

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14574 of 2019

Prabhanjan Kumar Prabhangan S/o Ram Chalitar Yadav Vill.- Jagarnathpur,
P.S.- Chandauti, Distt.- Gaya, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Mines-cum-Mines Commissioner Govt. of Bihar,
New Secretariat, Patna
3. The District Collector Gaya
4. The Additional District Collector Gaya
5. The Under Secretary to the Government Dept. of Mines and Geology, Govt.
of Bihar, Patna
6. The Assistant Director Mines and Geology, Gaya
7. The District Mining Officer, Gaya
8. The Sub-Divisional Officer Gaya Sadar, Gaya
9. The Circle Officer Town Block, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs. Sudha Chandra, 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 : 13-01-2022

Heard learned counsel for the parties.

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



- i) To issue an appropriate order or direction for quashing the settlement of Mines (Jagarnathpur Mountain) situated in Jagarnathpur Mauja, of Khata No. 119, Plot No. 606 (Old), 798 (New), Area 2500 Decimal in favour of Rajendra Singh S/o Randev Singh and Suresh Prasad S/o Buddha Dev Yadav on 02.03.2016 and 08.03.2016 by the District Magistrate, Gaya.
- ii) To issue further appropriate writ, order or direction commanding the Respondent District Magistrate, Gaya to enter into a lease agreement with the Petitioner with respect to the above noted land which was illegally denied in the year 2000 on the ground that there was a report that there is a temple existing over the plot in question.
- iii) To issue further appropriate writ, order or direction commanding the Respondent Principal Secretary to issue a high level inquiry into mass bungling and fraud being committed in the matter of settlement of mines and creation of mining lease in the District of Gaya and punish the wrongdoers accordingly for the loss and damages caused to the Petitioner and the Government.
- iv) This Hon'ble Court may adjudicate and hold that denial of settlement in favour of Petitioner in the year 2000 on the ground of existence of temple over the plot and making the same settlement in the year 2016 in favour of Rajendra Singh and Suresh Prasad is an act of mala fide and arbitrary exercise of authority/ power by the Respondents.
- v) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

3. Petitioner contends that petition under Section 45 of the Bihar Minor Mineral Concession Rules, 1972 was filed



on 14th of February, 2019, which is yet pending and despite the report called for by the concerned officer from the subordinate authorities, no information is furnished and the petition is kept pending.

It is the petitioner's case that petitioner's lease for mining the sand stood cancelled only on the ground that there was a temple within the leased area, but, however, subsequently, the very same plot, without any change of attending circumstance, was allotted by way of plant/lease to a third party. As such, action of the respondent is not only arbitrary, but illegal. It is further contended that the authorities are sitting over the application which they are duty bound to decide expeditiously in accordance with law.

Shri Surendra Singh, learned counsel for the petitioner invites our attention to the counter affidavit wherein the factum of grant of lease to a third party stands admitted. However, in so far as disposal of the petitioner's application is concerned, the response is evasive.

Having considered the rival contentions of the parties, including the maintainability of the present petition, on account of non-impleadment of the private party, we are of the considered view that interest of justice would be best met with



the direction to the Respondent No. 2 namely the Principal Secretary, Mines-cum-Mines Commissioner, Govt. of Bihar, New Secretariat, Patna to positively take a decision on the petitioner's application pending consideration.

6. As such, petition stands disposed of in the following terms:-

- (a) Respondent No. 2 namely Principal Secretary, Mines-cum-Mines Commissioner, Govt. of Bihar, New Secretariat, Patna shall positively take a decision on the petitioner's application pending consideration, after affording opportunity to all concerned, including in whose favour third party rights stands created;
- (b) The said respondent shall consider and dispose of the petitioner's application expeditiously by a reasoned and speaking order preferably within a period of three months from the date of presentation of a copy of this order;
- (c) Needless to add, while considering such application, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;



- (d) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;
- (e) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;
- (f) 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;
- (g) Liberty reserved to the petitioner to approach the appropriate forum/Court, should the need so arise subsequently on the same and subsequent cause of action;
- (h) Order assigning reasons shall be supplied to the parties;
- (i) We have not expressed any opinion on merits. All issues are left open;
- (j) 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;

7. The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	17.01.2022
Transmission Date	

