

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13737 of 2021

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Bhojpur Freezing Pvt. Ltd. A company incorporated under the Companies Act, having its office at Gidha, P.S.- Koilwar, Bhojpur Ara, through its Director, Chandan Kumar, aged about 33 years (male), son of Ashok Kumar, Resident of Village Pareo, P.S.- Bihta, District- Patna.

... .. 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. 1,49,40,000/- tendered by the petitioner for Sand Ghat No. Sone 19 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 19 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 19 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 मूल्य विभाग।

अधिसूचना

मटना, दिनांक.....

02/एमएम-30/21-...../एमएम मासगीर सचिव
न्यायालय के न्यायादेश से आदेश में अब तक सिरे से बन्ने वाली का बचन
पर्यावरण, वायु एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार के द्वारा जारी 2020 को
बन्ने खनन मार्गदर्शिका से अनुसार किया जाएगा। इसलिए 2019 के बन्दोबस्ती को
अब आगे नहीं बढ़ाया जा सकता है। अस्तव्यर्थ 2019 की शर्तोंको को 22 वर
मन्त्रालयों/विभागों से प्राप्त प्रतिनूत नधि (22.03 वर्षो 20) बानस करने की स्वीकृति
की जाती है।

2. प्रस्ताव में संशोधन की स्वीकृति प्रदा है।

बिहार राज्यपाल के आदेश से,

30/-
(सिद्धिगुप्त कुमार)
सचिव के रूप में कार्य।

आपांक-02/एमएम-30/21-...../एमएम, मटना, दिनांक.....
प्रतिनिधि : आन सचिव, ई-मेल कोषागार, बिना विभाग, बिहार, मटना को सीधे
सहित प्रेषित करने हुए अनुरोध है कि इसकी 100 (एक सौ) प्रति
मुद्रित कर आन एवं मूल्य विभाग, बिहार, मटना के उपलब्ध कराई
जाए।

30/-
सरकार के रूप में सचिव।

आपांक-02/एमएम-30/21-...../एमएम, मटना, दिनांक.....
प्रतिनिधि-राजी विभागों के अपर मुख्य सचिव/प्रधान सचिव/सचिव/निर्माण/उद्योग/
अल्पसंख्यक आधुनिक/जिला पदाधिकारी को सूचना एवं आवश्यक
कार्रवाई हेतु प्रेषित।

30/-
सरकार के रूप में सचिव।

आपांक-02/एमएम-30/21-...../एमएम, मटना, दिनांक.....
प्रतिनिधि-राजी उप निदेशक/सहायक निदेशक/जनित विकास पदाधिकारी/आन
निदेशक को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।

30/-
सरकार के रूप में सचिव।

F01002



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।

HO/-

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।

HO/-

सरकार के उप सचिव।

आपॉक-02/एम0एम0-(वा0)-38/21-3324/एम0, पटना, दिनांक 10/12/2021
प्रतिलिपि -आई0टी0 मैनेजर, खान एव भूतल्य विभाग को (विभागीय वेबसाईट 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/-chn

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