IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (PIL) No. 2045 of 2022

Sunil Kumar Mahto, aged about 40 years, Son of L.C. Mahto, Resident of Katari Bagan, P.O. & P.S. Namkum, District – Ranchi.

… Petitioner

Versus

1. The State of Jharkhand through its Chief Secretary, Government of Jharkhand, Project Building, P.O. and P.S.- Dhurwa, District – Ranchi.
2. The Home Secretary, Government of Jharkhand, Project Building, P.O. and P.S.- Dhurwa, District – Ranchi.
3. The Secretary, Department of Industries, Government of Jharkhand, Nepal House, P.O. and P.S.- Doranda, District – Ranchi.
4. The Secretary, Department of Mines and Geology, Government of Jharkhand, Nepal House, P.O. and P.S.- Doranda, District – Ranchi.
5. The Director, Central Bureau of Investigation, Plot no.5B, 10th Floor, B Wing, CGO Complex, Lodhi Road, New Delhi, P.O. and P.S.- Lodhi Road, District – New Delhi (PIN – 110003).
6. The Director, Enforcement Directorate, 6th Floor, Lok Nayak Bhawan, Khan Market, New Delhi, P.O. and P.S.- Khan Market, District – New Delhi (PIN-110003).
7. Hemant Soren, Son of Shri Shibu Soren, The Minister, Department of Mines and Geology and Department of Industries, Government of Jharkhand, Resident of Kanke Road, P.O.- Ranchi University, P.S.- Gonda, District – Ranchi.
8. M/s Sohrai Livestock Farms Private Limited, through its Director Kalpana Soren @ Kalpana Murmu Soren, Wife of Hemant Soren, Resident of Kanke Road, P.O.- Ranchi University, P.S.- Gonda, District – Ranchi.
9. M/s Shiv Shakti Enterprises through its Proprietor Abhishek Prasad @ Pintu, Press Advisor to the Chief Minister, Resident of Kanke Road, P.O. – Ranchi University, P.S.- Gonda, District – Ranchi.
10. M/s Mahakaal Stone Works through its Proprietor Pankaj Mishra, *Vidhayak Pratinidhi* of Hemant Soren, Resident of SDO Kothi, Sakrugarh, P.O., P.S. and District – Sahebganj.
11. Kalpana Soren @ Kalpana Murmu Soren, Wife of Hemant Soren, Resident of Kanke Road, P.O.- Ranchi University, P.S.- Gonda, District – Ranchi.
12. Abhishek Prasad @ Pintu, Press Advisor to the Chief Minister, S/o Late Tripurari Prasad, Resident of Kanke Road, P.O.- Ranchi University, P.S.- Gonda, District – Ranchi.
13. Pankaj Mishra, Son of Shri Laxmikant Mishra, *Vidhayak Pratinidhi* of Hemant Soren, Resident of SDO Kothi, Sakrugarh, P.O., P.S. and District – Sahebganj.

14. Sarala Murmu, Father's name not known, Sister-in-law of Hemant Soren, Resident of Kanke Road, P.O.- Ranchi University, P.S.- Gonda, District – Ranchi.
15. Office of the Hon'ble Governor through The Principal Secretary to the Hon'ble Governor, Raj Bhawan, Ranchi, P.O.- G.P.O., P.S.- Kotwali, District – Ranchi.

… Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANANDA SEN

For the Petitioner: Mr. Rajiv Kumar, Advocate
Mr. Vikalp Gupta, Advocate
For the State-Resps: Mr. Rajiv Ranjan, Advocate General
Mr. Piyush Chitresh, A.C. to A.G.
For the ED: Mr. Amit Kumar Das, Advocate

Reserved on: 29.11.2023 **Pronounced on:27.12.2023**

Upon hearing the learned counsel for the parties, this Court passed the following, (Per, Sanjaya Kumar Mishra, C.J.)

