

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4922 of 2016

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Jai Prakash Gupta Son of Late Ramdeo Sah resident of village - Kare, Post office, Police Station and Block - Sheikhpura, at Present residing in the House of Mahadeo Ram Near Astha Homeo Hall, Mithapur Bus Stand Road, Police Station Jakkanpur, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Sheikhpura
3. The District Mining officer, Sheikhpura
4. The Circle officer, Sheikhpura Anchal, District - Sheikhpura

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jitendra Kumar Roy
For the Respondent/s	:	Mr.Nawal Kishore Singh- SC2
For the Mines	:	Mr. Naresh Dikshit, Spl. PP Mines

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 04-04-2019

Heard learned counsel for petitioner, learned counsel for the State and learned counsel for Mines Department.

This writ application has been filed for issuance of appropriate writ/order or direction for quashing the order dated 3.10.2015 passed by the District Collector Sheikhpura in Misc. case no. 4 of 2015 whereby the claim of the petitioner has been rejected.

Learned counsel for petitioner submits that collector has committed illegality in passing the impugned order. He further submits that General notice has been issued on 2.12.2014 as would appear from Annexure-8 after order of this Hon'ble Court passed in CWJC No. 8333 of 2014 whereby the earlier order of the Circle Officer dated 18.10.2013 passed in Mutation case no. 3971 of 2013-



14 was quashed and the Circle Officer was directed to pass order afresh in accordance with law.

Learned counsel for petitioner submits that it is mentioned in para 6 of counter affidavit filed on behalf of respondent no. 2 to 4 that after passing of the order of this Hon'ble Court, fresh order has been passed by the Circle Officer on 21.10.2014, which is annexed as Annexure- C to the counter affidavit. He further submits that order dated 21.10.2014 has been passed prior to the general notice issued on 2.12.2014 in Mutation case no. 2249 of 2014-15 by the Circle Officer as contained in Annexure-8. The Collector has mentioned in the order that application for mutation with respect to the land has been twice rejected by the Circle Officer.

Learned counsel for the Mines has submitted that there is provision of Revision as contained in Rule 45 of Bihar Minor Mineral Concession Rules, 1972. Petitioner can raise all these points before the Mines Commissioner by filing revision application.

This Court, after hearing the submissions of the parties, finds that alternative remedy is available to the petitioner. Petitioner can raise all these points before the Mines Commissioner by filing Revision application.

This writ petition is accordingly disposed of with direction to the petitioner to file revision application before the Mines Commissioner in terms of the provisions as contained in Rule 45 of the Bihar Minor Mineral Concession Rules, 1972 within a period of



one month from date of this order which shall be considered and disposed of by Mines Commissioner within a period of three months from the date of filing of the Revision petition. The delay, if any, in filing the revision application, shall be condoned by the Commissioner because the petitioner was seeking remedy in this Court.

It is made clear that this Court has not expressed any opinion on the merit of the order passed by the Collector.

In the instant writ petition an Interlocutory application being I.A. No. 2670 of 2017 has been filed but copy of the said application has not been served either to the counsel for the petitioner or the State.

In view of such, no order is required to be passed on the aforesaid Interlocutory petition.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	17.4.2019
Transmission Date	

