

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6393 of 2017

M/s Chhatu Ram Darshan Ram, a partnership firm, registered under the Indian Partnership Act, having its registration office at Jhumri Telaiya, P.O. & P.S. Jhumri Teliya, District Koderma (Jharkhand) through its managing partner Rajeev Kumar Bhadani S/o Late Damoder Prasad Bhadani, Resident of Mohalla- Bishrambag, Jhumri Teliya, P.S. Jhumri Teliya, District- Koderma Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Bailey Road, Patna.
2. The Joint Secretary cum Director, Department of Mines and Geology, Government of Bihar, New Secretariat, Bailey Road, Patna.
3. The Mines Commissioner, Department of Mines and Geology, Government of Bihar, New Secretariat, Bailey Road, Patna.
4. The District Magistrate, Nawadah, P.O and P.S. Nawadah, District Nawadah.
5. The District Mining Officer, Nawadah, P.O. and P.S. Nawadah, District- Nawadah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Chandra, Adv.
For the State	:	Mr. Manish Kumar, AC to AAG-6
For the Mines	:	Mr. Naresh Dixit, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 14-09-2023

Heard Mr. Anil Chandra, learned counsel for the petitioner; Mr. Naresh Dixit, learned Spl. P.P. for the Mines; and Mr. Manish Kumar, learned counsel for the State.

2. The petitioner, by invoking the prerogative writ jurisdiction of this Court under Article 226 of the Constitution of India, seeks quashing of the order dated 02.03.2017 passed by respondent no.2, the Joint Secretary-cum-Director, Department of Mines and Geology, Government of Bihar, whereby the



application of the petitioner for renewal of lease of Mica Mining for an area of 2455.54 acre, situated at village Velum, Saveyatand and Delha in the district of Nawadah has been rejected.

3. The learned counsel for the petitioner submits that a mining lease for Mica, Feldspar and Quartz was granted to the petitioner for twenty years from 01.05.1983 to 30.04.2003. After the expiry of the period of lease, the petitioner applied for renewal of the mining lease before the concerned authority of State Government in accordance with Section 24-A of the Mines and Mineral Concession Rules, 1960. On receipt of the aforementioned application filed by the petitioner, respondent no.4 has sent his recommendation in the matter before the respondent no.3. Thereupon, a notice was issued upon the petitioner on 15.05.2014, fixing a date of 28.05.2014 for hearing. It is the case of the petitioner that though he was heard on 28.05.2014, but the order was kept reserved for a period of two years and ten months, and the final order was came to be passed on 27.02.2017 (Annexure-3).

4. The learned counsel for the petitioner after drawing the attention of this Court to Annexure-3, submits that while rejecting the claim of the petitioner for renewal of his lease,



respondent no.2 has taken note of Notification No. 423(a) dated 10.02.2015, whereby the 'Mica' has been notified as 'Minor Minerals' and thus, the renewal of the lease was not possible under the Mines and Mineral (Development and Regulations) Amendment Act, 2015. The petitioner submits that this ground of rejection was not at all available to the respondent, since the date on which the matter was heard, the notification was not in existence and, as such, the order impugned suffers from non-application of mind. Moreover, neither any cause has been shown nor the petitioner has been provided any reasonable opportunity of being heard on the point of notification in question, where the order was kept reserved from 28.05.2014.

5. Per contra, learned Spl. P.P. for the Mines while refuting the contention of the petitioner, submits that the lease area in question falls under the protected forest area, and for renewal/issuance of the lease, no objection is required under Section 2 of the Forest (Conservation) Act, 1980 which was not attached to the renewal application and, as such, no decision could be taken by the State. He also submits that there are various other infirmities, which have also been specifically mentioned in the impugned order assigning the reason/ground for rejection of the application for renewal. Hence, there is no



infirmity in the order passed by respondent no.2.

6. At this juncture, learned counsel for the petitioner submits that accepting the infirmities pointed out in the impugned order as contained in Letter No. 599 dated 02.03.2017, the petitioner may be allowed to file a fresh application for lease before respondent no.4, District Magistrate, Nawadah, after removing all the defect(s)/infirmities pointed out in the impugned order (Annexure-3).

7. Needless to observe that a person eligible for lease under the law has undoubtedly at the liberty to file a fresh application for renewal of his lease.

8. In view thereof, the present writ petition stands disposed of with an observation that in case, the petitioner files a fresh application for lease along with all the required documents and after removing all the defect(s)/infirmities as pointed out in the impugned order, the same shall be considered by the concerned authority in accordance with the law.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15-09-2023
Transmission Date	

