supreme Court in the case of Vanwasi Sewa Ashram PIL No. 1061 of 1982 decided on 20.4.1986 the settlement proceedings were undertaken and under these proceedings an area of 452.18 hectare of aforesaid plot No. I and an area of 489.15 hectare of plot No. 366 were separated from the Reserved Forest and this land was declared as the State owned revenue land.

3. On 17.1.2003 an auction notice was published for extracting sand and morum from plot No. 1 of village Kanach measuring 200 acres and plot No. 366 of village Pakri measuring 175 Acres. A public auction was held on 25.2.2003 and the petitioner's highest bid of Rs. 2,89,29,400/- was accepted by the Collector after obtaining approval of the State Government. Thereafter a lease deed was also executed on 12.3.2003 for a period of three years. Thereafter on 13.3.2003 the petitioner applied for using 5.7 Kms. Forest Land for transportation of minerals and this permission was granted to him by the Divisional Forest Officer after obtaining approval of the Mukhya Vanya Jeev Pratipalak, U.P., Lucknow for the period of one year from 23.4.2003. The petitioner also deposited a F.D.R. of Rs. 2 lacs towards the security deposit.

4. The petitioner's allegation is that the above lease was granted during the regime of Ms. Mayawati. When the Samajwadi party came into power, then , under the pressure of Sri Parmeshwar Dayal M.L.A. of that party, who is on inimical terms with the petitioner, the Mines Officer in pursuance of the Collector's order dated 1.11.2003 in which it was alleged that the petitioner was doing mining work in the Reserve Forest land passed an order on 6.11.03 stopping the mining operations. Aggrieved by this order the petitioner filed Civil Misc. Writ Petition No. 50600 of 2003 and in that writ petition this court granted an interim order permitting him to carry on the mining work. However, the plaintiff was not permitted by the opposite parties to continue his work, and under political pressure, the Government issued an order on 7.4.2004 to initiate proceedings for cancelling the petitioner's lease on the ground that Prabhagiya Van Adhikari in his letter dated 24.2.2004 had informed that the lease area lie within the Wild Life Sanctuary. Then a show cause notice was issued to the petitioner by the Collector on 8.4.2004, Before these proceedings could be decided , the Van Kshetra Adhikari, Dala Range, Sonebhadra and Van Kshetra Adhikari Guram Range , Sonebhadra passed orders on 16.5.2004 and 17.5.2004 respectively prohibiting the petitioner to transport minerals from the leased area on the ground that he was transporting minerals through the forest land. Aggrieved by these orders, the petitioner filed Civil Misc. Writ Petition No. 20778 of 2004. In the meantime, the Government passed an order on 21.5.2004 cancelling the lease and the Collector also passed the consequential order on 29.5.2004. Then the petitioner challenged these orders also by seeking amendment in the writ petition. The writ petition was decided on 20.11.2004 and the aforesaid orders dated 21.5.2004 and 29.5.2004 were set aside and the matter was remitted back to the State Government to decide afresh the question whether the leased area lies within the Kaimur Wild Life Sanctuary or not. It was

further provided that if it is found that the leased area lies within the sanctuary, the petitioner would have to seek permission from the authorities for carrying on the mining operations and transportation of minerals. In accordance with these directions the petitioner filed a detailed representation before the authorities. However, that was rejected by the Govt. vide its order dated 31.3.2005. Then the petitioner filed this writ petition challenging the above order and the orders dated May 16 and 17, 2004.

5. Various orders passed by the Government and other relevant documents were filed as annexures No. 1 to 52 of the writ petition and the petitioner also filed his affidavit in support thereof. A counter affidavit was filed on behalf of the State asserting that the disputed land was a part of the Wild Life Sanctuary and so the lease in favour of the petitioner was rightly cancelled. A Photostat copy of the report of the District Magistrate Sonbhadra addressed to the Secretary, Industrial Development, Section 5, U.P. Government, Lucknow alongwith its enclosures was annexed with this counter affidavit as C.A. I,

6. The petitioner filed a supplementary affidavit on 12.7.2005 enclosing therewith a Photostat copy of the charge sheet issued against Sri Mohd. Ahsan, Chief Wild Life Warden and of his reply to that charge sheet and a copy of the order passed by the Government in the matter whereby Sri Mohd. Ahsan was exonerated of the charges. A rejoinder affidavit was filed in August, 2005 enclosing therewith a copy of the letter of Mr. A.B. Misra, Under Secretary, U. P. Government addressed to the Director, Mines and Minerals, U.P. Lucknow.

