

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10250 of 2021

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Arena Food & Agro Industries Private Limited, a company incorporated under the provisions of the Companies Act, 1956, having its registered office at Village Nimi, P.S. Shekhopur, District Nawada, through its director, Radhey Sharma, aged about 47 years, Son of Late Harangi Singh, resident of Village Nimmi, P.S. Shekhopur, District Sheikhpura.

..... Petitioner/s

-Versus-

1. The State of Bihar, through the Principal Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Additional Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
5. The District Magistrate cum Collector, Sheikhpura.
6. The Mineral Development Officer, Sheikhpura .

..... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, G.A. 7 Mr. Naresh Dixit, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR



ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 21-06-2021

Petitioner has prayed for the following relief(s):-

- (i) To issue an appropriate writ, order or direction in the nature of *mandamus* directing the Respondents to allow the Petitioner to deposit remainder amount of the fifth yearly instalment of the settlement amount for mining lease obtained by petitioner, in six monthly instalments after deduction of the security amount of Rs. 2. 90 Crores.
- ii) To issue an appropriate writ, order or direction in the nature of *mamdamus* commanding the Respondents not to levy interest of Rs. 1,02,61, 168/- on account of delayed payment of the fourth yearly instalment.
- iii) To issue an appropriate writ, order or direction in the nature of *mamdamus* commanding the Respondents not to take any coercive steps, including but not limited to cancellation of lease/stoppage of transit challan etc. against the petitioner for delayed payment of fifth yearly instalment of the lease amount.
- iv) This Hon' ble Court may declare that no fruitful purpose shall be served in cancelling the mining lease of the petitioner in light of the fact that the



petitioner is ready to deposit the lease amount.

v) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to extend the lease term of the petitioner by 167 days or alternatively to grant proportionate remission in royalty for 167 days during which period the generation of e-transit challans was blocked and petitioner was restrained/prohibited from conducting mining activity for absolutely no fault on its part.

vi) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to extend the lease term by 30 days in accordance with Clause 5 Part IX of the Agreement dated 30.03.2017 or alternatively to grant proportionate remission in royalty for 30 days, in lieu of restriction imposed upon mining activity during the COVID 19 pandemic from 22.03.2020 till 20.04.2020.

vii) To issue an appropriate writ, order or direction in the nature of *mamdamus* commanding the Respondents to keep the demand for income tax amount and District Mineral Fund Amount payable for the third, fourth and fifth year of the settlement, accumulating to Rs. 70,64,400/-, in abeyance and subjected to the remission in royalty to be granted for 197 days during which the petitioner has been precluded from conducting mining activity.

viii) This Hon'ble Court may adjudicate and hold that the action of the Respondent Authorities in not extending the lease term by 197 days (167 days + 30



days) or alternatively to grant proportionate remission in royalty for 197 days (167 days +30 days) during which period the petitioner was restrained/prohibited from conducting mining activity for absolutely no fault on its part, is completely illegal, arbitrary and *non-est* in the eyes of law.

ix) This Hon'ble Court may further adjudicate and hold that the action of the Respondent Authorities in granting remission in royalty to sand mining lease holders in the state of Bihar for the period during which mining activity was restricted on account of COVID 19 lockdown, but not granting the same benefit to the Petitioner, is completely illegal, arbitrary, discriminatory and *non-est* in the eyes of law.

x) This Hon'ble Court may further adjudicate and hold that the action of the Respondent Authorities in this matter is fraught with arbitrariness on account of the fact that the Respondent have adopted a pick and choose method in granting remission in royalty to different mining lease holders for the COVID lockdown period.

xi) This Hon'ble Court may further adjudicate and hold that in light of the Clause 5 Part IX of the Agreement dated 30.03.2017 the petitioner is entitled for extension of lease period by 30 days in lieu of restriction imposed upon mining activity during the COVID 19 pandemic from 22.03.2020 till



20.04.2020.

xii) This Hon'ble Court may further adjudicate and hold that the petitioner is entitled for extension of lease period by 197 days (167 days +30 days) or alternatively to grant of proportionate remission in royalty for 197 days (167 days +30 days) during which period the petitioner was restrained/prohibited from conducting mining activity for blocking of generation of e-transit challans and on account of COVID 19 Lockdown.

xiii) This Hon' ble Court may adjudicate and hold that the action of the Respondents in this matter is an act of unreasonableness and arbitrariness on the part of the Respondents.

xiv) To award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to Respondent No. 2 namely The Principal Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna to consider and decide the representation which the petitioner shall be filing by tomorrow i.e. 22nd of June, 2021, for redressal of the grievance(s).



Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of two weeks from the date of its filing along with a copy of this order, considering the fact that if the mineral is not extracted, it will result into wastage of national property.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear before Respondent No. 2, namely The Principal Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna on 22nd of June, 2021, and file a representation for redressal of the grievance(s);

(b) Respondent No. 2 namely The Principal Secretary, Mines & Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna shall consider and dispose it of expeditiously and preferably within a period of two weeks from the date of its filing along with a copy of this order, considering the fact that if the mineral is not extracted, it would result into wastage of national asset;



(c) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(d) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(e) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(f) Needless to add also, all issues, including allocation of the amount; issuance of challan for mining and/or transporting the mineral, shall be considered by passing a speaking order;

(g) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(h) We have not expressed any opinion on merits.
All issues are left open;

(i) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person



i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	21.06.2021
Transmission Date	

