

Bindeshwari Prasad Singh Vs. M.P. State Mining Corporation and anr.

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Court : Madhya Pradesh

Decided On : Feb-16-1996

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Judge : A.K. Mathur, C.J. and ;S.K. Kulshreshtha, J.

Acts : [Constitution of India](#) - Articles 12, 14, 16, 21, 226 and 311; Madhya Pradesh State Mining Corporation Service (Conduct, Discipline and Appeal) Rules, 1993 - Rule 27

Appeal No. : M.P. No. 4181 of 1995

Appellant : Bindeshwari Prasad Singh

Respondent : M.P. State Mining Corporation and anr.

Advocate for Def. : P.L. Dubey and ;Vivek Awasthy, Advs.

Advocate for Pet/Ap. : V.K. Tankha, Adv.

Disposition : Petition allowed

Judgement :

ORDER

A.K. Mathur, C.J.

1. In all these writ petitions a common question of law is involved and, therefore, they are disposed of by a common order. For the convenient disposal of these writ petitions, facts in W.P. No. 4181 of 1995, Bindeshwari Prasad Singh v. M.P. State Mining Corporation Limited, Bhopal are taken into consideration.

2. Petitioner in W.P. No. 4181 of 1995 has prayed that Rule 27 of the M. P. Mining Corporation Service (Conduct) Rules, 1993 may be declared as ultra vires Articles 14, 16 and 21 of the [Constitution of India](#) and likewise the order passed on 29-11-1995 (Annexure P4) may be quashed.

3. Brief facts giving rise to the writ petition are that the petitioner was a Deputy General Manager (Mines) of the M. P. State Mining Corporation Limited (hereinafter referred to as 'Corporation') in the pay scale of Nos. 3700-5000/-. The petitioner was appointed as Mining Engineer in the services of the Corporation by order dated 3-3-1979 after due selection. The petitioner joined on 17-4-1979. The petitioner left his earlier job with Bihar State Mineral Development Corporation to join the Corporation. The petitioner was promoted as Senior Mining Engineer and then this post was redesignated as Deputy General Manager (Mines) and he continued on this post till his services were terminated by order dated 29-11-1995 (Annexure P4).

4. The service conditions of the petitioner are governed by the M. P. State Mining Corporation Service (Conduct, Discipline and Appeal) Rules, 1993 (for short the Rules of 1993). The Corporation is fully funded, financed and controlled by the State Government. The Managing Director of the Corporation is Shri S. Laxmi Narayanan, Senior Officer of the rank of Principal Secretary. The petitioner was not served with any charge sheet nor any enquiry was held against him and suddenly, order dated 29-11-1995 was passed terminating his services in exercise of the power conferred under rule 27 of the Rules of 1993. Therefore, the petitioner has challenged the validity of Rule 27 of the Rules of 1993 as well as the termination order terminating his services by giving his three months' salary in lieu of the notice. A return has been filed by the respondents and they have taken an objection by filing additional return seeking amendment of return that the writ petition is not maintainable because the Corporation is not 'State' within the

meaning of Article 12 of the [Constitution of India](#) and in support thereof, they have filed copy of judgment given in the case of Brijmohan Bharadwaj v. M.P. State Mining Corporation, M. P. No. 364 of 1974 decided on 22-11-1975. wherein this Court has taken a view that the M. P. State Mining Corporation is not 'State' within the meaning of Article 12 of the Constitution and dismissed the petition.

5. In order to find out whether the Corporation is State within the meaning of Article 12 of the Constitution or not, Shri Tankha, learned counsel for the petitioner, has invited our attention to the decision of this Court in a case of Suresh Kumar Kewat v. M.P. State Tourism Development Corporation Limited, M.P. No. 3846 of 1989 decided on 24-10-1991, wherein the M. P. State Tourism Development Corporation Ltd. has been treated to be an instrumentality of the State and a 'State' within the meaning of Article 12 of the Constitution. Learned counsel also invited our attention to a decision of their Lordships of the Supreme Court given in the case of Central Inland Water Transport Corporation Limited v. Brojo Nath, AIR 1986 SC 1571.

