

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6360 of 2023

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Sunny Kumar Son of Ram Chandra Singh, Resident of Village and P.O. Kaab,
P.S. Ranitalab, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, 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 cum Collector, Patna.
5. The Mineral Development Officer, Patna.
6. The Mines Inspector, District Mining Office, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha, GA-7

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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. Naresh Dixit, learned Spl. P.P. Mines.

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 letter no. 1845
dated 30.07.2022 (Ammeasure 3) and lettering, 1972
dated 13.08.2022 (Annexure-5) issue by the
Respondent Mineral Development Officer, Patna
directing the petitioner to deposit Rs. 5,77,763 /- as



cost of 10,880 CFT sand alleged to have been sold by the petitioner without issuance of e transit challans;
(ii) to issue further appropriate with, order or direction in the nature of mandamus commanding the Respondents not to take any coercive steps against the Petitioner for recovery of Rs.5,77,763/- during the pendency of this case.

Learned counsel for the petitioner submits that neither he was put on notice nor it was done in the presence of any of his representative and it is also not clear how the respondents came to the conclusion that 10850 CFT sand is not there. He as such submits that the same is fit to be quashed.

Learned Special P.P. submits that section 67 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 envisages appeal before the Collector within 60 days and the petitioner should have approached the concerned Collector instead rushing to the Patna High Court.

This Court finds force in the submission put forward by the learned Special Public Prosecutor. Here the petitioner has an option to go before the Appellate Authority who will look into the matter and pass an appropriate order. There was no



point in rushing to the Patna High Court.

It is prayer of the petitioner that during the pendency of the appeal, the respondent may resort the certificate proceeding.

The learned Special P.P. Mines submits that once, the appeal is filed, generally, the respondent do not go in certificate proceeding till an order is passed.

Taking into account the aforesaid facts, the petitioner is permitted to move before the Appellate Authority within a period of four weeks from today.

If the said appeal is preferred, the Appellate Authority will condone the delay on the ground that the petitioner was pursuing the matter before the Patna High Court.

The petition stands disposed of with the aforesaid observation.

It is expected that the Appellate Authority will pass a reasoned order within the period of three months from the date of submission of the appeal before him/her.

(Rajiv Roy, J)

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