ORDER

1) By filing this Public Interest Litigation, the petitioner has prayed for the following reliefs:-

a. For directing the respondent nos. 3 and 4 to give details of all the leases of the Industrial lands granted by the Department of Industries/JIADA including the one granted in favour of Sohrai Livestock Private Limited, a Company of Kalpana Murmu @ Kalpana Murmu Soren, Wife of the respondent no. 7 at Barhe Industrial Area at Chanho Block in the district of Ranchi, and all such mining leases granted by them in favour of the respondent no. 7 to 14 or their relatives including the mining lease granted by them in favour of the respondent no. 7 at Mauza – Angara, thana no.26, Khata no. 187, Plot no. 482, in the district of Ranchi. The mining lease grnated in favour of the respondent no.9 over Mauza – Pakariya, Khata no. 13, 01, 25, 32, 16, 31, 45, Khesra no.- 254 to 256, 258 to

260, 261 and 262(P) in the District of Sahebgnaj and the mining lease granted in favour of the respondent no. 10 in Mauza – Gilamari, Daag no. 182(P), Village – Gilamari, P.S. – Mirzachowki in the District of Sahebganj and pass appropriate orders and directions commanding upon the respondent nos. 1, 3 and 4 to immediately cancel the same and also pass appropriate directions to the respondent no. 15 to grant Sanction of Prosecution to prosecute the respondent no. 7 for his act of Misuse of Office and getting the mining lease approved in his own name and in the name of his personal staffs and relatives making himself and the respondent no. 8 to 14 liable to be prosecuted under the provisions of Section 7, 7A and 13(2) of the Prevention of Corruption Act, 1988 including Section 165, 165A, 166A, 168 and Section 169 of the Indian Penal Code, 1860.

b. *For directing an independent enquiry/investigation either by a Judicial Commission or through an specialized agency like the Central Bureau of Investigation or Enforcement Directorate into the matters of the unlawful business activities and illegal financial resources of M/s Sohrai Livestock Farms Private Limited, a Company of Kalpana Murmu @ Kalpana Soren, wife and Sarla Murmu, Sister-in-law of the respondent No.7, M/s Shiv Shakti Enterprises, a Firm of Abhishek Prasad @ Pintu, the official Press Advisor of the respondent no. 7 (Holding the rank of Secretary to the Government and M/s Mahakal Stone Works, a Firm of Pankaj Mishra, Vidhayak Pratinidhi of respondent no. 7 and likewise all other Companies/Firms owned or promoted by the respondent nos. 7 to 14 or their relatives/kiths and kins*

including in the matter of grant of all industrial/mining leases granted by the Department of Industries and Department of Mines and Geology in favour of the aforesaid respondents or their Firms or their Companies during the tenure of the respondent no. 7 as Chief Minister as well as the Departmental Minister of the Department of Mines and Geology and Department of Industries, Government of Jharkhand and the petitioner also prays for a direction upon the respondent no. 5 and 6 to investigate upon the matters of criminality and money laundering taken place and involved in the mining and other businesses being done by the said persons or their firms or their close relatives.

AND/OR

c. *For any other relief/reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.*

AND/OR

For directions upon the respondent no.1, through the Chief Secretary to immediately summon and take custody of the entire files related to the above concerned leases granted in favour of respondent nos. 7 to 14 so that the same may not be manipulated during the pendency of this case."

2) In compliance of Jharkhand High Court (Public Interest Litigation) Rules, 2010, the petitioner at paragraph 3 of this writ petition has averred that he is an Advocate practicing in the Jharkhand High Court and a public spirited person. He further claims himself to be vigilant and active so as to ensure that public offices of the State may function free of any corruption. The petitioner allegedly has been helping to aggrieved and needy persons to get right to justice. He also states that he has been awarded with RTI fellowship-2016 by the Central

Government and he has also been awarded with NDTV National RTI Award in the year 2009; he was featured in the front page of New York Times in the year 2009 and two episodes based on the activities of the petitioner were telecast by the DD News. He has been associated with several National and International Organizations and Nine-member delegates of Indonesia and China had visited the RTI Helpline Centre run by the petitioner in Banta-Hazam, Silli in Ranchi District. He has annexed the photocopies of letter of fellowship, newspaper clippings and photocopy of Voter Id. Card, as Annexure 3, 3/1 and 3/2 to the writ petition. Rest of the averments regarding credentials are not supported by any documentary proof.