6. In order to decide whether the respondent Corporation is the State within the meaning of Article 12 of the Constitution or not, it will be relevant to refer to the origin of this institution and its functions and duties. As per Memorandum of Association, the object of the establishment of the respondent Corporation is to search for major and minor minerals and precious stones and to acquire, by purchase or grant, mining and other rights in the lands; to acquire by purchase or otherwise any ores or mineral produce for the purpose of working and rendering the same marketable; to acquire mining rights by obtaining licences/leases from Government and to raise on behalf of Government major or minor minerals or such other specified minerals which have been reserved or likely to be reserved for exploitation, sell and dispose of the same, to treat and render marketable such of the aforesaid and any other minerals as are capable of commercial exploitation; to apply for purchase or otherwise acquire any patents, licences and like rights etc. conferring exclusive or non-exclusive or limited rights, to use any secret or other information as to any invention which may seem capable of being used and for any of the purposes of the Company; to enter into any arrangements with the Government of Madhya Pradesh or the Central Government for rights,

concessions and privileges that may seem conducive to the Company's objects or any of them; to carry on trading in minerals by acting as intermediaries between the State Trading Corporation of India and the Mine-owner and by securing bulk contracts for sale or export of minerals or for purposes which may seem conducive to the attainment of any of the aforesaid objects of the Company; to provide facilities for transportation of such major and minor minerals development of which will directly benefit the Corporation's mines etc. etc. It declares that the Company will be known as a Government Company within the meaning of section 617 of the Companies Act, 1956 controlled by the Government of Madhya Pradesh. The authorised share capital of the Company is Rupees five crores divided into five lakhs equity shares of rupees one hundred each with the rights, privileges and conditions attached thereto as may be provided by the Articles of Association of the Company for the time being, with powers to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several clauses and to attach thereto respectively such preferential deferred qualified, or special rights, privileges and conditions as may be determined by or in accordance with the Articles of Association of the Company and to vary, modify, amalgamate or abrogate and such rights, privileges or conditions in such manner as may for the time being be provided by the Articles of Association of the Company.

The following shares were given to the persons - No. of shares.(1) State of Madhya Pradesh. One(2) Shri S. M. Mehta, Chairman, M.P.E.B., OneRampur, Jabalpur.(3) Shri Harish Chandra, Director of Geology Oneand Mining, M. P., Raipur.

7. Clause (5) of Articles of Association of the Company says that the authorised capital of the Company is rupees five crores, divided into five lakhs equity shares of Nos. 100/- each provided that the Company may alter the conditions of its memorandum so as to increase its share capital by such amount as it thinks expedient by issuing new shares in the manner prescribed in section 94 of the Act.

Article 32 says that subject to the approval of the Governor, the Directors may, with the sanction of the Company in general meeting, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall

prescribe.

Articles 36 says - subject to the provisions of sections 100 to 104 of the Act and to such directions as may be issued by the Governor in this behalf the Company may from time to time by special resolution reduce its capital.

Article 37 says - subject to the approval of the Governor, the Company, in general meeting, may from time to time sub-divide or consolidate its shares.

Article 39 says - subject to the approval of the Governor and subject to the provisions of section 292 of the Act, the 'Board' may by means of resolution passed at meetings of the Board from time to time, borrow and or secure the payment of any sum or sums of money for the purposes of the company.

Article 40 provides that the Directors may, subject to the approval of the Governor, secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit.

Article 51 says that the Governor may appoint one or more persons, who need not be a member or members of the Company, to represent him at all or any of the meetings of the Company.

Article 73 (a) provides that the Governor shall from time to time, determine in writing the number of Directors of the Company which shall not be less than two and not more than ten.

Article 73 (b) says that the Directors are not required to hold any qualification.

Article 77 reads thus -

'77 (a) The Governor may appoint one of the Directors to be the Managing Director who shall be a whole time employee of the Company or a Board of Management consisting of two or more Directors, for the conduct or management of the company subject to the control and supervision of the Board of Directors. The Managing Director or the Board of Management so appointed may be authorised by the Board to exercise such powers and discretion in relation to the affairs of the Company as are specifically delegated to him/it by the Board and are not required

to be done by the Board of Directors of the Company at the general meeting under the Act.

(b) The Managing Director shall be paid such salary and allowances as may be fixed by the Governor.'

Article 87 says that the Governor may nominate a Director as Chairman of the Director's meeting and determine the period for which he is to hold office : and if so such Chairman is nominated, or if at any meeting the Chairman is not present within fifteen minutes after the time for holding the same, the Directors present may choose one of their member to be Chairman of the meeting.

