

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12147 of 2021

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Broad Son of Commodities Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District Bhojpur (Ara), through its Director Ashok Kumar aged about 65 years (male), son of Ram Chandra Saw, resident of Village/Mohalla - Pareo, P.S. - Bihta, District - Patna.

... .. 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. The Principal Secretary cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
3. The Special Secretary Cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Bhojpur.
5. The District Magistrate-cum-Collector, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha (G.A.7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 06-01-2022

Heard learned counsel for the parties.

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

- (i) For issuance of 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 sand from the stock-hold areas in the District of Bhojpur, for which the petitioner has obtained K-License under Rule 39(1) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as the '2019 Rules').

(ii) This Hon'ble Court may adjudicate and hold that the action of the respondent authorities in suspending/blocking of generation of e-challan on the portal <http://portal.biharmines.in/> is completely dehors the provisions of Mines et Minerals (Development & Regulation) Act, 1957 and the 2019 Rules.

(iii) This Hon'ble Court may further adjudicate and hold that the extreme measures like suspending/blocking generation of e-challan on the portal <http://portal.biharmines.in/>, if at all permissible, needs necessarily to be preceded, by an express show cause notice and opportunity of hearing in this regard.

(iv) This Hon'ble Court may further adjudicate and hold that the action of the Respondents in not removing the restriction on generation of e-challans on the portal <http://portal.biharmines.in/> for transport of sand from stock hold areas for which the petitioner has K license is completely illegal unjustified and unreasonable.

(v) This Hon'ble Court may further adjudicate and hold that the action of the respondent authorities in this matter is violative of the principles of natural justice, in as much as neither any extreme show cause was issued to the petitioner, nor a formal order in this regard has been passed by any authority.

(vi) This Hon'ble Court may further adjudicate and hold that the petitioner cannot be precluded from selling the stock, held by virtue of K-License, which is stored only after payment of full royalty.

(vii) This Hon'ble Court may adjudicate and hold that the

action of the respondents in penalizing the petitioner for surrendering the settlement is completely unjustified and unwarranted.

(viii) This Hon'ble Court may further direct the respondent authorities to extend the period of K-license by the number of days for which the respondent authorities stopped the petitioner from conducting business.

(ix) To award any other relief(s) to which the petitioner is found entitled in the facts and circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned i.e. (Respondent No. 3, the Special Secretary Cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna) to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following

terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

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

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

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

(e) 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;

(f) Liberty reserved to the petitioner to challenge the order before the appropriate forum, should the need so arises subsequently.

(g) We have not expressed any opinion on merits. All

issues are left open;

(h) 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;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	