3) The primary grievance of the petitioner is that the respondent No.7, i.e., the Chief Minister of Jharkhand, has indulged himself in several corrupt activities and got mining leases in his name, in the name of his wife's organization and in the name of his wife.

4) On 28.04.2023, a supplementary affidavit has been filed wherein the petitioner sought to bring certain additional documents like some letters issued by the Jharkhand Audhyogic Chetra Vikas Pradhika (Ranchi Prachetra).

5) On 11.05.2023, the petitioner filed a supplementary affidavit stating therein that he had made representation before the respondent No.15 on 19.01.2002 and thereafter filed RTI application seeking information regarding action taken on the representation. The Public Information Officer vide letter dated 02.05.2022 has provided an information that the representation was sent to the Cell of Chief Secretary, Jharkhand for proper action, however, no action has been taken by the Chief Secretary.

6) The petitioner also wrote letter to the President of India, the Prime Minister of India and the Home Minister of India. The CPIO of the

President's Secretariat has provided information vide letter dated 02.05.2022 that the matter was sent to the Home Secretary, Department of Home on 29.04.2022. The Under Secretary of the Government of India & CPIO, Ministry of Home Affairs has informed vide letter dated 09.05.2022 that the matter is related to the Ministry of Mines and hence, it was transferred to them. The Under Secretary of Government of India & CPIO, Ministry of Mines on 18.05.2022 informed that the matter relates to the State Government. He alleges that the authorities and respondents are shifting liabilities on each other and not taking any action in the matter of corruption by persons sitting in higher posts.

7) It may be stated here that respondent No.15 is the Principal Secretary of the Hon'ble Governor Jharkhand.

8) The Special Secretary, Mines and Geology, Government of Jharkhand, Ranchi has filed a short counter affidavit denying the complains made therein and stating therein that there has been suppression of fact by the petitioner. He has also relied upon the judgment rendered by the Hon'ble Supreme Court in the case of **State of Jharkhand Vs. Shiv Shankar Sharma and Others,** 2022 SCC OnLine SC 1541, wherein at following paragraphs, the Hon'ble Supreme Court has held as under:-

> ***"4.*** *Two public interest litigations petitions were filed before the Jharkhand High Court by the same person, i.e., Sri Shiv Shankar Sharma. In the first Writ Petition (PIL) No. 4290 of 2021 the following relief was sought:—*
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> > *"A. For the direction upon the respondents specially respondent's especially respondent no. 3 to enquire into the money transferred of Soren Family in the name of respondent no.'s, 8 to 13 and may also submit the report*

to Income Tax Department as to how the companies which are 28 in numbers have been used as a parking place for ill gotten money.

B. For the direction upon the respondent no. 3 to investigate the sources of income of respondent no. 8 to 13 as because they being the close friends of Hemant Soren and Basant Soren have invested the money in number of companies as chain of hotels as it is shown that the owner is Ranjan Sahu and the Hotlips chain of hotels and restaurants which was situated in a small area near the Chief Minister's residents and later on removed have transformed into six hotel chains situated at Kanke Road, Ratan Lal Complex, Ratu Road, Lalpur, Hinoo and Kamre.

C. For the direction upon the respondent no. 4 also to investigate the financial crime committed by Hemant Soren which income has given to Ravi Kejriwal as he is connected to him since childhood and also having close connection with Ranjan Sahu, the so called owner of Hotlips Chain of hotels and restaurants and may also investigate as at which point of time and place Mr. Hemant Soren has committed illegality and earned crores of rupees and invested in the name of these persons.

D. For the direction upon the respondent no. 5 to investigate the money trail of crime proceed lying with respondent no. 8 to 13 and they have amassed the huge wealth and returning the money at the time of election to Jharkhand Mukti Morcha headed by Hemant Soren.

E. For any other of the relief or reliefs as this Hon'ble Court may deem fit and proper in the light of the facts of this case."