Article 88 says that the Chairman shall reserve for the decision of the Madhya Pradesh Government any proposals or decisions of the Board of Directors or any matter brought before the Board which raises in the opinion of the Chairman an important issue and which is on that account fit to be reserved for the decision of the Madhya Pradesh Government and no decision on such an important issue shall be taken in the absence of the Chairman appointed by the Governor in respect of matters reserved by the Chairman for decision of the Madhya Pradesh Government, if the Madhya Pradesh Government's view be not received within a period of two months, the Directors shall be entitled to act in accordance with the proposal or decision without further reference to the Madhya Pradesh Government.

8. Article 119 says that the Comptroller and Auditor General of India shall have powers to direct the manner in which the Company's accounts shall be audited.

Article 122 reads as under :

'Notwithstanding anything contained in any of these Articles the Governor may from time to time, issue such directions or instructions as he may consider necessary in regard to the affairs or the conduct of the business of the Company or the Directors thereof, and in like manner may vary and annul such directions or instructions. The Directors shall duly comply with and give immediate effect to directions and instructions issued.'

8A. All these aforementioned articles of the Articles of Association of the Corporation are referred with a view to show all pervasive control which the State exercises through the Governor for regulating the business of the Corporation. It is true that this Court in the case of Corporation has taken the view that it is not the State within the meaning of Article 12 of the Constitution; but with great respect, the view taken by this Court in the case of Brijmohan Bharadwaj, M. P. No. 364 of 1974 is not correct because of subsequent decisions of their Lordships of the Supreme Court which were not before their Lordships of this Court when the present issue came up before them. Subsequent land-marked decision in the matter is in the case of Ajay Hasia v. Khalid Mujib, AIR 1981 SC 487. This judgment made a significant departure while reviewing all earlier decisions of their Lordships of Supreme Court, which were referred to before their Lordships of this Court in the case of Brijmohan Bharadwaj (supra). In the case of Ajay Hasia case (supra), the Constitution Bench, after reviewing all earlier judgments, laid down the parameters for determining whether a Corporation is an instrumentality or agency of the Government. Their Lordships while dealing with the case of Regional Engineering College, Srinagar which is one of the fifteen Engineering Colleges in the country sponsored by the Government of India, had occasion to consider all the decisions on the subject which were considered by their Lordships in the case of Brijmohan Bharadwaj case (supra) i.e. Sabhajit Tewary v. Union of India, AIR 1975 SC 1329, Praga Tools Corporation v. C.V. Imanual, AIR 1969 SC 1306, Heavy Engineering Mazdoor Union v. State of Bihar, AIR 1970 SC 82, S.L. Agarwal v. Hindustan Steel Limited, AIR 1970 SC 1150 and Sukhdev Singh v. Bhagatram, AIR 1975 SC 1331.

9. Their Lordships in the case of Brijmohan Bharadwaj (supra) after considering the aforesaid cases, came to the conclusion that the M. P. State Mining Corporation is not an authority within the meaning of Article 12 of the [Constitution of India](#). All these cases were considered by the Constitution Bench of the Supreme Court in the case of Ajay Hasia (supra) and after reviewing all these cases, their Lordships laid down certain parameters and it was observed as under :

'It is immaterial for determining whether a Corporation is an authority whether the Corporation is created by a statute or under a statute. The test is whether it is an instrumentality or agency of the Government and not as to how it is created. The inquiry has to be not as to how the juristic person is born but why it has been brought into existence. The Corporation may be a statutory corporation created by a statute or it may be a Government company or a company formed under the Companies Act or it may be a society registered under the Societies Registration Act or any other similar statute. Whatever be its genetical origin, it would be an 'authority' within the meaning of Article 12 if it is an instrumentality or agency of the Government and that would have to be decided on a proper assessment of the facts in the light of the relevant factors. The concept of instrumentality or agency of the Government is not limited to a Corporation created by a statute but is equally applicable to a company or society and in a given case it would have to be decided, on a consideration of the relevant factors, whether the company or society is an instrumentality or agency of the Government so as to come within the meaning of the expression 'authority' in Article 12. A juristic entity which may be 'State' for the purpose of Parts III and IV would not be so far as the purpose of Part XIV or any other provision of the Constitution.'

Thus, the idea behind is whether a Corporation which has been created under the statute or under the Cooperative Societies Act or any other enactment is an instrumentality or agency of the Government. All the provisions which have been mentioned and quoted from the Memorandum of Association and Articles of Association point out that how much the State has control over the respondent Corporation.

