

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15394 of 2021

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Broad Son 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 Deputy Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
4. The Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
5. The Deputy Director, Mines and Geology, Bhojpur.
6. 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 (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 20-01-2022

Petitioner has prayed for the following relief(s):

“(i) For issuance of an appropriate writ, order or direction in the nature of *certiorari* for quashing letter no.2064 dated 04.08.2021 issued by the Respondent Deputy Secretary, by which the Petitioner’s representation for payment of cost of sand stocked at the K-License sites by the Petitioner in the District of Bhojpur has been rejected.

(ii) Consequent upon grant of relief no.(i) to issue a consequential writ, order or direction in the nature of *mandamus* commanding Respondents to pay the cost of sand stocked by the Petitioner at the K-License sites in the District of Bhojpur, as has been done in the case of the petitioner in the district of Patna.

(iii) This Hon’ble Court may adjudicate and hold that since the sand stored at the K-License sites by the petitioner has already suffered the incidence of royalty and tax, therefore the ownership of the same vests with the petitioner and the state cannot usurp the same under the pretext of cancellation K-license.

(iv) This Hon’ble Court may further adjudicate and hold that if the Respondent State is allowed to dispose of the sand stored by the petitioner at the K-license sites, without paying cost/compensation of the same to the petitioner, it will amount to unjust enrichment on the part of the Respondent State.

(iv) This Hon’ble Court may further adjudicate and hold that the action of respondents in not paying the cost/compensation of sand stocked by the Petitioner at the K-License sites in the District of Bhojpur, to the petitioner, is bad in law and colorable exercise of authority on the part of the Respondents.

(vi) 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 instruction, states that the



petitioner shall be content if a direction is issued to Respondent No. 6, namely The District Magistrate-cum-Collector, Bhojpur to consider and decide the representation to be filed by the petitioner along with a copy of this order within a period of four weeks, within a period of three months from the date of its presentation.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate petition(s), if so required and desired.

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

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.



The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/chn

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