

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6253 of 2023

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1. Maalik Transport Company through its Authorized Signatory, Niranjn Singh, aged about 43 years, S/o Shri Murari Singh Resident of Village- Bhadara, PO- Bhadara, PS- Nauhatta, Distt. Rohtas, Bihar- 821304
 2. Niranjn Singh S/o Shri Murari Singh, Resident of Village- Bhadara, PO- Bhadara, PS- Nauhatta, Distt.- Rohtas, Bihar- 821304

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, P.S.- Sachiwalaya, Patna, Bihar 800015
2. The Bihar State Mining Corporation Ltd., Vikas Bhawan, Bailey Road, P.S.- Sachiwalaya, Patna, Bihar 800015
3. The Authorised Officer, Bihar State Mining Corporation Ltd., Vikas Bhawan, Bailey Road, P.S.- Sachiwalaya, Patna, Bihar 800015

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha (GA- 7)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 20-07-2023 Heard the parties.

2. The prayer in the writ petition is/are as follows:-

(I) for issuance of an appropriate writ or order or direction in the nature of certiorari for quashing letter no. BSMC-391 dated 06.03.2023 (Annexure 4 vide which Respondent No. 2 has imposed penalty of Rs. 3,28,55,357/- (Rupees Three Crores Twenty Eight Lacs Fifty Five Thousand Three Hundred and Fifty Seven Only) on the Petitioner for illegal mining and selling of 308501 cubic feet sand as alleged. Though the fact is that Petitioners sold total 751001 Cubic Feet



for the period 29.12.2022 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 Banahi Sand Ghat & Mahuama Sand Ghat bearing cluster-33 situated in the district of Gaya over river Mohrar. The said settlement of sand ghat 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 No. 1 has been directed to penalty of Rs. 3,28,55,357/- (Rupees Three Crores Twenty Eight Lacs Fifty Five Thousand Three Hundred and Fifty Seven Only) to be paid within 24 hours.

3. Both the learned counsel for the petitioner as also learned Special PP Mines jointly submitted that this case is also covered by order of co-ordinate Bench of this Court in the case of **M/s Uma Associates Vs The State of Bihar & Others** passed in **CWJC No. 3400 of 2023** and the relevant paragraphs no. 7 to 9 which are incorporated herein below:-

*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 24.2.2023, 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 does 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 order 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 be at liberty to proceed afresh in accordance with law.

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

4. In the aforesaid background the letter no. BSMC-391 dated 06.03.2023 issued by the Mineral Development Officer stands quashed with liberty to the respondent-authorities to act in accordance with law after putting the petitioner on notice.

5. The writ application stands disposed of.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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