10. A perusal of the Memorandum of Association and Articles of Association would show that the respondent Corporation has been created as an agency of the State and through this agency, the mineral wealth of the State is exploited and the respondent Corporation used to grant licences to other agencies for exploitation of the mineral wealth of the State. The very fact that the entire share capital is of the Government and all the appointments are being made to the posts of Chairman, Managing Director and Directors through the Governor, all transfers of the shares have to be with the approval of the Governor, all the important decisions have to

be communicated to the State Government and after its approval, the Corporation has to act upon those decisions. This all pervasive control of State speak volume that it is nothing but an instrumentality or agency created by the Government so that the mineral wealth of the State could be properly exhibited and it can fetch the best revenue for the State. The test which has been laid down in the case of *Ajay Hasia* (supra) is squarely satisfied in this case and there is no hesitation in coming to the conclusion that the respondent Corporation is nothing but a 'State' within the meaning of Article 12 of the Constitution. In fact, this decision of the Constitutional Bench of the Supreme Court which has direct bearing with the subject, was not before their Lordships of this High Court when their Lordships decided the case of *Brijmohan Bharadwaj* (supra) way back in the year 1975. In this view of the matter, the decision given by their Lordships of this Court in the case of *Brijmohan Bharadwaj* is nothing but incurium.

11. The decision in *Ajay Hasia's* case has been further followed by their Lordships of the Supreme Court in the case of *Central Inland Water Transport Corporation Limited* (supra) and this case is identical to the present case. In this case also, the Central Inland Water Transport Corporation Limited was constituted and majority of the shares of the Corporation were for all times and are still held by the Union of India and the remaining shares were held by the State of West Bengal and State of Assam and the Corporation was registered under section 617 of the Companies Act, 1956. Therefore, it was a Government Company registered under section 617 of the Companies Act. The Memorandum of Association and Articles of Association which have been reproduced above are by and large the same. In that context, after reviewing the earlier decisions, their Lordships came to a conclusion that it is the 'authority' within the meaning of Article 12 of the Constitution. Their Lordships observed in this regard as under:

'If there is an instrumentality or agency of the State which has assumed the garb of Government Company as defined in section 617 of the Companies Act, it does not follow that it thereby ceases to be an instrumentality or agency of the State. For the purposes of Article 12 one must necessarily see through the corporate veil to ascertain whether behind that veil is the face of an instrumentality or agency of the State. The Central Inland Water Transport Corporation, squarely falls within these

observations and it also satisfies the various tests which have been laid down. Merely because it has so far not the monopoly of inland water transportation is not sufficient to divest it of its character of an instrumentality or agency of the State. It is nothing but the Government operating behind a corporate veil, carrying out a Governmental activity and governmental functions of vital public importance. There can thus be no doubt that the Corporation is 'the State' within the meaning of Article 12 of the Constitution.'

The ratio laid down by their Lordships of the Supreme Court in the case of *Ajay Hasia* (supra) as well as in the case of *Central Inland Water Transport Corporation Limited* (supra) clinches the issue that such types of Government companies have been treated to be instrumentalities and agencies of the State and they fall within the definition of 'State', and hence, they are State within the meaning of Article 12 of the Constitution.

12. Shri P. L. Dubey, Senior Advocate, appearing for respondents invited our attention towards two more decisions of the Supreme Court, namely, *Chander Mohan Khanna v. N. C. E. R. T.*, AIR 1992 SC 76 and *Tekraj v. Union of India*, AIR 1988 SC 469. In the case of *Chander Mohan Khanna* (supra), question was whether the National Council of Educational Research and Training (NCERT) is 'State' within the meaning of Article 12 of the Constitution or not. Their Lordships held that Article 12 should not be stretched so as to bring in every autonomous body which has some nexus with the Government within the sweep of the expression 'State'. Their Lordships held that vast and pervasive control of the State is not determinative. The financial contribution by the State is also not conclusive. The combination of State aid coupled with an unusual degree of control over the management and policies of the body and rendering of an important public service being the obligatory functions of the State may largely point out that the body is 'State'. It was also observed that if the Government operates behind a corporate veil, carrying out governmental activity and governmental functions of vital public importance, there may be little difficulty in identifying the body as 'State' within the meaning of Article 12 of the Constitution. Their Lordships examined the activities of the NCERT comprising undertaking several kinds of programmes and activities connected with the coordination or

research extension services and training and dissemination of improved educational techniques, collaboration in the educational programmes and preparation of and publication of books are not wholly related to governmental functions and its Executive Committee can enter into arrangements with Government, public or private organisations or individuals in furtherance of programmes and is free to apply its income and property towards the promotion of its objectives and implementation of its programmes and the control of the Government is confined only to the proper utilisation of the grant given by it which is one of the sources of its funds. Therefore, the organisation was not held to be 'State' within the meaning of Article 12 of the Constitution.

