

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16112 of 2016

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M/s. Mor Mukut Marketing (Pvt.) Ltd., Plot No. 388/389 near Biscuit Factory More, Nasriganj, Danapur, Patna through its Director, Subhash Prasad Yadav Son of Sri Premdhar Rai resident of village - Hetanpur, P.S. - Shahpur, town and District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Main Secretariat, Patna.
3. The Principal Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
4. The Principal Secretary, Department of Environment & Forest, Government of Bihar, Main Secretariat, Patna.
5. The State Level Environment Impact Assessment Authority, Bihar, Patna through its Chairman, BELTRON BHAWAN, Shastri Nagar, Patna.
6. District Magistrate, Arwal.
7. Competent Authority-cum-Mines Inspector, Jehanabad-cum-Arwal.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sivendra Kishore, Sr. Advocate
Mr. Jai Kishor Poddar, Advocate
For the State : Smt. Kumari Amrita, GP-3
For the Mining Department: Mr. Rajendra Prasad, Special P.P. Mines

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-09-2016

Heard Mr. Sivendra Kishore, learned senior counsel appearing for the petitioner, learned counsel for the State and Mr. Rajendra Prasad, learned counsel representing the Mining Department.

The petitioner is aggrieved by the directions issued by the Appropriate Authority-cum-Mines Inspector, Jehanabad-cum-Arwal whereby a restraint on extraction of sand from the sand ghats settled in favour of the petitioner has been issued for the month(s) of July, August and September each year, in the light of the

advisory issued by the State Level Environment Impact Assessment Authority, Bihar.

The relief prayed by the petitioner runs as follows:

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- (i) For quashing of Letter No.824 dated 14.09.2016 (Annexure-1) issued under the signature of Respondent No. 7, competent authority-cum-Mines Inspector, Jehanabad-cum-Arwal, by which the said respondent has rejected the claim of the petitioner in regard to reduction/remission in the settlement amount for the year 2016 in the light of environmental clearance issued by the State Environmental Impact Assessment Authority, Bihar (SEIAA for short) which prohibited mining and transportation of sand from the sand ghats in the month of July, August and September on the ground that the sand has been transported from the earlier stock of sand during the aforesaid months and thereby directed to deposit last instalment of Rs. 2,52,00,000/- within the stipulated period.
 - (ii) For a direction to the respondent authorities not to charge the instalment payable by the petitioner for December, 2016 against the Parwana granted in favour of the petitioner for excavation and transporting the sand in the district of Arwal 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 (for short 'SEIAA').

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- (iii) For a declaration that the amount offered by the petitioner deserves proportionate reduction and till such exercise is completed respondents be restrained for demand of further instalment due in the month of September, 2016 and December, 2016.
- (iii) For a declaration and consequential direction on the respondent that the sand ghat in the district of Arwal has been settled in favour of the petitioner for a period of 5 years i.e. 60 months which has been reduced to 45 months as such petitioner is entitled for proportionate reduction in the settlement amount for such settlement in terms of NIT and consequential work order / parwana.
- (v) For a declaration that the amount offered by the petitioner for the year 2015 was Rs. 8,40,00,000/- formed the basis for computation of the amount payable for further 4 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 15.09.2016 as per clause-12 of the terms and condition for settlement of sand ghats in the light of NIT.
- (vi) Any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.

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 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 preferably within four weeks from the date of filing of representation. The deposit of the third instalment is made subject to the disposal of the grievance raised by the petitioner, by the District Magistrate.

It is stated at the bar by Mr. Rajendra Prasad, learned counsel appearing for the Mining Department that in this case, the Collector-cum-District Magistrate, Arwal would be appropriate authority to consider the grievance. In the circumstances discussed, let appropriate application be filed by the petitioner before the District Magistrate, Arwal raising his grievance and which shall be

considered and be disposed of in accordance with law by the District Magistrate, Arwal with opportunity of hearing preferably within four weeks of its fling and the deposit of the third instalment shall be subject to the disposal of the grievance by the District Magistrate, Arwal.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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