

24 March 2026



Court Nullifies CSR Regulations on Funds Allocation

- Court strikes down 60/40 CSR allocation formula
- Subsidiary legislation cannot override the Mining Act
- Minister acted ultra vires in reallocating CSR resources
- Failure to consult host communities renders Regulations void
- Host communities confirmed as primary beneficiaries of CSR

Background

On 28 January 2026, the High Court of Tanzania (the Court) delivered its Ruling in Miscellaneous Cause No. 13576 of 2025, allowing an application for judicial review challenging regulation 4(4)(a) and (b) of the Mining (Corporate Social Responsibility) Regulations, G.N. No. 409 of 2023 (the Regulations).

The Applicants, who are residents of villages surrounding the North Mara Gold Mine, challenged the legality of the impugned provisions which reallocated Corporate Social Responsibility (CSR) resources by assigning 60% to district and municipal councils and only 40% to host communities. Prior to the promulgation of the Regulations, host communities benefited from 100% of CSR resources and directly participated in identifying and implementing the relevant development projects.

Parties Arguments

The Applicants' contention is that the allocation of 40% of the CSR resources to the host communities has a direct negative impact on the Applicants and other local inhabitants within the mining area, which, under section 136 of the Mining Act (the Act), was meant to benefit the host communities by 100% in terms of utilization of CSR resources from the mineral rights holder in respect of environmental, social, economic and cultural development activities. It was also added that the enactment of regulation 4(4)(a) and (b) is unreasonable, ultra vires and irrational and was enacted without proper consultation.

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The Respondents argued that the CSR Regulations enacted by the Minister are neither irrational nor illegal because the Minister acted within the powers conferred on him by the law, citing section 160 of the Act and that stakeholders were consulted during the drafting/preparation of the Regulations. It was also argued that, since section 136 of the Mining Act does not specify how CSR resources should be distributed to host communities, the Minister enacted Regulations to make the law effective. It was further added that subsidiary legislation is not a replica of the main Act, but rather provides clarity, elaboration, and further explanation of how the principal legislation should be implemented.

The Court's Decision

The Court allowed the application and quashed regulation 4(4)(a) and (b) of the Regulations, declaring them null and void. It also held that the Act does not provide for the division of CSR resources and that the Minister acted ultra vires by introducing a 60/40 allocation formula. It emphasized that subsidiary legislation cannot override or defeat the purpose of the parent Act, which is to ensure that CSR resources entirely benefit host communities. Further, the Court found that allocating a larger portion of CSR resources to local government authorities undermined the statutory intention.

Regarding consultation, the High Court held that the purported stakeholder engagement did not involve the affected host communities and, therefore, failed to meet the standard of meaningful consultation. This amounted to a breach of the principles of natural justice.

To read the Ruling, [click here](#)

To read the Mining (Corporate Social Responsibility) Regulations, 2023 [click here](#)

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