7. We have heard the learned counsel for both the parties and have perused the records. The following points arise for determination:

- (i) Whether the disputed leased area lies within the Kaimur Wild Life Sanctuary?
- (ii) Whether permission should be granted to the petitioner to perform mining operation in the leased area u/s 29 of the Wild Life (Protection) Act, 1972 if it is found that the disputed leased area is situated within the sanctuary?
- (iii) Whether the petitioner is entitled to refund of the money deposited by him for obtaining the above lease if it is found that the leased area is situated within the sanctuary and that no permission should be accorded to him u/s 29 of the above Act?

Let us take up the first point first :

The contention of the petitioner is that the area leased out to him for mining operation is situated outside the Kaimur Wild Life Sanctuary. He has filed a copy of the Notification dated 10.8.1982 regarding creation of the above Sanctuary, It is annexure 25 of the writ petition and its relevant portion is as under:

^ ^ pwafd jkT; ljdkj dh jk; gS fd i;kZIr ifjLFkfrd] izkf.k tkr] ikni tkfr] Hkwvkd`frRr] izkd`frd vkSj izkf.kRoh; egRo ds ,sls {ks= dh ftldk O;ksjk uhps vuqlwph esa fn;k x;k gS mles oU; thoksa vkSj i;kZoj.k ds laj{k.k] IEo/kZu vkSj

fodkl ds iz;kstukFkZ oU;tho fogkj ds :i esa LFkkfir djus dh vko;drk gS A

vr,o vc oU;tho ?laj{k.k? vf/kfu;e] 1972 ?vf/kfu;e la[k&53] 1972? dh /kkjk 18 dh mi/kkjk 111 ds v/khu "kfDr dk iz;ksx djds jkT;iky mDr {s= dks oU; tho fogkj ds :i esa ?kksf"kr djrs gSaa A ftldk uke ^dSewj oU; tho fogkj* gksxk A

vuqlwph

dSewj oU; tho fogkj esa lfEefyr fd;s tkus okys {s= dks C;kSjk&&

9. The Schedule before the above description has been divided into five columns. The first column is regarding name of forest division, the second column is regarding name of the range, the third column is regarding name of the Van Block, the fourth column is regarding area in hectare, and the 5th column is regarding description of the boundaries. In Agori division of forest listed at serial No. 2 (Column No. 1 of the Schedule) there is Gurma range listed at serial No. 3(Column No. 2). The names of forest blocks Kanach and Pakari find place at serial No. 11 and 12 in column No. 3 and in column No. 4 the area of 921.8 hectare of forest block Kanach and 1,406.7 hectare of forest block Pakari has been shown to be included in the Sanctuary. In column No. 5 of description of boundaries Son river has been described as the southern boundary of the Sanctuary besides other boundaries.

10. The petitioner has also filed a copy of the notice of auction of sand and morum situate in the river bed at village Kanach and Pakari (Annexure 1 of the writ petition). The petitioner's contention is that in the above notification the Son river was shown as southern boundary of the Sanctuary and so it could not be a part of the Sanctuary, and so auction of its 375 acres bed area was rightly done by the Government and in that auction his highest bid was accepted, and accordingly a lease deed for the period of three years w.e.f. 12.3.2003 was also rightly executed.

11. It may be mentioned that since a dispute had arisen whether the leased area lies within the Sanctuary or outside the Sanctuary, this court vide its order dated 20.10.2004 had in Civil Misc. Writ Petition No. 20778 of 2004 had directed the Government to decide this point Thereafter the Government, after providing opportunity of hearing to both the parties and, after obtaining report on the point passed an order on 31.3.2005 (Annexure No. 38 of the writ petition) holding that the leased area was situate in the Kaimur Wild Life Sanctuary, and so it cancelled the lease which was granted in favour of the petitioner. The aforesaid order has been challenged before us on various grounds.

