

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19003 of 2017

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Md. Masiha Son of Md. Abdul Haque Resident of Mohalla - Laukaha, P.S. -
Laukaha, District - Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Joint Secretary, Department of Mines and Minerals Government of Bihar, Patna.
3. The Director, Mines and Geology, Bihar, Patna.
4. The Collector, Madhubani.
5. The Senior Additional Collector cum Assistant Mining Officer, Madhubani.
6. The Mining Inspector, Madhubani.
7. The Mining Officer, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate Mr. Mohammad Sufiyan, Advocate
For the Respondent/s	:	Mr. Sanjeet Kumar Singh, AC to AAG-6
For the Mines	:	Mr. Naresh Dixit, Spl. P.P. Mines Mr. Utsav Anand, JC to Spl. P.P. Mines.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 10-08-2023 Heard Mr. Ansul, learned counsel for the petitioner

and Mr. Utsav Anand, learned Junior Counsel to Spl. P.P. Mines.

as also the State.

2. The petitioner has moved for following reliefs:-

*(i) for issuance of direction to the
respondents to adjust/ set off the amount paid by
the petitioner for the financial year 2017 for
operating the Balughat at Madhubani but he could
not do the Mining operation from 01.08.2017 to*



30.09.2017, 07.10.2017 to 30.10.2017 and 23/11/2017 to 3.11.2017 total 95 days as per the direction/ order of the respondents although they got deposited the amount for the said period;

(ii) for issuance of the direction to the respondents to pay Compensation to the petitioner who has sustained huge loss in the mining operation due to direction of the respondents to install GPS devices in transport vehicles.

3. It is the case of the petitioner that the matter relates to settlement of seven sand 'ghats' in the district of Madhubani for the period 01.08.2017 to 30.09.2017, thereafter from 07.10.2017 to 30.10.2017 and finally from 23.11.2017 to 30.11.2017.

4. As per the direction/order/blocking of acceptance of 'challan', the mining operation could not be done for the aforesaid period and as such, the petitioner is entitled for the refund/adjustment of appropriate amount.

5. Learned counsel for the petitioner has taken this Court to the first notice no. 235 dated 15.07.2017 issued by the District Mining Office, Madhubani informing him not to do mining work between 1st August 2017 to 30th of September,



2017.

6. He further submits that subsequently, no letter was issued but '*E-challan* was not being accepted and he had taken this Court to different annexures attached to the writ petition in support of his contention.

7. The counter affidavit has been filed on behalf of the respondent nos. 4 to 7 detailing out the factors leading to the letter in question. However, their contention is that the petitioner failed to deposit the amount of 2 percent for separate corpus for the maintenance of mining area as per the agreement

8. Be that as it may, when the admitted facts are on record that the petitioner could not do mining work for the period, the Department prohibited him to do so, unless there are other reasons, he is entitled for the refund.

9. The unreported judgment of this Court in the case of **Md. Masiha** passed by a Single Bench (Hon'ble Mr. Justice Sanjay Priya, as his Lordships then was) in **C.W.J.C. No. 17199 of 2016** disposed of on 17.08.2019 in which the Court held that the period, the petitioner was restrained/unable to do the mining work, he is entitled for the refund.

10. Let the same be kept on record.

11. Learned counsel for the Mines submits that his



representation is pending before the appropriate authority, Madhubani.

12. It is appropriate that the decision is taken by the respondent no. 3, the Director, Mines and Geology, Govt. of Bihar, Patna.

13. The petitioner is directed to file detailed representation with all the connecting documents as also the order of this Court in the case of *Md. Masiha (supra)* within a period of four weeks from today.

14. If the said representation along with supporting documents are preferred within a period of three weeks, the respondent no. 3 shall be duty bound to pass positive order within a period of three months taking into account the factors that led to petitioner being unable/restrained to do the mining work for the aforesaid period.

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

(Rajiv Roy, J)

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