

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13740 of 2021

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Dhanlaxmi Construction Pvt. Ltd. a company incorporated under the Companies Act, having its office at East Railway Gumti, Bihari Mill, Bhojpur Ara, through its Director, Bhujendra Kumar Singh, aged about 49 years (male), son of Lal Javahar Singh, Resident of Maurti Nagar, P.S. Arrah, District- Bhojpur.

... .. Petitioner/s

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 Assistant Director, District Mining Office, Patna.
6. The District Magistrate, Patna.
7. The District Mining Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate
		Mr. Avinash Shekhar, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha, GA-7
		Mr. Naresh Dikshit, Spl. P.P. (Mines)

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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.)

2 13-01-2022 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. 2,73,90,000/- tendered by the petitioner for Sand Ghat No. Sone 35 in the district of Patna 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 approval of mining plan to the Respondents for Sand Ghat No. Sone 35 in the district of Patna.

iii) This Hon'ble may further adjudicate and hold that since the Respondents have failed to fulfil their reciprocal obligations under the tender document, viz a viz, obtaining environmental 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.Sone 35 in the district of Patna 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. 40/2020 (Pawan Kumar vs The state of Bihar) and O.A. No. 57/2020 (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.



vi) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

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

बिहार सरकार
आन एवं मुख्य विभाग।

अधिसूचना

पटना, दिनांक.....

02/एमएम-02(सी)-38/21-...../एम० भारतीय सरकार
व्यावसायिक के अध्यादेश के अन्तर्गत में अब तब तब से दो बार बारों का वधन
प्रमाणित, इन एम एमएम० परिसर में मजदूर, भारत सरकार के द्वारा जारी 2020 को
बारु खनन नार्मलिसिटी को अनुसार किया जायेगा। इसीलिए 2019 के नन्दोवली को
अब आगे नहीं बढ़ाया जा सकता है। इसीलिए वर्ष 2019 की खननली को 22 बार
नन्दोवलीवारियों से प्राप्त प्रतिभूति नधि (2019 नन्दोवली 200) खनन करने की स्वीकृति
दी जाती है।

2. प्रस्ताव में नन्दोवली नधि स्वीकृति प्रदा है।

बिहार सरकार के आदेश है,

80/-
(विशेषज्ञ कुशल)
सचिव के रूप में।

आदेश-02/एमएम-02(सी)-38/21-...../एम० पटना, दिनांक.....
प्रतिनिधि-आमर सचिव (ई-एमएम० कोषांग), बिहार विभाग, बिहार, पटना को सी०सी०
सहित प्रेषित करने हुए अनुरोध है कि इसकी 100 (एक सौ) प्रतिभूति
मुद्रित कर आन एवं मुख्य विभाग, बिहार, पटना को उपलब्ध कराई
जाए।

80/-
सरकार के रूप में।

आदेश-02/एमएम-02(सी)-38/21-...../एम० पटना, दिनांक.....
प्रतिनिधि-आमर सचिव के ऊपर मुख्य सचिव/प्रधान सचिव/सचिव/विभागाध्यक्ष/
अध्यक्ष/आयुक्त/जिला पदाधिकारी को सूचना एवं आवश्यक
कार्रवाई हेतु प्रेषित।

80/-
सरकार के रूप में।

आदेश-02/एमएम-02(सी)-38/21-...../एम० पटना, दिनांक.....
प्रतिनिधि-आमर सचिव के ऊपर मुख्य सचिव/प्रधान सचिव/सचिव/विभागाध्यक्ष/
अध्यक्ष/आयुक्त/जिला पदाधिकारी को सूचना एवं आवश्यक
कार्रवाई हेतु प्रेषित।

80/-
सरकार के रूप में।

TNP/032



आपॉक-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 मद्द संख्या-01 के आलोक में
सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

ह0/-

सरकार के उप सचिव।

आपॉक-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।

ह0/-

सरकार के उप सचिव।

आपॉक-02/एम0एम0-(वा0)-38/21-3324/एम0, पटना, दिनांक 10/12/2021
प्रतिलिपि -आई0टी0 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)

(S. Kumar, J)

K.C.Jha/DKS/-

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