

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16416 of 2017

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Diwakar Chandra Dubey, Son of Late Umesh Chandra Dubey, Resident of
Village - Phulwaria, Post Office - Baijani, Police Station - Jagdishpur, District
- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Mines Commissioner, Government of Bihar, New Secretariat Building, Patna.
3. The Collector, Banka.
4. The Mining Inspector-cum-Competent Officer, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Sr. Advocate
		Mr. Subodh Kumar Sinha, Advocate
For the Mines Deptt.	:	Mr. Naresh Dikshit, Advocate
For Respondents		
Nos. 3 and 4	:	Mr. Manish Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
Date : 20-08-2018

Heard Mr. P K Shahi, learned Senior Counsel for the
petitioner, Mr. Naresh Dikshit, learned counsel appearing on
behalf of the Mines Department and learned counsel representing
the State.



The short point raised by learned senior counsel for the petitioner is that the order dated 11.05.2015 passed in Revision Case No. 11 of 2013 filed by the petitioner recognizes the petitioner's right for claiming refund of Rs.75,68,437/-, i.e. the amount which the petitioner was coerced to deposit in respect of his settlement for the period 2010-2015.

Learned Special P.P., Mines Department has tried to sustain the order Annexure-4 by submitting that the claim of the petitioner for compensation for 96 days period, when he was deprived of conducting his mining activities is covered by an earlier order passed in Revision Case No. 21 of 2011 (Annexure-E to the counter affidavit).

From the order Annexure-E it is clear that it has nothing to do with the claim of the petitioner raised in Revision Case No. 11 of 2013 is confined to the petitioner's claim with respect to the excess deposit which he was forced to pay and it does not in any way deal with the petitioner's other claim with respect to compensation for 96 days period between 8.5.2010 to 11.8.2010 when he was allegedly deprived of carrying his mining activities.

The order dated 11.05.2015 is restricted to the claim of the petitioner for the amount of excess payment which he was forced to deposit and is not dealing with the petitioner's claim for



compensation in respect of the said 96 days period. This Court would thus observe that under the order dated 11.05.2015 the petitioner has been found entitled to refund of the amount of Rs.75,68,437/- paid by petitioner under coercion for a period when his mining activity was restricted illegally and which payment had been deposited under protest on demand made by Mines Inspector on account of interest.

Since the concern of the Mining Department as submitted by counsel appearing for the Mining Department is with respect to the compensation claimed for 96 days period noticed above; and since the order dated 11.05.2015 does not deal with the said claim of the petitioner, the amount of Rs.75,68,437/- as per order dated 11.05.2015 issued by the Mining Commissioner bearing Memo No. 1505 should be refunded to the petitioner expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is allowed with the above terms.

Learned senior counsel representing the petitioner also prays for interest on the delayed refund inspite of the order having been passed in 2015. This Court would only observe that quantification and payment of interest or any other liability arising



out of delayed payment may be raised by the petitioner in appropriate proceedings in accordance with law.

(Madhuresh Prasad, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.08.2018
Transmission Date	N.A.

