

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25778 of 2019

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Md. Israil Son of late Haji Wasimuddin Resident of Village- Tupamari, P.O.-
Belwa, P.S. and District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Principal Secretary-cum- Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna.
3. The Additional Secretary-cum- Director, Department of Mines and Geology, Government of Bihar, Patna.
4. The Collector, Kishanganj.
5. The Mines Inspector-cum- Competent Officer, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Ranjan
For the Respondent/s	:	Mr.Gyan Prakash Ojha (Ga7)
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 06-01-2020 Heard learned counsel for the petitioner, learned Spl.
P.P. Mines as well as learned A.C. to G.A.-7.

By way of instant petition, petitioner has asked for declaration of Clause 2(vii) as well as Clause 6(v) standing under tender document for settlement of *Balu Ghat* to be violative, more particularly, under Article 19 of the Constitution of India as, by inclusion of aforesaid conditions, the petitioner will be deprived of to participate in the bidding as, from Annexure-2 (Character certificate issued by the S.P., Kishanganj), it is evident that he carries criminal antecedent. It has further been submitted that such condition would not be



permissible in the eye of law and to justify the same, referred ***Pawan Kumar vs. State of Bihar*** reported in ***2009(4) PLJR104 (HC)***.

Learned Spl. P.P. (Mines) along with learned AC to G.A.-7 have refuted the submission and further, submitted that such condition has been inflicted to forbid the criminal elements so that, the mining trade should not be under the wheels of anti-social elements. It has also been submitted that being a policy matter, same is to be heard by the Division Bench and to justify the same, referred order dated 29.11.2019 passed by a Co-ordinate Bench in CWJC No. 22824/2019.

For the present, petitioner is suffering from an illusion. From Annexure-1, it is apparent that nowhere it has been incorporated that mere presence of criminal antecedent will be deemed to be a disqualification in participating the tender. That being so, for the present, this petition appears to be pre-mature and is accordingly disposed off with liberty to the petitioner that in case, his tender is rejected solely on the basis of criminal antecedent, then, in that event, petitioner will be at liberty to challenge the same.

(Aditya Kumar Trivedi, J)

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