

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21116 of 2021

Sanjay Kumar, son of Sri Ram Nandan Sinha, resident of Flat No. 301, Raja Ram Apartment, Anand Puri, Boring Canal Road, P.S. S.K. Puri, District Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary cum Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna.
3. The Bihar State Mineral Development Corporation Ltd. having its Registered Office at Vikash Bhawan (New Secretariat) Bailey Road, Patna through its Managing Director.
4. The Managing Director, The Bihar State Mineral Development Corporation Ltd. having its Registered Office at Vikash Bhawan (New Secretariat) Bailey Road, Patna, Bihar.
5. The District Magistrate, District Patna, Bihar.
6. The Administrative Officer, The Bihar State Mineral Development Corporation Ltd. having its Registered Office at Vikash Bhawan (New Secretariat) Bailey Road, Patna, Bihar.
7. The District Mining Officer, District Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the Respondent/s	:	Mr. Pawan Kumar, AC to AG
		Mr. Naresh Dixit, Advocate

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 : 11-01-2022

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

“(i) Commanding upon the respondents
to immediately introduce/restore the earlier



prevalent practice of the extending the auction time by five minutes if any offer is made in the course of auction within the last five minutes so as to enable the other bidders to make Counter offer at higher rates in connection with the auctions being held for settlement of the Sand Ghats in the various district of Bihar;

(ii) Producing the entire records a comprehensive and report relating to the e-auction conducted pursuant to Notice inviting Tender dated 15.11.2021 depicting the number of auctions in which the offers have been made within the last five minutes before the closure of the auction time and the auction process has been closed without extending the auction time by further five minutes; and / or

(iii) Restraining the respondents for proceeding further in connection with the e-auction, which is resulting in to the huge loss to the public revenue and public interest during the pendency of the present public interest litigation.”

Having heard Shri Prabhat Ranjan, learned counsel for the petitioner at length, we are not inclined to issue notice in the petition, but dispose it off for the following reasons, with certain observations:-

(a) From the averments made in paragraphs 5, 6, 7 and 8 of the petition, we are not satisfied of the petitioner's



bona fides of having agitated the issue firstly before the appropriate authority.

(b) having established his credentials of a public spirited person.

(c) The entire process of e-auction stands completed.

(d) Emphatically, Shri Prabhat Ranjan argues that the terms of the e-auction, so issued, were modified than what was prevalent in the previous year. On this, our attention is invited to the following terms incorporated in the tender notice issued with respect to the year 2019, but not incorporated in the current Tender for the year 2021:-

5. किसी विशिष्ट सम्पदा के ई-नीलामी की प्रक्रिया समाप्त होने से 5 मिनट पहले यदि किसी बोलीदाता द्वारा बोली सम्पत्ति की जाती है तो सिस्टम द्वारा तत्तः बोली सम्पत्ति को अवधि को अवशेष 5 मिनट तक के लिए विस्तारित कर दिया जाएगा। विस्तारित अवधि में उपलब्ध बोली से अधिक बोली प्राप्त नहीं होने की स्थिति में विस्तारित अवधि के समाप्त के पश्चात् बोली की प्रक्रिया बन्द कर दी जाएगी।

We notice that Notice Inviting Tender for auctioning the Sand Ghats, situate in different districts of Bihar, was issued on 15.11.2021. The auction was to take place by way of a public auction, unrestricted to any individual or entity. The dates of auction for 08 districts were notified, so also time of auction filed. The last date for auction was 4th December, 2021 and the instant petition filed only on 24th of December, 2021. At that point in time, petitioner ought to have approached the



authorities highlighting the grievances vented out in the present petition, more so with regard to the change in the terms of conditions of auction, in comparison with the previous year. Hence, at this point in time we are not inclined to interfere.

(e) On the issue of loss to the Revenue, our attention is invited to the averments made in paras 15 to 20 of the petition. Well, we do not wish to comment thereupon, save and except, leave it open for the petitioner to seek appropriate remedy in accordance with law. He can approach the Department of Vigilance, Government of Bihar; highlight the issue with the concerned Department as to how the process undertaken for e-auction has resulted into any loss of public money; and thereafter, if so required, file appropriate proceeding before this Court furnishing better particulars. However, we do notice that the time fixed for submitting the bids as per the recent tender, uninterruptedly was for a period of two hours. Any individual/entity desiring to participate in the tender was free to submit their bids.

Be that as it may, even this issue, we leave it open for the petitioner to highlight before the authorities and should they feel the need of taking any appropriate action, with respect to the e-auction in question, which already stands



undertaken, it shall be open for them to do so.

(f) Orally, it has been argued that revenue has been put to loss, perhaps, with an endeavour to benefit certain individual(s), we do not find such a statement to be emanating or substantiated on record, more so there being no averments of malice, be it of fact or law, nor pointing fingers towards any particular individual.

Be that as it may, it is always open for the petitioner to highlight such issue with the Lokayukta or any other agency whom he desires to approach.

The present petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2022
Transmission Date	

