

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6526 of 2017

=====

Chandan Kumar, Son of Sri Bhado Singh, Resident of Village- Tulsiyahi, P.S.-
Bakhtiyarpur, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Mines & Geology, Govt. of Bihar, New Sachivalaya, Patna.
2. The Commissioner -cum- Principal Secretary, Department of Mines and Geology, New Sachivalaya, Patna.
3. The Collector, Saharsa, Bihar.
4. Mines Inspector -cum- Competent Officer, Saharsa.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Adv.
For the Respondent-State	:	Mr. H.S. Roy, AC to AG
For Mining Department	:	Mr. Naresh Dikshit, Adv. Mr. Lalan Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-11-2017

Heard Mr. Sanjeev Ranjan, learned counsel appearing for the petitioner and Mr. Lalan Kumar, learned Assisting Counsel to Mr. Naresh Dikshit appearing for the Mines Department.

The facts are not in dispute and in fact lie in a very narrow compass. It is not in dispute the petitioner is a successful bidder for the Sand Ghat in the district of Saharsa for the period 2016-19 as manifest from the letter no.409 dated 30.6.2016 of the Mines Inspector –cum- Appropriate Authority, District Mining Office, Saharsa. It is following the settlement and in terms of the demand raised that the petitioner also made the security deposit along with the 1st instalment and admissible taxes within the stipulated period



on 2.7.2016 as manifest from Annexure 4. The petitioner also submitted mining plan within the stipulated period on 29.7.2016 as manifest from Annexure 5. Thereafter the Mining Department has gone into slumber for no order was issued on the submission so made by the petitioner which came only in December, 2016 when the mining plan was approved as manifest from Annexure 6 at running page 24 of the writ proceedings. The petitioner applied for environmental clearance on 23.1.2017 which consumed another three months because the environmental clearance was granted on 16.3.2017 as confirmed from Annexure 7 at running page 27.

In between this completion of formality, the settlement period of 2016 expired and the petitioner having deposited the settlement amount of Rs.18,36,740/- stated to be proportionate 1st instalment of settlement amount for the period 2016 together with the security amount as also the proportionate amount towards income-tax, could not avail the benefit thereof in 2016.

It is in such circumstances that a request was made by the petitioner before the Mining Department vide Annexure 8 for adjustment of the settlement amount deposited for the year 2016 against the dues for 2017, in consideration of the fact that the delay was either caused by the respondent authorities in the Mining Department or by the State Level Environment Impact Assessment



Authority, Bihar and on whose account, the petitioner could not operate the Sand Ghats for the period 2016 but relying on some kind of legal opinion in relation to some other settlee that the request was not accepted forcing the petitioner to come before this Court.

I have heard learned counsel for the parties and I have perused the records and while it is the submission of Mr. Ranjan, learned counsel appearing for the petitioner that the petitioner cannot be prejudiced by the delayed action of the respondents, it is the argument of Mr. Lalan Kumar, learned counsel appearing for the Mining Department that in view of the opinion received by the Department, the request could not be accepted.

In my opinion, the circumstances discussed would confirm, that the State is litigating at its worse level for even when it is undisputed that the petitioner could not operate the Sand Ghats for even a single day in 2016 primarily because the Mining Department delayed the approval to the mining plan which was issued on 27.12.2016 and which delay was perpetuated by the State Level Environment Impact Assessment Authority, Bihar in delaying the grant of environmental clearance. The State yet intends to pocket that amount by denying the benefit to the petitioner and penalizing the petitioner without any fault. This cannot be allowed.



The principle of unjust enrichment applies to all and in the present case the State cannot be allowed to become unjustly rich at the cost of a bona-fide settlee.

In the circumstances this writ petition is allowed. The authorities of the Mining Department more particularly the respondent no.3 and 4 are accordingly directed to raise a fresh demand within a period of 4 weeks of receipt/production of a copy of this order in accordance with law, for the remaining period of 2017 after adjusting the settlement amount realized from the petitioner for the year 2016 bearing in mind that more than 11 months has passed even in the year 2017.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18-11-2017
Transmission Date	NA

