

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8374 of 2020

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M/s Patel Agri Industries Private Limited through its Director Kunkun Prasad aged about 55 years (Male) Son of Late Danvir Prasad, Resident of B/116, P.C. Colony, Lohiyanagar, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Govt. of Bihar, Patna.
2. The Commissioner, Department of Mines and Geology, Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Mineral Development Officer, (Head Office), Bihar, Patna.
5. The Assistant Director, Mines and Geology, Nawada.
6. Rajendra Singh Son of Late Ramdeo Singh Resident of Makan No 15, Mother Tresha Road Utri Sri Krishnapuri, Phulwari, Patliputra, Patna 800013.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Y.V.Giri, Sr. Advocate with Mr.Shivendra Prasad, Adv.
For the Respondents	:	Mr .Gyan Prakash Ojha GA-7
For the Mines Deptt.	:	Mr. Naresh Dixit Spl. PP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-12-2020

As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsel are appearing and making submissions from their residence. The Court master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned senior counsel for the petitioner, the



learned counsel representing the Mines Department as well as Mr. Ojha learned counsel for the State.

The petitioner has participated in the tender process for settlement of mining area. The process of tender was in respect of two Blocks i.e. Block A and B at khakhaandua Block in the District of Nawada. Block A was 16.5 acres and Block-B was 16 Acres.

Being the highest bidder in respect of Block-B, the same was to be settled in favour of the petitioner. The petitioner after settlement of the Block-B in his favour submitted a mining plan. The mining plan was examined by the Authorities and one letter dated 01.06.2020 has been issued bearing No. 1674 whereby the Mines Development Officer has communicated to the petitioner that the coordinates in respect of the tendered stone block, settled in favour of the petitioner are different from the coordinates, mentioned by the petitioner, in the mining plan, in respect of the same tendered stone block which has been submitted. By this communication, the petitioner has also been requested to modify the mining plan submitted by him. It is this communication which has been challenged by the petitioner.

The learned senior counsel representing the petitioner submits that the petitioner is suffering grave prejudice on this



account. The Authorities are trying to change the dimension of the plot allotted to the petitioner by asking him to submit a modified mining plan. Referring to certain communications, namely, Annexure(s)-3 & 8 of the writ petition and Annexure(s) B, C & D of the counter affidavit, it is submitted that the Authorities have all along understood the coordinates of the plot of lease hold area to be the same as that which petitioner has mentioned in his mining plan. They have for the first time under impugned communication dated 01.06.2020 changed the dimension and coordinates of the lease hold area. The petitioner has not submitted a mining plan at variance or differing with the coordinates of the tendered stone block.

His further submission is that the change has been effected by the respondent Authorities on extraneous considerations on an objection lodged by allottee of Block-A (respondent No.6). In order to grant him undue benefits, the coordinates and the dimension of the petitioner's Block-B has been altered and, therefore, he has been requested to submit a modified mining plan. The learned senior counsel further submits that it is violative of natural justice, inasmuch as before changing the coordinates of the block allotted to the petitioner, he has not been issued any show cause or notice.



The learned counsel representing the Mines Department submits that the Scheme of the tender was such that the tenderers were required to satisfy themselves by physical verification of the tendered stone Blocks for which they were bidding and which was to be settled in their favour. This has clearly been mentioned in Clause-14 of the general conditions of Contract. The Authorities have proceeded strictly in accordance with the N.I.T. and general conditions of contract to allow the petitioner an opportunity to physically verify the Block of land, for which, he had submitted his tender and which was to be settled in his favour.

A physical verification exercise was undertaken on 30.12.2019. The representatives of the petitioner and various officials participated in the physical verification. Upon such physical verification, the coordinates were determined. In support of this contention, he relies upon Annexure-E of the counter affidavit, wherein, the process of physical verification has been documented and the Blocks have been sketched based on the latitudinal and longitudinal coordinates which has been ascertained in the process of physical verification. It is pointed out from Annexure-E to the counter affidavit filed by the Mines Department that the petitioner's representative has signed this



physical verification of Block-B along with coordinates mentioned therein.

The allottee of Block-A, however, objected to this physical verification dated 30.12.2019 and had not signed the physical verification document, and as such, did not endorse the physical verification process. Under such circumstances, the Authorities undertook a second process of demarcation on 10.01.2020, afresh in presence of the Assistant Director, Nawada, representatives of the petitioner as well as the allottee of Block-A, the Mineral Development Officer (Headquarters). The same was done with the help of Anchal Amins, Forest Department Amin, RQP, in presence of representatives of tenderers of both the leased stone Blocks including petitioner's representative. A report containing the demarcation along with coordinates was, thus, prepared and communicated to the District Mining office under letter No. 690, dated 13.02.2020, with a direction to hand over the report to both the stone lease settlees, including the petitioner. It is this last and final demarcation/physical verification dated 10.01.2020 with coordinates, done by the above noted officials in presence of the petitioner as well as the settlee of Block-A which is to forms the basis of any further mining rights for which mining



plan was to be submitted by the petitioner.