5. *In the Second Writ Petition (PIL) No. 727 of 2022 the following relief was sought:—*

"A. For the direction upon the respondent No. 9 to grant sanction for prosecution, to prosecute the "The Chief Minister Cum, Minister Department of Mines, for act of misuse of office and getting the Mining Lease done in his own name, although, he being a Departmental Minister/Chief Minister cannot do business (Article 191 (9) of Constitution) of mining, and also committed criminal act, so he is liable to be prosecuted under Section 7(A) and 13(I)(d) of Prevention of Corruption Act, 1988 & Section 169 of IPC, and also to cancel his membership of assembly of Jharkhand, and also he has violated section 9 of the Peoples' Representation Act, 1950 & lastly, he has contravened the code of conduct framed by Union Government for the Hon'ble Chief Minister & Ministers of States.

B. For the direction upon the respondents especially respondent No. 1, the Chief Secretary, Jharkhand to protect the relevant file of Department of Mines wherein, the mining lease of Angadha Mauza, Thana No. 26, Khata No. 187, Plot No. 482, Area 0.88 Acre for that Letter of intent (LOI) was issued on 16.06.21, approval of mining plan was given on 10.07.21, mining plan approved on 09.09.21 & finally on 09.09.21 the respondent No. 7 has given application, which was approved in its 90 meeting

dated 14-18 September, 2021, within such a short time although, the SEIAA has given environmental clearance to new High Court building after so many months, ANDA, directions may be issued to Central Bureau of Investigation (CBI) & Enforcement Directorate to investigate the crime committed by respondent no. 7 & 8.

C. For the direction upon the respondent CBI especially also to investigate the history illegal mining committed by the person like the respondent No. 7 and due to his influence, illegal mining is done to public properties sold by Mr. Soren against the provisions of law to himself only.

D. For any other of the relief or reliefs as this Hon'ble Court may deem fit and proper in the light of the facts of this case."

9) In the said short counter affidavit, reliance has been placed on paragraphs 10 and 11 of the reported judgment to demonstrate how the writ application is an abuse of process of law.

10) A rejoinder affidavit has been filed.

11) Two additional supplementary affidavits have been filed on 13.07.2023 and 09.10.2023. In the supplementary affidavit dated 13.07.2023, the petitioner is making certain allegations regarding allotment of industrial land in the Industrial Area in favour of the respondents and in the 2nd supplementary affidavit dated 09.10.2023, the petitioner has tried to distinguish the two writ petitions, especially with regard to the prayers made therein regarding investigation, etc.

12) In sum and substance, the petitioner claims that the Chief Minster has allegedly adopted illegal and corrupt practices to get certain mining lease in his favour and in favour of certain firms which are being operated in the name of his wife and he prays that the writ application

should be allowed and Central Bureau of Investigation should be directed to take up the investigation.

13) On the other hand, learned Advocate General appearing for the State, would submit that the petitioner does not have appropriate credentials in terms of relevant Rules, i.e., the Jharkhand High Court (Public Interest Litigation) Rules, 2010. He would further submit that a similar matter was considered by the Hon'ble Supreme Court in the case of **State of Jharkhand Vs. Shiv Shankar Sharma (supra)** and, therefore, this writ application should be dismissed as not maintainable. While dealing with the matter, the Hon'ble Supreme Court in the aforesaid case of **State of Jharkhand Vs. Shiv Shankar Sharma (supra)** at paragraph 10 has held as under:-

> ***"10.*** *The second Writ Petition (PIL) No. 727 of 2022 is the one where a direction has been sought to prosecute the Chief Minister, who is also the Minister in the Department of Mines. The reason being that he has misused his office in getting a mining lease in his own name. As far as the second writ petition is concerned, a reply has been filed by the State of Jharkhand before the Jharkhand High Court as well as by the Chief Minister, Mr. Hemant Soren that full facts of the case have not been stated by the petitioner in the petition and he has deliberately suppressed the material facts. The mining lease which is alleged to have been made in favour of the Chief Minister is on a land situated in Angadha Mauza, Thana No. 26, Khata No. 187, Plot No. 482 and the total Area of the land is only 0.88 Acres. It was allotted to Mr. Hemant Soren for a period of 10 years between 17.05.2008 to 17.05.2018 after the expiry of the lease period of 10 years an application for its renewal was made belatedly by Mr. Hemant Soren on 06.06.2018 and by that*

