

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13483 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 Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Deputy Director, Mines and Geology, Patna Circle, Patna.
5. The District Magistrate - cum - Collector, Patna.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 18587 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 Special Secretary Cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.



4. The Deputy Director, Mines and Geology, Patna Circle, Patna.
5. The District Magistrate - Cum - Collector, Patna.
6. The Mineral Development Officer, Patna.
7. The District Certificate Office Cum Additional District Collector, Law and Order, Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 18749 of 2021

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Aditya Multicom Private Limited a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, through its Authorized Signatory, Pankaj Kumar Singh @ Pankaj Singh, aged about 29 years (male) Son of Shri Murali Singh, resident of Village Baliyar, P.O.- Dullahpur, P.S.- Simari, District - Buxar.

... .. 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 Special Secretary cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Deputy Director, Mines and Geology, Aurangabad.
5. The District Magistrate-cum-Collector, Aurangabad.
6. The District Mining Officer, Aurangabad.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 13483 of 2021)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Suraj Samdarshi, Advocate
Mr. Vijay Shanker Tiwari, Advocate
Mr. Rajan Prakash, Advocate
Mr. Avinash Shekhar, Advocate

For the Respondent/s : Mr. Gyan Prakash Ojha (GA 7)

(In Civil Writ Jurisdiction Case No. 18587 of 2021)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Suraj Samdarshi, Advocate
Mr. Vijay Shanker Tiwari, Advocate
Mr. Rajan Prakash, Advocate



For the Respondent/s : Mr. Avinash Shekhar, Advocate
Mr. Gyan Prakash Ojha (GA 7)
Mr. Naresh Dikshit, Advocate
(In Civil Writ Jurisdiction Case No. 18749 of 2021)
For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Suraj Samdarshi, Advocate
Mr. Vijay Shanker Tiwari, Advocate
Mr. Rajan Prakash, Advocate
For the Respondent/s : Mr. Avinash Shekhar, Advocate
Mr. Gyan Prakash Ojha (GA 7)
Mr. Naresh Dikshit, Advocate

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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 01-02-2022 Petitioner in C.W.J.C. No. 13483 of 2021 has prayed
for following relief(s) : -

(i) For issuance of an appropriate writ, order or direction in the nature of *certiorari* for quashing letter no. 1475 dated of 08.07.2021 issued by the Respondent Collector by which a demand of Rs.80,48,58,604/- has been raised as the second, third, and fourth installment of the royalty for the extended period of settlement.

(ii) This Hon'ble Court may adjudicate and hold that the surrender of settlement by the Petitioner is not in contravention of Rule 50(1) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as the "**2019 Rules**") and therefore the petitioner is not liable to pay the second, third and fourth installment of royalty for the extended period.

(iii) This Hon'ble Court may further adjudicate and hold that the exit option under Rule 50(1) of the 2019 Rules applies only during the mineral concession period which has been defined under Rule 16 of the



2019 Rules as five years.

(iv) This Hon'ble Court may further adjudicate and hold that Rule 77(2) of the 2019 Rules being a "non-obstante clause", overrides the mechanism of exit option prescribed under Rule 50 (1) of the 2019 Rules and therefore Rule 50(1) does not apply to an extension granted under Rule 77(2).

(v) This Hon'ble Court may further adjudicate and hold that the exit option under Rule 50 (1) of the 2019 Rules does not apply to the Petitioner and therefore the Respondents have grossly erred in rejecting the surrender of settlement by the petitioner and raising a demand for remainder of the royalty.

(vi) This Hon'ble Court may further adjudicate and hold that since the extension granted to the petitioner from 01.04.2021 to 30.09.2021 is for six months only, Rule 50 (1) is rendered nugatory and inoperative as the same also contemplates a notice period of six months.

(vii) This Hon'ble Court may further adjudicate and hold that the Respondents cannot compel the petitioner to pay royalty for the period during which has not conducted any mining activity.

(viii) This Hon'ble Court may adjudicate and hold that the action of respondents in not accepting the surrender of settlement by the petitioner and penalizing the petitioner for surrendering the settlement is completely unjustified and unwarranted.

(ix) To award any other relief(s) to which the petitioner is found entitled in the facts and circumstances of the case.”

