

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16952 of 2017

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M/s. Broad Son Commodities Pvt. Ltd., Dr. Himanshu Complex, Block Road, Koilwar Chowk, P.S.- Koilwar, District- Ara (Bhojpur) through its Director, Krishna Mohan Singh, Son of Late Parmeshwar Singh, Resident of Village- Bagmajhuan, P.S.- Koilwar, 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, Vikas Bhawan, Patna.
3. The Joint Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
4. The Under Secretary, Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
5. The Divisional Commissioner, Patna.
6. The District Magistrate-cum-Collector, Bhojpur at Ara.
7. The District Mining Office, Bhojpur at Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate with
Mr. Shivendra Kishore, Sr. Advocate
Mr. Bimlendu Shekher Thakur, Adv.
For the Respondent/s : Mr. K. K. Jha, AAG-8
For Mines Department : Mr. Naresh Dikshit, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-12-2017

Heard Mr. P.K. Shahi, learned senior counsel appearing for the petitioner along with Mr. Shivendra Kishore, learned senior counsel and 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 bearing Memo No.904 dated 5.10.2017 of the Collector, Bhojpur, whereby the settlement of sand ghats has been cancelled, inter alia, on grounds of



violation statutory provisions.

Though there exist rather serious rival contentions affecting the merits of the case but in the nature of the order that this Court proposes to pass I do not deem it necessary to delve deep into the merit of the case because the stage is not ripe for the purpose.

Mr. Shahi, learned senior counsel appearing for the petitioner while commenting on the merits, has invited the attention of the Court to an order passed in the case of the petitioner in so far as it related to the settlement of sand ghats at Patna arising from CWJC No.12128 of 2017 to submit that in the said writ petition the petitioner in fact had questioned the cancelled settlement relating to the sand ghats for which he held licence, 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 has resulted in 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, Bhojpur, is mandated to give reasonable opportunity of hearing to the licensee, before he proceeds to pass any order on cancellation of lease. He submits that as in the said case, even in the



present case no opportunity of hearing has been given to the petitioner and which is specifically pleaded in paragraphs 43 and 48 of the writ petition. He submits that no doubt the petitioner did receive a show cause notice dated 30.8.2017 at Annexure 14 but before a reply could be filed that even in absence of any opportunity of hearing as prescribed 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 and the supplementary counter affidavit but the pleadings as regarding the impugned order failing on Rule 24(3) of 'the Rules' go uncontested for there is nothing on record to contest the submission of Mr. Shahi that the provisions of rule 24(3) of 'the Rules' has been followed.

The issue in hand thus is squarely covered by the opinion of this Court recorded in CWJC No.12128 of 2017 which also related to the petitioner in so far as the sand ghat at Patna is concerned and for the reasons so assigned in the said order which would govern the issue raised herein, the order bearing Memo No.904 dated 5.10.2017 passed by the Collector, Bhojpur impugned at Annexure 1 is quashed and set aside. The matter is remitted to the Collector,



Bhojpur for consideration and disposal afresh but after opportunity of hearing to the petitioner who shall be at liberty raise all issues as raised herein, by filing a show cause reply, if not already filed.

Since the parties are in attendance before this Court hence the petitioner is directed to appear before the Collector, Bhojpur 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, Bhojpur in relation to the sand ghats under settlement with the petitioner in district Bhojpur 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