12. The first contention of the learned counsel for the petitioner was that Mr. Rajendra Kumar Tiwari, the Secretary of the Industrial Development Department of the U.P. Government, who had passed the above noted impugned order dated 31.3.2005, had committed violation of principles of natural justice. His contention was that arguments of both the parties were heard by him on 10.2.2005 and orders were reserved but before passing of orders the Secretary

admitted a report of the Mukhya Van Jeev Pratipalak submitted vide letter dated 28.2.2005 but neither any notice of this report was given to the petitioner nor any opportunity of hearing or producing any documents in rebuttal was given to him, and in this way, the principles of natural justice have been violated, and so the above order passed by the Secretary should be set aside and the petitioner should be given an opportunity to produce evidence in rebuttal of the above report and fresh opportunity of hearing should also be given to him.

13. After careful perusal of the record , we do not find any substance in the above contention of the petitioner. It is to be seen that the order of the Secretary, Industrial Development Department dated 31.3.2005 (Annexure No. 38 of the writ petition) is mainly based upon the report of the District Magistrate, Sonebhadra dated 31.1.2005 and the maps enclosed with this report (Annexure 1 to the counter affidavit). This report was based upon the report of the Mukhya Van Jeev Pratipalak and both these reports as well as the maps were shown to the petitioner and his counsel on 10.2.2005 as is apparent from para 3(11) of the order of the Secretary dated 31.3.2005 which runs as follows:

;kph dks fu/kkZfjr frFkh fnukad 10&2&2005 dks muds ofj"B vf/koDrk Jh fnus"k f} osnh ds ek;/e ls lquk x;k A lquokbZ ds le; gh vFkkZr fnukad 10&2&2005 dks ou foHkkx }kjk viuh foLr`r vk[;k ,oa ekufp= eq[; oU; tho izfrikyd }kjk miyC/k dj;h x;h vk[;k ,oa ekufp= eq[; oU; tho izfrikyd }kjk miyC/k dj;h x;h A ou foHkkx }kjk izLrqr vk[;k ,oa ekufp= dk ;kph ,oa muds fo]klu vf/koDrk }kjk fj"khyu Hkh dj;h x;k A ;kph vFkok muds fo}ku vf/koDrk }kjk eq[; oU; tho izfrikyd dh fjiksVZ ij vkifRr izLrqr djus gsrq dksbZ le; ugha ekaxk x;k A

14. It is apparent from perusal of the above para that the petitioner and his learned counsel had gone through the above reports and had not sought any time to file any objection against the report nor any document in rebuttal and then the arguments were heard. It may be mentioned that in both the maps annexed with the report of the District Magistrate, Sonebhadra, which have been listed as papers No. 31 and 32 in the counter affidavit, the southern boundary of the Kaimur Wild Life Sanctuary was shown to be extending upto mid of the stream of the river Son/However, after hearing of the case, an order was passed asking the Mukhya Van Jeev Pratipalak to file a map of Kaimur Wild Life Sanctuary as it stood on 10.8.1982 when the relevant notification constituting it was issued. This map was submitted by Mukhya Van Jeev Pratipalak on 28.2.03 and it was certified by the Forest Officer Kaimur Wild Life Sanctuary. In this map also the southern boundary of the Sanctuary was shown to be extending upto middle of the stream of Son river. The point in dispute in the present case was as to what is the southern boundary of Kaimur Wild Life Sanctuary, and on this point there was no difference between the maps filed alongwith the report of the District Magistrate Sonebhadra dated 31.1.05 and the map subsequently submitted by the Mukhya Van Jeev Pratipalak, and nothing new was added in this subsequent report and map. As such there was no necessity to give any more opportunity to the petitioner to file any objection against the map or other

evidence in rebuttal when they had not sought any such opportunity on 10.2.05 when the case was heard. It may also be mentioned here that the time limit fixed by this Court vide its judgment dated 20.11.04 in Civil Misc. Writ Petition No. 20779 of 2004 had already expired and the matter was to be decided soon in compliance of the direction of this court. Any how in view of the discussion attempted above, there was no need of providing any more opportunity to the petitioner to produce any additional evidence in rebuttal and the Secretary committed no legal error by not giving any fresh opportunity of hearing to the petitioner. Thus, the order passed by him can not be assailed on this ground.

