

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9101 of 2018

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M/s Aditya Multicom Private Limited having its registered office at 12, Waterloo Street, 2nd Floor, Kolkata - 700069, through its Authorized Signatory Kamlesh Gaurav @ Kamlesh Gourav son of Shri Surendra Singh, resident of D/139, Keshari Nagar, P.O. Rajeev Nagar, P.S. Rajeev Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Mines Commissioner-cum-Principal Secretary, Department of Mines and Geology, Bihar, Vikas Bhawa
3. The Joint Secretary-cum-Director, Directorate of Mines and Geology, Bihar, Vikas Bhawan, Bailey Roa
4. The District Magistrate-cum-Collector, Rohtas, Sasaram.
5. The District Mining Officer, Rohtas, Sasaram.
6. The Bihar State Mining Corporation Limited, A Government of Bihar Undertaking, Room No. 164, Vikas
7. The Depot Manager, Bihar State Mining Corporation Limited, Rohtas, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Vijay Shankar Tiwari, Advocate Mr. Avinash Shekhar, Advocate Mr. Piyush Ranjan, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7
For the Mines Dept.	:	Mr. Utsav Anand, J.C. to Spl. P.P. Mines

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 10-08-2023 Heard Mr. Suraj Samdarshi, learned Counsel for the

petitioner and Mr. Utsav Anand, learned J.C. to Spl. P.P. Mines.

2. The present petition has been filed for the following
reliefs:-

*(i) for Issuance of a Writ in the nature of
Mandamus directing the respondent authorities not to*



levy export premium charges upon inter-State sale of sand;

(ii) for issuance of a writ in the nature of Certiorari for quashing the letter no. 32 dated 8.3.2018, whereby and whereunder the respondent no. 7 has raised a demand against export premium charges, contrary to the statutory provisions, Sand Policy, 2013 and the settlement agreement;

(iii) for issuance of a Writ in the nature of Mandamus directing the respondent authorities to issue transit pass/challan for inter-State sale without levy of export premium, as the same is without authority of law;

(iv) for a direction to the respondent authorities to adjust the amount of export premium already paid by the petitioner from the settlement amount, which the petitioner has to pay in terms of the agreement entered into by the petitioner;

(v) for a direction to the respondent authorities not to create any Impediment for non-payment of export premium;

(vi) for a direction to the respondent authorities to remove the column levy, in the name of export premium



as incorporated in the E-challans during pendency of the writ application, as the same is without authority of law;

(vii) for a declaration that imposition of export levy tantamount to overreaching the interim order dated 27.11.2017 in C.W.J.C. No. 16527 of 2017 passed by this Hon'ble Court, by which the entire Bihar Minor Mineral Rules, 2017 has been stayed; and for such relief(s) to which the petitioner is found entitled in the facts and circumstances of the case.

3. Learned Counsel for the petitioner has straightway taken this Court to an order of Patna High Court in the case of **M/s Aditya Multicom Private Limited vs. The State of Bihar** in **CWJC No. 5393 of 2018** disposed of on 01.10.2020 by a Single Bench (Hon'ble Mr. Justice Dinesh Kumar Singh, as his Lordship then was) in which the following direction was given:-

“It is made clear that in the present writ application, no legislative Act is under challenge but only administrative order whereby initially the export premium charges were levied by making entry no. 16 in e-Challan and subsequently by virtue of execution order.

Accordingly, it is held that no rights, liabilities or any civil consequences could ensue out of such an order which is illegal and beyond jurisdiction.



Having given my anxious consideration to the peculiar facts and circumstances of the case, I deem it appropriate to order that:-

(i) the Principal Secretary of the Mines Department shall quantify the actual proceeds in the shape of export premium charges and any other consequential collection by the corporation.

(ii) the proceeds so quantified shall be spent for the purposes of: (a) development of sand ghats in the State of Bihar and also for augmenting the infrastructural facilities;

(b) organizing training programmes for the stakeholders to optimize the use of minerals and to create awareness for the optimal use of natural resources; and

(c) the decision taken pursuant to this direction shall be notified on the official website of the Mines Department in the end of the financial year and in case of omission by the corporation to adhere to the direction, it would be open for any public spirited person to bring the fact to the notice of this Court, for appropriate action.

The writ application is accordingly disposed of.”

4. Learned Counsel for the petitioner has taken this Court to paragraph 15 of the petition to show that Rs. 2.50 Crores has already been paid by the petitioner's firm as export premium charge to the Department.



5. As the counter affidavit is of 2018, there is no incorporation of the later development i.e. order of this Court in **M/s Aditya Multicom Private Limited (supra)**.

6. Learned Counsel for the petitioner submits that in view of the said order, he is not asking for the refund but the respondents are duty bound to use the amount as directed by the Hon'ble Court on earlier occasion and the petitioner is further entitled to know whether the 2.50 Crores that was taken by the Department has been used for the purpose or not.

7. It is his further submission that since the matter relates to Rohtas in his opinion, the entire stretch of Mohania to Ara in which some part of Rohtas District also falls, be made green *inasmuch* as the plants be planted on the both sides of around 100 km. long highway. He has informed that after the widening of the said National Highway No. 319, both sides have become barren and if the same is made green, it will greatly come to aid of the tourist.

8. Learned Counsel appearing for the Mines defends the earlier order but has informed that pursuant to the order passed in **M/s Aditya Multicom Private Limited (supra)**, no fresh export premium charge is/are being levied.

9. He further submits that the amount received are



being used in line with the direction of the Patna High Court.

10. Having gone through the facts of the case, the submissions put forward by the rival parties as also the orders passed in **M/s Aditya Multicom Private Limited (supra)**, this Court takes the same route and directs the Department in the following manner:-

(i) the Principal Secretary of the Mines Department shall quantify the actual proceeds in the shape of export premium charges and any other consequential collection made from the petitioner-company;

(ii) the proceeds so quantified shall be spent in making the entire stretch of Mohania to Ara (National Highway 319 that also includes part of Rohtas) completely green on both sides planting plants duly protected by wooden structures;

11. The petitioner will be entitled to have a report/chart showing the amount paid by him so spent on the NH 319 from Mohania to Ara.

12. Needless to say, in line with the earlier order of this Court, the decision/expense be notified on the official website of the Mines Department too.

13. The aforesaid plantation programme is to be undertaken within a period of eight weeks from the information



provided to the Department by the petitioner-company and be completed within three months thereafter i.e. by the end of January, 2024. Once the entire plantation work is undertaken, the petitioner is further entitled to get information alongwith the expenses and the plantation so made by way of report, it having paid Rs. 2.50 Crores.

14. With the aforesaid observations, the writ petitions stands disposed of.

(Rajiv Roy, J)

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