

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6743 of 2023

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Rajeev Kumar Singh Son of Rameshwar Singh Resident of Flat no. D1
Amrapali Apartment, P.S. Dhanbad, District- Dhanbad Jharkhand.

... .. 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 Mines 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 Collector cum District Magistrate, Rohtas.
5. The District Mining Officer, Rohtas.
6. The Bihar State Mining Corporation Limited, through its, Chief Executive Officer, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna 800015.
7. The Administrative Officer, Bihar State Mining Corporation Limited, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna 800015.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Mines : Mr.Utsav Anand, JC to Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 27-07-2023 Heard Mr. Suraj Samdarshi, learned counsel for the

petitioner and Mr. Utsav Anand, learned Junior Counsel to Spl.

P.P. Mines.

2. The present petition has been preferred for the
following relief:

(i) to issue an appropriate writ, order or direction in
the nature of certiorari for quashing the order
contained in memo no. 2071 dated 26.09.2022 passed



by the Director Mines cum Chief Executive Officer, Bihar State Mining Corporation Limited, whereby and whereunder a penalty of Rs. 96,91,050/- has been imposed upon the petitioner purportedly under Rule 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation Storage) Rules, 2019 for allegedly transporting 7314 MT of sand upon 1819 incorrect e-transit challans;

(ii) Consequent to grant of relief no(i), this Hon'ble Court may issue a writ, order or direction in the nature of mandamus commanding the Respondent Bihar State Mining Corporation Limited to refund of Rs. 96,91,050/- deducted from the security deposit of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner was granted lease for Cluster No. 9, Danwar sand ghat in the district of Rohtas for the period 14.12.2021 to 31.3.2022.

4. It is his further submission that subsequently after the said period was over and he winded up his work from the said site, four months later, received a notice dated 27.7.2022 issued by the Director, Mines cum CEO (respondent no.6) by which it was reported that upon verification from 'Vahan Portal'



it was found that out of total 16,160 e-challans generated, 1826 were issued on unrealistic vehicles for the transportation of 7476 MT of sand valued at Rs. 9905700/- (Annexure-4 to the petition).

5. The petitioner duly filed his reply stating that it was a general agreement between the leaseholder and the Mining Department that in case the registration number or vehicle is not available, the engine number and chassis number can be used for issuance of e-challan (Annexure-5 to the petition).

6. However, it is the case of the petitioner that the respondents went ahead and passed an order vide memo no. 2071 dated 26.9.2022 (by respondent no.6) by which he was asked to pay Rs. 9691050/- (Annexure-5 to the petition).

7. Aggrieved, the present petition.

8. It is the contention of the learned counsel for the petitioner that there was no violation inasmuch as where the vehicle registration number was not available, the engine and chassis number were used and he has brought on record the documents (Annexure-7 series) issued by the Mining Department itself to different lease holders (Mahadev Enclave Private Limited) as also one Harendra Singh to show under in the said vehicle no. and chassis no. was inscribed and e-challan



was issued by the department.

9. He further submits that this case is squarely covered with the order passed by the a coordinate bench of Patna High Court in the case of **M/s Harsh Construction (C.W.J.C. No. 111 of 2023)** disposed of on 2.5.2023. He took this Court to paragraph-22 of the order which read as follows:

"That it is clarified, that prior to generation of the e-challans, the petitioner was required to enter the requisite details on the online portal. Only upon acceptance of the details by the system and BSMCL, e-challans was generated and could be downloaded by the concession holder and handed over to the transporter. Thus, it was the department itself which enabled the portal to accept last four digit of chassis number followed by "CH".

10. He took this Court to paragraph -24 of the order



passed in the case of Harsh Construction (supra) which reads as follows:

"That it is further submitted that Rule 43 of the 2019 Rules merely prohibits the transportation of mineral without e-challan in Form G. It does not talk about registration of vehicle. Even Rule 44 authorises the State Government to impose reasonable restriction on the vehicle transporting sand. The department being well aware of the fact that in rural areas unregistered vehicles are used for transportation of sand has deliberately chosen not to issue any direction for prohibiting the same during the term of the contract. Therefore, now the respondents are estopped from contending that the petitioner was at fault in generating e-challans for unregistered vehicles".

11. Mr. Utasav Anand, learned JC to Spl. P.P. Mines though defended the order in question conceded that this case is covered by the order passed in Harsh Construction (supra)



inasmuch as the same issue discussed and order passed in the case of Harsh Construction (supra).

12. Considering the aforesaid facts as also that there are instances of issuance of e-challans on the basis of engine number or the chassis number(as reflects in Annexure-7 series), this Court also takes the route of order dated 2.5.2023 passed in C.W.J.C. No. 111 of 2023 in Harsh Construction (supra).

13. The order as contained in memo no. 2071 dated 26.9.2022 under the signature of respondent no.6, the Director-cum CEO, BSMCL is hereby quashed.

14. The respondent authorities shall ensure that if there is no other dues pending against the petitioner, the security amount at the time of lease agreement be returned forthwith.

15. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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