As against this, the present Corporation, as per reproduction of Memorandum of Association and Articles of Association, is an agency of the State through which the mineral wealth of the State is sought to be regulated. The mineral wealth is of the State and it is the State which has full control on its mineral wealth and the revenue arising therefrom is a part of necessary wealth of the State. Apart from that in every appointment and every important decision making process of the respondent Corporation, the Government has full control through the Governor. In fact, the Governor cannot act without the aid and advice of the Government, since under the provisions of Article 154 of the Constitution the executive power of the State is vested in the Governor. All executive actions of the State have to be expressed to have been taken by the Governor. In parliamentary affairs of the Government, the Governor has to act on aid and advice of the Cabinet. It is thus clear that through the Governor, the entire Corporation is regulated. No appointment can be made without the approval of the Governor, the entire share capital is of the State Government and all important (decisions have to be with the approval of the Governor through the aid and advice of the Government. This all pervasive control of the Government would show that the Corporation is 'State' within the meaning of Article 12 of the [Constitution of India](#). The decision given in the case of Chander Mohan Khanna (supra) is distinguishable on the facts of the present case.

13. In the case of Tekraj v. Union of India (supra), question was whether the Institute of Constitutional and Parliamentary Studies rested within the meaning of

Article 12 of the Constitution. It was the institution or registered society and mostly financed by the Central Government and partly by gifts and donations and other subscriptions. The objects of the Society are to provide for Constitutional and Parliamentary studies with special reference to comparative studies in constitutional systems of various countries and working of the Indian Constitution and Parliamentary and governmental institutions in their various aspects, to undertake study of courses and fundamental research relating to developments in constitutional law, to organise inter alia training programmes in constitutional problems and matters of current Parliamentary importance, to undertake and provide for the publication of a journal and of research papers, etc. etc. The Supreme Court found that though the actual financial contribution is from the State, it was also entitled to receive aid from public and certain contributions and its objects were not governmental business. Therefore, it was found that the Government does not have pervasive control over this institution and accordingly the Supreme Court found that it was not covered by Article 12 of the Constitution.

This is not a case here. The Memorandum of Association and Memorandum of Articles of Association would show that the respondent Corporation is fully funded and financed by the State only. Learned counsel for the respondents also invited our attention to the Full Bench decision of this Court in the case of *Dinesh Kumar Sharma v. M.P. Dugdha Mahasangh Sahkari Maryadit*, 1993 MPLJ 786. This was a case of M. P. Dugdha Mahasangh Sahkari Maryadit registered under section 9 of the Cooperative Societies Act. After survey of the aims and objects of the Society, their Lordships found that the main object of the Society is betterment of economic conditions of agriculturists and milk producers and it is not rendering any important public service nor carrying out any governmental activity or governmental function of vital importance. Therefore, it was found that it is not the State within the meaning of Article 12 of the [Constitution of India](#) and hence, it was found that its actions are not amenable to writ jurisdiction. But from the Survey of the Memorandum of Association and Articles of Association, it is clear that all important decisions are taken by the Government in respect of respondent Corporation which deals with the mineral wealth of the State and all the proceeds go to the coffer of the State Government. In this connection, Shri Tankha, learned counsel for the petitioner invited our attention to the two decisions of this Court in

the case of Samarendranath Sengupta v. N. N. P. Mills, 1989 MPLJ 346 and Suresh Kumar Kewat (supra). In the case of Samarendranath Sengupta (supra), the National Newsprint and Paper Mills Limited, Nepanagar which was found to be the State within the meaning of Article 12 of the Constitution, was found to be exclusively financed by the Government and the Government has full control over it, which is almost identical as in the present case of the respondent Corporation. Therefore, the Division Bench held that it is the State within the meaning of Article 12 of the [Constitution of India](#). Likewise in the case of Suresh Kumar Kewal (supra) this Court held that M. P. Tourism Development Corporation is State within the meaning of Article 12 and is amenable to the writ jurisdiction. Clearing the main objection of Shri Dubey, learned senior counsel, we hold that the respondent Corporation is 'State' within the meaning of Article 12 of the Constitution and is amenable to the writ jurisdiction of Article 226 of the [Constitution of India](#).

