

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13925 of 2016

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Sharda Mica Mining Co. At & P.O. Jhumari Telaiya, Distt. Kodarma (Jharkhand) through its authorized and Managing partner Shri Mukul Modi, son of late Mahendra Prasad Barnwal, resident of village - Jhumari Telaiya, P.O. and P.S. Jhumari Telaiya, District - Kodarma (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Bailey Road, Patna.
2. Department of Mines and Geology, Government of Bihar, New Secretariat, Off Bailey Road, Patna through its Principal Secretary.
3. Director, Mines and Geology Department, Government of Bihar, Patna
4. Assistant Director Mines , Nawada, Bihar
5. Department of Environment and Forest, Government of Bihar, Sichai Bhawan, Patna
6. Principal Chief Conservator of Forest, Environment and Forest Department, Government of Bihar, Patna.
7. Divisional Forest Officer, Forest Division, Nawada
8. District Magistrate, Nawada
9. Superintendent of Police, Nawada
10. Officer - in - Charge, Rajauli Police Station, Rajauli

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar, Advocate Mr. Abhimanyu Kumar, Advocate. Ms. Priti Jaiswal, Advocate.
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P. Mines Mr. Sumit Shankar Pandey, A.C. to Naresh Dikshit
For the State	:	Mr. Binay Kumar, A.C. to S.C. 10

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 14-05-2019

Heard Mr. Rakesh Kumar, learned counsel for the petitioner, Mr. Naresh Dikshit, Special P.P. Mines and Mr. Binay Kumar, A.C. to S.C.10, counsel appearing on behalf of the State.

The petitioner has filed this writ petition for issuance of appropriate writ commanding the respondent Nos. 8,9 and 10 to



provide adequate security force in village Chatkari falling within their jurisdiction to safeguard the mining areas which are lawfully owned and possessed by the petitioner and/or the Respondent Authorities may be directed to consider opening of a Police Post in Mouza Chatkari and stop unauthorized persons from illegal mining activities in the mining areas and the Respondents be directed to provide all sorts of protection to the lease hold rights of the petitioner in accordance with law.

Counter affidavit has been filed on behalf of the Mines department wherein it has been stated that lease of this petitioner has already been determined by the Department by Memo No. 2879 dated 15.11.2016. The initial lease of the petitioner was going to expire on 5.3.2006 after completion of 20 years. The petitioner has made application for renewal which was considered by the department and after considering all aspects, the renewal application of the petitioner was rejected and decision of rejecting the renewal application has already been communicated to the petitioner vide Memo No. 2880 dated 15.11.2016 giving detailed reason of rejection. The aforesaid letter has been enclosed as Annexure-‘C’ to the counter affidavit.

Counsel for the petitioner submits that he has challenged the aforesaid order dated 15.11.2016 in this Hon’ble Court in



CWJC No. 1161 of 2017. This Hon'ble Court vide Judgment dated 28.2.2019 has set aside the order dated 15.11.2016 issued by the Joint Secretary cum Director, Department of Mines and Geology, Government of Bihar, Patna, and the matter was remitted back to Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna, to consider the matter afresh in the light of the discussions made in the judgment and pass appropriate order on the renewal application in accordance with law after giving due opportunity of hearing to the petitioner within fixed period as ordered by Hon'ble Judge.

Counsel for the Mines submits that after determining the lease by order dated 15.10.2016 in Memo No. 2880, the petitioner cannot be deemed to be in possession of the lease hold area. He further submits that the writ application filed by the petitioner has become infructuous because the petitioner is not a leaseholder of the aforesaid Mining Property as mentioned in the written report.

Counsel for the petitioner submits that learned Single Judge has passed the judgment with observation which is to be taken into consideration by the Principal Secretary, Department of Mines, Government of Bihar, Patna, while passing fresh order.

This Court after looking into judgment passed by the learned Single Judge, finds that matter has finally been remitted



back to the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna, to consider the matter afresh. Therefore, at this stage, the relief as prayed for by the petitioner cannot be given to the petitioner.

This writ petition has accordingly become infructuous and the same is dismissed.

Petitioner is however given liberty to make necessary prayer as made in this writ petition before the Principal Secretary while hearing the matter in compliance of the order passed by the learned Single Judge in CWJC No. 1161 of 2017 for seeking proper relief as prayed for by the writ petitioner which will be considered by the Principal Secretary in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18/05/2019
Transmission Date	N.A.

