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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI  
&  
HON'BLE SHRI JUSTICE PRANAY VERMA  
ON THE 29<sup>th</sup> OF SEPTEMBER, 2023  
WRIT PETITION No. 24918 of 2023**

**BETWEEN:-**

**MAHESH VERMA S/O ASHOK VERMA, AGED ABOUT 43  
YEARS, OCCUPATION: BUSINESS, ADDRESS - WARD NO.  
12, 56, DEVMARG, MANDLESHWAR (MADHYA  
PRADESH)**

**.....PETITIONER**

**(BY SHRI ARPIT SINGH - ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH COLLECTOR  
DISTRICT KHARGONE (MADHYA PRADESH)**
- 2. DIVISIONAL COMMISSIONER INDORE DIVISION,  
DIST. INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI ANIKET NAIK - DY. A.G. FOR STATE)**

.....

*This petition coming on for admission this day, **Justice PRANAY  
VERMA** passed the following:*

**ORDER**

- 1. Learned counsel for the petitioner is heard on the question of admission.**
- 2. This petition under Article 226 of the Constitution of India has been preferred by the petitioner against the order dated 16.8.2023 passed by the Divisional Commissioner, Indore Division, Indore whereby the order dated 8.5.2023 passed by the Collector (Mines) District Khargone has been affirmed.**

3. Admittedly, against the impugned order, the petitioner has the remedy of filing a revision before the Board of Revenue under Rule 28 of M.P. Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022 which is as under :-

**"28. Revision :-**

*(1) Any person aggrieved by an order passed in appeal under these rules, may file an application for revision before the Revenue Board within sixty days of the date of communication in Form-10. The person making the revision shall have to deposit a fee of Rupees one thousand in the same manner as prescribed in clause (a) of sub-rule (3) of Rule 8 and attach the original treasury challan along with Form-10:*

*Provided that if the revisioner is a member of Scheduled Tribe/Scheduled Caste/Other Backward Classes, he/she shall deposit a fee of Rupees One Hundred in the same manner, as prescribed in clause (a) of sub-rule (3) of Rule 8 and attach the original treasury challan along with Form- 10 :*

*Provided further that the appeal shall be disposed off under the Civil Procedure Code, 1908.*

*(2) Where an application for revision is made under these rules, the Revisional Authority may confirm, modify or set aside the order passed by Appellate Authority or pass such other order in relation thereto, as it may deem just and proper:*

*Provided that no order shall be passed against any person interested, unless he/she has been given an opportunity to represent*

*his/her case:*

*Provided further that the Revisional Authority may at any time direct that the execution of the order passed by the Appellate Authority be stayed for such time, as it may deem fit."*

4. Learned counsel for the petitioner has submitted that this petition deserves to be entertained despite availability of the alternate remedy to the petitioner since the entire proceedings were conducted by respondent No.1 arbitrarily and in violation of principles of natural justice. On 17.10.2022 petitioner had made an application for depositing compounding fees and fine amount which was rejected by order dated 31.10.2022 denying the petitioner statutory right to compound. After filing of reply by the petitioner statement of mining officer was recorded in absence of petitioner's counsel. Ex parte proceedings were illegally conducted against the petitioner and the order was passed in haste without any evidence. Petitioner had no knowledge of his vehicle being used for illegal mining which he could have established had he been given opportunity to lead evidence which has been wrongly denied to him. The petitioner had no knowledge about illegal mining activities being done by Vedant Rokade to whom he had given the vehicle.

5. We have considered the submissions of the learned counsel for the petitioner.

6. The grounds which have been raised by the petitioner in this petition for contending the order dated 8.5.2023 passed by the Collector to be illegal and against the principles of natural justice were raised by him in the appeal preferred by him under Rule 27 of the Rules, 2022 before the Commissioner

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MAHADEV SUKHDEVE  
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who has not agreed with the same and has dismissed the appeal. Since the petitioner has raised all grounds as raised by him in this petition in a statutory

appeal before the Commissioner, there is no reason as to why he cannot raise these grounds in revision before the Board of Revenue. The grounds raised by the petitioner have been considered by the Appellate Authority and will no doubt be considered by the revisional authority. The petitioner having once resorted to the alternate remedy against the order passed by the Collector, we see no ground to interfere at this stage until and unless the petitioner exhausts his alternate remedy to the fullest.

7. The question as to whether the petitioner was afforded due opportunity of hearing by the Collector particularly when he did enter appearance in the case would be a factual aspect requiring factual determination and from a perusal of the proceedings of the Collector it cannot be said that there has been apparent violation of the principles of natural justice or that the petitioner has been denied opportunity of hearing. The same is a debatable question which would be more properly appreciated in exercise of revisional jurisdiction. Likewise the issue as regards rejection of application for depositing the compounding fees arbitrarily and thereby denying the right to compound would also be a question of fact and at best mixed question of fact and law since it appears that notices have been issued not only to the petitioner but also to one Vedant Rokade who was allegedly using the vehicle. This also would be better determined by the revisional authority. It is not a case where any pure question of law arises for determination. The remedy of revision available to the petitioner would not only be efficacious but would also in the facts and circumstances of the case be the proper remedy to be availed of by the petitioner.

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8. Thus in view of availability of alternate and efficacious remedy to the

petitioner against the impugned order dated 8.5.2023 and 16.8.2023, we decline to entertain this petition in exercise of powers under Article 226 of the Constitution of India. The petition is hence dismissed reserving liberty to the petitioner to avail the alternate remedy available to him. It is however clarified that we have not expressed any opinion on merits of the case.

**(S. A. DHARMADHIKARI)**  
**JUDGE**

**(PRANAY VERMA)**  
**JUDGE**

SS/-



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