

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9696 of 2021

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Pramod Kumar Son of Rambriksh Singh Nawab Path, Yamun Nagar,
Harnichak, P.O.- Anisabad, P.s.- Beur, District- Patna

... .. 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 cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna
3. The Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna
4. The Additional Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna
5. The District Magistrate, Aurangabad
6. The District Mining Officer, Aurangabad

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi
For the Respondent/s : Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-01-2022 The 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 refund the security deposit of Rs. 95,94,000/- tendered by the petitioner for Sand Ghat No.27 in the district of Aurangabad in compliance with clause 7(iii) of the Tender document pursuant to being

declared the highest bidder for the same in the auction conducted for settlement of sand ghats for the period 2020-2024.

(ii) To issue an appropriate writ, order or direction in the nature of mandamus directing the respondents to refund the amount of Rs.1,00,000/- tendered by the petitioner for grant of environment clearance for Sand Ghat No.27 in the district of Aurangabad.

(iii) This Hon'ble Court may further adjudicate and hold that since the respondents have failed to fulfill their reciprocal obligations under the tender document, viz a viz, obtaining environment clearance, preparation of mining plan and issuance of work order in favour of the petitioner allowing the petitioner to commence mining activity at Sand Ghat No.27 in the district of Aurangabad till date, the same amounts to repudiation of contract by the respondents and the petitioner is entitled for refund of the security deposit.

(iv) This Hon'ble court may adjudicate and hold that the contract between the petitioner and the State of Bihar stands frustrated in light of the judgment dated 14.09.2020 passed by the National Green Tribunal in O.A. No.40 of 2020 (Pawan Kumar vs The State of Bihar) and O.A. No.57 of 2020 (Md. Rizwan vs Union of India) quashing the District Survey Reports prepared in the year 2018 and 2019 for the district of Banka and declaring all actions taken pursuant thereto to be nullity; and also in light of order dated 06.11.2020 passed in O.A. No.62/2020 and analogous cases directing the respondents to withhold further actions for settlement of sand ghats.

(v) This Hon'ble Court may further adjudicate

and hold that the action of the respondents in not refunding the security deposit to the petitioner is bad in law and tantamounts to abuse of authority/power vested in them."

Sri Naresh Dixit, learned counsel for the respondents places on record the government decision dated 10.12.2021, which reads as under:-

बिहार सरकार
खान एवं भूतत्व विभाग।

अधिसूचना

पटना, दिनांक.....

02/एन0एम0-(बी0)-38/21-...../एन0 गाननीय उच्चतम न्यायालय के न्यायादेश के आदेश में अब नये सिरे से दादू धाटों का खनन पर्यावरण, जन एव अलबानु परिवर्तन मंत्रालय, भारत सरकार के द्वारा जारी 2020 की बात्, खनन मार्गदर्शिका के अनुसार किया जायेगा। इसातिर 2019 के बन्दोबस्ती को अब आगे नहीं बढ़ाया जा सकता है। अतएव वर्ष 2019 की बन्दोबस्ती को तद कार बन्दोबस्तधारियों से प्राप्त प्रतिभूति राशि (267.83 करोड़ ₹0) वापस करने की स्वीकृति दी जाती है।

2 प्रस्ताव में मन्त्रिपरिषद की स्वीकृति प्राप्त है।

बिहार राजस्वत के आदेश से

H0/-
(चित्रगुप्त कुमार)
सरकार के उप सचिव।

ज्ञापक-02/एन0एम0-(बी0)-38/21-...../एम0, पटना, दिनांक.....
प्रतिलिपि-श्रवर सचिव, (ई-गजट कोषांग), वित्त विभाग, बिहार, पटना को 100/बी0 राशित प्रेषित करते हुए अनुसंध है कि इसको 100 (एक सौ) प्रतियों मुद्रित कर खान एवं भूतत्व विभाग, बिहार, पटना को उपलब्ध करा दी जाय।

H0/-
सरकार के उप सचिव।

ज्ञापक-02/एन0एम0-(बी0)-38/21-...../एम0, पटना, दिनांक.....
प्रतिलिपि-सभी विभागों के अपर मुख्य सचिव/प्रधान सचिव/सचिव/विभागाध्यक्ष/अनण्डलीय आयुक्त/जिला पदाधिकारी को सूचनाई एवं आवश्यक कार्यवाई हेतु प्रेषित।

H0/-
सरकार के उप सचिव।

ज्ञापक-02/एन0एम0-(बी0)-38/21-...../एम0, पटना, दिनांक.....
प्रतिलिपि-सभी उप निदेशक/सहायक निदेशक/खनिज विकास पदाधिकारी/खान निरीक्षक को सूचनाई एवं आवश्यक कार्यवाई हेतु प्रेषित।

H0/-
सरकार के उप सचिव।

10/12/21

आपंक-02/एम0एम0-(वा0)-38/21-...../एम0, पटना, दिनांक
प्रतिलिपि-विशेष सचिव, मंत्रिमंडल सचिवालय विभाग, बिहार, पटना को मंत्रिपरिषद्
की दिनांक 07.12.2021 की बैठक में मद संख्या-01 के आलोक में
सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

EO/-

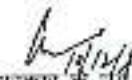
सरकार के उप सचिव।

आपंक-02/एम0एम0-(वा0)-38/21-...../एम0, पटना, दिनांक
प्रतिलिपि-माननीय मंत्री के आप्त सचिव/प्रधान सचिव के प्रधान आप्त सचिव/
निदेशक कोषाग/मुख्यालय स्थित सभी पदाधिकारी/कर्मों को सूचनार्थ
एवं आवश्यक कार्रवाई हेतु प्रेषित।

EO/-

सरकार के उप सचिव।

आपंक-02/एम0एम0-(वा0)-38/21-3321/एम0, पटना, दिनांक 10/12/2021
प्रतिलिपि -आईटीओ मैनेजर, खान एवं भूतत्व विभाग को (विभागीय वेबसाइट पर
अपलोड करने हेतु) सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।


सरकार के उप सचिव।

In view of the same, we do not find any necessity of adjudicating the issues raised in the present petition. However, Sri Suraj Samdarshi, learned counsel for the petitioner states that the government's notification, reproduced (supra), does not prescribe any time limit for refund of the amount.

Sri Dixit states that needful shall be done at the earliest.

At this stage, Shri Suraj Samdarshi, learned counsel for the petitioner states that petitioner be permitted to approach the appropriate authority for award of interest.

Prayer allowed.

The instant petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Sanjeev Prakash Sharma, J)

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