

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 118 of 2014**

Vidya Prakash Mishra, Aged about 55 years, S/o Dwarika Prasad Mishra,
Occupation- Agriculturist, R/o Village-Basni, Tahsil -P.S. - District- (Revenue
& Civil)- Raipur (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, Mineral Resources Department, Mantralaya, D.K.S. Building, District – Raipur (C.G.)
2. The Collector, (Mining Section), Bemetara, District – Bemetara (C.G.)
3. Mining Inspector, Bemetara, District – Bemetara (C.G.)
4. Naveen Kumar Kandoie, Age about 39 years, S/o Ganesh Prasad Kandoie, R/o “Kandoie Niwas”, National Road, Professor College Chowk, P.S. - Mangla Bag, Katak, Tahsil & District – Katak (Orissa)

---- Respondents.

For Petitioner	: Shri Yogesh Pandey, Advocate.
For Respondents No. 1 to 3	: Shri Gary Mukhopadhyaya, Govt. Advocate.
For Respondent No. 4	: Shri Vaibhav A. Goverdhan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/07/2018

(1) Respondent No. 4- Naveen Kumar Kandoie was granted licence for storage of bauxite in the premises owned by him under the Chhattisgarh Minerals (Mining & Transportation and Storage) Rules, 2009 (henceforth “ Rules, 2009”) for the period from 10.9.2012 to 9.9.2015, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that adjacent to the said

land for which licence was granted to respondent No. 4, the petitioner's agricultural land is situated and on account of grant of permit to respondent No. 4, the petitioner is suffering damages. He submits that the rules and regulations for grant of licence has not been complied with while granting licence; and the objection raised by the petitioner has also not been considered and, therefore, the licence granted to respondent No. 4 is liable to be quashed.

(3) Per contra, counsel for the State and counsel for respondent No. 5 would submit that firstly the petitioner filed a civil suit on 11.07.2013 claiming declaration that respondent No. 4 - Naveen Kumar Kandoie is not entitled to dump the bauxite on the land bearing Khasra Nos. 154/1, 149 & 155 & 158 being the agricultural land without diversion, in which the application for temporary injunction filed by the petitioner has already been rejected and thereafter, filed an application before the Collector for revocation of the said licence on 9.12.2013. They further submit that that period of licence has also come to an end, as such, the writ petition is liable to be dismissed.

(4) I have heard learned counsel appearing for the parties and perused the material available on record with utmost circumspection.

(5) It is apparent from the record of the case that firstly the petitioner filed a civil suit on 11.07.2013 claiming declaration that respondent No. 4 - Naveen Kumar Kandoie is not entitled to dump bauxite on the land bearing Khasra Nos. 154/1, 149 & 155 & 158 being the agricultural land without diversion and the application for temporary injunction filed by the petitioner has already been rejected; and the period of licence has already come to an end. Thus, the petitioner has no ground to question the order passed in favour of respondent No. 4 granting licence for storage of bauxite in the premises owned by him

under the Rules, 2009 for the period from 10.9.2012 to 9.9.2015 in this writ petition as he has already filed civil suit and complaint before the Collector and it deserves to be dismissed.

(6) The instant writ petition has no substance, it abuses the process of law by resorting simultaneously three remedies. Consequently, the writ petition, being devoid of merit, is liable to be and is hereby dismissed with a cost of Rs. 5,000/- payable to the District Legal Service Authority, District Bemetara.

Sd/

(Sanjay K. Agrawal)
Judge

D/-

