

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.814 of 2019

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Umesh Kumar, son of late Jiyalal Ray, r/o village/ Mohalla- Jalal Chowk, PO-
Shekhpur, P.S.- Yehaipur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Mines and Geology Department, New Secretariat, Vikas Bhawan, Government of Bihar, Patna,
2. The Principal Secretary, Mines and Geology Department, New Secretariat, Vikas Bhawan, Government of Bihar, Patna.
3. The Mines Commissioner, Bihar, Mines and Geology Department, New Secretariat, Vikas Bhawan, Government of Bihar, Patna.
4. The Joint Secretary cum Director, Mines and Geology Department, New Secretariat, Vikas Bhawan, Government of Bihar, Patna.
5. The District Magistrate cum Collector, Muzaffarpur,
6. The Mineral Development Officer cum Mines Inspector, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Ranjan, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7
		Mr. Abhishek Singh, AC to GA-7
For Mines Department	:	Mr. Naresh Dikshit, Spl. PP
		Mr. Brij Bihari Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 18-04-2019

This writ application has been filed for direction to the respondent authorities not to take any action or create any impediment for non-deposit of the amount for the interregnum period from 01.01.2015 to 10.01.2015 (10 days because of non issuance of work order), 1st May, 2016 to 30th June, 2016 (60 days), 1st January, 2017 to 31st May, 2017 (151 days) and 06.11.2017 to 01.06.2018 (208 days): Total 430, days when the Petitioner was restrained from carrying out mining activity by the



order of the respondent District Magistrate and due to different reasons for which the Petitioner is not responsible, which was, ultimately, interfered with and restored with effect from 02.06.2018.

Counter Affidavit has been filed on behalf of Respondent Nos.3 and 4, wherein, it has been submitted that there was no restrain order by the District Magistrate for carrying out mining activities.

It has further been submitted in the supplementary Counter Affidavit that Mines Department has issued Challan Books to the Petitioner vide Annexure- E on 20.07.2016 and 11.10.2016. Subsequently, he also received 10 Books of Challan (containing 100 Challans in each Book) and again 10 Books with different Book Nos. on the same date. The petitioner was given total 2000 Challans in total as per Annexure- E to the supplementary Counter Affidavit.

Rejoinder to the supplementary Counter Affidavit has been filed, wherein, it is stated that Petitioner was restrained from mining activities by oral order of respondent authorities, who did not give any written order.

This Court from the submission made in the Counter Affidavit filed by the Mines Department as well as supplementary



Counter Affidavit and rejoinder to the supplementary Counter Affidavit filed on behalf of the Petitioner finds that there is disputed question of fact involved in the case.

The Petitioner has not been able to bring any order on record to show that he was restrained from doing mining work on account of such valid order passed by the authorities.

The Petitioner has filed rejoinder in the Court today. The Petitioner has only made submission in the rejoinder that he was restrained by oral order of the authorities. The Petitioner was not supplied any written order which could be annexed with the petition.

In such circumstances, this Court feels that the matter should be referred to Mines Commissioner, Bihar, Mines and Geology Department, (Respondent No.3) for its proper adjudication.

The Petitioner will file necessary application raising all the points as raised in this writ petition before the Mines Commissioner, Bihar, that he was precluded from excavation and transportation of sand for different period which comes to total 430 days as mentioned in para 2(v) of the writ application on account of restrain order passed by the authorities.



The Petitioner will file such representation before the Respondent No.3 within two weeks from the date of this order. The Respondent No.3 after giving proper opportunity of hearing to the Petitioner and looking into all the relevant documents filed on behalf of the Petitioner will pass appropriate order on such claim of the Petitioner within three weeks from the date of submission of representation by the Petitioner. The Mines Commissioner, Bihar, will pass speaking order in the matter.

This writ application is, accordingly, disposed off.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20-04-2019
Transmission Date	N/A

