

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6232 of 2023

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Ranjeet Kumar Son of Ramanandi Singh Resident of Village Tungi, P.S.
Hisua, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Minesh Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Gaya.
5. The Mineral Development Officer, Gaya.
6. Bihar State Mining Corporation Limited, Through its Managing Director, Room No. 164, Vikas Bhawan, (New Secretariate), Bailey Road, Patna 800015.
7. The Managing Director, Bihar State Mining Corporation Limited, Room No. 164, Vikas Bhawan, (New Secretariate), Bailey Road, Patna 800015.

... .. Respondent/s

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Appearance :

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

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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) to issue an appropriate writ, order or direction in the nature of *certiorari* for quashing letter no. 885 dated 05.04.2023 whereby and whereunder a penalty of Rs. 61,12,693/- has been levied upon the petitioner for allegedly excavating cubic feet sand from outside the Environment Clearance Area;



ii) during pendency of this writ application, this Hon'ble Court may direct the Respondents to grant extension of contract as has been granted to other sub-contractors till 31.05.2023 and remove the restriction from generation of e-transit challans required for transportation of sand and also not to take any other coercive steps against the petitioner for recovery of Rs. 61,12,693/-;

iii) to issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents to grant refund of proportionate royalty for period petitioner has not been sell sand on account of suspension of e-transit challans;

iv) this Hon'ble Court may further adjudicate and hold that Respondent Bihar State Mining Corporation Limited is not the competent authority under the Bihar Minerals (Concession, Prevention of illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as "2019 Rules") to levy penalty upon a settlee;

(v) this Hon'ble Court may further adjudicate and hold that letter no. 885 dated 05.04.2023 is bad in the eyes of law since the same has been issued in glaring violation of the principles of natural justice as the petitioner has not been afforded any show cause notice whatsoever to controvert the



allegations upon which the penalty has been levied;

(vi) this Hon'ble Court may further adjudicate and hold that the levy of penalty contained in letter no. 885 dated 05.04.2023 is in gross violation of the maxim audi alteram partem as the petitioner has been condemned unheard without an opportunity to defend the charges against it;

(vii) this Hon'ble Court may further adjudicate and hold that the imposition of penalty upon the petitioner is in violation of the 2019 Rules?

viii) This Hon'ble Court may further adjudicate and hold that the action of the respondent authorities in suspending/blocking of generation of e-challan on the portal <http://portal.biharmines.in/> is completely dehors the provisions of Mines & Minerals (Development & Regulation) Act, 1957 and the 2019 Rules.

ix) this Hon'ble Court may further adjudicate and hold that extreme measures like suspending/blocking generation of e-challan on the portal <http://portal.biharmines.in/>, needs to be necessarily preceded, by an express show cause notice and opportunity of hearing.

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. 885 dated 05.04.2023 (Annexure-4) issued by the Mineral Development Officer, Nawada stands quashed with liberty to the respondent-authorities to act in accordance with law after putting the petitioner on notice.

Accordingly, the writ application stands disposed of.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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