

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10329 of 2015

=====

M/s Vinit Industries through its Properiter Vinit Kumar Singh Son of Sri Rabindra Kumar Singh Resident of village and P.O. More Sarai, P.S. Shiv Sagar, District - Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Mines, Govt. of Bihar, Patna
3. The District Collector, Rohtas at Sasaram
4. The District Mines Officer, Rohtas at Sasaram
5. The Assistant Director, Mines and Minerals Rohtas at Sasaram

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Pankaj Kumar
For the State	:	Mrs. Ratna Kumari, AC to PAAG-2
For the Respondent/s	:	Mr. Naresh Dikshit, Spl. P.P. (Mines & Geology)
		Mr. Brij Bihari Tiwary.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 04-01-2019

Heard the learned counsel for the petitioner, Spl P.P. (Mines & Geology) as well as the State.

The petitioner has filed the instant writ petition for issuance of an appropriate writ for quashing the order dated 19.05.2015 passed by Mines Commissioner, Bihar, Patna in Revision Case No. 14 of 2012, whereby the revision preferred against the order dated 25.08.2011 communicated to the petitioner vide letter no. 1615 dated 19.05.2015 has been dismissed and also for quashing letter no. 963 dated 19.09.2011 issued by Assistant Director, Mines, Rohtas at Sasaram by which cancellation order dated 25.08.2011 has been communicated to the petitioner without



annexing the order dated 25.08.2011. It has also been prayed for issuance of an appropriate writ for producing the order dated 25.08.2011, if any and on production, the same be quashed.

Learned counsel for the petitioner has submitted that till date order dated 25.08.2011, which is alleged to have been passed by the competent authority cancelling the license of the petitioner, has not been brought on record. Aforesaid order has never been communicated to the petitioner nor the same has been brought on record in the counter affidavit during hearing of this petition.

It is further submitted that petitioner was granted license bearing License No. 253 of 2007 for 20 years vide Memo No. 337 dated 02.02.2007 issued under signature of District Mines Officer under Bihar (Illegal Mining, Transporting and Storage Niwaran) Rules, 2003. As per license agreement entered into between the parties the petitioner had to deposit Rs. 13,25,000/- in equal installment within seven years. The installment amount had to be deposited prior to 31st December every year. Thereafter for rest 13 years the licence had to be renewed every year after payment of Rs. 5000/- as renewal fee. The petitioner was provided land for installation of crusher machine of stone and for storage of stone on land bearing plot no. 586 appertaining to Khata No. 74 situated in Mauza Dawanpur within Rohtas District. The petitioner was



regularly depositing the installment amount within fixed time after grant of licence.

The petitioner was given notice vide letter no. 540 dated 11.07.2011 mentioning therein that there was due against him amounting to Rs. 2,12,000/- with interest. The petitioner was directed to file show cause within 18.07.2011 why not licence would be cancelled. Xerox copy of aforesaid notice dated 11.07.2011 is annexed as Annexure-2.

The petitioner after receipt of aforesaid notice deposited entire amount of Rs. 2,12,000/- in two installments; firstly, vide D.D. No. 311319 dated 17.08.2011 Rs. 1,50,000/- and vide D.D. No. 311329 dated 01.09.2011 Rs. 62,000/- total Rs. 2,12,000/-. With regard to deposited amount vide letter no. 931 dated 10.09.2011, Mines Officer acknowledged the receipt of aforesaid amount with interest. Xerox copy of aforesaid letter issued under signature of Mines Officer is annexed as Annexure-3.

Learned counsel for the petitioner has submitted that in spite of deposit of aforesaid amount, licence of petitioner was cancelled by the Collector, Rohtas by order dated 25.08.2011, which was communicated to the petitioner vide letter no. 963 dated 19.09.2011 issued under signature of Mines Officer, Rohtas. Xerox copy of aforesaid letter is annexed as Annexure-4.



Learned counsel for the petitioner has submitted that petitioner was not given opportunity to file show cause before passing of order dated 25.08.2011. It is further submitted that copy of aforesaid order was never handed over to the petitioner nor produced in court.

The petitioner moved before this Hon'ble Court vide C.W.J.C. No. 18199 of 2011 for quashing letter no. 963 dated 19.09.2011, which was disposed off by order dated 10.02.2012 with direction to petitioner to avail the remedy of revision provided under Section 12 of Mines Rule, 2003. Xerox copy of aforesaid order is annexed as Annexure-5.

Thereafter writ petitioner filed revision before Commissioner, Mines, Govt. of Bihar bearing Revision Case No. 14 of 2012, which was heard and dismissed by respondent Commissioner, contained in Memo No. 1615 dated 19.05.2015, which is annexed as Annexure-6.

Learned counsel for the petitioner has submitted that impugned order dated 25.08.2011 and its consequential order dated 15.05.2015 is bad in law because it has been passed without providing any opportunity of hearing to the petitioner and also without looking into the relevant documents.



Learned Spl. P.P. (Mines & Geology) has filed counter affidavit. He has stated in para 7 of counter affidavit that this petitioner had not deposited the amount. Therefore, his licence was cancelled on 25.08.2011. This information was communicated to the petitioner by letter no. 963/M dated 19.09.2011. In the counter affidavit alleged order dated 25.08.2011 passed by the Collector, Rohtas, has not been enclosed.

This Court after looking into order passed by the Revisional Authority finds that revision has been dismissed on the ground that earlier licence of the petitioner was cancelled by order dated 25.08.2011 passed by the Collector because amount of installment was dues against petitioner. It is also mentioned in the revisional order that amount of 6th, 7th and other installments are due amounting to Rs. 3,78,572/-.

Learned counsel for the petitioner has submitted that no notice has ever been served on the petitioner with regard to demand of aforesaid dues amount.

It appears from Annexure-3, which is letter of Assistant Director, Mines, Rohtas that the amount demanded by the department, as per show cause notice dated 11.07.2011, contained in Annexure-2 amounting to Rs. 2,12,000/- has already been deposited by the petitioner.



Petitioner was issued show cause notice by letter no. 540 dated 11.07.2011, which is annexed as Annexure-2. He was directed to file show cause till 18.07.2011.

Petitioner has deposited the first installment on 17.08.2011 and second installment on 01.09.2011. The petitioner was communicated vide Annexure-4 (letter no. 963 dated 19.09.2011) that licence of the petitioner was cancelled by order dated 25.08.2011. But no copy of aforesaid order has been enclosed with Annexure-4.

Therefore, this Court finds that petitioner was not given proper opportunity of hearing. The alleged order dated 25.08.2011 said to have been passed by Collector cancelling the licence of petitioner was never handed over to the petitioner. The aforesaid order was not produced in this Court also along with counter affidavit. The same has also not been communicated to the petitioner along with Annexure-4. The revisional authority has dismissed the revision petition only on the ground that earlier licence of petitioner was cancelled by order dated 25.08.2011 passed by the Collector because amount of installment was due against him.

Therefore, order passed by revisional authority dated 19.05.2015 in Revision Case No. 14/2012 is not in accordance with law. Accordingly, the same is set aside.



The letter no. 963 dated 19.09.2011 issued by Assistant Director, Mines, Rohtas at Sasaram as contained in Annexure-4, communicating the letter of cancellation of licence of petitioner by order dated 25.08.2011, is also set aside.

The department will be at liberty to pass fresh order in accordance with law after giving opportunity of hearing to petitioner and looking into all the documents and other materials produced by the petitioner at the time of hearing.

Petitioner will co-operate with the authority in the event authority takes fresh steps in the matter against the petitioner.

(Sanjay Priya, J)

rakhi/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	16.01.2019
Transmission Date	

