

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6470 of 2001

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1. Mohammad Fakruddin, S/O Mohammad Quassimuddin R/O White House Compund, P.S.Civil Lines , At and Distt-Gaya
 2. Dinesh Prasad S/O Ramdeo Yadav R/O Vill Katari,P.S Chandauti, At andDistt-Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary cum Commissioner, Department of Geology and Mines, Government of Bihar, Patna.
2. The Collector Cum D.M. Gaya.
3. The District Mining Officer Gaya.
4. The Additional Mining Officer Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh, Advocate
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 13-08-2020

Petitioners have prayed for the following relief(s):

- “(i). To declare the Rules 9A, 22A and 52 of the Bihar Minor Mineral Concession (Amendment) Rule 2001 as ultra vires the provisions of parent Act i.e. Mines & Mineral (Regulation and Development) Act 1957 and also violative of petitioner’s rights enshrined under Articles 21, 31A, 300A of the Constitution of India;
- (ii). To declare the Rules 9A, 22A & 52 of the 2001 Amendments in BMMC Rules as Ultra vires on the ground that the State Govt. does not have the competence to introduce a system by which Rate of Royalty could be fixed through auction as Royalty being a tax fixing its rate is essentially a legislative function;
- (iii). To declare that the petitioners being the existing lessees under the unamended BMMC Rules their application for renewal of mining leases have to be considered in terms of Rules 22 of BMMC Rules and the system of Public auction introduced by the 2001



amendment will not be applicable to them;
(iv) To declare the notification dated 17.4.2001 by which stone has been notified under the amended Rule 9A as ultra vires and illegal.”

Shri Rakesh Kumar Singh, learned counsel for the petitioners, informs that the Rules, subject matter of challenge in the present petition, now stands repealed/amended.

If that were so, undisputedly, the present petition has become infructuous.

As such, we dispose of the present petition reserving liberty to the writ-petitioners to challenge the new Rules in a fresh proceeding, if so required and desired.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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