15. Another contention of the petitioner is that the Son river has been shown to be the southern boundary of the Kaimur Wild Life Sanctuary in the notification dated 10.8.82 and so anything described as boundary of a property can not be treated to be a part of that property but that has got a separate entity according to the law of interpretation and so there was no justification for holding that the southern boundary of the Sanctuary lay upto middle of river Son. In this connection, Mukhya Van Jeev Pratipalak was of the view that whenever a river is taken to be the demarcation point of two properties, both those properties are considered to be extending upto middle of the river, and on the basis of this law, he has drawn the conclusion that the Kaimur Wild Life Sanctuary extends upto middle of river Son lying towards south.

16. The learned Standing Counsel, also produced before us the Management Plan for Kaimur Wild Life Sanctuary issued by the Wild Life Organization Forest Department U.P. and referred to its following para at page 2:

The river Son which forms the southern boundary of the sanctuary had a larger number of Gharials & muggars in the recent past. But due to indiscriminate hunting & habitat loss, they are on the verge of extinction. The decline of fish population due to heavy fishing, has also affected its population. The Gharial rehabilitation program was implemented in the upper portion of the river which falls in MP and recent past a few Gharials have been released in this river in U.P. also.

17. He contended that a perusal of this para goes to show that this Wild Life Sanctuary was constituted for protection of Gharials, Muggars and fish population also in the river Son, and so the river Son, so far as it touches the Kaimur Wild Life Sanctuary, is an integral part of the Sanctuary, and it can "not be concluded on the basis of its description as the southern boundary of the Sanctuary that it is not a part of the Sanctuary. His contention was that actually the description of river Son in the notification as southern boundary is a misdescription, a misnomer, and the Son river is a part of the Kaimur Wild Life Sanctuary because this Sanctuary was created for protection of Gharials & Muggars in the Son river. We find sufficient force in the above contention. Any how, there is no reason to discard the finding that the disputed leased land is a part of the Sanctuary extending upto midstream of the Son river.

18. Learned counsel for the petitioner further contended that no proper survey work was done and the maps relied upon by the Secretary are not based on Survey work. Hence no reliance should be placed upon them, and the Secretary has committed a legal error by relying upon them. We do not find any force in this contention also. The survey work was done as is apparent from the following portion of para 2 of the report of the District Magistrate, Sonbhadra dated 31.1.2005 (Annexure -1 of the counter affidavit):

"kklu ds funsZ"k ds ?e esa fnukad 23&01&2005 dks dSewj oU;tho ou izHkkx ,oa jktLo foHkkx ds vf/kdkfj;ksa ds mifLFkfr esa iSekb"k djk dj dSewj oU;tho fogkj dh lhek dks jsosU;w eSi esa js[kkafdr dj fn;k x;k gS] ftli v/kksgLrk{kjh ,oa eq{; oU;tho izfrikyd] y[ku? }kjk Hkh gLrk{kj fd;k x;k A A mijksDr Hkw&ekufp= ;kph ds i+{k esa Loh?r fd;s x;s iV~Vs dks Hkh fpg~ukafdr fd;k x;k gS A xzke dup ,oa idjh ls IEcfU/kr jktLo Hkw&ekufp= dh vko";d "khV ewy :i esa layXu dj vkidks izsf"kr dh tk jgh gS A

19. Thus it is clear that proper measurements were done and so this report can not be rejected on the above ground.

20. It was further contended by the learned counsel for the petitioner that Shri Mohd. Hasan then Chief Wild Life Warden Lucknow was charged for issuing unauthorized leases of Kaimur Wild Life Sanctuary and for permitting illegal mining work in the Sanctuary but he had been exonerated of the charges by the Government, Copies of the charge sheet served upon him and his reply and the order passed by the Government after inquiry have been annexed as Annexures No. 1,2 and 3 to the supplementary affidavit of the petitioner dated 12.7.05. It was contended that since Sri Mohd Hasan had been acquitted of these charges, it should be held that the land which was leased out to the petitioner was not a part of the Sanctuary.

