

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2430 of 2019

=====

M/s. Aditya Multicom Private Limited, a Company incorporated under the Provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata-700069, through its Authorized Signatory, Kamlesh Gaurav @ Kamlesh Gouraw, age about 28 years (Male), son of Surendra Singh, resident of D/139, Keshari Nagar, P.O.- Rajeev Nagar, P.S. Rajeev Nagar, Dist.-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Department of Mines and Geology, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna-800001
 2. The Mines Commissioner-cum-Principal Secretary, Department of Mines and Geology, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna-800001
 3. The Director, Mines and Geology, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna
 4. The District Magistrate-cum-Collector, Rohtas, Sasaram
 5. The Assistant Director, Department of Mines and Geology, Rohtas, Sasaram
- Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. P. K. Sahi, Sr. Advocate
		Mr. Suraj Samdarshi, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA-7
For Department of Mines:		Mr. Naresh Dikshit, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 08-02-2019

The Petitioner is aggrieved by Order No.238-M dated 05.02.2019 issued by the Assistant Director, Department of Mines and Geology, Rohtas, Sasaram, by which the Petitioner has been restrained from taking the sand from sand ghaat, which has been settled in favour of the Petitioner.

Counsel for the Petitioner has pointed out Annexure-12, wherein, similar restriction has been imposed against the Petitioner by the Assistant Director, Department of Mines and Geology, Rohtas, Sasaram, by Order No.34/M dated 05.01.2019 for which



he has filed revision before the Commissioner, Mines, in which execution of demand has been kept in abeyance and the revision is pending for final hearing before the Commissioner, Mines.

Counsel for the Petitioner further submits that Petitioner is co-operating in the proceeding and he has appeared before the revisional authority with regard to demand made earlier in terms of Annexure -12. He has further submitted that from Annexure- 17, it will be apparent that same cause of action has been mentioned, which is mentioned in Annexure-12. Besides cause of action, as referred in Annexure- 12, there is reference to Letter No.2617 dated 27.12.2018, Letter No.34 dated 05.01.2019 and Letter No.65 dated 13.01.2019 also in Annexure- 17.

This Court feels that the order contained in Order No.238-M dated 05.02.2019 issued by the Assistant Director, Department of Mines and Geology, Rohtas, Sasaram, has been passed without giving any opportunity to the Petitioner to produce his case and almost with respect to similar cause of action, as mentioned in Annexure-12, for which hearing of revision is pending before the revisional authority. The Petitioner has been restrained from operating at the sand *ghaat* by impugned Annexure-17, which will cause loss of revenue to the State exchequer as well as to the Petitioner.



The Special PP Mines submits that revision will lie against the aforesaid order.

In view of such, this Court directs the Petitioner to file necessary revision application before the Commissioner, Mines, Bihar, against the Order No.238-M dated 05.02.2019 passed by the Assistant Director, Department of Mines and Geology, Rohtas, Sasaram, as contained in Annexure-17, within a period of one month from the date of this order.

The revisional authority will pass appropriate order in accordance with law in the revision application, on being filed by the Petitioner, after giving proper opportunity of hearing to the Petitioner.

In the meantime, till final order is passed by the revisional authority, restraint order passed against the Petitioner vide Order No.238-M dated 05.02.2019 issued by the Assistant Director, Department of Mines and Geology, Rohtas, Sasaram, as contained in Annexure- 17, shall be kept in abeyance.

This writ application is, accordingly, disposed off.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08-02-2019
Transmission Date	N/A