Petitioner in C.W.J.C. No. 18587 of 2021 has
prayed for the following relief(s):

(i) To issue an appropriate writ, order or direction in the nature of *certiorari* quashing certificate case no



156 of 21-22 pending before Respondent No. 7 holding that the same is void ab initio on the grounds that (a) The amount sought to be recovered is disputed, unascertained and quantified; (b) the amounts ought to be recovered is not a public demand; (c) the certificate prepared under Section 6 of Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter after referred to as the "Act") is itself invalid.

(ii) To issue an appropriate writ, order or direction in the nature of *certiorari* quashing notice issued by Respondent No. 7 (Annexure 16) under Section 7 of the Act contained in memo no. 232 dated 16.09.2021 on the grounds that the same has been issued in pursuance of an illegal certificate.

(iii) To issue further appropriate writ, order or direction in the nature of *certiorari* quashing the certificate dated 16.09.2021 (Annexure 16 A) prepared by Respondent No. 7 in pursuance to the requisition made by Respondent No. 6, as the same has been issued in a perfunctory manner without application of mind and without proper verification.

(iv) This Hon'ble Court may adjudicate and hold that the money sought to be recovered by the Respondent No. 6 from the Petitioner under certificate case no.156 of 21-22, under the provisions of the Act, is not a public demand as the same does not fall under any of the Articles of Schedule I of the Act.

(v) This Hon'ble Court may further adjudicate and hold that the action of Respondents in seeking to recover Rs.30,52,35,916/- thereby unnecessarily subjecting the petitioner to stringent penal provisions of the Act is an act of mala fide and tantamounts to abuse of power.

(vi) This Hon'ble Court may award the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondent Authorities.



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

Petitioner in C.W.J.C. No. 18749 of 2021 has prayed for the following relief(s):

(i) For issuance of an appropriate writ, order or direction in the nature of *certiorari* for gushing letter no.885 dated 09.07.2021 (Annexure 11) issued by the Respondent Collector, Aurangabad by which a demand of Rs.95,78,50,800/- has been raised as the second, third and fourth installment of the royalty for the extended period of settlement.

(ii) This Hon'ble Court may adjudicate and hold that the surrender of settlement by the Petitioner is not in contravention of Rule 50(1) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as the "**2019 Rules**") and therefore the petitioner is not liable to pay the second, third and fourth installment of royalty for the extended period.

(ii) This Hon'ble Court may further adjudicate and hold that the exit option under Rule 50(1) of the 2019 Rules applies only during the mineral concession period which has been defined under Rule 16 of the 2019 Rules as five years.

(iv) This Hon'ble Court may further adjudicate and hold that Rule 77(2) of the 2019 Rules being a "non-obstante clause", overrides the mechanism of exit option prescribed under Rule 50 (1) of the 2019 Rules and therefore Rule 50(1) does not apply to an extension granted under Rule 77(2).

(v) This Hon'ble Court may further adjudicate and hold that the exit option under Rule 50 (1) of the 2019 Rules does not apply to the Petitioner and therefore



the Respondents have grossly erred in raising a demand for remainder of the royalty.

(vi) This Hon'ble Court may further adjudicate and hold that clause 18 of the Bihar Sand Mining Policy 2019 applies to surrender of a normal settlement term and not to extension period.

(vii) This Hon'ble Court may further adjudicate and hold that since the extension granted to the petitioner from 01.04.2021 to 30.09.2021 is for six months only, Rule 50 (1) is rendered nugatory and inoperative as the same also contemplates a notice period of six months.

(viii) This Hon'ble Court may further adjudicate and hold that the Respondents cannot compel the petitioner to pay royalty for the period during which it has not conducted any mining activity.

(ix) This Hon'ble Court may adjudicate and hold that penalizing the petitioner for surrendering the settlement is completely unjustified and unwarranted.

(x) To award any other relief(s) to which the petitioner is found entitled in the facts and circumstances of the case.”

Shri P.K. Shahi, learned Senior Advocate, under instructions, fairly states that on account of intervening developments, the present petitions be disposed of inasmuch as now the petitioners have taken recourse to the alternate remedies stipulated under the agreement, as also law applicable and governing the parties to the lis.

Accordingly, petitions are disposed of with the liberty to the petitioner to pursue the remedies in accordance with law.



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

(Sanjay Karol, CJ)

(S. Kumar, J)

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