

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.343 of 2021

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Broad Son Commodities Private Limited a Company Incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District- Bhojpur (Ara) through its Director, Ashok Kumar, aged about 65 years (male), Son of Ram Chandra Saw, Resident of Village/Mohalla- Pareo, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
2. The Principal Secretary cum Commissioner, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
3. The Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, Department of Mines and Geology, Saran, Chapra.
5. The District Magistrate-cum-Collector, Saran, Chapra.
6. The Mines Inspector, District Mining Office, Saran, Chapra.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 8689 of 2020

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Broad Son Commodities Private Limited a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District Bhojpur (Ara), through its Director, Ashok Kumar aged about 65 years (male), Son of Ram Chandra Saw, resident of Village/Mohalla - Pareo, P.S. Bihta, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
2. The Principal Secretary cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
3. The Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, Department of Mines and Geology, Saran, Chapra.



5. The District Magistrate - cum - Collector, Saran, Chapra.
6. The Mines Inspector, District Mining Office Saran, Chapra.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 343 of 2021)

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
For the State : Mr. Rajesh Kumar, AC to GA-3
For the Mines Department: Mr. Naresh Dixit, Spl. P.P.
Mr. Brij Bihari Tiwary, Advocate

(In Civil Writ Jurisdiction Case No. 8689 of 2020)

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
For the State : Mr. Gyan Prakash Ojha, GA-7
Mr. Abhishekh Singh, AC to GA-7
For the Mines Department: Mr. Naresh Dixit, Spl. P.P.
Mr. Brij Bihari Tiwary, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-12-2021

Re. CWJC No. 343 of 2021.

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

“(i) For issuance of a writ, order or direction in the nature of certiorari for quashing PR No. 006824 (Mines & Geology) 2020-21, published in the newspaper for auction of 1,63,936 CFT sand seized at Hazari More Sonapur and 7,40,006 CFT sand seized at Jahua Ghat on 28.09.2020 for which the base price has been fixed at Rs. 19,86,904/- and Rs. 89,68,873.00/- respectively, on the ground that the same is de-hors the provisions of Mines and Minerals (Development and Regulation) Act, 1957 and the Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation



& Storage) Rules, 2019, and thus completely illegal, arbitrary and non-est in the eyes of law.

(ii) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to hand over the possession of 1,63,936 CFT sand seized at Hazari More Sonapur and 7,40,006 CFT sand seized at Jahua Ghat seized to the petitioner.

(iii) Alternatively for issuance of a writ, order or direction in the nature of mandamus commanding, the Respondents to grant the petitioner remission in royalty to the extent of actual auction amount of 9,03,912 CFT sand.

(IV) This Hon'ble Court may adjudicate and hold that the action of the Respondent Authorities in auctioning the seized sand is completely dehors the provisions of Mines and Minerals (Development and Regulation) Act, 1957 and the Bihar Mineral (Concession, Prevention of illegal Mining, Transportation & Storage) Rules, 2019, and thus completely illegal, arbitrary and non-est in the eyes of law.

(V) This Hon'ble Court may further adjudicate and hold that by auctioning 9,03,942 CFT seized sand, the Respondents will end up obtaining 'double royalty/benefit for the same quantum of sand considering the fact that Petitioner has not yet exhausted the permissible limit as per its entitlement.

(vi) This Hon'ble Court may further adjudicate and hold that since the petitioner is the settlee for all the sand ghats in the district of Saran therefore the monetary benefit accruing from the auction of seized



sand should inure to petitioner's benefit?

(vii) This Hon'ble Court may adjudicate and hold that the action of the Respondents is completely unjustified and unwarranted.

(Viii) 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, Mr. Suraj Samdarshi, learned counsel for the petitioner, fairly states that the petition can be disposed of with a direction to Respondent No. 2, namely, the Principal Secretary-cum- Commissioner, Department of Mines and Geology, Government of Bihar, to consider and decide the petitioner's request pending consideration. Also, in support thereof, within one week from today, petitioner shall place on record additional materials, highlighting the manner in which the State Government erred in allotting/auctioning the rights, subject matter of the contract/lease entered into between the petitioner and the State. Specific attention is invited to Rule 11A of the Bihar Minor Mineral Concession Rules, 1972.

Learned counsel makes out a grievance that even prior to the impugned action, the petitioner had represented to the Respondent No. 5, namely, the District Magistrate-cum- Collector, Saran, Chapra, yet no decision was taken.



Mr. Naresh Dikshit, learned Special P.P. for the Department of Mines states that without prejudice to the respective rights and contention of the parties, the respondent No.2, the Principal Secretary-cum-Commissioner, Department of Mines and Geology, Government of Bihar, shall positively take a decision on the petitioner's request expeditiously, by passing a speaking order as also affording adequate opportunity of hearing. This shall positively be done within a period of two months from the date of the filing of the representation.

Shri Suraj Samdarshi, learned counsel for the petitioner states that the petitioner shall make himself available in the office of the Respondent No.2 on 20.12.2021 at 10.30 a.m. when a detailed request shall be presented to him.

We expect that the appropriate authority shall consider and decide the petitioner's request expeditiously and preferably within a period of two months from the date of its presentation.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The petition stands disposed of in the aforesaid terms.



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

Re. CWJC No. 8689/2020.

It appears that the very same writ petition was registered twice over i.e. instant petition as also CWJC No. 343 of 2021 titled as **Broad Son Commodities Private Limited Vs. the State of Bihar and Ors.**

In view of the order passed in CWJC No. 343 of 2021, no other and further orders are required to be passed in CWJC No. 8689 of 2020, titled as **Broad Son Commodities Private Limited Vs. the State of Bihar and Ors.** However, copy of the order be placed on record.

The petition stands disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	17.12.2021
Transmission Date	

