

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15316 of 2016

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M/s Aditya Multicom Private Limited, a Company incorporated under the Provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, through its Authorized Signatory Kamlesh Gouaraw, Son of Shri Surendra Singh, Resident of D/139, Keshri Nagar, P.O. Rajeev Nagar, P.S. Rajeev Nagar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Mines & Geology, Government of Bihar, Patna.
2. The Principal Secretary, Department of Mines & Geology, Government of Bihar, Patna.
3. The State Level Environment Impact Assessment Authority, Bihar, Patna through its Chairman.
4. The District Magistrate, Aurangabad.
5. The District Magistrate, Rohtas, Sasaram.
6. The Senior Deputy Collector -cum- Mineral Development Officer, Aurangabad
7. The Assistant Director, Mines & Geology, Rohtas, Sasaram.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi
For the Respondent-State	:	Mr. Prashant Prata,- GP-2
For the Mining Department	:	Mr. Devendra Kr. Sinha, Sr. Adv. with Mr. Rajendra Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 14-09-2016

Learned counsel for the petitioner is permitted to make appropriate correction in paragraph 1(i) of the writ petition.

Heard Mr. Suraj Samdarshi, learned counsel appearing for the petitioner, learned counsel for the State and Mr. Devendra Kumar Sinha, learned senior counsel representing the Mining Department who appears along with Mr. Rajendra Prasad.

In this writ petition the petitioner prays for the following reliefs:

- (i) For a direction to the respondent authorities not to charge



the instalment payable by the petitioner for September, 2016 against grant of work order for mining and transporting sand for the district of Rohtas and Aurangabad, as the petitioner has been restrained from mining and transporting sand for the months of July, August and September by the State Environment Impact Assessment Authority.

- (ii) For a declaration that the respondent authorities being fully aware of the fact that petitioner has been restrained from mining sand for three months, the amount offered by the petitioner deserves proportionate reduction and till such exercise is completed the respondents cannot ask for payment of further instalment due in the month of September, 2016.
- (iii) For a declaration that the settlement as per the N.I.T. and the work order issued was for five years and the consideration amount assessed by the department for the purpose of settlement and the offer made by the petitioner, pursuant thereto for 60 months cannot be curtailed by 25%, reducing it to 45 months, without proportionate reduction in the consideration amount, for such settlement.

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- (iv) For a direction to the respondent authorities to proportionately reduce the consideration amount for settlement as the condition imposed by the State Level Enforcement Impact Assessment Authority, Bihar was subsequent to the estimate prepared for settlement in terms of Rule 48 of the Bihar Minor Mineral Concession Rules, 1972, as the same has reduced the period of settlement from 60 months to 45 months.
- (v) For a declaration that the amount offered by the petitioner for the first year for Rs.1,14,80,00,000/- formed the basis for computation of the amount payable, for further four years which was to be enhanced by 20% every year and as such, reduction of period subsequent to such fixation deserves consideration by the State Government and in particular the instalment payable by 15th of September, 2016 as per clause 12 of the terms and conditions for settlement of sand Ghats as per the N.I.T.
- (vi) For a direction to the respondent State to compensate the petitioner for the period when sand mining was stopped pursuant to the order of the National Green Tribunal, Eastern Zone Bench, Kolkata with effect from 9.2.2016, till its resumption, from 1st of April,

2016; and for any other relief or reliefs to which the petitioner is found entitled.

Undisputed facts of the case is that the petitioner is under a valid settlement with the respondents for extraction of sand from the Ghats settled and which is valid and operative till 2019. In between a restraint order has been issued by the respondents from operating the Ghats in the months of July, August and September each year on the advisory of State Level Environment Impact Assessment Authority, Bihar, which has aggrieved the petitioner.

Learned counsel for the parties are in agreement that the issue raised in the present writ petition stands covered by the judgment and order passed in CWJC No.14619 of 2016 (**M/s Champion Group of Company vs. The state of Bihar**). The said case was disposed of with a liberty to the petitioner to raise his grievance before the District Magistrate Kaimur and who has been directed to consider and dispose of the same in accordance with law and with opportunity of hearing to the petitioner, by a speaking order. Considering the nature of the grievance raised, the District Magistrate, Kaimur has been advised for an expeditious disposal of the grievance preferably within a period of four weeks from the date of filing of the application. The deposit of the third instalment is made subject to the disposal of the grievance raised by the petitioner, by the District Magistrate, Kaimur.

Mr. Samdarshi, learned counsel appearing for the petitioner informs that a representation in this regard is already pending before the Principal Secretary, Department of Mines & Geology, Government of Bihar, Patna which is yet to be disposed of, a copy of which is present at Annexure-11.

Since in this case the representation placed at Annexure-11 is already pending for consideration before the Principal Secretary, Department of Mines & Geology, Bihar, Patna hence he is directed to consider and dispose of the of the same in accordance with law and with opportunity of hearing to the petitioner, by a speaking order and considering the nature of the grievance raised, an expeditious disposal preferably within a period of four weeks from the date of receipt/production of a copy of this order would serve the purpose.

It goes without saying that the deposit of the third instalment would be subject to the disposal of the grievance raised by the petitioner before the Principal Secretary.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-09-2016
Transmission Date	NA