

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14619 of 2016

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1. M/s Champion Group of Company, through its Proprietor, Amit Kumar Singh
S/o Rameshwar Singh R/o village - Baghini, P.S. Mohania, District - Kaimur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Bihar, Patna
3. The Principal Secretary, Mines & Geology, Bihar, Patna.
4. The Principal Secretary, Department of Environment & Forest, Bihar, Patna
5. The District Magistrate, Kaimur
6. The Assistant Director, Mines & Geology, Kaimur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Adv.
Mr. Sanjeev Kumar, Adv.
Mr. Priya Ranjan, Adv.

For the Respondent/s : Mr. Md.Raisul Haque-SC10
Mr. Binay Kumar, A.C. to S.C.10

For the Mines Department: Mr. Devendra Kumar Sinha, Sr. Adv.
Mr. Rajendra Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-09-2016

Heard Mr. Y.V. Giri, learned Senior counsel for the petitioner along with Mr. Sanjeev Kumar, Mr. Devendra Kumar Sinha, learned Senior counsel appearing for the respondent along with Mr. Rajendra Prasad and learned counsel for the State.

In the nature of order which this Court proposes to pass in the present case, it would not be required to await a filing of counter affidavit.



The petitioner is aggrieved by the directions issued by the Appropriate Authority-cum-Inspector of Mines, Kaimur (Mohania) 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 whose opinion has been enclosed at Annexure-6.

The agreement in between Department of Mines and the petitioner is not in dispute and a copy of which has been enclosed at Annexure-4 to the writ petition bearing Memo No. 251 dated 3.8.2015 whereunder the petitioner has been granted settlement for extraction of sand for a period of five years w.e.f 1.1.2015. Clause 23 of the agreement binds the petitioner with the terms and conditions of the advertisement present at Annexure-2 issued in the light of the notification of the Mines Department dated 22.7.2014 present at Annexure-1 and is effective for a period of five years with effect from 1.1.2015. The payment schedule is given at paragraph 12 of the tender present at Annexure-2 and which shows that of the bid amount, the petitioner would have to pay 50% thereof by 15th of December of the year concerned followed by deposit of second instalment of 25% by 15th of April the following year and the balance



deposit of 25% on or before 15th of September. It is the case of the petitioner that for the period 2015, there was no dispute between the parties for there was no disturbance in extraction of sand and the petitioner made his deposit in terms of the agreement. It is the grievance of the petitioner that an obstruction to the sand mining has erupted by virtue of advisory issued by the State Level Environment Impact Assessment Authority, Bihar present in their letter dated 4.3.2016 whereby a restraint has been issued from sand mining during the months of July, August and September and which advisory has been mechanically accepted by the Mining Department to issue a restraint order bearing No. 892 dated 1.7.2016 of the Appropriate Authority-cum-Mining Inspector, Kaimur whereby the petitioner has been restrained from operating the mines for the month of July, August and September. It is the submission of Mr. Giri learned Senior counsel appearing for the petitioner that whereas in the year 2015, no objections of this kind was raised but in view of the restraint order dated 1.7.2016 impugned at Annexure-7 the petitioner is made to pay the third instalment without extraction of the sand during the month of July, August and September. The twin prayer made by the petitioner in the writ petition is, for a consideration by the respondent State in its Mining Department to consider a proportionate reduction in the



settlement amount in view of the subsequent development whereunder the petitioner is now being restrained from extracting sand from the Ghats during the month of July, August and September each year as also for postponing the date for deposit of the third instalment which falls on 15th of September.

Mr. Sinha learned Senior counsel for the Mining Department while raising a preliminary objection as regarding the maintainability of the writ petition submits that the petitioner has rushed to this Court in his exuberance whereas he should have raised his grievance at the first instance before the District Magistrate, Kaimur in view of the restraint order issued and any such prayer made by the petitioner would be considered by the District Magistrate accordingly.

Having heard learned counsel for the parties and considering the nature of grievance raised in this writ petition, I deem it fit and proper to dispose of the writ petition with a liberty to the petitioner to raise his grievance as suggested by Mr. Sinha, learned counsel for the Mining Department before the District Magistrate, Kaimur and who shall consider and dispose of the same in accordance with law and with opportunity of hearing to the petitioner, by speaking order and considering the nature of the grievance raised, an expeditious disposal preferably within a period of four weeks from the date of filing of the

application 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, by the District Magistrate, Kaimur.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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Uploading Date	15.9.16
Transmission Date	