

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7246 of 2023

M/S Shyam Enterprises Through its Prop. Sanjeev Kumar, aged about 40 years, Gender- Male, Son of Shayam Sundar Sah, Resident of Village- Laxmipur, Near Gramin Bank Post- Laxmipur, P.S- Laxmipur, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary-Cum-Mines Commissioner, Department of Mines and Geology, Government of Bihar, Patna.
3. The Managing Director, Bihar State Mineral Development Co- operation Limited, Govt. of Bihar, Patna.
4. The Director, Department of Mines and Geology, Government of Bihar, Patna.
5. The District Magistrate, Jamui.
6. The District Mines Officer, Jamui.
7. The Circle Officer, Jamui.
8. The Mines Inspector, District Mines Office, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7
		Mr. Sanghamitra Ghosh, AC to GA-7
For Mines	:	Mr. Naresh Dikshit, Spl.P.P
		Ms. Kalpana, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 12-05-2023

1. Heard learned counsel for the parties.

2. The petitioner has filed the instant application for the following relief(s):-

“That this is an application for issuance of writ in the nature of Certiorari for quashing the order containing memo no. 231 dated 11.02.2023 issued under signature of Mines Development Officer, Jamui whereby and whereunder in purported exercise of power under Rule



56 (ii) of Minerals Conservation and Development Rules 2019 and amended Rules 2021 a fine of Rs. 3,07,85,359 (3 crore seven lacs eighty five thousand three hundred fifty nine) has been imposed upon the petitioner and further the petitioner prays for issuance of writ in the nature of mandamus or any other appropriate writ/order or direction to activate the ID no. 1216710301 on departmental portal with regard to operation of K. Storage license no. K-JAMUI/10/022 and allow the petitioner to use the material stored under the said license and also a direction to be given to the authorities to refund the amount of fine which was deposited by the petitioner to the tune of Rs. 1 Crore and/or the petitioner prays for issuance of such other order or direction for which he may be found legally entitled to facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that by the order impugned contained in Letter no.231 dated 11.2.2023 (Annexure-13) issued under the signature of Mines Development Officer, Jamui, the officer concerned erroneously applying Rule 56(2) of the Rules, 2019 in case of the petitioner has imposed a penalty of Rs.3,07,85,359/- to be paid by the petitioner within three days. Learned counsel for the petitioner, in support of his contention relies on the judgment of this Court dated 2.5.2023 passed in C.W.J.C no.111 of 2023 (M/s Harsh Construction vs. the State of Bihar & Ors).

4. Learned Spl.P.P Mines appearing for the Mines



Department submits that besides the order impugned being in accordance with law and there being no illegality in the same, from perusal of the contents thereof it would transpire that it was on the objection raised by the petitioner with respect to measurement that the Collector once again constituted another Committee which carried out the measurement and on findings of the said Committee the order impugned has rightly been passed. Learned counsel further submits that the instant writ application is also not maintainable on account of the petitioner having an equally alternate and efficacious remedy under section 67 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019.

5. Having heard learned counsel for the parties and taking into consideration the material on record, this Court finds substance in the submissions made by learned Spl.P.P. Mines appearing for the Mines Department. Accordingly this application is disposed of, in view of the petitioner having an alternate and efficacious remedy of filing an appeal under Rule 67 of the Rules, 2019, in the following terms:-

I. The petitioner shall file an appeal before the appellate authority as provided under Rule 67 of the Rules, 2019. The said appeal shall be filed by the petitioner within a



period of 30 days from today.

II. In case the petitioner files an application praying for interim relief/order along with his main appeal, the same shall be considered by the appellate authority at the earliest.

III. In the meantime, no coercive steps shall be taken by the respondents against the petitioner pursuant to the order contained in Letter no.231 dated 11.2.2023 (Annexure-13) passed by the Mines Development Officer, Jamui.

IV. The interim order granted in favour of the petitioner shall continue till the prayer for interim relief/order filed by the petitioner along with his appeal is disposed of finally by the appellate authority.

V. The petitioner will be at liberty to raise all the points raised in the instant writ application as also which may be available to him before the appellate authority.

6. This writ application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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