21. We do not find any force in the above contention. It appears from perusal of the order passed by the Government in the above inquiry (Annexure No. 3 of the supplementary affidavit) that since the charges against Shri Mohd Hasan were not proved, he was acquitted. No copy of the inquiry report has been filed by the petitioner. If this report contained any matter supporting his case, he could have summoned the inquiry report from the Government, but he did not do so, and there is nothing on record to show that Shri Mohd Hasan was exonerated of the charges on the ground that the land leased out to various contractors was not a part of the Sanctuary. Any how the above documents filed by the petitioner fail to lead us to the conclusion that the disputed land is not a part of the Sanctuary.

22. The position, in this way, is that there is no illegality in the finding that the leased is a part of Kaimur Wild Life Sanctuary. We agree with this finding and confirm the same.

23. The next contention of the learned counsel for the petitioner was that when the Government found that the disputed land was a part of the Wild Life Sanctuary, it should have considered the question of granting permission to the

petitioner for doing mining operations in accordance with the provisions of Section 29 of Wild Life (Protection) Act. His contention was that there has been reference of Section 29 of the above Act in the order passed by the Secretary but no specific finding has been recorded on this point and the order passed by the Secretary was incomplete Section 29 of the Wild Life Protection Act runs as under:

Destruction, etc. in a sanctuary prohibited without a permit:- No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit:

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bonafide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.

24 The learned counsel for the petitioner contended that the words "including forest produce"(underlined by us) did not find place in the original Section 29 of the Act and these words and the proviso to this section were added vide that Wild Life Protection Amendment Act 2002. He contended that when the lease was granted in the petitioner's favour the words " forest produce" did not find place in the above section and so the proviso, which was also added vide above amendment, shall not be applicable to the case of the petitioner, and the permission was to be granted ignoring the aforesaid amendment. We do not find any force in this contention also. It is true that the aforesaid words in the section and the proviso did not find place in the statute book when the lease was granted in the petitioner's favour, as this amendment came into force on 1.4.2003. However, it is to be seen that the permission is to be granted with prospective effect and not from retrospective effect, and so at the time of consideration of the matter, the amended Section 29 shall have to be taken into consideration, and the question of grant of permission for mining sand and morum from the river bed shall be governed by its proviso which provides that it can be used only for meeting personal bonafide need of the people living in and around the Sanctuary and it can not be used for any commercial purpose.

25. Since the matter of grant of permission u/s 29 of the Act has not been properly considered and determined by the Government in its order dated 31.3.2005, we remit this matter to the Government again for deciding this point taking into consideration the upto date amended law and the question of protection of wild life including Gharials, Muggars and fishes in the Son river. In case the Government is of the view that the permission should be accorded to

the petitioner to resume mining operations , the matter of extending his lease for that period during which he was not permitted to continue the mining operation shall also be considered and suitable orders for extension of the lease period , shall be passed in that case. However, if the Government reaches this conclusion that the permission can not be granted to the petitioner for excavation in the disputed land u/s 29 of the Act it can also consider the feasibility of giving any other land in the vicinity in accordance with law for mining operations to the petitioner for the period during which he was prohibited from doing the mining work, if any such proposal is acceptable to the petitioner.

26. The third point raised by the counsel for the petitioner was that in case it is found that the permission can not be granted to the petitioner for mining work in the leased area, the money deposited by him should be returned back to the petitioner. We agree with this contention and if it is found by the Government that the" permission can not be granted to the petitioner u/s 29 of the Act, the Government shall return the money deposited by the petitioner for grant of lease after making rateable deduction in respect of the period for which the mining operations were done by the petitioner. We are further of the view that security money and the stamp duty realised by the Government from the petitioner for execution of the lease deed and for deposit of the security money should also be returned back in toto as the lease has been cancelled by the Government for no fault of the petitioner who offered his bid in response to an auction notice issued by the Government itself.

