

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18853 of 2017

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Raghwendra Kumar Singh, Son of Sri Diwakar Singh, Resident of Village and Post Lahthan, Police Station- Agiaon Bazar, District- Bhojpur at Ara in partner of M/s RAJ FUN 'N' ART, head Office quarter no.B-1340 Sector-II, HEC Colony, Dhurwa Ranchi, Local Office House No.3409 village and Post- Dhandiha, Police Station- Koilwar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Mines and Geology, Govt. of Bihar, Patna.
3. The District Collector cum District Magistrate, Bhojpur, Ara.
4. The Assistant Director, Mines, Bhojpur, Ara.
5. The District Mines Officer, Bhojpur, Ara.
6. The Sub-Divisional Officer, Ara Sadar, District- Bhojpur, Ara.
7. The Circle Officer, Koilwar, District- Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Roy, Advocate
For Spl. P.P. Mines	:	Mr. Naresh Dikshit, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 04-12-2018

Heard learned counsel for the petitioner and learned AC to Special P.P., Department of Mines, Bihar.



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

“That this is an application for issuance of an appropriate writ order or direction for quashing the order issued under the signature of the District Collector, Bhojpur vide memo no. 1244 dated 21.11.2017 by which on the ground 50% auction sand was allocated to the work departments and the same are not been provided by the petitioner so order has been given to Mines Inspector to make an enquiry about the availability of sand on the place and further directing to lodge the first information report against the auction holder and be further give direction to the respondent authorities for taking final decision on the representation filed by petitioner on 8.11.2017 for return of the amount which was deposited by petitioner since on the basis of aggregated quantity of sand shown in the tender notice auction was held but the mention quantity of sand in the public notice was not at the site so even 50% allocation to the petitioner for public sale the said 50% quantity is also not available so the adjustment on the basis of e-challan be done and rest of the amount deposited by petitioner be return.”

3. The petitioner, who was the successful bidder for the sand which was already mined and kept by the Department of Mines for sale through e-challan, was successful in such auction for six groups. The petitioner deposited the total amount as per the auction. When the petitioner actually started disposing off the sand, it was found that there was a mismatch between the figures



shown at the time of auction and what was actually and physically available on the ground. Under similar circumstances, another successful bidder made a representation with regard to another Block and for getting the matter verified. Upon enquiry, it was found that the amount of sand which was auctioned was not correct and the same was muchless and for which the officers of the Department were noticed. Thereafter, the petitioner represented before the Collector, Bhojpur on 08.11.2017 for getting the matter enquired into. It appears that no action was taken by the authorities on the representation filed by the petitioner and at the same time they have moved with issuing the impugned order for lodging of F.I.R. against the petitioner.

4. Learned counsel for the petitioner submitted that with regard to a Block not settled with the petitioner, the concerned auction purchaser had raised an objection that there was shortfall in the actual availability of sand than what was auction sold to him, after holding enquiry, it was found correct and the Department has also issued notice to the officers for such lapse, and, thus, the petitioner also finding himself in the same position had filed representation before the Collector, Bhojpur on 08.11.2017. It was submitted that once there was a formal objection/representation by the petitioner before the authorities,



they were obliged to get an enquiry done, moreso in the background that with regard to other such auction sale the contention of the successful bidder had been found to be correct. It was submitted that the authorities, on the one hand, not getting the matter verified and on the other hand, straightaway going in for a direction to lodge an F.I.R. is totally arbitrary, unreasonable and unsustainable.

5. Learned counsel for the Special P.P. for the Mines Department fairly submitted that the authorities would dispose off representation filed by the petitioner dated 08.11.2017, in accordance with law. On a further query of the Court as to why and how, when on the one hand, a representation is pending before the authorities, they seem to have exceeded their authority by also directing for lodging of F.I.R. against the petitioner, learned counsel had no reply.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. Accordingly, the impugned order dated 21.11.2017 contained in Memo No. 1244 of the respondent no. 3 is quashed. Further, the respondent no. 3 is directed to pass a reasoned order upon the representation filed by the petitioner dated 08.11.2017, copy of which is



Annexure-2 to the writ application, after getting a proper enquiry done on the spot in the presence of the petitioner or his representative. Let the same be done expeditiously and latest within two months from today.

7. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

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