

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4757 of 2023

Rajeev Kumar Singh, aged about 48 years, Gender-Male, son of Rameshwar Singh, resident of Flat No. D1, Amrapali Apartment, Dhanbad, Jharkhand-826 001.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Government of Mines and Geology, Government of Bihar, Vikash Bhawan Bailey Road, Patna.
2. The Principal Secretary-cum- Mines Commissioner, Department of Mines and Geology, Government of Bihar, Vikash Bhawan Bailey Road, Patna.
3. The District Magistrate, Rohtas.
4. The Mineral Development Officer, Rohtas.
5. The Bihar State Mining Corporation Limited, through its Managing Director Vikash Bhawan (New Secretariat), Bailey Road, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6731 of 2023

Rajeev Kumar Singh, aged about 48 years, Gender-Male, son of Rameshwar Singh, resident of Flat No. D1, Amrapali Apartment, Dhanbad, Jharkhand-826 001.

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3. The District Magistrate, Rohtas.
4. The Mineral Development Officer, Rohtas.
5. The Bihar State Mining Corporation Limited, through its Managing Director Vikash Bhawan (New Secretariat), Bailey Road, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 4757 of 2023)

For the Petitioner/s : Mr.Jai Vardhan Narayan, Advocate
For Mines : Mr. Naresh Dixit, Advocate

Mr. Utsav Anand, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha (GA-7)

(In Civil Writ Jurisdiction Case No. 6731 of 2023)

For the Petitioner/s : Mr.Jai Vardhan Narayan, Advocate
For Mines : Mr. Naresh Dixit, Advocate

Mr. Utsav Anand, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha (GA-7)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER



3 20-07-2023 Heard Mr. Jai Vardhan Narayan, learned counsel for the petitioners in both the C.W.J.C. No. 4757 of 2023 and C.W.J.C. No. 6731 of 2023 as also Mr. Utsav Anand, Junior Counsel to Spl. P.P. Mines.

I.A. No. 01 of 2023

in

C.W.J.C. No. 4757 of 2023

The aforesaid interlocutory application has been been filed for setting aside the letter issued by the Mineral Development Officer, Rohtas, Sasaram bearing Letter No. 1438/M Basaram dated 16.06.2023- whereby and whereunder in continuation with the earlier letter bearing letter no. 515/M dated 24.02.202 issued by the Mineral Development Officer, Rohtas, Sasaram wherein the entire allegation as alleged has been recited and it has been further stated that the petitioner had made assurance to deposit the penalty amount both orally and telephonically but the same had yet not be deposited and as such by the issuance of the present letter the petitioner had once again been directed to deposit the aforesaid penalty amount in the tune of Rs. 35,60,800 within 24 hours from the receipt of the notice otherwise the licence would be cancelled and recovery proceeding shall be initiated against the petitioner.

There is no opposition from the other side.



In the facts and circumstance stated, the prayer stands allowed.

Let the same be considered part of the main writ petition.

The I.A. stands disposed of.

C.W.J.C. No. 4757 of 2023:

The writ petition has been preferred for the grant of the following relief:

(i) issuance of directions, orders or writs in the nature of certiorari setting aside the Letter No. 515 and 519 dated 24.02.2033 issued by the Respondent Mineral Development Officer, Rohtas whereby and whereunder a penalty in the sum of Rs. 35,66,800 and Rs. 44, 33, 430 respectively has been levied upon the petitioner for irregularities alleged to have been committed by the petitioner doing mining activity at Cluster No. 9 Danwar sand ghat and K- License Storage Area 19/2023;

(ii) issuance of directions, orders or writs in the nature of mandamus directing the Respondents not to suspend the challan of E- transit challans required for transportation of sand ghat and/or take any other



coercive steps against the petitioner for recovery of Rs. 35,60,800 and 44.23.450 respectively.

(iii) any other relief or reliefs for which the petitioner may be deemed entitled to.

C.W.J.C. No. 6731 of 2023:

The second writ petition by the same petitioner has been preferred for the following relief:

(i) issuance of directions, orders or writs in the nature of certiorari setting aside the Letter No. 519 dated 24.02.2023 issued by the Respondent Mineral Development Officer, Rohtas whereby and whereunder a penalty in the sum of Rs. 44,23,450 has been levied upon the petitioner for irregularities alleged to have been committed by petitioner during mining activity at Cluster No.9 Danwar sand ghat;

(ii) issuance of directions, orders or writs in the nature of mandamus directing the Respondents not to suspend the challan of E-transit challans required for transportation of sand ghat and/or take any other coercive steps against the petitioner for recovery of Rs. 44,23,450 respectively;

(iii) any other relief or reliefs for which the petitioner



may be deemed entitled to.

It is the case of the petitioner in both the writ petitions that the matter relates to cluster no. 9, Danwar Sand Ghat in the district of Rohtas, Sasaram for a short period from 4.12.2021 to 31.3.2023.

He submits that in complete violation of principle of natural justice and in the absence of petitioner and/or his representative, the alleged inspection took place and further without putting him on notice annexing the inspection report, the orders in question.

It is his submission that there was no irregularity/illegality on the part of petitioner and he was doing his mining work diligently but all of a sudden, the letters/directions/orders in question.

The last submission is that his case is squarely covered by an order of the coordinate bench of this Court in **Uma Associates vs. the State of Bihar** reported in **C.W.J.C. No. 3400 of 2023** and he has taken this Court to paras 7, 8 and 9 which read as follows:

*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 24.2.3033, 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 dose 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 under 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 e at liberty to proceed afresh in accordance with law.

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

Mr. Utsav Anand, learned J.C. to Spl. P.P. Mines



submitted that during the inspection, irregularities were found and only thereafter, the orders were passed. He, however, concedes that a perusal of the order shows that the same was done behind the back of the petitioner and further he was not put on show cause. He further accepts that the present matter is covered with **Uma Associates** (supra).

This Court has gone through the facts of the case, the averment made as also the document on record and is convinced that before the petitioner was sent the letters in question, he was not put on show cause and on the sole ground as also in view of the orders passed in **Uma Associates** (supra) all the letters in question relating to the two writ petitions have to go which are accordingly quashed.

The respondents are at liberty to act in accordance with law after putting the petitioner on notice.

Both the writ petitions stand disposed of.

(Rajiv Roy, J)

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