

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 18833 of 2012**

=====

M/s Adarsh Kumar Singh, Chips Stone Works through  
its Proprietor, Ravindra Singh Son of Mahendra  
Singh Resident of Village - Kanchanpur, P.S. -  
Sasaram, District - Rohtas

..... Petitioner  
Versus

1. The State of Bihar
2. The Principal Secretary, Mines and Geology,  
Bihar, Patna
3. The District Magistrate, Rohtas
4. The Assistant Director, Mines & Geology, Rohtas

..... Respondents

=====

**Appearance :**

For the Petitioner: Mr. Suresh Prasad Singh, Adv.  
Mr. Rameshwar Singh, Adv.  
For the Mines: Mr. Devendra Kumar Sinha, Sr.Adv.  
Mr. Rajendra Prasad, Spl. PP, Mines  
For the State: Mr. Ashok Kumar Chaudhary, A.A.G.13  
Mrs. Meera Singh, A.C. to A.A.G.13

=====

**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
ORAL ORDER

**4. 13-08-2015**                      Heard Sri Suresh Prasad Singh, learned  
counsel, who was assisted by Sri Rameshwar  
Singh, learned counsel for the petitioner, Sri  
Devendra Kumar Sinha, learned senior counsel,  
who was assisted by Sri Rajendra Prasad, learned  
counsel for the respondent/Mines & Geology  
Deptt. and learned A.C. to Addl. Advocate  
General - 13.

The petitioner, invoking writ  
jurisdiction of this Court under Article 226 of  
the Constitution of India, has prayed for



quashing of an order, contained in Memo No. 1374 dated 29-05-2012, passed by the Commissioner, Mines and Geology, Govt. of Bihar, Patna (hereinafter referred to as the 'Commissioner'), whereby, he has rejected the revision application i.e. Revision Case No. 56 of 2011 (**Annexure -1**).

Earlier, the petitioner had preferred a revision against order, contained in letter no. 809 dated 05-08-2011, issued by the Assistant Director, Mines and Geology Deptt., Rohtas at Sasaram (hereinafter referred to as the 'Assistant Director'). By the said order, the petitioner's licence, which was granted as stockist of stone chips was cancelled. Earlier, after the issuance of cancellation order i.e. **Annexure - 5** to the writ petition, the petitioner approached this Court invoking its writ jurisdiction, vide C.W.J.C. No. 948 of 2012 (**Annexure - 6**). This Court by order dated 15-02-2012 remitted back the matter to the Commissioner with specific direction that the Commissioner will determine the rate of interest to be paid by the petitioner and also hear the

petitioner and thereafter, pass appropriate order in accordance with law. The order impugned i.e. order dated 29-05-2012 has been passed by the Commissioner after the order of the writ court dated 15-02-2012.

Learned counsel for the petitioner submits that the petitioner was granted licence as stockist of the stone chips, vide **Annexure - 2** to the writ petition, on 15-03-2007 for twenty years on the auction amount of **Rs. 13,55,500/-** (thirteen lacs fifty five thousand & five hundred). He submits that in terms of the licence issued by the authority concerned i.e. **Annexure - 2**, the amount was to be paid in seven installments. It is the case of the petitioner that till date of passing order by the Commissioner, Mines and Geology Deptt., the petitioner had deposited six installments. It has been pleaded that due to the reasons, which were not under the control of the petitioner rather due to some policy decision of the State Government, for considerable time, the mining work was stopped and the petitioner was prevented from doing his work/activity, as per



the licence. It has further been pleaded that on the ground of non-deposit of one installment, the Assistant Director, vide **Annexure - 3** to the writ petition, had issued notice to the petitioner fixing date as 18-07-2011 for filing show cause, whereas, the said notice was issued after the date fixed in the notice itself. Learned counsel for the petitioner, by way of referring to order dated 15-02-2012 passed in C.W.J.C. No. 948 of 2012, submits that this fact was noticed by this Court, which was not disputed. He further submits that once as per the condition imposed in the licence i.e. condition no. 4, if any installment was not paid for about six months, the petitioner was liable to pay interest at the rate of 24% simple interest and only in case of non-deposit of the installment with such interest, the licensing authority was authorized to take steps for cancelling the licence. However, the licensing authority has given complete go-bye to the terms and conditions of the licence and without asking the petitioner to deposit the installment with interest, has directly, vide **Annexure - 3**



to the writ petition, had asked the petitioner to file show cause regarding cancellation of the licence. That too was issued after the date fixed in the notice itself and thereafter, the licensing authority, vide **Annexure - 5** to the writ petition, had cancelled the licence without adhering to the terms and conditions, which was completely illegal. He further submits that once this Court while remitting back the matter to the Commissioner had made specific direction to determine the rate of interest, it was mandatorily required for the Commissioner to examine the rate of interest, but in a mechanical manner, the Commissioner has approved the order of cancellation issued by the licensing authority i.e. **Annexure - 5** to the writ petition. In sum and substance, it has been argued that order impugned is contrary to the terms and conditions, as imposed in the licence as well as contrary to the direction of this Court.

Sri Devendra Kumar Sinha, learned senior counsel opposing the prayer of the petitioner submits that regarding non-payment of

installment for the month of December, 2010, the petitioner has not disputed. He submits that even till date the said amount has not been paid.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of **Annexure - 3** as well as **Annexure - 2** i.e. the licence in Form "L" issued in favour of the petitioner, it is evident that first notice, whereby the petitioner was asked to file show cause regarding cancellation of the licence, the Assistant Director had not whispered as to whether such step was taken only after non-payment of installment with interest @ 24% simple interest. Moreover, the said notice was admittedly issued after the date fixed in the notice itself. Meaning thereby that the notice was only a formality done on paper and as such, the order of cancellation i.e. **Annexure - 5**, which was obviously passed without hearing the petitioner, that too without assigning any reason, may not sustain in the eye of law.

So far as **Annexure - 1** i.e. order of



the Commissioner, Mines is concerned, this order does not indicate that the Commissioner had passed the order in strict compliance of the order of the writ court i.e. order dated 15-02-2012 passed in C.W.J.C. No. 948 of 2012. While remanding the matter, it was specifically directed to determine the rate of interest to be paid by the petitioner, but nothing has been done by the Commissioner.

In view of the facts and circumstances, the Court has left with no option but to set aside the order of the Commissioner i.e. **Annexure - 1** as well as order of the licensing authority i.e. **Annexure - 5** to the writ petition.

Before parting with the order, it is necessary to direct the Assistant Director, Mines & Geology Deptt., Rohtas at Sasaram, to calculate the amount of remaining one installment with interest in terms of the licence i.e. simple interest of 24% and ask the petitioner to deposit the said amount. The said amount is to be deposited by the petitioner within three weeks from the date of receipt of

notice. If the amount of installment with interest, as aforesaid, is not deposited by the petitioner after receipt of notice within three weeks, automatically the order dated 05-08-2011 i.e. **Annexure - 5** and order dated 29-05-2012 i.e. **Annexure - 1** to the writ petition will come into play.

The writ petition, with above observation and direction, stands allowed.

**(Rakesh Kumar, J.)**

Anay

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|