

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2363 of 2022

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Md. Zafar Ahsan Son of Late Zahirul Haque Resident of Dahuwa Bari, P.S. Kochadhaman, District-Kishanganj Presently residing at Rahmani Colony, Uttar Pali, District-Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Bihar, Patna.
2. The Director Department of Mines and Geology, Bihar, Patna.
3. The District Magistrate Cum Collector, Kishanganj.
4. The Bihar State Mining Corporation Limited, Bihar, Patna through its Chief Executive Officer,
5. The General Manager, Bihar State Mining Corporation Ltd., Bihar, Patna.
6. The Superintendent of Police, Kishanganj.
7. Mhod, Israil (Md. Israil) Son of Late Hazi Wasimuddin Resident of Vilalge-Tupamari, P.O. Belwa, P.S. and District-Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA 7
		Mr. Naresh Dikshi, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-04-2022

Heard learned counsel for the parties.

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

(a) For issuance of a writ in the nature of certiorari for quashing and setting aside the permission/work order issued by the respondent Bihar State Mining Corporation Limited (hereinafter referred to as the Corporation for short) vide letter number 1160/Patna Dated 31.12.2021 to the respondent number 7 for operation of sandghats covered by cluster No. 1 in



River Donk in the district of Kishanganj;

(b) For further issuance of a writ or order or a direction upon the respondents to take appropriate action against the respondent no. 7 for having misled the Corporation by submitting incorrect character certificate disclosing no criminal antecedent despite having as many as 6 criminal cases in which cognizance has already been taken under Section 379 of the IPC read with Rule 40 (5, 4, 7, 8) of the Bihar Minor Mineral Concession Rules 1972 read with rule 3, 4, 6, 8 of Bihar Mining Rules 2003 and Mines and Mineral (Development and Regulation) Act, 1957, Section 15 of the Environment Protection Act 1986 and other provisions of the IPC;

(c) For further issuance of a writ or order or a direction restraining the respondent specially the respondent Corporation and its authorities from executing any agreement with the respondent number 7 and in case already executed then to be restrained from proceeding further with handing over the physical possession of sandghats and all further deliberations in favour of the said bidder;

(d) For holding and declaration that the respondent Corporation and its authorities were duty bound to ensure strict adherence to the terms and conditions of the notice inviting tender and therefore ought to have cancelled/revoked the permission/work order issued in favour of the respondent no. 7 in light of open and clear violation of clause 6(gha)(xiii) of the tender document read with 6(iv) of the tender document (Annexure-1) to the notice inviting tender issued by the general manager of the respondent Corporation;

(e) for grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.”

Respondent No. 6, namely, the Superintendent of Police, Kishanganj, has filed counter affidavit, relevant portion thereof reads as under:-

“12. That it is pertinent to mention here that a Department Proceeding No. 03/2022 dated 11/02/2022 has been initiated against A.S.I, Shailendra Kumar and



Departmental Proceeding No. 02/2022 dated 11/02/2022 has been initiated against A.S.I. Shiv Shankar Pandit for the charges of concealing the criminal antecedent and for willful default.”

In view of the same, Shri Gautam Kumar Kejriwal, learned counsel for the petitioner, states that the petition can be closed, subject to the respondent concluding the disciplinary proceedings within a time bound period and the Mining Department initiating action of blacklisting the successful tenderers, in terms of Clause 18 of the Notice Inviting Tender.

On 24.03.2022, we had passed the following order:-

“ Respondent No. 1, namely, the Principal Secretary, Department of Mines and Geology, Bihar, Patna shall file its personal affidavit dealing with each one of the averments made in the writ petition.

Needful be positively done within one week.

We are constrained to pass such order in view of the averments made in the present petition.

Petitioner has been persistent in taking up the matter with the authorities inviting attention of the criminal antecedent of Respondent No. 7, namely – Mhod. Israil (Md. Israil), son of Late Hazi Wasimuddin, Resident of Village- Tupamari, P.O- Belwa, P.S. and District- Kishanganj. Despite the same, the officers of the Mining Department proceeded to take steps granting the lease in favour of the said respondent.

At this point in time, we need not express any opinion as to whether the officers of the Department were hand in glove with the private respondent and/or had undertaken such exercise to favour him.

Also, Respondent No. 6, namely, the Superintendent of Police, Kishanganj shall file his



personal affidavit dealing with each one of the averments and more specifically, under what circumstances, certificate of clearance stood issued in favour of the Respondent No. 7.

List on 04.04.2022.”

Departmental proceedings initiated only when petitioner filed the instant petition, in which notice was issued and the aforesaid order was passed. Petitioner also highlighted the manner in which the Department of Mines is granting lease to persons having criminal record and as such, grant being made in violation of the Mining policy. The respondents i.e. Mining Department as also the State do not dispute, in fact, admit such fact.

As such, we have no hesitation in accepting the prayer made by Shri Gautam Kumar Kejriwal that the grant made in favour of the successful tenderers stands cancelled.

We direct the respondent authorities to positively conclude the departmental proceedings within the time bound period and certainly within the period of three months from today.

Also, we direct the Respondent No. 2, namely, the Director, Department of Mines and Geology, Bihar, Patna, to ensure that action for blacklisting the tenderers, in terms of the NIT is initiated and appropriate decision taken at the earliest in



accordance with law.

Needless to add, all principles of natural justice shall be adhered to. Such action shall positively be taken within the next two months.

Instant petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.04.2022
Transmission Date	

