

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4310 of 2023

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Ajay Kumar S/o Shri Saryu Mahto, Resident of Village- Babhandih, P.O. and
P.S.- Imamganj, District- Gaya, Bihar, 824206

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna, P.S.- Secretariat, District- Patna Bihar- 800015.
2. The Bihar State Mining Corporation Ltd., through its General Manager, Vikas Bhawan (New Secretariat), Bailey Road, P.S.- Secretariat, Dist.- Patna Bihar- 800015.
3. The Authorized Officer, Bihar State Mining Corporation Ltd., Bihar, Patna, Vikas Bhawan (New Secretariat) Bailey Road, P.S.- Secretariat, Dist.- Patna Bihar- 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
For the Mines Dept.	:	Mr. Naresh Dixit, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 06-07-2023

Heard the parties.

The present petition has been preferred for the following reliefs:-

i) for issuance of an appropriate writ or order or direction in the nature of certiorari for quashing letter no. BSMC- 392 dated 06.03.2023 (Annexure -3) vide which Respondent No.-2 has imposed penalty of Rs. 51,34,259/- (Rupees Fifty One Lakhs Thirty Four Thousand Two Hundred



and Fifty Nine Only) on the petitioner for illegal mining and selling of 48209 cubic feet sand as alleged. However, the fact is that the petitioner sold total 3158.33 (MT) for the period 24.01.2023 to 27.02.2023 as per the e-challan generated;

ii) for issuance of a writ or order or direction in the nature of mandamus upon the respondents to allow the petitioner to operate his settled Bankey Bazar sand ghat bearing cluster-31 situated in the district of Gaya over river Mohrar. (The said settlement of sand ghat is/was valid till 31.03.2023);

iii) for further issuance of a writ or order or direction restraining the respondents from taking any coercive action against the petitioner in terms of the demand notice dated 06.03.2023 whereby petitioner has been directed to pay the penalty of Rs. 51,34, 259/- (Rupees Fifty One Lakhs Thirty Four Thousand Two Hundred and Fifty Nine Only) to be paid within 24 hours;

iv) for further issuance of a writ or order or direction to the respondents to activate the login Id of the petitioner for generating and downloading the e-challans.

As usual the order dated 10.05.2023 passed by the co-ordinate bench directing the Mines Department for filing supplementary counter affidavit has not been complied.



This Court fails to understand how despite passage of time, the Department fails to file its reply.

Learned Counsel for the petitioner submits that he has also preferred I.A. No. 01 of 2023 incorporating in paragraph 4 that he will be satisfied if the respondents conduct and inspect once again in the presence of both the parties after prior notice of the date of inspection so that he can participate/co-operate in the matter.

Mr. Naresh Dixit, learned Spl. P.P. for the Mines submits that the respondent authorities shall make another inspection after putting the petitioner on notice giving him the date so that he/his representative could be present and thereafter an appropriate order will be passed.

In view of the said submissions put forward by the parties, the writ petition is disposed of with the direction to the Respondent No. 3, the Authorized Officer, Bihar State Mining Corporation Ltd., Bihar, Patna to do the needful, put the petitioner on notice fixing a date so that a fresh inspection could take place.

The aforesaid exercise shall be completed within three months.

Till a decision is taken, the interim protection granted



to the petitioner on 28.03.2023 to continue.

(Rajiv Roy, J)

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