Having considered the rival submissions, this Court would observe that mining plan is to be submitted by the settlee for the Block which has been settled with him with its demarcation based on latitudinal and longitudinal coordinates. In the instant case, it is these coordinates in respect of plot-B settled in favour of the petitioner, which the Department alleges to be incorrect and at variance with the due coordinates as per last demarcation/physical verification of the Block conducted on 10.01.2020.

Reference made by the learned Senior Counsel representing the petitioner to Annexure(s) -3 and 8 of the writ petition is of no avail to the petitioner. Annexure-3 is the Sketch Map of the Block, for which, the petitioner has submitted his bid. There is no latitudinal and longitudinal demarcation in Annexure-3. Annexure-8 is a communication by the Assistant Director, Mines, Nawada, to the Department. Even as per Annexure-8 of the writ petition, a partial variance has been reported in the latitudinal and longitudinal coordinates in the mining plan submitted by the petitioner with the tendered stone block coordinates. Annexure(s) B, C & D of the counter affidavit, relied upon by the petitioner's counsel, is also of no



benefit to the petitioner's cause. Annexure-B is a communication, dated 10.12.2019, again issued by the Assistant Director Mines, Nawada, to the Department which also says that the coordinates submitted in the mining plan by the petitioner, on physical verification, have been found to be nearly correct. The letter states “लगभग सही पाया गया है।” It also does not endorse the coordinates in the mining plan, submitted by the petitioner to be the same as the coordinates of the tendered stone block. Annexure(s) C and D of the counter affidavit, also does not in any manner support the petitioner's case that the coordinates in his mining plan are same as that of the tendered stone block.

The allegation of the petitioner's counsel that for the first time the coordinates for the tendered stone block have been changed in the impugned communication dated 01.06.2020 is also without any basis. From the two physical verification/demarcation exercises undertaken by the Authorities, in presence of the petitioner, on 30.12.2019 and 10.01.2020, it is apparent that the petitioner has participated in the same without any objection whatsoever. His representatives have signed the physical verification/demarcation exercise with reference to the coordinates on 30.12.2019. Signature of the



petitioner's representative is apparent on Annexure-E to the counter affidavit i.e, the communication issued by the Deputy Director, Mines and Geology, Munger to the Department.

In the second physical verification/demarcation exercise, wherein, the last and final determination of coordinates was done, the Authorities have taken note of the fact that the same was done in presence of the petitioner and specific averments to this effect has been stated in the counter affidavit filed by the Mines Department. The petitioner, in paragraph 9 of his reply to the counter affidavit, has, in fact, admitted his presence at the time of the second and last physical verification/demarcation of coordinates in respect of the petitioner's plot on 10.01.2020. He, however, has stated that his representative was "*not a technical person to make any comment on demarcation*". Such a plea is clearly untenable since it is the petitioner who had sent a representative at the review of physical verification and coordinates, to be conducted by the officials on 10.01.2020. There is no objection on any grounds whatsoever regarding the physical determination of coordinates/demarcation done on 10.01.2020, either at the time of verification, or thereafter at any time prior to issuance of the impugned communication dated 01.06.2020. In view thereof, the petitioner was very well aware



of the coordinates forming the basis of demarcation of his tendered stone Block (B). After determination of coordinates afresh, in his presence, on 10.01.2020. Now, it does not lie in the mouth of the petitioner to contend that mining plan containing coordinates, as per earlier physical verification, dated 30.12.2019, which has since been revised by a physical verification exercise dated 10.01.2020, wherein, the petitioner was, admittedly, represented, must be accepted. It was incumbent upon the petitioner to submit his mining plan, as per the last demarcation, based on coordinates as per physical verification dated 10.01.2020. It is these coordinates which the Department is rightly asking the petitioner to comply with while submitting his mining plan for tendered stone Block (B).

The plea of non-compliance with the principles of natural justice are also being taken note of, only to be rejected. The petitioner has participated in the second physical verification /demarcation process dated 10.01.2020 and it is in his presence that coordinates have been determined, without any objection by the petitioner. The plea of natural justice is clearly untenable as determination was in his presence, and in spite of opportunity to dispute the demarcation at that time, or after physical verification, till issuance of the impugned order, no



dispute or objection to the demarcation with coordinates done on 10.01.2020 has ever been raised by the petitioner. He has chosen not to avail the opportunity to object either during the process of physical verification, or thereafter till issuance of the impugned letter requiring him to comply with the same. In the circumstances, he is not in a position to allege that there is any violation of principle of natural justice since the entire determination was in his presence and he had full knowledge of the coordinates forming the basis of demarcation, for which, he was to submit the mining plan.

Had the subsequent physical verification dated 10.01.2020 been done behind the back of the petitioner, there may have been an opportunity to allege violation of natural justice. But, that is not the case here. No prejudice has been caused to the petitioner by conducting physical verification afresh on 10.01.2020 as he admittedly was duly represented at the time the same was done and he has never raised any objection to the same, though he had the opportunity to object. The prayer of the petitioner seeking quashing of the communication dated 01.06.2020 requiring him to modify his mining plan, in accordance with the coordinates of the tendered stone area, as per physical verification dated 10.01.2020, is



without any substance.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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