time the lease had lapsed. Subsequently by way of Gazette Notification No. 1 of 2021 which was issued on 27.03.2021, fresh applications for the mining lease were invited. A letter of intent was given in favour of Mr. Hemant Soren on 16.06.2021. All the same on 04.02.2022 the respondent No. 7, i.e., Mr. Hemant Soren wrote to District Mining Officer, Ranchi for surrendering mining lease with immediate effect. As per Section 26 of Jharkhand Minor Mineral Concession Rules, 2004 a demand for advance of six months of royalty to be deposited by Mr. Hemant Soren and the mining lease was surrendered and was accepted under the Rules on 11.02.2022. Therefore, according to the respondent at the time of filing of the second writ petition (PIL) No. 727 of 2022, there was no mining lease in favour of respondent No. 7 as it had already stood surrendered. In its reply dated 05.05.2022, the State of Jharkhand has also stated that although the lease was renewed in favour of the Mr. Hemant Soren no mining activity or extraction of stone took place on the mining lease area. Further, in this regard if any anomaly has been committed and respondent No. 7 has to suffer a disqualification from his office, for having a mining lease in his favour, the matter in this regard is pending inquiry before the Election Commission of India in a Reference case No. 3(G) of 2022 which is registered on the reference received from the Hon'ble Governor of Jharkhand under Article 192 of the Constitution of India. The Election Commission of India has issued a notice to the Chief Secretary on 08.04.2022 seeking certain information which had been duly supplied by the State vide its letter dated 26.04.2022. In other words, this matter as regarding the mining lease in favour of the Chief Minister, i.e.,

Mr. Hemant Soren and his disqualification from office, is pending consideration with the Election Commission of India. So much for the second writ petition which in our view is totally an abuse of the process of this Court."

14) A conjoint reading of the reported judgment and the facts of the present case reveal that the main allegation by the petitioner against respondent No.7 is regarding the illegal mining lease that has been allegedly issued in his favour. The Hon'ble Supreme Court has considered the fact that the Election Commission of India has issued notice to the Chief Secretary seeking certain information which has been supplied and the matter regarding mining lease in faovur of the Chief Minister and his disqualification is pending consideration before the Election Commission of India. Thus, it is apparent that this question was considered by the Election Commission of India. None of the parties could inform the Court about the final decision of he aforesaid proceedings. So, the matter relating to illegal grant of mining lease in favour of respondent No.7 is already pending either before the Election Commission of India or the concerned authority and for that, once the Hon'ble Supreme Court has not exercised its discretion to direct investigation in the name of respondent No.7, it shall be in the teeth of the judgment passed by the Hon'ble Supreme Court to pass any further order in favour of the petitioner.

15) The other allegation is regarding certain financial irregularities with respect to M/s. Sohrai Livestock Farms Private Limited, M/s. Shiv Shakti Enterprises, etc. In the case of **State of Jharkhand Vs. Shiv Shankar Sharma (supra)**, the Hon'ble Supreme Court has held that before seeking any redressal through a Public Interest Litigation in the High Court, the petitioner should approach the concerned authorities regarding the allegations that he is making. Only when the authorities

do not take any action, the petition should be filed and should be entertained. Annexure 2 is the only representation made by the petitioner and it is regarding the self same allegation of grant of mining lease in favour of respondent No.7 with respect of stone quarry (*pathar khadan)*, etc. Thus, it is clear from the record that the petitioner has not approached the authorities prior to filing the writ application regarding any allegation or grievances with respect to the 2nd prayer made in the instant Public Interest Litigation. Thus, it is our considered view that if we allow the writ application and direct investigation of the case against respondent No.7 and others, then it will be in the teeth of the judgment passed by the Hon'ble Supreme Court in the case of **State of Jharkhand Vs. Shiv Shankar Sharma (supra)**. In that view of the matter, we are of further the opinion that no direction can be given with respect to the prayers made by the petitioner in this case and the writ petition is, thus, dismissed.

16) There shall be no orders as to costs.

17) Pending Interlocutory Applications, if any, stand disposed of.

18) Urgent Certified copies as per Rules.

(Sanjaya Kumar Mishra, C.J.)

Ananda Sen, J. I agree.

(Ananda Sen, J.)

N.A.F.R./Manoj