

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2690 of 2014**

=====

1. M/S Narayani Enterprises, through its Partner Shailendra Kumar Singh Son of Late Jitendra Bahadur Singh Resident of Mohalla- East Bisar Tank, Near Side of Devasthan, P.S.- Civil Lines, District- Gaya

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Mines and Geology, Bihar, Patna
3. The Principal Secretary, Department of Forest, Bihar, Patna
4. The District Magistrate, Gaya
5. The Divisional Forest Officer, Gaya Division, Gaya
6. The Assistant Director, Mines and Geology, Gaya
7. The Circle Officer, Wazirganj, Gaya

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.  
For the Respondent/s : Mr. Devendra Kr Sinha, Adv.  
Mr. Rajendra Prasad, Spl. P.P.

=====

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 22-09-2017**

Heard Mr. Sanjeev Kumar, learned counsel for the petitioner, learned counsel for the State and Mr. Rajendra Prasad learned counsel for the Mining Department.

The petitioner prays for appropriate direction to the respondent authorities for extension of his licence in respect of plot No.52 (Old) 264(New) Village- Pathara P.S. Mufassil in the district of Gaya inter alia on grounds that it was terminated pre-maturely on 15.1.2010 and relying upon a decision present in the letter of the Additional Secretary addressed to the Secretary, Art, Culture and Youth



Department, Bihar, Patna dated 16.8.2013 to submit that whatsoever was the confusion relating to the plots which led to the premature cancellation has since been resolved.

Pleadings on record would show that the petitioner had earlier moved this Court against the cancellation order dated 15.1.2010 impugned at Annexure-3 through C.W.J.C.No.1663 of 2010 and a Bench of this Court while taking note of the inter party contest, disposed of the writ petition in the following terms:

“It was the Department of Mines, on an assurance of Department of Forest, that made invitation to offer to the petitioner. If the invitation to offer had not been made, there was no occasion for the petitioner to bid. In view of the subsequent stand being taken by the respondents, clearly the petitioner has been wronged admittedly. Who was at fault, the Forest Department or the Department of Mines, is for the two of them to sort out and it is not the concern of the petitioner. Once this Court has held that the petitioner has been wronged, the question next arises of restitution.

The State cannot simultaneously claim that it made a wrong grant contrary to the law and yet seek to penalize the petitioner for not complying with the illegal agreement by defaulting any payment of royalty, but those are matters to be considered appropriately with regard to the respective liabilities insofar as the aspect of restitution is concerned only.

The petitioner is stated to have made heavy investments in pursuance of the grant as mentioned in paragraph-12 of the application of men and materials. He was required to make a total payment of Rs.8,70,550/- for one acre of lands under the settlement and is stated to have deposited four installments. But he has also had the benefit of extraction of stones and profit therefrom, but again he has also paid royalty.

The present is not a simple case of controversial facts but of admitted facts. Therefore, the petitioner is held



entitled to be compensated proportionately at all stages after appropriate adjustment of the benefit that he may have had and the premature termination of the lease keeping in mind the date till which he may have operated and royalty paid thereupon.

Let the petitioner represent before the District Magistrate, who shall then grant a personal hearing to the petitioner, examine his claims and documents and then pass a reasoned and speaking order on the aspect of restitution within a maximum period of four months.

This shall be without prejudice to the rights of the petitioner to avail such other and/or appropriate remedies that he may be advised with regard to any claim for damages etc. for premature termination of the lease.

For reasons as mentioned in the aforesaid discussion this Court finds it difficult to interfere with the impugned order dated 15.1.2010.

The writ application stands disposed with directions.”

Unfortunately, the petitioner did not avail of the liberty and instead has approached this Court for the same relief in view of the circumstances reflecting for the letter dated 16.8.2013 of the Additional Secretary at Annexure-5.

Having heard learned counsel for the parties, I am of the opinion that the issue having already been deliberated upon by this Court, no second round litigation is maintainable by placing reliance on the letter dated 16.08.2013 rather the petitioner should have exhausted the liberty so granted to him under the order passed by the coordinate bench of this Court in the earlier round at Annexure-4 when the bench after taking note of the inter party contest refused to interfere with the cancellation order. The liberty thus already been



granted to the petitioner, his failure to avail the same can only be attributable to his lapses but cannot give rise to a second round litigation. The petitioner if so advised can avail the same and for which no separate direction needs to be issued.

The writ petition is disposed of.

**(Jyoti Saran, J)**

Bibhash/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 16.10.2017 |
| Transmission Date | NA         |

