

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16568 of 2018

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Upendra Prasad Singh, Son of Late Ram Pramod Singh, resident of Mohalla-
Ward No. 12, Nirmali, P.O. and Police Station- Nirmali, District- Supaul.

... .. 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 Principal Secretary-cum-Commissioner, Mines, Department of Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. The Deputy Director, Head Quarter, Department of Mines and Geology Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
4. The Collector, Supaul.
5. The Mines Inspector-cum-Competent Officer, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 11-12-2018

Heard learned counsel for the petitioner; State and
learned Special P.P., Department of Mines and Geology.

2. The petitioner has moved the Court for the following
relief:

*“That this writ petition has been
preferred on behalf of the petitioner above
named for issuance of appropriate writ order or
direction in the nature of certiorari to quash the
order as contained in Memo No. 1/M Supaul
dated 25.9.2017 by which the settlement of the
balughat in the district of Supaul in favour of the
petitioner was cancelled based on his
representation dated 6.9.2017 which was
obtained by misrepresentation and undue*



influence as the respondent authorities being state had obtained consent by deceiving the petitioner as they never intended to act on their representation or in the alternative a writ of mandamus commanding the respondent to return the security money deposited with them forthwith.”

3. The grievance of the petitioner is that though he was given a show cause by the Department but in a meeting conveyed before the Principal Secretary of the Department on 06.09.2017, in view of a broad consensus, he had made an application to the Competent Authority for surrender of his lease for the remaining period and pro-rata return of his earnest money, by a representation dated 06.09.2017. The authorities acted on the basis of the show cause notice dated 02.09.2017, given to the petitioner with regard to penal consequences flowing from certain alleged violations by the petitioner, and pursuant to the show cause submitted by him, the Collector, Supaul had given his consent for cancellation of the lease deed which has been communicated to the petitioner by the Competent Officer-cum-Mines Inspector, Supaul under Memo No. 01 dated 25.09.2017.

4. Learned counsel for the petitioner submitted that, without going into the merits, the order of the Collector, Supaul cannot be sustained as it does not satisfy even the minimum requirement of law. It was submitted that the same being a quasi



judicial order, the settled law requires that the author has to disclose the reasons for passing the order, moreso, if it visits the person concerned with penal and civil consequences. In the present case, learned counsel submitted that the show cause was considered by the Additional District Magistrate and has been held to be unsatisfactory and he has opined that the settlement be cancelled. Learned counsel submitted that the Collector, Supaul has merely put his signature to the said proposal, that too, on file. Learned counsel contended that even the consideration by the Additional District Magistrate is totally perfunctory as not even a single issue has been dealt with by him much less, the show cause/reply given by the petitioner. Learned counsel submitted that even coming on merits, the allegation that the petitioner was selling sand at a higher rate than what was fixed by the Department, is without any basis as there is no power given to the authorities under the relevant Statute and the Rules for doing so.

5. Learned Special P.P. submitted that the petitioner cannot be said to be without any fault for the reason that admittedly the Department had fixed lower rate and the petitioner was selling it at a much higher rate and if he had a grievance, he should have assailed and challenged the price fixed by the Department but, in any view of the matter, could not have violated



the same without any order or setting aside of the rate of the Department by any competent authority or Court. However, he submitted that there is a statutory remedy available of appeal before the Deputy Director of Mines of the area concerned under Rule 47 of the Bihar Minor Mineral Concession Rules, 1972. However, on a specific query of the Court as to whether there was a detailed and reasoned order passed by the Collector, Supaul after having himself considered the show cause, learned counsel was unable to show to the Court any such order.

6. Having considered the facts and circumstances of the case, without commenting on merits, the Court finds that the order impugned cancelling the settlement of the petitioner cannot be sustained. The Court is in agreement with the submissions made by learned counsel for the petitioner that the order is without any application of mind, which is required to be reflected by the author of the order as he himself has to go through the show cause and consider the same and give his own finding before arriving at a final conclusion/ decision. The same is clearly absent, as would be clear from the materials brought on record by the respondents themselves, where copy of the file notings have been annexed which clearly shows that the Collector, Supaul has only signed on the proposal of the Additional District Magistrate. The same is



totally in contravention of the minimum requirement of law which casts a duty upon the officer concerned to pass a reasoned order after due consideration of any show cause/ representation/ reply submitted by the person, who is charged with any irregularity/illegality/offence/wrongdoing.

7. For the reasons aforesaid, the writ petition stands allowed.

8. The impugned order of the cancellation of settlement of the petitioner as communicated to him under Memo No. 1/M Supaul dated 25.09.2017, passed by the respondent no. 5, stands set aside. The respondent no. 4 is directed to pass a fresh reasoned order, in accordance with law, after considering the show cause submitted by the petitioner expeditiously and latest within a period of one month from the date of production of a copy of this order before him.

(Ahsanuddin Amanullah, J.)

P. Kumar

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