

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14984 of 2019**

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M/s. N. M. Food Product having its Head Office at 48 - G Block, Sri Ganganagar- 335001, Rajasthan, through its authorized representative Ashwani, S/o Dal Chand, R/o Village - House No. B 4-133, Street No. 13/14, Nai Abadi, Abohar Fazilka, Punjab-152116

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of Mines and Geology, Govt. of Bihar, Patna.
2. The District Magistrate cum Collector, Munger.
3. The Deputy Director, Mines and Geology, Circle Office, Munger.
4. The Mines Development Officer, Munger.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-------------------------------------|
| For the Petitioner/s | : | Mr. Gautam Kumar Kejriwal, Advocate |
| For the Respondent/s | : | Mr. Gyan Prakash Ojha, APP          |
|                      |   | Mr. Naresh Dikshit, Spl. PP Mines   |
|                      |   | Mrs. Kalpana, Advocate              |

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date : 20-08-2019**

This writ application has been filed for issuance of writ or order or direction upon the respondents specially respondent Mines Development Officer, Munger, to refund the security deposit of sum of Rs.47,52,000/- lying pending with the respondents for the settlement period of 2015-2019.

2. The petitioner company has been settlee of sand ghats at Munger, for the period 2015-19 pursuant to the tender invited by the respondent Department of Mines & Geology, Govt. of Bihar, and its Directors are citizens of India.



3. The petitioner had to deposit the security amount being 25% of the settlement amount as per the terms and conditions of settlement. Accordingly, the petitioner deposited total security amount of Rs.47,52,000/- by way of demand drafts. The said fact is not in dispute both as regards the deposit as well as the figure.

4. The petitioner also paid the entire settlement amount along with statutory taxes and duties as required for the purpose of necessary compliance for both the period of settlement as long as the petitioner carried out mining activities.

5. The respondent Department of Mines and Geology also executed agreement with the petitioner in form “O” as per the Bihar Minor Mineral Concession Rules, 1972.

6. The petitioner carried out the mining work in terms of the notification as aforesaid and completed the period of settlement without any complication and issue with the respondents.

7. In the meantime, the State Government came out with new rules replacing the rules 1972, which was notified in the official gazette on 10.10.2017 as “Bihar Minor Mineral Rules, 2017”. It would appear that in the said new Rules 2017, a scheme was introduced vide Rule 62 in accordance with which any



settlee/licensee could surrender the lease or exit the arrangement of settlement by giving three months prior notice to the Collector of the District. A plain reading of the said would show that upon acceptance of such option so availed by the settlee, the Collector could refund the security money deposited by such settlee/licensee after deduction of any due recoverable. The said provision further provided that the Collector would thereupon initiate the process of fresh settlement of the mining site through the process of bidding.

8. The petitioner did not find the settlement of the district in question to be profitable any longer due to several practical difficulties like withholding of environmental clearance by the competent authority and decline in demand of sand in the market coupled with other factors. Therefore, the petitioner having got the said option provided in the Rules 2017 submitted letter addressed to the District Magistrate three months prior for surrender of the sand ghats at Munger. The said notice was in light of one contemplated under Rules 62 of the 2017 Rules.

9. The petitioner having already surrendered the settlement in light of Rule 62 of Rules, 2017, and awaiting further completion of process like refund of security deposits etc. found no response from the respondents and, accordingly, submitted detailed representation to the District Magistrate, mentioning that



petitioner had already released mining site from its physical possession on 21.12.2017 in light of the letter of surrender already made in terms of Rule 62 of the Rules, 2017. The petitioner also stated in the said representation that pursuant to the petitioner having left the mining site in question, the respondent Department had also settled the said sand ghats in favour of other settlees. Accordingly, petitioner is entitled to refund of security deposit. Accordingly, petitioner requested for refund of the security amount of Rs.47,52,000/- at the earliest.

**10.** In spite of the said representation submitted by the petitioner, no step was taken by the respondent District Magistrate towards compliance of requirement of rule 62 of Rules, 2017, and not a single penny was refunded to the petitioner. Accordingly, the petitioner once again submitted another representation addressed to the District Magistrate, wherein, reference was also made to the earlier letter issued by the Department in connection with surrender of lease/settlement by the petitioner. The petitioner also requested to expedite the process of refund of security deposit of the petitioner amounting to Rs.47,52,000/- as the petitioner had already surrendered the settlement.

**11.** The Department of Mines and Geology vide letter bearing Memo No.4754/M Patna dated 31.12.2018 has directed



the District Magistrate to take steps for refund of the security deposit to the petitioner and submit action taken report.

**12.** Despite the letter dated 31.12.2018, no step was taken by the District Magistrate much less the Mines Development Officer. Therefore, the petitioner once again represented before the District Magistrate seeking refund of the security deposits.

**13.** The Department once again issued another letter bearing Memo No.942/M dated 18.03.2019 seeking report from the District Mining Office at Munger, in the matter of refund of security deposit to the petitioner.

**14.** The petitioner has also learnt that entire stretch of sand ghats at Mugner has been settled in favour of other lease holders after the petitioner left the same in light of rule 62 of Rules, 2017. It would, therefore, appear that petitioner's surrender of settlement in light of rule 62 of Rules, 2017, has been accepted by the Department without any objection. Had there been no acceptance of the proposal and there would be some confusion rendering the proposal pending, no steps for fresh settlement of same sand ghats would be taken by the department.

**15.** Counter Affidavit has been filed on behalf of the Respondent Nos.2 and 4.



**16.** It appears from Counter Affidavit that there is no justifiable reason on the part of the State in not making payment of amount of refund to petitioner. It is mentioned in para 11 of the Counter Affidavit that due to implementation of CFMS System, presently, there is no provision in Software for refund of security deposit. Step for refund of security money to the petitioner has already been taken and payment will be made as soon as Software will be updated.

**17.** This Court finds that such plea is not tenable because payment of refund is pending since 2017.

**18.** It is mentioned in para 9 of the Counter Affidavit that the Collector vide Letter No.436/M dated 7.08.2019 allowed to refund the security deposit to the petitioner. It is further mentioned in para 10 of the Counter Affidavit that Collector, Munger, in the light of letter dated 21.10.2017, 21.11.2017, 23.07.2018 and 31.12.2018 considered the matter and passed order vide Letter No.436/M dated 07.08.2019 to refund the advance security amount of the settlee / licensee with condition that when any due is found against the writ petitioner, it will be recovered from him.

**19.** Therefore, this Court does not find any justification in not making refund of security money on the plea that there is no



provision of refund in the software after implementation of CFMS system.

**20.** In view of such, this Court directs the District Magistrate-cum- Collector, Munger, (Respondent No.2) to make payment of entire security amount i.e. Rs.47,52,000/-, as mentioned in para 5 and 6 of the Counter Affidavit, to the Petitioner within a period of two months from the date of receipt of copy of this order, failing which Respondent No.2, shall be liable to pay interest @ 7% per annum to the Petitioner from the date amount was due till date of payment to the petitioner.

**21.** The Treasury Officer, Munger, will also take necessary steps to make payment of security money as ordered by Collector, Munger, without any delay.

**22.** This writ application is, accordingly, **allowed**.

**J. Alam/-**

**(Sanjay Priya, J)**

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| AFR/NAFR          | AFR        |
| CAV DATE          | N/A        |
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