

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8752 of 2015

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Shani Kumar Son of Sunil Kumar, Resident of Village - Mananpur, Police Station - Gobindganj, District -East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Mines and Mineral Department Govt. of Bihar, Patna.
2. The District Collector cum District Magistrate, eAst Champaran at Motihari.
3. The District Mining Officer, East Champaran at Motihari.
4. The Sub Divisional Officer, Areraj, East Champaran at Motihari.
5. The Additional Collector, East Champaran at Motihari.
6. The Assistant Mining Officer, East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dhurendra Kumar
For the State	:	Ms. Ratna Kumari, AC to PAAG-2
For the Respondent/s	:	Mr. Naresh Dixit (Mines & Geology), Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 03-01-2019

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

Petitioner has filed the instant writ petition for issuance of a writ of Mandamus directing/ commanding the respondent District Magistrate, East Champaran to enquire into the matter of illegal extraction of sand of brick kiln owners and others from the Balu ghats situated in the district of East Champaran by violating rules/guidelines and without any sum/cost to the petitioner in whose favour Balu ghats have been settled and also for issuance of a writ of Mandamus directing/commanding the respondent concerned to pay the amount to the petitioner depositing in the



office of District Mining of Sand which should be paid to the petitioner but has been illegally withheld by the authority.

The brief fact of the case is that all the Balu ghats situated in the District of East Champaran at Motihari was settled in favour of petitioner for five years for Rs. 27,31,000/- and in this regard sanction and work order was issued by the Collector-cum-District Magistrate, East Champaran as contained in letter no. 34 dated 28.01.2015.

Vide letter dated 28.01.2015, the Assistant Mining Officer, East Champaran handed over the jurisdiction of the aforesaid ghats to the petitioner and w.e.f. 31.01.2015, he was entitled to get Rs. 300/- for extraction of 100 cubic feet sand which would be evident from letter dated 06.11.2014 issued by the Mining Department, Govt. of Bihar to the Collector, East Champaran, Motihari. Photocopy of aforesaid letter is annexed as Annexure-3 to this petition.

It is stated that every person/ contractor/brick kiln owner before extraction of sand from Balu ghats is required to take written permission either with settlee, i.e. petitioner in the present case or with the District Mining Officer and they are required to pay its cost to the petitioner to the tune of Rs. 300/- per 100 cubic feet but the contractors and brick kiln owners unauthorizedly



without taking permission by the competent authority extracted the sand. In this way the settlee/petitioner is suffering loss. Loss of revenue is also caused to the State.

Such illegal mining of sand was brought to the notice of Project Manager involved in several construction works in the locality of Motihari by the petitioner through letter dated 12.03.2015 but they did not take any action. The matter of illegal mining of sand was also brought to the notice of learned Collector vide representation dated 16.03.2015 and request was made for necessary action. Thereafter, the Assistant Mining Officer vide letter dated 21.03.2015 directed the petitioner to supply detail of such persons who are involved in such illegal act and the petitioner did so.

The general public notice was also issued in the Daily News Paper by the Mining Department. The District Mining Officer vide letter dated 21.03.2015 also made correspondence in this regard with the Director Bihar State Bridge Construction Corporation, who is involved in the construction work in the said area but all went in vain.

Supplementary counter affidavit has been filed by respondent nos. 1 and 2, wherein it is mentioned in paragraphs 5, 6 and onwards that necessary steps were taken by the department



with regard to illegal mining done by the person concerned. The matter has been reported to the police station. F.I.R. has been lodged against concerned persons.

Learned counsel for the respondents has also annexed Annexure-C to the supplementary counter affidavit, which shows that mining authority conducted inspection of different vehicles at several places along with police and seized the same for illegal mining and handed over to the police.

Learned Spl. P.P. (Mines & Geology) has submitted that in this manner State has taken all adequate steps on complaint made by the petitioner. He further submits that petitioner himself was indulged in the illegal mining of sand, for which his settlement was cancelled by the department vide order as contained in Memo No. 406 dated 17.10.2017 passed by the Collector, East Champaran, Motihari.

Petitioner has filed I.A. No. 2433 of 2018 by which he has brought on record the aforesaid order dated 17.10.2017, which is annexed as Annexure-I/1.

Learned Spl. P.P. (Mines & Geology) has submitted that since the settlement of the petitioner has already been cancelled by the department by order dated 17.10.2017, which is annexed as Annexure-I/1 to the Interlocutory Application, statutory remedy is



available to the petitioner to file necessary appeal and revision before the competent authority. He further submits that in terms of the complaint made by the petitioner, necessary action has already been taken by the department and even police has been informed and directed to lodge the F.I.R.

Therefore, this Court finds that no any direction is required to be issued to the respondents in this regard.

This writ petition is disposed off with direction to the petitioner to seek statutory remedy before the competent authority as per law against the cancellation of his settlement, which shall be considered by competent authority in accordance with law and shall be disposed off expeditiously preferably within three months from the date of filing of such petition.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	09.01.2019
Transmission Date	