27. Learned counsel for the petitioner further contended that the petitioner should be allowed interest on the above amount because he has been deprived of beneficial use of above money for no fault of his own. In this connection the learned counsel for the petitioner cited before us a ruling of the Hon"ble Supreme Court in *South Eastern Coalfields Ltd. Vs. State of M.P. and Others*, . Pie contended that in this case the Government's claim for realisation of interest at the rate of 24% per annum for late payment of royalty was held to be valid, and so when the Government has to return the amount it should also be required to pay interest at the rate of 24% per annum.

28. We have gone through this ruling. The facts of this ruling are quite different from those of the present case. It is to be seen that in Rule 64-A of the Mineral Concession Rules there is a provision for payment of interest at the rate of 24% per annum if a contractor fails to deposit the royalty within a period of 60 days from the due date, and this rate of interest was incorporated in the agreement executed between the parties. This rate of interest was challenged by the appellant and the Hon"ble Supreme Court held that when there was a provision for payment of interest at a particular rate in case of default in payment of royalty within the stipulated period, and when the parties had agreed to that rate of interest in the agreement executed by them, there was no question of resiling from that rate of interest and the contract was binding upon the parties. It is to be seen that in the present case neither any such agreement was executed

between the parties for payment of interest, nor there is any such provision that interest at the above rate shall be paid if the lease agreement is cancelled. Moreover, the above provision for payment of interest at the rate of 24% per annum is applicable in case of default in payment of royalty within the stipulated period. There is no such default in the present case. Hence the above ruling is not applicable to the present case.

29. However, as the petitioner has been deprived of beneficial use of his money for no fault of his own he is certainly entitled to interest on the amount which is to be refunded to him by the Government. Section 34 C.P.C. provides for payment of interest on the principal sum adjudged, from the date of the suit to the date of the decree at such rate as the court deems reasonable, and for Author payment of interest at 6% per annum from the date of decree to the date of actual payment. It has further been provided that where the transaction was commercial, the interest may exceed 6% but it shall not exceed the contractual rate of interest and when there is no contractual rate, the rate at which the moneys are lent or advanced by nationalised banks in relation to commercial transactions. Similarly u/s 3 of the Interest Act, 1978, it has been provided that the Court may in the proceedings for the recovery of any sum or damages may award interest at a rate not exceeding the current rate of interest.

30. The term " current rate of interest" has been defined in Section 2(b) of the above Act as under:

current rate of interest" means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by charitable or religious institutions) by, different classes of scheduled banks in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

31. It is to be seen that the maximum rate of interest is on the Fixed Deposits of the Bank. Hence , we are of the view that the petitioner shall be entitled to interest at that rate which was applicable to the F. D. Rs. in the nationalised Bank for the period during which the petitioner's money, which is liable to be returned to him, remained with the Government, and if no permission is granted to the petitioner to perform the mining operations, the Government , while passing the order for return of rateable auction money and full stamp duty and caution money, shall allow interest on these amounts for the periods the amount remained with it at the rate applicable to F.D.Rs. of those periods in the nationalized Bank.

32. The writ petition is, therefore, partly allowed. It is dismissed so far as it challenges the order passed by the Government holding that the disputed land lies within the area of Kaimur Wild Life Sanctuary. However, the writ petition is allowed to this extent that the matter of grant of permission to the petitioner u/s 29 of the Wild Life (Protection) Act is remitted to the Government for

reconsideration in the light of the observations made in the body of the judgment with a further direction that if the Government is of the view that no permission, is to be granted to the petitioner u/s 29 of the above Act, it shall pass suitable orders for return of money to the petitioner alongwith interest thereon as observed above in the body of the judgment. The concerned authority shall try to pass an order in the matter at an early date preferably within a period of three months from the date on which a certified copy of this order is produced.

33. Both the parties shall bear their own costs of the writ petition.