

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18496 of 2017

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1. Pragatishil Khudra Nirman Samagri Vyavsaie Sangh, At + P.O.- Kabirchak, P.S.-Sadar, District-Darbhangha (Bihar), Darbhanga through Vice President, Vishwanath Rai.
 2. Bishwanath Rai, Vice President of Pragatishil Khudra Nirman Samagri Vyavsaie Sangh, At + P.O.- Kabirchak, P.S.-Sadar, District-Darbhangha (Bihar), Darbhanga.
 3. Shafi Ahmad, Secretary of Pragatishil Khudra Nirman Samagri Vyavsaie Sangh, At + P.O.- Kabirchak, P.S.-Sadar, District-Darbhangha (Bihar), Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikash Bhawan, Patna.
3. The Collector, Darbhanga.
4. The Competent Officer, District Mining Office, Darbhanga.
5. The District Mining Officer, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagnnath Singh, Advocate .
For the Respondent/s	:	Mr. Pushkar Narayan Shahi -AAG-6
		Mr. Naresh Dixit, Spl. PP.
		Mr. Brij Bihari Tiwari, Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-11-2020

Petitioners have prayed for the following relief(s):-

“(I) To declare the Rule 42, 43, 44, 45, 46, 47, 75 & 145 of Bihar Minor Mineral Rules 2017 as ultra vires a provision of Patent Act i.e. Mines Minerals (Regulation and Development) Act, 1957 and also violative of petitioner’s right as



enshrined under Article 19(1)(j), 21, 31A & 300A of the Constitution of India.

- (II) To declare the Rules 34, 35, 36, 37, 42, 43, 44, 45, 75 and 145 of the Bihar Minor Minerals Rules 2017 as ultra vires on the ground that State Government does not have competence to restrict the petitioner's (lessess) to sell the Minor Mineral only to the Bihar State Mining Corporation.
- (III) To declare the Rules, 34, 35, 36, 37, 42, 43, 44, 45, 75 and 145 of Bihar Minor Mineral Rules, 2017 as ultra vires of the Section 15 of the M.M. (Development and Regulation) Act 1957 as Section 15 does not empower a State Government to control the sale and sale price of the Minerals.
- (IV) To declare the notice contained in Memo No.5016 dated 20.10.2017 issued under Rule 43 and 37 of the Bihar Minor Mineral Rule 2017 by which rate of the stone minerals has sought to be fixed with a condition that the corporation is not bound to buy any fixed minimum quantity of Mineral as ultra vires and illegal.
- (V) For any other relief/reliefs for which the petitioner may be found entitled to.”

Learned counsel for the petitioners, while inviting our attention to the interim order dated 9.9.2019 passed in a bunch of these writ petitions, being CWJC No.15965 of 2017, titled as Puspa Singh and another vs. The State of Bihar and others and its analogous cases, states that with the passage of time Rules in



question stand repealed and substituted by new Rules in the year 2019. As such no other and further orders are required to be passed in the present case, for the State has not precipitated any action in terms of Rules in question. Further, petition be disposed of as not pressed, reserving liberty to initiate appropriate action, if so required and desired at any point of time.

State has no objection to the same.

As such, as prayed for, the petition is disposed of with the aforesaid liberty.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

