

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3879 of 2023

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Shailesh Transport Corporation, a Proprietorship firm Having its Place of Business at Om Bhawan, Beside Laxmi Narayan Mandir, Dhansar, Raja Sbera, Dhanbad Jharkhad-828106 through its authorised representative namely Ravi jindal Male aged about 41 Years Son of Bhushan Kumar Jindal resident of House Number-605, Basant Avenue, Dugri, Ludhiana, Punjab-141013.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Bihar State Mining Corporation Limited, Patna through its Managing Director.
3. The Managing Director, Bihar State Mining Corporation Limited, Patna.
4. The General Manager, Bihar State Mining Corporation Limited, Patna.
5. The Chief Executive Officer, Bihar State Mining Corporation Limited, Patna.
6. The District Collector, Bhojpur, (Cluster number 32 of River Sone)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate Ms. Ekta Rani, Advocate
For the State	:	Mr.Gyan Prakash Ojha (GA-7)
For Mines	:	Mr. Naresh Dixit, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 20-07-2023 Heard Mr. Gautam Kumar Kejriwal, learned counsel
for the petitioner as also Mr. Naresh Dixit, learned Spl. P.P.

The writ petition has been filed for the following
prayer:

(i) for issuance of a writ in the nature of certiorari for
quashing of the letter dated 10.03.2023 issued vide
reference number BSMC-416 by the respondent



number 4 whereby the petitioner has been saddled with a penalty for 22,68,75,000/- under rule 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 (hereinafter referred to as the rules 2019 for short) and has been called upon to pay the same within a period of 3 days of such demand;

(ii) for issuance of a writ or order or direction upon the respondents to immediately reactivate the user id and password assigned to the petitioner for generating e-challans and also allow the petitioner to carry on with the sand mining activities without any obstruction in terms of the letter of acceptance dated 12.01.2022 last extended vide letter dated 22.12.2022 till 31.03.2023 as the petitioner has already deposited the full contractual amount of 21,610,247 along with all the statutory liabilities and other charges as per rules 2019 well in advance;

(iii) for further issuance of a writ or order or direction restraining the respondent corporation and its authorities from initiating any such proceeding against the petitioner for imposition of any penalty or



punishment on account of alleged instance of illegal mining found off the mining site given to the petitioner under contract;

(iv) for issuance of a writ or order or direction upon the respondents to either ensure refund of the auction amount proportionate to the number of days for which the petitioner has been deprived of carrying out mining activities in the mining site or to grant extension of the period of contract by the same number of days so as to compensate the petitioner for the financial loss suffered due to illegal, arbitrary and unreasonable act of the respondents;

(v) for further folding and a declaration that the whole proceeding initiated under rule 56 of the rules 2019 against the petitioner is without jurisdiction and a nullity in the eye of law;

(vi) for issuance of a writ or order or direction restraining the respondent corporation and its authorities at various levels from taking any coercive action against the petitioner for recovery of the amount of penalty in terms of the impugned order



(vii) for grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case

The sum and substance of the writ petition is/are that one fine morning, an inspection was done behind the back of the petitioner which followed the orders in question.

It has been categorically stated in para-16 that no opportunity of hearing was afforded before passing such an order and serious financial implication.

He to cut short the matter, he submits that this matter is squarely covered by an order of the coordinate bench of this Court reported in **M/s Uma Associates vs. The State of Bihar** (C.W.J.C. No. 3400 of 2023).

This Court has gone through the said order **M/s Uma Associates** (supra) and it is appropriate to incorporate paras 7, 8 and 9 for proper appreciation of the case.

7. Having heard learned counsel for the parties, the Court is not going into all the points which has been raised on behalf of the petitioner except the specific statement that no notice was issued to the petitioner prior to



passing of the order of penalty, impugned herein. On perusal of the order contained in Letter no.514 dated 24.2.3033, it transpires that the same mentions about some inspection having been carried out by a Committee constituted in the Department on 12.3.2023 and 13.2.2023 and on the basis of the report submitted by the Committee, the order of penalty impugned herein has been passed holding the petitioner to be liable to pay penalty of Rs.2,37,95,800/- with a further direction that the same should be paid within a period of 3 days.

8. On perusal of the said order, the Court dose not find that either the inspection by the so called departmental team was carried out in presence of the petitioner, whether the copy of the inspection report was



provided to the petitioner or that proper opportunity to show-cause was issued to the petitioner prior to passing the under of penalty. In view of these facts, in the opinion of the Court the order of penalty dated 24.2.2023 issued under the signature of the Mineral Development Officer, Rohtas, Sasaram is not sustainable and is hereby quashed, with liberty to the respondents that if so advised, they will e at liberty to proceed afresh in accordance with law.

9. The writ application stands allowed with the above observations.

Mr. Naresh Dixit who represents that Mines Department conquers with the submission put forward by the learned counsel for the petitioner that this case is covered by order in M/s Uma Associates (supra).

Accordingly, this Court also takes the same route.

The order in question/letter dated 10.3.2023 issued vide BSMC-416 by which the respondent no. 4, the General



Manager, Bihar State Mining Corporation Limited, Patna stands quashed.

Liberty is granted to the respondent authority to act in accordance with law after putting the petitioner on notice.

The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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