

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15717 of 2015

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Sanjay Kumar @ Sanjay Singh son of Sri Raghunandan Saran Sing @
Radhey Singh, resident of village Sultanpur, P.O. Sripur, P.S. Makhdumpur,
district Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary Mines and Geology Department Government of Bihar, Patna
3. The Commissioner Mines and Geology Department, Government of Bihar, Patna
4. The Commissioner Mugadh Division, Gaya
5. The District Magistrate, Jehanabad.
6. The Superintendent of Police, Jehanabad.
7. The Certificate Officer Mines and Geology, Mugadh Certificate, Gaya
8. The Inspector Mines and Geology Department, Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh, Adv.

For the Respondent/s : Mr. S. Raza Ahmad, AAG 9

For the Mines : Mr. Rajendra Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

2 30-09-2015 Heard Mr. Arbind Kumar Singh, learned counsel for the petitioner, learned counsel for the State and Mr. Rajendra Prasad for the Mining Department.

The petitioner questions the entire proceedings arising from Certificate Case No. 5 of 2011-12 pending before the District Certificate Officer, Mines and Geology Magadh Certificate, Gaya.

Mr. Singh learned counsel for the petitioner submits that the certificate issued is not in tune with the statutory requirements inasmuch as neither the verification nor the satisfaction of the Certificate Officer is present thereon who has mechanically put his initial on the certificate. It is further the contention of Mr. Singh

with reference to the order sheet present at Annexure-2 that without issuing any notice under Section 7 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as 'the Act') and enabling the petitioner to file his objection under Section 9 that the Certificate Officer has straight away issued orders for recovery of the demand.

I have heard the parties and perused the records. The mechanical manner in which the Certificate Officer has proceeded in the matter can well be seen from the order dated 5.9.2011 when for recovery of the demand in question, the Certificate Officer has referred to Section 53 of 'the Act' which provision in fact provides for cancellation of a certificate at the request of the Certificate holder and otherwise. Since the order sheet itself manifests the illegalities present in the certificate proceedings and is eloquent of the fact that statutory procedures have been given a go-by, as well taking into consideration that the certificate itself is not in tune with the statutory requirements, the entire proceedings arising from Certificate Case No. 5 of 2011-12 including the Certificate issued by the Certificate Officer is quashed and set aside. The writ petition is allowed.

This order, however, would not preclude the Certificate holder to move afresh and in accordance with law.

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(Jyoti Saran, J)