

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10896 of 2021

-
-
1. Sri Bipin Kumar Rai @ Arun Rai, Son of Late Ram Chandra Rai, Resident of Village and P.O.- Dharha, P.S.- Rosera, District- Samastipur.
 2. Pankaj Kumar Rai, Son of Sri Sudhir Rai, Resident of Village and P.O.- Dharha, P.S.- Rosera, District- Samastipur.
 3. Gunjan Kumar Rai, Son of Bipin Kumar Rai @ Arun Rai, Resident of Village and P.O.- Dharha, P.S.- Rosera, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Mines Department.
2. The Competent Authority-cum- District Mining Officer Samastipur.
3. The Assistant Director Mines and Minerals Department, Muzaffarpur.
4. Sanjiv Kumar Resident of Village and P.O.- Dharha, P.S.- Rosera, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate

For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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

Date : 04-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief/s :-



- (i) For challenging the order dated 23.12.2019 passed by District Mining Officer, Samastipur fully contained in Memo No. 950 by which the competent authority was pleased to passed an imposing penalty of Rs. 13437/- upon the petitioners for the cost of Royalty for illegal Mining of soil from the Plot No. 1286 pertaining to Khata No. 242 having Rakba 10.5 dhur.
- (ii) For challenging the order dated 17.6.2020 passed by Respondent No.2 by which Reminder issued to the petitioners to pay the Royalty amount of Rs. 13437/- for the soil digging upto 24.6.2020 otherwise FIR instituted against them.
- (iii) For challenging the order dated 10.4.2021 passed by Respondent No.2 fully contained in Memo No. 277 by which the petitioners are directed to pay the royalty amount as ascertain by Memo No. 950 for illegal soil digging from the Plot No. 1286 with 24 hrs otherwise legal action will be taken against them.

The order dated 23rd of December, 2019, passed by the



District Mining Officer, Samastipur can be faulted for no notice or opportunity of hearing was ever afforded prior to the passing thereof. Passing of the order entails civil consequences inasmuch petitioner is liable to pay penalty as also suffer consequences for breach thereof.

As such, on this short ground alone, the impugned order dated 23rd of December, 2019, passed by the District Mining Officer, Samastipur is quashed and set aside with the following directions:

(a) The petitioner shall make himself available before the District Mining Officer, Samastipur on 28.01.2022;

(b) On the said date, the entire material shall be supplied to the petitioner;

(c) Within two weeks thereafter, petitioner shall file response, complete in all respects;

(d) Petitioner shall fully cooperate and not take any unnecessary adjournment;

(e) The officer shall pass an order assigning reasons within a period of two weeks thereafter;

(f) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently.

The petition is disposed of in the aforesaid terms.



Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.01.2022
Transmission Date	

