

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14240 of 2021

Arena Food and 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 Harangi Singh, Resident of Village Nimmi, P.S. Shekhopur, District Sheikhpura.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Additional Secretary, Mines and 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

Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Advocate
For the Respondent State: Mr. Gyan Prakash Ojha, GA-7
For the Respondent Mines Dept: Mr. Naresh Dikshit, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 03-09-2021 In this writ application the petitioner has sought for the following reliefs :-

- i) *To issue an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 30.07.2021 contained in memo no. 2019 dated 30.07.2021 passed by the Respondent Mines Commissioner in Misc. Case No. 01/2021 whereby and whereunder the representation of the petitioner dated 22.06.2021 has been rejected on wholly erroneous grounds and without considering the*



case of the petitioner.

- ii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents to grant adjustment of security deposit of Rs. 2.9 Crores in the fifth yearly instalment and not compel the petitioner to deposit the same.*
- iii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the respondents to remove the restriction from generating e-challan from the portal <http://portal.biharmines.in/> forthwith and to allow the petitioner to sell stones.*
- iv) To issue an appropriate writ, order or direction in the nature of mamdamus commanding the Respondents not to levy interest of Rs. 1,06,46,820/- on account of delayed payment of the fourth yearly instalment.*
- v) 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 deed during pendency of this writ application.*
- vi) 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 the petitioner has already deposited the entire royalty amount.*
- vii) To issue an appropriate 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.

viii) To issue an appropriate 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.

ix) 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.

x) 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, is completely illegal, arbitrary and non-est in the eyes of law.

xi) 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.

xii) 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.

xiii) 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.

xiv) 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.

xv) 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.

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

2. A counter affidavit has been filed on behalf of the Mines and Geology Department, Government of Bihar, and a rejoinder on the behalf of the petitioner to the said counter affidavit has been filed. In the rejoinder affidavit following statement has been made in paragraph 14 : -

“14. That it is submitted that in spite of the averments above, the petitioner is ready to deposit the entire amount in six monthly installments, along with interest as per Rule 55 of the 2019 Rules read with clause 4 Part VI of the agreement (@ Page 45) and willing to forego its claim of remission/extension for the non – mining period.”

3. Mr. Suraj Samdarshi, learned counsel appearing on behalf of the petitioner on instructions has submitted that if the



security deposit of Rs.2.90 crores is allowed to be adjusted by the Department, the petitioner shall pay the rest of 2.44 crores in four equal monthly installments along with interest in accordance with Rule 55 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

4. Mr. Naresh Dikshit, learned counsel appearing on behalf of the Department of Mines and Geology has submitted that the Department shall accept the petitioner's proposal if in the first installment, a sum of Rs. One crore is paid to the Department by the petitioner within one week from today and rest in three equal monthly installments with interest.

5. Considering the aforesaid stand on behalf of the petitioner and learned counsel representing the Mines and Geology Department, Government of Bihar, this application is disposed of with following directions : -

(i) The petitioner shall deposit with the Mines and Geology Department a sum of Rs. One crore within one week from today;

(ii) Rest of the amount shall be paid by the petitioner in three equal monthly installments with interest;

(iii) Immediately on deposit of first installment of a



sum of Rs. One crore, *e*-challan in respect of petitioner's mining lease shall be restored by the Department;

(iv) In case, the petitioner fails to deposit any installment after depositing the first installment, the Department shall be at liberty to stop generating *e*-challan and proceed in accordance with law.

(v) If the petitioner continues to deposit the first installment and subsequent monthly installments in terms of the present order, his security deposit of Rs.2.90 crores shall be adjusted by the Department from the month of January onwards.

(vi) The impugned order dated 30.07.2021 passed by the Mines Commissioner in Misc. Case No. 01/2021 stands modified in terms of the present order.

6. This writ application stands disposed of with the aforesaid observations and directions.

(Chakradhari Sharan Singh, J)

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