

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16999 of 2017

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M/s. Broad Son Commodities Pvt. Ltd., Dr. Himanshu Complex Block Road,
Koilar Chowk, P.S. Koilar, District- Ara (Bhojpur) through its Director, Krishna
Mohan Singh, Son of late Parmeshwar Singh, Resident of Village- Bagmajhuan,
P.S. Koilar, District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Mines Commissioner, Mines and Geology Department, Government of Bihar, New Secretariat, Vikash, Patna.
3. The Joint Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
4. The Under Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
5. The Divisional Commissioner, Patna.
6. The District Magistrate-cum-Collector, Saran at Chapra.
7. Assistant Director, Mines and Geology, Saran at Chapra.
8. Sri Paras Sethi, Son of Sri Pradeep Kumar Sethi, Resident of 8A-189, New Friends Colony, New Delhi- 110025.
9. Sri Prabhat Kumar, Son of Sri Ram Deo Prasad, Resident of Village Basantpur, P.S. & P.O. Dighwara, District- Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate with
Mr. Bimlendu Shekhar Thakur, Adv.
For the Respondent/s : Mr. K.K. Jha, AAG-8
For the Mines Department: Mr. Naresh Dikshit, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-12-2017

Heard Mr. Y.V. Giri, learned senior counsel appearing for
the petitioner along with Mr. Bimlendu Shekhar Thakur, the
Advocate on record, Mr. Naresh Dikshit, learned counsel appearing
for the Mining Department and learned counsel for the State.

The petitioner is aggrieved by the order dated 22.09.2017 of
the Collector, Saran, whereby the settlement of sand ghats has been



cancelled, inter alia, on grounds of violation of statutory provisions.

Though the parties endeavour to advance rival contention affecting the merits of the case but in the nature of the order that this Court proposes to pass, it would not require to delve deep into the merit of the case.

Mr. Giri, learned senior counsel appearing for the petitioner has invited the attention of this Court to an order passed in the case of the petitioner in so far as it related to the settlement of sand ghat at Patna arising from CWJC No.12128 of 2017 to submit that the petitioner had questioned the cancelled settlements relating to the sand ghats in the districts of Patna, Saran and Bhojpur but since under the direction of this Court, the petitioner restricted his prayer only to the district of Patna, that it necessitated the filing of the present writ petition, although the issue raised in the said writ petition and in the present writ petition is the same i.e. violation by the Licensing Authority to the statutory provisions underlying rule 24(3) of the Bihar Minor Mineral Concession Rules, 1972 (hereinafter referred to as 'the Rules) whereunder the Licensing Authority, who in the present case is the Collector, Saran, is required to give reasonable opportunity of hearing to the licensee before he proceeds to pass any order of cancellation. He submits that as in the said case even in the present case no opportunity of hearing has been



given to the petitioner. He submits that no doubt the petitioner did receive a show cause notice dated 21.8.2017 vide Annexure 18 and the petitioner has also filed a reply thereto but which has been found unsatisfactory but in absence of any opportunity of hearing as mandated under rule 24(3) of 'the Rules', the impugned order as contained in Annexure 1 to the writ petition has been passed in the present matter, which is unsustainable in law.

Although Mr. Naresh Dikshit, learned counsel appearing for the Mining Department has endeavoured hard to justify the action of the respondents by resorting to the statement made in the counter affidavit but the pleadings go uncontested for there is nothing on record to contest the submission of Mr. Giri that the provisions of rule 24(3) of 'the Rules' has been followed by the Collector, Saran before passing the impugned order.

The issue in hand thus is squarely covered by the opinion expressed by this Court in CWJC No.12128 of 2017 which related to the cancelled settlements of the sand ghat at Patna and the reasons thus so assigned in the said order would govern the issue raised herein and as a consequence the order dated 22.09.2017 passed by the Collector, Saran impugned at Annexure 1 is quashed and set aside. The matter is remitted to the Collector, Saran for consideration and disposal afresh but after opportunity of hearing to



the petitioner who shall be at liberty raise all issues as raised herein.

Since the parties are in attendance before this Court hence the petitioner is directed to appear before the Collector, Saran along with a copy of this judgment and order on 22nd of December, 2017 at 11.00 AM when he shall proceed to fix a date of hearing and dispose of the same in accordance with law expeditiously and preferably within a fortnight thereafter.

As a consequence of this order all action taken by the Collector, Saran in connection with the sand ghats settled with the petitioner in District Saran, shall also stand quashed and set aside.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2017
Transmission Date	NA

