

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5454 of 2021

OCTAL SALES PRIVATE LTD a Company incorporated under the provisions of the Companies Act, 1956 having its office at 24(2) Harrington Mansion, 8 Ho-chi Minh Sarani, Kolkata, West Bengal, through its Authorised Signatory Gourav Bajaj, aged about 28 years (Male), Son of sajan Kumar Bajaj, resident of Mohalla 119/A Mahatma Gandhi Road, P.O.- Bara Bazar, P.S.- Jorasako, District- Kolkata, West Bengal-700007

... .. 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. Secretary cum Commissioner, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001
3. The Special Secretary cum Director, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna
4. The Assistant Director, Department of Mines and Geology, Aurangabad
5. The District Magistrate-cum-Collector, Gaya
6. The Mineral Development Officer, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr. Advocate Mr. Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr. Md. Raisul Haque, SC-10 Mr. Naresh Dikshit, Special P.P. (Mines)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(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.)

6 08-04-2022 Petitioner has prayed for the following relief(s):

“(i) For issuance of a writ, order or



direction in the nature of mandamus commanding the Respondents to extend the lease term by 70 days or alternatively to grant proportionate remission in royalty for 70 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.

(ii) 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 23.02.2016 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.

(iii) This Hon'ble Court may adjudicate and hold that the action of the Respondent Authorities in not extending the lease term by 100 days (70 days + 30 days) or alternatively to grant proportionate remission in royalty for 100 days (70 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.

(iv) 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.

(v) 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.

(vi) This Hon'ble Court may further adjudicate and hold that in light of the Clause 5 Part IX of the Agreement dated 23.02.2016, 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.

(vii) This Hon'ble Court may further adjudicate and hold that the petitioner is entitled for extension of lease period by 100 days (70 days + 30 days) or alternatively to grant proportionate remission in royalty for 100 days (70 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.



(viii) 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.

(ix) This Hon'ble Court may adjudicate and hold that the action of the Respondents in not considering the representation of the petitioner is an act of unreasonableness and arbitrariness on the part of the Respondents.

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

Mr. Naresh Dikshit, learned Special P.P., Mines, states that in a petition dealing with similar issue, where the authorities had actually passed an order, this Court, after hearing the parties, remanded the matter to the authority for consideration afresh by passing a speaking order. Shri Dikshit states that similar view can be taken in this case also.

Shri P.K. Shahi, learned Sr. Advocate, assisted by Shri Suraj Samdarshi, states that the petition can be disposed of with a direction to the authorities to pass an appropriate order in accordance with law. However, it is stated that the authority be directed to do so within a time-bound period.

Shri Dikshit states that needful shall positively be



done upon the petitioner making himself available in the office of the respondent No.2, namely Secretary-cum-Commissioner, Mines, Department of Mines and Geology, Government of Bihar placing on record the issues on which they require consideration. Thereafter the authority shall take a decision within a period of six weeks.

As mutually agreed, the petition is disposed of on the following terms:

(a) Petitioner shall approach the authority concerned within a period of two weeks from today by filing a representation for redressal of the grievance, placing on record entire material, including the ones placed in the instant petition;

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of six weeks from the date of its filing along with a copy of this order;

(c) The order assigning reasons shall be communicated to the petitioner;

(d) Needless to add, while considering such representation, principles of natural justice shall



be followed and due opportunity of hearing afforded to the parties;

(e) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;

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

(g) 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;

(h) Liberty reserved to the petitioner to approach the appropriate forum/Court, should the need so arise subsequently on the same and subsequent cause of action;

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

(j) 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;

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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