14. The next question for consideration is with regard to the validity of Rule 27 of the Rules of 1993 which have been framed by the respondent Corporation for regulating service conditions of all its employees. The Rules are known as M. P. State Mining Corporation (Conduct, Discipline and Appeal) Rules, 1993. Rule 27 of the Rules, which is relevant for the purposes of the present petition reads as under :

'27. Termination of Service -

(a) The services of an employee may be terminated at any time by a notice by appointing authority to the employee. Period of notice shall be as under :-

(i) One month for a temporary employee or salary in lieu of notice period.

(ii) Three months for a regular employee or salary in lieu of notice period drawn by him immediately before such termination.'

15. The services of the petitioner have been terminated by the respondents in pursuance of the Rule 27(e)(iii) because the petitioner was a regular employee. Without holding an enquiry, the services of the petitioner were terminated by giving him three months' pay in lieu of the notice by order dated 29-11-1995 (Annexure-

P4). We have examined the validity of this rule. Suffice it to say that similar rule has been found to be ultra vires Articles 14 and 16 of the Constitution by various decisions of the Supreme Court and they have termed this rule to be like a Henry VIIIth clause. Similar rule existed in the case of *W. B. S. E. Board v. Desk Bandhu Ghosh*, AIR 1985 SC 722. In this case, almost a similar rule appeared in West Bengal Electricity Board's Regulations, regulation 34 of which provided that a permanent employee's services can be terminated by giving three months' notice or salary in lieu thereof. This was found to be totally arbitrary and confers on Board a power which is capable of vicious discrimination. Therefore, their Lordships of the Supreme Court struck down this rule. Thereafter this judgment was further followed in the case of *Central Inland Water Transport Corporation Ltd. (supra)*. In this case also, the Central Inland Water Transport Corporation Limited framed the rules of which Rule 9(1) provided that services of employees of the Corporation can be terminated by giving three months' notice. Such a rule was found to be opposed to public policy and therefore the said rule was struck down by their Lordships of the Supreme Court. It was observed :

'The action of an instrumentality or agency of the State, if it frames a service rule such as clause (a) of Rule 9 or a rule analogous thereto would, therefore, not only be violative of Article 14 but would also be contrary to the Directive Principles of State Policy contained in clause (a) of Article 39 and in Article 41.'

16. Similarly in the case of *Delhi Transport Corporation v. D. T. C. Mazdoor Congress*, AIR 1991 SC 101, in which almost analogous rule of the Delhi Transport Authority (Conditions of Appointment and Service) Regulations came up for consideration, Regulation 9(6), which provided termination of permanent employee of the Corporation without assigning reason after giving a notice and without giving any opportunity of hearing before passing termination order, was found to be arbitrary, unfair, unjust, unreasonable and opposed to public policy.

This Court also in the case of *Samarendranath Sengupta (supra)* and in the case of *Suresh Kumar Kewat v. M.P. State Tourism Development Corporation Ltd.*, M.P. No. 1846 of 1989 decided on 24-10-1991, has struck down such a rule appearing in their service rules. Hence, we are of the opinion that Rule 27 of the

Rules of the respondent Corporation which provides for termination of services of a permanent employee by giving three months' notice or pay in lieu thereof is highly arbitrary, unfair, unjust and unsustainable and therefore, it is struck down as violative of Articles 14, 16 and 21 of the [Constitution of India](#). However, it will be open for the respondent Corporation to proceed against the incumbent by way of disciplinary measures if it so desires in accordance with law and this decision will not come in their way.

17. In the result, we allow this writ petition and declare Rule 27 of the M. P. State Mining Corporation (Conduct, Discipline and Appeal) Rules, 1993 as ultra vires the Articles 14 and 16, [Constitution of India](#) and quash the order dated 22-11-1995 (Annexure P4) as void and illegal having been passed in pursuance of the aforesaid Rule 27 of the Rules of 1993. This petition and other three connected writ petitions are accordingly allowed.

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