

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5681 of 2023

Amrendra Singh, Son of Anirudh Singh, Resident of Village- Rampur
Khajuriya, Post Office- Rampur, Police Station- Dumariya Ghat, District-
East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Mines
Commissioner, Department of Geological, Government of Bihar, Patna.
2. The Principal Secretary cum Mines Commissioner, Department of
Geological, Government of Bihar, Patna.
3. The Mines Development Officer, East Champaran at Motihari.
4. The Mines Inspector, the office of the District Mining Office, East
Champaran at Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Neelam Kumari, Advocate
For the Mines Department	:	Mr. Naresh Dixit, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-08-2023

Heard Mr. Sanjay Kumar, learned counsel appearing
on behalf of the petitioner and Mrs. Neelam Kumari, learned
counsel representing the State. Mr. Naresh Dixit, learned Spl.
P.P. Mines Department, is also present.

2. The petitioner by invoking the extra ordinary
jurisdiction of this Court under Article 226 of the Constitution
of India seeks quashing of the order as contained in Letter No.
234 dated 20.02.2023 issued under the signature of Mines
Development Officer, East Champaran at Motihari whereby, a
direction has been given to close the operation of petitioner's



brick kiln, operating in the name of M/s Bajrang Int Udyog on the ground that the Government school is situated within five meters of the said brick kiln and, it is already situated within the habitation area.

3. Learned counsel appearing on behalf of the petitioner submits that after completing all the paraphernalia and having been obtained the certificate from the Bihar State Pollution Control Board for establishment of a brick kiln on a land taken on lease appertaining to Khata No. 186, Plot No. 357, Thana No. 201 at Mauza Purbipakari, the petitioner was granted permit from Department of Mines and accordingly, the brick kiln in the name of M/s Bajrang Int Udyog was established. He further submits that the permit duly issued by the Department of Mines, as contained in Annexure – 3, was subsequently extended time to time and lastly the permit was extended for the period 2022–2023. While the brick kiln was under operation, in the meantime, it appears that on a complaint of some unscrupulous person, an inspection was conducted by the Mines Inspector, East Champaran, Motihari that too without giving any notice and information to the petitioner and a report has been submitted before the District Mines Officer, East Champaran at Motihari. The aforementioned report submitted by the Mines Officer



as contained in Annexure – 7 is suggestive of the fact that on the north side of the brick kiln, there is a Government school.

4. Taking note of the aforesaid inspection report, the Mines Development Officer, East Champaran at Motihari came out with the letter as contained in Letter No. 234 dated 20.02.2023 as contained in Annexure – 8. Bare perusal of the impugned letter dated 20.02.2023, it appears that the brick kiln, in question, has been constructed just within five meters of the Government school and the same is situated within the habitation area, which led to the direction for closure of the brick kiln and further directed the petitioner to shift his brick kiln to different place, after obtaining fresh certificate of CTE/CTO from the Bihar State Pollution Control Board.

5. Mr. Kumar, learned counsel for the petitioner further drew the attention of this Court to the inspection report as well as the impugned order as contained in Letter No. 234 dated 20.02.2023 and vehemently submitted that not only the inspection has been done behind the back of the petitioner, rather the impugned order passed by the District Mining Officer is in complete violation of the principles of natural justice as the same has been passed without affording him any opportunity of hearing nor even a show-cause notice has been served upon the



petitioner. That apart, the same is based on incorrect facts.

6. Learned counsel representing the Mines Department though refuted the contention of the petitioner with regard to the fact that the brick kiln is not situated adjacent to the school but unable to satisfy this Court, as to whether before passing of the impugned order, as contained in Annexure – 8, the petitioner has been served with a show-cause notice or he has been provided any opportunity of hearing.

7. Considering the submissions made on behalf of the parties and on perusal of the materials on record, prima facie, it appears that the impugned order has been passed without any show-cause notice or opportunity of hearing to the petitioner and on this score alone, the impugned order is fit to be set aside and cancelled. Any order, having effect of causing prejudice to the right or entitlement of a person, must be in consonance with the principle of natural justice. It is trite law that no person shall be condemned unheard.

8. Accordingly, the impugned order as contained in Letter No. 234 dated 20.02.2023 is hereby set aside. The respondent no. 3 (The Mines Development Officer, East Champaran at Motihari) is directed to make fresh spot inspection after giving proper notice or opportunity of hearing



to the petitioner, before taking final decision in the matter. The aforesaid exercise must be completed within a period of three months from the date of receipt/production of a copy of this judgment.

9. Accordingly, the present writ application stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2023.
Transmission Date	NA

