

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18280 of 2021

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Bindhayachal Singh, Son of Prabhu Narayan Singh, R/o Village-Masahi, P.O.-
Umapur, P.S.-Bhagwanpur, District-Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Mines
Commissioner, Mines, Govt. of Bihar, Patna.
2. Additional Secretary, Government of Bihar, Patna.
3. Collector, Kaimur.
4. District Mining Officer, Rohtas, Sasaram.
5. District Mining Officer, Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rewti Kant Raman, 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)

Date : 29-06-2022

Heard learned counsel for the parties.

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

“That this application is for quashing the order dated 03.06.2014 passed by District Mine Officer Kaimur contained in Annexure as well as warrant contained in letter no. 61 dated 31.05.2021 issued from the office of Certificate Officer, Bhabhua in Certificate Case No. 12/M/2017-18 dated 31.05.21 and a direction to the respondents to exonerate the petitioner from the payment of Rs. 4,64,893=30 /- as petitioner has not operated the extraction work since 3.12.96 to 11.10.2004 over 74 decimals of land because that land was encroached by the Forest Department up to 11.10.04.”

Petitioner has approached this Court without

availing the remedy of appeal, as contemplated under Section 60 of the Bihar and Orissa Public Demand Recovery Act, 1914 which reads as under:-

60. Appeal.- (1) An appeal from any original order made under this Act shall lie -
(a) if the order was made by an Assistant Collector or a Deputy Collector, or by a Certificate Officer not being the Collector - to the Collector; or
(b) if the order was made by the Collector - to the Commissioner:

Provided that no appeal shall lie from any order setting aside a sale on an application made under Section 28:

[Provided further that no appeal against an order passed under Section 10 shall be entertained unless the appellate authority is satisfied that the appellant has paid forty percent of the amount determined under that Section or such amount as the appellant admits to be due from him, whichever is greater.]

(2) Every such appeal must be presented, in case (a), within fifteen days, or in case (b) within thirty days, from the date of the order.

(3) The Collector may, by order, with the previous sanction of the Commissioner, authorise -

(i) any Sub-divisional Officer; or

(ii) any officer appointed under clause (3) of Section 3 to perform the functions of a Certificate Officer;

to exercise the appellate powers of the Collector under sub-section (1).

(4) When any officer has been so authorized, the Collector may transfer to him for hearing any appeal referred to in clause (a) of sub-section (1), unless the order appealed against was made by such officer.

(5) Pending the decision of any appeal, execution may be stayed if the appellate authority so directs, but not otherwise.

Writ petition is disposed of with liberty to petitioner to avail the remedy of appeal and if any such appeal is filed within 6 weeks then appellate authority shall condone the delay

in filing the appeal and shall decide the appeal within 12 weeks thereafter.

It is made clear that this Court has not expressed any opinion with respect to merits of the case and all issues of law and facts are open to be adjudicated by the appellate authority.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	