

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17125 of 2017

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M/s. Mahadev Enclave Pvt. Ltd., having its office at B-37 Ayodhya Marg, Hanuman Nagar, Jaipur (Rajasthan) through its authorised representative Dalip Singh, S/o Late Ram Singh Resident of village & P.O. Deenwa Ladkhani, District- Sikar (Rajasthan).

... .. 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 Principal Secretary Cum Commissioner, Department of Mines and Geology, Govt. of Bihar, Patna.
3. The District Magistrate Cum Collector, Banka.
4. The Deputy Commissioner of Commercial Taxes, Bhagalpur Commercial Taxes Circle, Banka.
5. The Mines Inspector, Banka.
6. The Union of India through the Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate.
For the Respondent/s : AC to AG

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

(Per: HONOURABLE THE CHIEF JUSTICE)

9 10-11-2020 Petitioner has prayed for the following relief(s):

“a. For issuance of an order declaring the provisions of the Bihar Minor Mineral Rules, 2017 ultra vires the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and Articles 14, 19(1)(g), 245 and 300-A of the Constitution of India and consequently, issue a writ of mandamus to the respondents not to give effect to the same;



b. For issuance of an order declaring Rules 13 proviso, 14, 34, 35, 36, 37,42, 43, 44, 45, 46, 47, 56, 59, 60, 61, 63, 65, 67,75-89, Chapter XII, 94, 99, 101, 102, 104, 107, 108, 109,110, 111, 112, 113, 114, 144 of the Bihar Minor Mineral Rules, 2017 ultra vires the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and Articles 14, 19(1)(g), 245 and 300-A of the Constitution of India and consequently, issue a writ of mandamus to the respondents not to give effect to the same;

c. For issuance of an order holding and declaring Clause 6(a)(ii) of the Bihar New Sand Policy, 2013 notification dated 27.08.2013 requiring submission of the environmental clearance issued by MOEF, Government of India within 120 days as being ultra-vires Article 14 and Article 19(1)(g) of the Constitution of India, or in the alternative, hold and declare clause 6(a)(ii) to be directory in nature in view of clause 6(b) of the Bihar New Sand Policy, 2013;

d. For issuance a writ, order or direction in the nature of writ of certiorari quashing the notice bearing Memo no. 4008 dated 16.10.2017 issued by the Court of Mines Commissioner, Bihar, Patna in Miscellaneous Case No. 01/2017, District Banka to the Petitioner in terms of Rule 64 of the Bihar Minor Mineral Rules, 2017 calling upon the Petitioner as to why sand ghat settlement (lease) awarded to the Petitioner be not cancelled due its failure to obtain Environmental Clearance;

e. For issuance of an order declaring Rule



48 of the Bihar Minor Mineral Concession Rules, 1972 ultra vires the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and Articles 14, 19(1)(g), and 300-A of the Constitution of India and consequently, issue a writ of mandamus to the respondents not to give effect to the same;

f. For issuance a writ, order or direction in the nature of writ of certiorari quashing the notice bearing no. 1082/M dated 05.09.2017 issued by the District Collector, Banka to the Petitioner under Rule 21-A(4), 22(2), 22(3) of the Bihar Minor Mineral Concession Rules, 1972 read with notification dated 27.06.2013 calling upon the Petitioner as to why sand ghat settlement (lease) awarded to the Petitioner be not cancelled due its failure to obtain Environmental Clearance; and,

g. For issuance of a writ in the nature of certiorari for quashing of memo no. 7020/M dt. 14.11.17 issued by the respondent no. whereby sale price of sand for the year 2017 for the whole state of Bihar has been notified in exercise of powers purportedly conferred under rule 37 of the Bihar Minor Mineral Rules, 2017 which is in teeth of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957;

h. For issuance of a consequential Writ in the nature of certiorari for quashing of the notification issued vide memo no. 3083/M dt. 13.10.17 by the respondents whereby the right to quarry, win, work and carry away the product under mining in terms of the definition of



settlement has been recalled in exercise of power under Rule 43 of Bihar Minor Mineral Rules 2017;

i. Pass any other order or orders as this Hon'ble Court may deem fit in the facts and circumstances of the case.”

Learned counsel for the petitioner seeks permission to withdraw the petition.

Prayer allowed.

The petition is dismissed as withdrawn.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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